

NAME: [REDACTED]  
ADDRESS: [REDACTED]  
CITY: [REDACTED]  
STATE: [REDACTED] ZIP: [REDACTED] PHONE: [REDACTED]

MUNICIPAL COURT

NOTICE OF MOTION FOR POST CONVICTION RELIEF & BRIEF IN SUPPORT OF

QUASI-CRIMINAL ACTION MOTION FOR DISMISSAL

STATE OF NEW JERSEY ) SUMMONS Number [REDACTED]  
 )  
Plaintiff, ) Charge Statute  
 ) Number (s) [REDACTED]  
vs. ) [REDACTED]  
[REDACTED] ) [REDACTED]  
 )  
Defendant )

TO: MUNICIPAL COURT JUDGE [REDACTED], MUNICIPAL COURT  
ADMINISTRATOR, MUNICIPAL COURT PROSECUTOR VIA CERTIFIED MAIL

PLEASE TAKE NOTICE that on a date to be set by the court the undersigned defendant pro se will move for an Order for post conviction relief in case number [REDACTED] which was settled on the date [REDACTED] as Possession of Marijuana under 50 grams N.J.S.A. 2C:35-10(a)(4) and/or Possession of Drug (Marijuana) Paraphernalia N.J.S.A. 2C:36-2, which both consider marijuana to be a Schedule 1 Controlled Dangerous Substance have been pre-empted, nullified and left unconstitutional by the enactment of the New Jersey Compassionate Use Medical Marijuana Act N.J.S.A. 24:6I-2 in January 2010 and would make enforcement of aforementioned statutes a violation of defendant's constitutional rights to equal protection and due process.

**Memorandum of Law/Brief in Support of Motion**

**LEGAL ARGUMENT:**

The criteria for prohibition of a substance as a Schedule 1 Controlled Dangerous Substance is defined under N.J.S.A. 24:21-5 as requiring the substance has a *"high potential for abuse and has no accepted medical use in treatment in the United States, or it lacks accepted safety for use in treatment under medical supervision"*.

The New Jersey Compassionate Use Medical Marijuana Act N.J.S.A. 24:6I-2 which is a more recent law, clearly states that marijuana does not meet the criteria for a Schedule 1 controlled dangerous substance in New Jersey. The statute recognizes that marijuana has a legally and scientifically based and accepted medical use for medical treatment in both the State of New Jersey and numerous other states in the United States. Plain and simple, under the laws of the State of New Jersey a Schedule 1 controlled dangerous substance has no medical use. If a substance has a legally recognized medical use it is not a Schedule 1 controlled dangerous substance in New Jersey.

After the passage of the Compassionate Use Medical Marijuana Act in 2010, the state had an obligation to reschedule marijuana to a lower schedule (such as Schedule 2) that recognizes medical usage but still restricts a substance if they wished to continue with marijuana prohibition.

**DEFENSE ATTACHMENT 1**



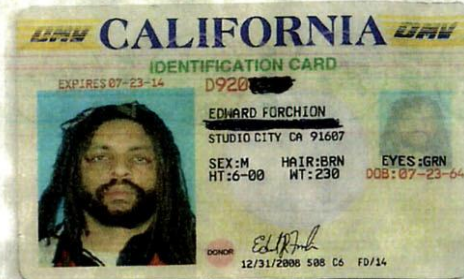
**DEFENSE ATTACHMENT 1**: COPY OF A NEW JERSEY MEDICAL MARIJUANA REGISTRY ID CARD (W/ CONFIDENTIAL PATIENT INFORMATION CENSORED) ISSUED BY THE STATE OF NEW JERSEY, DEPARTMENT OF HEALTH AND SENIOR SERVICES TO AN HIV/AIDS PATIENT IN CHERRY HILL, CAMDEN COUNTY, NEW JERSEY RECOGNIZING THAT MARIJUANA IS A MEDICINE. THIS STATE-ISSUED DOCUMENT, PROVES THAT THE STATE OF NEW JERSEY HAS ADMITTED MARIJUANA IS NOT A SCHEDULE 1 CONTROLLED DANGEROUS SUBSTANCE AND INSTEAD IS A SAFE, LEGAL, MEDICINE. AS PER N.J.S.A. 24:21-5 IT IS NOT POSSIBLE FOR A MEDICNE TO BE CONSIDERED SCHEDULE 1 IN NEW JERSEY.

