

CHP Insists on Disrespecting Prop 215

Mary Jane Winters, 54, and Tiffany Simpson, 23 are two of eight plaintiffs in a suit Americans for Safe Access has filed against the California Highway Patrol for confiscating marijuana from bona fide patients in defiance of the medical marijuana law. The two women were in Oakland on Tuesday, 2/15, to address the media before ASA attorney Joe Elford filed the paperwork. By coincidence, both women had letters of approval from the late Richard White, M.D., of Mendocino.

Winters, 54, is a traveling nurse who lives in Ukiah; a tall, handsome woman, the mother of four (one of her strapping sons came to Oakland with her for moral support). Winters ruptured three disks in her back in 1987 lifting a grossly obese patient. This resulted in three years of being unable to work at all, and ongoing pain.

On Thanksgiving Day 2004, having worked all night at a convalescent home in Healdsburg, Winters was heading north on Highway 101, intending to drop off some flowers at a homeless shelter on her way home. She was stopped by a CHP officer for speeding. He asked to see proof of insurance, which Winters produced. Instead of showing leniency to a nurse who had worked all night, the officer scrutinized her car and noticed a bag with the red-green-yellow reggae emblem. He nodded towards the bag and said, "Why are you trying to hide your marijuana?" She responded, "I'm not trying to hide my marijuana, I have no reason to, I have a 215 card." He said "We don't recognize 215 cards. Do you have any other drugs in the car?"

"At that point I became fearful — a little-bit-terrorized feeling."

As Winters tells it, "He had reached in and begun going through my bag. He asked me to go sit in his police car while he searched my car. He said again, 'The Highway Patrol does not recognize Prop 215.' And at that point I became fearful — a little-bit-terrorized feeling. And I did proceed to his car because I felt if I didn't that he was going to cuff me."

Winters was written up for speeding and possession of marijuana (approximately two ounces). She has paid her

\$150 fine and is finishing a traffic-school course at home. She went to court in Ukiah with public defender Linda Thompson to get charges dropped. She asked at the CHP office in Ukiah about retrieving her medical cannabis and was told to get a court order, which she intends to do.

Winters says, "I think marijuana should be tried on all patients before they go on psychiatric drugs. The biggest thing I've seen is many kids, adults too, who are self-medicating because of their psychiatric problems. It makes them feel better, whether they're up or down or yo-yoing... They're using it with and without the prescription to temper their personality. With the bipolars it gets rid of some of the hostility... and I know it's brought the crime rate down."

No Christmas Mood

Shortly before noon on Christmas day, 2004, Tiffany Simpson was stopped by a CHP officer as she drove north on Hwy 580 in Hayward. She had just purchased three eighths of an ounce of cannabis from her favorite dispensary, Dragonfly Holistic Solutions, and was driving home to Richmond.

Tiffany looks young for 23, until you notice the dark rings under her eyes. She's a full-time student at Contra Costa Community College, majoring in biology and African American studies. She lives in Richmond with her mom and dad and a brother and a sister call her "Big Momma" because she does the cooking and cleaning and is a decision-maker. Tiffany has a painful spasmodic condition that has not been diagnosed definitively. The fact that cannabis eased her symptoms sufficed for a letter of recommendation from Dr. White (Tiffany had befriended White's son Ali when they took a class together at Diablo Valley College.)

She worries that her condition, which seems to be slowly worsening, may be hereditary. Her biological father reportedly had multiple sclerosis, and her mother has a painful muscle disorder that Kaiser doctors are now trying to identify. Tiffany does not have health insurance to pay for diagnostic tests, 23 being the age at which you're no longer covered under your parent's policy.

SFPD Returns Cannabis from previous page

mistaken for erratic but was actually, he says, "precision driving."

An officer told Heid she smelled marijuana in the car. He produced an S.F. Department of Public Health card confirming his status as a patient. "The officers said they had never seen such a card," recalls Heid. He told them that indeed he had smoked marijuana in the car earlier in the day, after driving to a theater and parking in the lot. Since then he had seen a movie and eaten dinner in a restaurant; more than four hours had elapsed and he was unimpaired.

