IN THE SUPREME COURT OF MISSISSIPPI

2020-IA-01199-SCT

IN RE INITIATIVE MEASURE NO. 65:

MAYOR MARY HAWKINS BUTLER,
in her individual and official capacities,
and THE CITY OF MADISON, *Petitioners,*

v.

MICHAEL WATSON, in his official
Capacity as Secretary of State for the
State of Mississippi, *Respondent.*

Brief of Amici Curiae
Angela Calhoun, Michael Manning, M.D., Matthew B. Wesson, M.D., Fred Earl Kency Jr., M.D., Richard Scott Johnson, M.D., Sharon T. LaRose, M.D., Jule P. Miller, III, M.D., Nathan McIntosh, M.D., Justin Daniels, M.D., Timothy D. Estes, M.D., Michael L. Sanders, M.D., Claude Harbarger, M.D., Zachary K. Baldwin, M.D., Jessica Boykin, Christy Dunaway, and the Mississippi Sickle Cell Foundation

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DATED: January 19, 2021.

Respectfully submitted,

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State of Mississippi, *Respondent.*

Certificate of Interested Parties

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made so that the Justices of the Mississippi Supreme Court may evaluate possible disqualification or recusal:

1. Mayor Mary Hawkins Butler, in her individual and official capacities, and the City of Madison, Petitioners;

2. Chelsea H. Brannon, Madison City Attorney, Counsel for Petitioners;

3. Adam Stone, Kaytie M. Pickett and Andrew S. Harris, Jones Walker, LLP, Counsel for Petitioners;

4. Michael Watson, in his official capacity as Secretary of State for the State of Mississippi, Respondent;

5. Krissy C. Nobile and Justin Matheny, Mississippi Attorney General's Office, Counsel for Respondent;

6. Mississippi Senators Angela Hill and Kathy Chism, and Mississippi Representative Jill Ford, the Mississippi State Department of Health, the Mississippi State Medical Association, the American Medical Association, and the Mississippi Sheriffs' Association, Amici;

7. Nathan S, Farmer, Nathan S. Farmer, P.A., Counsel for Amici Hill, Chism, and Ford;

8. G. Todd Butler and Mallory K. Bland, Phelps Dunbar PLLC, Counsel for Amicus Mississippi State Department of Health;

9. John B. Howell, III, Jackson, Tullos & Rogers, PLLC, Counsel for Amici Mississippi State Medical Association and American Medical Association;

10. William R. Allen, Allen, Allen, Breeland & Allen, PLLC, Counsel for Amicus Mississippi Sheriffs' Association.

This the 19th day of January 2021.

/s/ William Trey Jones, III

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I. Summary of the Argument

The Mississippi State Medical Association and the American Medical Association (collectively, the "MSMA") and the Mississippi Sheriffs Association (the "Sheriffs Association") have presented this Court with arguments based on selected citations to statutes and law. These arguments should be disregarded.

The MSMA urges this Court to focus on *legislative* intent to ascertain the meaning of "congressional district" as used in Section 273(3) of the Mississippi Constitution. The proper focus is instead the intent of the *people* who adopted the amendment that should determine its meaning. In the case of subsection (3), the people's intent is clear and uncontested: To "reserve unto themselves the power to propose and enact constitutional amendments by initiative." Miss. Const. art. 15 § 273(3).

The MSMA also cites a collection of cherry-picked statutes, only including those that favor its preferred interpretation of "congressional district" and omitting those that do not. Even if one were to examine irrelevant statutes to interpret the Constitution, when *all* relevant statutes are considered, the interpretive value of the select statutes the MSMA did cite (if there ever was any value) vanishes. In the end, the *people's* intent in adopting a constitutional provision cannot be determined from statutes when interpreting the meaning of "congressional district" as used in subsection (3) of the Constitution.

Further, the MSMA wrongly touts the interpretive significance of failed legislative attempts to amend subsection (3), claiming that such attempts and the

intentions of the lawmakers who sponsored them are indicative of the collective intent of the Legislature. They apparently do not realize that this Court has previously rejected such reasoning. If anything, the Legislature's decision not to pass any of these proposed bills is merely an indication of the Legislature's belief in the continued validity of Section 273(3).

