

Ethiopian Zion Coptic Church

March 2, 2008

Tom Harkin
United States Senator
731 Hart Senate Office Building
Washington, D.C. 20510-1501

Dear Senator Harkin:

Last Wednesday, February 25, 2009, Attorney General Eric H. Holder, Jr. announced that federal policy has changed to respect the rights of the states to determine accepted medical use of marijuana.

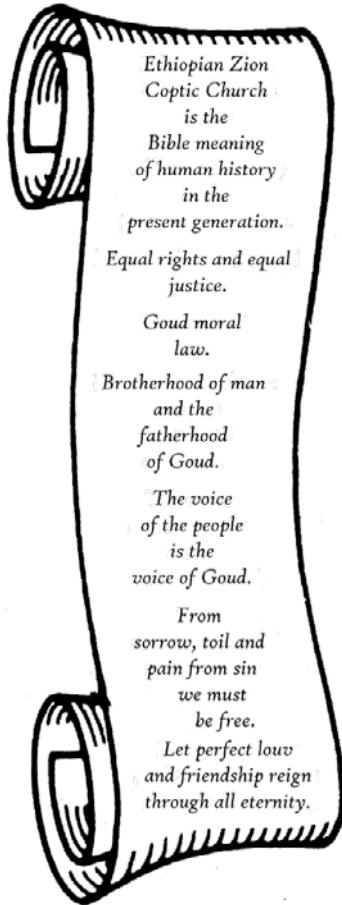
In my previous letter to you dated October 26, 2008, I notified you that federal law has always recognized the rights of the states to determine accepted medical use of marijuana.

The United States Supreme Court made this perfectly clear in 2006,

The Attorney General has rulemaking power to fulfill his duties under the CSA. The specific respects in which he is authorized to make rules, however, instruct us that he is not authorized to make a rule declaring illegitimate a medical standard for care and treatment of patients that is specifically authorized under state law.

Gonzales v. Oregon, 546 U.S. 243, 258 (2006).

Attorney General Holder simply needs to tell the Drug Enforcement Administration that marijuana no longer meets the requirements for inclusion in schedule 1 of the Controlled Substances Act ("The drug or other substance has no currently accepted medical use in treatment in the United States"). 21 U.S.C. § 812(b)(1)(B). Congress did not give the DEA the authority to ignore the Congressionally required findings for inclusion of a substance in Schedule I of the CSA.



Ethiopian Zion Coptic Church

Tom Harkin, March 2, 2009, Page 2

I have enclosed copies of my February 28, 2009, letter to Attorney General Eric H. Holder, Jr., an article that appeared on page A-1 of the San Francisco Chronicle, and a copy of my Petition for Review from the Drug Enforcement Administration, *Carl Olsen v. Drug Enforcement Administration*, No. 09-1162, United States Court of Appeals for the Eighth Circuit.

This matter could easily be resolved by the Attorney General simply interpreting the Controlled Substances Act to mean what it says, as directed by the United States Supreme Court in *Gonzales v. Oregon*, 546 U.S. 243 (2006).

I urge you to contact both Attorney General Holder and President Obama and urge them to resolve this situation by simply upholding existing federal law requiring the removal of marijuana from Schedule I of the CSA because it no longer meets the Congressionally required findings, 21 U.S.C. §812 (b)(1)(B), for inclusion that schedule.

Thank you!

Sincerely,

A handwritten signature in black ink that reads "Carl Olsen". The signature is written in a cursive style with a large, prominent "C" and "O".

Carl Olsen
Ethiopian Zion Coptic Church
130 E Aurora Avenue
Des Moines, Iowa 50313-3654
515-288-5798

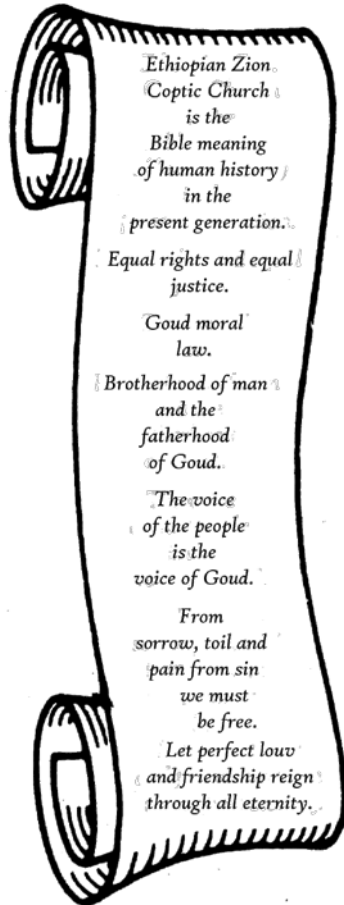
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Ethiopian Zion Coptic Church

October 26, 2008

Tom Harkin
United States Senator
731 Hart Senate Office Building
Washington, D.C. 20510-1501



Dear Senator Harkin:

Thank you for your letter of September 10, 2008.

