

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF  
PENNSYLVANIA,

CRIMINAL DIVISION

v.

CC: 201912414

BETH REPP,

Defendant.

**SUPPLEMENTAL MOTION TO SUPPRESS**

AND NOW, comes the Defendant, Beth Repp, by and through his attorney, Patrick K. Nightingale, Esquire, who brings the within Motion and in support thereof sets forth the following:

1. Defendant, Beth Repp, (hereafter Defendant) incorporates all prior pleadings into his matter.

**MOTION TO DISMISS**

2. Paragraph 1 is incorporated at length herein.

3. Pursuant to the Superior Court's published opinion in *Commonwealth v. Jezzi*, 208 A.3d 1105 (Pa. Super. 2019) "medical marijuana" is not contained within Pennsylvania's Controlled Substances Act.

Regarding Appellant's equal protection challenge, we first observe that medical marijuana is not listed in the CSA as a Schedule I substance, only marijuana is listed. The MMA provides a very limited and controlled vehicle for the legal use of medical marijuana by persons qualified under the MMA. See 35 P.S. § 10231.102(3). Outside the MMA, marijuana remains a prohibited Schedule I controlled substance for the general citizenry who are unqualified under the MMA. See 35 P.S. § 10231.304.

4. Defendant is a registered Pennsylvania medical cannabis patient. Since she is lawfully using medical cannabis she cannot violate 75 Pa.C.S.A. §3802(d)(i) because her medical cannabis is not scheduled.

WHEREFORE, Defendant respectfully requests that the Honorable Court enter an Order dismissing the charges against her.

**REQUEST FOR HEARING**

5. Paragraphs 1 – 4 are incorporated as though set forth at length herein.
6. Defendant respectfully requests a hearing relative to the issues raised herein.

Respectfully Submitted,

Patrick K. Nightingale, Esquire  
PA ID #76015  
PKN Law  
707 Grant Street  
2340 Gulf Tower  
Pittsburgh, PA 15219  
412.454.5582  
412.454.5583 (facsimile)  
pknlaw@mac.com

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 3<sup>rd</sup> day of March, 2020, he filed the within Motion with the Clerk of Courts and has caused to be delivered via hand delivery a true and correct copy of the within Motion to the following:

Hon. John A. Zottola  
Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

Court Administration  
114 Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

Office of the District Attorney  
401 Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

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Patrick K. Nightingale, Esquire

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Defendant.

**ORDER OF COURT**

AND NOW, to-wit, on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of Defendant's Motion to Dismiss, it is hereby ORDERED, ADJUDGED and DECREED that Defendant's Motion is GRANTED.

BY THE COURT:

\_\_\_\_\_, J.