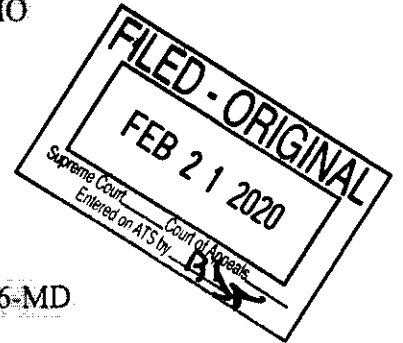


IN THE SUPREME COURT OF THE STATE OF IDAHO

State of Idaho)
Plaintiff-Respondent) Docket No. 47334-2019
v.) Case No. CR-2017-0019666-MD
Thumbs (Richard) Mitchell Heath) Adams County District Court
Defendant-Appellant)



APPELLANT'S BRIEF

Appeal from the District Court of the Third Judicial District for Adams County.

Honorable Sr. Judge D. Duff McKee, presiding.

Thumbs (Richard) Mitchell Heath

Residing at P.O. Box 234 Pollock, ID 83547, Appellant *Pro Se*.

Matthew Faulks and Christopher Boyd

Residing at 201 Industrial Ave. Council, ID 83612, for Respondent.

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3) Statement of the Case.

(i) On August 21, 2017, while returning from the Solar Eclipse, the Appellant was robbed of Sacred Personal Property, an Antler Bong and Pipe and 4 small buds of Cannabis, by highwaymen employed by the Adams County Sheriff's Office who conducted an unlawful search and seizure. They also attempted to deprive the appellant of his liberty and/or property with 2 misdemeanor citations for Possession of a "Controlled Substance" [Idaho Code Section 37-2732(c)(3)] and Possession of "Drug Paraphernalia" [Idaho Code Section 37-2734A(1)].

(ii) As Defendant *pro se*, the Appellant filed a Motion to Dismiss [Idaho Criminal Rules 48(a)(2)] on January 18, 2018, and a Motion to Return Property [Idaho Criminal Rules 41(f)] on March 13, 2018. The Magistrate Court acknowledged that the search and seizure were unlawful and granted a Motion to Suppress [Idaho Criminal Rule 12(b)(3)] which is implied by Idaho Criminal Rule 41(f) and dismissed all charges with prejudice on June 21, 2018, but failed to order the Return of Property because the Prosecution contends that it is "contraband", the primary point of contention.

The case was continued on August 16, 2018 and November 15, 2018 and Supplemental Motions to Return Property were filed on July 16, August 29, and October 29, of 2018. The Magistrate Court agreed that the Appellant had presented "correct" and "meritorious arguments" but was unable to return his Sacred Property because it lacked the necessary scope of authority.

The Appellant appealed to the District Court of the Third Judicial District of the State of Idaho, County of Adams, Honorable Sr. Judge D. Duff McKee presiding. This Court also failed to address the issues and arguments presented in this case, reiterating the Respondent's claim that the religious use of Cannabis "has been squarely addressed in *State v. Fleuwelling*, 150 Idaho 576 (2011)." It appears that since the District Court also lacks the scope of authority, none of the appellant's original arguments were considered *de novo* even though they are different from all of the alleged "precedents" cited.

(iii) In its Memorandum Decision, the District Court erred when it claimed that "...the essential facts are not in dispute." Among the facts ignored by the lower courts are the following:

1) This was NOT a legitimate traffic stop since it was NOT for a citable offense and NO warning was ever issued.

2) Appellant did NOT hand over the Antler Bong, it was stolen under color of law.

3) A Herb is NOT a “drug” and IS beyond the scope of authority of “the board of pharmacy”.

4) The Antler Bong and Pipe are NOT “contraband”.

5) This case is NOT “identical” or “directly analogous” to *State v. Fluewelling*.

6) *State v. Fluewelling* does NOT “squarely address” the issue of Cannabis and freedom of religion.

7) I.C. 37-2705(d)(19) is NOT a valid and neutral law of general applicability.

