

SUPREME COURT OF THE STATE OF MONTANA

Lloyd Scott Maier v. State of Montana

2021 MT 296 · No. DA 21-0218 · Decided November 16, 2021

SUMMARY

The Montana Supreme Court affirmed the denial of Lloyd Scott Maier’s petition to expunge or redesignate his felony conviction for possessing more than 60 grams of marijuana. The court held that possession of more than two ounces was not an act permitted under the Montana Marijuana Regulation and Taxation Act, and that the statutory provision allowing an indeterminate amount of marijuana for home cultivation did not apply based on the conviction’s face.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice James Jeremiah Shea; James Jeremiah Shea; Laurie McKinnon; Ingrid Gustafson; Dirk M. Sandefur; Jim Rice
JURISDICTION	Montana
DECIDED	November 16, 2021
DOCKET	DA 21-0218
DISPOSITION	affirmed
PROCEDURAL POSTURE	Maier appealed the Thirteenth Judicial District Court's denial of his petition to expunge or redesignate his felony marijuana-possession conviction under the Montana Marijuana Regulation and Taxation Act.
STANDARD OF REVIEW	Statutory interpretation is reviewed for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Lloyd Scott Maier v. State of Montana

TOPICS

- post-conviction relief
- statutory interpretation
- plain meaning rule
- absurdity doctrine
- appellate procedure

PRACTICE AREAS

- criminal law
- post-conviction relief
- statutory interpretation
- marijuana regulation

QUESTIONS PRESENTED

1. Whether a conviction for possessing more than 60 grams of marijuana qualifies for expungement or redesignation under the Montana Marijuana Regulation and Taxation Act.
2. Whether the statutory provision permitting possession of marijuana produced by lawfully cultivated plants in a private residence applies when the conviction establishes only possession of more than 60 grams and does not establish that the marijuana was produced by plants cultivated within the statutory limits.

HOLDINGS

1. A conviction for possessing more than 60 grams, or approximately 2.12 ounces, of marijuana does not qualify on its face for expungement or redesignation because the Montana Marijuana Regulation and Taxation Act does not permit possession of more than two ounces under its ordinary possession provisions.
2. The State and District Court improperly conflated allegations underlying a dismissed charge with the conviction for which Maier served his sentence, but Maier's reliance on the private-residence cultivation provision still fails because application of that provision would require determining whether the marijuana was produced by plants cultivated within the statutory requirements.

KEY QUOTATIONS

“In construing a statute, “the office of the judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted.”” (§ 8)

“The “act” for which Maier was convicted and completed his sentence was possessing over 60 grams of marijuana. Converted to standard weight, 60 grams is 2.12 ounces. Possession of over two ounces of marijuana is not a permitted act under the MMRTA.” (§ 12)

“On its face, Maier’s conviction for possessing over 60 grams of marijuana does not qualify for expungement or redesignation under the MMRTA.” (§ 16)

FACTUAL BACKGROUND

A January 31, 1991 search warrant for a weapon led police to discover 32 marijuana plants and related equipment at Maier's residence. Maier ultimately pleaded guilty to possessing more than 60 grams of marijuana, a felony under the 1989 Montana statutes, and completed his sentence. After Montana enacted the Montana Marijuana Regulation and Taxation Act, Maier sought to expunge or redesignate the conviction, arguing that his possession fell within the Act's provisions allowing possession of marijuana cultivated in a private residence.

PROCEDURAL HISTORY

Maier was convicted after pleading guilty in 1992 to possessing more than 60 grams of marijuana. In April 2021, he petitioned the Yellowstone County District Court for expungement or redesignation under the Montana Marijuana Regulation and Taxation Act. The District Court denied the petition, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Rairdan v. State*, 2021 MT 247, ¶ 6, 405 Mont. 467, 495 P.3d 1050
- *State v. Chesley*, 2004 MT 165, ¶ 14, 322 Mont. 26, 92 P.3d 1212
- *Mont. Cannabis Indus. Ass'n v. State*, 2016 MT 44, ¶ 62, 382 Mont. 256, 368 P.3d 1131
- *State v. Felde*, 2021 MT 1, ¶ 19, 402 Mont. 391, 478 P.3d 825
- *City of Missoula v. Fox*, 2019 MT 250, ¶ 18, 397 Mont. 388, 450 P.3d 898

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/montana-supreme-court-of-the-state-of-montana/2021/lloyd-scott-maier-v-state-of-montana-j9foug1v>