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NEWS RELEASE



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**ATTORNEY GENERAL FILES PETITION FOR REHEARING
WITH THE ALASKA COURT OF APPEALS IN *NOY* DECISION**

(Juneau, AK) – Attorney General Gregg Renkes provided direction today to Public Safety Commissioner Bill Tandeske and state district attorneys regarding the treatment of marijuana possession cases in light of the recent appeals court decision in *Noy v. State*. The Attorney General filed a petition for rehearing in that case with the Alaska Court of Appeals Monday, September 8, 2003.

Noting that possession of any amount of marijuana remains a federal crime, Attorney General Renkes advised law enforcement officials to “continue to investigate these cases in a manner that would allow for federal prosecution. This includes seizing evidence of the crime, the marijuana, and writing reports documenting the investigation. These cases should be referred to the local district attorney office for review and coordination with the U.S. Attorney’s office.”

The U.S. Attorney’s office agreed to review and prosecute appropriate cases that are referred by the State. The penalty for possession under federal law for such cases is a misdemeanor with a maximum of one year in jail.

“National studies show that Alaska has recently become one of the top five marijuana growing states in the nation and has one of the highest rates of new marijuana users,” said Attorney General Renkes. “The drug is four to ten times more powerful than it was in the 1960s and previous legalization of the drug in Alaska increased teenage use. The court of appeals is sending the wrong message to our children.”

“The appeals court has gone beyond the scope of the *Noy* case to provide its opinion about marijuana use,” Renkes added. “The State has not had a fair opportunity to defend the constitutionality of the state’s drug laws.”

“The court should use this time to take a deep breath, send the case back to the trial court, and if necessary, allow the state to present evidence on the need to restrict the possession of this harmful and illegal drug.” He continued.

In the petition for rehearing, the state noted that the court overlooked a crucial aspect of *Ravin v. State*. The *Ravin* court “acknowledged that the state could criminalize possession of marijuana for personal use by adults in their homes if the state makes a showing that criminalization bears a ‘close and substantial relationship to a legitimate

governmental interest,' which requires 'proof that the public health or welfare will in fact suffer if the controls are not applied'."

The petition points out that the court of appeals overlooked the fact that the trial court considered and denied Noy's Ravin claim. The appellate decision short circuits the judicial process denying the state the opportunity to present its case regarding the proper governmental interest in imposing restrictions on marijuana use.

The Noy case involved possession of eleven ounces of marijuana and does not present a situation that the appeals court goes out of its way to address.

The Attorney General noted, "We know a lot more now than we did when the Supreme Court decided Ravin. The state has been denied the chance to present evidence of this nature. We are asking the court of appeals to send the matter back to the trial court for such a hearing."

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