These matters of fact will be argued under issues of law. The Appellant will be referred to hereinafter as “Thumbs” and the Respondent hereinafter as “the State”, as per Idaho Appellate Rule 35(d).

4) Issues Presented on Appeal.

The District Court erred in its Memorandum Decision when it claimed that “the magistrate entered a detailed and articulate written order addressing all the salient points necessary to a resolution of this case.” In fact, none of the following issues have been “squarely addressed”.

A) Did the Magistrate Court (hereinafter “Magistrate”) err when it denied Thumbs’ Motion to Return Property under Idaho Criminal Rule 41(f)?

B) Where is the Constitutional Amendment (similar to the 18th Amendment) delegating such powers to the United States government, pursuant to the 10th Amendment, to enable the federal prohibition of Cannabis?

C) Where does the “State Board of Pharmacy” derive legislative authority?

D) How can Cannabis be listed as a “controlled substance” under Idaho Code Section 37-2705(d)(19) when it CANNOT pass the “Schedule I tests” of Idaho Code Section 37-2704?

E) Even if Cannabis could pass the tests for a Schedule I substance AND if the State Board of Pharmacy had legislative authority, how could its scope of authority apply to a Natural Herb given to Mankind by our Creator (Genesis 1:29)?

F) Why is this unlawful prohibition of the religious use of Natural Herbs permitted when it is expressly forbidden by Idaho Code section 73-401, et seq.?

G) How can the State of Idaho, and its subdivision, Adams County, violate Article XXI, section 19 of the Idaho State Constitution?

H) How can “*State v. Fleuwelling*” be a controlling “precedent” when it does NOT address any of the issues and arguments presented in this case?

I) Why is the Adams County Sheriff’s Office, and others, allowed to commit fraud, extortion, highway robbery, and *sacrilegium*, under color of law, thus victimizing the Society they are supposed to protect, due to an unlawful listing of a God-given Herb?

J) Why is this unlawful prohibition allowed to pose a serious threat to all Life on Earth when there is NO compelling governmental interest?

K) Why doesn’t the Supreme Court of Idaho exercise its jurisdiction to nullify the invalid listing of Cannabis under Idaho Code section 37-2705(d)(19) since said listing violates that statute’s definition (I.C. 37-2704), an overriding statute (I.C. 73-401 et seq.), and the Idaho State Constitution (Art. XXI, sect. 19)?

5) Attorney Fees on Appeal.

This is not applicable since Thumbs is standing *pro se* and acting *pro bono publico*.

6) Argument.

A) Idaho Criminal Rule 41(f), Motion to Return Property.

“A person aggrieved by an unlawful search and seizure of property may move for the property’s return. The motion must be filed in the criminal action if one is pending, but if no action is pending then a civil proceeding may be filed in the county where the property is seized or located. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant and it is not admissible in evidence”

at any hearing or trial. A motion for return of property made or heard after a complaint, indictment or information is filed, must also be treated as a motion to suppress under Rule 12.” [emphasis mine].

The Magistrate asks for clarification of the “overly broad language of Rule 41(f)” and treats it as two separate motions. Thumbs contends that it is a single motion for the return of property that has been taken by an unlawful search and seizure and that said cause also invokes Idaho Criminal Rule 12(b)(3). The Magistrate notes that Rule 41(f) does not make an exception for “contraband” property.

The 4th sentence clearly states: “If it grants the motion [emphasis mine, denoting that this is in fact a single motion] the court must return the property to the movant” because it was obtained by “an unlawful search and seizure.” It further states: “...and it is not admissible in evidence at any hearing or trial.” This is merely a reminder that illegally obtained evidence has been previously declared inadmissible by Idaho Criminal Rule 12(b)(3). The last sentence is quite redundant and the wording “must also be treated as a motion to suppress under Rule 12.” makes it apparent that the motion to suppress is a separate additional motion which is warranted by the same cause of unlawful search and seizure.

