

Dallas designer drug case may be landmark

By ROBERT FEINSTEIN

Staff Writer

Terry Wilson Caudle's life is in limbo.

Seven months after he became one of the first people arrested in a federal crackdown on sale of the "designer" drug Ecstasy, Caudle is at the center of a battle that defense lawyers say may threaten such cases around the country.

Although prosecutors say they have videotaped evidence to implicate the 24-year-old Oklahoman, his case has been delayed while

questions are resolved about July's emergency federal ban of Ecstasy, also known as MDMA.

Caudle's attorneys are trying to convince a Dallas federal judge that Ecstasy's emergency listing among the most dangerous illegal drugs was unconstitutional because the Drug Enforcement Administration acted under a new law that gave it too much power. Also, the lawyers contend the government erred in announcing the ban by misspelling MDMA's 20-letter chemical name.

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Dallas court case at heart of national Ecstasy debate

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If U.S. District Judge Jerry Buchmeyer agrees, defense lawyers say, the decision could cripple the 16 Ecstasy cases in Dallas, which drug officials say leads the nation in such cases. And separate hearings before an administrative law judge in Washington could lead to a two-thirds reduction in the sentences allowed for Ecstasy violators and reduced sentences for those already in prison.

Moreover, either judge's decision could affect prosecutions involving the 12 other drugs declared illegal under the emergency ban provision of federal criminal laws that went into effect in late 1984 — a hastily adopted set of laws designed to stem the proliferation of homemade designer drugs by skirting lengthy hearings.

"The potential is there for the Drug Enforcement Administration not to be able to prosecute people for violation of this law if ultimately the judges rule that the proper procedures were not followed," said Thomas Mills of Dallas, one of Caudle's attorneys.

Buchmeyer has indicated he will await Administrative Law Judge Frances L. Young's ruling before proceeding on Caudle's case. An

ington made defense lawyers believe Young was leaning toward moving Ecstasy off the list of most dangerous drugs.

Still, government lawyers say they will prevail before both judges, and the Ecstasy cases will stand. Lawyers for both sides say the issues may have to be decided by the Supreme Court.

Until a resolution is reached, Caudle is waiting in Sulphur, Okla., working for minimum wage at an egg-packaging plant managed by his father.

"I just really did not realize what I was involved in. Afterwards, it was just a very traumatic experience," he said.

Caudle's arrest came at the crest of a wave of publicity surrounding designer drugs, which imitate unlawful drugs but have altered chemical compositions to avert classification as illegal substances.

He was arrested seven days after sale of Ecstasy became illegal on July 1 under the DEA's emergency order. A co-defendant, James Frank Perdue, 46, of Dallas accepted a plea bargain and is serving a four-year sentence in the federal prison at Big Spring.

But largely by chance, Caudle is able to fight his case.

Using an alphabetical list of nm-

Buchmeyer selected banking lawyer Steven P. Anderson to handle Caudle's case.

To Caudle's good fortune, Anderson is employed by Dallas' largest law firm — Akin, Gump, Straus, Hauer and Feld — which has a Washington staff that helped research nuances of administrative law. The firm also hired Mills to lend his criminal defense expertise to the case.

Together, Anderson and Mills drafted arguments that have been copied by other Ecstasy case defense lawyers nationwide.

"This is the only area of law that I know of where one administrator who is not an elected official can decree that mere possession or manufacture of some substance is a crime of the highest nature in this country and prosecute without any consent of the legislative members," said Dallas lawyer Scott Anderson, who is representing Katherine Joyce Clark, 30, a defendant in another Ecstasy case. Clark has pleaded guilty but is challenging the law.

But Assistant U.S. Attorney Denver McCarty, who is prosecuting the Caudle case, said the law allowing emergency drug bans is necessary in battling unanticipated