IN THE UNITED STATES DISTRCT COURT

FOR THE DISTRICT OF ALASKA

Gordon Warren Epperly
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Gordon Warren Epperly, Sui Juris Petitioner, vs., State of Alaska, Respondent, vs., The United States of America, [UNITED STATES], Respondent.	District Court Case No. 1:15-CV-00002-SLG **Opposition to** **The United States of America's** **"*Motion to Dismiss*"** Petition For Redress Of Grievance

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COMES NOW Gordon Warren Epperly, the Petitioner of a verified "*Petition for Redress of Grievance*" that is before the above named Court hereby opposes The United States of America's "*Motion to Dismiss Petitioner's Petition for Redress of Grievance*."

The Petitioner has moved the Court to accept Petitioner's "*Corrected and Verified Amended Petition for Redress of Grievance*" on June 1st, 2015 with true and correct copies being delivered to the Attorneys of the Respondents.

A PDF copy of this "*Document*" with active "*Internet Links*" may be viewed from the Internet at:

http://www.usa-the-republic.com/marijuana.html

MEMORANDUM OF LAW AND FACTS

Background

1. The Petitioner, Gordon Warren Epperly submitted a "*Petition for Redress of Grievance*" on April 15, 2015. As the original "*Petition*" was not verified and as it contained clerical errors which resulted in two separate "*Petitions*" being submitted to the Respondents with different numbering of paragraphs, the Petitioner moved the Court on June 1st, 2015 to accept a "*verified*" and corrected amended "*Petition for Redress of Grievance*."

2. On or about June 8th, 2015, the Respondent, State of Alaska submitted a "*Motion to Dismiss Petitioner's 'Petition for Redress of Grievance'*" which was opposed and moved by the Petitioner for the Court to "*quash*" and be "*dismissed*" on June 15th, 2015.

3. On June 23rd, 2015, the Petitioner, Gordon Warren Epperly, was in receipt of the Respondent, State of Alaska's "*States Reply to Opposition to Motion to Dismiss*

and Opposition to Motion for Summary Judgment" and was in receipt of Respondent, The United States of America's "*Motion to Dismiss*."

ANSWER AND OBJECTION TO
THE UNITED STATES OF AMERICA'S
'MOTION TO DISMISS'

4. Attorney, Richard L. Pomeroy for Respondent, The United States of America has incorporated the State of Alaska's points of authority of its "*Motion to Dismiss*" into the "*Motion to Dismiss*" of the Respondent, The United States of America. There is no need to restate the Petitioner's "*Points and Authority*" that was used in support of his "*Opposition*" to the *State of Alaska*'s "*Motion to Dismiss.*" Those points and authority as used in "*Opposition*" to State of Alaska's "*Motion to Dismiss*" are hereby incorporated into the Petitioner's "*Opposition*" to *The United States of America*'s "*Motion to Dismiss*."

Federal Law Preempts State Law

5. In addressing the assertion of Attorney Pomeroy's that the supremacy clause of the Constitution wherein Federal Law is proclaimed to preempts state law of the State of Alaska is not Petitioner's argument to make (*implying that only the U.S. Justice Department has that authority*), Attorney Pomeroy does err.

All sovereign power is with the "*People*," either individually or collectively and the "*Constitutions*" of the "*States*" and of "*The United States of America*" are the creations and property of the "*People*." It is the "*People*" that established the governments of the "*States*" to which they delegated their "*Powers*"

of "*Sovereignty*." /[1] All is in agreement that the government of "*The United States of America*" is a government of limited "*Powers*" exercising only those "*Powers*" of "*Sovereignty*" which were delegated to it on November 15th, 1778 from the "*People*" in and through the "*Delegates*" of the "*United States of America*" in "*Congress*." When the "*actions*" of "*Public Officials*" exceed constitutional authority, they are not exercising delegated "*Powers*" of the "*People*" and they are acting outside the protections of sovereign immunity of the State. As the Attorney General and his Deputy Attorney Generals have exercised "*Powers*" which they do not possess in the delegation of the "*Powers*" of U.S. Congress and the U.S. President to the States of the Union, the "*People*" (*Petitioner*) have the inclusive "*Powers*" of sovereignty to question the "*Policy*" actions of the "*U.S. Justice Department*."

