

Nicholas M. Menditto Exonerated Of Marijuana Convictions By Con- necticut Supreme Court

The Connecticut Supreme Court [has ordered](#) erasure of Nicholas M. Menditto's two convictions in 2009 related to his possession of less than 1/2 ounce of marijuana. The Court ruled that Connecticut's 2011 law decriminalizing possession of less than 1/2 ounce of marijuana retroactively applies to pre-July 2011 convictions.

Menditto was 25 when he pled guilty in October 2009 to two charges of possessing small quantities of marijuana, which was classified as a controlled (drug) substance under Connecticut state law. The charges were related to two arrests: one for possessing 0.01 ounce of marijuana, and the other for possessing 0.15 ounce. Menditto was sentenced to two years imprisonment, suspended contingent on successfully completing eighteen months of probation.

In March, 2011 — a month before the end of his probation — Menditto was arrested for possessing about 0.03 ounce of marijuana, and charged with violating Connecticut's controlled substance law. As a result of his arrest and new charges Menditto was charged in April 2011 with violating his probation, which carried the possible penalty of serving his two year prison sentence that was suspended in 2009.

Connecticut P.A. 11-71 (General Statutes § 21a-279a) went into effect on July 1, 2011. P.A. 11-71 decriminalized possession of less than 1/2 ounce of marijuana, and transformed it into a minor civil violation with a maximum penalty of a \$150 fine for a first offense, and a fine of between \$200 and \$500 for subsequent offenses.

Based on Connecticut's decriminalization of possessing small amounts of marijuana, Menditto filed a petition to erase his two 2009 convictions; dismiss his probation violation; and dismiss his 2011 controlled substance charge.

Hartford County Superior Court Judge Laura Flynn Baldini denied Menditto's petition. Judge Baldini ruled that P.A. 11-71 did not retroactively apply to convictions and charges prior to July 1, 2011.

Following Judge Baldini's ruling Menditto entered no contest pleas to his possession of a controlled substance charge and the two



probation violation charges. His plea was conditional on the outcome of his appeal of her ruling. Judge Baldini accepted Menditto's plea agreement and sentenced him to pay a fine of \$150 and terminated his probation.

In his appeal to the Connecticut Court of Appeal, Menditto argued Judge Baldini erred denying his petition because P.A. 11-71 retroactively "decriminalized" possession of less than 1/2 ounce of marijuana. Consequently, he argued had been convicted in 2009 and charged in April 2011 with conduct that was not a crime under Connecticut law. In December 2013 the Court of Appeals [affirmed](#) Judge Baldini's ruling in *State v. Menditto*, 147 Conn.App. 232, 80 A. 3d 923 (Conn. Ct. of Appeal, 12-24-2013)

Menditto appealed that ruling, arguing that the appeals court erred in ruling that P.A. 11-71's "decriminalization" of possessing less than one-half ounce of marijuana did not retroactively reclassify it from a crime to a civil violation like a traffic ticket.

In a ruling scheduled for release on March 24, 2015 the Connecticut Supreme Court unanimously ordered erasure of Menditto's 2009 convictions and all public records related to it, but remanded his pending charges filed in 2011 to the trial court to be dealt with consistent with the court's ruling about the 2009 convictions. In *State v. Menditto*, No. SC19272 (Ct. Supreme Ct., 3-24-2015) the Court reviews the legal and common definitions of "decriminalization," and the legislative intent in decriminalizing possession of small amounts of marijuana to a minor civil violation judged by a preponderance of the evidence and not the criminal proof beyond a reasonable doubt standard. The ruling states in part:

Connecticut's erasure law, part I of chapter 961a of the General Statutes, provides in relevant part that "[w]henver any person has been convicted of an offense . . . and such offense has been [decriminalized](#) subsequent to the date of such conviction," that person may petition the Superior Court for an order of erasure directing that all public records pertaining to the conviction be destroyed.

...

The question we must resolve, then, is whether changing the status of an illegal act from a crime to a *minor civil violation* constitutes decriminalization for the purposes of the erasure statute.

...

For these reasons, we conclude that the trial court improperly denied the defendant's petitions to erase and destroy the records of his two 2009 marijuana convictions, and we reverse the judgment of the Appellate Court insofar as it held to the contrary.

The judgment of the Appellate Court is reversed in part and the case is remanded to that court with direction to remand the case to the trial court for further proceedings consistent with this opinion; ...

[Click here to read *State of Connecticut v. Nicholas M. Menditto*](#), No. SC19272 (Ct. Supreme Ct., 3-24-2015).

When Menditto's marijuana conviction and probation violations from 2011 are reconsidered by the trial court on remand, it can be expected the trial court will order withdrawal of Menditto's conditional guilty plea and dismiss the marijuana charge and probation violations.

The Court's ruling in Menditto's case opens the door for any person convicted in Connecticut of possessing less than 1/2 ounce of marijuana prior to July 2011 to file a petition for erasure of their conviction and destruction of all public records pertaining to that conviction. Thousands of people may have been convicted of possessing small amounts of marijuana during the decades it was prosecuted as a crime in Connecticut.

Sources:

[State v. Menditto](#), No. SC19272 (Ct. Supreme Ct., 3-24-2015) (Vacating marijuana convictions prior to 2011)

[State Supreme Court Ruling](#) Clears Way For Marijuana Convictions To Be Erased, By Dave Collins (AP reporter), Hartford Courant, March 16, 2015

[State v. Menditto](#), 147 Conn.App. 232, 80 A. 3d 923 (Ct. Ct. of Appeal, 12-24-2013)



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