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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARVIN WASHINGTON; DEAN
BORTELL, as Parent of Infant ALEXIS
BORTELL; JOSE BELEN; SEBASTIEN
COTTE, Individually and as
Parent of 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 Administration; UNITED
STATES DRUG ENFORCEMENT
ADMINISTRATION; and the
UNITED STATES OF AMERICA,

Defendants.

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AFFIDAVIT OF DEAN BORTELL

17 Civ. 5625

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

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

1. I am Alexis Bortell's father and a plaintiff in this lawsuit. I submit this Affidavit in

Support of the Order to Show Cause to restrain and enjoin defendants from enforcing the Controlled Substances Act as against Alexis so that she can: (i) visit a neighboring military base and obtain certain veterans benefits to which she is entitled; (ii) travel on an airplane; (iii) travel to States in which Cannabis is legal for medical use; and most importantly (iv) travel to Washington, DC to participate in the lobby days (“Lobby Days”) on September 10-12, 2017, scheduled for the National Organization for Reform of Marijuana Laws (“NORML”).

2. My wife, Analiza (“Analiza” or “Liza”), and I relocated our family from Texas to Colorado after being informed by Alexis’s physician that we had exhausted all non-surgical options with respect to the treatment of Alexis’s intractable epilepsy. These non-surgical options included, among others, a medication known as Depakote, which can cause infertility; and Midolazam, which I later learned is administered to condemned prisoners to prepare them for execution. When even these powerful and dangerous drugs did not resolve Alexis’s seizures, her doctors began discussing the prospect of invasive brain surgery, as part of which, a portion of Alexis’s brain tissue would be permanently removed. At the time, Alexis was suffering from relentless seizures, which caused her to lose consciousness, compromised her ability to breathe, and resulted in blackouts. Often, Alexis experienced these seizures and/or pre-seizure onsets also known as “auras” multiple times per day.

3. Alexis’s physicians instructed us to film these seizures so that they could be observed by medical staff. As reflected in the film submitted with these papers, the seizures were agonizing for Alexis, and terrifying and heartbreaking for me and my wife.¹

4. Finally, one of Alexis’s physicians in Texas referenced the possibility of medical

¹All of the statements made by me, Alexis and my father during the film are accurate to the best of my knowledge, except that, now, Alexis is nearly 900 days seizure free. The footage depicted in the film reflects the events as they actually occurred.

Cannabis. She acknowledged that, legally, she could not prescribe or even recommend Cannabis for Alexis's treatment – because Texas does not permit the use of medical Cannabis with THC – but he suggested that we consider working with a doctor for whom it would be legal to make such a recommendation. Once we learned of the potential benefits of medical Cannabis, we made the decision to relocate – to save Alexis's life.

5. As reflected in her Affidavit, Alexis has been seizure free since shortly after she began using medical Cannabis nearly 900 days ago. By contrast, as referenced above, prior to treatment with medical Cannabis, and despite the more than 30 medications, treatments and “medical cocktails” we had already tried, Alexis experienced seizures nearly every day and often multiple times per day. Accordingly, our daughter has been transformed from a chronically-sick and -disabled little girl into a productive 11-year old.

6. Prior to her treatment with medical Cannabis, Alexis spent most of her school days in the nurses office or in the emergency room. When she experienced seizures outside of school, and my wife and I were unable to address it, we had to rush Alexis to the emergency room. When the emergency room staff was unable to resolve the seizures, Alexis was admitted to the hospital. Since she has been on medical Cannabis, Alexis has not made a single trip to the nurse's office, emergency room or a hospital for seizure-related activity.

7. Alexis's overall improvement has positively affected her entire life. Whereas before medical Cannabis, Alexis was perennially behind in school – because she missed so much time by reason of absences and trips to the nurse – today, Alexis is thriving academically. In addition, Alexis is now able to work on our farm; she has opened a business with her sister to sell all-natural soaps from milk obtained from our goats, which she cares for; and Alexis has started “Patches of Hope,” a non-profit effort to raise and cultivate organic fruits and vegetables to feed the hungry.