The "*People*," having no trust in their creation of "*The United States of America*," found the need to adopt an additional Ten (10) "Articles" to the U.S. Constitution known as the "*Bill of Rights*." For the "*People*" to hold their "*Public Officials*" accountable to the *U.S. Constitution*, the "*People*" did include within the "*Bill of Rights*" their authority to "*Petition*" the government for "*Redress of Grievances*."/[2] To "*Petition*" the Government for a "*Redress of Grievance*" means the People, with evidence that

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[1]/ The People have declared within the "*Declaration of Independence*" that: *"… governments are instituted among men, **deriving their just powers from the consent of the governed**, … it is the right of the people to alter or abolish it …"* [Emphasis added].

See also: "*In the United States, sovereignty resides in the people, who act through the organs established by the Constitution*."

Chisholm v. Georgia, 2 Dall. 419, 471;
Penhallow v. Doane's Administrators, 3 Dall, 54, 93;
McCulloch v. Maryland, 4 Wheat. 316, 404,405;
Yick Wo v. Hopkins, 118 U.S. 356, 370.

[2]/ see U.S. Constitution, Bill of Rights, Article I.

the government is abusing its constitutionally limited power, have the "*Right*" to submit a "*Petition for a Redress*" (*remedy*) of the constitutional wrongdoing. The prohibition of abridgment of the "*Right to Petition*" originally referred only to the federal legislature, Congress, and the U.S. Federal Courts. The "*incorporation doctrine*" /[3] later expanded the protection of the "*Right*" to its current scope, over all state and **federal courts** and legislatures, and the **executive branches** of the state and **federal governments**.

Unlike many other "*Petitions*" being "*Privileges*" of the Government, the "*Petition for Redress of Grievances*" is a "*Right*" that is established by the "*Common Law*" of the "*Magna Carta*." /[4] It is the "*Right*" of the "*People*" to sue the "*Government*." Unlike the Legislative and Executive Branches of the Federal Government, the Judicial Branch may not ignore "*Petitions for Redress of Grievances*." The "*Courts*" of the Judicial Branch are required to address those "*Petitions*" and the U.S. Supreme Court has delegated that authority to the U.S. District Courts. /[5]

There are only two requirements of "*standing*" for a "*Petitioner*" to bring forth a "*Petition for Redress of Grievance*" before the above named Court. There must be a "*Grievance*" and there must be a "*Redress*" available addressing the "*Grievance*." The Petitioner, Gordon Warren Epperly, has expressed a "*Grievance*" within his "*Petition for Redress of Grievance*" and he has provided the Court with a "*Redress*" as established by the U.S. Congress. The above named Court has been

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[3]/ e.g. Gideon v. Wainwright, 372 U.S. 335 (1963); Pointer v. Texas, 380 U.S. 400 (1965).

[4]/ see "*Magna Carta, Article VI*" at website "http://tinyurl.com/5mp3xw".

[5]/ see U.S. Supreme Court case of "*BOROUGH OF DURYEA, PENNSYLVANIA, ET AL. v. GUARNIERI, No. 09–1476. Argued March 22, 2011—Decided June 20, 2011*"

instructed to exercise the delegated "*Legislative Powers*" of the U.S. Congress to issue forth "*Declaratory Judgments*."

