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United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 10-00384 LEK-01
)	
Plaintiff,)	SUPPLEMENTAL MEMORANDUM IN
)	OPPOSITION TO DEFENDANT
vs.)	ROGER CUSICK CHRISTIE'S
)	MOTION TO DISMISS INDICTMENT
ROGER CUSICK CHRISTIE,	(01))	CERTIFICATE OF SERVICE
SHERRYANNE L. CHRISTIE,	(02))	
formerly known as)	
"Sherryanne L. St. Cyr",)	
SUSANNE LENORE FRIEND,	(03))	
TIMOTHY M. MANN,	(04))	
RICHARD BRUCE TURPEN,	(05))	
WESLEY MARK SUDBURY,	(06))	
DONALD JAMES GIBSON,	(07))	
ROLAND GREGORY IGNACIO,	(08))	
PERRY EMILIO POLICICCHIO,	(09))	Hearing Date: 03/04/13 at
JOHN DEBAPTIST BOUEY, III,	(10))	1:30 p.m. before the Hon.
MICHAEL B. SHAPIRO,	(11))	Leslie E. Kobayashi, U.S.
also known as "Dewey",)	District Judge
AARON GEORGE ZEEMAN,	(12))	
VICTORIA C. FIORE,	(13))	
JESSICA R. WALSH, also	(14))	
known as "Jessica Hackman",)	
)	
Defendants.)	
_____)	

**SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO DEFENDANT
ROGER CUSICK CHRISTIE'S MOTION TO DISMISS INDICTMENT**

In the United States' original "Memorandum in Opposition to

Defendant Roger Cusick Christie's Motion to Dismiss Indictment" filed January 14, 2013 (hereinafter "Opposition Memorandum"), attention was called at pages 3 - 4 thereof to the DEA Administrator's most recent denial on June 29, 2011 of a petition to have marijuana rescheduled from Schedule I to a lesser level under the Controlled Substances Act ("CSA"). DEA also caused that written denial (as well as other scientific documentation submitted by DHHS in support of that determination) to be published in the Federal Register. See 76 FR 40552-40589, 2011 WL 2648257(F.R.). The United States also appended this Federal Register submission in its entirety as Attachment "1" to its Opposition Memorandum. In his Memorandum in Support of his dismissal motion, at page 15 thereof, Christie also mentioned this DEA Administrator determination in passing, noting that it was "currently pending before the D.C. Circuit in case no. 11-1265".

Christie correctly noted that the petitioners had sought judicial review of the DEA Administrator's adverse determination before the D.C. Circuit Court of Appeals in Americans for Safe Access v. DEA, C.A. No. 11-1265. On January 22, 2013, the D.C. Circuit, in a published ruling, denied this request for judicial review, expressly noting in the first sentence of its opinion that "[t]here is a serious debate in the United States over the efficacy of marijuana for medicinal uses" and also holding that

the DEA Administrator's denial of the petition to have marijuana rescheduled was not arbitrary or capricious. See __ F.3d __, 2013 WL 216052 (D.C. Cir. 2013) *1.

This very recent ruling in Safe Access further supports the United States' contention in its Opposition Memorandum that there is still considerable public debate and controversy concerning the safety of marijuana use and consequently, heeding the Supreme Court's cautionary advice in Washington v. Glucksberg, 521 U.S. 702, 720 (1997),¹ it would be premature for any Federal Court at this time to enter a substantive due process ruling on this particular topic. This is particularly so in Christie's case, since his dismissal motion is not just confined to marijuana's alleged use for medicinal purposes, but rather seeks an expansive and unrestricted ruling with respect to any and all uses of the drug.

For this reason, Christie's dismissal motion should be denied.

DATED: February 4, 2013, at Honolulu, Hawaii.

FLORENCE T. NAKAKUNI
United States Attorney
District of Hawaii

/s/ Michael K. Kawahara
By _____
MICHAEL K. KAWAHARA
Assistant U.S. Attorney

¹ This advice is quoted in full in the United States' Opposition Memorandum at 7.

CERTIFICATE OF SERVICE

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served Electronically through CM/ECF:

Thomas M. Otake, Esq.	thomas@otakelaw.com
Attorney for Defendant	
ROGER CUSICK CHRISTIE	

DATED: February 4, 2013, at Honolulu, Hawaii

/s/ Valerie Domingo

U.S. Attorney's Office
District of Hawaii