

# Unlawful Medicine

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## The medical marijuana campaign keeps on puffing

**"WE KEEP WINNING AND WE** don't get anything!" says Scott Imler ruefully, while discussing the movement to legalize the use of medical marijuana. Imler is a spokesperson for Santa Cruz Citizens for Medical Marijuana (SCCMM), a local organization that attends to the day-to-day legal and medical needs of the patients who believe cannabis is the most effective medicine to relieve the pain or nausea they experience with serious or chronic illnesses. But Imler and the SCCMM will be back in court on Dec. 21 on behalf of one of their patients, Scott Hager, a quadriplegic with a severe spinal cord injury.

Santa Cruz police invaded Hager's home on Sept. 2, acting on an anonymous tip that Hager, a bronze medal winner at the 1988 para-Olympics swimming event, was an armed and dangerous dealer. Though the police were informed by District Attorney Art Danner's office that they indeed were familiar with Hager's documented status as a medical marijuana patient, the police officers were instructed to seize the four plants they found growing in Hager's closet. The District Attorney had previously prosecuted a robber who had broken into Hager's home to steal his marijuana plants last February.

"They (the police) knew what they were doing was wrong," said Hager. "I think they genuinely felt bad about it." Hager, who was recovering from recent surgery, used marijuana to control the violent spasms associated with his paralysis caused by a 1982



Scott Imler

swimming accident. Police were called back to Hager's home the next day by neighbors who heard moaning coming from his apartment. They found Hager in severe pain, sweating profusely and bleeding from his catheter. Hager required another surgery on Nov. 2, due to an infection resulting from the damage done to his incisions by the spasms. Hager has not been criminally prosecuted for possession.

On Sept. 16, Hager filed a "class action" lawsuit against state and local law enforcement officials to prevent them from taking anyone else's med-

ical marijuana in the future. The suit, on behalf of himself and other patients, challenges the constitutionality of current medical marijuana restrictions and is based on the California Constitution, Article 1, Section 1, which guarantees "the right to safety, privacy and happiness and to enjoy life and liberty." Attorney Ed Frey, who ran for district attorney last spring, is representing Hager's case pro bono. He will contend that the Sept. 2 search and seizure in Hager's home was unconstitutional. In a "Which came first, the chicken or the egg?" irony, Hager and the SCCMM recently learned that the DA has filed a demurrer to have the civil case dropped, asserting that a party can't request an injunction against a law unless it's alleged to be unconstitutional. The hearing on Dec. 21 will decide the status of the suit.

On Sept. 30, Gov. Pete Wilson vetoed SB 1364, a symbolic, pro-medical marijuana law which both Democrats and Republicans had passed in the state legislature. To date, 35 states have passed laws recognizing marijuana's medical benefits, yet federal drug control agencies continue to ignore the intent of these state laws. Recognizing there will be "no relief from Sacramento or Washington," SCCMM is working to establish a legal, community-based treatment program. They are currently phoning all 85,000 citizens who voted for Measure A, in an attempt to raise the needed funds.

— Laurel Taylor