Three or four CHP cars had pulled up, according to Heid. "They seemed confused about what to do. They were inclined to think I was okay, except the supervisor, who was adamant about 'zero-tolerance.'" Heid was given a field sobriety test, which he assumed he passed, but then he was taken to the city jail at 850 Bryant and charged with driving under the influence of a drug. He provided a urine sample that would sub-

sequently reveal no recently ingested marijuana or alcohol in his system.

"These people have to go through this and find out what they're doing is wrong."

Throughout his detention, Heid says, "I was thinking, 'These people have to go through this and find out that what they're doing is wrong.' I turned it around and tried to make it education. I told them: 'I need it every day, I think I would die without it. I use it responsibly at my workplace...' I can't iterate enough how important it is for the supervisors to get on board and understand that there really is medical marijuana, it's not a hoax, it enables people like me to live and be on an even keel. Ironically, had I been high, I wouldn't have been driving like that."

Heid hired defense specialist Omar

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Harassed for the Holidays



Mary Jane Winters and Tiffany Simpson, 2/15/05

Here is Tiffany's story of the CHP encounter:

I was braiding my sister's hair for eight hours the previous day and I really needed some medicine. Braiding hair is prolonged, physical work, done while you're standing up...

The Highway Patrolman got behind me on the freeway and pulled me over originally for registration. However once he ran my registration he came back and said the car was registered through 2005. He said he smelled marijuana. I said, "You do smell marijuana." He said, "Do you have marijuana on you?" I said, "Yes, I do. And I also have my doctor's recommendation." He said, "What kind of weed do you have?" I said, "Don't you mean 'How much medical marijuana do you have?'" He looked at me and said "Well, yeah." I said I went to a cannabis club right here in Hayward. I showed him my receipt and my doctor's recommendation and my license. He ran it and came back and was like "Well, um, yeah, it was clear, but we don't recognize medical marijuana." "What?" "The Highway Patrol doesn't recognize medical marijuana."

He asked me to show him where the marijuana was and I pulled it out of my purse and handed it to him. It was three eighths. Two eighths of purple and one eighth of shake. He took it back to the car. He called back-up and two more cars arrived. Then he came back and said he was going to perform a search. I said I'm not going to consent to a search. I'm not on probation or parole...

They searched anyway and of course there was nothing to find. He gave me a ticket that said possession of less than an ounce of marijuana and no insurance.

I went straight home and took a motrin and went straight to sleep. I was completely discombobulated — not in no Christmas mood! It took me about two or three weeks after that before I could do somebody else's hair so I could afford to obtain some more medicine.

The Law's Delay

Tiffany mentioned that her mom is afraid to obtain a doctor's approval to use cannabis, even though her Kaiser doctor said it works to reduce pain. Tiffany's mom is a counselor at a Berkeley homeless shelter. Her fearful reluctance typifies the attitudes of millions of Californians towards medical marijuana. "I'm telling her to go get a card," says Tiffany, "and she's telling me 'no, it's not legal,' and I'm telling her it IS legal..." Now, in their internal debate, Tiffany's mom cites the CHP seizure as proof that she's right — there is really no such thing as legal medical marijuana in California.

To retrieve the cannabis taken by the CHP, Tiffany has to get a judge's order that it be returned, then she has to bring the paperwork to a police station and hope that her three eighths are there and in good condition. (She never got a receipt confirming the quantity taken.) She has already made three trips to the courthouse in Hayward. The second time a clerk told her to come back on a Tuesday evening. She did, only to find herself before a night court judge who was there only to accept payment in full from those who had it. He wouldn't even look at her letter of approval to use cannabis, and told her that CHP cases were handled on Wednesdays and Fridays. Tiffany now has a court date, March 16. "It's ridiculous. How can a regular citizen fix their schedule around just for the convenience of the Highway Patrol?"

The CHP is under Gov. Arnold Schwarzenegger, who claims in the abstract to be "for" medical marijuana. Ha ha, the joke's on you, Kahleefawnia... The CHP is making public promises to comply with California law as soon as the Department of Human Services issues identification cards as mandated by SB-420. Apparently, medical cannabis users who choose not to get ID cards — their right under Prop 215 — will continue to be subject to ticketing and confiscation by the CHP. At least until ASA goes to court for them.