There is no suggestion in Rule 41(f) that after property has been searched for and seized unlawfully it may be retained if it is deemed “contraband”. This would presuppose that violations of the 4th Amendment of the United States Constitution and Article I, section 17 of the Idaho State Constitution are fully permitted if the property seized is later claimed to be “contraband”. Since the officers involved used unlawful tactics to discover and confiscate said property, they have no right to the information or the property thus obtained. This is obvious from the unambiguous wording of Rule 41(f) and Rule 12(b)(3). This is a moot point, however, since the property seized is NOT contraband according to the Constitution and statutes of the State of Idaho.

A piratis et latronibus capta dominum non mutant. [Capture by pirates and robbers does not change title. (Black’s Law Dictionary)].

B) The federal prohibition of Cannabis is also unconstitutional. The 10th Amendment limits the powers of the federal government to those enumerated in its constitution. For this reason, the 18th Amendment was necessary to grant the scope of authority which enabled the prohibition of

alcohol, later repealed by due process through the 21st Amendment. No such amendment has ever been proposed to properly enact the prohibition of Cannabis by due process of law, therefore it remains unconstitutional, and is NOT a “valid” law.

C) The State Board of Pharmacy, sanctioned by Idaho Administrative Code IDAPA 27, is part of the Executive Department of the Idaho State Government. Article II, section 1 of the Idaho State Constitution states:

“The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted”.

Article III, section 1 of said Constitution begins:

“The legislative power of the state shall be vested in a senate and house of representatives.”

Nowhere does it authorize the Legislative Department to delegate its legislative power to any administrative board or agency. Furthermore, Article III, section 12 declares:

“The business of each house, and of the committee of the whole shall be transacted openly and not in secret session.”

The State Board of Pharmacy’s prohibition of Cannabis is a de facto violation of all three of these sections, and the constitution takes precedence over statutes, as pointed out by the Magistrate [R-11/15/18; 1:07:15]. Therefore, the listing of “Marihuana” [sic] under Idaho Code Section 37-2705(d)(19) is NOT a “valid” law since it was not enacted by due process of law.

D) The District Court’s decision states in error that “...the statutes are unambiguous in stating that the pipe and bong would fall under the definition of ‘drug paraphernalia...’, yet as the

Magistrate noted in its Order, Cannabis cannot pass the “Schedule I tests” set forth in Idaho Code Section 37-2704:

“The board shall place a substance in schedule I if it finds that the substance:

- a) Has high potential for abuse; and
- b) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.” [emphasis mine].

Cannabis has NEVER been eligible for Schedule I listing for several reasons. It was the primary ingredient of many patent medicines prior to prohibition, is currently accepted for medical use in most states, including CBD oils in the State of Idaho. It is safer than any pharmaceutical drug on the market, the toxicity of which is quantified by the “LD-50”, the lethal dose for 50% of the experimental subjects. NOT ONE organism has ever died from an overdose of Cannabis, so it has NO LD-50. Since it is listed in error under Idaho Code Section 37-2705(d)(19) [under “(d) Hallucinogenic substances”, which it is NOT], Cannabis CANNOT be a “controlled substance” under Idaho Code Section 37-2732(c)(3) and Thumbs’ Sacred Personal Property CANNOT be classed as “drug paraphernalia” under Idaho Code Section 37-2734A(1).

E) Schedule I is a list of pharmaceutical drugs, chemically pure substances isolated or synthesized by chemists. Natural Herbs, “(19) Marihuana, (22) Peyote, and (32) Spores or mycelium capable of producing mushrooms that contain psilocybin or psilocin.”, do not belong on said list, being beyond the scope of authority of a “State board of pharmacy”. While “the board” may have jurisdiction over the pharmaceutical industry, they cannot regulate or control the actions of our Natural Creator.

“The book of Genesis, fundamental to the religions of Judaism, Christianity, and Islam, states (1:29):

God said, ‘See, I give you all the seed-bearing plants that are upon the whole earth, and all the trees with seed-bearing fruit; this shall be your food.’ (The Jerusalem Bible, Reader’s Edition, Doubleday and Co., Inc., Garden City, NY.)”

