

FILED  
Court of Appeals  
Division III  
State of Washington  
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No. 35029-III

COURT OF APPEALS DIVISION III  
OF THE STATE OF WASHINGTON

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State of Washington,  
*Respondent*

v.

Gabriel Ruelas, Jr.,  
*Appellant*

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Appeal from the Superior Court of Adams County

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*REPLY BRIEF OF APPELLANT*

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Attorney for Appellant, Gabriel Ruelas:  
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## TABLE OF AUTHORITIES

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Appellant, Gabriel Ruelas, by and through his attorney of record, Douglas D. Phelps, submits this reply brief in response to the brief submitted by the government. By this Reply Brief, no attempt is made to set forth a response to each of respondent's contentions, most of which are fully covered by the opening brief. Only those points requiring additional comment will be raised to assist this court in resolving the pertinent issues.

## I. ARGUMENT

### **1. The Washington State Constitution supplemented by the Revised Code of Washington creates a public policy right to possess marijuana in cases of terminal care of patients.**

The Washington State Constitution Article 1, Section 1 provides: “All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.” The Washington State Constitution additionally provides in Article I, Section 3: “No person shall be deprived of life, liberty, or property without due process of law.” Then the Washington State Constitution provides in Article I, Section 7 that: “No person shall be disturbed in his private affairs, or his home invaded without authority of law.

The Washington Supreme Court has applied Article I, Section 7 to provide greater protections to Washington citizens. The protections of Article I, Section 7

have “independent meaning” which are recognized to provide “protections for the citizens of Washington, which are quantitatively different from, and in some cases broader than those provided by the Fourth Amendment. *City of Seattle v. McCready*, 123 Wn. 2d 260, 267, 668 P. 2d 134 (1994).

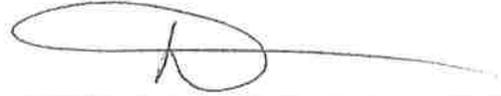
In applying the RCW 69.51A.005 and RCW 69.51A.900, the defendant argues that the Washington State Medical Use of Cannabis Act “establishes the right to use medical marijuana as a legal alternative.” The statute, when applied with the Constitutional rights under Article I, Section 1, Article I, Section 3, and Article I, Section 7, states that a criminal defendant need not demonstrate that medical marijuana has a medical purposed for treating a terminal cancer patient.

Therefore, the court erred by requiring medical testimony to present a necessity argument. The defense should not be required to present “medical testimony” as the constitution and the public initiatives and RCW 69.51A.005 and RCW 69.51A.900 recognize.

## II. CONCLUSION

The trial court committed error requiring a new trial by requiring expert testimony where the law has already established the acceptance of medical marijuana for the terminally ill cancer patient. As the defendant was denied a necessity defense, the Appellate Court should remand for a new trial.

Respectfully submitted this 27 day of August, 2018

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