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NO. 90204-6

WASHINGTON STATE SUPREME COURT

CANNABIS ACTION COALITION, ET AL.,

Appellants

v.

THE CITY OF KENT ET AL.,

Respondents

**WORTHINGTON'S AMENDED REPLY TO WASHINGTON
STATE ATTORNEY GENERAL AMICUS CURIAE**

John Worthington
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ORIGINAL

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I. INTRODUCTION

After the Veto of ESSB 5073, the State of Washington passed Initiative (I-502), which aimed to sell recreational marijuana to the public. The Initiative itself contained three specific policy goals, none of which included earmarks for local law enforcement or getting rid of medical marijuana.

After the passage of I-502 the Association of Washington Cities (AWC), sent letters to all concerned and requested a “partnership” to acquire local law enforcement funding from the I-502 implementation process. To do that, the AWC and the “Partnership” had to manufacture a new policy goal at the expense of the existing policy goals of eliminating illegal drug organizations, concentrating on property crimes, and generating new state and local tax revenue for education, health care, research, and substance abuse prevention.¹

This new policy goal manufactured by the “Partnership” centered on promoting high regulation and high prices in order to provide more local law enforcement funding. In other words, the “Partnership” had remarketed I-502 so marijuana prohibitions could continue.

¹Section 1 “Intent” I-502.

<http://www.newapproachwa.org/sites/newapproachwa.org/files/I-502%20bookmarked.pdf>

The “Partnership” viewed medical marijuana collectives and home medical marijuana grows as an impediment to the market conditions that would feed this new remarketed prohibition, so they started promoting bans on medical marijuana collectives and worked behind closed doors to kill the rest of the medical marijuana initiative.

The Washington State Attorney General’s Office (WAAG) had a ringside seat in the efforts of the “Partnership”, and played a critical role in crafting the documents used to help acquire the “Cole Memo,” which was the basis for creating the new policy goals at the expense of the policy goals voted on by the public.

The WAAG is not here because it is a friend of the court, they are here just as all of the litigants are here, because of the “Partnership.” The WAAG wants what the “Partnership” wants and that is to feed the cogs and wheels of the ‘Partnership’s” new marijuana prohibition model that they had an active hand in crafting.

WAAG’s Amicus is nothing more than an “us, too” brief, something you would expect from a “Partner” engaged in the remarketing of prohibition the public thought it had voted to end.

II. ARGUMENT IN REPLY

A. THE WAAG HAS ONLY DUPLICATED KENT'S BRIEFS.

The WAAG, as a “partner” of the City of Kent in the effort to retool the marijuana market in Washington State to keep the cogs and wheels of marijuana prohibition churning away, has only extended the brief of the City of Kent, and fails to provide a unique perspective .

“The vast majority of Amicus Briefs are filed by allies of litigants and duplicate the arguments made in the litigants briefs, in effect merely extending the litigants brief. Such Amicus Briefs should not be allowed.”

Ryan v. Commodity Futures Trading Commission, 125 F.3d 1062, 1063-64 (7th Circuit).

Worthington acknowledges the time for objecting to the Amicus has passed. Nonetheless, Worthington respectfully argues the Justices should not be swayed by the WAAG’s Amicus, due to the “Partnership” between WAAG and the “Meta Association” created to remarket marijuana prohibition, a “Meta Association” of which both the WAAG and the City of Kent are members.

B. THE WAAG IS A PURE ADVOCATE, NOT A FRIEND OF THE COURT.

The WAAG has long considered itself colleagues of law enforcement. The WAAG has advised the Washington State Liquor Control Board (WSLCB) during the implementation of I-502 and sat by as the WSLCB held at least 17 secret meetings² with law enforcement and the Cities in violation of the Open Public Meetings Act.

These meetings were organized by AWC and WAAG knew why they were held. Rather than stop the secret meetings and the use of I-502 rulemaking resources for illegal purposes, the WAAG gave its tacit approval and even helped to craft the memo sent to the DOJ asking for the “Cole Memo.”