8. In addition to her activities at home and at school, Alexis has become an advocate for medical Cannabis. She co-authored a book on the subject and has created a series of pages on the Internet dedicated to advocacy. Alexis is frequently contacted by members of the media and the legalization community to provide information regarding her successful experience with medical Cannabis. Unfortunately, the people who truly need to hear Alexis's story but, at the moment, cannot, are members of Congress. For the reasons set forth in the accompanying papers, Alexis cannot travel to Washington, DC to meet with members of Congress because she is not allowed to fly on a plane or enter federal lands or buildings unless she leaves her medication behind. Because of the seriousness of her past seizures, we cannot risk bringing our (now) healthy 11-year old to Washington, DC without her medicine. To put it most directly – she needs the medicine to sustain her health and her life.

9. In addition, as set forth above, we cannot afford to allow Alexis on any military base, where she would otherwise be entitled to participate in an assortment of veterans benefits programs. Specifically, Alexis is eligible to receive health insurance (Champ VA), and food from the commissary on federal military bases; and to participate in education and apprenticeship programs, among many other veterans benefits (“Veterans Benefit Programs”). However, in order to participate in the Veterans Benefit Programs, Alexis would be required to enter a federal military base, where Cannabis is prohibited under the CSA. Alexis would thus be required to leave her medical Cannabis behind, risking relapse and seizures which would endanger her health and life. We just cannot risk that. Worse, Alexis's health insurance veterans benefits, (ID Card DDForm 1173), are slated for renewal in less than three years. And, should her ID card lapse or be damaged or lost, Alexis would lose her Veterans Dependent Benefits.

10. Alexis also cannot travel to any national parks or monuments. While seemingly superficial in comparison to the loss of the right to participate in Veterans Benefit Programs and the rights to free speech and travel, the inability of Alexis to see places such as Mount Rushmore, Yosemite, Yellowstone, and Washington, DC deprives her of cultural opportunities to experience this Country in ways that other children, who treat with non-CSA restricted medication, enjoy every day without restriction. As a military veteran who served our Country, I believe it is critical for all Americans to be afforded the opportunity to see and experience our great nation, including all of its historical monuments and cultural and natural resources.

11. Because Alexis cannot travel with her medical Cannabis, the rest of the family generally cannot do so either. I suffer from a 100% disability, which requires that I remain in constant proximity to my personal caregiver, my wife Liza (who is also a military veteran). Because of my disability and my propensity to pass out and lose consciousness, I cannot serve as Alexis's caregiver (although I continue to serve, with my wife, as Alexis's legal guardian). Liza must remain with Alexis at all times also, unless Alexis is at school, where a nurse is always in close proximity. That means that, except for school, where *Alexis* goes, we *all* go.² Where Alexis stays, we all stay. We do not begrudge staying together all of the time; but we all wish we could travel together from time to time, or at least leave the State of Colorado once in a while.

12. Our restrictions are driven entirely by the provisions of the CSA and the extent to which it could be enforced against us. Liza and I love our children. Obviously, we do not want any harm to come to them. Nor would we want the government (State or Federal) to interfere with our

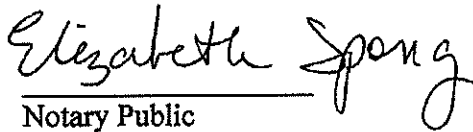
²Alexis has a friend whose parent is a medical professional. Accordingly, we allow Alexis to visit with her friend when her parents are home.

parental rights. Yet, the dichotomy between state and federal law is confusing. We have to be careful with everything we do, especially as it pertains to Alexis. We want to stay well within the bounds of legal behavior.

13. I respectfully urge the Court to grant Alexis’s request for permission to travel to New York City and then to Washington, DC. We promise that we will not share Alexis’s medicine with anyone – indeed, we would never do such a thing. And we will not tell anyone that we have Alexis’s medicine with us. We will simply travel to New York City, meet with our attorneys, appear in the Courtroom, and, if the Court were to grant the motion for a preliminary injunction, travel to Washington, DC to meet with public officials to discuss the health benefits of the medical Cannabis that has saved and transformed Alexis’s life and protected her from the adverse effects of the intractable epilepsy, including brain damage and death.


Dean Bortell

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


Notary Public

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

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