



Raising Awareness of the
Consequences of Drug
Prohibition



Pot Defender Battling for Life

Posted by [FoM](#) on July 30, 1999 at 07:38:55 PT

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Source: [Key West Citizen](#)

KEY WEST - The Key West man who fought and won his medical marijuana case is now facing a much more daunting battle.



In January, Joe Hart prevailed against the State Attorney's Office in Key West after his arrest for receiving a package of marijuana through the mail. These days, however, the 50-year-old spends his time in a Miami hospital, his finger on a button dispensing morphine. He is suffering from a multiple myeloma, cancer of the bone marrow.

His immediate goal is to make his next birthday. "I will be 51 on Aug. 3," he said.

Hart has championed the cause of smoking marijuana since 1984, ever since he discovered the drug offered him some relief from pain and enhanced his appetite, which offset the debilitating effects of AIDS.

His legal case goes back several years, when he was the director of a now-defunct cannabis providers club in Key West. Cannabis is the technical name for marijuana.

An unsolicited package of marijuana was mailed to Hart, tipping off local law enforcement. His arrest came after city, county, state and federal agents, using a battering ram, broke down his door and threw the retired military man to the floor. The state brought felony charges against Hart for possession of marijuana, possession of drug paraphernalia and possession with intent to distribute.

But, ironically, it was the aggressiveness of the arrest that would ultimately free Hart.

The case lingered on through 1998, with both sides accusing the other of dragging their feet. The state objected to the efforts of Hart's attorney, public defender Julio Margalli, to introduce the testimony of a renowned Harvard psychiatrist and marijuana advocate.

Assistant State Attorney Rolando Castineyra said the state was not opposed to Hart taking his medicine, just distribution of marijuana. While talk surfaced of a dismissal, Hart was adamant that he go to trial.

"I insist this must go to a jury trial; I don't want this to be dismissed," said a combative Hart, a Vietnam veteran decorated 17 times for valor. But Judge Richard Payne would eventually dismiss the case due, in large part, to the officers breaking down Hart's door without giving him sufficient time to answer.

Meanwhile, in a separate case, Hart was one of the 181 petitioners in a class-action federal medical marijuana lawsuit filed last August at the U.S. District Court in Philadelphia. At the time, Hart noted that many of the signatories will never outlive the legal action.

Hart said recently that he's currently hoping to get a resolution before the Monroe County Commission, endorsing the therapeutic use of marijuana.

There "cannot be any greater injustice than the use of the police force and state violence against the person and property of the sick, dying and disabled, who seek to preserve their lives through the use of a plant," he said.

"I don't think I have much time left," Hart said earlier this week. Besides the bone cancer, he said he has a large tumor within his chest wall.

"If they cut into it, they're afraid it'll spread," he said. "But this myeloma is one of the nastiest of cancers and I probably have no more than four-to-six weeks to live.

"I always expected to be taken by an AIDS-related illness, but never this way," he said.

"I'm being very pragmatic about this. I've learned to deal with death since Vietnam," he said.

He was first diagnosed with HIV after receiving a blood transfusion in 1984.

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