The pattern of WAAG standing by while marijuana initiatives and laws are undermined has long been established. When the medical marijuana law passed in 1998, the WAAG signed three federal grants to uphold a federal drug control policy. One grant, the HIDTA grant³, created a policy in the federal register to have state and local law enforcement seize

² <http://mynorthwest.com/174/2690045/Liquor-Board-pays-192000-to-public-records-gadfly>

³ <http://www.hidta.org/>

medical marijuana for the DEA.⁴ Two other grants, the Marijuana Eradication grant to the WSP,⁵ and the Washington State National Guard Counter Drug Program require the eradication of marijuana. These programs cannot be used to enforce state regulatory schemes for marijuana. They contain language that has only one policy goal, and that is to enforce a federal drug control policy. These grants contain statements of assurances that require the applicants, State of Washington/WSP, county sheriffs, state police, and tribal police to “adhere to the federal policies of the Executive branch.” In short, they became federal officers that make claims they are loaned employees covered under the federal tort claims and Westfall Acts. The signing of these grants can only be considered an act of malfeasance against state laws.

As this case is currently being litigated, Washington State is still contractually obligated to seize and eradicate all marijuana, while the State also actively works to profit from the sale of Marijuana recreationally and allow its use for medical purposes. The WAAG has been a major player in this malfeasance by helping to sign, seal, and deliver this federal policy to

⁴ <http://www.gpo.gov/fdsys/pkg/FR-1997-02-11/html/97-3334.htm> (An exhibit in this case)

⁵ <http://www.wsp.wa.gov/crime/hotline.htm>

the State of Washington. As long as the WAAG's "John Hancock" sits on those grants, in direct opposition to Washington State laws, WAAG cannot possibly be considered "a friend of the Court." This fact was illustrated early on in this case when WAAG was listed in the case as a required party, yet chose to opt out of protecting the collective garden statute, even for the residential models which should have been singled out and protected because they are not only a private use issue, but they do not offer the "storefront" approach which was alleged not to have been the intent of the legislature.

The WAAG also failed to protect the home medical patient grows allowed by RCW 69.51A, which would be a casualty of the theory to allow cities to control the "production" of all marijuana, if Kent's overreaching legal theory is upheld.

The WAAG is part of a "Meta Association" whose goals were to create a marijuana policy that needed certain conditions to thrive and prosper. The collective gardens and home grows stand in the way of those conditions, because they allow a substantial number of people to acquire marijuana at prices far below the highly taxed and regulated I-502 model. This would obviously frustrate the "Meta Association's" self-serving policy goals and

eliminate the need for a “robust” regulatory scheme that needs more local law enforcement funding to counter an illicit market the I-502 rule making process was tasked to eliminate in the first place.

After all, if a substantial amount of people were able to acquire cheaper marijuana there would be no need to stop the illicit market, one of the new eight policy goals inserted into I-502 during the secret rule making process by the “Meta Association,” with the help of the U.S. Attorney General’s ‘Cole Memo’.⁶ The City of Kent is also part of this “Meta Association,”⁷ and they also have their “John Henry” on the HITDA grant dotted line as a member of the Valley Narcotics Enforcement Team.⁸

The “Meta Association” has this legal iron in the fire because the legislature failed to give them the legislation they had formed a partnership to create last session. What better place to go with a convoluted legal beer cap puzzle than the courts of Washington, also known as the Judiciary Courts of Washington⁹, a recipient of federal drug court grants.

⁶ See *Worthington V. WSLCB 15-2-00069-9* Thurston County Superior Court.

