

Mal  
20111014  
10/20/11

Embargoed until  
Wed. Nov. 23

METROPOLITAN POLICE DEPARTMENT  
Washington, D.C.

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A  
SEARCH WARRANT

~~THE ENTIRE PREMISES KNOWN AS: 1802 ADAMS MILL ROAD N.W. WASHINGTON,~~  
D.C. "CAPITOL HEMP"; A BASEMENT ENTRANCE BRICK BUILDING WITH A GLASS  
FRONT ENTRY DOOR WITH NUMEROUS STICKERS ON THE GLASS AND THE  
NUMERALS "1802" IN BLACK ON WHITE PLACARDS ON THE TOP OF A BLACK  
SUPPORT BEAM ABOVE THE GLASS WINDOW.

Your Affiant, Officer Brett Cuevas has been a member of the Metropolitan Police Department for more than 4 years and is currently assigned to the 3<sup>rd</sup> District Vice Office. During my tenure with the department, I have received training in regards to the laws of search and seizure and criminal investigations, and participated in numerous criminal investigations, including the participation and execution of over 50 search warrants in the District of Columbia. I have received a 32 hour block of instruction regarding the execution of search warrants and a 40 hour block of instruction as a basic narcotics investigator, both from the North East Counter Drug Training Center in Pennsylvania. I have received two blocks of instruction from drug experts in the Narcotics and Special Investigations Division, through the Metropolitan Police Department regarding drug identification, trafficking and field testing. In 2010 I made over 100 arrests and participated in over 450 arrests, many of which were drug related. To date in 2011 I have made 100 arrests and participated in over 300 arrests, many of which are drug related.

Based upon this affiant's training, experience, and participation in other investigations involving controlled dangerous substances (CDS) and the items used to consume these substances, I know:

- a. Businesses that engage in the sales of devices that can be used for the consumption of marijuana typically earn most of their income from the sales of these devices,
- b. In order to deceive law enforcement individuals who work for a business that sells said devices will not engage in conversation instructing a purchaser of a "water pipe" or other device to use them for consuming marijuana,
- c. It is common for these business to keep financial records of daily business transactions,
- d. It is common for these businesses to sell non traditional smoking devices and items used to break down "bud" form marijuana to a "shake" form removing stems and seeds.

Investigation:

1. On 3-3-11 at approximately 2300 hours your Affiant, Officer Brett Cuevas,

was waiting in line to a local night club located in Washington, D.C. Your Affiant was working in an under cover capacity in an attempt to purchase illegal controlled substances (drugs) from dealers in the line and inside of the club. While waiting your Affiant observed a red, yellow and green truck which had "Capitol Hemp" written on it parked along side of the road in front of the club. An unidentified white male approached your Affiant with flyers in hand and handed your Affiant a coupon for 10% off from the store "Capitol Hemp". The unidentified male said "Hey, 10% off water pipes man, come by." Your Affiant said "Yeah man, I'm in the market for a good one. Do you guys have any 3 or 6 footers? There's nothing like packing a fat bong hit and shot gunning it through a 6 footer." The white male replied "We have a 6 footer but it's more like a display piece. But we have stackable pieces, kinda like legos." Your Affiant said "I'm all about it, I need something to smoke my herb in." The white male said in a long drawn out tone "Oh yeah man, we got the water pipes bro come by."

2. On 3-8-11 in response to the coupon and conversation about marijuana with the unidentified white male your Affiant entered the Capitol Hemp store located at 1802 Adams Mill Rd. N.W. Your Affiant notes that the sign

"Capitol Hemp" has a marijuana leaf logo that points an arrow down to the downstairs entrance. Upon entering your Affiant observed books about the advantages of Marijuana use for euphoric affects as opposed to alcohol abuse and other books with the topic of Marijuana. Your Affiant also observed

photos of cultivated marijuana and fields of marijuana with people standing in them. There were several of these photos under a glass cover on the counter where the register is located. The store front where you can enter without an ID is only ½ of the store. The back area of the store, accessible once you prove you're over 18 years of age, is the other ½ of the store and is aligned with a multitude of smoking devices. On a shelf to the left as soon as you enter were "vaporizers". These are devices that take a substance, such as marijuana, and burn the substance themselves while you inhale the smoke. These vaporizers burn the marijuana in such a way that it mainly burns the THC giving the user a cleaner "hit" and better high. To the right of the "vaporizers" were a multitude of "water pipes" also referred to as "bongs". Your Affiant asked a sales associate "Hey can I see that bong." The female sales associate stated "You mean water pipe." Your Affiant laughed and said "Whatever you want to call it." There were several different styles of "water pipes" some of which had liquid cooling features or ice holders to cool the smoke as it travels through the pipe. Further, one of the "water pipes" had a logo "Government" and a marijuana-like leaf logo on it.