As the Congress of The United States of America created the remedy of "*Declaratory Judgments*," it is the U.S. Congress that sets forth the conditions of "*standing*" for the issuance of those "*Judgments*." For a "*Declaratory Judgment*" to issue forth, an "*Actual Controversy*" must exist and there must be an "*Interested Party*." /[6] As the U.S. Congress has set the requirements of "*Standing*" within the "*Declaratory Judgment Act*" and as the U.S. Supreme Court /[7] had examined closely the nature of a "*Declaratory Judgment*" and came to the conclusion that a "*Declaratory Judgment*" in an "*adversary proceeding involving a real, not a hypothetical, controversy*" meets every requirement of a justiciable "*Case or Controversy*" thus reached the same conclusion as had nineteen (19) State Supreme Appellate Courts on the issue of Constitutionality, an issue which never should legitimately have been considered debatable. /[8] No further requirements of "*Standing*" needs to exist. /[9]

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[6]/ see "*Section 274D. (1)*" of (*Pub. 343*) as enacted on June 14, 1934.

[7]/ see Nashville, Chattanooga and St. Louis Ry. v. Wallace, 288 U.S. 249, 53 Sup.Ct. 345.

[8]/ see Liberty Warehouse Co. v. Grannis, *273* U.S. 70, 47 Sup.Ct. 282 (1927); Liberty Warehouse Co. v. Burley Tobacco Growers Coop. Marketing Asso., 276 U.S. 71, 89, 48 Sup. Ct. 291, 294 (1928); Willing v. Chicago Auditorium Asso., 277 U.S. 274, 48 Sup. Ct. 507 (1928). These cases are discussed at Length in BORCHARD, Declaratory Judgments, *271 et seq.* (1934). The first Michigan decision on the 1919 statute, Anway v. Grand Rapids Railway Co., 211 Mich. 592, 179 N. W. 350 (1920), was in effect overruled, with the aid of an amended statute, in Washington-Detroit Theatre Co. v. Moore, 249 Mich. 673, 229 N.W. 618 (1930).

[9]/ As to the "*Constitutionality of Declaratory Judgments*," refer to Yale Law School's Edward Borchard's paper on the subject at: "http://tinyurl.com/oyyuztn".

As the People created the "*Petition for Redress of Grievance*" to be exercised as a matter of "*substantive law*" of a Constitution, no Judge or any Member of the U.S. Congress have authority to impose additional conditions to what the "*People*" have established for the "*Petition*" within the U.S. Constitution. There are no provisions to be found within the U.S. Constitution that mandates the standards of "*Standing*" for "*Complaints*" must exist before the Federal Courts takes jurisdiction over "*Petitions for Redress of Grievances*."

The "*Grievances*" brought against the Respondent, The United States of America by the Petitioner, Gordon Warren Epperly, are the "*Policies*" of the "*Attorney General*" and his "*Assistant Attorney Generals*" of the U.S. Justice Department to exercise non-existent authority of delegating "*Powers*" of the U.S. Congress to regulate "*Interstate*" and "*Intrastate*" Commerce over "*Schedule I Controlled Substances*" (*Marijuana*) to the States of the Union. Further "*Grievances*" are levied at the "*U.S. Attorney General*" and his "*Assistant Attorney Generals*" in their purported authority to delegate the "*Presidential Powers*" of the U.S.President to the States of the Union /[10] to "*execute*" the "*Controlled Substance Laws*" /[11] of The United States of America. Such unlawful acts of the "*U.S. Attorney General*" and his "*Deputy Attorney Generals*" are detrimental to the "*People*" and to the "*Petitioner*" and they have nothing to do with the discretionary authority the U.S. Department of Justice to prosecute Defendants.

[10]/ see Petitioner's (*amended*) "*Petition for Redress of Grievance*" at Page 12, Paragraph 21.

[11]/ see 84 Stat. 1242, 21 U. S. C. §801 *et seq*.

