

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARVIN WASHINGTON; DEAN
BORTELL as Parent/Guardian for Infant
ALEXIS BORTELL, JOSE BELEN,
SEBASTIEN COTTE as Parent/Guardian
for Infant JAGGER COTTE, and
CANNABIS CULTURAL ASSOCIATION,
INC.,

Plaintiffs,

- against -

JEFFERSON BEAUREGARD SESSIONS,
III, in his official capacity as United States
Attorney General; UNITED STATES
DEPARTMENT OF JUSTICE; CHARLES
"CHUCK" ROSENBERG, in his official
capacity as the Acting Director of the Drug
Enforcement Agency; UNITED STATES
DRUG ENFORCEMENT AGENCY; and
the UNITED STATES OF AMERICA,

Defendants.

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AFFIDAVIT OF ALEXIS BORTELL

17 Civ. 5625

State of Colorado)
 :..ss:
County of Douglas)

ALEXIS BORTELL, having been duly sworn, deposes and says:

1. I am 11 years old and a plaintiff in this lawsuit.¹ I suffer from intractable epilepsy and treat with Medical Cannabis to control the seizures which would otherwise prevent me from living a normal life. I submit this Affidavit in support of my request for permission to travel: (i) by airplane to Washington, DC to visit members of Congress from September 8 to September 12, 2017 so that

¹I will turn 12 years old this month and I am in sixth grade.

I may lobby in favor of the Marijuana Justice Act -- legislation which, if it were to be signed into law, would de-schedule Cannabis; and (ii) to a military base in Colorado, so that I can obtain certain veterans benefits to which I am entitled based upon my parents' military service. As part of my request of this Court, I ask that the Federal Government not be permitted to enforce the Controlled Substances Act ("CSA") against me or my parents when I travel, including to New York City so that I can attend the Court hearing on this request.

2. The legal reasons for my request are included in my lawyers' Memorandum of Law. The circumstances of my life and how Medical Cannabis has changed and saved my life are addressed below.²

BACKGROUND

3. I was born in Texas. I was a normal kid. I went to school and church, did my homework and chores, and played with my friends. Then, I turned seven years old and everything changed. As I mentioned above, I developed a condition which I was later told is called "intractable epilepsy." I started to experience seizures/pre-seizure onsets (also known as "auras") every day, sometimes several times a day. When I was in school, I spent more and more time in the nurse's office, while my classmates continued to attend class and play outside during recess. I felt different from the other kids, and it made me sad. I also started to fall behind in my studies because I was missing so much class time and was often unable to finish my homework.

4. My parents brought me to see doctor after doctor. They prescribed a lot of different medicines, treatments and "medical cocktails" -- none worked, although they all had or threatened

²Although 11 years old, this is *my* affidavit. I wrote it with my lawyer. I am an experienced writer. I co-authored a book entitled Let's Talk about Medical Cannabis: One of the Earliest Medical Communities Seen Through the Eyes of Its Youngest Advocate 2017. I also speak at public events and have my own businesses, one of which includes making all-natural soaps with cured goat milk.

side effects, many of them severe. I was informed that one of the medicines that I was given, Depakote, could prevent me from having children when I am older. Another medication I was given was Felbatol. According to the website, Drugs.com, the most common side effects of Felbatol include: confusion, delusions, dementia, depression, loss of bladder control, painful or difficult urination, purple or red spots on the skin, shakiness in my limbs, shortness of breath, sores and ulcers on the lips or in the mouth, trembling or shaking of the hands or feet, unusual bleeding or bruising and unusual tiredness or weakness.³ Another medication I was given was Midolazam, which I later learned is used to help conduct executions of condemned prisoners. Again, none of these medications worked; however, they did succeed in scaring me and making me feel as if I didn't belong anywhere. And my seizures continued to ruin my life.

