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US MI: Marijuana Defendant Claims He Was Targeted

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Cited: Educators for Sensible Drug Policies <http://www.efsdp.org>

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Van Buren District Court

**MARIJUANA DEFENDANT CLAIMS HE WAS TARGETED**

**Ex-Bloomington School Counselor Has Called for Legalizing Drugs**

SOUTH HAVEN - A former Bloomington elementary and middle school counselor claims he has been targeted unfairly for prosecution on a marijuana charge because he has been a vocal advocate of legalizing drugs.

"This is very much about my standing up against an unreasonable search and standing up against harassment," said Greg Francisco.

Francisco, 48, of Michigan 43, Paw Paw, will face a jury trial within the next several months on a misdemeanor charge of possession of marijuana on May 5 in Bloomington.

Francisco claims his truck was illegally targeted when a dog trained to sniff out controlled substances was brought to the middle school parking lot for a routine search. The search found a stem and some "roach" material in the truck that tested positive for marijuana.

After a hearing on Wednesday in South Haven, Van Buren District Court Judge Arthur Clarke III ordered that a trial date be scheduled within 60 to 75 days.

During the hearing, Francisco's lawyer, Matthew Abel of Detroit, argued unsuccessfully that the charges should be dismissed because there was no probable cause for the search and because the federal categorization of marijuana as illegal is unconstitutional because it has a medicinal purpose in relieving pain.

He also argued that causing Francisco to have a criminal record under the circumstances was cruel and unusual punishment.

Clarke did grant Abel's motion to allow a private expert to analyze the drug evidence. He also ordered the prosecutor to turnover copies of all pertinent lab and police reports. That information is expected to include videotape of the search at the school parking lot.

Francisco said he was charged because of his "high profile" effort to legalize drugs.

"I write lots and lots of letters to the editor and I send them all over the United States and Canada and Europe on the efficacy of the war on drugs. It is not that I advocate using drugs, it is just that what we are doing is just making the problem worse. I use the analogy that we abandoned Prohibition in this country not because we realized that alcohol was not dangerous but because our grandparents came to learn that by criminalizing it we were just driving it underground." Assistant Prosecutor Cory Johnson said Francisco has not been targeted and that prosecution in the case is a routine matter.

"Until the case was brought to my attention I had never heard of Mr. Francisco," Johnson said.

Francisco said he was active in organizations that advocated legalizing drugs. He is a former board member and treasurer of Michigan NORML ( National Organization for the Reform of Marijuana Laws ) and was a founding board member of Educators for Sensible Drug Policies.

He said the school district received complaints about his political activities, and he resigned from his position on the state NORML board in January 2005.

Francisco said he has cooperated in the past and allowed searches when detection dogs had alerted on his vehicle, but decided to refuse a search in May based on principle. Francisco said dogs from private companies were unreliable and not a legal reason for a probable cause search.

He also noted that on the same day the dog alerted on five other teacher vehicles and nothing was found in those vehicles.

A law enforcement dog was brought in after a private detection dog singled out the truck. The police dog also alerted on the truck.

Francisco said he was forced to resign from his counselor job after the search.

Bloomington Public Schools Superintendent Dale Schreuder said Francisco resigned last May, but the resignation was voluntary. He said Francisco was with the district for five years.

Francisco said if he were convicted he would permanently lose his credentials to work with students.

"This will take his livelihood, and all because of a stem the size of a toothpick on the floor of his truck," said Francisco's wife, Amy.

The case has attracted advocates for drug law reform from across the state.

"This is a free speech case," said Charles Ream, a trustee in Scio Township near Ann Arbor and member of Michigan NORML, who attended the hearing. "It has nothing to do with drugs."

