

United States Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530-001

Dear United States Department of Justice:

I am a social justice activist in Portland Oregon. I am writing regarding an ongoing series of unlawful actions against my civil rights by the Multnomah County Circuit Court, the Multnomah County District Attorney, the Portland Police Bureau and the Multnomah County Sheriff.

As a preliminary matter, each of the appellate case opinions, Oregon Revised Statutes, and my own civil rights lawsuit, *Stull v. Guisto* are available online, as are media reports on many of the matters and much of my personal history.

I am a person with a disability, a damaged neurological system. I have a central neuropathic pain syndrome, as a result of a spinal cord injury and the passage of time since a 1976 automobile accident and 1980 surgery. My neurologist, Dr. Robert J. Grimm, M.D., has diagnosed my condition as dysesthesia, a condition causing me severe pain and severe nausea, worsened by emotional stress, and best treated by cannabis. I have used marijuana as treatment since 1980, and have been more recently protected under the Oregon Medical Marijuana Act.

I was convicted on marijuana charges arising from a July 1989 search warrant, and was found not guilty of the charges of delivery of a controlled substance by jury at trial in Multnomah County Circuit Court. Part of the record in that case is my assertion the informant was given drugs and money by the Portland Police in exchange informing on me. My involvement with the Oregon Marijuana Initiative was mentioned by the Portland Police six times in the trial on that earlier matter.

I served 17 1/2 months in prison, and the remainder of the 5 year sentence on parole. By the time I finished parole I received an award from Oregon Governor Kitzhaber as an honor student after beginning college in the Oregon State Penitentiary. By the time I graduated with a BA in Music from Lewis & Clark College in 1999, medical marijuana was legal under Oregon law. In 1998 Oregon voters passed the Oregon Medical Marijuana Act, which was placed on the ballot through the initiative process, where voters authorize legislation through signature gathering and ratification at the polls.

On September 1, 2003, I had an encounter with the Portland Police, when they came to my motel room. At that time, I was protected under the Oregon Medical Marijuana Act, under a provision of that law neither those Portland Police nor the Multnomah County District Attorney were aware of.

On that evening, one of the officers present launched into a lecture on the evils of marijuana, which, since medical marijuana is my best treatment option, and I'm an expert on the history of cannabis hemp, I responded to in kind.

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The sergeant told me his partner was killed by a marijuana grower, which I knew to regard the incident involving marijuana grower Stephen Dons, who I didn't know, but saw naked on television on a police armored car following his being shoot. Mr. Dons died while in custody in what was claimed to be suicide, itself a controversial matter, since the camera in Mr. Don's room had been covered with toothpaste and Mr. Dons had been paralyzed in the shooting and was bedridden.

I told the sergeant in my motel room we didn't know who killed Portland Police Officer Colleen A. Waibel, and I believed Stephen Dons was killed in custody. He responded by yelling, "You're the reason this country is so fucked up!"

My well informed opinion is that Stephen Dons was murdered in custody to prevent his exposing Officer Waibel was shot and killed by one of the other police officers. Officer Sery's report mentioned the topic of Stephen Dons coming up, and noted it appeared I had inside information regarding that earlier controversy. The reality is I have a keen sense of the obvious.

On March 28, 2004, Officer Sery shot and killed the unarmed black motorist James Jahar Perez. My trial regarding the September 1, 2003 medical marijuana possession was scheduled for April 20, 2004, with call scheduled for April 19, 2004. A few days earlier, I was informed the case was called by Judge Gernant, where Multnomah County Deputy District Attorney Travis Sewell just happened to be present, and since I wasn't there (or scheduled to be there), the case had to be rescheduled.

When I appeared to have the case rescheduled, the court clerk was shocked when he reviewed the computer record of the case, I believe he had entered himself, and exclaimed outloud, "There's nothing in here!"

My neurologist, Dr. Robert J. Grimm, M.D., had agreed to testify on my behalf, and since the case was specifically scheduled based on Dr. Grimm's availability. which Mr. Sewell was aware of, the matter had to be rescheduled for June. That same April 20, 2004 was in the midst of the highly publicized Coroner's Inquest regarding Officer Sery's killing Mr. Peruse, chaired by Multnomah County District Attorney Michael Schrunk.

There was a great deal of public outrage over the killing of James Jahar Perez, coming at a time the Portland Police had been responsible for other controversial killings (a practice continuing to this day). It was later revealed the City of Portland had hired an out of state expert witness to testify to the Grand Jury which cleared Officer Sery, which many felt was unfair, since there was no opportunity to cross examine that witness, and Grand Jury proceedings are one-sided events conducted by the District Attorney.

In June, 2004 Dr. Grimm appeared and testified, establishing I was protected under the Oregon Medical Marijuana Act for my central neuropathic pain condition, adding that medical marijuana was my best treatment option for a condition second only to cancer pain in its difficulty to manage.