[Quoted from Thumbs’ Motion to Dismiss, P.2]

“The Bible makes several references to Cannabis, ‘Kanehbosm’ in ancient Hebrew (literally ‘scented cane’), as a sacred substance and holy sacrament, but these were mistranslated in the Greek Septuagint. Most significantly, the Holy Chrism, or anointing oil, contained Cannabis. All of the (approximately 60) known psychoactive compounds are oil soluble. Exodus 30:22-33 states:

‘Yaweh spoke to Moses and said, “Take the choicest of spices: of liquid myrrh five hundred shekels, half this weight of fragrant cinnamon- that is, two hundred and fifty shekels- and of scented cane [Hebrew: Kanehbosm] two hundred and fifty shekels; of cassia five hundred shekels (reckoning by the sanctuary shekel) and one hin of olive oil. These you are to compound into a holy chrisim, such a blend as the perfumer might make; it is to be a holy chrisim. With it you are to anoint the Tent of Meeting and the ark of the Testimony, the table and all its furnishings, the lampstand and all its accessories, the altar of incense, the altar of holocaust with all its furnishings, and the basin with its stand. These you are to consecrate. Thus they will excel in holiness, and whatever touches them will be holy. You must also anoint Aaron and his sons and consecrate them, so that they may be priests in my service. Then you are to say this to the sons of Israel, ‘You must hold this chrisim holy from generation to generation. It is not to be poured on the bodies of common men, nor are you to make any other of the same mixture. It is a holy thing; you must consider it holy. Whoever copies the composition of it or uses it on a layman shall be outlawed from his people.’ ” (ibid)

Annotation 30d in The New Jerusalem Bible (1973) explains further:

“The directives for the use of the oil, like those for incense (vv 34-35) are of late origin: all priests were to be anointed but no layman. According to the ancient historical texts, only the King was anointed. 1S 10:1 seq.; 16:1 seq.; 1K 1:39; 2K 9:6; 11:12. This anointing made the king a sacred person: he was the ‘anointed of Yaweh’. 1S 24:7; 26:9, 11, 23; 2S 1:14, 16; 19:22 which is in Hebr. ‘the Messiah’, in Gk. ‘the Christ’. In the Psalms the title is often used of David and his dynasty and becomes the main title of the future King, the Messiah, of whom David was the prototype; the NT applies the title to Jesus the Christ. It does not seem that members of the priesthood were anointed before the Persian period. The ancient Priestly texts reserve it to the high priest, 29:7, 29; Lv 4:3, 5, 16; 8:12. It was later extended to all priests, here at v. 30; 28:41; 40:15; Lv 7:36; 10:7; Nb 3:3.” (ibid)

Therefore, Idaho Statute 37-2732 (c)(3) is literally ‘anti-Christ.’”

[Quoted from Thumbs’ Motion to Dismiss, P.2.]

“Cannabis has also been smoked and burned as incense in a religious context since prehistoric times throughout Asia and Africa, including the Mesopotamian, Indian, Chinese, Egyptian, Hebrew, Persian, Scythian, Libyan, Efe’ (Pygmy), Moroccan, Ethiopian, and Dogon cultures. In modern historical times it is still used as a Holy Sacrament by various sects of Taoism, Buddhism, Hinduism, Gnosticism, Judaism, Christianity, and Islam. (Green Gold the Tree of Life; Marijuana in Magic and Religion, by Chris Bennett, et al.; Early Diffusion and Folk Uses of Hemp, by Sula Benet; Marijuana, the First Twelve Thousand Years, by Earnest Abel; Marijuana and the Bible, Ethiopian Zion Coptic Church; the Pygmy Kitabu, by Jean-Pierre Hallett; to name only a few...)”

[Quoted from Thumbs’ Motion to Dismiss, P.3].

