

Let's assume that I am an idiot, and let's assume that I am a politician...  
but I repeat myself.

-Mark Twain



# The Birmingham Libertarian

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March 2001

## Is it time for a Medical Marijuana Initiative?

Our supper club meeting on Monday, March 12th at Jim N' Nicks will focus on the formation of a Medical Marijuana Initiative Group in the State of Alabama.

Is their sufficient public support for such an initiative?

Are the members of the Alabama legislature ready to take the first step?

What about hemp issues?

Does the California vs. Kubby verdict change things around the USA?

Join us for dinner. .

## The Greater Birmingham Libertarians

David Mitchell, Coordinator

2330 Highland Avenue

Birmingham, AL 35205



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## Medical marijuana charges dropped against Steve and Michele Kubby

In an upbeat ending to a two-year legal battle, all medical marijuana charges against Steve Kubby have been dismissed, and two remaining drug charges reduced to misdemeanors.

On March 2, a Placer County, California judge imposed a small fine on Kubby and sentenced him to 120 days of alternative sentencing -- probably house arrest -- for possession of "minute" quantities of psilocybin [mushroom] and mescaline [peyote].

The judge also ruled that Kubby could continue to use medical marijuana as allowed under the state's Compassionate Use Act of 1996.

The sentencing came three months after a hung jury -- which was leaning 11-1 for acquittal -- refused to convict Kubby and his wife Michele on marijuana charges.

During the trial, the Kubbys had argued they were legitimate medical marijuana patients who took the drug under doctor's orders, and were protected by Proposition 215, the state law that legalized medical marijuana.

"We've always said we would prove our innocence and expose the prosecutors and police," said Kubby, 54, after the sentencing hearing. "Now, [because of this ruling], that's just the way the media and public see it."

"The efforts of prosecutors to destroy us have only driven people and donations to our side. Thanks to our prosecutors, the media and citizens finally get it."

However, the legal battle is not over yet: Kubby said he now expects to file a civil lawsuit against the county District Attorney for false arrest, will charge police and prosecutors with "deliberately violating [his] civil and medical rights," and will launch a recall election against the DA who prosecuted him.

"From the ashes of despair, we are rising up, empowered to recall corrupt elected officials and hold them accountable," he said. "The recent effort by [county] prosecutors to prohibit me from using medical marijuana while on probation, after days of testimony by doctors documenting how cannabis has saved my life, shows their criminal intent to violate the Compassionate Use Act."

"After all, if a patient as well documented as myself is considered ineligible to use medical marijuana in Placer County, then who is? Clearly a recall election and federal civil rights prosecutions are the only remaining solutions."

The American Medical Marijuana Association, an organization that Kubby heads, has already hired a lawyer to begin working on the lawsuits, he said.

Kubby was the LP's gubernatorial candidate in California in 1998, and sought the party's vice presidential nomination in 2000. He also played a key role in Proposition 215, which was passed by voters in 1996.

His high-profile role in the medical marijuana movement may be the reason, supporters speculate, why the Kubbys were arrested in January 1999 after a raid on their Olympic Valley home, and charged with violating 19 different drug laws.

Both pleaded not guilty to all charges, arguing that they used marijuana in accordance with the law -- Steve Kubby to treat a rare form of adrenal cancer under doctor's orders and

Michele Kubby to alleviate irritable bowel syndrome.

After a four-month trial and 21 hours of deliberation, a "hopelessly deadlocked" jury said it could not reach a verdict on the most significant charges against the Kubbys -- conspiracy, cultivation, and possession of marijuana with intent to sell -- and voted 11-1 in favor of acquittal.

However, Steve Kubby was convicted of what were called "comparably minor" drug charges of possession of a controlled substance, psilocybin and peyote. Michele Kubby was acquitted of those charges.

Kubby had faced the possibility of almost four years in prison -- but at the sentencing hearing on March 2, Judge John L. Cosgrove said, "Jail would not be an appropriate place for Mr. Kubby."

Instead, he reduced the felony charges to misdemeanors, fined Kubby \$2,700, imposed three years' probation, and ordered him to serve 120 days of alternative sentencing, probably electronic home monitoring.

The judge said he accepted Kubby's explanation that the psilocybin (a single mushroom stem) had been used for research for a book Kubby wrote on the religious significance of psychedelic mushrooms, and that the peyote button had been left by a visitor.

Cosgrove also noted Kubby's "impeccably clean" prior criminal record.

In addition, in an unprecedented victory for medical marijuana patients, the judge ruled that Kubby could continue using medical marijuana during his probation.

At the announcement, several dozen Proposition 215 supporters and California Libertarians erupted in applause in the

(Continued on page 3)

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**Local Meetings, 2nd Monday of the month:**  
Jim 'N Nick's Bar-B-Q  
220 Oxmoor Road  
Just off I-65  
942-3336



## Ask Dr. Ruwart



### Question:

"I am disturbed by the notion that people should be persuaded by emotional appeal, subtle connotation (e.g. using the words 'free enterprise' instead of 'capitalism'), and other factors that have little to do with reason and logic. Although I recognize that people are often persuaded by such things, it seems likely that any public opinion gains that are not sufficiently founded in reason will be short lived.

