

# Joshua Ryan Brewer Sues City of Medford For Fabricated Drug Crime

Joshua Ryan Brewer has filed a federal civil rights lawsuit against the City of Medford, Oregon, its police department and a number of persons, related to his prosecution and conviction of a drug crime that the Oregon Attorney General concedes didn't happen.

In 2009 Brewer was 24 and living in Medford, Oregon with his cousin. Brewer was the father of three children but he wasn't living with his wife. Brewer had suffered an industrial accident that severed his ulnar nerve.[Endnote 1] The prescription pain drugs available to mask Brewer's extreme pain caused by the nerve's degeneration were expensive, caused him to be nauseous, and they were addictive. To dull the pain in a way Brewer's body could tolerate, he obtained an Oregon Medical Marijuana Act (OMMA) card that allowed him to legally grow up to 6 marijuana plants and possess 24 ounces of usable marijuana.[Endnote 2]

A cousin of Brewer also had an OMMA card, and they rented a house in Medford where both of them lived, so together they could grow 12 plants and possess 48 ounces of usable marijuana at any one time. Several friends also stayed at the house, including a man named Freeman.

On September 25, 2009 Medford Police officers converged on Brewer's house and arrested Freeman who had a warrant for his arrest. There were 12 marijuana plants growing in the backyard and inside there were fresh marijuana trimmings hanging to dry. Brewer and his cousin showed one of the officers their OMMA cards and paperwork. That officer told the other officers the plants and drying marijuana were legal. Before leaving with Freeman in custody one of the officers told Brewer not to stay at the house any longer.

Less than 48 hours later two Medford police officers showed up at Brewer's house at 1:30 a.m. and claimed a neighbor reported seeing him fire a gun out of his back bedroom window. Brewer told the officers he had a gun but he had not fired it. He also told them they could check his hands and clothing for gunshot residue and check his gun to see it hadn't been fired. The officer's arrested him, but his hands and clothing were not tested, nor was his gun checked to see if it had recently been fired.

At the time of Brewer's arrest the officers

seized his gun, the 12 marijuana plants in his backyard, and the wet newly harvested marijuana that was inside hanging to dry. At the request of the arresting officers Medford's animal control seized and impounded Brewer's four dogs, even though there had been no complaints by neighbors and there were persons living in the house who could care for the dogs.

Brewer was charged with felony possession and manufacture of a controlled substance, unlawful discharge and use of a firearm within the city, and recklessly endangering public safety. He was jailed for 17 days before he could make bail. Three of Brewer's dogs were returned to him, but one dog, a healthy pure bred female American Staffordshire terrier named Aliah, was destroyed by animal control.

After his release Brewer called Medford city officials, including Mayor Gary Wheeler, to tell them he had been falsely arrested and charged. None of Brewer's calls were returned. However, the Medford PD responded to Brewer's calls by sending him a certified letter that instructed him not to contact his elected or appointed officials about his case, and that if he continued to do so he could be arrested. A Medford PD lieutenant called Brewer and left a phone message reiterating the contents of their letter.

Prior to Brewer's trial the Jackson County DA's Office offered to drop the drug charges if he would pled guilty to firing the gun. Brewer refused the plea bargain asserting he had not fired his gun.

During Brewer's trial his next door neighbor testified she did not tell the officer she saw Brewer fire his gun. She testified she had only told the officer she heard a sound behind her house, and she didn't know if the sound was a gunshot. There was also evidence presented at trial that Brewer had a 10' high fence around his backyard so it was physically impossible for his neighbor to see his bedroom window in the back of the house. The officer testified the neighbor told him she heard gunshots from Brewer's backyard. At the close of the prosecution's case Brewer's lawyer made a motion for a judgment of acquittal on the gun related charges arguing the prosecution hadn't presented evidence proving the charges beyond a reasonable doubt. The judge granted the motion stating "it isn't even close."