The "*Remedies*" sought is for the Court to "*pronounce the law*" and the "*Rights*" of the Petitioner under the delegated "*Legislative Power*" of the U.S. Congress to issue forth "*Declaratory Judgments*" as authorized by the "*Federal Declaratory Judgment Act*" of 1934. /[12] At the present time, the Petitioner has made no request of the Court to impose its "*Judicial Powers*" of "*Equity*" upon any "*Department*" of the "*Executive Branch*" of the government of "*The United States of America*." As noted above, "*Declaratory Relief*" is neither legal nor equitable, but "*sui generis*." /[13]

Several "*Memos*" /[14] have issued forth from the U.S. Justice Department claiming authority of the U.S. Attorney General to authorize the States of the Union to make "*lawful*" the use of "*Schedule I Controlled Substances*" (*Marijuana*) when the "*Administrators*" of the "*Federal Drug Enforcement Agency*" (*DEA*) have declared otherwise. /[15] Looking at the Deputy Attorney General James Cole's "*Memo*"

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[12]/ On June 14, 1934, President Roosevelt signed into law (*Pub. 343*) amending the "*Judicial Code*" by adding a new section to be numbered 274D to which is to include the wording of the "*Federal Declaratory Judgments Act*."

[13]/ See Edwin Borchard (*Yale Law School*) on "*The Federal Judgment Act*." Read the full text on the Internet at: "http://tinyurl.com/ppspwov".

[14]/ see listing of U.S. Justice Department "*Memos*" on the Internet at "http://tinyurl.com/ngn56nu".

[15]/ The U.S. Attorney General exceeded his authority to override the findings of the "*DEA*" in allowing the States of the Union to legalize "*Marijuana*" for medical purposes. (*see 21 U.S.C. § 811(b)*):

> "The recommendations of the Secretary to the Attorney General [concerning which substances shall be covered by the CSA] **shall be binding on the Attorney General** as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug[.]" [*Emphasis added*].

See Federal Register / Vol. 76, No. 131 / Friday, July 8, 2011 "*Denial of Petition To Initiate Proceedings To Reschedule Marijuana*."

See also "*Marijuana Ruling*" on "*Office of Diversion Control*" website at: "http://tinyurl.com/qfsxjbr".

of August 29, 2013 /[16] (*which Attorney Pameroy makes reference to in his "Motion to Dismiss"*) we see the following offending phrases:

a. "Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime …" ("*Memo*" – Page 1).

i. "… the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of **their own narcotics laws**." ("*Memo*" – Page 2).

ii. "The Department's guidance in this memorandum rests on its expectation **that states and local governments that have enacted laws authorizing marijuana-related conduct** will implement strong and effective regulatory and enforcement systems that will address **the threat those state laws could pose to public safety, public health, and other law enforcement interests**." ("*Memo*" – Page 2).

iii. "A [state] system adequate to that task **must not only contain robust controls and procedures** on paper; it must also be effective in practice." ("*Memo*" – Page 2).

iv. "Jurisdictions that have implemented systems **that provide for regulation or marijuana activity** must provide the necessary resources and demonstrate the willingness **to enforce their laws and regulations** in a manner that ensures they do not undermine federal enforcement priorities." ("*Memo*" – Page 2-3).

[16]/ Ogden's "*Memo*" which may be viewed on the Internet at: "http://tinyurl.com/o5flhme".

v. "In those circumstances, … **enforcement of state law by state and local law enforcement and regulatory bodies should be the primary means of addressing marijuana-related activity**. ("*Memo*" – Page 3).

vi. "**If state enforcement efforts are not sufficiently robust** …, the federal government may seek to challenge the regulatory structure itself **in addition to continuing to bring individual enforcement actions, including criminal prosecutions**, …" ("*Memo"* – Page 3).

vii. "The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion **in states with laws authorizing marijuana cultivation and distribution** for medical use." ("*Memo*" – Page 3).

b. "**This memorandum does not alter in any way** the Department's authority to enforce federal law, **including federal laws relating to marijuana, regardless of state law**." ("*Memo*" – Page 4).

The "*Attorney General*" for the U.S. Justice Department had no authority to proclaim that the "*Attorneys*" of the U.S. Justice Department shall recognize the "*Laws*" of a "*State*" that authorizes the use of "*Marijuana*" as grounds for discretionary prosecution, especially when the U.S. Congress and the DEA had declared within the "*Federal Control Substance Law*" (*CSA*) that the use of "*Marijuana*" shall be unlawful for any purposes whatsoever with the exception of authorized "*Research*."/[17] When a "*Public Official*" acts outside the scope of his authority, that "*Public Official*" acts without the immunity of the State. /[18] As stated

[17]/ see 21 USC 841(b)(1)(D).