5. When I would experience seizures, I would sometimes feel an awareness of those around me. Other times, I would simply feel "out of it," black out, and not remember anything that happened. My parents, at the suggestion of my doctors, video-taped my seizures. And I eventually watched it. I could not believe what I saw. My eyes would roll to the back of my head, while my body would shake uncontrollably. Sometimes, I would drool or foam at the mouth. My parents would surround me, trying to prevent me from hurting myself and trying to give me medicines to stop the seizures. When I experienced seizures and shakes at school, the children would stare; sometimes adults would stare also.

6. As my condition continued to get worse, my doctors started to discuss possible brain surgery. That scared me a lot. Then my doctor told me and my parents that whole-plant Cannabis with high levels of THC had been effective in treating seizure disorders. Rather than subject me to

³<https://www.drugs.com/sfx/felbatol-side-effects.html>.

brain surgery and more medication which wasn't helping me anyway, my parents, after I turned nine years old, relocated us from Texas to Colorado, where whole-plant Cannabis is legal for medical use. (I know that it is legal for recreational purposes now as well, but that does not interest me.) So, I tried it. And it worked. Since I started treating with Medical Cannabis with high levels of THC regularly, I have not had a single seizure. I went from having multiple seizures and/or auras per day while taking medications that threatened me with serious and dangerous side effects, to taking Medical Cannabis and having no seizures at all.⁴

7. It has been more than 2½ years since I have experienced a single seizure. The only anti-seizure medicine I have taken during this seizure-free period has been Medical Cannabis. So, I just need to make this clear – beginning when I was seven years old, I was sick every day, often multiple times per day, with seizures that resulted in my being in the nurse's office during school days, and sometimes led to my admission to the hospital. Since being on whole-plant Medical Cannabis with high levels of THC, I haven't experienced a single seizure; I don't have to sit in the nurse's office at school; and I am no longer falling behind with my schoolwork. Except for the legal restrictions I am subjected to because of my use of Medical Cannabis (which I'll discuss below), I am now a normal, healthy kid; I love my life; I love not having to worry about whether I'm going to experience a seizure; I love being happy; I love being like other kids.

8. I also love how productive I am now that Medical Cannabis has stopped my seizures. As I mentioned earlier, I wrote a book about my use of Medical Cannabis. I also started businesses with my sister, using the resources we grow on our farm in Larkspur, Colorado. One of the products

⁴I take whole-plant Medical Cannabis with high concentrations of THC only when I start to feel a seizure coming on. In addition, on a daily basis, I take Haleigh's Hope, which is a CBD product that has very low levels of THC. Both medications are liquids which I take orally.

we make is all natural soap, flavored with essential oils and other natural substances. I also do all my chores on the farm, including feeding and milking the goats, operating the tractor and lawn mower, and cultivating fruits and vegetables that I plan to provide to families who need food – especially those who have moved here to treat with whole-plant Medical Cannabis. This year, we expect to feed 100 people with the crops we grow; next year, we hope to feed 200 people. Photographs of our goats, our barn, and the crops we are growing to feed the hungry are annexed as Exhibit 21.

9. A video diary of my life, both before and after I started taking whole-plant Medical Cannabis was created from the seizure footage the doctors asked my parents to film. The video diary is attached as Exhibit 22 to these papers. All the statements that my father, grandfather and I made in the video are true to the best of my knowledge.

10. The video footage of my seizures is also real. The only information that is outdated consists of the references to: (i) my age – I am almost 12 years old now, not 9; and (ii) the number of days that I am seizure free – now, more than 900 days, as opposed to the date the video was released, which was about 200 days ago.

