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STATE OF OKLAHOMA

December 31, 2014

Dear Attorney General Scott Pruitt,

While regrettably we were unable to meet with you...we did visit with your staff yesterday. We write to you today to respectfully express a range of concerns we have about the lawsuit against the State of Colorado filed (last week-add date) in the U.S. Supreme Court by your office and the Attorney General of Nebraska.

First of all, we share your concerns about the growing amounts of marijuana apparently coming into our State from Colorado and the effects it is having on Oklahoma. We appreciate your efforts to protect the people of Oklahoma from this dangerous substance and to uphold the criminal laws of our state.

However, we believe this lawsuit against Colorado is the wrong way to deal with the issue, for a number of reasons.

Our primary concerns surround the implications of this lawsuit for states' rights, the Tenth Amendment, and the ability of states and citizens to govern themselves as they see fit. As you know, Oklahoma has been a pioneer and a leader in standing up to federal usurpations of power on everything from gun control to Obamacare and beyond.

We believe this lawsuit against our sister state has the potential, if it were to be successful at the Supreme Court, to undermine all of those efforts to protect our own state's right to govern itself under the Tenth Amendment to the U.S. Constitution. While it may be open to interpretation, we also do not believe the commerce clause grants the federal government any power to regulate intrastate trade or marijuana. For the same reason that alcohol prohibition required a constitutional amendment, we believe a strong argument can be made that criminalizing and prosecuting drug crimes must be decided at the state level, absent a properly ratified constitutional amendment. If the commerce clause could be interpreted so broadly, there is virtually nothing the federal government could not regulate or control under the guise of "commerce."

Additionally, criminal law is currently, has historically been, and should remain a function of state government. The Founding Fathers wisely left the police power and criminal justice matters primarily in the hands of states.

With those points in mind, we were also concerned about the appeal to the supremacy clause of the U.S. Constitution. As the Constitution states very clearly

and the Supreme Court has reiterated on numerous occasions, federal laws and treaties must be made "in pursuance" of the Constitution to be considered valid. If the federal government can force Colorado to criminalize marijuana, using the exact same arguments, it could also force Oklahoma to criminalize a wide range of goods and activities that would be anathema to the citizens of Oklahoma that we are sworn to serve.

Also of deep concern in this lawsuit are the potential implications for the national sovereignty of our entire country. The suit against Colorado contains multiple references to a series of three United Nations drug conventions. It even argues flatly that these international agreements are the equivalent of constitutional federal laws. We disagree with this for a number of reasons.

First of all, the Founding Fathers, the U.S. Constitution, and the Supreme Court (*Reid v Covert*, etc.) have all made clear that treaties cannot confer any additional powers on the federal government beyond those granted to it in the Constitution. As such, we do not believe that, merely by ratifying a UN treaty, the federal government may expand its lawful powers outside of those delegated to it.

Secondly, the broader implications of the argument are an extremely serious concern. If the argument in the lawsuit were successful, the federal government could, in theory, adopt any UN treaty, then force the states, including Oklahoma, to help impose it.

With the UN Arms Trade Treaty, the UN Convention on the Rights of the Child, and many other troubling instruments emerging from this international body, we believe Oklahoma would be better served by arguing against the validity of these extra-constitutional treaties.

The lawsuit also appears to endorse federal commandeering of state and local resources to enforce federal statutes and international treaties. We believe the Supreme Court made a wise decision in *Printz v United States* when it articulated the anti-commandeering doctrine prohibiting the federal government from forcing state and local governments to participate in the enforcement of federal statutes.

It would be a tragedy to see this precedent overturned, as it provides the states a just and powerful mechanism to help keep federal authority within constitutional bounds.

In summary, we have some very serious concerns about this lawsuit in terms of the implications for our own state's rights under the Tenth Amendment, and our national sovereignty under the U.S. Constitution.

We think the best move at this point would be to quietly drop the action against Colorado, and if necessary, defend the state's right to set its own policies, as we would hope other states would defend our right to govern ourselves within constitutional confines. We also do not feel that attempting to undermine the sovereignty of a neighboring state using the federal courts, even if inadvertently, is a wise use of Oklahoma's limited state resources.

If the lawsuit is eventually heard by the Supreme Court, many of our Constituents want us to consider filing an amicus brief on behalf of Colorado — not because they do not believe dangerous drugs should be considered a crime, but because our own states' rights would be put in jeopardy by an unfavorable ruling.

Please contact us if you have any questions, comments, or concerns. We would be more than happy to discuss this issue and work with your office on a successful resolution.

Respectfully,

A handwritten signature in black ink that reads "Rep. Mike Ritze". The signature is written in a cursive style with a large, stylized initial "R".

Representative Mike Ritze
District 80

Representative Lewis Moore
Representative John Bennett
Representative Mike Christian
Representative Dan Fisher
Senator Ralph Shortey
Senator Nathan Dahm