

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Case No. 1:14-cr-00067-RJJ

Plaintiff,

v.

Hon. Robert J. Jonker

SHAWN ANDREW TAYLOR

Defendant.

**DEFENDANT SHAWN
TAYLOR'S NOTICE OF
MOTION AND MOTION TO
DISMISS INDICTMENT AND
REQUEST FOR EVIDENTIARY
HEARING.**

TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE UNITED STATES
ATTORNEY FOR THE WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION:

PLEASE TAKE NOTICE that on the date and at the time set by the Court, or as soon thereafter as the matter may be heard, before the Honorable United States District Court Judge Robert J. Jonker, Defendant, SHAWN ANDREW TAYLOR, by and through counsel, will and hereby does move this Court to dismiss the Indictment upon a finding that the United States Constitution renders 21 U.S.C. Section 812, Schedule 1(c) (10) and (17) unenforceable, and therefore, may not form the basis for a prosecution under 21 U.S.C. Sections 846, 841(a)(1). Specifically, the defense asserts:

1. The challenged statute violates Defendant's right to Equal Protection as guaranteed by the Constitution's Fifth Amendment.

A. The scientific studies on the use of cannabis demands a finding that the scheduling of marijuana is overinclusive when viewed in light of the factors enumerated in 21

U.S.C. § 812, and further that when compared to other substances which are legally distributed in the open market cannabis is proven to be far less harmful, and thus its continued prohibition serves no Government interest. The inclusion, therefore, of marijuana and THC in Schedule I of the Controlled Substances Act is based on an arbitrary classification in violation of Equal Protection Clause of the Fifth Amendment. United States v. Carolene Prods. Co., 304 U.S. 144 (1938).

B. The policy statement presented in the Memorandum to U.S. Attorneys from Deputy Attorney General James Cole, issued on August 29, 2013, by Attorney General Eric Holder has resulted in a discriminatory application of federal law, in that it protects similarly situated individuals from criminal sanctions for actions identical to that alleged to have been conducted by the defendant, and thereby violates the Equal Protection Clause. Oyler v. Boles, 368 U.S. 448 (1962).

2. The Government's prosecution policy announced on August 29, 2013, as it relates to marijuana and THC violates the doctrine of Equal Sovereignty by adopting a scheme which allows for the distribution of marijuana in States where it has been decriminalized for medical or recreational use, while exposing those in other states to serious criminal sanctions. A federal law's disparate geographic application requires the current burdens of disparate treatment between the states be justified by current needs, and the imposition on the equal sovereignty is limited to remedy present-day "local evils." Further, an imposition upon the sovereignty of the States must be applied strictly as an "extraordinary measure" that should only be applied to remedy an "extraordinary problem." The defense contends that the Government will be unable to justify this disparate geographic coverage. Accordingly, the statute which criminalizes the distribution of marijuana and THC must be found to violate Article VI and the Tenth

Amendment of the United States Constitution. Shelby County (Alabama) v. Holder, __ U.S. __, 133 S.Ct. 2612, 2623 (2013)

Defendant requests this Court hold an evidentiary hearing at which the testimony and evidence proffered in this motion will be presented in support of the constitutional challenges herein articulated.

Dated: Jun 24, 2014

Respectfully submitted,

/s/ John Targowski
JOHN TARGOWSKI