

Attorney Allison Margolin's Motion  
To Dismiss Charges For Lack Of Agency Jurisdiction

**The precedent upon which the federal government's ability to govern interstate commerce, Wickard v. Filburn, 317 U.S. 111, is premised upon the fact that the plaintiff in that case registered in a federal program; because defendant never took advantage of a federal program, and because there is no federal program regulating medical marijuana, the Wickard basis of jurisdiction is inapplicable here.**

Wickard v. Filburn, 317 U.S. 111 (1942), is often considered to be the controlling precedent upon which Congress has relied to expand the definition of interstate commerce. The common notion is that nearly any aspect of commerce can be regulated if a piece of wheat could be governed by the federal government. In fact, in that case, the federal government had developed a subsidy system to help farmers in a particular field, that of wheat farming. One farmer, the plaintiff in the Wickard, 317 U.S. 111, filed a complaint asking to enjoin enforcement of the Agricultural Enforcement Act. The Act set up quotas for farmers and imposed penalties for farmers who while taking advantage of the federal subsidies dolled out by the agency, wanted to be immunized from the penalties associated from not following the conditions required to take advantage of these benefits.

There is no federal government organization regulating medical marijuana. Therefore, the federal government lacks the jurisdictional basis asserted in Wickard, 317 U.S. 111. As the Wickard court wrote, acknowledging the role the plaintiff had in bringing about federal jurisdiction over his activity, "We can hardly find a denial of due process in these circumstances, particularly since it is even doubtful that appellee's burdens under the program outweigh his benefits. It is hardly lack of due process for the Government to regulate that which it subsidizes." 317 U.S. 111 at 130.

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