The Board of Pharmacy is claiming authority to criminalize “God” for manufacture and delivery of a controlled substance, a serious felony, and “the Christ”, “the Messiah”, and multitudes of other devoted religious users for possession of a “controlled substance” and “drug paraphernalia”. Where does “the board” derive such authority, and how does it intend to incarcerate God?

The Board of Pharmacy ALLOWS the American Medical Association to commit mass murder using synthetic chemical drugs (Alchemy), such as opioids and “chemotherapy”, with known side effects that are dangerous and/or deadly, under an insanely lucrative patent-monopoly system (Moneytheism). Natural substances containing alcohol, nicotine, caffeine, and sugar are NOT listed under schedule I, although they have high potential for abuse (physically addictive), no accepted medical use in the United States (recreational drugs), and pose much greater threats to health and safety than Cannabis. Since “Peyote” and “Spores or mycelium capable of producing mushrooms that contain psilocybin or psilocin” are both used by Indigenous Americans and others for religious purposes, it is clear that Idaho Code section 37-2705(d)(19), (22), and (32) are NOT “neutral with respect to religion”.

F) Not only is the Board of Pharmacy usurping powers that are NOT granted by due process of law, such powers are specifically DENIED by the Free Exercise of Religion Protected Act (FERPA), Idaho Code section 73-401, et seq., which clearly and emphatically states the intent of

the Idaho State Legislature that our free exercise of religion shall be protected from infringement by statute, even by courts that may otherwise refuse to recognize the obvious intent of our constitutions.

“73-402. Free exercise of religion protected. - (1) Free exercise of religion is a fundamental right that applies in this state, even if laws, rules or other government actions are facially neutral.

(2) Except as provided in subsection (3) of this section, government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability.

(3) Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person is both:

(a) Essential to further a compelling governmental interest;

(b) The least restrictive means of furthering that compelling governmental interest.

(4) A person whose religious exercise is burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. A party who prevails in any action to enforce this chapter against a government shall recover attorney’s fees and costs.

(5) In this section, the term ‘substantially burden’ is intended solely to ensure that this chapter is not triggered by trivial, technical or de minimis infractions.” [emphasis mine].

This leaves NO reasonable doubt that free exercise of religion is protected EVEN from laws considered to be “neutral and of general applicability”. I.C. 73-401 defines certain terms in the act which clearly indicate that the burden of proof is on the State to demonstrate a “compelling governmental interest” before it can “inhibit or curtail religiously motivated practices”.

Since 1937 the government has prohibited and eradicated a plant species given to Man by our Natural Creator, and used as a Holy Sacrament by many of the religions of the eastern hemisphere, including pre-Roman Christianity. The pretext for this *sacrilegium* has been a long series of fraudulent claims and false propoganda including the absurd pseudoscience of Dr. Gabriel Nahas and his “crusaders against marijuana”. While touted as the government’s expert on “marijuana” and author of many “government studies” in the popular press, he has NEVER been published in a peer-reviewed scientific journal because he does NOT use scientific method:

NO replications, NO control subjects, NO double-blind protocol, etc. Modern science has proven that Cannabis does NOT kill brain cells, or break up chromosomes, or turn decent people into deranged violent criminals, or make women unfit mothers, or cause adolescent males to grow breasts and turn homosexual, or create holes in people's lungs, or permanently impair memory, or cause cancer, etc. In fact, it IS currently being used to treat cancer, asthma, epilepsy, glaucoma, the deadly side effects of chemotherapy, and a long list of ailments. The extent and extremity of these fabrications would not have been necessary if a significant threat to society actually existed. It is time we move on from the dark ages.

“Anyone can tell a lie, but the Truth reveal itself.” (Rastafarian Proverb).

Even if there had been a compelling governmental interest, which there is NOT, the State is required to use the least restrictive means of furthering that interest. Thumbs was deprived of Sacred Personal Property by armed robbers employed by the Adams County Sheriff's Office, a political subdivision of the State of Idaho (Idaho State Constitution, Article XVIII, section 1), without due process of law, and cited for 2 misdemeanors under unconstitutional statutes, threatening him with a maximum sentence of incarceration for 2 years and \$2000.00 in fines (his approximate average annual income). By what stretch of the imagination can this be construed as the “least restrictive means” of protecting Society from a harmless Natural Herb produced and distributed by “God” (Genesis 1:29)?

