

1 Richard D. Wall, P.S.
Attorney at Law
2 221 W. Main Avenue, Suite 200
Spokane, WA 99201
3 (509) 747-5646
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 THE UNITED STATES OF AMERICA,) Case No.: CR-12-016-WFN-7

11 Plaintiff,

12 vs.

13 TYLER S. McKINLEY,

14 Defendant.
15
16

) DEFENDANT’S MEMORANDUM IN
) SUPPORT OF MOTION TO
) SUPPRESS EVIDENCE

17
18 BACKKGROUND:

19 This case arises out of a marijuana grow operation that was discovered by
20 officers of the Spokane County Sheriff’s Office. Washington State law permits the
21 growing and use of marijuana, so long as certain requirements and limitations are
22 met. This motion raises the question whether state law enforcement officers can
23 obtain a valid search warrant from a state judge to investigate a suspected
24 marijuana grow when the officers have no reason to believe that the grow is illegal
25 under state law.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FACTS:

Tyler McKinley is charged with one count of Conspiracy to Manufacture Marijuana and one count of Manufacturing 100 or more Marijuana Plants. The charges arise out of a search conducted on November 2, 2011 by officers of the Spokane County Sheriff's Office of a residence located at 11911 N. Judkins Lane in Spokane, Washington, pursuant to a search warrant issued by a Spokane County District Court judge.

Approximately a year prior to the search, McKinley had entered into a lease for the premises with the intent of living at the Jenkins Road residence along with several roommates. However, shortly after entering into the lease, McKinley purchased his own home with the help of his parents and, consequently, never moved into the house on Jenkins Lane. Although McKinley never lived at the Jenkins Lane address, he had opened a utility account in his name with Inland Power Company and was legally responsible for paying both the rent and the power bill.

The Affidavit for Search Warrant was prepared and signed by Detective Hixson or the Spokane County Sheriff's Office. The Affidavit contains the following information relevant to probable cause to search the residence:

1 1. On 10/19/2011 Detective Hixson was advised by Sergeant Khris
2 Thompson that another deputy had responded to a call at 12010 N. Judkins Lane,
3
4 Spokane, Washington, and had detected “the odor of growing or freshly harvested
5 marijuana coming from this location”;

6 2. On 10/20/2011 Detective Hixson contacted Inland Power and Light
7 Company and determined that the level of power consumption at that address “was
8 consistent for normal, residential usage”;

9 3. On 10/28/2011 Detective Hixson along with two other Spokane
10 County Deputy Sheriffs went to the 12000 area of Judkins Lane to investigate, they
11 approached the residence at 11911 N. Judkins and observed two vehicles in the
12 driveway, while standing at the front door of the residence they observed a plastic
13 covering on the floor inside the residence and stems, leaves and white plastic
14 tubing on top of the plastic floor covering, and they identified the leaves as
15 marijuana leaves;

16 4. Detective Hixson and another deputy observed additional white plastic
17 piping and a humidifier, a two by one foot by three foot wooden frame commonly
18 used for growing marijuana indoors;

19 5. Another deputy had advised Detective Hixson that he had smelled a
20 strong odor of marijuana coming from the house and observed a greenhouse
21 located behind the residence,
22
23
24
25
26
27
28

1 6. The deputies and Detective Hixson had observed another greenhouse
2 outside the residence and white plastic piping leading from the house to the
3 greenhouse;
4

5 7. Detective Hixson determined that the registered owner of one of the
6 vehicles parked at the residence, Jerad Kynaston, had a conviction in July 2009 for
7 possession of a controlled substance with intent to deliver from Spokane County
8 Superior Court;
9
10

11 8. In 2009, five pounds of marijuana had been recovered from Mr.
12 Kynaston's residence along with equipment commonly used for growing
13 marijuana;
14

15 9. Detective Hixson determined that the electrical consumption for
16 11911 N. Judkins Lane was "extremely high, and in excess of what would be
17 considered normal electricity consumption for a single family residence";
18

19 10. Based upon his training and experience, Detective Hixson knew that
20 to grow marijuana it takes 60 to 90 days of growing per crop of marijuana, 3
21 gallons of potting soil per plant, high intensity halide lights that use large amounts
22 of power, high quantities of water and water soluble fertilizer, fans for air
23 movement and exhaust ventilation, and exhaust filtering systems to extract the
24 distinctive marijuana odor;
25
26
27
28