The briefs of both the MSMA and the Sheriffs Association also include policy arguments focused on the substance of Initiative 65 and the safety and efficacy of medical marijuana. They contain arguments that are either unsupported or are based on erroneous statistics and other data. Since this Court has permitted the MSMA and the Sheriffs Association to present policy arguments as to Initiative 65 and medical marijuana, these proposed *amici* have included their own counter-arguments below in order to balance the slanted narrative created by the MSMA and Sheriffs Association with objective evidence as to the safety and efficacy of medical marijuana.

Finally, the brief of the MSMA creates the misimpression that the entire Mississippi medical community opposes Initiative 65, which is simply untrue. Indeed, these proposed *amici* include Mississippi physicians and medical advocacy professionals who supported Initiative 65 and recognize the benefits a medical marijuana program will bring to Mississippians suffering from various debilitating medical conditions. A more detailed discussion of these physicians and advocates can be found in the brief submitted by these proposed *amici* in support of their Motion for Leave to File Brief of *Amici Curiae.* It also contains information from a potential patient, Angela ("Angie") Calhoun, whose son suffers from a seizure disorder that can

be treated with medical marijuana. Angie's son is just one of many Mississippians who suffer and hope to find relief through a Mississippi medical marijuana program.

For these reasons, the arguments made by the MSMA and the Sheriffs Association should be disregarded entirely.

II. Argument

1. The proper focus in interpreting Section 273(3) is the intent of the people who adopted it.

Despite the MSMA's preoccupation with legislative intent, this case is not about what the Legislature believes the meaning of "congressional district" to be, nor is it about the subjective intentions of individual lawmakers who tried and failed to amend subsection (3). To the contrary, "the fundamental purpose in construing a constitutional provision is to ascertain and give effect to the intent of those who adopted it." *Moore v. General Motors Acceptance Corp.*, 125 So. 411, 412 (Miss. 1930). It is the intent of the people that matters. When considering a constitutional amendment, this Court has said:

> It is worthy of remark, however, that this amendment of the Constitution **proceeds directly from the people of the State**, in their sovereign capacity. It **derives no sanction from the legislature**, **whose office it is to propose, and not to enact** . . . . [T]he Court **ought not to interfere to defeat their deliberately expressed will**, without the most clear and imperative necessity.

Green v. Weller, 32 Miss. 650, 672-73 (1856).

The people's intent in 1992 was clear. In amending Section 273, they meant to "reserve unto themselves the power to propose and enact constitutional amendments by initiative." Miss. Const. art. 15 § 273(3). That was their purpose. And, "every

reasonable presumption, both of law and fact, is to be indulged in favor of the validity of [that amendment to Section 273] when it is attacked after its ratification by the people." *State ex rel. Collins v. Jones*, 64 So. 241, 254 (Miss. 1913). In short, the people's "exercise of the sovereign right of changing their constitution, should receive such a construction as not to trammel the exercise of the right." *Id.* at 248.

The MSMA's interpretation of subsection (3), with its misdirected focus on legislative intent, would indeed trammel that right, as it would render amendment by voter initiative an impossibility. On the other hand, interpreting "congressional district" as referencing the five districts in existence at the time subsection (3) was adopted not only effectuates the intent of the people, but is the most reasonable, indeed the only reasonable, interpretation available, given the embedded textual reference to the five district plan (namely, the "one-fifth (1/5)" language) contained in subsection (3).

The MSMA's reading of only the words "congressional district", devoid of any context, is inconsistent with the intent of the people who adopted subsection (3). Accordingly, its arguments should be disregarded.

2. Even if legislative intent was relevant, MSMA's statutory evidence is not.

The MSMA highlights a variety of statutes in which the Legislature tied "congressional district" to a particular point in time using variations of the phrase "as existing." In light of these statutes, the MSMA says the Legislature knew how to tether the phrase "congressional district" to the former five-district plan if it wished. In the MSMA's view, the Legislature failed do this and that failure should be seen as

evidence that it meant the phrase "congressional district" to float free and change with the times. Even if this Court is inclined to consider evidence of legislative intent in this case, this argument is simply wrong. There are other statutes, omitted by the MSMA, that undermine its interpretation and negate any relevance the MSMA's statutes might otherwise have.

