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IN THE SUPREME COURT

STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA

Steven Zaiser, as Chairman of the	)	Supreme Court No. _____
Sponsoring Committee for the Statutory	)	
Initiative Relating to the North Dakota	)	
Medical Marijuana Act,	)	
	)	
Applicant,	)	
	)	
vs.	)	
	)	
Alvin A. Jaeger, as Secretary of State	)	
of North Dakota,	)	
	)	
Respondent.	)	

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**BRIEF IN SUPPORT OF APPLICATION FOR  
WRIT OF INJUNCTION UNDER ORIGINAL JURISDICTION**

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## STATEMENT OF THE CASE

On May 22, 2012, the Sponsoring Committee (“Sponsoring Committee”) presented a petition to initiate a measure that would create chapter 19-24 in the North Dakota Century Code (the North Dakota Medical Marijuana Act) to Secretary of State Al Jaeger (“Secretary”) for review and approval for circulation. *See* Secretary of State Time Line, attached as Ex. 1, available at: <https://vip.sos.nd.gov/pdfs/Portals/timeline-medical.pdf> ; *See* Initiative Petition, attached as Ex. 2, available at: <https://vip.sos.nd.gov/pdfs/Portals/petition-medical.pdf> . The Secretary provided the petition title on May 31, 2012, and the petition was approved for circulation on June 4, 2012. On August 6, 2012, the Secretary accepted delivery of 460 petitions for the initiative. The petitions included 20,092 signatures. Thirty days later, the Secretary sent a letter to the Sponsoring Committee’s chairman Steven Zaiser (“Chairman”) stating “the measure does not qualify for placement on the ballot for the November 6, 2012, election.” *See* Ltr. to S. Zaiser from A. Jaeger, dated Sept. 4, 2012, attached as Ex. 3. The Secretary invalidated 6,045 signatures because some of the signatures were allegedly obtained fraudulently. These signatures are the subject of this action.

The Secretary rejected all petitions in their entirety from six circulators, totaling 6,045 signatures. *Id.*<sup>1</sup> The Secretary based his decision to throw out all of the signatures because the “circulators [were] unwilling to re-affirm with their signature” an affidavit appearing at the end of each petition circulated. *Id.* The circulators previously signed an affidavit appearing on each of the petitions circulated. The Secretary stated in his September 4, 2012, letter to the Chairman that “[t]here was no random selection made of 2,000 names from the petitions for mailing

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<sup>1</sup> Media reports of the Secretary’s decision and surrounding events related to the alleged fraud can be viewed in the attached articles from the Bismarck Tribune and Fargo Forum. Ex. 4.

postcards because the circulators had already indicated that they would not re-affirm that all of the signatures were genuine on the petitions they claimed to have circulated.” Ex. 3.

There are pending criminal complaints against the six circulators listed in the Secretary’s letter to the Chairman. *See* Criminal Information documents, attached as Ex. 5 (available on Odyssey e-file system); Ex. 3. Those circulators criminally charged have not been convicted. None of the circulators have signed an affidavit disaffirming their prior sworn affidavits appearing on each of the petitions they provided. The reports that are part of the criminal record of these six circulators indicate some of the signatures they collected were legitimate. *See* Criminal Reports, attached as Ex. 6 (available on Odyssey e-file system).<sup>2</sup> The Secretary decided that all of the signatures contained in the petitions of the six circulators criminally charged should not be subject to constitutional and statutory review requirements. *See* Ex. 3 (“There was no random selection made of 2,000 names from the petitions for mailing postcards because the circulators had already indicated that they would not re-affirm that all of the signatures were genuine on the petitions they claimed to have circulated” and the Secretary refused to accept the petitions because the subject circulators would not re-affirm a second affidavit).

### **STANDARD OF REVIEW**

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<sup>2</sup> The reports for Marcus Williams and Brendin Pierre indicate both believed about half of the signatures turned in were legitimate; the report of Bryan Sheperd indicates most of the signatures he obtained were forged; the report for Aireal Boyd indicates he believes he turned in more legitimate signatures than forged signatures; the report of Antonio Rodgers indicates he had no idea how many signatures were legitimate and how many were forged; the report of Josh Gatlin indicates none of the signatures he obtained were legitimate. Ex. 6. To be clear, the Chairman has no basis to believe or not believe the statements contained in the reports and only cites to the reports as evidence that tends to show some of the 6,045 subject signatures are legitimate. As argued below, it is the Chairman’s position that determining sufficiency of petitions is the constitutional duty of the Secretary—which he has not done as to the subject 6,045 signatures.