Brewer also made a motion for a judgment of acquittal on his drug charges arguing the prosecution hadn't presented sufficient evi-



Joshua Ryan Brewer's healthy American Staffordshire terrier Aliah was destroyed by Medford's animal control. This is not a photo of Aliah. (www.staffy-bull-terrier.com)

dence he violated the OMMA. The judge denied that motion and also refused Brewer's request to instruct the jury about his rights under the OMMA. Instead the judge instructed the jury it was Brewer's burden to prove he was compliant with the OMMA. The jury convicted Brewer of possession and manufacture of a controlled substance. The judge later sentenced him to 60 days in jail and three years of supervised release.

Brewer's probation officer refused to allow him to use medical marijuana, even though it is legal for him to do so. The probation officer however allowed Brewer to use Vicodin and other prescription pain medications that made him nauseous.

Brewer appealed. On March 28, 2012 the Oregon Court of Appeals unanimously overturned Brewer's conviction and stated in [ordering his acquittal](#):

Defendant, a registered medical marijuana user, was convicted of unlawful manufacture of marijuana, ORS 475.856, and unlawful possession of marijuana, ORS 475.864. On appeal, he argues that the trial court erred in denying his motion for a judgment of acquittal on both counts, because the evidence did not demonstrate that there was more "usable" marijuana at his address than he and his cousin, also a registered medical marijuana user at that address, could together lawfully possess as cardholders under the Oregon Medical Marijuana Act. See ORS 475.309(1); ORS 475.320. The state concedes that the trial court should have granted the motion for a judgment of acquittal as to both counts. We agree, accept the concession, and reverse defendant's convictions.

Brewer's acquittal terminated his supervised release, although he had long since completed his 60 day jail sentence.

After his acquittal Brewer requested that the Medford PD return his .357 Taurus pistol that was seized at the time of his arrest, but the police department refused to do so.

Exactly a year after his acquittal, on March 28, 2013 [Brewer filed](#) a federal civil rights lawsuit in the federal district court in Medford. The lawsuit named as defendants the City of Medford, the Medford Police Department, Mayor Gary Wheeler, Officer Ian

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# 15-Year-Old Girl Raped By Father Has Fornication Conviction Overturned

A 15-year-old girl who gave birth to her father's baby has had her fornication conviction and sentence of 100 lashes and house arrest overturned by the Maldives High Court.

The Maldives is an island nation in the Indian Ocean 250 miles south-west of India. As a Muslim country that is a former British protectorate, the Maldives' legal system is a combination of British common law and Shari'ah law. With its beautiful beaches and clear blue ocean water the Maldives is a popular vacation and honeymoon destination.

In June 2012 the body of a baby a 14-year-

old girl had given birth to was found buried outside her family's home on Feydhoo island. The girl was arrested, her step-father was arrested for sexually abusing a minor, possessing pornography, and murder, and her mother was arrested for concealing a crime and murder.

During police questioning the girl allegedly admitted to having a sexual relationship with a man — that was in addition to her father raping her. She was charged with fornication, since consensual premarital sex is illegal in Maldives.

On February 15, 2013 the girl was convicted of fornication. She was sentenced to 100 lashes in public when she turned 18, and eight months house arrest.

An [international outcry protesting](#) the girl's conviction and sentence was supported by Amnesty International. An Internet

petition was signed by more than two million people worldwide.

The girl appealed and the Maldivian government supported her appeal. On August 21, 2013 Maldives High Court quashed the now 15-year-old girl's conviction and sentence.

The court's ruling was based on the girl's denial she confessed to having consensual sex outside of marriage, and that because she was suffering post-traumatic stress disorder from her father's abuse she had been "unfit for trial."



Maldivian young woman in traditional dress (Alamy)

After the High Court's ruling was announced, Polly Truscott, Amnesty International's Deputy Asia-Pacific Director issued a Press Release that [stated in part](#):

"No one should ever be prosecuted for sex outside marriage in the first place. And victims of sexual abuse need counselling, not punishment. The government must make sure that she has continuing access to appropriate support services.

