



Americans for Safe Access

1322 Webster St., Ste. 208
Oakland, CA 94612
Phone: 510-251-1856
Fax: 510-251-2036
www.SafeAccessNow.org

February 2, 2006

The Honorable Robert McElhany
Placer County Superior Court
11532 B Avenue
Auburn, CA 95603
Fax: (530) 886-1209

Dear Judge McElhany,

Americans for Safe Access is a national organization devoted solely to protecting the rights of patients who use marijuana medicinally. We are writing today to express our concern regarding Steve Kubby, a medical marijuana patient currently incarcerated in the Placer County jail.

Our concern is over the ability of Mr. Kubby to receive appropriate medical treatment for his condition. As such, we are requesting that he be allowed to serve his sentence under house arrest. Regardless of whether this request is granted, we also urge you to allow Mr. Kubby to consume marijuana while incarcerated. Given that state law allows for jails and correctional facilities to accommodate an inmate's need for medical marijuana (See H&S Code § 11362.785(c)), you have the discretion to allow for such an accommodation. Please consider acting on that discretion in order to allow Mr. Kubby a remedy for his condition.

As you probably know, Mr. Kubby is a longtime cancer survivor that has successfully treated his rare condition with medical cannabis. His medical history is quite compelling, and worth notice. In 1968, when Mr. Kubby was just 23 years old, he began experiencing symptoms of hypertension and palpitations that would turn into a disease with a prognosis that no young person should have to face – a rare, fatal form of adrenal cancer, pheochromocytoma.

Mr. Kubby has had multiple surgeries over the years to remove tumors. Medical records from Mr. Kubby's last surgery show that the cancer had metastasized to his liver and beyond. Fortunately, Mr. Kubby survived. His physician, Dr. Vincent DeQuattro, a specialist from the USC School of Medicine, monitored his condition and treated him with conventional therapies, including chemotherapy, until referring him to the Mayo Clinic in 1981 for yet another surgery and radiation.

After that, Dr. DeQuattro lost contact with Mr. Kubby and assumed he had died soon thereafter, since all other patients had a 100% mortality rate with his diagnosis (most within five years). But then, 17 years later, he received his 1998 California voter pamphlet in the mail and was surprised to learn that Mr. Kubby was alive and campaigning as the Libertarian candidate for governor. He made contact with Mr. Kubby and soon learned that he had controlled the symptoms of his disease solely by smoking medical marijuana and by maintaining a healthy diet. In response, Dr. DeQuattro stated that, "In some amazing fashion, this medication has not only controlled the symptoms of the pheochromocytoma, but in my view, has arrested its growth."

Defending Safe Access To Medical Marijuana



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After playing an instrumental role in helping to pass California's Prop. 215, authorizing patients like him to cultivate marijuana, Mr. Kubby decided to grow the medicine that helped him thrive. Unfortunately, despite the state law, Mr. Kubby was arrested in January 1999. When Mr. Kubby was sent to jail for a few days, he was deprived of medical marijuana and became seriously ill. After Mr. Kubby's blood pressure shot up to dangerous levels, his doctor wrote a letter to the court explaining Mr. Kubby's condition and warning the judge what could happen if he was further deprived of cannabis.

In his letter, Dr. DeQuattro wrote, "Please consider the consequences of Steve's condition not being controlled. His tumor is manufacturing large quantities of norepinephrine (noradrenaline) and possibly epinephrine (adrenaline). Either compound in minute quantities could kill him instantly by causing sudden cardiac death due to arrhythmia or acute myocardial infarction, or sudden death due to cerebral hemorrhage or cerebral vascular occlusion."

Dr. DeQuattro, were he still alive, would doubtless write a similar letter to you today. Dr. Joseph Connors, of British Columbia's Cancer Agency, reconfirmed a few months ago that Mr. Kubby's rare form of cancer is only controlled by marijuana. Dr. Tod Mikuriya, his current physician, will confirm that Mr. Kubby's adrenal cancer can cause blood-pressure spikes that his doctors say are best controlled by using cannabis.

Under California Health and Safety Code, Section 11362.785(c), "Nothing in this article shall prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use marijuana for medical purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility."

Mr. Kubby's medical cannabis needs can be easily accommodated by the jail by distributing it to him in edible or concentrated form when either food or medicines is normally distributed. It is his right to survive this detention without risk of death or serious injury. Dr. Mikuriya says that he also requires three hours a day of exercise instead of the one hour he is currently allowed to burn off the excessive adrenaline he produces due to the cancer.

Please allow Mr. Kubby to serve his sentence under house arrest, and we urge you to consider affording Mr. Kubby the ability to outlive his sentence by accommodating his need to consume medical marijuana while incarcerated.

Sincerely,

Kris Hermes
Legal Campaign Director
Americans for Safe Access

cc: Placer County District Attorney Bradford R. Fenocchio