Furthermore, FERPA clearly declares supremacy over other statutes:

“73-403. Applicability. – (1) This chapter applies to all state laws and local ordinances and the implementation of those laws and ordinances, whether statutory or otherwise and whether enacted or adopted before, on or after the effective date of this chapter. [February 1, 2001].

(2) State laws that are enacted or adopted on or after the effective date of this chapter are subject to this chapter unless the law explicitly excludes application by reference to this chapter.

(3) This chapter shall not be construed to authorize any government to burden any religious belief.” [emphasis mine].

The plain language here is unambiguous that FERPA supersedes Idaho Code section 37-2705(d)(19) EVEN IF said erroneous listing were facially neutral and of general applicability, which it is NOT.

G) Neither the Magistrate, the District Court, nor any of the alleged “precedents” offered by the State have even attempted to address Article XXI, section 19 of the Idaho State Constitution, which is broader, more emphatic, and unambiguous than Article I, section 4 or the 1st Amendment of the United States Constitution, and applies precisely to this case.

As cited in Thumbs’ Motion to Dismiss, P.3:

“It is ordained by the state of Idaho that perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested in person or property on account of his or her mode of religious worship.” [emphasis mine, showing 5 absolutes in this sentence].

It seems quite obvious that “the State of Idaho”, plaintiff in this case, and “the Supreme Court of the State of Idaho”, which are created and defined by “the Constitution of the State of Idaho”, are compelled to acknowledge and obey that which is “ordained by the state of Idaho” in said constitution. “Religious sentiment” and “mode of religious worship” were deliberately intended to be broadly inclusive terms, well beyond “an establishment of religion”, particularly since they were added at the end of said constitution after the guarantee in Article I, section 4.

Since Thumbs took his Sacred Antler Bong and Pipe to celebrate the Solar Eclipse on August 21, 2017 in order to give Thanks and Praise unto the Most High Creator of Heaven and Earth, and was consequently molested in person and property on account of his mode of religious worship by agents of the State of Idaho, the statutes used against him are obviously unconstitutional.

The Magistrate stated from the bench in open court that the Constitution prevails over statutes [R-11/15/18; 1:07:15]. The District Court said in its Memorandum Decision that “...in Idaho marijuana is still classified as a Schedule I controlled substance and, barring a constitutional defect which is not apparent here, this provision is still the law in this state.” This is an error since the Appellant’s Brief and Reply Brief did demonstrate on record that the unlawful seizure of Thumbs’ Sacred Property, based on the illegitimate listing of Cannabis under Idaho Code section 37-2705(d)(19), is a blatant violation of the Idaho State Constitution under Article I, sections 1,4,13,and 17, Article II, section 1, Article III, section 1, Article XX, section 1, and especially Article XXI, section 19.

H) The Magistrate alleges that “The Idaho Supreme Court has squarely addressed this issue [of Cannabis use as the free exercise of religion] in *State v. Fluewelling*, 150 Idaho 576, 249 P.3d 375 (2011)” and the District Court claims that “This issue [same] has been squarely addressed in *State v. Fluewelling*...”. Both assertions are erroneous as shown in the Amended Reply Brief 2, p.14:

“II(B) *State v. Fluewelling*.