Flogging violates the most basic standards prohibiting torture and other cruel, inhuman and degrading treatment. The Maldives authorities must comply with their international law obligations. This means urgently establishing a moratorium on flogging, annulling all outstanding flogging sentences, and making sure that the penal code does not permit prosecution or punishment for 'fornication'."

Maldivian President Mohamed Waheed was said to be "overjoyed" by the High Court's ruling.

The girl's father and mother are awaiting trial on their charges. Her father faces up to [25 years in prison](#) if convicted of all the charges.

Source: [Maldives](#): Girl rape victim to be spared outrageous flogging sentence, Amnesty International, August 21, 2013

[Rape victim, 15](#), who faced 100 lashes in the Maldives for 'fornication' has sentence QUASHED after court caves in to global outrage, *Daily Mail* (London), August 25, 2013

## Brewer cont. from p. 8

McDonald, Sgt. Benlytle, Lt. Brett Johnson, Chief of Police Randy Schoen, Deputy Chief Tim Doney, and Chief Tim George. Brewer's lawsuit seeks compensatory damages of about \$40,000 and punitive damages of \$1 million for violations of his First, Fourth and 14th amendment rights, and another \$1 million for malicious prosecution.

Brewer's 24-page complaint [states in part](#): "Plaintiff alleges that Defendants conspired and acted intentionally and/or with reckless disregard and deliberate indifference to Plaintiff's civil rights in undertaking a course of conduct which included presenting false information in reports to the District Attorney and to the Grand Jury." (p. 2) It also alleges that the "City of Medford has a history of condoning and ratifying police misconduct regarding complaints of civil rights violations rather than correcting or showing disapproval of police misconduct." (p. 4)

Brewer's lawsuit also alleges he has had difficulty finding employment because public records (inaccurately) show he has a felony drug conviction.

After Brewer filed his lawsuit the *Medford Mail Tribune* published a story on April 26, 2013 that falsely identified him as having been arrested on April 24 on charges of possession of heroin and tampering with evidence. On April 27 [the newspaper printed](#) a retraction, also published on its website, that it had falsely identified Brewer as the person who was arrested and charged: "Joshua Ryan Brewer was not arrested and does not face any charges."

Federal civil rights lawsuits often take several years to resolve, so the outcome of Brewer's lawsuit may not be known for some time.

[Click here to read](#) the Oregon Court of Appeals ruling in *State of Oregon v. Joshua Ryan Brewer*, Case No. A146981 (OR Ct of Appeals, 3-28-2012)

[Click here to read](#) Joshua Brewer's federal lawsuit, *Joshua Ryan Brewer v. City of Medford, et al.*, Case No. 1:13-cv-00541-CL filed in the U.S. District Court for Oregon in Medford.

Joshua Brewer is being represented in his lawsuit by Bend, Oregon attorney Foster A. Glass, whose website is [www.bend-law.com](#).

Endnotes:

1 "The [ulnar] nerve is the largest unprotected nerve in the human body (meaning unprotected by muscle or bone), so injury is common. This nerve is directly connected to the little finger, and the adjacent half of the ring finger." From the entry for "Ulnar nerve" in [www.Wikipedia.org](#).

2 The number of plants a person can grow and amount of marijuana he or she can possess is set-forth in the Oregon Medical Marijuana Act ORS 475.309(1); see also ORS 475.320.

Sources: [State of Oregon v. Joshua Ryan Brewer](#), No. A146981 (OR Ct of Appeals, 3-28-2012)

[Joshua Ryan Brewer v. City of Medford, et al.](#), No. 1:13-cv-00541-CL (USDC SD OR) (Filed 3-28-2013)

[Retraction: MT story confused identities of 2 men](#), *Medford Mail Tribune*, April 27, 2013

