

DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 901 9th Avenue, Greeley, CO 80631-1113 Mailing Address: P.O. Box 2038, Greeley, CO 80632-2038	
ADMINISTRATIVE ORDER 12-01	▲ COURT USE ONLY ▲
	Case No.: 12 CV 01 Division 1
ORDER REGARDING MARIJUANA USE WHILE ON PROBATION	

The purpose of Administrative Order 12-01 is to establish a uniform, consistent policy in the 19th Judicial District regarding the use of medical marijuana while a defendant is on probation. This order shall apply to all sentences to supervised and unsupervised probation, as well as a deferred judgment and sentence where a condition of the deferred sentence is that the defendant may not violate federal law.

At issue is the interplay between C.R.S. § 18-1.3-204(1), which requires the court to impose a condition of every sentence that the defendant not commit another offense while on probation; Colo. Const. art. XVIII, § 14(2)(b), which provides an exception from the state’s criminal laws the possession and use of marijuana for medical purposes by one in possession a valid medical marijuana registry identification card; and 21 U.S.C. § 844(a), which makes it unlawful for any person to possess marijuana, even for medical uses.

On February 2, 2012, the Colorado Court of Appeals ruled that C.R.S. § 18-1.3-204(1), requiring that all sentences to probation include a condition that the defendant not commit another offense while on probation, including federal offenses, is not limited by Colo. Const. art. XVIII, § 14(2)(b). *People v. Watkins*, 2012 COA 15, ¶ 39 (Colo.App. 2012). Therefore, a person sentenced to probation may not use marijuana for medical purposes, irrespective of whether the defendant received authorization to use medical marijuana from the sentencing court or the supervising probation officer. The court may correct a sentence that was not authorized by law at any time pursuant to Crim.P. 35(a).

IT IS ORDERED that persons sentenced to probation may not use marijuana, even for medical purposes, regardless of whether the defendant possesses a valid medical marijuana registry card. The ruling in the *Watkins* case applies equally to those persons presently sentenced to probation and to subsequent cases where a defendant presents a valid medical marijuana registry card and requests permission to use marijuana for medical purposes.

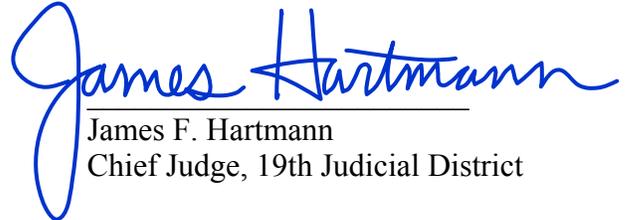
IT IS FURTHER ORDERED that the 19th Judicial District Probation Department shall notify the sentencing court of the name of all probation clients who presently have authorization to use marijuana medically, along with the case number, and the judge assigned to the case shall determine whether to schedule a hearing to modify the conditions of probation or to modify the conditions of probation regarding medical marijuana use *sua*

sponte. The Probation Department shall thereafter have the defendant sign the modified terms and conditions of probation.

Regarding those persons presently serving a sentence to unsupervised probation or an unsupervised deferred judgment and sentence, and who have been authorized by the court to use marijuana medically pursuant to a valid medical marijuana registry card, the sentencing court shall use its best efforts to identify those individuals and thereafter the court shall decide whether to schedule a hearing to modify the conditions of probation or to modify the conditions of probation regarding medical marijuana use *sua sponte*.

Dated: February 10, 2012

By the court:


James F. Hartmann
Chief Judge, 19th Judicial District