[18]/ e.g. Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971).

within the unanimous ruling of the "*Supreme Court*" for the State of Colorado, /[19] for "*Marijuana*" activity to be lawful, that activity must be lawful not only under the "*laws*" of the States, but it must also be lawful under the "*laws*" of The United States of America.

West v. Holder, 60 F.Supp.3d 197 (D.D.C. 2015)

6. Attorney Richard L. Pomeroy for the Respondent, "*The United States of America*" has introduced the case of "*West v. Holder*" into the "*Record*" of the Court in support of his "*Motion to Dismiss*" claiming that the case is identical to the "*challenge*" of the Petitioner's "*Petition for Redress of Grievance*." Upon the "*Opinion*" of that Court, Attorney Pomeroy asserts that the Petitioner's "*Petition*" should be dismissed. Attorney Pomeroy does err.

Attorney Pomeroy is hoping that the "*Judicial Officer*" of the above named Court will not read the Petitioner's "*Petition for Redress of Grievance*" for he has taken the liberty to rewrite the "*Declaratory Relief*" to read that the Petitioner wants the Court to bar the U.S. Justice Department from exercising its authority of prosecutorial discretion. No such request has been made. Reading the Petitioners remedy of "*Declaratory Judgment*" we see the wording: *"… have no authority in law to recognize or authorize any "State" of the "Union" to legalize the use of "Marijuana" for "Medical" and/or "Recreational" purposes, and that such "Policies" are declared to be invalid, null, and void*."

[19]/ see the case of Brandon Coats vs. Dish Network, L.L.C. 13SC394-(103897).

The ruling of *West v. Holder* (supra.) has no relevance to the Petitioner's "*Petition for Redress of Grievance*" for:

a. The case of West v. Holder is founded upon a "*Complaint*" not a "*Petition*."

b. The Court of West v. Holder was addressing the prosecutorial discretion of the U.S. Justice Department to exercise individual selective prosecution of Defendants. The subject matter of prosecutorial discretion of individual selective prosecution is not before the above named Court. The Petitioner only objects to the "*Policy*" of the U.S. Justice Department authorizing the States to legalize the use of "*Marijuana*" as an issue of prosecutorial discretion.

c. It appears from the "*Court Ruling*" of West v. Holder that the question of standing is founded upon the Plaintiff's request of "*Equitable Relief*" of the Court through the filing of a "*Complaint*," not through the filing of a "*Petition*" for "*Declaratory Relief*." The standards of "*standing*" of an "*Article III Judicial Court*" for "*Equitable Relief*" from that of "*Declaratory Judgment Relief*" are not the same.

d. From the "*Opinion*" of the Court of West v. Holder, it appears that the Plaintiff presented himself as a "*Pro Se Plaintiff*" of a "*Complaint*," not as a "*Sui Juris Petitioner*" of a "*Petition for Redress of Grievance*." Under the status of a "*Pro Se Plaintiff*" of a "*Complaint*" West comes before the Court without "*sovereignty*" leaving the government exclusive sovereignty to proclaim as to who may or may not bring suit, whereas Gordon Warren Epperly appears as a "*Sui Juris Petitioner*" of a "*Petition for Redress of Grievance*" and he comes before the Court in his lawful capacity of a "*sovereign*" to bring suit upon the government for wrongdoings. The legal status of "*Standing*" of West vs. Epperly are not the same.

Federal Rule of Civil Procedure, Rule 8(a)(2)

7. If the above named Court denies the "*Motions*" of the State and the United States to dismiss, Attorney Richard L. Pomeroy for the Respondent, "*The United States of America*" has moved the Court to "*quash*" Petitioner's "*Petition for Redress of Grievance*" and have the "*Petition*" be replaced with a "*Pleading*" of a "*Complaint*" that conforms to Rule 8(a)(2) of the Federal Rules of Civil Procedure (*F.R.C.P.*). Here we see an "*Attorney*" that has "*stepped over the line*" as an "*Officer of the Court*" for such an instruction of a "*Judicial Officer*" is for that "*Judicial Officer*" to commit the offense of "*Malfeasance of Office*."