3. Your Affiant noticed that any time he would reference smoking marijuana in

one of the devices that the sales associates (more than one) would either not respond or change the subject. Your Affiant notes that the behavior appeared unnatural and deceptive. Inside of a glass case to the left of the entrance were "one hitters" or "dug outs". These items are the size of a standard wallet and

contain a small tin pipe and a cavity. In the cavity you place the substance to be smoked and then press the tin pipe into the cavity which packs a single hit of a substance. In a glass case directly straight of the entrance to the restricted area were several "Psychedelic" colored "bowls" or pipes. These are commonly used as a traditional pipe where you pack a substance into a cavity on one end, light it and then pull the smoke through a hole on the other.

Behind the counter were several types of rolling papers. In addition there were cigar papers without tobacco inside of them which are commonly used to roll a "blunt" or marijuana cigar. While your Affiant was speaking with sales associates inside of "Capitol Hemp" he mentioned that he was throwing a party for his friend's birthday and wanted to purchase a "water pipe" for him. The sales associate told your Affiant to buy a durable "water pipe" as intoxicated individuals are more prone to drop the "water pipe".

4. While your Affiant was looking at the smoking devices U/C Vivieca observed a DVD that was for sale entitled "10 Rules for Dealing with Police". The DVD gave the following listed topics that were covered as:

- A. Deal with traffic stops, street stops and police at your door;
- B. Know your rights and maintain your cool, and;

C. Avoid common police tricks and prevent humiliating searches.

Your Affiant notes that while this DVD is informative for any citizen, when introduced into a store that promotes the use of a controlled substance this

DVD becomes a tool for deceiving law enforcement to keep from being arrested. The typical citizen would not need to know detailed information as to US Supreme Court case law regarding search and seizure because they are not transporting illegal substances in fear of being caught.

5. Your Affiant notes the following regarding some of the items for sale in "Capitol Hemp". Regarding the sales of "water pipes", "bowls", "one hitters/dug outs" and "vaporizers", your Affiant has never observed an individual consume tobacco in devices such as these. However, through numerous arrests and search warrants your Affiant has executed and participated in executing, he has recovered "water pipes", "bowls", "dug outs" and "rolling paper" containing green weed like substance which field tested positive for THC (marijuana). Further, through social mediums such as TV, radio and movies, your Affiant has observed these devices used to purport marijuana, not tobacco use, and has only observed rolling papers and tobacco pipes used to smoke tobacco. Your Affiant believes there to be sufficient probable cause that the store has no intention of selling these items to be used for tobacco use. The only tobacco products your Affiant observed that are sold in the back of the store are prepackaged cigarettes and packaged (loose)

tobacco which is sold with a pack of rolling papers attached within it, which clearly indicates its use to be associated with cigarette smoking. Regarding the ice and liquid cooled "water pipes" your affiant knows that in general, marijuana smoke is harsh and causes the user to cough when inhaled. The

cooling of the marijuana smoke gives the user the ability to inhale the smoke smoothly, allowing the user to inhale more smoke into their lungs resulting in a greater high.

6. Through your Affiant's observations of "Capitol Hemp's" marketing online, as well as the items for sale within the store your Affiant notes that the entire business revolves around the use of marijuana. On the main online web page "Capitol Hemp" is written in a field of marijuana plants. Considering that, it appears the business attempts to "smoke screen" its focus on the use of marijuana with hemp products so your Affiant researched exactly what hemp is. According to an encyclopedia, Hemp is a name that is synonymous with cannabis or the cannabis plant marijuana. Hemp is marijuana and is also a soft thread removed from the cannabis/marijuana plant which will contain little to no THC making it marketable/saleable in the United States and Washington, D.C. While hemp is legal, the hemp clothing, accessories, food books and promotions within "Capitol Hemp" only direct one to see that the focus of the store is its promotion of marijuana, its illegal use and the sales of devices to smoke marijuana. Further, through the store's external promotion

location, in front of a night club where your Affiant and other under cover officers have successfully purchased illegal substances, it indicates that "Capitol Hemp" is marketing its stores contents to a specific crowd, more specifically marijuana users. Your Affiant also notes that multiple arrests were made around that location on 3-3-11 for marijuana violations by members of the 3<sup>rd</sup> District Vice Office. These arrests occurred within the same evening/early morning as when your Affiant was approached by the "Capitol Hemp" representative.