1 11. Detective Hixson was informed and believed that persons who grow
2 marijuana routinely utilize various methods in order to avoid detection by law
3 enforcement, often utilize a location that is remote, disguise their activities by
4 building several grow rooms within a large room or garage, place a container or
5 building underground to house the grow operation, and use carbon filtering
6 systems to mask the strong odor of marijuana.
7

8
9 Based on the foregoing information, Detective Hixson sought and obtained a
10 search warrant for the Judkins Lane residence. Upon executing the warrant,
11 officers discovered and seized numerous items, including a receipt in the name of
12 Jared Kynaston for a storage unit at Skyview Storage on E. 32nd Avenue, in
13 Spokane Valley, Washington. Officers also detained several persons, including
14 Peter Magana, Corey Evans, Jerad Kynaston, Jayde Evans, and Bryce Davis, and
15 obtained oral statements from Kynaston and Bryce Davis at the scene.
16
17

18 Detective Hixson then sought and obtained a search warrant for the storage
19 unit, which was executed that same day. Officers entered the storage unit and took
20 photographs of its contents and also seized numerous items of personal property.
21
22 Based upon information obtained from those interviews and from the search of the
23 residence, officers later contacted Defendant, Peter Magana, Jayde Evans, and
24 Samuel Doyle and obtained oral statements from each of them. Defendant
25
26 McKinley now moves to suppress all of the evidence obtained from the search of
27
28

1 the residence and the storage unit and any and all evidence obtained as the fruit of
2 those searches, including statements obtained from defendant.
3

4
5 LAW:

6 For a search warrant to be valid, it must be supported by probable cause.
7
8 *United States v. Stanert*, 762 F.2d 775,778 (9th Cir. 1985). In determining the
9 validity of a search warrant, the court is limited to the information and
10
11 circumstances contained within the four corners of the underlying affidavit. *Id.*

12 A search warrant is supported by probable cause when in light of all the
13 facts and circumstances there is a reasonable probability that contraband or
14 evidence of a crime will be found in the particular place to be searched. *Illinois v.*
15 *Gates*, 462 U.S. 213, 238, 103 S.Ct. 2317. 76 L.ed.2d 527 (1983). To meet that
16
17 standard, the affidavit must establish probable cause to believe that a crime has
18 been or is being committed and that it is reasonable to believe evidence of that
19
20 crime will be found in the place indicated in the affidavit. *See, United States v.*
21 *Pitts*, 6 F.3d 1366, 1369 (9th Cir. 1993).
22

23 Search warrants issued by state courts must adhere to federal constitutional
24 standards. A search based upon a state warrant that is not supported by probable
25
26 cause under state law is unreasonable, even if probable cause might exist for a
27
28 violation of federal law. *United States v. \$186,416.00 in U.S. Currency*, 590 F.3d

1 942 948 (9th Cir. 2010). When state law enforcement officers charged with
2 investigating violations of state law seek a search warrant from a state court, the
3 warrant must establish probable cause for a violation of state criminal law. The
4 failure to establish probable cause for a state law violation renders the warrant
5 invalid and the search illegal under the Fourth Amendment. *Id.*

8 Evidence that is obtained as the fruit of a constitutional violation is subject
9 to exclusion if it results from the exploitation of the illegality. *Id.*, at 950-51, *citing*
10 *Wong Sun v. United States*, 37 U.S. 471, 488, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963).
11 The statement of a witness constitutes the fruits of an illegal search when there is a
12 strong connection between the statement and the illegal search. *Id.* The fact that a
13 statement may be characterized as voluntary is not determinative of whether it is
14 nevertheless the fruit of illegal activity. Where there is a causal link between the
15 statement and the illegal activity, the statement will be deemed to be the fruit of
16 that illegal activity unless it is shown that the connection has become so attenuated
17 as to purge the statement of the original taint. *Id.*

22
23
24 ARGUMENT:

25 1. The Officers Who Applied for the Search Warrant Were Acting as State
26 Law Enforcement Officers Investigating State Law Violations.
27
28

