



# Americans for Safe Access

Activist Newsletter

*Defending Patients' Access to Medical Marijuana*

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## ASA Appealing DC Court Ruling on Rescheduling

Americans for Safe Access is appealing a 2-to-1 DC Appeals Court ruling that says the DEA can choose what counts as a valid scientific study in rejecting a petition to reclassify cannabis as having medical use. The case of *Americans for Safe Access v. Drug Enforcement Administration* now goes before nine judges of the DC Appeals Court for en banc review.



Joe Elford

ASA's appeal cited more than 200 peer-reviewed scientific articles by renowned researchers that demonstrate that cannabis is a safe and effective medicine for treating pain, nausea, and a host of other serious medical conditions. The government argued that published peer-reviewed articles, the gold standard for medical research, do not qualify as "adequate and well-controlled studies" because the DEA was not able to evaluate the raw data that supports the scientists' findings.

The court ruled that it was compelled by precedent to defer to the DEA's definitions and administrative process, regardless of any other evidence.

"The Obama Administration is making a joke of scientific integrity at the expense of patients and doctors," said ASA Chief Counsel Joe Elford, who argued the case. "They dismiss existing studies as insufficient while steadfastly blocking human clinical trials that can confirm what doctors have known for centuries and tens of thousands of patients experience every day—cannabis is medicine."

If the en banc review by the DC Circuit does not force the DEA to apply the same standards

to evaluating cannabis as it does other drugs, ASA intends to appeal to the U.S. Supreme Court. The case hinges on the DEA's denial of a rescheduling petition filed in 2002 by the Coalition for Rescheduling Cannabis, which includes several individuals as well as ASA. The denial came in 2011 after ASA sued the government for unreasonable delay.

### MONTANA PROVIDER GETS REDUCED FEDERAL SENTENCE

Montana medical cannabis provider Chris Williams received a five-year sentence at the beginning of February after federal prosecutors took the rare step of offering a post-conviction plea deal. Williams was one of many charged after dozens of federal raids in 2011 but the only one to go to trial. He faced a minimum of more than 80 years in federal prison after being convicted of multiple counts.

## ASA and Herbal Medicine Group Take Action on Product Safety

A national trade group issued guidelines on cannabis product safety to dispensary regulators across the country in January. The recommendations on best practices for cannabis cultivation and distribution, as well as packaging cannabis products, result from a year of collaboration between ASA and the American Herbal Products Association (AHPA), the national trade association focused on herbs and botanicals and herbal products.

The AHPA sent the recommendations to state officials who regulate medical cannabis distribution in California, Colorado, Massachusetts and elsewhere.

"The AHPA Cannabis Committee includes in its charter a responsibility to develop policy recommendations that support safe use of products derived from Cannabis species," said AHPA president Michael McGuffin. "This initial work should be well-received by state regulators, who share our commitment to ensuring safe access to medical marijuana for their citizens."

Founded in 1982, AHPA has more than more than 340 industry members is the oldest non-profit organization serving the herbal products industry. The AHPA Cannabis Committee was established in 2010 to address issues related to the safe use and responsible commerce

of legally-marketed products derived from Cannabis species.

"State regulators recognize that health and safety rules for cannabis cultivation and distribution help patients," said ASA Executive Director Steph Sherer. "The decades of experience AHPA has in overseeing the safety of herbal products make them a great partner for establishing cannabis as a botanical medicine."

### CA Supreme Court Affirms Dispensaries Are Legal

The California Supreme Court in January affirmed that storefront medical cannabis dispensaries may operate lawfully in the state. The Court denied review of a unanimous ruling from the Fourth District Court of Appeal in the case of *People v. Jackson*, which reversed the conviction of former San Diego dispensary operator Jovan Jackson. The appeal, which was argued by ASA, established a clear state-law defense for Jackson and other medical cannabis providers in California.

The state Supreme Court affirmed the appellate ruling despite requests to depublish it from the League of California Cities and an amicus brief asking for review of the case from the Los Angeles city attorney and

Many states have established effective regulations for distribution that protect businesses and residents in their communities, but none have adopted product protocols and safety standards. The AHPA Cannabis Committee began collaborating with ASA last year to gain feedback from medical cannabis producers, distributors and laboratories in California, Colorado, Maine, New Mexico and Washington State.

district attorneys in Los Angeles, Sacramento and Sonoma.

"The court has settled the question of the legality of medical cannabis sales and distribution in the state, to the benefit of tens of thousands of patients," said Joe Elford, Chief Counsel with Americans for Safe Access, who represented Jackson in his appeal. "Even though the appellate court decision garnered significant opposition, patients have prevailed in their struggle to protect safe access to medical marijuana."