One such statute is Miss. Code Ann. § 5-3-91, enacted in 1977, in which the Legislature created a standing joint legislative committee to oversee reapportionment of the House and Senate membership. Section 5-3-91 states that the committee is to be composed of, among others, "ten (10) members of the house of representatives, two (2) from each congressional district … and ten (10) members of the senate, two (2) from each congressional district ….". Miss. Code Ann. § 5-3-91. However, unlike Section 273(3), the Legislature chose to expressly sever the meaning of "congressional district" from any particular point in time:

> In the event the congressional districts of the state shall change numerically, then the number appointed from the senate and from the house from congressional districts shall be adjusted accordingly.

Id.

Similarly, in 1981, the Legislature created a standing joint congressional redistricting committee, with the same composition as the committee on reapportionment, to be appointed in precisely the same manner. Miss. Code Ann. § 5-3-121. Further, the Legislature included the same clause as above, rendering the meaning of "congressional district" dependent on the number of districts in existence at the time appointments were made. *Id.*

Clearly, the Legislature understood not only how to tether the meaning of "congressional district" to a point in time, but also how to *un*tether it, which is something not done in Section 273(3). Consequently, the absence of such "free floating" language in Section 273(3) is at least as significant as the absence of "as existing" language. In short, any interpretive value that might be derived from the statutes cited by the MSMA is negated by the ones it omitted.

3. Failed attempts by lawmakers to amend Section 273(3) have no bearing on the meaning of "congressional district".

The MSMA claims its interpretation of "congressional district" is further supported by the efforts of individual lawmakers to amend subsection (3) by replacing the "one-fifth (1/5)" language. It speculates the bill sponsors must have concluded that "congressional district" referred to the four existing districts, recognized the problem such a reading would cause and sought to fix it. Of course, none of these bills were enacted into law (they all died in committee), but the MSMA nevertheless points to these failed bills (and the perceived intentions of their sponsors) as evidence of the collective intent of *the Legislature*. This reasoning is fundamentally flawed.

The subjective intentions of individual lawmakers are not (and never have been) an acceptable (or reliable) means of divining the intent of *the Legislature*. Indeed, this Court has said:

> …legislative intent can be deduced from the legislative acts alone… Testimony to explain the motives which operated upon the law-makers or to point out the objects they had in view, is wholly inadmissible. It would take from the statute law every semblance of certainty, and make its character depend upon the varying and conflicting statements of witnesses.

Mississippi Gaming Com'n v. Imperial Palace of Mississippi, Inc., 751 So. 2d 1025, 1028, 1028-29 (Miss. 1999) (quoting *Pagaud v. State*, 13 Miss. (15 S. & M.) 491, 497, 1845 WL 2031 (1845)). In his dissent in *City of Ellisville v. Richardson*, Justice Dickinson said it well:

> When we are called upon to interpret [a statute], our function and duty is to interpret the wording of the statute so that, as closely as possible, the decision we render does not stray from the ***collective*** legislative intent behind the statute, which I equate with the plain meaning of the words chosen and agreed by the Legislature as a whole, as opposed to the subjective intent of some particular legislator who might have introduced or argued in favor of the law.

913 So. 2d 973, 983 (Miss. 2005) (emphasis in original).

Thus, even if this Court is inclined to consider evidence of legislative intent, it should disregard the subjective intentions of lawmakers who sponsored failed attempts to amend Section 273(3). Their views are simply not relevant.

4. The Legislature's failure to pass any of these proposed amendments to subsection (3) is not evidence of intent as to its meaning.

The MSMA's reliance upon failed amendments as evidence of legislative intent is also flawed because it erroneously seeks to attach significance to legislative inaction or silence. In *Smith v. Braden*, this Court rejected a similar argument, stating:

> This argument is problematic. The legislative intent of a statute can hardly be based solely on that which the legislature failed to do. Such an interpretation would amount to the legislature's having spoken by its silence, or, stated otherwise, taken action by inaction.

Smith v. Braden, 765 So. 2d 546, 556 (Miss. 2000). The Court explained that the legislation at issue may have failed to pass for a variety of reasons, including the

Legislature's belief that the existing statutory language was sufficient as written. *Id.*; *see also Sears Roebuck & Co. v. State Bd. of Optometry*, 213 Miss. 710, 726 (1952).

In his dissent in *Johnson v. Transportation Agency, Santa Clara Cty., Cal.*, Justice Antonin Scalia likewise criticized the action-by-inaction argument:

> … one must ignore rudimentary principles of political science to draw any conclusions regarding [Congress'] intent from the failure to enact legislation. The "complicated check on legislation," … erected by our Constitution creates an inertia that makes it impossible to assert with any degree of assurance that congressional failure to act represents (1) approval of the status quo, as opposed to (2) inability to agree upon how to alter the status quo, (3) unawareness of the status quo, (4) indifference to the status quo, or even (5) political cowardice.

