

No. 03-15481

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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DATE INITIAL

ANGEL McCLARY RAICH, DIANE MONSON,  
JOHN DOE NUMBER ONE, and JOHN DOE NUMBER TWO,  
Plaintiffs-Appellants,

v.

JOHN ASHCROFT, as United States Attorney General, and  
ASA HUTCHINSON, as Administrator of the Drug Enforcement Administration,  
Defendants-Appellants.

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Appeal from the United States District Court  
for the Northern District of California  
Case No. C 02-4872 MJJ.

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**REQUEST FOR ORAL ARGUMENT**

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Pursuant to Circuit Rule 3-3(c), Appellants Angel McClary Raich, Diane Monson, John Doe Number One, and John Doe Number Two, by and through their attorneys, hereby request that this Court hear oral argument in this expedited appeal.

Appellants make this request because this case raises significant legal issues of first impression involving the government's attempts to interfere with Appellant patients who require cannabis to treat their serious medical conditions. These issues include: (1) the constitutionality under the Commerce Clause of the application of the Controlled Substances Act (21 U.S.C. § 801 *et seq.*) to Appellants' *distinct class of activities*, consisting of the completely intrastate non-economic personal cultivation and possession of cannabis for medical purposes as recommended by patients' physicians pursuant to California State law (the Compassionate Use Act of 1996, Cal. Health & Safety Code § 11362.5); (2) the extent to which principles of federalism embodied in the Tenth Amendment protect Appellants' wholly intrastate activities of possessing and cultivating medical cannabis pursuant to State law, as an exercise of the sovereign powers reserved to the People and to the State of California, which is primarily responsible for securing the health and safety of citizens; (3) whether, under the Fifth and Ninth Amendments, Appellants may exercise their fundamental rights to prolong life, to ameliorate pain, to bodily integrity, and to the sanctity of the physician-patient

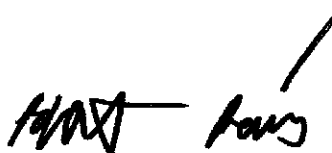
relationship free from interference by the government, absent any compelling justification by the government; and (4) whether the doctrine of Medical Necessity protects Appellants' activities.

In addition, the Commerce Clause issues enunciated in Supreme Court cases, including *United States v. Lopez*, 514 U.S. 549 (1995), and *United States v. Morrison*, 529 U.S. 598 (2000), were recently addressed by this Circuit in *United States v. McCoy*, No. 01-50495, 2003 U.S. App. LEXIS 5378 (9th Cir. March 20, 2003). Appellants believe that oral argument will assist the Court in analyzing the implications of this recent decision and its application to Appellants.

Because of the complexity of the legal issues and the importance of the constitutional questions present in this case, Appellants believe that oral argument is necessary to address these matters thoroughly. Accordingly, Appellants respectfully request that the Court set this case for oral argument.

Dated: April 23, 2003

ROBERT A. RAICH  
DAVID M. MICHAEL  
RANDY E. BARNETT

A handwritten signature in black ink, appearing to read 'Raich', is written over a horizontal line.

Robert A. Raich

Attorneys for Appellants

**CERTIFICATE OF SERVICE BY OVERNIGHT DELIVERY**

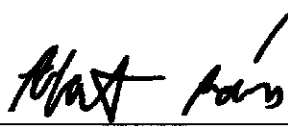
I am not a party to the within action and am over eighteen years of age. My business address is 1970 Broadway, Suite 1200, Oakland, California 94612. I hereby certify that on the date this certificate is signed, I caused the attached

**REQUEST FOR ORAL ARGUMENT**

to be served on the following counsel by Federal Express for delivery the next business day:

Mark T. Quinlivan  
U.S. Department of Justice  
20 Massachusetts Avenue, N.W., Room 7128  
Washington, D.C. 20530

Dated: April 23, 2003



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Robert A. Raich