Jackson was convicted in September 2010 after a San Diego Superior Court refused to allow him to present evidence he was in compliance with state law. With this appel-

*(continued page 2)*

# Calif Supreme Court Hears Dispensary Ban Case

The California Supreme Court on Tuesday, Feb 5 heard arguments in a case that may determine if local governments may ban storefront dispensaries that previous cases have established state law allows.

The case, *City of Riverside v. Inland Empire Patients Health and Wellness Center*, is one of at least six appellate court cases coming down on different sides of the issue. Although multiple appellate rulings have overturned bans on local distribution, the Riverside court upheld that city ban, claiming that the center violated municipal code and was a "nuisance per se."

The Riverside case, which was argued by J.

David Nick, is the lead case on this issue currently before the High Court. Last year, ASA filed a brief in the Riverside case, arguing that municipalities may pass reasonable regulations for the location and operation of collectives, but banning them thwarts the legislature's intent to ensure uniform access in the state.

Several other appellate decisions from southern California on the same issue were also granted review. In most of these decisions, the court has sided with municipal governments in their effort to prevent dispensaries from operating, but two appellate rulings notably hold that local officials may not ban distribution and must develop regulations instead.

## Ariz. Court Rules Calif. Patient Gets Cannabis Back

In January an Arizona court ordered police to return cannabis seized from a California patient visiting the state. In ordering the return of property, the court rejected the State of Arizona's claim that federal law preempts state law and prevents police from giving back seized cannabis.

As California and Oregon courts have done, the Arizona court found that the immunity provision of federal law protects state and local police who lawfully administer state law relating to controlled substances. Since the patient whose cannabis was seized is a qualified patient, Arizona law enforcement must comply with state law that mandates the

return of cannabis that it is lawfully possessed.

The case involved Valerie Okun, a California patient who was stopped at a border patrol checkpoint and had her medical cannabis seized. Because Arizona law includes protections for patients from other states, the charges were dropped, so Okun asked for her cannabis back, but law enforcement refused, citing federal law.

This was a common law enforcement strategy in California as well, until 2007 when the Court of Appeal resolved the issue in favor of patients in a case litigated by Americans for Safe Access, *Garden Grove v. Superior Court*.

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## ASA Hosting National Unity Conference in DC

Americans for Safe Access is hosting a National Medical Cannabis Unity Conference in the nation's capital from Feb. 22-25.

ASA's conference, called "Bridging the Gap between Public and Policy," will offer opportunities to network with other medical cannabis activists from around the country, attend panels and workshops to improve skills & knowledge, plus meet with federal representatives and engage in direct citizen-lobbying efforts in the halls of Congress on Monday, February 25.

The conference is being held at the Mayflower Renaissance Hotel in Washington, D.C. with sponsorship support from Dr. Bronner's, the International Association of Cannabinoid Medicines, Patients Out of Time, the American Alliance for Medical Cannabis, Veterans for Medical Marijuana Access, the American Herbal Products Association, Students for Sensible Drug Policy, Law Enforcement Against Prohibition, and the United Food and Commercial Workers union.

Registration information is available at [ASANationalConference2013.org](http://ASANationalConference2013.org).

**DISPENSARIES**, continued from page 1  
late decision, Jackson—and other California dispensary operators—can no longer be denied a defense in state court.

Specifically, the appellate ruling held that at trial "Jackson was only required to produce evidence which would create a reasonable doubt as to whether the defense provided by the [Medical Marijuana Program Act] had been established." The court ruled that the members of a collective are not required to perform physical labor and can participate lawfully by way of cash contributions.

Jackson's storefront collective was raided by local law enforcement in 2008. Jackson was tried and acquitted of marijuana possession and sales in 2009. Jackson was raided again in 2009, and District Attorney Bonnie Dumanis tried Jackson again on the same charges. At his second trial, Jackson was denied a defense by San Diego Superior Court Judge Howard Shore, who referred to medical cannabis as "dope" and called California's medical cannabis laws "a scam." Jackson was sentenced to 180 days in jail, but that sentence that was later vacated.

## ACTION ALERT: Medical Marijuana Week 2013

Celebrate Medical Marijuana Week 2013 from Feb 11-17 by educating your community, urging Congress to protect medical cannabis patients, writing letters to the editor, and more! Medical Marijuana Week begins Monday with actions you can take every day to help make safe access a reality everywhere. Medical Marijuana Week is ASA's annual event held during the week of 2/15 to commemorate the passage of the country's first medical cannabis law, California's Proposition 215.

Find out more today at [AmericansForSafeAccess.org/MMW](http://AmericansForSafeAccess.org/MMW).

## Become a Member

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