Twelve states, in the United States, have accepted the medical use of marijuana and that means marijuana no longer meets the requirements for inclusion in schedule 1 of the Controlled Substances Act ("The drug or other substance has no currently accepted medical use in treatment in the United States"). 21 U.S.C. § 812(b)(1)(B). Congress did not give the United States Drug Enforcement Administration (DEA) the authority to ignore the scheduling criteria.

Do you think the DEA has unlimited power beyond the power Congress gave it in the Controlled Substances Act?

Sincerely,

Reverend Carl Olsen
Ethiopian Zion Coptic Church
130 E Aurora Avenue, Des Moines, Iowa 50313-3654
515-288-5798, carl-olsen@mchsi.com

Attachments: 2

<http://www.ethiopianzioncopticchurch.org/>

SUMMARY OF STATE MEDICAL MARIJUANA LAWS

Gonzales v. Raich, 545 U.S. 1, 5 (2005):

California is one of at least nine States that authorize the use of marijuana for medicinal purposes. n1 The question presented in this case is whether the power vested in Congress by Article I, § 8, of the Constitution "[t]o make all Laws which shall be necessary and proper for carrying into Execution" its authority to "regulate Commerce with foreign Nations, and among the several States" includes the power to prohibit the local cultivation and use of marijuana in compliance with California law.

n1 See Alaska Stat. §§ 11.71.090, 17.37.010-17.37.080 (Lexis 2004); Colo. Const., Art. XVIII, § 14, Colo. Rev. Stat. § 18-18-406.3 (Lexis 2004); Haw. Rev. Stat. §§ 329-121 to 329-128 (2004 Cum. Supp.); Me. Rev. Stat. Ann., Tit. 22, § 2383-B(5) (West 2004); Nev. Const., Art. 4, § 38, Nev. Rev. Stat. §§ 453A.010-453A.810 (2003); Ore. Rev. Stat. §§ 475.300-475.346 (2003); Vt. Stat. Ann., Tit. 18, §§ 4472-4474d (Supp. 2004); Wash. Rev. Code §§ 69.51.010-69.51.080 (2004); see also Ariz. Rev. Stat. Ann. § 13-3412.01 (West Supp. 2004) (voter initiative permitting physicians to prescribe Schedule I substances for medical purposes that was purportedly repealed in 1997, but the repeal was rejected by voters in 1998). In November 2004, Montana voters approved Initiative 148, adding to the number of States authorizing the use of marijuana for medical purposes.

Raich v. Gonzales, 500 F3d 850, 865-866 (9th Cir. 2007):

Since 1996, ten states other than California have passed laws decriminalizing in varying degrees the use, possession, manufacture, and distribution of marijuana for the seriously ill. See Alaska Stat. § 11.71.090; Colo. Rev. Stat. § 18-18-406.3; Haw. Rev. Stat. § 329-125; Me. Rev. Stat. Ann. tit. 22, § 2383-B; Mont. Code Ann. § 50-46-201; Nev. Rev. Stat. § 453A.200; Or. Rev. Stat. § 475.319; R.I. Gen. Laws § 21-28.6-4; Vt. Stat. Ann. tit. 18, § 4474b; Wash. Rev. Code § 69.51A.040.

Raich v. Gonzales, 500 F3d 850, 866 (9th Cir. 2007):

For now, federal law is blind to the wisdom of a future day when the right to use medical marijuana to alleviate excruciating pain may be deemed fundamental. Although that day has not yet dawned, considering that during the last ten years eleven states have legalized the use of medical marijuana, that day may be upon us sooner than expected.

Raich v. Gonzales, 500 F3d 850, 867 (9th Cir. 2007):

SUMMARY OF STATE MEDICAL MARIJUANA LAWS

The Supreme Court's recent decision in *Oregon v. Gonzales*, 546 U.S. 243, 126 S. Ct. 904, 163 L. Ed. 2d 748 (Jan. 17, 2006) is not to the contrary. In that case, the Court invalidated an Interpretive Rule issued by the Attorney General on the basis of statutory construction, not on the basis of constitutional invalidity under the Tenth Amendment. See *id.* at 925. Because the Attorney General's Rule was "incongruous with the statutory purposes and design" of the Controlled Substances Act, the Rule had to be nullified. *Id.* at 921 (emphasis added). Although *Oregon v. Gonzales* undoubtedly implicates federalism issues, its holding is inapposite to Raich's Tenth Amendment claim.

Since 1996, a total of twelve states in the United States have enacted laws accepting the medical use of marijuana.

