

**IN THE 20TH JUDICIAL DISTRICT
CIRCUIT COURT OF ARKANSAS**

Case # 71-CV-189

Robert L Reed

Plaintiff,

v.

THE STATE OF ARKANSAS,

Defendant.

COMPLAINT

INTRODUCTION

1. The **Manufacturing, Delivering, or Possessing** of the controlled substance, Cannabis (Marijuana) is regulated in Arkansas by;

Arkansas Code Title 5 - Criminal Offenses Subtitle 6 - Offenses Against Public Health, Safety, Or Welfare Chapter 64 - Controlled Substances.

2. The **Manufacturing, Delivering, or Possessing** of the controlled substance, Cannabis (Marijuana) is regulated by federal law;

Title 21 United States Code (USC) Controlled Substances Act 21 U.S.C.
United States Code, Title 21 - FOOD AND DRUGS
Chapter 13 - Drug Abuse Prevention and cControl

3. The current enforcement and penalties authorized by State and Federal codes as it concerns CANNABIS (Marijuana) are in conflict, a violation of Article VI, Section 2, of the U. S. Constitution, also referred to as the Supremacy Clause. This is in violation of the Plaintiffs Civil Rights guaranteed to him under the United States Constitution and the Arkansas Constitution to wit:

Article 2 Deceleration of Right;

§ 2. Freedom and independence. All men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property, and reputation; and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

§ 5. Right to bear arms. The citizens of this State shall have the right to keep and bear arms, for their common defense.

§ 8. Criminal charges —Self-incrimination—Due process—Double jeopardy -Bail

“.....nor shall any person be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property, without due process of law.....”

§ 21. Life, liberty and property —Banishment prohibited.

No person shall be taken, or imprisoned, or disseized of his estate, freehold, liberties or privileges; or outlawed, or in any manner destroyed, or deprived of his life, liberty or property; except by the judgment of his peers, or the law of the land;

4. In this facial challenge, Plaintiff seeks preliminary and permanent injunctive relief, as well as a declaratory judgment that the challenged provisions of the Arkansas Code cannot be enforced.

5. In this facial challenge, Plaintiff ask this Court for an emergency temporary restraining order to preserve his rights, and the rights of others, as it pertains to the possession of Cannabis (Marijuana) within the legal boundaries of this state.

Plaintiff also seeks a preliminary and permanent injunction, as well as declaratory relief.

JURISDICTION AND VENUE

6. This action arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343.

7. This action also includes claims for relief that are based on the Arkansas Constitution. These claims are based on the same nucleus of operative facts and are so related to the federal-law claims that they form part of the same case or controversy. This Court has jurisdiction over the supplemental state-law claims pursuant to 28 U.S.C. § 1367.

8. This Court has jurisdiction to issue the declaratory relief requested pursuant to the Declaratory Relief Act, 28 U.S.C. §§ 2201, 2202.

9. Venue is proper in the District of Arkansas pursuant to 28 U.S.C. § 1391(b). The Defendant resides within the District of Arkansas.

PARTIES

Plaintiff

10. Plaintiff Robert L Reed is a resident of Dennard, Arkansas who is encumbered by regulations restricting his guaranteed rights and civil liberties as a citizen as defined by the Constitution of Arkansas and existing regulations prohibit this ability to conduct agricultural and manufacturing commerce activities or to utilize Cannabis in any form. Also under existing Arkansas Law, there is no direct or implied protection and it is unlawful for him to obtain ANY “controlled” substance if his Doctor is not a practicing physician located within the state of Arkansas.

DEFENDANT

11. Defendant State of Arkansas. It has adopted and enforced the state statutes that are challenged in this case.

12. All actions and inaction’s of the Defendant described herein are carried out under color of state law.

THE CHALLENGED STATUTES

13. Arkansas Code, Title 5 - Criminal Offenses, Subtitle 6 - Offenses Against Public Health, Safety, Or Welfare, Chapter 64 - Controlled Substances

14. Subchapter 1 - Uniform Controlled Substances Act -- Definitions
§ 5-64-101 – Definitions.

15. Subchapter 2 - Uniform Controlled Substances Act -- Designation of Controlled Substances
§ 5-64-215 - Substances in Schedule VI.

16. Subchapter 5 - Uniform Controlled Substances Act -- Enforcement and Administration
§ 5-64-505 - Property subject to forfeiture - Procedure - Disposition of property.

FACTUAL ALLEGATIONS

17. The Plaintiff contends that the issue before the court stems from the frequently used phrase that "**Marijuana possession or use for any reason is illegal under federal law**" is not only false, it is misleading as there exists conflicts with existing state and federal statutes.

Plaintiff is a resident of VanBuren County, Dennard, Arkansas, is a Disabled Veteran who currently owns approximately 116 acres of property in said county. The existing regulations do not afford him the possibility of planting a Cannabis Crop (Hemp) due directly to Arkansas State statutes even though "HEMP" (Cannabis Sativa L.) is defined by the United States Department Of Aquaculture, a Federal Agency, as an "Agricultural Commodity". HEMP is recognized by the Internal Revenue Service and U. S. Customs as such and excise taxes are placed on all imports to the United States. This alone hinders his opportunity to better his economic status.

Furthermore, the same statutes does not afford him the choice of a possible medical alternative, compared to currently approved FDA drugs which are being prescribed by the Veterans Administration, or for that matter allow him recreational use in the same manner as alcohol.

18. Plaintiff sees the issues as follows;

a. The Plaintiff contends that citizens are held accountable to the "letter" of the law or statute as the case may be, as published, not the "intention" of said law or statute.

b. The plaintiff contends that if there is no "letter of law", there can not be a violation of a law or statute based on the "intent" of an "existing" law or statute.

c. Plaintiff contends that the Arkansas Uniform Controlled Substances Act as currently written and enforced is in violation of the "supremacy clause" of the Constitution of the United States as ratified and his Civil Rights;

1. The Federal Code Title 21 USC contains five (5) schedules for "controlled substances". Arkansas code annotated contains six (6).