- 1) The Respondent’s Brief claims that “*Fluewelling* is directly analogous with the issues in this case.” [emphasis mine]. This statement is false as shown by a review of the issues presented in the Appellant’s Brief:
 - a) The Motion to Return Property [I.C.R. 41(f)] has absolutely nothing to do with *State v. Fluewelling*.
 - b) The fact that Cannabis cannot pass the “Schedule I tests” of I.C. 37-2704 was never mentioned in *State v. Fluewelling*.
 - c) The legislative authority of the “State Board of Pharmacy” was never questioned in *State v. Fluewelling*.
 - d) Fluewelling did not contend that Man’s government has no authority to impose criminal sanctions on the Natural Creator of Heaven and Earth.
 - e) This is actually a collection of issues specifically differentiating the arguments of Thumbs from those of Fluewelling. The respondent provided no direct argument to any of these.
 - f) Fluewelling did not ask where the U.S. Constitution delegated such powers to the federal government.
- 2) In *State v. Fluewelling*, the ISSUES ON APPEAL are:
 - A) “Is Idaho Code 37-2732(a) unconstitutionally vague?” [emphasis mine].
This is not applicable since Thumbs maintains that I.C. 37-2734A is clearly unconstitutional.

Hoc paratus est verificare. “this he is ready to verify.” [BLD].

- B) “Did the prosecution of Defendant for possession of marijuana [sic] with the intent to deliver violate his constitutional right to freedom of religion?” [emphasis mine].
Though the charges are different (Thumbs did not share his Bong, Pipe, or Herb with anyone) this is the closest similarity between the cases. However, the State erred in claiming that: “The Idaho Supreme Court rejected Fluewelling’s argument, finding that the code was neutral with respect to religion because it applied

generally to each citizen.” In fact, CHIEF JUSTICE EISMANN states: “Defendant does not contend that Idaho Code 37-2732(a)(1)(B) is not a valid and neutral law of general applicability.” [emphasis mine]. Thumbs does so contend and has argued that point, to which the State has failed to respond. The State has not shown where either constitution delegates such power and authority or that said statutes were enacted by due process of law necessary to make them “valid”. Furthermore, the U.S. Supreme Court precedents cited above demonstrate that a “neutral law of general applicability” may still constitute a burden on one’s right to free exercise of religion. Finally, neither the State nor any of the precedents offered have addressed Article XXI, section 19 of the Idaho State Constitution which is absolute and unambiguous.”

Fluwelling also failed to mention the FERPA (I.C. 73-401, et seq.) cited above. The FERPA clearly declares supremacy “even if laws, rules or government actions are facially neutral...[and]...of general applicability.”

I) The Magistrate has overlooked the extent of this unlawful search and seizure. Using stationary radar, Sgt. Chris Green knew the actual speed of the vehicle beforehand, later stating: “...9 over, for me, isn’t a citable offence...” (Video Recording of Sgt. Chris Green, hereinafter VR/CG, 13:50 minutes into video). While the speed was mentioned as a pretext for the stop, Hari Heath, the driver, was never given even a verbal warning for speeding. Instead Sgt. Green went immediately to demanding license, registration, and proof of insurance, fabricating accusations about the smell and/or presence of alcohol, and interrogating Thumbs about his identity and both detainees about their destinations, then claiming to smell “a little bit of weed”. After many accusations and threats, both officers claimed (Dpty. Sean Moore had joined him): “Legally, by law, we don’t have to get a search warrant.” Dpty. Moore then declared: “So, we can take your car, we can put it in impound, and then you guys can go on your merry way, and then when I get the search warrant...” (VR/CG ca. 22 min.).

Thumbs contends that this was not a legitimate traffic stop. It is relevant that both Heath Brothers have long dreadlocks and were travelling in an old rusted car custom painted with a camouflage pattern, since the Adams County Sheriff’s Office is infamous for profiling, making false accusations, and using threats, duress, and coercion to extort confessions to citable offences after initiating traffic stops, with the intent of collecting fines. Thumbs has pled before the court repeatedly for an injunction to prevent such abuses of police powers in the future. Since the State

of Idaho (plaintiff) is currently claiming possession of the Sacred Personal Property of Thumbs, it is an accessory to this violation of his constitutional rights. The unlawful prohibition of Cannabis is often used to justify such abuses of the Peoples' civil and human rights guaranteed by Article I, section 1 of the Idaho State Constitution:

“All men are by nature free and equal, and have certain inalienable rights, among which are enjoying and defending life and liberty; acquiring, possessing and protecting property; pursuing happiness and securing safety.”