**DEFENSE EXHIBIT 2 (a)**



**DEFENSE EXHIBIT 2 (b)**

**Edward A. Alexander , M.D.  
10940 Wilshire Blvd  
Los Angeles, CA. 90024  
Compassionate Use of 1996  
(310)-498 9421**



*Health And Safety Code 11362.5  
Physician Statement*



**To Whom It May Concern: Edward Forchion**

**Edward Forchion has been evaluated under my medical care and reports to me that using marijuana helps relieve his symptoms. I have evaluated the risk and benefits of cannabis use as a treatment pursuant to Health and Safety Code Section 11362.5 ,otherwise known as Medical Use of Marijuana.**

**I approve of my patients use of Marijuana for both medical and spiritual reasons. As A Rastafarian he uses cannabis sativa as a sacrament, a food and a medicine I will continue to monitor his condition and provide advice on his progress.**

**Thank you.**

Sincerely,

**Edward A. Alexander, M.D.  
California License A45272  
Dea BA 1607881**

**10-06-2009**

**Valid for one year from the above date**

**Notice to Law Enforcement: Pursuant to the Constitution State of California Amendment III, Sec, 3,5©, state law enforcement officials have no power To refuse to enforce statute on the basis that federal law or federal regulations Prohibit the enforcement of such statutes” Please leave the individuals herein Identified unmolested and unharmed. Failure to do so may result in legal action being taken against you. Thank you for your understanding.**



**DEFENSE EXHIBIT 2 (a) (b):** (a) Copy of a California Medical Marijuana Patient ID Card and (b) Doctor's Recommendation, identifying the patient as being a registered patient under the protection of California Health and Safety Code 11362.5 - the equivalent CA statute to N.J.S.A. 24:6I-2. Note: The State-Issued Card is optional ***THIS IS FURTHER EVIDENCE OF MARIJUANA'S STATUS AS A SAFE, ACCEPTED LEGAL MEDICINE IN THE UNITED STATES AND DOES NOT MEET THE DEFINITION OF A SCHEDULE 1 CONTROLLED DANGEROUS SUBSTANCE AS PER N.J.S.A. 24:21-5.***

**DEFENSE EXHIBIT 3: STATE of NEW JERSEY WEBSITE** - NJ Department of Health- Medicinal Marijuana Program w/ WEBSITE ADDRESS (URL) [www.state.nj.us/health/medicalmarijuana/](http://www.state.nj.us/health/medicalmarijuana/)

The NJ Dept. of Health and Senior Services website has a whole subsection devoted to "marijuana being a medicine". This is an official website of the State of New Jersey. Again - A Schedule 1 CDS cannot be medicine as per N.J.S.A. 24:21-5.

**POLITICS OF POT in NEW JERSEY created this situation not the defendant**

The State of New Jersey could easily make a "medical exemption" to its criminal statutes as other states have. **OR** it could have rescheduled marijuana and this illegal dilemma wouldn't exist. **FACT:** New Jersey has a provision (N.J.S. 24:21-3(d)) within the Department of Health to do so, this statute allows the director of health department to change the schedule. **FACT:** The "*politics of pot*" in New Jersey has prevented the application of this provision. New Jersey Governor Christie engaged in obstructionist policies; and failed to order a reschedule for political reasons, as empowered by the Department of Health and Human Services statute.

***d. The director of the State Department of Health shall update and republish the schedules in sections 5 through 8.1 of P.L.1970, c. 226, as amended and supplemented (C.24:21-5 through 24:21-8.1) periodically.***

The State of New Jersey failed to reschedule and because of the state's inaction the criminal and disorderly persons marijuana prohibition laws of New Jersey are now unconstitutional and cannot be enforced as they are in violation of the rights to **EQUAL PROTECTION** and **DUE PROCESS** protected by the United States and New Jersey Constitutions.

Whether this defendant has a "medical condition" or not is irrelevant to the arguments of this motion brief. This motion does not address a medical marijuana argument or medical necessity defense; however the

defense reserves the right to bring these arguments. The fact that the substance "marijuana" is misclassified in the state's criminal 2C:35-10 statute renders it flawed, and therefore its possession, use, growing, processing, sale, manufacture, etc. have become legal for all citizens regardless of medical necessity as of 1/18/2010.

