Justices Decline Chance To Clarify Medical Pot Protections

By **Sam Reisman**

Law360 (March 31, 2025, 3:44 PM EDT) -- The U.S. Supreme Court on Monday declined to hear an appeal arguing that congressional spending legislation bars federal prosecutors from bringing cases against state-compliant medical marijuana operations.

In rejecting the petition for writ of certiorari filed in February by Lucas Sirois, the high court opted not to resolve a putative split between two circuit courts that have considered the scope and application of the Rohrabacher-Farr Amendment.

Rohrabacher-Farr, an annual rider added to federal appropriations bills for the past decade, forbids the U.S. Department of Justice from using its resources to prosecute individuals or businesses that operate lawfully within state-regulated medical marijuana programs.

In his petition, Sirois framed his case as an opportunity for the high court to conclusively establish the protections Congress intended to give operators in state-legal medical marijuana industries.

As is standard practice, the court did not provide a rationale for rejecting Sirois' petition.

Sean M. Aasen of Porter Wright Morris & Arthur LLP, an attorney for Sirois, told Law360 on Monday, "While we are disappointed the Supreme Court declined to hear our case, we believe there is a good chance they will take up this question down the line, as the Courts of Appeals continue to issue opinions at odds with one another and with text of the Rohrabacher-Farr Amendment."

Sirois was indicted in November 2021 in Maine federal court, along with others, and charged with conspiracy to possess and distribute marijuana. He sought, unsuccessfully, to enjoin the DOJ's prosecution by invoking Rohrabacher-Farr.

On appeal, a First Circuit panel **determined in a unanimous decision** in October that Sirois could not invoke Rohrabacher-Farr to dismiss the charges against him because he had not shown that his activities were in "substantial compliance" with Maine's medical marijuana law.

The panel said Sirois bore the primary responsibility of showing that his marijuana activities were within the ambit of Maine's medical cannabis regulatory regime. Not only did Sirois fail to do so, but also the government had produced volumes of evidence indicating Sirois' cultivation operation and its proceeds were illicit, the First Circuit said.

According to his petition for a writ of certiorari, this ruling was flawed because it required Sirois to affirmatively prove his innocence, rather than forcing the DOJ to justify its case against him, and because it did not include guidance on how a defendant might demonstrate "substantial compliance" sufficient to trigger Rohrabacher-Farr.

The First Circuit's ruling in Sirois' appeal also created a split with the Ninth Circuit, which has held that defendants invoking Rohrabacher-Farr must show "strict compliance" with their state's medical marijuana laws and regulations, as opposed to the First Circuit's standard of "substantial compliance."

Sirois' petition argued both circuits have incorrectly applied Rohrabacher-Farr, since they each put the onus on the defendant to demonstrate adherence to state medical marijuana policies in order to avoid criminal investigation and prosecution.

"The federal government should have an ongoing obligation to make sure they have not exceeded the limits of their authority by violating Rohrabacher-Farr," Sirois said. "DOJ should not be able to act illegally and then place the burden on defendants to prove their own compliance with the law."

The DOJ did not respond to a request for comment Monday.

Sirois is represented by Jason H. Ehrenberg and Eric Postow of Holon Law Partners LLP and Sean M. Aasen of Porter Wright Morris & Arthur LLP.

The government is represented by Sarah M. Harris of the U.S. Department of Justice.

The case is Lucas Sirois v. US, case no. 24-875, in the Supreme Court of the United States.

--Editing by Patrick Reagan.