Looking to *F.R.C.P. Rule 8(a)*, we see that that the "*Rule*" addresses "*Pleadings*" and at "*F.R.C.P. Rule 7*" we see that the only "*Pleadings*" that are acceptable to the Court are "*Complaints*." There are no "*Complaints*" before the Court and as *F.R.C.P. Rule 7.1(b)(1)* declares that "*Petitions*" are not "*Complaints*," the "*Petition*" of the "*Petitioner*" for "*Redress of Grievance*" cannot be addressed as a "*Pleading*" of a "*Complaint*." For want of a "*Pleading*," there is no authority for a Judicial Officer to impose the mandate of *F.R.C.P.* Rule 8(a)(2) upon the "*Petitioner.*" There is no authority available to the Judicial Officer of this Court to issue forth "*Court Orders*" upon the "*Petitioner*" mandating that his "*Petition for Redress of Grievance*" is to be "*dismissed*" and be replaced with a "*Pleading*" of a "*Complaint*" as asserted by Attorney Pomeroy. Mr. Pomeroy's "*Motion to Dismiss*" should be denied.

Petitioner's "_Motion for Summary Judgment on the Pleadings_."

8. On June 15, 2015, the Petitioner, Gordon Warren Epperly, did file an "*Opposition to State of Alaska's 'Motion to Dismiss'*" and a "*Motion for Summary Judgment [on the Pleadings*."

9. On or about June 23, 2015; the Respondent, State of Alaska, did file its "*State's Reply To Opposition To Motion To Dismiss, And Opposition to Motion For Summary Judgment*" wherein Attorney Craig W. Richards did declare that the Petitioner's "*Motion for Summary Judgment*" was not proper and should be dismissed. The Petitioner is in agreement and stands corrected. The Petitioner gives notice that his "*Motion for Summary Judgment*" is hereby withdrawn from the "*Record*" of the "*Court*." The "*Exhibits*" that were filed in support of Petitioner's "*Motion for Summary Judgment*" are to be moved and relabeled as "*Exhibits*" in support for the "*Declaratory Judgment*" relief of the Petitioner.

After reviewing the Federal Rules of Civil Procedure, the Petitioner, Gordon Warren Epperly has come to the conclusion that a conflict existed within the relief of Judgments. As "*Summary Judgments*" are controlled by F.R.C.P. Rule 56 and are founded upon the "*Judicial Powers*" of law and equity and as "*Declaratory Judgments*" are controlled by F.R.C.P. Rule 57 and as they are neither legal nor equitable, but "*sui generis*" for they are founded upon the "*Legislative Powers*" of the U.S. Congress, the two Rules of Civil Procedure are separate, distinct, and without compatibility. For the Petitioner to make a request of the Court to exercise both the "*Summary*" and "*Declaratory Judgments*" at the same time would be an unresolvable conflict leaving the "*Judicial Officer*" of the above entitled Court without a remedy of relief to be granted to the Petitioner.

Furthermore, as the Petitioner motioned the Court to apply a "*Summary Judgment*" to "*Pleadings*" of a "*Complaint*," the "*Motion*" is defective on its face. There are no "*Complaints*" before the Court which is a requirement for establishing "*Pleadings*."

Conclusion

10. The proceeding before the above named Court is the Constitutional "*Rights*" of the Petitioner to submit a "*Petition for Redress of Grievance*" involving a "*Controversy of Laws*" that exists between "*The United States of America*" and the "*State of Alaska*" and the adverse "*effects*" those conflict of laws have upon the Petitioner for the Court to resolve. On June 1, 2015, the above named Court was in receipt of Petitioner's (verified) "*Petition for Redress of Grievance*" which was submitted under "*Oath of Perjury*" declaring that all statements and facts stated therein were true and correct to the best of knowledge of the Petitioner, Gordon Warren Epperly.

