

To patients in legal fight, medical marijuana is a lifeline

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OAKLAND, Calif. -- She is good for two hours. Then the pains start bullying her again. Her back, her neck, her head, her insides -- all the warring parts of her body -- rise up to beat her. If she hesitates to act, they throw her down, throttle her, make her wish she were dead.

So Angel McClary Raich takes more marijuana, buying another two hours.

Diane Monson is a bit luckier. She can function for up to four hours before her spine reverts to being her enemy. Then she needs another dose of cannabis.

In California, Monson and Raich are not so different from about 100,000 other chronically sick people. They are users of medical marijuana, or cannabis, examples of why the state's voters passed a law in 1996 legalizing the drug for the seriously ill or dying. But the US Justice Department considers all marijuana a dangerous controlled substance. To the federal government, Raich and Monson are illegal drug users.

That divide is at the heart of *Ashcroft v. Raich*, which brought the two women to the US Supreme Court on Nov. 29 to plead for their right to their doctor-recommended medical marijuana.

The Supreme Court arguments were the latest in a series of legal battles between the women and the federal government. In 2002, Monson and Raich sued Attorney General John Ashcroft after Monson's house was raided by Drug Enforcement Administration agents who seized her six marijuana plants from her patio.

Monson and Raich eventually won an injunction against the raids in the US Court of Appeals for the Ninth Circuit, which the federal government appealed to the high court. A ruling is expected sometime before July.

Ashcroft v. Raich, which debates whether the federal government exceeded its authority to regulate interstate commerce by imposing national drug laws on state-sanctioned medical cannabis that is not sold, transported across state lines, or used for nonmedicinal purposes, will have crucial implications for at least 30 pending federal marijuana cases. The cases involve medical cannabis growers, patients, and dispensary operators who were raided by federal agents in several of the 11 states that have legalized medical cannabis.

Ashcroft v. Raich also is considered important for those watching the debate over states' rights vs. federal authority.

But for Raich and Monson, the case is personal.

They want to be able to live their lives. Medical marijuana, they say, makes that possible. Raich, a 39-year-old mother of two teenagers, suffers from an inoperable brain tumor, wasting syndrome, tumors in her uterus, endometriosis, and other ailments. She says medical marijuana is keeping her alive.

Monson, a 47-year-old accountant who lives in the Northern California town of Oroville, has suffered from a degenerative back disorder for 25 years. Without medical cannabis, she says, she would live, but in such excruciating pain that it would hardly be worth it.

Raich and Monson are worried. The public is sympathetic to their situations; polls show up to 80 percent of Americans approve of medical marijuana. But the federal government has remained steadfast against reclassifying marijuana and has repeatedly rejected applications from university researchers who want to study the drug as medicine. During the oral arguments, several Supreme Court justices raised skeptical questions, concerned that even small amounts of medical marijuana, obtained for free, were part of a national market for licit and illicit drugs -- and thus subject to federal regulations.

Even if the court rules that federal agents can continue to raid medical marijuana patients and growers, the women say, they will continue to use marijuana as medicine. They say they have no choice.

Raich has been sick longer, with multiple ailments. As a young teen, she had scoliosis and wore a back brace. She was diagnosed with endometriosis at 16. In her 20s, as a mother of young children, she developed wasting syndrome and could not keep food down. She started having seizures, and doctors found a deep brain tumor. Eventually she became partially paralyzed on one side. In 1995, she ended up in a wheelchair. She was also in constant pain.

In 1997, during a doctor's visit, a nurse who had witnessed Raich's suffering for years took her aside and asked her if she had ever considered medical marijuana.

"I faced my own conservative ways and my own moral judgments and I realized that because I loved my children so much and so deeply -- they are my world -- that I would do everything I possibly could for them," she said.

She asked family members to buy some marijuana on the street. "I immediately felt relief," she said. "It didn't cure my pain, but it definitely made me feel better. It didn't make me vomit and it made me hungry, which I didn't normally feel." She asked her doctor about it, and he agreed that she should try cannabis as a therapy.

She joined the Oakland Cannabis Buyers Cooperative, she said, and found that medical-grade cannabis cultivated for patients was more potent than street-corner pot. The more she smoked or inhaled, she said, the more sensations she began feeling. She could eat. She could move. Within a year and a half, she felt strong enough to learn how to walk again. After four years in a wheelchair, she put it away.

"The minute I became a medical cannabis user," she said, "I became an advocate."

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