**See text below from the New Jersey Compassionate Use Medical Marijuana Act N.J.S.A. 24:6I-2:**

**Findings, declarations relative to the "medical use of marijuana".**

2. *The Legislature finds and declares that:*

a. *Modern medical research has discovered a beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999;*

b. *According to the U.S. Sentencing Commission and the Federal Bureau of Investigation, 99 out of every 100 marijuana arrests in the country are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marijuana;*

c. *Although federal law currently prohibits the use of marijuana, the laws of Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington permit the use of marijuana for medical purposes, and*



*in Arizona doctors are permitted to prescribe marijuana. New Jersey joins this effort for the health and welfare of its citizens;*

*d. States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law; therefore, compliance with this act does not put the State of New Jersey in violation of federal law; and*

*e. Compassion dictates that a distinction be made between medical and non-medical uses of marijuana. Hence, the purpose of this act is to protect from arrest, prosecution, property forfeiture, and criminal and other penalties, those patients who use marijuana to alleviate suffering from debilitating medical conditions, as well as their physicians, primary caregivers, and those who are authorized to produce marijuana for medical purposes.*

**16Am Jur 2d., Sec. 256:**

*"The general rule is that a unconstitutional statute, whether Federal or State, though having the form and name of law as in reality no law, but is wholly void and ineffective for any purpose since unconstitutionality dates from the enactment and not merrily from the date of the decision so braining it. An unconstitutional law in legal contemplation is as inoperative as if it never had been passed. Such a statute lives a question that is purports to settle just as it would be had the statute not ever been enacted. No repeal of an enactment is necessary, since an unconstitutional law is void. The general principles follows that it imposes no duty, converse no rights, creates no office, bestows no power of authority on anyone, affords no protection and justifies no acts performed under it. A*



*contract which rests on an unconstitutional statute creates no obligation to be impaired by subsequent legislation. No one is bound to obey an unconstitutional law. No courts are bound to enforce it. Persons convicted and fined under a statute subsequently held unconstitutional may recover the fines paid. A void act cannot be legally inconsistent with a valid one and an unconstitutional law cannot operate to supersede an existing valid law. Indeed, in so far as a statute runs counter to the fundamental law of the land, it is superseded thereby. Since an unconstitutional statute cannot repeal, or in any way effect an existing one, if a repealing statute is unconstitutional, the statute which it attempts to repeal, remains in full force and effect and where a statute in which it attempts to repeal remains in full force and effect and where a clause repealing a prior law is inserted in the act, which act is unconstitutional and void, the provision of the repeal of the prior law will usually fall with it and will not be permitted to operate as repealing such prior law. The general principle stated above applied to the constitution as well as the laws of the several states insofar as they are repugnant to the constitution and laws of the United States.*

**"The hypocrisy-Federal Gov't Recognizes medical marijuana with Patent"**

The US Government officially classifies marijuana as Schedule 1 defined as having, "No medicinal value and highly addictive" yet the Federal Government has issued a patent for using cannabinoids as an antioxidant and neuro-protectant to the DEA. The U.S. government which includes the DEA has **medical marijuana Patent #6630507**. So once again on the one hand, United States federal government officials have consistently denied that marijuana has any medical benefits. On the other, the government actually holds patents for the medical use of the plant. This fact again disqualifies the State of New Jersey's classification of "marijuana" as a schedule 1 drug for N.J.S.A. 24:21-5 clearly defines schedule 1 substances as ..."*has no accepted medical use in treatment in the United States,*) **US Patent 6630507** titled "**Cannabinoids as antioxidants and neuro-protectant**" is assigned to The government of The United States of America!!!

**The Federal patent says "useful":**

***"Cannabinoids have been found to have antioxidant properties, unrelated to NMDA receptor antagonism. This new found property makes cannabinoids useful in the treatment and prophylaxis of wide variety of oxidation associated diseases, such as ischemic, age-related, inflammatory and autoimmune diseases. The cannabinoids are found to have particular application as neuro-protectant, for example in limiting neurological damage following ischemic insults, such as stroke and trauma, or in the treatment of neurodegenerative diseases, such as Alzheimer's disease, Parkinson's disease and HIV dementia."***

The patent #6630507 was obtained in October of 2003.

Based on the above, defendant demands the case be reopened under post-conviction relief and subsequently dismissed as unconstitutional. Defendant demands a refund of any fines and/or other penalties paid as well as a court order for return of the unlawfully seized marijuana and/or paraphernalia.

In support of the within application, the undersigned shall rely upon the above Memorandum of Law.

Dated this [redacted] day of [redacted], 20[redacted]

[redacted]  
\_\_\_\_\_  
SIGNATURE

NAME AND ADDRESS:  
\_\_\_\_\_

PREPARED BY  
EDWARD "NJWeedman" FORCHION  
AND ERIC HAFNER



## PCR INSTRUCTIONS

### DO NOT INCLUDE THIS IN BRIEF

If you choose to use the above PCR brief please contact me just to let me know it's being used - [njweedman@yahoo.com](mailto:njweedman@yahoo.com) .