2. Under Title 21 "Marijuana" is a schedule one (1) Drug

Under the Arkansas Title 5 "Marijuana" is a Schedule six (6) drug and is not listed in schedule one (1) of the statute as per Title 21 USC.

3. Under Title 21 SUBCHAPTER I — CONTROL AND ENFORCEMENT, Part D — Offenses And Penalties

§844. Penalties for simple possession

(a) Unlawful acts; penalties

“It shall be unlawful for any person knowingly or intentionally to possess a controlled substance **unless** such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter.”

Plaintiff contends that the word "**UNLESS**" clearly allows for the legal possession and use of "marijuana" as no exceptions are noted for any specific drug.

(a) Arkansas Title 5 contains no protections for the possession and use of ANY "controlled substance" regardless of how it was obtained as there is no established protection clause in the existing statute . Plaintiff contends therefore, without such a clause that all controlled substances are currently illegal to possess within the legal boundary's of the State regardless of how they were obtained.

4. There are conflicting definitions of "Marijuana";

At issue at the federal level;

(a) Title 21 defines the word "marijuana" as the plant Cannabis Sativa L".

(b) U S D A 1. Schedule one drug "Cannabis Sativa L. 2. HEMP, both with the same description "Cannabis Sativa L.

(c) Internal Revenue Service receives an import tariff tax on HEMP, "Cannabis Sativa L".

(d) The Arkansas Code defines the word "marijuana" as " (i) Any part and any variety or species, or both, of the Cannabis plant “.

PLAINTIFF CONCLUSIONS

1. (a) Arkansas Title 5 as it pertains to the definition of the "word", "Marijuana" is in conflict with the USC Title21 a violation of the U S Constitution and the Supremacy clause.

(b) The Federal Title 21 USC does not define any difference between a Schedule one drug, "Marijuana" and the Agricultural product/commodity (HEMP), both have identical definitions, "Cannabis Sativa L."

(c) The Genies Cannabis, comprises three (3) distinct genus, Cannabis Sativa, Cannabis Indica and Cannabis Rudilias , all with numerous species, none of which are listed in the Title 21 USC as a controlled substance, but by reference are covered as schedule six (6) Controlled substance under Arkansas Code, Title 5.

(d) To possess certain parts, compounds, or products obtained from the cannabis plant (Marijuana) are legal under both the State and Federal code, however for the plaintiff to grow the plant to obtain such products/compounds is illegal under current statutes. For clarification plaintiff submits the following;

(1) If “**corn flakes**” are a legal product, but it is unlawful to plant and grow the corn, how do you get “**corn flakes**”?

(2) The following is not considered "marijuana" under both State and Federal Codes, “the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. “

(3) Arkansas Title 5 requires that all prescriptions possessed by plaintiff must be prescribed by a doctor in Arkansas as there is no exception listed in Arkansas code 5-64-419.

(4) The Arkansas Code Title 5-Asset Seizure as it pertains to "Marijuana" and civil forfeiture, is a violation of the plaintiffs Constitutional Rights and Civil Rights, as it does not require a “conviction of a crime” to have his assets/property seized by the State Of Arkansas.

(g) The possession of a weapons by persons who have the legal right to buy or possess a weapon are not barred from purchasing or possessing such weapons if they are in possession of any valid prescription recommendation or order. (Ref Title 21 USC.)

(1) As no Cannabis plant other than Cannabis Sativa L. is "defined" by sec of Title 21 USC as "Marijuana", any other Genius Cannabis or species of Cannabis Sativa L. are legal to possess and use under the current "letter" of the law by omission.

(h) The United States Congress by their actions or inaction's have legalized the medical and recreational use of “Marijuana” for the District of Columbia over which they have control.

CONCLUSIONS

1. Arkansas code definition of "Marijuana" is in conflict with Federal Code, which is a violation of the U. S. Constitution Supremacy clause.

2. Only one (1) Cannabis plant is defined by federal statute Title 21 USC, therefore all other Cannabis plants with the exception of Cannabis Sativa L are legal for any purpose by omission.

3. Under Title 18 there is no mention of any legally obtained prescription for a controlled substance being grounds for restricting the possession or purchase of a weapon, a right guaranteed by the 2nd Amendment of the U. S. Constitution.

4. The United States Government has legalized the medical and recreational use of "Marijuana" in the District of Columbia, under their control and authority but deny the plaintiff, a U. S. Citizen and resident of Arkansas the same privilege they granted to a district of the United States.

5. Under current enforcement of Arkansas Title 5 and Title 21 USC, the plaintiff is barred from growing the agricultural commodity "Hemp" of which 98% of all hemp products consumed in the United States are imported thus denying him the opportunity of financial gain.

6. Under the current enforcement policy of local, state, and federal authorities as it pertains to Cannabis aka "Marijuana", compared to the "letter of the law" and due to ambiguities between State and Federal code/statutes the plaintiff is being denied his Constitutional Rights in whole or in part, which are guaranteed to him by the Arkansas Constitution and the Constitution of the United States.

REQUEST FOR RELIEF

Plaintiffs respectfully request the following relief:

1. A declaratory judgment holding that the challenged provisions of the Arkansas statutes violate the United States Constitution and the Arkansas Constitution.
2. A temporary restraining order, preliminary injunction, and permanent injunction prohibiting Defendant from enforcing the challenged provisions of the Statute.
3. Award other relief as this Court may deem just and proper.

DATED this 30th NOVEMBER 2016

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"pro se." (propria persona)

