

\$400G bust tossed

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Courts Bureau

Man cleared of pot charges after illegal search

AN ILLEGAL search by Durham Regional Police undermined the prosecution's case in the discovery of more than 500 marijuana plants in a Pickering grow-op, a judge ruled yesterday.

Justice Barry MacDougall dismissed all four drug charges against Edmond Kim, 30, saying police violated his Charter rights with an illegal search. The judge ruled there was no immediate threat to life or

evidence that would have justified a search without a warrant.

No police 'shortcuts'

MacDougall excluded all the evidence — including more than \$400,000 worth of marijuana — seized in the search and tossed out the charges.

"The message is police can't have shortcuts, violate peo-

ple's rights by conducting illegal searches," said Kim's lawyer, Leora Shemesh.

"There is a running theme in Durham that every Asian person in this community has a grow-op. How many homes do police break into and find nothing?"

Police action was triggered by a report of two vicious dogs, a Rottweiler and a Labrador-cross, running wild in the Highview Rd. area and a report

that a boy had been bitten in April 2003.

Two police officers, with guns drawn, pursued the animals. One cop shot at and missed one dog and then chased both animals into the house's open front door.

Strong odour

Const. Bob Elliott, who smelled the strong odour of unburned marijuana, shut the

door on the dogs and concluded there must have been a break-in and that the burglar was now trapped in the house.

After waiting for two hours, the officers entered the house.

The judge said the police didn't take the proper steps to investigate whether a burglary had occurred.

Crown attorney Sevag Yehoyan said the judge's decision was "thorough," but the officers felt they had to "do something about these vicious dogs."

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