CASE STUDY

MEDICAL MARIJUANA

The Intercollegiate Ethics Bowl Case Study Writing Committee
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By a vote of 6-3 the U.S. Supreme Court ruled in June of 2005 that patients who use marijuana for medical purposes are not immune from federal prosecution. In *Gonzales v. Raich* the Court decreed that patients who possessed marijuana were liable to criminal prosecution by federal law enforcement personnel, even if the drug has been prescribed by a physician practicing in a state whose laws permit such prescriptions.

Currently 11 states have laws that allow physicians to prescribe marijuana for seriously ill patients. The laws protect doctors and other care providers, as well as patients, from prosecution if the drug is prescribed/used to control pain and suffering. Most physicians who do prescribe marijuana report doing so after more traditional drugs have failed to provide relief. The medical use of marijuana has gained favor among patients with chronic nausea or anorexia (e.g., AIDS patients, patients undergoing cancer chemotherapy), chronic pain (e.g., glaucoma, migraine headaches), and muscle spasticity (e.g., multiple sclerosis and other neurological conditions). Patients who use marijuana to alleviate these symptoms typically report significant relief of pain and suffering, as well as an improved ability to live more normal lives. Such marked improvement, they argue, demonstrates that marijuana is a legitimate medical treatment that, like any other medical treatment, is the business of — and only of — patients and physicians.

*Gonzales v. Raich* concerned two California women, Angel Raich and Diane Monson, who suffered from diverse serious medical problems, and had both used marijuana for several years, on their doctors’ recommendations, to alleviate symptoms of their conditions. (Angel Raich’s doctor expressed the opinion that without access to marijuana Ms. Raich would experience excruciating pain that could prove fatal.) Ms. Raich was provided marijuana at no charge by two of her caregivers, and Ms. Monson cultivated her own marijuana plants. In 2002 agents from the federal
Drug Enforcement Administration (DEA) enforced the 1970 federal Controlled Substances Act (CSA) against Ms. Raich and Ms. Monson, even though local (county) law enforcement officials had concluded that their use of marijuana was entirely legal under California law. In this regard, in 1976 California had enacted, by referendum, a law known as the Compassionate Use Act, designed to assure that severely ill patients have access to marijuana for medical purposes.

There was one legal issue presented to the Supreme Court in Gonzales v. Raich — whether the enforcement of the CSA against Ms. Raich and Ms. Monson by DEA agents was constitutional under the commerce clause of the U.S. Constitution (Article 1, section 8), which confers upon Congress the power to regulate interstate commerce. Based upon a review of its prior cases interpreting the commerce clause, the Supreme Court concluded, by a 6-3 vote, that the DEA agents had acted within the scope of their legitimate legal authority. In announcing this conclusion, however, the Court also stated the following words, which describe the case as both “difficult” and “troubling”:

[This] case is made difficult by [Ms. Raich’s and Ms. Monson’s] strong arguments that they will suffer irreparable harm . . . [M]arijuana does have valid therapeutic purposes. The question before us, however, is not whether it is wise to enforce the [CSA] in these circumstances; rather, it is whether Congress’ power to regulate interstate markets for medicinal substances encompasses the portions of those markets that are supplied with drugs produced and consumed locally. Well settled law controls our answer. The CSA is a valid exercise of federal power, even as applied to the troubling facts of this case.