

April 15, 2010

Brian L. Michaels, PC  
Attorney at Law  
259 East 5<sup>th</sup> Ave, Suite 300-D  
Eugene, OR 97401

Re: Paul McClain 10-1238

Dear Mr. Michaels and Mr. Logan,

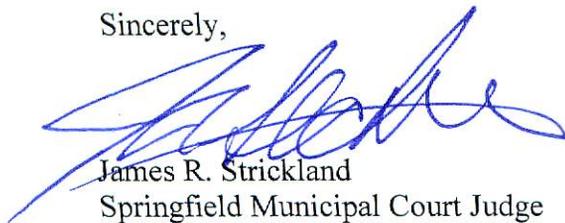
I have reviewed the motion of memorandum filed by Mr. Michaels; it is the position of the court as follows:

1. That a very strict reading of the statute would make Mr. McClain guilty of the offense of less than an ounce; however, the court further finds that it is necessary for the court to construe the statute, the legislative history and the rules of statutory construction. That in reviewing the statute it appears to me that ORS 475.300 is the policy statement of the state of Oregon and indicates that medical marijuana should be treated as any other medicine.
2. I have reviewed the defendant's Exhibit A, a letter from State Senator Floyd Prozanski, who concurs that the public transportation of a legal amount of medical marijuana by a holder of a medical marijuana card is permitted.
3. It further appears to me that the federal government under Federal FAA Regulations 14CFR part 91.19 "exempts the use and carriage of narcotic drug marijuana...authorized by any other federal or state statute or by any federal or state agency." The Port of Portland Assistant General Counsel has indicated that marijuana is not seized from a passenger who holds a valid Oregon medical marijuana card when boarding an aircraft at Portland International Airport, as long as the passenger is not carrying a quantity the exceeds the amount that he or she can lawfully possess.

I do not fault the officer for issuing the citation, but I find that based on the stipulation that there is no violation of the law, and the case is dismissed.

If you have any further questions or concerns regarding this matter, please feel free to contact the court at (541) 726-3748.

Sincerely,



James R. Strickland  
Springfield Municipal Court Judge

CC: David Logan, City Prosecutor  
JRS:sig

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