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Attorney General Petitions Alaska Supreme Court to Hear *Noy* Marijuana Case

(Juneau, AK) –Attorney General Gregg Renkes filed a petition with the Alaska Supreme Court on January 5 asking the court to review the court of appeals’ ruling in *Noy v. State*. The Attorney General asked the court to uphold the state’s marijuana laws and to reverse the court of appeals’ decision overturning Noy’s conviction.

“Marijuana is a large and rapidly rising public risk in Alaska, which is why citizens voted to criminalize it in 1990,” Attorney General Gregg Renkes said. “Marijuana contributes to violence against women and children. Marijuana use by our youth is among the highest in the nation. The people of Alaska have said ‘enough is enough’ when it comes to marijuana.”

At issue is whether the Alaska Constitution’s right to privacy protects possession and use of marijuana in one’s home, as the Alaska Supreme Court stated in *Ravin v. State*. In the petition, the state asserts that the Alaska Supreme Court “should not continue to recognize a constitutional right to possess and ingest psychoactive drugs in the home.” The petition also argues that only when society recognizes a right to privacy as reasonable does the constitution protect that right. The 1990 citizens’ initiative criminalizing marijuana “indicates that Alaska society is not prepared to recognize private possession of marijuana as reasonable.”

“Substance abuse is arguably the most significant social problem in Alaska, especially for our children,” Renkes added. “The public’s concern about drugs has changed in the nearly three decades since the supreme court decided *Ravin*. The court needs to consider that.”

In the petition, the state points out that the court of appeals went far beyond what the supreme court did in *Ravin v. State*, and acted in a legislative manner by identifying a specific amount of marijuana protected by the Alaska Constitution. The court of appeals also struck down two different state drug statutes without giving the state an opportunity to demonstrate its interest in criminalizing marijuana or in limiting the amount of marijuana for “medical” purposes.

“It has been nearly 30 years since the supreme court last reviewed marijuana,” Renkes pointed out. “We are asking that they take a fresh look at this drug, based on the most recent information available.”

In the petition, the state cites statistics and recent scientific studies pointing to the risks of using marijuana. In 2000-01, Alaska ranked in the top ten states for marijuana use among 12- to 17-year-old children, and 18- to 25-year-old adults. In October of last year, the University of Alaska Justice Center reported that 15 percent of Anchorage rape offenders were using marijuana, along with 10 percent of rape victims. Over 36 percent of adult males and 27 percent of adult females arrested in Anchorage tested positive for marijuana. In the 15 to 20 age group, 60 percent of males and 36 percent of females tested positive for marijuana at arrest.

Marijuana's potency and use increased drastically since *Ravin* was issued. A national commission in the early 1970s estimated that 500,000 people used marijuana heavily. In 2001, the number of marijuana-abusing or marijuana-dependent Americans reached 3.5 million. In addition, when *Ravin* was decided in the 1970s, the levels of the main psychoactive ingredient in marijuana (commonly known as THC) averaged only 1 percent. In 2003, average THC levels were over six times higher, with some Alaska-grown marijuana reaching potencies of more than 11 times higher than marijuana from the *Ravin* era.

In 2002, Alaska ranked in the top ten states for indoor marijuana cultivation, measured by plants eradicated. In that year, patients mentioned marijuana abuse during 120,000 hospital emergency room visits across the United States, which is a 160 percent increase since 1995. For patients between 12- and 19-years-old, marijuana was mentioned in more than one-quarter of all emergency room visits.

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