The Secretary is not entitled to the typical discretion that is associated with executive agency decisions that are reviewed by this Court. *See Haugland v. Meier*, 335 N.W.2d 809, 811 (N.D. 1983) (quoting *McCarney v. Meier*, 286 N.W.2d 780, 783 (N.D. 1979) (holding “courts do not substitute their judgment for that of an executive officer who has exercised a discretionary function. That has no application, however, to ministerial acts.”). In other words the review of the Secretary’s decision is effectively *de novo*. *See id.* (concluding the Court was “not bound by the secretary of state’s interpretation of the constitution and that a question of law as to the sufficiency of the petition vests *no discretion* in the secretary) (emphasis added). Stated better: “That a question of law may arise, as here, upon the sufficiency of the petition vests no discretion in said official in acting under it.” *McCarney*, 286 N.W.2d at 783 (quoting *State v. Hanna*, 154 N.W. 704, 705 (N.D. 1915)).

### **LAW AND ARGUMENT**

The Chairman offers two broad arguments in support of an order seeking an injunction to require the Secretary to place the initiative on the November 6, 2012, general election ballot. First, the Secretary did not comply with statutory and constitutional requirements in denying the initiative placement on the November 6, 2012, general election ballot. In other words, the issue is whether the Secretary is constitutionally and statutorily authorized to disqualify all signatures when evidence exists to the Secretary that some signatures are legitimate. Second, the Secretary is equitably estopped from denying placement of the ballot initiative on the November 6, 2012, general election ballot because his failure to comply with statutory and constitutional requirements has left an insufficient amount of time to appropriately pass upon the sufficiency of the petitions before the ballots are printed. The Chairman also argues that in the event the

measure is still being reviewed when the Secretary is required to provide ballots for the November general election, that the measure is required to be placed on the ballot.

**I. THE SECRETARY FAILED TO COMPLY WITH CONSTITUTIONAL AND STATUTORY REQUIREMENTS IN REVIEWING THE PETITIONS FOR THE INITIATIVE.**

**A. Constitutional and Statutory Requirements.**

Article III of our constitution places government directly in the hands of citizens. All of the provisions in Article III are “self-executing” and “mandatory.” N.D. CONST. art. 1. Those citizens seeking to initiate a measure must present a petition to the Secretary “for approval as to form.” *Id.* at § 2. Here, the Secretary approved the petition for circulation and electors circulated the petition. Those circulating the petition “shall swear thereon that the electors who have signed the petition did so in their presence.” *Id.* at § 3. Here, those circulating the petition have signed affidavits pursuant to the constitutional requirement. Our constitution requires initiative petitions to be submitted not less than ninety days before the statewide election. *Id.* at § 5. Here, the initiative was submitted to the Secretary on August 6, 2012. The Secretary is required to “pass upon each petition,” and if finding it insufficient, must notify the “committee for the petitioners.” *Id.* at § 6. The Secretary sent a letter dated September 4, 2012, notifying the Chairman that the ballot initiative would not appear on the November ballot. This Court has original jurisdiction to review all decisions of the Secretary regarding this petition. *Id.*

Our legislative assembly may enact laws to “facilitate and safeguard, but not to hamper, restrict, or impair” the powers granted to the citizens under Article III. N.D. CONST. art. III, § 1. Requirements setting forth what process the Secretary may use in reviewing petitions are set forth in N.D.C.C. § 16.1-01-09 and § 16.1-01-10. Every petition submitted to the Secretary must have an affidavit attached in the form provided by statute. N.D.C.C. § 16.1-01-09(3). The



Secretary has at least thirty-five days to determine the sufficiency of the petition. N.D.C.C. § 16.1-01-10. The Secretary “*shall* conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures.” *Id.* (emphasis added). The Secretary may not count “signatures determined by [him] to be invalid. . . .” *Id.* The Secretary has not implemented administrative code provisions that would provide clarification as to what procedures the Secretary would use in making determinations as to the validity of individual signatures. *See, e.g.,* N.D.ADMIN.CODE Title 72.

