You Decide

6.3 Matthew Ducheneaux was charged with possession of marijuana. He was arrested on a bike path in Sioux Falls, South Dakota, during the city's annual "Jazz Fest" in July 2000. He falsely claimed that he lawfully possessed the two ounces of marijuana as a result of his participation in a federal medical research project. Ducheneaux is thirty-six and was rendered quadriplegic by an automobile accident in 1985. He is almost completely paralyzed other than some movement in his hands. Ducheneaux suffers from spastic paralysis that causes unpredictable spastic tremors and pain throughout his body. He testified that he had not been able to treat the symptoms with traditional drug therapies and these protocols resulted in painful and potentially fatal side effects. One of the prescription drugs for spastic paralysis is Marinol, a synthetic tetrahydrocannabinol (THC). THC is the essential active ingredient of marijuana. Ducheneaux has a prescription for Marinol, but testified it causes dangerous side effects that are absent from marijuana. The South Dakota legislature has provided that "no person may knowingly possess marijuana" and has declined on two occasions to create a medical necessity exception. Would you convict Ducheneaux of the criminal possession of marijuana? The statute provides that the justification defense is available when a person commits a crime "because of the use or threatened use of unlawful force upon him or upon another person." See *State v. Ducheneaux,* 671 N.W.2d 841 (S.D. 2003).

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