⁷ <http://www.awcnet.org/portals/0/documents/legislative/MarijuanamayorLetter022814.pdf>

⁸ <http://records.tukwilawa.gov/WebLink8/DocView.aspx?id=16586&page=1&dbid=1>

⁹ <https://creditreports.dnb.com/webapp/wcs/stores/servlet/IballValidationCmd?storeId=11154&catalogId=71154&productId=0&searchType=BSF&state=&bstSiteSearchUrl=https%3A%2F%2Fcreditreports.dnb.com%2Fm%2Fsearch->

Imagine all the home medical patient growers and residential collective garden participants, most of whom are poor, being turned into criminals ready to fill the lower courts, burden the public defenders, feed the judicial system and treatment facilities, all because the U.S. Attorney General's "Cole Memo" thinks Washingtonians would be safer spending our tax money on an illicit market that was supposed to be eliminated and would have been eliminated had the "Meta Association" not intervened.

This case enables the "Meta Association" to achieve indirectly what the Legislature was and may still be unwilling to give them directly. The "Meta Association" could not get what they wanted directly because of the fiscal impacts of ramping up local law enforcement and the flooding of the lower courts to deal with all these quasi-legal citizen activities being now deemed illegal while I-502 was not an adequate option for the Legislature. This was proven to be a major impediment in acquiring the "Meta Association's" policy goals last session¹⁰, when at least one legislator questioned that policy goal of more money for public safety.

As a pure advocate for the "Meta Association," the Justices should not

[results.html%3Fq%3D&searchPerform=true&hiddenSessionId=-2091992462&busName=KING+COUNTY+SUPERIOR+COURT&country=US#goTop](#)

¹⁰ <http://www.thenewstribune.com/2014/03/11/3091328/medical-marijuana-bill-in-trouble.html>

see the WAAG Amicus as an objective, dispassionate, neutral discussion of the issues. In giving weight to the WAAG Amicus, the Justices would be accepting an advocate of one side, who in this case is supposed to be an advocate for both sides. Accepting the WAAG Amicus as a pure advocate for the “Meta Association” would be a disservice. “Came as an advocate for one side . . . In doing so [a prospective Amicus] does the court, itself and fundamental notions of fairness a disservice.”

Bear, Stearns & Co., 2003, U.S. district LEXIS 14611 at * 17 (Pauley J.).

The WAAG’s Amicus does not protect the interests of the people of Washington State. “It has always been a paramount duty of the attorney general to protect the interests of the people of the state.”

State ex rel. Dunbar v. State Board, 140 Wash. 433, 249 P. 996 (1926).

The WAAG is here before the court to support a position advocated by a “Meta Association,” that would give local control over the production of all marijuana , and snuff out any competition for their now unconstitutional-as-applied I-502 recreational model, that has been subverted by the “Partnership” and “Meta Association,” to feed its ramped up regulatory model that frustrates the public policy goals to end prohibition of marijuana. With a “Meta Association” that powerful and willing to

circumvent the will of the people for their own gain, it is no wonder we are in such mal-support of education, environmental, transportation and healthcare policy goals.

III. CONCLUSION

Worthington respectfully argues the WAAG Amicus is not from a friend of the court, but from a member of a “Partnership” that formed a “Meta Association” to influence the initiative process, legislation, and now the courts regarding marijuana policy in Washington State. The WAAG Amicus does not offer an objective, dispassionate, neutral discussion of the issues, and the court should not be persuaded by its one-sided arguments in violation of the spirit and intent of the WAAG’s obligation to present both sides.

Respectfully submitted this 29th day of January, 2015

S:/ JOHN WORTHINGTON

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DECLARATION OF SERVICE

I declare that on the date and time indicated below, I caused to be served via email and U.S. Mail, a copy of the documents and pleadings listed below upon the attorneys of record for the Respondent, and the Appellant, as well as the other parties herein listed and indicated below.

1. APPELLANT WORTHINGTON'S REPLY TO WAAG AMICUS

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I declare under penalty of perjury under the laws of the United States that the foregoing is True and correct.

Executed on this 29th day of January, 2015

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