1 Here, the officers who investigated the activities at 11911 N. Judkins Lane
2 and obtained a search warrant for that address from a Spokane County District
3 Court judge were clearly state officers pursuing possible violations of state law.
4 The deputies were not working with federal law enforcement officers, did not
5 indicate in the affidavit that they were pursuing a violation of federal law, and did
6 not seek a federal search warrant from a federal magistrate or otherwise comply
7 with Fed.R.Crim.P. 41. Therefore, the search was illegal under the Fourth
8 Amendment, unless the facts set forth in the affidavit establish probable cause for a
9 violation of state law, regardless of whether there was probable cause to establish a
10 violation of federal law.
11
12
13
14

15 2. Under Washington Law the Use, Possession, or Manufacturing of
16 Marijuana is a Crime Only When It Does Not Comply With the Terms and
17 Conditions of Washington's Medical Marijuana Statute.
18

19 Washington law allows for the use, possession and manufacture of
20 marijuana for medical purposes by persons who have obtained written
21 authorization from a licensed medical professional. RCW 69.51A et seq.
22 Washington law also allows persons who have written authorization to use medical
23 marijuana to designate another person as his or her "designated provider" of
24 medical marijuana. RCW 69.51A.010 and 040. In addition, Washington law
25 allows up to ten qualifying patients to form "collective gardens" for the purpose of
26
27
28

1 manufacturing marijuana so long as the total number of plants is not more than
2 forty five. RCW 69.51A.085.
3

4 Prior to July 2011, the lawful use of marijuana in compliance with RCW
5 Chapter 69.51A was an affirmative defense to prosecution. However, RCW
6 69.51A was amended in 2011 to provide that the use, possession and/or manufacture
7 of marijuana in compliance with RCW 69.51A is no longer a criminal offense. See,
8 Laws 2011, Chapter 181 §§ 102 and 401.
9
10

11 RCW 69.51A.050(2)(a) now reads as follows:

12 Purpose and Intent:
13

14 Qualifying patients with terminal or debilitating medical conditions who,
15 in the judgment of their health care professionals, may benefit from the
16 medical use of cannabis, shall not be arrested, prosecuted or subject to other
17 criminal sanctions or civil consequences under state law based solely on
18 their medical use of cannabis, notwithstanding any other provision of law;
19

20 RCW 69.51A.040 now reads:

21 The medical use of cannabis in accordance with the terms and conditions
22 of this chapter does not constitute a crime and a qualifying patient or
23 designated provider in compliance with the terms and conditions of this
24 chapter may not be arrested, prosecuted, or subject to other criminal
25 sanctions or civil consequences for possession, manufacture, or delivery of,
26 or for possession with intent to manufacture or deliver, cannabis under state
27 law, or have real or personal property seized or forfeited for possession,
28 manufacture or delivery of, or possession with intent to manufacture or
deliver, cannabis under state law, and law enforcement agencies may not be
held civilly liable for failure to seize cannabis in this circumstance, if:

- 1 (1)(a) The qualifying patient or designated provider possesses no more
- 2 than fifteen cannabis plants and;
- 3 (i) No more than twenty-four ounces of useable cannabis;
- 4 (ii) No more cannabis product than what could reasonably be produced
- 5 with no more than twenty-four ounces of useable cannabis, or
- 6 (iii) A combination of useable cannabis and cannabis product that does not
- 7 exceed a combined total representing possession and processing of no more
- 8 than twenty-four ounces of useable cannabis. (emphasis added)

9 Under Washington law as it has existed since July 22, 2011, it is not a crime
 10 for a person to use, possess, or manufacture marijuana if such use, possession,
 11 and/or manufacturing is done in compliance with the terms and conditions of RCW
 12 69.51A. Therefore, in order to establish probable cause to believe that a person has
 13 committed or is committing the crime of unlawful use, possession, or
 14 manufacturing of marijuana under Washington law, it is not enough to merely
 15 show that the person used, possessed, or manufactured marijuana. Instead,
 16 probable cause can be established only by showing that such use, possession or
 17 manufacturing failed to comply with the terms and conditions of RCW 69.51A.