11. At no time within any of the papers received from the Attorneys for the Respondent's "*State of Alaska*" or "*The United States of America*" did those Attorneys declare under "*Oath*" that any of the statements or facts made within the Petitioner's "*Petition for Redress of Grievance*" were not true. For want of denial of any truthfulness and factualness of a verified "*Petition for Redress of Grievance*," the Court should accept the facts and statements of Petitioner's "*Petition for Redress*" as being true.

12. The dispute raised by the Attorneys is the question of "*standing*" of the Petitioner to bring into the Court a Constitutional protected "*Right*" of a "*Petition for*

Redress of Grievance" and the Petitioner's choice of remedies being that of "*Declaratory Judgments*." The main allegation that the Respondent Attorneys have is that there is no "*case or controversy*" and there is no "*Injury in fact*" that grants the Petitioner "*standing*" before the Court. These issues of "*standing*" were addressed by the U.S. Congress and the Courts at the time the remedy of the "*Declaratory Judgment Act*" was being drafted and adopted leaving the "*allegations*" of the Attorneys for the Respondents to be without merit:

> "Facing the issue [*advisory opinions on "an uncertain or hypothetical state of facts."*] squarely and for the first time having to examine closely the nature of a declaratory judgment, the Supreme Court could not but come to the conclusion that a declaratory judgment in an "*adversary proceeding involving a real, not a hypothetical, controversy*" meets every requirement of a justiciable "*case or controversy*."
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> Nashville, Chattanooga and St. Louis Ry. v. Wallace, 288 U.S. 249, 53 Sup.Ct. 345

There is a real, not a hypothetical controversy before the above named Court as stated within Petitioner's "*Petition for Redress of Grievance*" and thus according to the U.S. Supreme Court, there is a justiciable "*case or controversy*" before the Court.

> "It is, therefore, proper to say that the statutory authorization to render declaratory judgments is merely an invitation to use a power courts have always had; so that the occasional suggestion of high judges that the federal courts had no power to render declaratory judgments indicates the psychological domination of labels and names over facts. But in view of the confusion that had been created, it was doubtless desirable to pass a special federal act, a fact which will probably persuade the remaining states no longer to forego the advantages of declaratory

relief and should remove all doubts from the federal courts. Declaratory relief is neither legal nor equitable, but *sui generis.*" /[20]

Virginia Law Review (January 1, 1934),
Federal Judiciary Act,
by Edwin Borchard.

"Where no physical "*wrong*" has yet been committed, has three major exemplifications. There is, first, the case where each party maintains that the statute, contract or instrument under dispute means what he says it does and claims the right to act accordingly. Under traditional procedure it would be necessary, as a condition of adjudication, for one or the other party to act on his own assumption of his rights, purport to breach the contract or relation and then await a suit for damages or other coercive relief. "*Sometimes, but not usually, an injunction against breach might lie. But a party should not be bound to run such risks in order to obtain an adjudication of his rights*;" as was said by Mr. Justice Butler for the Supreme Court in granting an injunction against the enforcement of a criminal statute threatening property values, "*they are not obliged to take the risk of prosecution, fines and imprisonment and loss of property in order to secure an adjudication of their rights*." /[21] Under declaratory procedure one party sues the other for a declaration that his contentions are correct or that he is privileged to act as he claims, whereupon the Court declares the "*true*" construction and meaning of the disputed instrument or relation. Both parties can then proceed in safety; no damage has been done; a dispute has been decided before the *status quo* has been ruptured, perhaps irretrievably." /[22]

Virginia Law Review (January 1, 1934),
Federal Judiciary Act,
by Edwin Borchard.

[20]/ see definition of ***sui generis*** on the Internet at: "http://tinyurl.com/p42ubj3".

[21]/ see Terrace v. Thompson, 263 U.S. 197, 216, 44 Sup.Ct. 15 (9123).

[22]/ see Willing v. Chicago Auditorium Asso., 277 U.S. 274, 48 Sup.Ct. 507 (1928).