J) Climate Change is caused primarily by the burning of fossil fuels and deforestation. Cotton crops and the toxic chemicals applied to them are killing the soils that feed us. The American Medical Association is one of the leading causes of death, due to the use of drugs, permitted by the board of pharmacy, which have disabling and lethal side effects. The fraudulent prohibition of Cannabis was railroaded through Congress and the legislature to protect the economic interests of the petroleum, timber, cotton, and pharmaceutical industries, and is therefore victimizing not only Society, but the entire Biosphere. These facts are thoroughly documented in *The Emperor Wears No Clothes*, by Jack Herer. The Magistrate erred when it refused to admit this “learned treatise” as evidence, since Idaho Criminal Rule 41(f) insists that “The court must receive evidence on any factual issue necessary to decide the motion.”

It IS incumbent upon the governments which perpetrated these crimes against Humanity and crimes against Nature to END this fraud upon the courts and remove Cannabis from listing under Schedule I. This would enable the People to use the most important crop in history to heal the Earth through regenerative agriculture. We have NO time left for this nonsense.

K) The District Court's decision declares:

“Appellant's arguments need to be addressed to the legislature. The courts are bound by the statutes as they exist; we may interpret the law or clarify points raised, but we may not rewrite or ignore the plain language of existing statutes.”¹ “Similarly, this court is bound by and not free to ignore appellate court precedent that is on point with the issue(s) presented on appeal.”

The separation of powers required by Article II, section 1 of the Idaho State Constitution is intended to maintain a system of checks and balances between the three branches of government.

When a listing within a statute is unlawful and erroneous according to that statute's own definition (I.C. 37-2704); AND said statute is also superseded by the plain language of another existing statute (I.C. 73-401, et seq.); AS WELL AS the Idaho State Constitution from which the legislature derives its powers, and the statutes their authority; it IS the duty of the Appellate Courts to NULLIFY the conflicting provision of lowest standing, i.e. I.C. 37-2705(d)(19). As for the footnote, "1", the "appellate court precedent" cited is NOT on point with the issues presented in this appeal, and even if it were, case law ("the courts") IS subordinate to ("bound by") the constitution and statutes "as they exist".

7) Conclusion.

For the above stated reasons, the Appellant, Thumbs (Richard) Mitchell Heath, pleads before the Supreme Court of the State of Idaho for the return of his Sacred Personal Property, stolen from him by unlawful search and seizure and held in the custody of the State of Idaho in violation of its own Constitution and statutes.

Leges suum ligent latorem. [Laws should bind their own maker. (BLD)].

He also pleads for a preventive injunction against the Adams County Sheriff's Office ordering them to cease and desist from this predatory criminal behavior.

Most importantly, he pleads for nullification of the unlawful listing of Cannabis under Idaho Code section 37-2705(d)(19).

If, for any reason, the Supreme Court of the State of Idaho is unwilling to uphold the constitution and statutes of the State of Idaho, and nullify the unlawful listing of Cannabis under "Schedule I", and return his Sacred Personal Property, the Appellant hereby moves the Court to extend the Magistrate's order protecting said Sacred Personal Property while he continues to seek Justice and reclaim his guaranteed rights through civil procedure pursuant to Idaho Criminal Rule 41(f):

"The motion must be filed in the criminal action if one is pending, but if no action is pending then a civil proceeding may be filed in the county where the property is seized or located."

Respectfully submitted this 20th day of February, 2020.

Thumbs Mitchell Heath

Thumbs (Richard) Mitchell Heath,

Defendant/Appellant *Pro Se*.

Certificate of Compliance

The undersigned does hereby certify that the electronic brief submitted is in compliance with all of the requirements set out in I.A.R. 34.1 (b), and that an electronic copy was served on each party at the following email addresses:

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Dated and certified this 20th day of February, 2020.



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Defendant/Appellant, *Pro Se*.