

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 int 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
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd 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

Patrick K. Nightingale, Esquire

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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.