Alaska Statutes § 17.37.070(8) (2008)

§ 1 1998 Ballot Measure No. 8; am § 7 ch 37 SLA 1999; am § 3 ch 59 SLA 2004
Rollins v. Ulmer, 15 P.3d 749 , 750 (Alaska 2001):

In 1998 Alaska voters approved a "medical marijuana" initiative. Sponsored by Alaskans for Medical Rights, the initiative passed as Ballot Measure 8 and was codified as AS 17.37.010.

California Health & Safety Code § 11362.5 (2008)

Adopted by the voters, Prop. 215 § 1, effective November 6, 1996

Colorado Constitution Article XVIII, Section 14(b) (2008)

Initiated 2000: Entire section added, effective upon proclamation of the Governor, L.2001, p. 2379, December 28, 2000

Hawaii Revised Statutes § 329-121(3)(paragraph 3) (2008)

L 2000, c 228, § 2

Hawaii the 20th State Legislature

Act 228

Senate Bill No. 862

2000 Hi. ALS 228; 2000 Hi. Act 228; 1999 Hi. SB 862

Approved by the Governor June 14, 2000

22 Maine Revised Statutes § 2383-B(5) (2008)

2005 ch. 252, § 2 (AMD)

Montana Code Annotated, § 50-46-102(5) (2007)

En. Sec. 2, I.M. No. 148, approved Nov. 2, 2004

Nevada Revised Statutes Annotated § 453A.120 (2008)

SUMMARY OF STATE MEDICAL MARIJUANA LAWS

2001, ch. 592, § 13, p. 3055

This section is effective October 1, 2001

New Mexico Statutes Annotated § 26-2B-2 (2008)

Laws 2007, ch. 210, § 2

Laws 2007, ch. 210, § 12 makes the act effective July 1, 2007

Oregon Revised Statutes § 475.302(8) (2007)

1999 c.4 § 3; 2001 c.900 § 205; 2003 c.14 § 305; 2005 c.22 § 346; 2005 c.822 § 1; 2007 c.573 § 1

Rhode Island General Laws § 21-28.6-3(4) (2008)

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1

18 Vermont Statutes Annotated § 4472(10) (2007)

Added 2003, No. 135 (Adj. Sess.), § 1; amended 2007, No. 58, § 1.

Revised Code Washington (ARCW) § 69.51A.010(2) (2008)

2007 c 371 § 3; 1999 c 2 § 6 (Initiative Measure No. 692, approved November 3, 1998)

Currently, 30 states and the District of Columbia have laws on the books that recognize marijuana's medical value:

- Since 1996, 12 states have enacted laws that effectively allow patients to use medical marijuana despite federal law. To be effective, a state law must remove criminal penalties for patients who use and possess medical marijuana with their doctors' approval or certification. Effective laws must also allow patients to grow their own marijuana or allow a provider to do so for the patient.
- A 13th state, Maryland, has established an affirmative defense law that protects patients who possess marijuana from jail sentences but not fines. Maryland's law also does not allow cultivation.
- Nine states solely have "Therapeutic Research Program" laws that fail to give patients legal access to medical marijuana because of federal obstructionism.
- Eight states and the District of Columbia solely have symbolic laws that recognize marijuana's medical value but fail to provide patients with protection from arrest.
- Eight of the 12 effective medical marijuana laws were enacted through the ballot initiative process — in Alaska, California, Colorado, Maine, Montana, Nevada, Oregon, and Washington. The other four effective laws were passed by the state

SUMMARY OF STATE MEDICAL MARIJUANA LAWS

legislatures of Hawaii, New Mexico, Rhode Island, and Vermont. Hawaii and New Mexico's laws were enacted with the governors' signatures. The Rhode Island law was enacted over the governor's veto, and Vermont's governor allowed the medical marijuana legislation to become law without his signature.

- The federal government cannot force states to have laws that are identical to federal law, nor can the federal government force state and local police to enforce federal laws.

United States Senate

WASHINGTON, DC 20510-1502

September 10, 2008

COMMITTEES:
AGRICULTURE
APPROPRIATIONS
HEALTH, EDUCATION,
LABOR, AND PENSIONS
SMALL BUSINESS

Reverend Carl Olsen
130 E Aurora Avenue
Des Moines, IA 50313

Dear Reverend Olsen:

Thank you for contacting me. I hope you will pardon my delay in responding to you.

I appreciate hearing your views concerning the medicinal use of marijuana. As you may know, while marijuana remains an illegal drug at the Federal level, nine states, excluding Iowa, currently allow marijuana to be used by patients suffering from certain medical conditions. The Bush Justice Department has made clear that it will continue to enforce existing Federal criminal penalties against marijuana sale and use, and that it will not recognize any medical-use exception, even in states where such exceptions have been enacted. The Supreme Court recently issued a decision clarifying that the Bush Justice Department can prosecute violators of Federal drug laws, even if people are following a valid state law.

