

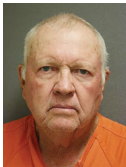
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By ROBERT PIERCE

- Leader & Times

A man arrested in October 2012 for his role in a criminal enterprise to cultivate and distribute marijuana was sentenced Wednesday to nearly four and a half years in the Kansas Department of Corrections.

Albert Greeson, 73, was sentenced to 36 months in the DOC and 36 months post release supervision for one count of possession of marijuana with intent to distribute, 11 months in the DOC, with 12 months post release supervision for possession of drug paraphernalia with intent to use and 6 months in the DOC with 12 months post release supervision for possession of marijuana with no Kansas drug tax stamp.



That sentence began Aug. 12, giving Greeson 58 days credit, and all of the sentences will be served concurrently.

District Judge Clint Peterson handed down the sentence for Greeson following three motions by the defendant's attorney, Greg Swanson.

The first motion was one for an acquittal in the case. Swanson had made several such motions during Greeson's trial in August.

Swanson said Wednesday that a judgment of acquittal can be made even after a jury has found a defendant guilty. He referred to testimony from the trial, claiming in particular that none of the witnesses had testified that Greeson distributed the marijuana found on his and Larry Joe Lambert's property during investigations following the 2012 arrest.

Swanson said the whole intent of the operation was to have the marijuana go back to Colorado, where it is legal, with Albert Perez.

Swanson did say that some of the marijuana was taken to Greeson's property to dry, and evidence from the trial was insufficient to sustain a verdict.

In his argument, prosecutor Dennis Jones said testimony from the case showed that half of the proceeds from the sale of the marijuana crop were to be split between Greeson and Lambert after the other half would be given to Perez.

Jones likewise quoted testimony from the trial, including Greeson's, that he said appeared to show sufficient evidence and what he called "the fundamental elements of the crime."

Peterson denied the acquittal motion, saying that the marijuana being found on Greeson's property was sufficient evidence for the verdict.

Swanson next made a motion for a new trial in the case, arguing that Peterson did not include an instruction of a lesser included crime of possession with the charge of possession with intent to distribute.

Swanson cited several cases backing why he felt the lesser included charge should have been part of the jury's instructions at the trial, and he believed he had sufficient evidence to support that charge. Peterson, however, said intent of the criminal enterprise was to distribute marijuana.

Swanson would also argue that much of the evidence was prejudicial against Greeson, such as gloves found on Lambert's property or cash found in a safe at the defendant's house.

In his argument, Jones showed cases where a word in Kansas law had been changed from "possession" to "presumption," and he believed Peterson's instructions had been charged to the jury in that manner.

Jones added proof of possession with intent to distribute had been established through the evidence from a "continuing criminal enterprise," and that gloves, clippers and bags gathered from the investigation were found in Greeson's pickup truck.

Jones finished by saying Greeson's intent was to distribute the marijuana and there was sufficient evidence to establish such intent. He, therefore, recommended the motion for a new trial be denied.

In his judgment, Peterson made a point that evidence against a defendant is supposed to be prejudicial, and the evidence from the trial was overwhelmingly in favor of the charge of intent to distribute.

The judge then said it was inappropriate to give the lesser included charge with the jury's instruction, and he ruled there was no merit for a new trial. The motion, therefore, was denied.

Swanson then made a motion for a departure from the standard sentencing guidelines for the three charges Greeson was convicted of in August – possession of marijuana with intent to distribute, possession of drug paraphernalia with intent to use and possession of marijuana with no Kansas drug tax stamp.

Swanson said Greeson had no prior criminal history, and at age 73, he was a first time offender. Swanson said Greeson had also had \$162,000 in taxes taken from him by the state of Kansas.

Greeson and a few of his family members were called to the stand Wednesday to briefly testify about the defendant's character. Greeson, as he had during the trial, admitted that he knew about the marijuana found in his barn.

"I put it there," he said. "I was to dry it, and they'd come get it."

Greeson said he received no money from helping Lambert.

Jones questioned Greeson, first asking him if he had been who had introduced Lambert to Perez. Greeson said that he did contact Perez, but Perez came to Southwest Kansas on his own.

Greeson said he knew marijuana was going to be grown on Lambert's property, but the defendant said he was not part of the planting process. He added that at the time of the arrest, he was checking and combining corn at Lambert's property.

Jones said Greeson had previously been offered a reduced sentence, and he said the defendant was caught because he was at the scene when the other defendants were arrested. Swanson said Greeson had admitted his involvement with the operation.

After testimony from three of Greeson's relatives, attorneys then presented their recommendations for sentencing.

Jones said statements given during the trial resonate greatly in favor of Greeson's conviction. He said that Greeson, at some time, chose to give up or supplement his life as a farmer with

criminal activity.

Jones said there was a significant difference in penalties sought in the other defendants' cases and that of Greeson because the other defendants took responsibility for their actions and Greeson had not.

Jones said the jury had no problem determining a verdict.

"He's been found guilty," he said. "It's a serious crime."

Jones said, though, he did have empathy for Greeson's age, but that after 60 years of farming, the defendant chose to become criminal.

Jones said Wednesday was the day Greeson "gets to accept responsibility" and that the court "must consider the serious nature of the crimes."

The prosecutor recommended the standard sentencing for the charges – 146 months for possession with intent to distribute, 11 months for possession of drug paraphernalia with intent to use and 6 months for possession of marijuana with no Kansas drug tax stamp.

Jones, therefore, said the motion for departure should be denied.

In his defense, Swanson said Jones implied that Greeson should be penalized for taking his case to trial. The defense attorney said Greeson, who had already served nearly 60 days prior to Wednesday, had served more time than the other defendants.

Swanson said Greeson had, therefore, already been severely penalized for his role in the operation.

When the attorneys finished, Peterson sat silently on the bench gathering his thoughts. When he finally spoke, he said the testimony of Lambert was more accurate than Greeson's.

The judge said he could not believe that the amount of marijuana found at Greeson's property could be kept without the defendant being deeply involved in the operation.

Peterson did weigh the contradiction between the laws of Kansas and Colorado, and he said any substantial sentence would essentially be a life sentence for Greeson.

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