

# Drug charges tossed due to bad search

## FREE PRESS STAFF

PLANTATION KEY -- A local man who was charged last year with dealing marijuana won't have to stand trial after a judge ruled that investigators coerced their way into the man's home in violation of the Fourth Amendment ban against unreasonable searches and seizures.

Jonathan Esslinger, 26, had faced third-degree felony charges for allegedly possessing and selling marijuana as well as a misdemeanor charge for the possession of paraphernalia. But the State Attorney's Office dropped the cases late last month.

Esslinger was arrested last Aug. 24, the morning that detectives Lance Hernandez and Julio Alvarez, acting on a tip, made a surprise visit to Esslinger's home.

Although they had been investigating Esslinger for a month, the officers had not gathered enough evidence against him to obtain a search warrant, Esslinger's attorney Don Barrett explained in a successful court motion to suppress the marijuana evidence seized by the Monroe County Sheriff's Office that day.

But according to court records, Hernandez talked his way into the home by telling Esslinger that he could, in fact, obtain a search warrant if necessary.

Only after gaining entry and finding marijuana plants did the detective present Esslinger with a form consenting to the search, Barrett wrote.

In a March order, Circuit Court Judge Luis Garcia ruled that by stating he could get a warrant, Hernandez violated Esslinger's civil rights.

"The baseless threat rendered the consent to search involuntary," Garcia wrote.