WHY I AM MAKING THIS REQUEST

11. Now that my seizures have stopped, I want to be able to do the same things that other kids are allowed to do. I want to see our country. I want to visit a national park. I want to see Yosemite, the Grand Canyon, Yellowstone and Mount Rushmore. Most importantly for purposes of this request, I want to visit the Capitol in Washington, DC from September 9 to September 12, 2017, so that I can join the National Organization for Reform of Marijuana Laws (NORML) to persuade Congress to pass the Marijuana Justice Act (MJA). NORML has scheduled a series of

“lobby days” at the Capitol and has already arranged a meeting with Cory Booker, the Senator from New Jersey who, I understand, is introducing the MJA. I want to urge other Senators to join Senator Booker – so that I won’t be singled out and treated differently just because I need whole-plant Medical Cannabis to stop the seizures which were destroying my life.

12. I am asking for permission to travel beginning on September 8, 2017 (rather than on September 10th), so that, before I meet with Senator Booker, I can visit the George Washington Monument, Lincoln Memorial, Jefferson Memorial, FDR Memorial, World War II Memorial, Vietnam Memorial, Korean War Memorial, and the Smithsonian Institution – (I love art and have a sketch book that I use all of the time to draw pictures). Other kids have the opportunity to visit these important historical and cultural sites, but I can’t because I must have my medicine with me at all times and I am afraid that I and my parents might be arrested or face other serious consequences if we were to be searched at these places. Separate and apart from my fear of being searched, I just don’t want to do something illegal. I want to see these places and experience them, too, and do it legally. Other kids, sick or not, get to visit these important places. I should be able to visit them, too. I shouldn’t be penalized because I suffer from a disease that requires me to receive Medical Cannabis treatments – the only treatments that have ever stopped my seizures.

13. I also want to visit a neighboring military base in Colorado, where I would be entitled to participate in educational and apprenticeship programs, and receive other benefits which other children of military veterans can receive, but which I cannot – because I cannot enter the military base with my whole-plant Cannabis medication.⁵

14. Without help from this Court, I can’t do any of things listed in the paragraphs above

⁵My parents know more about the benefits that I would otherwise be entitled to receive than I do. That information is in their affidavits.

-- unless, of course, I violate the CSA, while on federal land. I know that I cannot bring my medication with me while I am on federal land.⁶

15. I promise that, if I am permitted to visit federal lands while taking my Medical Cannabis with me, I will not share it with anyone and I will take it only as required to ensure that my seizures do not return. I also want to assure the Court that I do not get “high” while using my whole-plant Medical Cannabis. Sometimes I get a little hungry, but that’s generally the only side effect I experience, and it doesn’t happen often. For me, taking Medical Cannabis is just the same as taking an aspirin. It’s my medicine; it has no serious side effects; and it makes me better.

16. Please tell the Federal Government not to enforce the CSA against me or my parents so that I can obtain the veterans benefits my family needs me to receive; so that I can travel on an airplane; so that I can visit a national park and see our country; and most importantly, so that I can travel to Washington, DC and ask members of Congress to remove the classification of Cannabis from the CSA. I believe that maybe, if the members of our Federal Government were to hear my story from me personally, they might repeal that portion of the CSA that wrongly classifies Cannabis as a Schedule I drug, and the rest of this case would be unnecessary. Then, I would be afforded the opportunity to participate in our democracy, by urging our Federal Government to reconsider its position on this issue which is so important to me and to so many of my friends in the Medical Marijuana Refugee Community.

17. Thank you.

⁶Another benefit to allowing me to enter federal lands with my whole-plant Medical Cannabis is that my seven-year old sister, Avery, would be able to visit these places as well. Right now, she cannot visit any national parks or visit Washington, DC because I can’t go. My father can’t take her without me because he is disabled, and my mother can’t take her without me because she cannot leave me alone with my father, whose disability can cause him to pass out.

Alexis Bortell Age 11
Alexis Bortell

Sworn before me this 6th
day of ~~August~~, 2017.
September

Elizabeth Spang
Notary Public

State of Colorado County of Douglas
Subscribed and sworn before me on 9/6 2017
Elizabeth Spang
(Date)
(Notary Signature)

ELIZABETH SPONG
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20114039474
MY COMMISSION EXPIRES JUNE 30, 2019