

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
BRIAN JUSTIN PICKARD, et al.,  
  
Defendants.

No. 2:11-cr-449-KJM

ORDER

On November 7, 2014, the parties submitted lists of exhibits they seek to have admitted into evidence following evidentiary hearing, with their respective objections to certain exhibits. (ECF No. 358.) Any exhibits not objected to are hereby ADMITTED. Having carefully considered the objections and responses thereto, the court rules on the objections as shown below:

**I. United States' Exhibits**

No.	Description	Ruling
3a	Substance Abuse Treatment Admissions Chart.	Overruled. ADMITTED.
7	NEJM – Big Marijuana – Lesson from Big Tobacco.	Overruled. ADMITTED. <i>See</i> Federal Rule of Evidence (FRE) 807.

9	JAMA Article – Problems with the Medicalization of Marijuana, May 20, 2014.	Overruled. ADMITTED. <i>See</i> FRE 807.
112	NEJM Article – Closing the Books on Laetrile, 1/28/1982.	Sustained.
204	Vaidya, et al., Effects of Chronic Marijuana Use on Brain Activity During Monetary Decision-Making, <i>Neuropsychopharmacology</i> (2012).	Overruled. ADMITTED.
315	Radhakrishnan, et al., Cannabis and Cannabinoids and the Association with Psychosis, 2012.	Sustained as to the portions of the book that refer to synthetic cannabis, including “K2” and “Spice.” Otherwise overruled. ADMITTED IN PART.

## II. Defense Exhibits

No.	Description	Ruling
E	Mixed Signals Hearing Tapes  E(1): March 4, 2014 E(2): June 20, 2014	Sustained. † <sup>1</sup>
F	Denney Binder containing selected studies on the medical efficacy of cannabis (one volume, tabs 1-46).	Overruled. All studies, including abstracts of the studies, ADMITTED as providing bases for Dr. Denney’s opinion. <i>See</i> FRE 703. If the Government believes an abstract misstates the substance of a study, it may then seek to offer the

<sup>1</sup> This is one of several exhibits or series of exhibits identified by defendant but not provided to the court. If the court did not receive an exhibit or series of exhibits the exhibit or series descriptor is marked with “†”. The court cannot resolve objections to exhibits it does not have on the merits and so sustains these objections.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

		full study. <i>See United States v. Collicott</i> , 92 F.3d 973, 983 (9th Cir. 1996).
G	Defense Madras Binder containing selected studies relied upon by Dr. Madras in support of her opinion (two volumes, tabs 1-199).	Overruled. All studies, including any abstracts of the studies, ADMITTED as providing bases for Dr. Madras's opinion ( <i>see Madras Decl.</i> , ECF No. 324 at 5). <i>See FRE 703</i> . If a party believes any abstract misstates the substance of a study it may then seek to offer the full study. <i>Collicott</i> , 92 F.3d at 983.
<b>ARMENTANO BINDER<sup>‡</sup></b>		
2	Grant. (2012) Medical Marijuana: Clearing Away the Smoke.	Sustained. <sup>2</sup>
12	Chagas. (2014) Effects of cannabidiol in the treatment of patients with Parkinson's disease: An exploratory double-blind trial. (Abstract only.)	Sustained.
18	Lotan. (2014) Cannabis (Medical Marijuana) Treatment for Motor and Non-Motor Symptoms of Parkinson Disease: An Open-Label Observational Study. (Abstract.)	Sustained.
22	Hazekamp. (2013) The medicinal use of cannabis and cannabinoids- an international cross-sectional survey on administration forms. (Abstract only.)	Sustained.

<sup>2</sup> Although the court does not have a copy of Exhibit 2, it appears to be the same as Denney Ex. 9 at 24.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

23	Scavone. (2013) Impact of cannabis use during stabilization on methadone maintenance treatment. (Abstract only.)	Sustained.
48	DSM 5. Selections from Chapter on Substance Abuse: Caffeine Use Disorder (305.90+), Cannabis Use Disorder (p. 509).	Sustained.
56	Nguyen. (2014) Effect of Marijuana Use on Outcomes in Traumatic Brain Injury. (Abstract.)	Sustained.
68	Kelly. (2000) Cigarette smoking and schizophrenia.	Sustained.
69	Frisher. (2009) Assessing the impact of cannabis use on trends in diagnosed schizophrenia in the United Kingdom from 1996 to 2005.	Sustained.
70	Science Daily Report. (June 24, 2014) Schizophrenia and cannabis use may share common genes.	Sustained.
73	Science Daily. (July 29, 2014) Drinking sugar-sweetened beverages during adolescence impairs memory, animal study suggests.	Sustained.
78	NIDA Printout. (Revised, 2014) Marijuana Research at NIDA: What kinds of marijuana research does NIDA fund?	Sustained.
80	Anderson. (October 1, 2014) <i>Medical Marijuana Laws and Teen Marijuana Use</i> .	Sustained.
		<i>continued. . . .</i>