480 U.S. 616, 671–72, 107 S. Ct. 1442, 1472, 94 L. Ed. 2d 615 (1987).

The point is Legislative inaction has no interpretive value as to the meaning of Section 273(3), and it should be disregarded.

5. If anything, the Legislature's repeated refusal to vote to adopt any of these amendment proposals merely reflects the Legislature's satisfaction with the wording of subsection (3) and a belief in its continued validity.

The attempts to amend Section 273(3) focused exclusively on the "one-fifth (1/5)" language which is part of the geographical diversity requirement in subsection (3). This was originally included "to help assure that the initiative process is not used by citizens of one part of the state to the detriment of those in another." Att'y General Op. No. 2009-00001, 2009 WL 367638, at *2 (Miss. A.G. Jan. 9, 2009). The minority of legislators who proposed these amendments sought to replace the "one-fifth (1/5)" language with "its pro rata share" and similar phrases. H.R. Con. Res. 58, 2003 Leg., Reg. Sess. (Miss. 2003). Such proposed changes do *not* reflect a judgment by the

Legislature that the people had lost their right to amend the Constitution. Rather, the far more reasonable conclusion is that a handful of lawmakers believed they knew a better way to judge geographical diversity.

Nonetheless, each time the Legislature was presented with the option of voting to adopt any one of these seven proposed amendments, it chose not to do so. If there are any conclusions to be drawn from these choices, they are that (a) the Legislature did not believe that Section 273(3) had become void due to the loss of a congressional district and (b) it was satisfied with the geographical diversity requirement as written, which relied on the former five congressional districts. No other interpretation is permissible, given the overarching principle that constitutional provisions are "***intended to stand and to serve [their] purposes not for today alone but for a long, long time***." *Trahan v. State Highway Comm'n*, 169 Miss. 732, 151 So. 178, 182 (1933) (emphasis added).

6. The policy arguments proffered by the Sheriffs Association and the MSMA present a misleading view of the safety and efficacy of medical marijuana.

In its *amicus* brief, the Sheriffs Association predicts that a medical marijuana program in Mississippi will lead to a public safety disaster. However, although it purports to base its dire forecast on sound evidence, a closer inspection reveals only unsupported claims surrounded by irrelevant statistics and other data.

Similarly, the MSMA's brief is wrought with unsubstantiated statements meant to inform the Court that the science and research is well-settled against medical marijuana; this is not the case and must be clarified. Erring with brevity, the

MSMA brief inadequately provides a host of simple negative assertions about legalizing medical marijuana without providing any evidence. Moreover, just as the American Bar Association does not reflect the views of all its members on all policies, the MSMA does not represent the views of all physicians in Mississippi on medical marijuana, as reflected by the number of physicians included as proposed *amici* here.

Both briefs provide only a distorted (and therefore misleading) view of medical marijuana and Initiative 65, and each should be disregarded.

The proposed *amici* here, who include, among others, Mississippi physicians who supported Initiative 65 and recognize the benefits medical marijuana will provide to Mississippians, present the following points for the purpose of balancing the Sheriffs Association and the MSMA's distorted narratives with objective evidence.

a. There is a wealth of scientific evidence demonstrating the efficacy of medical marijuana for the treatment of a variety of debilitating illnesses.

The Sheriffs Association and the MSMA suggest that the medical efficacy of marijuana is unsubstantiated. (*See* Sheriffs' Brief, p. 4 and MSMA Brief, p. 9). This is simply wrong. In truth, an abundance of research demonstrates medical marijuana's effectiveness in the treatment of a variety of medical conditions. For example, studies show that medical marijuana effectively relieves some of the more debilitating symptoms of multiple sclerosis, including spasticity, chronic pain, and neuropathic pain.[1] Medical marijuana also serves as a palliative treatment for many

[1] Hill K. P. (2015). Medical Marijuana for Treatment of Chronic Pain and Other Medical and Psychiatric Problems: A Clinical Review. *JAMA*, 313(24), 2474–2483. https://doi.org/10.1001/jama.2015.6199.

patients suffering from cancer,[2] as well as an antiemetic in the treatment of chemotherapy-induced nausea and vomiting.[3] Additionally, researchers found that marijuana provides greater pain management than opioids and other conventional pain medications with fewer side effects.[4]

This is but a sampling, and the list of studies supporting the efficacy of medical marijuana continues to grow rapidly.

b. There is no reasonable basis upon which to conclude that a well-regulated medical marijuana program in Mississippi will endanger the public safety.