"I fear that we may even do a disservice to freedom by implicitly conceding logical points in an attempt to appeal to illogical people. For example, feminists push for equality of results as if that, in itself, is a moral imperative. If we respond by assuring them that libertarianism will provide a greater 'equality,' don't we concede the premise in an effort to win the support? Doesn't the cure becomes worse than the disease?

"Shouldn't our first goal be to persuade people that logic is the tool to discover truth, rather than cultivating unthinking support?"

### My short answer:

"Truth presents itself differently to people, depending upon how they see the world. Some people accept an idea when it appears logical; others only go along with what is practical; still others are moved only by love, etc. Logic is a wonderful way to truth -- but not the only way, or the only 'right' way.

"Like most truth, liberty can be discovered by all of these routes -- logic, pragmatism, or love. A feminist might embrace liberty because it will indeed promote equality -- and will then discover 'why' liberty is so powerful through the logical derivation of human rights.

"I'm fond of saying that 'Liberty works because it is right; the proof that liberty is right is that it works.' Morality and practicality are two sides of the same coin -- inseparable. Does it matter what side of the freedom coin that a person looks at first? Once the coin is in hand, both sides become apparent.

"Historically, libertarians have clustered around the logical thinking of intellectuals, and some find any other derivation of liberty questionable. I wrote 'Healing Our World' in part to illustrate that the non-aggression principle clearly derives from the heart as well as the head, from the practical as well as the moral. Truth can be seen from whatever direction an individual comes from.

"Now that you've explored the logical 'heads' side of liberty, why not turn it over and explore the other 'tails' side of pragmatism and love?

## (Continued from page 2) Medical Marijuana

Placer County courtroom.

The California LP described the ruling as "a decisive victory for medical marijuana patients."

"We are thrilled with the outcome," said California LP Executive Director Juan Ros. "This is a major step forward for all medical marijuana patients, and Libertarians are proud of Steve and Michele Kubby, who fought for their beliefs and prevailed.

"Steve and Michele were victims of a politically motivated attempt to make examples of them, and this trial should never have happened in the first place. Fortunately, we have won this battle, but the war wages on and Libertarians will continue to fight until we are victorious against the War on Drugs."

At the same sentencing hearing, the District Attorney announced that all marijuana charges against the Kubbys would be dropped, thereby avoiding a costly retrial. The DA also said he would drop similar medical marijuana charges against another Placer County couple.

"The District Attorney saw the writing on the wall and wisely decided to save the taxpayers the expense of a retrial," said Ros. "All in all, this has been a great day for patients, Libertarians, and the cause of health freedom in California."

In announcing that charges against the Kubbys had been dropped, a Deputy District Attorney said the decision was "not a comment on guilt or innocence, but rather an indictment of the vagueness" of the state's Compassionate Use Act.

The Deputy District Attorney also asked the California legislature "to establish specific guidelines with respect to the amount of marijuana appropriate for medical use."

The national Libertarian Party also congratulated the Kubbys for their victory.

"It is unfortunate that Steve and Michele had to undergo a costly, painful, and traumatic two-year legal battle just to affirm their right to take life-saving medication," said LP National Director Steve Dasbach. "However, their sacrifice may mean that hundreds or thousands of other medical marijuana patients will not have to live under the constant threat of arrest.

"Steve and Michele are real heroes, not just to the medical marijuana movement, but to Libertarians everywhere."

Now, said Kubby, with his trial and sentencing over, the counteroffensive will begin -- with lawsuits against prosecutors who "are deliberately violating the civil and medical rights of seriously ill people."

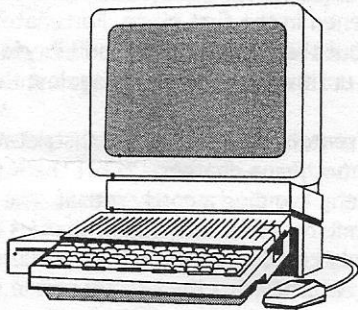
"The fight has just begun!" he said.

**LPA Pledge Program is half way to the one thousand dollar a month pledge goal! If you like what you see here... if you wish that you could help but don't have the time... if you REALLY want to make a difference... JOIN THE LPA PLEDGE PROGRAM!**

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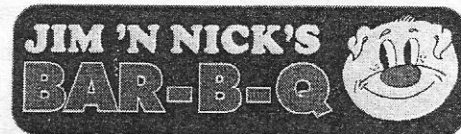
## Warning: You can go to jail for moving frogs.

That's right, frogs. Transferring certain little green slimy creatures from one place to another is now a federal felony.

That's what John J. Zentner found out in 1999 when he moved about 60 red-legged frogs and 500 tadpoles from a stream to a pond in California.

Although Zentner moved the frogs so they wouldn't be harmed by a building project where he worked as a consultant, he violated a federal law, since the red-legged frog is classified as an endangered species. So moving them is a crime, even if no frogs were harmed by the relocation.

The Greater Birmingham Libertarian Supper Club is open to everyone. We discuss issues of the day, politics, taxes, and personal freedom. Meetings are held the second Monday of the month unless there is a holiday, when meetings are moved to the third Monday. We begin at 6:30 (dinner 6:45) unless otherwise noted. There is no charge to attend and contributions are gladly accepted. And of course, bring a friend. This month's meeting is being held at::



**Jim 'N Nick's Bar-B-Q**

**220 Oxmoor Road**

**Just off I-65**

**942-3336**

## April's meeting on the 9th!

1	2	3	4	5	6	7
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