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Illustration: 2 Photos

1) Naser Ali

2) Shukria Ali

THEIR KHAT WAS LEGAL, THEY WANT IT BACK//BUT COUPLE ARE CAUGHT BETWEEN CONFLICTING STATE, FEDERAL LAWS

Seven months ago, Naser and Shukria Ali faced drug charges in Washington County for possessing graba, dried khat leaves that many East Africans use as a stimulant.

Last month, those charges were dropped.

Now, they want their khat back.

"It's worth half a million dollars," Shukria Ali said. "It's not fair."

It's not that simple, either.

The Alis appear to be caught up in a new, gray area of drug law. Confusion over their case seems to stem from differing state and federal statutes and enforcement attitudes, as well as from how difficult it is to quickly identify different forms of khat.

Khat in Minnesota "is so new, we don't know where this is landing," said Washington County Sheriff's Cmdr. Pat Olson. Its legal status "is a hot topic. ... It's something that'll definitely have to be fine-tuned."

The Alis' case began in March, when investigators connected Naser Ali, 27, and Shukria Ali, 25, to a 1,000-pound stash of graba in a self-storage unit in Woodbury.

At the time, law enforcement officials said it was one of the largest catches of its kind in Minnesota.

Investigators also seized more than \$10,000 in cash from the couple, as well as a laptop and sport utility vehicle.

The Alis say they spent almost two months in jail before posting bail at a cost of thousands of dollars. They likely faced probation, their attorney said, with a maximum sentence of 15 years in prison.

But Sept. 10 -- six months after the arrests -- prosecutors notified them they were dropping the case.

The reason? The couple hadn't broken any state law. Their khat was legal.

The reason for the confusion seems to lie in the changing chemical properties of khat (pronounced "cot"), an African shrub.

When they're fresh, khat leaves contain cathinone, a chemical that produces euphoria when chewed. Cathinone is illegal under Minnesota and federal law.

But within 48 hours of harvest, the leaves' chemical composition tends to break down to the point where they contain a much milder chemical called cathine.

That's what's usually found in graba, the dried khat leaves, which users often steep in tea to get their high.

Cathine is illegal under federal law, according to the Drug Enforcement Administration.

Not so under Minnesota law.

Possessing the graba the Alis had "is not technically a crime under state law," Washington County Attorney Doug Johnson said.

That apparently came as a surprise to Washington County law enforcement officers. Olson said his drug agents believed the graba was illegal when they seized it.

After all, when they first encountered Naser Ali in March, he was wanted in Hennepin County on suspicion of storing 127 pounds of the more potent form of khat last year.

But months after the arrests, lab results showed the Woodbury khat contained cathine, which is legal.

So why did it take months for Washington County officials to figure out that the graba they seized was the weaker form?

"We're not 'CSI: Miami' or 'CSI: NY,' where we can have stuff back from the lab during a commercial," Johnson said.

Lab tests may become an even more complicated matter in Naser Ali's case in Hennepin County.

His attorney, Jeff Degree, said he'll dispute test results that found cathinone in the 127 pounds of khat connected to Ali. The khat was in dried graba form -- which usually contains cathine.

"The lab didn't do the test properly," Degree said. "I don't know how they can find something that shouldn't be there."

An official from the Hennepin County attorney's office did not return phone calls requesting comment.

In the Washington County case, federal prosecutors must decide whether to pursue the case. Sheriff Bill Hutton said he's talking with them, but it's unclear whether they will press charges.

Jeff Paulsen, criminal division chief of the U.S. attorney's office in the Twin Cities, said he could not talk about any open cases or confirm or deny the existence of investigations.

His other comments did little to clarify the Alis' legal position.

Paulsen said his prosecutors indicated they only go after a khat case if the leaves are of the more potent form -- even though several federal Web sites list the milder chemical as an illegal drug.

"If there's no cathinone in it by the time it gets tested," he said, "we've got a problem."

Even if the feds don't prosecute the Alis, though, the couple probably never will get the khat back, assuming federal drug officials still list it as an illegal substance.

What about the laptop, SUV and cash?

It's unclear. Authorities often keep the items if they can prove they are connected to an illegal drug.

Degree said state authorities probably won't consider giving the Alis' property back until after federal prosecutors have decided whether to pursue the case.

That leaves the Alis -- Ethiopians who have been in the United States for more than seven years -- in a bit of a lurch.

Naser Ali said he lost his job as a house painter because of the allegations and hasn't been able to find work since. He and his wife, who have a 2-year-old son, said they also

have had to drop out of St. Paul College since their troubles began.

"I can't find a job and can't even get my things back," Naser Ali said. "My wife is (pregnant), and I can't even put food on the table for my family."

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