The Sheriffs Association claims that if Initiative 65 becomes law, it will lead to a public safety nightmare. It begins with the unsupported assertion that a medical marijuana program in Mississippi will inevitably lead to increased *illegal* usage by people who do not have a "debilitating medical condition", a prerequisite for obtaining medical marijuana under Initiative 65. (Sheriffs' Brief, p. 3). The Sheriffs Association neither cites any evidence for this bold claim nor offers even a reasonable explanation as to how this would occur. Building on this unfounded notion, the Sheriffs Association further alleges that this increased illegal use of medical marijuana will lead to traffic accidents, addiction and crime. It cites a host of studies, articles and

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[2] Bar-Lev Schleider, L., Mechoulam, R., Lederman, V., Hilou, M., Lencovsky, O., Betzalel, O., Shbiro, L., & Novack, V. (2018). Prospective analysis of safety and efficacy of medical cannabis in large unselected population of patients with cancer. *European Journal of Internal Medicine*, 49, 37–43. https://doi.org/10.1016/j.ejim.2018.01.023.

[3] National Academies of Sciences, Engineering, and Medicine. 2017. The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research. Washington, DC: The National Academies Press. https://doi.org/10.17226/24625.

[4] Reiman A, Welty M, Solomon P (2017) Cannabis as a substitute for opioid-based pain medication: patient self-report, Cannabis and Cannabinoid Research 2:1, 160–166, DOI: 10.1089/can.2017.0012.

government bulletins that fill space but do not (either individually or collectively) show that a well-regulated medical marijuana program in Mississippi is likely to cause any of these problems.

In reality, there is substantial evidence to the contrary. The Sheriffs Association contends that traffic fatalities will increase if Initiative 65 becomes law. In fact, states that legalized medical marijuana have experienced a significant reduction in traffic fatalities following legalization, as reflected in a study covering the period from 1985 to 2014.[5] Another study published in *The Journal of Law and Economics* found that states that adopted medical marijuana laws saw a reduction in traffic fatalities of 8% to 11% among individuals 20 to 39 years of age during the first year following legalization.[6]

There is also substantial evidence discrediting the notion that implementing a medical marijuana program will lead to an increase in crime. In one study, researchers from the University of Texas analyzed state crime data gathered by the FBI from 1990 to 2006 and found no increase in Part 1 offenses (murder, burglary, robbery, theft, etc.) in states that adopted medical marijuana programs.[7] Likewise,

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[5] Santaella-Tenorio, J., Mauro, C. M., Wall, M. M., Kim, J. H., Cerdá, M., Keyes, K. M., Hasin, D. S., Galea, S., & Martins, S. S. (2017). US Traffic Fatalities, 1985-2014, and Their Relationship to Medical Marijuana Laws. *American journal of public health*, 107(2), 336–342. https://doi.org/10.2105/AJPH.2016.303577.

[6] Anderson, D. M., Hanse, B., & Rees, D. I. (2013). Medical Marijuana Laws, Traffic Fatalities, and Alcohol Consumption. *The Journal of Law and Economics*, 56:2, 333-369. https://doi.org/10.1086/668812.

[7] Morris, R. G., TenEyck, M., Barnes, J. C., & Kovandzic, T. V. (2014). The effect of medical marijuana laws on crime: evidence from state panel data, 1990-2006. PloS one, 9(3), e92816. https://doi.org/10.1371/journal.pone.0092816.

researches at Le Moyne College in Syracuse, NY conducted a similar study and found "***no negative spillover effects from medical marijuana laws on violent or property crime***."[8] Instead, they found "***significant drops in rates of violent crime associated with state medical marijuana laws***."[9] Other studies produced comparable results.[10] Further, researchers at UCLA examined 95 census tracts in Sacramento, CA and found no association between the density of marijuana dispensaries and either violent crime or property crime.[11]

Research also contradicts the idea that a well-regulated medical marijuana program will lead to substance abuse and addiction. Although marijuana is framed by the Sheriffs Association as a "gateway" drug, a widely recognized study conducted by the National Academy of Medicine[12] found just the opposite to be true. Indeed, the researchers conducting that study concluded: ***"there is no evidence that marijuana serves as a stepping stone [to other substances] on the basis of its particular physiological effect."***[13]

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[8] Shepard, E. M., & Blackley, P. R. (2016). Medical Marijuana and Crime: Further Evidence From the Western States. *Journal of Drug Issues*, 46(2), 122–134. https://doi.org/10.1177/0022042615623983.