**B. Application of North Dakota Law To Allegations of Fraud on Initiated Measures.**

The North Dakota Supreme Court has applied the above-cited statutes and constitutional sections to similar circumstances. The petition review statutes must be liberally construed. *Hernett v. Meier*, 173 N.W.2d 907, 911 (N.D. 1970). Courts must do so to “facilitate and not to hamper the exercise by the people of the rights reserved to the people by the Constitution.” *Id.* (citing *Klosterman v. Marsh*, 143 N.W.2d 744 (Neb. 1966)). “The people’s power to initiate or refer legislation is a fundamental right, and the relevant constitutional provisions must be liberally construed in favor of the people’s exercise of that right.” *Husebye v. Jaeger*, 534 N.W.2d 811, 814 (N.D. 1995). Indeed “[a]ll doubt as to the construction of applicable provisions pertaining to the rights so reserved to the people must be resolved in favor of upholding those rights.” *Id.* (citing *McFadden v. Jordan*, 196 P.2d 787 (Cal. 1948)). And “our overriding objective is to give effect to the intent and purpose of the people adopting the constitutional statements.” *Thompson v. Jaeger*, 2010 ND 174, ¶ 7, 788 N.W.2d 586 (quoting *Kelsh v. Jaeger*, 2002 ND 53, ¶7, 641 N.W.2d 100); *see also* *McCarney*, 286 N.W.2d at 785

(stating the then equivalent of Article III to our constitution is to be broadly and liberally construed “to advance and secure the purposes and intentions of those who adopted the amendment.”).

Our constitution provides that the burden of proof shall be upon the party attacking the sufficiency of the petitions. N.D. CONST. art. III, § 6; *Hernett*, 173 N.W.2d at 911. Certainly the burden cannot be placed back on the citizens who sponsored the initiative, for they have complied with the constitutional requirements in submitting the petitions to the Secretary for review of the sufficiency of the signatures pursuant to the constitution. Clearly the constitution puts the burden on the Secretary to determine the sufficiency of the signatures.<sup>3</sup> After all, there is a presumption that signatures upon a petition are genuine. *Hernett*, 173 N.W.2d at 911. The Secretary attacks the validity of all 6,045 subject signatures even when evidence exists that many are valid. The Secretary has not provided any evidence to the Chairman that all of the 6,045 invalidated signatures are invalid.

Here, the six subject circulators have signed affidavits on the petitions they submitted. While it is not disputed by the Chairman that some of the signatures contained in the petitions are invalid based on alleged fraud by the circulators, there is a dispute as to the validity of many of the signatures. There is evidence that many of the signatures contained on the subject petitions are valid. But the Secretary has decided that all of the 6,045 signatures are invalid without determining the actual validity of each signature or even checking a random sampling of the signatures. Moreover, there is an independent statutory framework for dealing with circulators who allegedly forge signatures on a petition. See N.D.C.C. § 16.1-01-12(8) & (9) (providing independent penalties for circulators fraudulently signing an initiative). The

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<sup>3</sup> This issue has not been addressed by the Court. The Court came close in *McCarney*, but determined the burden of proof was not an issue.

Secretary has recourse against those alleged forgers and, at the same time, has the ability (as well as the constitutional and statutory duty) to determine the sufficiency of the signatures on the petitions.

With all due respect to the Secretary, his decision runs counter to his constitutional duties. The Secretary failed to engage in the signature-by-signature review that would be necessary to sustain any challenge to the signatures offered, instead eliminating an entire class of signatures based on allegations of fraud and forgery. But the Court approaches “the scrutiny of the petition and the individual signatures thereon from a liberal viewpoint avoiding disqualification in many instances where compliance with the statute was questionable but striking from the list of signers those signatures that clearly violated the constitution or the statute.” *Dawson v. Meier*, 78 N.W.2d 420, 424 (N.D. 1956). In other words, even if some signatures are invalid that does not mean *all* of the signatures are invalid. And it cannot be determined a signature is invalid unless the Secretary actually *attempts* to verify the validity of signatures. “The objective of our Constitution and of our statute is fulfilled where the signer himself writes his name on the petition. . . .” *Id.* at 917-18. This is true regardless of whether the circulator is an alleged fraudster—the circulator has fulfilled the constitutional requirement and it is up to the Secretary to determine the sufficiency of the signatures on the petitions. The constitutional requirements cannot be hampered by the legislative assembly or the Secretary. As the *Hernett* Court noted: “And if the information [on the petition] is correct, it gives to the Secretary of State all of the information he needs to prevent fraud.” *Id.* at 913.