1	86	Geppert. (2014) Legal and Clinical Evolution of Veterans Health Administration Policy on Medical Marijuana.	Sustained.
2			
3			
4	87	Shiraishi. (2014) Relationship between Violent Behavior and Repeated Weight-Loss Dieting among Female Adolescents in Japan.	Sustained.
5			
6			
7			
8	<b>EXHIBITS IN SUPPORT OF MOTION TO DISMISS</b>		
9			
10	J	The Department of Justice Memorandum, issued on August 29, 2013, and entitled " <i>Guidance Regarding Marijuana Enforcement.</i> "	Overruled. ADMITTED.
11			
12			
13	K	The Department of Justice Memorandum, issued on February 14, 2014, entitled " <i>Guidance Regarding Marijuana-Related Financial Crimes.</i> "	Overruled. ADMITTED.
14			
15			
16			
17	L	The U.S. Department of the Treasury Memorandum, dated February 14, 2014, entitled " <i>BSA Expectations Regarding Marijuana-Related Business.</i> "	Overruled. ADMITTED.
18			
19			
20	M	<b>Excerpt:</b> <i>H.R. 4660</i> , Commerce, Justice, Science, and Related Agencies Appropriations Act, 2015, passed on May 30, 2014.	Sustained.
21			
22			
23			
24	N	<i>H.R. 525</i> , Industrial Hemp Farming Act of 2013.	Sustained.
25			
26	O	Amendment 1086 to <i>H.R.5016</i> , Financial Services and General Government Appropriations Act, 2015.	Sustained.
27			
28			

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

P	Letter from Dr. Roger O. Egeberg, Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare, to Hon. Harley O. Staggers, Chairman, House Comm. on Interstate and Foreign Commerce.	Overruled. ADMITTED.
Q	<b>Excerpt:</b> Report of the National Commission on Marihuana and Drug Abuse: Marijuana, a Signal of Misunderstanding, " <i>A Final Comment.</i> "	Overruled. ADMITTED.
R	<b>Excerpt:</b> Report of the National Commission on Marihuana and Drug Abuse: Marijuana, a Signal of Misunderstanding, " <i>Social Impact of Marijuana: Addiction Potential.</i> "	Overruled. ADMITTED.
S	The New Yorker Magazine, " <i>Going the Distance,</i> " Interview with Barack Obama. Jan. 27, 2014.	Sustained.
T	Perez, Eric, M.D. " <i>Acetaminophen Overdose.</i> " National Institute of Health Report. Nov. 16, 2013.	Overruled. ADMITTED.
U	Cable News Network, " <i>New Tylenol Cap Will Have Warning Label.</i> " Aug. 30, 2013.	Sustained.
V	FDA website printout: " <i>FDA Warns of Rare Acetaminophen Risk.</i> " Last updated on Nov. 10, 2013.	Overruled. ADMITTED.
W	DEA Drug and Chemical Evaluation Sheet: Dexamorphen.	Overruled. ADMITTED.
		<i>continued. . . .</i>

1	X	Cable News Network, “ <i>Marijuana Stops Child’s Severe Seizures.</i> ” Aug. 7, 2013.	Sustained.
2			
3	Y	Salt Lake City Tribune, “ <i>Families Migrating to Colorado for a Medical Marijuana Miracle.</i> ” Nov. 11, 2013.	Sustained.
4			
5	Z	Email from Lisa Kubaska, entitled” “ <i>FW: CBD legal status - CDER Response - 7/29/2013</i> ” July 29, 2013.	Overruled. ADMITTED. See FRE 801(d)(2).
6			
7	AA	<i>United States v. Randall</i> , 104 Wash. D.L.Rep. 2249 (D.C. Sup. Ct. 1976).	Sustained. <sup>3</sup>
8			
9	CC	Elders, Joycelyn. “ <i>Myths About Medical Marijuana.</i> ”	Sustained.
10			
11	DD	PEW Research Center poll, “ <i>Americans Skeptical of Value of Enforcing Marijuana Laws.</i> ” Aug. 13, 2013.	Sustained.
12			
13	EE	Gallup Poll, “ <i>For the First Time, Americans Favor Legalizing Marijuana.</i> ” Oct. 22, 2013.	Sustained.
14			
15	FF	Transcript of Testimony before Senate Judiciary Committee, September 10, 2013, “ <i>Conflicts Between State and Federal Marijuana Laws.</i> ”	Sustained.
16			
17	GG	Transcript of AUSA Walsh and Deputy DEA Administrator Harrigan before Congressional Committee on Oversight and Government Reform, March 4, 2014.	Sustained.‡
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

