

ECSTASY

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(the statute), it is obvious that the indictments of these defendants are invalid ... The DEA did not follow this procedure ... Therefore, no criminal offense was created by the 'emergency scheduling' until August 11, 1985, (when the July 12 publication became effective)," Buchmeyer's opinion said.

Buchmeyer's decision cleared five defendants in one case, all of whom had pleaded guilty pending the ruling, and one in a second.

The five who pleaded guilty included Mark Creech, 39, of 6306 Brook Lane Drive in Dallas, who was described by federal drug agents as a "principal national distributor" of Ecstasy. He faced up to 15 years in prison and a fine of \$250,000 after pleading guilty to conspiracy and sales charges.

The others who pleaded guilty in that case, which included the record tablet seizure, were: James Edward Mitchell, 46, no known address; Glen Alan Teague, 28, of 1511 Mosley Drive in Irving; Joel Jack Plincus, 44, of 2710 Posey Drive in Irving; and Katherine Joyce Clark, 29, no known address. All but Clark could have received four years imprisonment and \$250,000 in fines for conspiracy charges; Clark was subject to a year in jail and a \$100,000 fine for MDMA possession. All were arrested in Dallas in late July 1985.

Also cleared of criminal charges by Buchmeyer's ruling was Caudle, one of two men arrested in Dallas on MDMA distribution charges in the nation's first Ecstasy arrest on July 9, 1985.

A co-defendant of Caudle, James Frank Perdue, 46, of Dallas, pleaded guilty and was sentenced in September 1985 to four years in prison. Buchmeyer issued an order last week reducing his sentence to time served and placed him on

probation for the remainder of the term.

"I'm very pleased with that result, but I would have to read the opinion before I have anything further to comment on," said Caudle's Dallas lawyer, Steven P. Anderson. "I'm very pleased that the indictment has been dismissed."

Federal law enforcement officials said Monday they were displeased by the ruling.

U.S. Attorney Marvin Collins said his office would review the order to determine if it may be appealed. Phil Jordan, special agent in charge of the Dallas DEA office, said he hoped an appeal was possible.

"Any time that we have a dismissal on any investigation based on technicalities, it is, to say the least, disappointing," Jordan said. "Hopefully, through the appeal process, this can be given a second look."

Jordan said he was unaware of any other cases that could be jeopardized by Buchmeyer's ruling.

Buchmeyer's ruling was the latest setback in what has been a troublesome area for the government — fighting designer drugs, which are chemical variants of illegal substances designed to escape the chemical definition of banned drugs.

Federal drug authorities sought the emergency ban procedures used in the Ecstasy case because drug manufacturers were producing variations of designer drugs too quickly for lawmakers to respond.

In the case of Ecstasy, the first in which an emergency ban has been challenged, an administrative law judge in Washington, D.C., ruled in May that the sale of the drug should not carry the stiffest penalties available because of inconclusive evidence of its harm.

The DEA, which wants to see stiff penalties for the sale of MDMA, currently is reviewing the judge's findings.

By ROBERT M. FEINSTEIN
Staff writer

A federal judge in Dallas on Monday threw out charges against six of the nation's first defendants in cases involving sale of the designer drug Ecstasy.

U.S. District Judge Jerry Buchmeyer ordered the charges dropped, ruling that the arrests — one of which included the seizure of a record 34,000 Ecstasy tablets — were illegal because the U.S. Drug Enforcement Administration failed to follow federal law in making the drug illegal.

"Naturally, I'm elated," said Cleo Caudle, the mother of Terry Wilson Caudle, 29, of Sulphur, Okla., whose case was dismissed. "This has been going on for so long. It's been such a mess. I hope it's over and done with."

Ecstasy, the street name for the drug MDMA, was declared illegal on May 31, 1985, under emergency provisions of the Federal Controlled Substances Act. But because of two technicalities, Buchmeyer said, the ruling did not take effect until mid-August. The six defendants were arrested in the interim.

Under the federal law, notice of the new law published in the Federal Register in May had to be followed in at least 30 days by publication of an order making it law. But no order was issued in the interim.

Judge drops Ecstasy charges on 6

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