18
 19
 20 3. The Hixson Affidavit Fails to Establish Probable Cause to Believe that
 21 the Activities at the Judkins Lane Address Did Not Comply with RCW 69.51A.
 22

23 The affidavit prepared and submitted by Detective Hixson states that
 24 officers had observed a strong odor of growing or harvested marijuana in the
 25 vicinity of the Judkins Lane address and that officers had observed what appeared
 26 to be harvested marijuana and equipment consistent with a marijuana grow
 27 operation. The affidavit does not provide any information as to the quantity of
 28

1 marijuana that was observed or the number of plants that were present at the
2 residence. The affidavit also states that the power usage at the Judkins Lane
3 address was “extremely high, and clearly in excess of what would be considered
4 normal electricity consumption for a single family residence.” However, the
5 affidavit fails to provide any quantitative assessment of the likely number of
6 marijuana plants that would be associated with the power usage as set forth in the
7 affidavit.
8
9
10

11 In addition, the affidavit states that a vehicle parked at the residence was
12 registered to Jerad Kynaston with an address different from the Judkins Lane
13 address. The affidavit further states that Mr. Kynaston had a previous conviction
14 for Possession of a Controlled Substance with Intent to Deliver from 2009 and that
15 five pounds of marijuana had been found in Mr. Kynaston’s residence. The
16 affidavit fails to provide any information, however, that Mr. Kynaston lived at the
17 Judkins Lane address or had any other connection to that address other than his
18 vehicle having been observed in the driveway on one occasion. The affidavit
19 provides no information as to whether Mr. Kynaston was a qualified medical
20 marijuana patient or whether any other person associated with the residence was a
21 an authorized medical marijuana patient or designated provider pursuant to RCW
22 59.51A.040.
23
24
25
26
27
28

1 Finally, the affidavit states that Deputy Hixson is generally familiar with the
2 growing period for marijuana, the amount of water, soil, and fertilizer used for
3 growing marijuana, and the type of equipment used. The affidavit does not
4 provide any information, however, as to the quantities of water, soil, fertilizer, or
5 equipment observed at the Judkins Lane address.
6
7

8 In sum, the Hixson affidavit establishes nothing more than that marijuana
9 was probably being grown at the address on Judkins Lane. There is nothing in the
10 affidavit from which the reviewing judge could determine with any degree of
11 certainty or probability the actual number of plants being grown, the number of
12 persons who were involved in the grow, whether those persons were qualified
13 medical marijuana patients or were designated providers for qualifying patients.
14 Nor does the affidavit provide any facts from which the issuing judge could have
15 determined the quantity of marijuana observed by the officers at the address.
16
17
18

19 In sum, the affidavit fails to provide any facts or circumstances from which
20 the issuing judge could make a determination that there was a fair probability that
21 the possession and/or manufacturing of marijuana observed by the officers at the
22 Judkins Lane address was not in compliance with Washington's medical marijuana
23 laws. Thus, the affidavit fails to establish probable cause for a violation of
24 Washington State law.
25
26
27
28

1 The intent of the Washington Legislature in amending RCW 69.51A is
2 clear from language of the statute. The Legislature wanted to prohibit law
3 enforcement officers from interfering with the lawful medical use, possession or
4 manufacture of marijuana by decriminalizing those activities, except where such
5 use, possession or manufacture fails to comply with RCW 69.51A. Because the
6 mere use, possession or manufacture of marijuana, by itself, is no longer a crime in
7 Washington, law enforcement officers must do more than merely determine that
8 someone is using, possessing, or growing marijuana in order to establish probable
9 cause to obtain a search warrant. Officers must also establish facts and
10 circumstances from which it can reasonably be determined that the use, possession,
11 or manufacturing does not comply with RCW 69.51A.

12 What the officers did in this case was determine that someone was growing
13 marijuana at the Judkins Lane address and nothing more. Therefore, the search
14 was unreasonable under the *Fourth Amendment*. All evidence obtained from the
15 search and all evidence obtained as the fruits of that search must be suppressed.

16
17 3. Evidence Obtained from Search of the Storage Unit and Statements of
18 Co-defendants are Excludable as the Fruit of the Illegal Search of the Judkins Lane
19 Residence.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

Prior to executing the search warrant at the Judkins Lane residence, the investigation officers had not identified any of the persons living at that address.