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Dr. Grimm operated a brain research laboratory at Portland's Good Samaritan Hospital and taught Neurology at Oregon Health Sciences University. He also managed my back surgery in 1980.

Like myself, Dr. Grimm was involved in an Oregon Supreme Court decision reversing the Multnomah County Circuit Court. Dr. Grimm was an expert witness in *Jennings v. Baxter Healthcare*, regarding neurologic damages from prosthetics, and I personally prosecuted *Stull v. Hoke*, regarding access to the courts for poor people.

The District Attorney, through Travis Sewell, moved to prevent Dr. Grimm from testifying to the jury regarding my medical condition, arguing that pursuant to *State v. Owenby*, I was not allowed to use the defenses contained in the Oregon Medical Marijuana Act. Judge Cinnigar found I was protected under the Oregon Medical Marijuana Act for the 1.1 ounces of marijuana contained in a Tupperware container, but ruled I was not protected for the box of marijuana I had removed it from and decontaminated to be usable.

I argued that since the limits regarding possession of marijuana under the Oregon Medical Marijuana Act specifically concerned the statutory defined "usable marijuana" I was not outside the limits for possession of what was not usable, otherwise patients under the medical marijuana act who couldn't be convicted for marijuana plants could be convicted for compost piles containing waste plant parts, since Oregon law defines marijuana as a mixture or substance containing a detectable amount of marijuana-- and the whole compost pile would be deemed marijuana.

I obtained that box of marijuana where it was left behind as trash by the Portland Police at the home of John Malaer, where he was charged with other matters I was not involved with. I had been assisting Mr. Malaer, who was in a wheelchair from his spinal cord injury, in establishing his medical marijuana garden. I first met Mr. Malaer when he was a student attending classes on the Oregon Medical Marijuana Program I was a presenter at, which were conducted through Portland Community College Community Education. Mr. Malaer was not charged for the marijuana seized by the Portland Police, but I was later charged for what the Portland Police left behind. Deputy District Attorney Travis Sewell was aware where I got that marijuana, which became part of the record in my June 2004 case.

Through *State v. Owenby*, Dr. Grimm was not permitted to testify to the jury regarding my medical condition, and I was convicted. Travis Sewell told the jury, that hypothetically, if I had a few marijuana leaves mixed in a compost pile, that would create an amount of marijuana over 150 grams, and they would be duty bound to convict. I appealed.

In 2004, I served time on that conviction in the custody of the Multnomah County Sheriff, where I was denied medical treatment, giving rise to a Civil Rights lawsuit, *Stull v. Guisto*.

As my appeal of the conviction progressed, the Oregon Court of Appeals, in *State v. Miles*, ruled the rationale of *State v. Owenby* was no longer applicable, since the *Owenby* case concerned a situation prior to the passage of the Oregon Medical Marijuana Act.

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David Groom, the lawyer preparing my appeal, had prepared the appeal of that earlier State v. Owenby case, and was aware of the ruling in State v. Miles finding its rationale obsolete since passage of the Oregon Medical Marijuana Act. Mr. Groom incorporated those matters in my appeal of the 2004 conviction.

Mr. Groom also raised issues regarding the coercive nature of the warrantless search (which I identified myself on the night of September 1, 2003). Mr. Groom argued my situation entitled my defenses under the "choice of evils" as set out in State v. Seamons (interestingly, a case involving a police officer who was dealing heroin). With so many reasons for reversal, Mr. Groom didn't contact me regarding other matters, and Mr. Groom failed to raise the matter of the limits on possession under the Oregon Medical Marijuana Act as being on "usable marijuana."

Since I represented myself at trial, and knew how to prosecute an appeal, I would have raised that issue myself, as part of a supplemental pro se brief, but didn't get the opportunity for reasons which follow, and which are the heart of my contacting the Department of Justice.

To wrap up the matters I've already set out here, in 2007, the Oregon Court of Appeals decided the limits on possession of marijuana under the Oregon Medical Marijuana Act are limited to "usable marijuana" as defined by statute, in State v. Castilleja, and the Oregon Supreme Court adhered to that determination. Incidentally, that case was just one of scores of cases citing Stull v. Hoke as authority.

As my appeal of the 2004 conviction was underway, and after I served the notice of tort claim regarding the denial of medical treatment while in custody of the Multnomah County Sheriff, my nonprofit landlord, PCRI, variously known as Portland Community Reinvestment Initiatives, Inc., sought to evict me. In an effort to side step laws prohibiting discrimination against persons with disabilities in housing, on August 25, 2005, my landlord elected to file a so-called "30 day no cause eviction" pursuant to Oregon Revised Statutes (ORS) 90.427(2). The problem is, there is a statutory prohibition against the landlord filing a case under ORS 90.427(2) when the rent is paid in advance, as mine was. The trial court allowed PCRI to file its case against a statutory prohibition against using ORS 90.427(2), which is found in ORS 105.120. I appealed.