[9] *Id.*

[10] Chu, Yu-Wei. (2017). Joint Culpability: The Effects of Medical Marijuana Laws on Crime. *SSRN Electronic Journal*. 10.2139/ssrn.2915909.

[11] Kepple, N. J., & Freisthler, B. (2012). Exploring the ecological association between crime and medical marijuana dispensaries. *Journal of Studies on Alcohol and Drugs*, 73(4), 523–530. https://doi.org/10.15288/jsad.2012.73.523.

[12] Known at the time as the Institute of Medicine.

[13] Institute of Medicine. 1999. Marijuana and Medicine: Assessing the Science Base. Washington, DC: *The National Academies Press*. https://doi.org/10.17226/6376.

Moreover, contrary to the claims of the Sheriffs Association, the available evidence does not support the idea that a medical marijuana program will somehow result in an explosion of illicit use by adolescents. Indeed, one study in 2019 found no increase in adolescent use of marijuana following enactment of medical marijuana laws.[14] Further, a review of Youth Risk Behavior Surveys (YRBS) from 1999 to 2015 conducted by researchers at Boston College revealed that states that adopted medical marijuana programs saw a ***reduction*** of illicit marijuana use among adolescents.[15] Moreover, the review found that such reductions increased the longer the programs were operational.[16]

Indeed, there is evidence that introduction of a medical marijuana program may even have a beneficial impact on the rates of opioid use in Mississippi. For instance, researchers at Columbia University's Irving Medical Center conducted a 2020 study examining the "association between implementation of state [medical] cannabis laws and prescribing patterns for opioids by orthopaedic surgeons" (who are among the highest prescribers of opioids). The result? States with active medical marijuana programs experienced a ***19.7%*** annual reduction in the rate at which opioids were prescribed.[17]

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[14] Anderson, D. M., Hansen, B., Rees, D. I., & Sabia, J. J. (2019). Association of Marijuana Laws With Teen Marijuana Use: New Estimates From the Youth Risk Behavior Surveys. *JAMA Pediatrics*, 173(9), 879–881. Advance online publication. https://doi.org/10.1001/jamapediatrics.2019.1720.

[15] Coley, R. L., Hawkins, S. S., Ghiani, M., Kruzik, C., & Baum, C. F. (2019). A quasi-experimental evaluation of marijuana policies and youth marijuana use. *The American Journal of Drug and Alcohol abuse*, 45(3), 292–303. https://doi.org/10.1080/00952990.2018.1559847.

[16] *Id.*

[17] Lopez, C. D., Boddapati, V., Jobin, C. M., & Hickernell, T. R. (2020). State Medical Cannabis Laws Associated With Reduction in Opioid Prescriptions by Orthopaedic Surgeons in Medicare Part D

This is just a sampling of the available research. The point is that substantial high-quality evidence demonstrates that medical marijuana is effective and suggests that, far from creating a public safety nightmare, a well-regulated medical marijuana program will likely provide significant benefits to the state and its people.

III. Conclusion

This Court should disregard the briefs submitted by the MSMA and Sheriffs Association, as they present arguments that are either inconsistent with controlling principles of law or based on irrelevant statistics and data (and, at times, are entirely devoid of support). This Court should focus on the intent of the people and give effect to their decision to amend the Constitution and permit access to medical marijuana in Mississippi.

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Cohort. *The Journal of the American Academy of Orthopaedic Surgeons*, 10.5435/JAAOS-D-19-00767. Advance online publication. https://doi.org/10.5435/JAAOS-D-19-00767.

Certificate of Service

I certify that the foregoing document has been filed using the Court's MEC system and thereby served on all counsel of record and other persons entitled to receive service in this action.

This the 19th day of January 2021.

/s/ William Trey Jones, III
WILLIAM TREY JONES III