7. In order to further understand common ways for consuming tobacco as opposed to marijuana, your affiant visited local tobacco stores in the District of Columbia. Your Affiant showed photographs of some of the "water pipes" from the Capitol Hemp website to the sales associates and asked if these items (water pipes and bowls) were common smoking devices for smoking tobacco. The sales associates said they were most common with the use of cannabis/marijuana. One of the associates told your Affiant "No, they are used to smoke marijuana." The tobacco shops themselves sold commonly used pipes, etc. that are used to consume tobacco and they appear nothing like the smoking devices sold at "Capitol Hemp". Further the tobacco shops had different brands and types of loose tobacco which were in jars and sold "A la carte" unlike "Capitol Hemp's" pre-packaged tobacco with rolling papers.

"Capitol Hemp's" tobacco products were dwarfed among the smoking devices and the selection was miniscule compared to the tobacco shops.

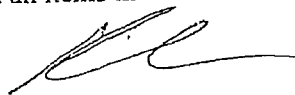
8. Your Affiant researched the DC Code regarding Drug Paraphernalia and observed that in DC Code 48-1101 many of the items (water pipes, electric pipes, ice pipes or chillers, etc) that are sold in the store are specifically defined as drug paraphernalia. Further your Affiant observed that any commercial retail or wholesale establishment that sells cigarette/cigar rolling papers must derive 25% of their annual income from the sale of tobacco products.

9. After having made all of the above observations, this investigation was placed on hold due to Operation Summer Ice which ended August 2011. Your Affiant revisited 1802 Adams Mill Road N.W. "Capital Hemp" on August 9<sup>th</sup>, 2011 and October 14<sup>th</sup>, 2011 and notes that the store remains as he observed it on 3-8-11. The front of the store still contains hemp products with the same setup in the rear of the location containing the water pipes, vaporizers, dug outs, bowls and minimal tobacco products.

10. Since this affidavit is being submitted for the sole purpose of supporting a finding of probable cause, the Affiant has not included every fact known or conveyed to him concerning the investigation. Only those facts deemed

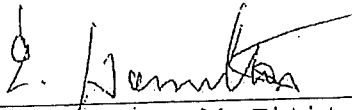
necessary for establishing probable cause that the business named has violated  
the law specified have been included.

~~Your Affiant respectfully requested that a District of Columbia Superior Court Judge issue a~~  
Search Warrant, directing the search of the entire premises of 1802 Adams Mill Rd. N.W.  
Washington D.C. known as "Capitol Hemp", for the seizure of any and all drug paraphernalia,  
and any evidence of the sales and distribution of drug paraphernalia and any records relating to  
the accumulation of disposition of assets derived from drug paraphernalia sales and any proceeds  
and all items listed in Attachment A of this affidavit.

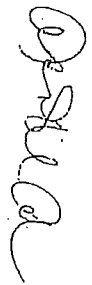


Officer Brett Cuevas #3986

Subscribed and sworn to before me this 20th day of October, 2011.



Judge, Superior Court of the District of Columbia



Attachment A:

- 1) Computers, books, records, receipts, notes, ledgers, and other papers and digital media relating to the sales of drug paraphernalia.

---

- 2) United States currency.
- 3) Photographs of controlled dangerous substances.
- 4) Address and or telephone books, rolodex, cell phones and or pagers, computers and any papers reflecting names, address, telephone numbers, fax numbers of narcotics sellers, sources of supply, customers, financial institutions, and other individuals or businesses with whom a financial/supplemental relationship exists.
- 5) Indicia of occupancy, residency, rental and or ownership of the premises described herein, including but not limited to utility and telephone bills, cancelled envelopes, rental purchase, business license or lease agreement.