CRS Reports & Analysis

Legal Sidebar

District Court Holds Appropriations Language Limits Enforcement of Federal Marijuana Prohibition

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A federal court in California has ruled that the Department of Justice (DOJ) may not take federal enforcement actions that interfere with California's ability to "implement" its own state medical marijuana law. The district court's reasoning, if adopted by other federal courts, could potentially erase the threat of federal legal consequences for engaging in state-authorized medical marijuana activities that are nonetheless in violation of federal law.

In *United States v. Marin Alliance*, the U.S. District Court for the Northern District of California held that it would not enforce an injunction for violation of the federal Controlled Substances Act (CSA) against a state-licensed medical marijuana dispensary that is in compliance with state law. The decision turned on a provision of a 2015 appropriations act that prohibits the DOJ from using funds to "prevent" California and 32 other states from "implementing their own state laws that authorize the use, distribution, possession, or cultivation of medical marijuana."

The CSA provides federal law enforcement officials with various tools to enforce its prohibition on the possession, distribution, or cultivation of marijuana. In response to a potential violation, officials may elect to initiate a criminal prosecution, pursue a forfeiture action against property used in furtherance of the unlawful act, or ask a federal court to issue an injunction prohibiting the party from taking future action that violates federal law. In the case of Marin Alliance, the DOJ chose to obtain a permanent injunction from the district court that prohibited the group from operating a medical marijuana dispensary. After the enactment of the 2015 appropriations language, however, Marin Alliance returned to the court, asking that the injunction be lifted.

In *Marin Alliance*, the DOJ argued that while the appropriations provision may prohibit federal officials from taking action directly against a state, the language could not be read to prohibit "enforcement actions against individuals or private businesses because such actions do not prevent a state from implementing its own laws." The district court strongly rejected this interpretation. Instead, the court determined that in enacting the 2015 appropriations restriction, "Congress dictated...that it intended to prohibit DOJ from expending any funds in connection with the enforcement of any law that interferes with California's ability to 'implement'" its own state medical marijuana law. The court reasoned that by "allowing private dispensaries to operate under strict state and local regulation," California had "chosen its way" of implementing its marijuana law. "It defies language and logic," the court held, "for the government to argue that it does not 'prevent' California from 'implementing' its medical marijuana laws by shutting down these same heavily regulated medical marijuana dispensaries." Although concluding that the meaning of the appropriations rider was plain on its face, the court further noted that the legislative history, "without exception," supported the court's interpretation.

The *Marin Alliance* order raises a number of interesting questions. Although the direct holding of the case applies only to the injunction before the court, it would appear that the language employed could extend to any form of CSA enforcement—whether an injunction, a criminal prosecution, or a forfeiture action—so long as the "enforcement" action "interferes with California's ability to 'implement'" its own medical marijuana laws. However, it is unclear if *all* CSA enforcement actions sufficiently interfere with a state's ability to implement its own laws. Similarly, it is uncertain whether the appropriations provision covers only those actions that would actually result in the *closure* of a state authorized and regulated facility—such as a dispensary— in which the ongoing operation is central to the overall

implementation of the state medical marijuana program. For example, would a criminal prosecution of a dispensary owner or staff member that does not necessarily result in the closure of the facility be prohibited under the appropriations provision? In addition, if such a prosecution were to occur, would the reasoning adopted by the district court permit a defendant to raise the appropriations provision as a defense?

Moreover, it is notable that the court interpreted the term "prevent" as prohibiting the DOJ from using funds to take actions that "interfere" with or "impede" California's implementation of its medical marijuana law. It would appear that the court viewed the appropriations provision as applying to any action that would constitute an obstacle to the state's implementation of its medical marijuana law. The Ninth Circuit, the court to which the *Marin Alliance* case would be appealed, appears to have taken a slightly different position. In a July decision prohibiting marijuana dispensaries from deducting business expenses and, therefore, permitting the Internal Revenue Service to tax the dispensaries full income, that court held that while the tax "might make it more costly to run a dispensary...it does not change whether these activities are authorized in the state."

It is likely that federal courts across the country will continue to wrestle with these questions, both in a potential appeal of the *Marin Alliance* decision, and in other challenges to federal attempts to enforce the CSA against entities operating in compliance with state medical marijuana laws.

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