On March 9, 2006, the Oregon Court of Appeals ruled I had been locked out of my apartment the prior November in violation of a stay pending appeal. That order required PCRI to restore my access to the apartment. That same day, the Multnomah County Sheriff and PCRI entered my apartment and began to remove the contents of my apartment. PCRI then claimed the apartment was emptied prior to March 1, 2006.

With both the Multnomah County Sheriff personnel having been inside the apartment on March 9, 2006, and Portland Police Officers witnessing my possessions inside and outside the apartment on March 15, 2006, I felt I had evidence to prove both PCRI's contempt of court in the Oregon Court of Appeals and proof of PCRI's perjury. The Oregon Court of Appeals saw otherwise, and the Multnomah County District Attorney refused to prosecute the perjury evidenced by PCRI's affidavits filed in court, which conflicted with the law enforcement reports.

PCRI then unlawfully destroyed my personal property in October 2006.

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As my appeals progressed, I lost my housing, then obtained a ruling ordering it restored, only to then lose over \$14,000 of possessions and priceless research in March 2006 and another \$4,775 in October 2006, which PCRI destroyed in flagrant violation of ORS 90.425, and which the Multnomah County Circuit Court allowed.

On June 21, 2008, I filed a timely Appellant's Opening Brief with the Oregon Court of Appeals, which raised the issues of the trial court lacking subject matter jurisdiction among a host of other judicial errors, but that court rejected my brief in total for its having been in 12 point font, where since the appeal was filed a rule change requires 13 point font, and the brief was 84 pages instead of 50.

The length of the appeal brief was product of the extraordinary number of trial court errors identified, including the trial court having retroactively authorized PCRI's March 2006 destruction of my personal possessions, because that after-the-fact order was signed both as the trial court lacked jurisdiction over the matter, since jurisdiction was under the Oregon Court of Appeals, and the Oregon Court of Appeals had already ruled I was improperly locked out of the apartment in violation of a stay of the eviction pending appeal.

The Oregon Court of Appeals Commissioner afforded me until October 20, 2008 to refile a 13 font, 60 page brief, but I couldn't do that owing to repeated attacks against me by Alden Craig Barnett, which the Portland Police refused to address and, once involved, the Multnomah County District Attorney refused to prosecute. Those attacks sickened me, as did the police inaction.

On October 16, 2008, I also had my medical marijuana stolen by William Lawrence, who confessed he did it at an October 30, 2008 hearing contesting my restraining order against him I obtained under Oregon's Elderly Persons and Persons With Disabilities Abuse Prevention Act. In spite of Mr. Lawrence admitting his abuse at that hearing, my restraining order against him was dismissed by the Multnomah County Circuit Court. Mr. Lawrence then destroyed the totality of my court files and evidence for cases, including those against PCRI.

On December 11, 2008 the Oregon Court of Appeals dismissed my appeal of the 2005 eviction for want of prosecution knowing the case was filed against a statutory prohibition. I filed a motion for reconsideration, and supplemented that and moved for sanctions for PCRI's attorney again promulgating falsehoods, but I have no reason to expect any justice from the court system which allowed my 2004 conviction based on obsolete case law it was aware was obsolete.

Although I can take care of myself, all of these crippling matters trace back to my 2005 eviction and subsequent twice unlawful destruction of my possessions as my appeals progressed. The Multnomah County Circuit Court which allowed that eviction case to be prosecuted when it wasn't lawful to be filed, cannot rationally be expected to protect my interests and award me damages, and has done neither. In that same vein, the Multnomah County District Attorney won't prosecute crimes against me when those crimes prevent me from exposing the DA's mistaken prosecution of me, and Officer Sery's having been wrong.

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I raised my concerns about the eviction with the Oregon Bureau of Labor and Industries Civil Rights Division, and was informed they don't have jurisdiction over the Oregon Judicial Department, and on their recommendation have contacted the United States Department of Justice.

I have reason to suspect the eviction and destruction of my possessions was allowed to thwart my exposing the wrongful conviction in the case brought by Jason Sery and to impede my civil rights lawsuit in Federal Court against the Multnomah County Sheriff for failure to provide medical treatment.

I initiated a complaint with the Portland Office of the Federal Bureau of Investigation Civil Rights Division, regarding the unlawful interference with my housing, and recently updated that complaint with the materials submitted to the Oregon Bureau of Labor and Industries.

I have enclosed those materials, and a copy of my more recent pleading in the Oregon Court of Appeals, which contains the case numbers of the court cases, police reports, and district attorney case numbers.

Thank you for your prompt attention to these matters.

Sincerely,



Barry Joe Stull

cc: Portland Oregon Federal Bureau of Investigation

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