1 The officers also had not conducted any interviews of persons associated with that
2 address, and had not identified any other locations as being associated with the
3 activities at that address. Upon entering the residence, officers immediately
4 detained and took into custody several persons who provided statements regarding
5 the activities at the address and identified other individuals involved in the
6 activities there. The officers then contacted those individuals and obtained
7 statements from them. The officers also obtained information about the storage
8 unit rented to Jared Kynaston and obtained a search warrant for the storage unit.
9

10
11
12 The statements obtained by the officers were the direct result of the
13 execution of the search warrant at the Judkins Lane address. The statements were
14 obtained either contemporaneously with the search or within a short time
15 thereafter. The search of the storage unit occurred on the same day as the search of
16 the residence. There is neither the passage of time nor any set of intervening
17 circumstances that would attenuate the clear connection between the initial search
18 of the residence and the subsequent investigation. Therefore, the witness
19 statements and the evidence seized from the storage unit are clearly fruits of an
20 unlawful search and should be suppressed.
21

22
23
24
25 4. The “Good Faith” Exception to the Exclusionary Rule Does Not
26 Apply Because the Officers’ Reliance on the Warrant Was Not Objectively
27 Reasonable.
28

1 Where law enforcement officers rely in good faith upon the validity of a
2 warrant in conducting a search, the evidence obtained as a result of the search will
3 not be subject to suppression even though the search violated the *Fourth*
4 *Amendment* because probable cause was lacking. *United States v. Leon*, 468 U.S.
5 897, 104, S. Ct. 3405, 82 L.Ed.2d 677 (1984). In order for the good faith
6 exception to apply, however, the officers must have relied upon the warrant in an
7 objectively reasonable manner and the affidavit must establish at least a “colorable
8 argument” for the existence of probable cause. *United States v. Crews*, 502 F.3d
9 1130, 1135 (9th Cir. 2007).
10
11
12
13

14 Here, the officers could not have relied on the warrant in an objectively
15 reasonable manner because the affidavit on its face fails completely to establish
16 any basis to believe a crime was being committed or that evidence of a crime
17 would be found at the Jenkins Lane residence. Reading the affidavit in a common
18 sense manner, it is clear that the officers believed that merely showing that
19 marijuana was likely being grown at the residence was enough to establish
20 probable cause. The affidavit fails to make mention of any fact or circumstance
21 relevant to whether the suspected marijuana grow did or did not comply with
22 Washington’s medical marijuana laws. Apparently, the officers were either
23 unaware of the 2011 amendments to RCW 69.51A.040 or chose to ignore the
24
25
26
27
28

1 change in the law. Either way, any claim of good faith reliance on the warrant was
2 clearly not objectively reasonable.
3

4 For the same reasons, the affidavit does not establish even a “colorable
5 argument” that a crime had been committed or was being committed at the Jenkins
6 Lane address. The absence of any reference to Washington’s medical marijuana
7 law in the affidavit and the total absence of any observations by the officers
8 relevant to whether any use, possession, or manufacture of marijuana taking place
9 at the Judkins Lane address complied with RCW 69.51A.040 forecloses any
10 argument that the officers had probable cause to believe a violation of Washington
11 law was taking place. The good-faith exception under *Leon* does not apply.
12
13
14

15
16
17 CONCLUSION:

18 For the foregoing reasons, the court should grant Defendant’s motion to
19 suppress all evidence obtained by the government from 11911 Judkins Lane,
20 Spokane, Washington, and all witness statements and other evidence obtained as
21 the result of the search.
22
23

24
25 Respectfully submitted this 7th day of May, 2012.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

s/ Richard D. Wall, WSBA #16581
Attorney for Defendant
Richard D. Wall, P.S.
423 W. First Avenue, Suite #250
Spokane, WA 99201
Telephone: (509) 747-5646
Fax: (509) 747-5692
E-mail: rdwallps@comcast.net

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of May, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Russell Smoot, Assistant United States Attorney.

s/ Richard D. Wall, WSBA #16581
Attorney for Defendant
Richard D. Wall, P.S.
221 W. Main Avenue, Suite 200
Spokane, WA 99201
Telephone: (509) 747-5646
Fax: (509) 747-5692
E-mail: rdwallps@comcast.net