IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF OKLAHOMA SITTING IN AND FOR WASHINGTON COUNTY

DISTRICT COURT WASHINGTON CO OK
JEAN DAVIS, COURT CLERK
FILED
FEB 26 2025
BY T. Bedell DEPUTY

THE STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. CM-2024-301**
	)	
FLYNN ROBERT MARTIN	)	
	)	
Defendant(s).	)	

STATE'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

COMES NOW the State of Oklahoma by and through its representative Assistant District Attorney Veronica J. Threadgill and requests this Court deny the Defendant's Motion to Dismiss. In support of said Response, the State offers as follows:

1. The Defendant's first issue is that "THCA Is Chemically and Legally Distinct from Delta-9 THC." Defendant in essence argues that the State has failed to provide evidence sufficient to support a conviction on the charge of Possession of a Controlled Dangerous substance in violation of 63 O.S. § 2-402. As there is no evidentiary record, the Defendant makes what is effectively a demurrer to the information, which is insufficient as the Defendant in his first complaint does not set out one of the enumerated grounds upon which to demur to the information before a trial.[1]
2. The Defendant's second issue relates to his misunderstanding of the statutory framework of the Uniform Controlled Dangerous Substances Act.

[1] 22 O.S. § 504. See also 12 O.S. § 577 (setting out the procedure for interposing and filing a demurrer on the evidence after the party with whom the burden rests has produced its evidence).

The Defendant relies heavily on administrative framework and a federal agricultural reform bill regarding hemp to support his contention that Oklahoma statute does not prohibit the possession of tetrahydrocannibolic acid. The list of Schedule III controlled substances was last amended in 2015. Tetrahydrocannibols has been included as a Schedule III controlled substance since 2005. On July 5, 2024, when the Defendant is alleged to have tetrahydrocannibols in his possession, in Oklahoma, it was against the law to possess tetrahydrocannibols including its salts, isomers, esters and salts of isomers and esters, when the existence of these salts, isomers, esters, and salts of isomers and esters is possible within the specific chemical designation.[2]

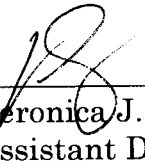
3. The Defendant's third complaint harkens back to his first issue, complaining of insufficient evidence in a case devoid of an evidentiary record. The State again would reiterate the deficiency of this demurrer to the information. Furthermore, the Defendant engages in remarkable extrapolation regarding the Oklahoma State Bureau of Investigation's analysis of the controlled substance seized, when the only note as to what the criminalist did not do is "[q]uantitation not performed." The Defendant assumes a great deal about what the criminalist's testimony may or may not include and presents it as fact, devoid of an evidentiary record, or and fails to provide any citations to support his scientific claims.

[2] 63 O.S. § 2-208.

4. The Defendant's fourth point of contention is effectively a recitation of his second claim, in which he confuses administrative law and criminal law. The rule change to which the Defendant indicates is from a regulatory agency which governs the testing standards and thresholds of medical marijuana in Oklahoma. It makes no amendment to the criminal framework in Title 63. Again, the law in Oklahoma at the time of the Defendant's arrest proscribes the possession of tetrahydrocannibols.

THEREFORE the State of Oklahoma respectfully requests the Court deny the Defendant's Motion to Dismiss and set the matter for trial.

Respectfully submitted,



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CERTIFICATE OF MAILING

This certifies that on this 26th day of February 2025, a true and correct copy of the above and foregoing was left in the courthouse mailbox of the attorney of record:

Kristi Sanders

Veronica J. Threadgill