I generally support the vigorous enforcement of Federal drug laws. However, I also believe that we must focus our scarce Federal law enforcement resources carefully. In Iowa and throughout the Midwest we are facing an epidemic of methamphetamine use that Federal law enforcement plays a critical role in stopping. Given that there is some evidence to suggest that marijuana may be effective at delivering medicinal benefits in some circumstances, and that the Food and Drug Administration has already approved a drug called Marinol, a synthetic form of the active ingredient in marijuana, I hope that Federal law enforcement resources continue to be targeted at finding and destroying meth entering our country rather than at prosecuting people abiding by state laws.

Again, thanks for sharing your views with me. Please don't hesitate to let me know how you feel on any issue that concerns you.

Sincerely,

A handwritten signature in black ink, appearing to be 'Tom Harkin', with a long horizontal stroke extending to the left.

Tom Harkin
United States Senator

TH/amb

Carl Olsen
130 E Aurora Ave
Des Moines, IA 50313-3654

February 28, 2009

Mr. Eric H. Holder, Jr.
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Holder,

Enclosed is an article that appeared in the San Francisco Chronicle yesterday and quotes you as saying federal policy regarding medical use of marijuana has changed to respect states' rights.

The Controlled Substances Act recognizes the authority of the states to determine accepted medical use of marijuana and requires the federal government to respect states' rights to determine accepted medical use.

I have filed a petition with the Drug Enforcement Administration seeking federal compliance with the Controlled Substances Act. Enclosed is a copy of the petition, ***Carl Olsen v. Drug Enforcement Administration***, No. 09-1162, U.S. Court of Appeals for the Eighth Circuit.

Your office should affirm that the Controlled Substances Act protects the states' rights to determine the accepted medical use of marijuana because this is a win/win situation for everyone.

Thank you for your attention to this matter.

Sincerely,

Carl Olsen

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SFGate.com

U.S. to yield marijuana jurisdiction to states

Bob Egelko, Chronicle Staff Writer

Friday, February 27, 2009



(02-26) 20:00 PST San Francisco -- U.S. Attorney General Eric Holder is sending strong signals that President Obama - who as a candidate said states should be allowed to make their own rules on medical marijuana - will end raids on pot dispensaries in California.

Asked at a Washington news conference Wednesday about Drug Enforcement Administration raids in California since Obama took office last month, Holder said the administration has changed its policy.

"What the president said during the campaign, you'll be surprised to know, will be consistent with what we'll be doing here in law enforcement," he said. "What he said during the campaign is now American policy."

Bill Piper, national affairs director of the Drug Policy Alliance, a marijuana advocacy group, said the statement is encouraging.

"I think it definitely signals that Obama is moving in a new direction, that it means what he said on the campaign trail that marijuana should be treated as a health issue rather than a criminal justice issue," he said.

Piper said Obama has also indicated he will drop the federal government's long-standing opposition to health officials' needle-exchange programs for drug users.

During one campaign appearance, Obama recalled that his mother had died of cancer and said he saw no difference between doctor-prescribed morphine and marijuana as pain relievers. He told an interviewer in March that it was "entirely appropriate" for a state to legalize the medical use of marijuana "with the same controls as other drugs prescribed by doctors."

After the federal Drug Enforcement Agency raided a marijuana dispensary at South Lake Tahoe on Jan. 22, two days after Obama's inauguration, and four others in the Los Angeles area on Feb. 2, White House spokesman Nick Schapiro responded to advocacy groups' protests by noting that Obama had not yet appointed his drug policy team.

"The president believes that federal resources should not be used to circumvent state laws" and expects his appointees to follow that policy, Schapiro said.

The federal government has fought state medicinal pot laws since Californians voted in 1996 to repeal criminal penalties for medical use of marijuana.

President Bill Clinton's administration won a Supreme Court case, originating in Oakland, that allowed federal authorities to shut down nonprofit organizations that supplied medical marijuana to their members. Clinton's Justice Department was thwarted by federal courts in an attempt to punish California doctors who recommended marijuana to their patients.

President George W. Bush's administration went further, raiding medical marijuana growers and clinics, prosecuting suppliers under federal drug laws after winning another Supreme Court case and pressuring commercial property owners to evict marijuana dispensaries by threatening legal action.

The Bush administration also blocked a University of Massachusetts researcher's attempt to grow marijuana for studies of its medical properties. Piper, of the Drug Policy Alliance, said he hopes Obama will reverse that position.

"If you removed the obstacles to research," he said, "in 10 to 15 years, marijuana will be available in pharmacies."

E-mail Bob Egelko at beigelko@sfchronicle.com.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/02/27/MN2016651R.DTL>

This article appeared on page **A - 1** of the San Francisco Chronicle