So it is with the Petitioner, Gordon Warren Epperly. The Petitioner has fulfilled the requirements of "*Standing*," "*Jurisdiction*," and "*Venue*" of the U.S. District Court for the District of Alaska that qualifies the "*Judicial Officer*" of the above named Court to issue forth '*Declaratory Judgments*."

Question: Will the use of "*Marijuana*" (*as proclaimed to be "lawful" under the laws of the "State of Alaska"*) going to subject the Petitioner, Gordon Warren Epperly, to substantial "*fines*" and "*incarceration*" for violating the "*Federal Control Substance Law*" /[23] by the government of "*The United States of America*"? Does the Petitioner need to play the game of "*Russian Roulette*" to find that he has been "*criminally charged*" before he may obtain "*standing*" before a Federal Court to present his understanding of the "*law*" only to find that he has "*erred*" and loses his freedom and property to the government of "*The United States of America*"? I am sure the Attorney General and his Deputy Attorney Generals of the "*State of Alaska*" will be coming to the "*aid*" and "*defense*" of the "*Petitioner*" and other citizens of the State of Alaska when they stand before a "*Federal Court*" being criminally charged by the government of "*The United States of America*" for exercising their "*privileges*" of using "*Marijuana*" under and within the framework of the "*laws*" of the "*State of Alaska*."

The "*Motion to Dismiss*" of Respondent, "*The United States of America*," should be "*quashed*" and dismissed.

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[23]/ see 84 Stat. 1242, 21 U. S. C. §801 *et seq*.

ASSERVATION

COMES NOW THE PETITIONER, Gordon Warren Epperly, does hereby state under pains of penalty of perjury that he is the author of the above "*Answer and Objection to Respondent The United States of America's 'Motion to Dismiss'*" and the statements made therein are true and correct to the best of his knowledge.

Dated this Twenty-Ninth day of the month of June in the year of our Lord, Jesus the Christ, Two-Thousand and Fifteen.

Seal

Gordon Warren Epperly

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Gordon Warren Epperly – Petitioner / Affiant

CERTIFICATE OF MAILING

COMES NOW Petitioner, Gordon Warren Epperly, hereby certifies under penalties of perjury that true and correct copies of Petitioner's "*Answer and Objection to Respondent The United States of America's 'Motion to Dismiss'*" has been certified mailed to:

Certified Mail No. 7013 1090 0000 6865 3326

Richard L. Pomeroy
Assistant U.S. Attorney
222 West 7th Ave., #9, Rm. 253
Anchorage, Alaska 99513-7567

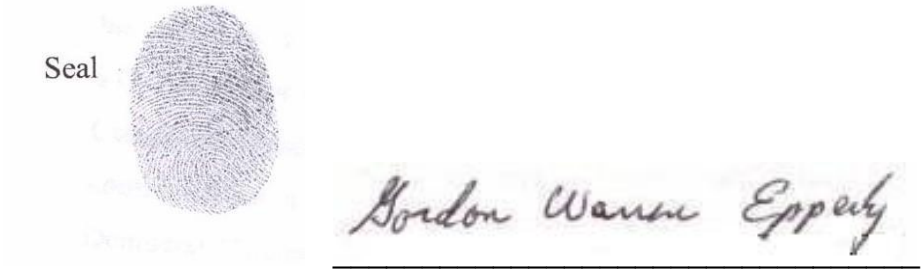
Certified Mail No. 7013 1090 0000 6865 3319

Christopher D. Peloso
Assistant Attorney General
Department of Law
P.O. Box 110300
Juneau, Alaska 99811-0300

by depositing said Petitioner's "*Answer and Objection to Respondent The United States of America's 'Motion to Dismiss'*" with the U.S. Postal Service, Mendenhall Station, at Juneau, Alaska.

Dated this Twenty-Ninth day of the month of June of the year of our Lord Jesus Christ, Two-Thousand and Fifteen .

Seal



Gordon Warren Epperly - Affiant