Just fill in the info highlighted in yellow, then copy the brief three times and give the Original and two copies to the municipal court clerk. One for the Judge, One for the prosecutor and one for yourself. Ask the clerk to time/date stamp it received.

If you have a lawyer (public defender or paid) don't let them talk you out of this filing. DO IT and demand that they argue it on your behalf if you feel you can't per Farretta Vs California. Farretta is a Supreme Court case that said two major things

- (1) It gave defendants the right to represent themselves
- (2) It gave the defendant the Right to choose what defense the defendant chooses to utilize in his defense. Invoke it in this case - say to your lawyer this is the way you wish to defend yourself and don't falter New Jersey's legal profession doesn't really want the marijuana prohibition to end.

If the municipal court Judge chooses to hear this MOTION (he may have it forwarded up to your County DE-NOVO Judge) and agrees you've made HISTORY. If he denies it, motion for a "stay of sentence pending appeal" and appeal it and keep appealing it all the way to the NJ Appellate Court. Hopefully a couple dozen other similar motions will be there and the appeals court will have to hear all these appeals together, get on the side of history. We will win this "WAR". The press understands and supports. We the people in opinion poll after poll agree - Legalize!

Just recently a municipal court Judge in Michigan was brave enough to agree with a defendant in that state with a motion similar to this one.

READ THESE LINKS -

<http://www.dailypaul.com/280618/oakland-county-michigan-reclassifies-marijuana-from-a-schedule-1-narcotic> -

<http://marijuanapatient.org/oakland-county-michigan-reclassifies-marijuana-from-a-schedule-1-narcotic/>

NJWEEDMAN PRESS THE MONTH OF APRIL 2013

Burlington County Times – 4/17

[http://www.phillyburbs.com/my\\_town/evesham/njweedman-charged-again-with-pot-possession/article\\_78a0abbe-5790-5b07-8bf8-c329fd075feb.html](http://www.phillyburbs.com/my_town/evesham/njweedman-charged-again-with-pot-possession/article_78a0abbe-5790-5b07-8bf8-c329fd075feb.html)

Phillynews 4/19

[http://articles.philly.com/2013-04-19/news/38650072\\_1\\_medical-marijuana-card-monday-night-evesham-police](http://articles.philly.com/2013-04-19/news/38650072_1_medical-marijuana-card-monday-night-evesham-police)

Burlington County Times 4/20 Video

[http://www.phillyburbs.com/njweedman-s-at-p-m-in-philly/youtube\\_a1db83a1-2c96-58fc-9a6b-c0df039c67e7.html](http://www.phillyburbs.com/njweedman-s-at-p-m-in-philly/youtube_a1db83a1-2c96-58fc-9a6b-c0df039c67e7.html)

Philly Daily News – 4/22

[http://www.philly.com/philly/news/breaking/Philly420\\_Hundreds\\_call\\_for\\_marijuana\\_legalization\\_at\\_the\\_Liberty\\_Bell\\_.html](http://www.philly.com/philly/news/breaking/Philly420_Hundreds_call_for_marijuana_legalization_at_the_Liberty_Bell_.html)

TRENTONIAN 4/24 – CHRISTIE CANT HAVE HIS CAKE and EAT IT TOO

[http://www.trentonian.com/article/20130423/OPINION03/130429887/jeff-edelstein-marijuana-laws-in-nj-under-chris-christie-make-the-weedman-see-double#full\\_story](http://www.trentonian.com/article/20130423/OPINION03/130429887/jeff-edelstein-marijuana-laws-in-nj-under-chris-christie-make-the-weedman-see-double#full_story)

Burlington County Times 4/25 “JDMULLANE”

[http://www.phillyburbs.com/blogs/news\\_columnists/jd\\_mullane/seeing-the-new-america-on-at/article\\_f8224f1b-450c-5f88-9917-c6ad20fa4151.html](http://www.phillyburbs.com/blogs/news_columnists/jd_mullane/seeing-the-new-america-on-at/article_f8224f1b-450c-5f88-9917-c6ad20fa4151.html)

Adamvstheman show - 4/25

<http://youtu.be/8ngIV2s7Xbo>

101.5 fm poll/audio

<http://nj1015.com/nj-weedman-hoping-for-change-in-nj-marijuana-laws-poll/>

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10 years ago - I said I was going to "RIUN THE LAW" and now I'm doing it.

**03/09/03** "Set to Ruin the Law"

[http://www.trentonian.com/article/20030309/TMP02/303099998/-weedman-set-to-ruin-the-law#full\\_story](http://www.trentonian.com/article/20030309/TMP02/303099998/-weedman-set-to-ruin-the-law#full_story)

