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Ex-official avoids jail on pot charge

SJMN NOV 22, 1995

Employees - City

Judge orders him into drug-diversion plan

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Former Santa Cruz Planning Director Peter Katzlberger and his wife, arrested earlier this year on marijuana-cultivation charges, apparently escaped going to jail on a felony after a brief informal hearing Tuesday.

Instead, a Santa Cruz judge with a green thumb has ordered

that they go through drug-diversion programs like, he said, most other individuals caught with pot for their personal use.

The couple were arrested after sheriff's deputies working with the Campaign Against Marijuana Planting (CAMP) spotted 22 plants growing on their property on Quail Hollow Road near Felton. They were charged with felo-

ny marijuana cultivation because of the number of plants seized in their yard.

But any thought of considering Katzlberger, 52, and his wife, Jeanette, 59, as potential drug dealers was forgotten when Superior Court Judge Bill Kelsay insisted Tuesday that the couple's pot patch was too unsophisticat-

ed to be the work of professionals.

The couple sat silently as the judge, the prosecutor and witnesses spoke during a combination preliminary and diversion hearing.

"If people are going to grow marijuana in one-gallon pots," as sheriff's deputies said was the case, "they're not very sophisticated growers," Kelsay said. "Is there any evidence here that this

is anything other than a case of growing for personal use? No!"

When Assistant District Attorney Paul Marigonda argued that 22 plants had the potential of yielding a substantial amount of the illegal weed, the judge said: "Mr. Marigonda, I am a gardener." Kelsay then said he was ready to put the Katzlbergers into a drug-diversion program.

But Marigonda called to the witness stand a narcotics investigator who said a typical pot plant

can yield one pound of smokable buds.

"However," said sheriff's Sgt. Jim Hart, who directed the raid on the Katzlberger property from a helicopter hovering above, "these plants are quite a bit smaller than normal."

He estimated that each of the 21 female plants seized at the home would have produced three ounces of marijuana.

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tion's suggestion that 22 plants are indicative of a professional, rather than personal, motivation for growing pot, Kelsay noted that many gardeners unintentionally grow a surfeit of zucchini squash.

"Yes," Hart responded, "but zucchini squash is not selling for \$500 a pound."

Nonetheless, he told the judge, no scales or other paraphernalia normally connected with drug-dealing were found at the Katzlberger residence.

Earlier, another detective testified that he was given directions to the pot patch by Hart via a walkie-talkie.

Deputy James Skillicorn said that after getting Jeanette Katzlberger's acquiescence to the raid in her yard, he found the

plants spotted from above by Hart.

Skillicorn said Jeanette Katzlberger was advised that some people keep marijuana for medical purposes.

"None of us has cancer," she said," Skillicorn testified. He said the woman told him they used the drug "as a relaxant."

The Katzlbergers have pleaded not guilty. Their plea is now being held in abeyance because Kel-

say suspended the proceedings pending the couple's anticipated completion of a drug program. If they successfully complete the program and pay associated costs, the case will be dismissed.

"The decision was in the judge's discretion," Marigonda said.

Although the former planning director's lawyer said he was pleased that his client will not

face time behind bars, he said he was "a bit melancholy" about Katzlberger's decision to end his career with the city of Santa Cruz.

After Katzlberger's arrest, he was put on unpaid leave by the city. Last month he took early retirement, ending 17 years, as the city's planning chief.

"My client and his wife could have been diverted into a drug

program on the day of their arraignment," lawyer Phil Passafiume said. "Instead, it's now two months down the road. He's had to retire from his job. It's not going to be that easy finding work for a man in his 50s."

"We knew the city was going to have to take a look at the situation after the arrest. But the decision to retire was his own. You know, he was a really good city employee. This is really too bad."