<sup>3</sup> This ruling does not prevent a party from citing to this case in briefing or argument.

1	HH	Cable News Network. Gupta, Sanjay, M.D. “Weed: Dr. Sanjay Gupta Reports.” Aug. 11, 2013.	Sustained.
2	<b>DR. CARTER STUDIES‡</b>		
3	LL	Carter, Flanagan, Earleywine, Abrams, Aggarwal, and Grinspoon (2011) Cannabis in Palliative Medicine: Improving Care and Reducing Opioid-Related Morbidity. American Journal Hospice and Palliative Medicine.	Sustained.
4	MM	Aggarwal, Carter, ZumBrunnen, Morril, Sullivan, Mayer (2013) From 32 Ounces to Zer: A Medical Geographic Study Dispensing a Cultivated Batch of “Plum” Cannabis Flowers to Medical Marijuana Patients in Washington State. Journal of Psychoactive Drugs.	Sustained.
5	NN	Amtmann, Wedt, Johnson, Jensen, and Carter (2004) Survey of cannabis use in patients with amyotrophic lateral sclerosis. American Journal of Hospice and Palliative Medicine.	Sustained.
6	OO	Aggarwal, Tocha, Carter (2007) Dosing Medical Marijuana: Rational Guidelines on Trial in Washington. Medscape.	Sustained.
7			<i>continued. . . .</i>
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			



1	PP	Aggarwal, Carter, Sullivan, ZumBrunnen, Morill, and Mayer (2009) Medicinal use of cannabis in the United States: Historical perspectives, current trends, and future directions. Journal of Opioid Management.	Sustained.
2			
3			
4			
5			
6	QQ	Aggarwal, Carter, Sullivan, ZumBrunnen, Morill, and Mayer (2009) Characteristics of patients with chronic pain accessing treatment with medical cannabis in Washington State. Journal of Opioid Management.	Sustained.
7			
8			
9			
10			
11			
12	RR	Carter, Weydt, Hyashna-Tocha, and Abrams (2004) Medical Cannabis: Rational guidelines for dosing. IDrugs: the investigational drugs journal.	Sustained.
13			
14			
15			
16	SS	Carter, Abood, Aggarwal, and Weiss (2010) Cannabis and Amyotrophic lateral Sclerosis Hypothetical and Practical Applications, and a Call for Clinical Trials. American Journal of Hospice and Palliative Medicine.	Overruled. ADMITTED as providing basis for Dr. Carter's opinion. <sup>4</sup>
17			
18			
19			
20			
21	TT	Aggarwal, and Carter (2014) (article) Point/Counterpoint: Medical Marijuana for Failed Back Surgical Syndrome: A Viable Option for Pain Control or an Uncontrolled Narcotic, American Academy of Physical Medicine and Rehabilitation.	Overruled. ADMITTED as providing basis for Dr. Carter's opinion. <sup>5</sup>
22			
23			
24			
25			
26			
27			

<sup>4</sup> This exhibit is the same as Government's Exhibit 309.

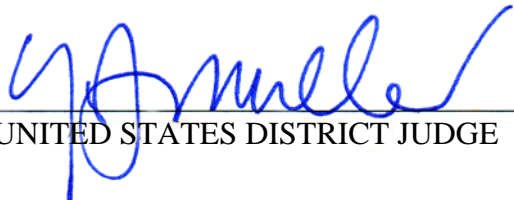
<sup>5</sup> This exhibit is the same as Government's Exhibit 306.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UU	Carter and Rosen (2001) marijuana in the management of amyotrophic lateral sclerosis, American Journal of Hospice and Palliative Care.	Sustained.
VV	Carter and Weydt (2002) Cannabis: old medicine with new promise for neurological disorders. Current Opinion in Investigational New Drugs.  *Abstract Only.	Sustained.

IT IS SO ORDERED.

DATED: November 18, 2014.

  
UNITED STATES DISTRICT JUDGE