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STATE OF WASHINGTON

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No. 83474-1
(consolidated with No. 83828-3)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CAL COBURN BROWN, et al.,

Appellants,

v.

ELDON VAIL, et al. ,

Respondents.

RESPONDENTS'
CORRECTION TO
CITATION OF AUTHORITY

The Respondents (the State), by and through their attorneys, Robert M. McKenna, Attorney General, John J. Samson, Senior Counsel, and Sara J. Olson, Assistant Attorney General, wish to notify the Court and counsel of a correction to a citation of authority in the State's brief.

In preparing for oral argument, counsel discovered a typographical error on page 48 of the State's brief. The brief cites 21 U.S.C. § 855(d) as the federal statute that exempts state officers from liability under the federal controlled substances act. The correct citation of the federal statute is 21 U.S.C. § 885(d). A copy of the text of the correct statute, obtained from the DEA's website, is attached as appendix A.

1 ORIGINAL

FILED AS
ATTACHMENT TO EMAIL

Counsel sincerely apologizes for any confusion and inconvenience
caused by this typographical error.

DATED this 10TH day of March, 2010.

Respectfully submitted,
ROBERT M. MCKENNA
Attorney General



JOHN J. SAMSON, WSBA #22187
Senior Counsel
SARA J. OLSON, WSBA #33003
Assistant Attorney General
P.O. Box 40116
Olympia, WA 98504-0116
(360) 586-1445
(360) 586-1319 fax
johns@atg.wa.gov
sarao@atg.wa.gov

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CERTIFICATE OF SERVICE

CLERK I certify that I served a copy of the foregoing document on all parties or their counsel of record as follows:

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 Electronic Mail

TO:

SHERILYN PETERSON
DIANE MEYERS
PERKINS COIE, LLP
1201 THIRD AVE, SUITE 4800
SEATTLE, WA 98101-3099
speterson@perkinscoie.com
dmeyers@perkinscoie.com

SCOTT J. ENGELHARD
ATTORNEY AT LAW
119 1ST AVENUE SOUTH
SUITE 320
SEATTLE, WA 98104-3424
engelhardlaw@comcast.net

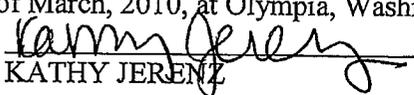
SARAH A. DUNNE
NANCY L. TALNER
ACLU OF WA FOUNDATION
705 2nd AVENUE, SUITE 300
SEATTLE, WA 98104
dunne@ACLU-wa.org
ntalner@aol.com

SUZANNE LEE ELLIOTT
ATTORNEY AT LAW
HOGE BUILDING
705 2ND AVE STE 1300
SEATTLE, WA 98104-1797
suzanne-elliott@msn.com

BETH M. ANDRUS
SKELLENGER BENDER P.S.
1301 FIFTH AVENUE, SUITE 3401
SEATTLE, WA 98101
bandrus@skellengerbender.com

GILBERT H. LEVY
ATTORNEY AT LAW
2003 WESTERN AVENUE, SUITE 330
SEATTLE, WA 98121
courts@glevylawyer.com

EXECUTED this 10th day of March, 2010, at Olympia, Washington.


KATHY JERENZ

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APPENDIX A



-CITE-

21 USC Sec. 885 01/22/02

-EXPCITE-

TITLE 21 - FOOD AND DRUGS
 CHAPTER 13 - DRUG ABUSE PREVENTION AND CONTROL
 SUBCHAPTER I - CONTROL AND ENFORCEMENT
 Part E - Administrative and Enforcement Provisions

-HEAD-

Sec. 885. Burden of proof; liabilities

-STATUTE-

(a) Exemptions and exceptions; presumption in simple possession offenses

(1) It shall not be necessary for the United States to negative any exemption or exception set forth in this subchapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this subchapter, and the burden of going forward with the evidence with respect to any such exemption or exception shall be upon the person claiming its benefit.

(2) In the case of a person charged under section title with the possession of a controlled substance, any label identifying such substance for purposes of section 353(b)(2) of this title shall be admissible in evidence and shall be prima facie evidence that such substance was obtained pursuant to a valid prescription from a practitioner while acting in the course of his professional practice.

(b) Registration and order forms

In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this subchapter, he shall be presumed not to be the holder of such registration or form, and the burden of going forward with the evidence with respect to such registration or form shall be upon him.

(c) Use of vehicles, vessels, and aircraft

The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule I was used in accordance with the provisions of this subchapter shall be on the persons engaged in such use.

(d) Immunity of Federal, State, local and other officials

Except as provided in sections 2234 and 2235 of title 18, no civil or criminal liability shall be imposed by virtue of this subchapter upon any duly authorized Federal officer lawfully engaged in the enforcement of this subchapter, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

-SOURCE-

(Pub. L. 91-513, title II, Sec. 515, Oct. 27, 1970, 84 Stat. 1279.)

-REFTEXT-

REFERENCES IN TEXT

Schedule I, referred to in subsec. (c), is set out in section 812(c) of this title.

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APPENDIX A

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To: Jerenz, Kathy (ATG)
Cc: Faulk, Camilla; SPeterson@perkinscoie.com; DMeyers@perkinscoie.com; Scott J. Engelhard; dunne@ACLU-wa.org; ntalner@aol.com; Suzanne Elliott; bandrus@skellengerbender.com;
Subject: Courts - Gil Levy Lawyer
RE: Brown, et al. 83474-1

Rec. 3-10-10

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Cc: Faulk, Camilla; SPeterson@perkinscoie.com; DMeyers@perkinscoie.com; Scott J. Engelhard; dunne@ACLU-wa.org; ntalner@aol.com; Suzanne Elliott; bandrus@skellengerbender.com; Courts - Gil Levy Lawyer

Subject: Brown, et al. 83474-1

Good afternoon,

Attached please find Respondents' Correction to Citation of Authority for filing in the above referenced matter. If you have any questions, please let me know.

Thank you

<<Corrected Citation of Authority.pdf>>

Kathy Jerenz
Legal Assistant

Attorney General's Office
Corrections Division
360-586-5146

Please print only when necessary