

Drugs

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Pot case reopens debate

Santa Cruz County retiree says plants were for arthritis

BY PAUL ROGERS
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In all his 69 years, James Martinez says, he has never smoked marijuana. Never sold it. Never even thought about it much.

But the Corralitos retiree found himself in court Monday facing felony drug charges after Santa Cruz County sheriff's deputies found two marijuana plants growing in his vegetable garden. The plants, 3 feet high, next to

the squash, were apparently part of a folk remedy Martinez hoped would loosen up his stiff shoulders.

"A friend told me that if you soaked marijuana leaves in alcohol and rubbed it on your arms, it would cure arthritis," he said.

Prosecutors charged Martinez with cultivation of marijuana — punishable by up to three years in state prison — after deputies working with the state Campaign Against Marijuana Planting flew over his 12-acre property in a helicopter, spotted the two plants and took aerial photographs on Sept. 23.

Five days later, two deputies in

camouflage clothing arrived at Martinez's home on Pleasant Valley Road near Aptos, pulled the plants and wrote him a citation.

At a preliminary hearing Monday, Santa Cruz Superior Court Judge Samuel Stevens determined there was enough evidence to move the case forward. He set Dec. 20 for arraignment.

Martinez, a retired truck driver who has no prior criminal history, turned down prosecutors' offers to enter a drug diversion program. Under such a deal, his record would have been cleared if he attended 12 weeks of drug awareness classes at a cost of \$270. He said he lives on a fixed

income and doesn't have the money.

"Why in the hell do I need counseling?" he said. "I've never even taken a puff."

Martinez said he didn't plant the marijuana. It grew wild, probably from hemp seeds in chicken feed scratched by roosters, he said. When he saw the leaves, he said he talked to a friend who recommended the arthritis remedy.

Sheriff's Deputy Bob Payne testified that Martinez allowed officers to search his house. Police found no other marijuana or drug paraphernalia, he said.

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RICK E. MARTIN — MERCURY NEWS

James Martinez, 69, in court Monday to face felony drug charges.

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Retiree in court on pot charges

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The case again opened the debate on marijuana eradication efforts in Santa Cruz County.

"What a waste of tax money," said Public Defender Diana August, who was appointed to represent Martinez. "He's a nice guy. He cooperated with police. How many thousands of dollars is this going to cost?"

In an interview later, Payne said he searched Martinez's property because agents in helicopters often spot only a few plants but then find hundreds on the ground.

"We're not going to do selective enforcement," he said. "We take care of business. If a crime occurs, we deal with it."

August said she asked prosecutors to drop the case Friday, but they refused.

Monday, however, District Attorney Art Danner said his office might be willing to dismiss the

case and not require Martinez to enter drug counseling as long as court records showed a drug diversion, which would mean Martinez would face much more serious consequences if arrested for marijuana cultivation again.

"The main thing people need to understand is that when you cultivate marijuana, it doesn't matter if it's one or 1,000 plants," said Danner. "It's against the law. While I may be sympathetic, that doesn't change the law."

Twice in the past year, Danner has refused to file charges against Valerie Corral, a Davenport woman arrested by sheriff's deputies because she grows and smokes marijuana to control epileptic seizures.

After 150 angry residents attended a hearing last week, the Santa Cruz County Board of Supervisors voted to accept a \$240,000 state grant for next year's anti-marijuana effort, but supervisors have not yet decided how to allot the money.