

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

2014 MAY 28 AM 10:22

STATE OF IOWA,

Plaintiff,

vs.

BENTON MACKENZIE,  
LORETTA MACKENZIE,  
and STEPHEN BLOOMER,

Defendants.

CRIMINAL NOS. FECR354410

FECR354411 ✓

FECR354412

RULING ON STATE'S MOTION  
IN LIMINE

On the 21st day of May, 2014, the State's Motion in Limine came before the Court for hearing. The State of Iowa was represented by Assistant County Attorney Patrick A. McElyea. Benton Mackenzie, a self-represented Defendant, was present along with his stand-by counsel, Lori Kieffer-Garrison. Defendant Loretta Mackenzie was present represented by her attorney, Rebecca Ruggero. Defendant Stephen Bloomer was present represented by his attorney, Harold DeLange. All of the Defendants and their counsel acknowledge receipt of the State's Motion in Limine. The Defendants and their counsel further advised the Court they had reviewed the Motion and the case cited in the Motion, *State v. Bonjour*, 694 N.W. 2d 511 (2005). After hearing the arguments of counsel and Benton Mackenzie and reviewing the Motion, the Court makes the following Findings of Fact.

The Court has been advised Benton Mackenzie is suffering from angiosarcoma. The State has anticipated the above-named Defendants will be presenting as argument in defense of the charges pending against them that the marijuana seized at the property where Benton and Loretta Mackenzie resided was being used by Benton Mackenzie to alleviate the symptoms of his current medical condition. The Supreme Court of Iowa in *State v. Bonjour*, 694 N.W. 2d 511

held the defendant was not entitled to the common law defense of medical necessity. The facts in the Bonjour case are very similar to the facts in the case of Benton Mackenzie. In *Bonjour* the defendant was suffering from Acquired Immune Deficiency Syndrome (AIDS) and Bonjour was using marijuana to alleviate the side effects of the toxic medications he was taking. The Court is not aware of any legislation or been provided with any legislation which provides for such defense. The legislature has passed recent legislation to allow the possession of cannabidoil with specific restrictions on such possession. Currently this is pending legislation awaiting the governor's signature approving the same. Therefore, the Court has no option at this time but to grant the State's Motion in Limine as it relates to the Defendants' ability to make an argument of medical necessity in the use of marijuana.

No arguments or objections were presented by counsel or Benton Mackenzie relating to the other requests set forth in the State's Motion in Limine and as such, the same shall be granted.

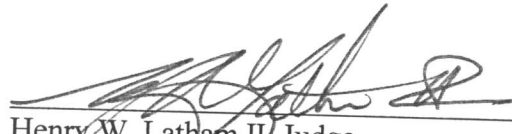
IT IS THEREFORE ORDERED, ADJUDGED and DECREED the above-named Defendants will be precluded from entering any evidence or eliciting any testimony utilizing the defense of medical necessity as it relates to using marijuana for medical reasons.

IT IS FURTHER ORDERED the above-named Defendants will be precluded from presenting evidence or argument as it relates to legal issues previously ruled on by the Court in the Motions filed by the above-named Defendants.

The Clerk shall provide a copy of this Ruling to all counsel of record, to Benton Mackenzie at his address as listed in the court file, and to stand-by counsel, Lori-Kieffer Garrison.

IT IS SO ORDERED.

Dated this 28<sup>th</sup> day of May, 2014.



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Henry W. Latham II, Judge  
Seventh Judicial District