There is precedent for past Secretaries of State to verify questionable signatures. In *McCarney*, a question arose regarding a statutory requirement to include post-office addresses on the petitions. The Court concluded the inclusion of incomplete addresses on petition signature

pages did not cause the initiative to fail. *Id.* at 786. The Court further concluded the purpose of the requirement for addresses was “to aid the secretary of state in contacting the signer to determine whether he or she was a qualified elector and did, in fact, sign the petition.” *Id.* This, it was said by the Court, assisted in preserving the integrity of the process. *Id.* But, at the same time, the Court held that “this burden should not work to the disadvantage of the qualified electors who signed the petition and expected their signatures to be counted.” *Id.* Secretary Meier “was able to contact the people whose signatures he rejected.” *Id.* at 786-87. The purpose of the initiated measure “can be made effective or defeated by the officers charged with its administration, and it is our duty to sustain it, rather than destroy, if it can be accomplished within the law.” *Id.* at 785 (quoting *In Re Initiative Petition No. 23*, 127 P. 862, 866 (Okla. 1912)). Surely, in 2012, more than thirty years after Secretary of State Meier contacted the electors in *McCarney*, it is well within the ability of Secretary Jaeger to contact those persons listed on the subject petitions to determine their actual validity rather than simply assume invalidity.

There is no requirement under our constitution for a circulator to “re-affirm” what he has already affirmed. It is up to the Secretary, pursuant to the constitution, to determine the validity of signatures after the constitutional requirements of a circulator swearing that electors have signed the petition in the circulator’s presence is complete. N.D. CONST. art. III., § 3. In other words, it becomes the Secretary’s constitutional duty to determine the sufficiency of the 6,045 signatures. While practically it may take some time to validate 6,045 signatures, such is a lesser burden on the citizens of this state than invalidating an entire initiated measure that is only 919 signatures short according to the Secretary (indeed, only 919 valid signatures within the 6,045 signatures would have to be verified by the Secretary—after arriving at 919 he could stop).

The Secretary's decision also runs counter to his statutory duties. The Secretary did not conduct a representative sampling of the signature contained in the petitions to determine the validity of the signatures. N.D.C.C. § 16.1-01-10; *see also* Ex. 3 (stating: "[t]here was no random selection made of 2,000 names from the petitions for mailing postcards because the circulators had already indicated that they would not re-affirm that all of the signatures were genuine on the petitions they claimed to have circulated."). Instead, the Secretary investigated only the signatures of a small sub-group that had a relationship with one another that made them more likely to have acted in concert with each other. This discretionary decision, however, is not permitted under our constitution or statutory framework. The Secretary was required to send out a random sampling—the statute does not give an exception for this requirement (certainly the legislative assembly *could have* provided an exception to the rule, but it did not). And the constitutional requirements, as highlighted above, require the Secretary to determine the sufficiency of the petitions.

The Secretary has been constitutionally selected, and is constitutionally obligated, to determine the sufficiency of signatures once the constitutional requirements of submitting the signatures has been completed. The Secretary simply did not have the discretion to cease the required verification process when fraudulent signatures were discovered. From what we know from the criminal investigation (which provides a questionable basis for invalidating an initiated measure), unsworn statements of six circulators indicate many of the signatures submitted by the Chairman are valid. The Secretary has a constitutional obligation to the citizens of this state, especially the ones who validly signed those petitions, to determine whether they are indeed valid. To argue otherwise invites nothing but excuse.

Our constitution does not set forth what the Secretary is to precisely do to determine whether a petition is valid. *Hernett*, 173 N.W.2d at 918. A similar situation was reviewed by the Court in *Shore v. Meier*, 122 N.W.2d 566 (N.D. 1963). In *Shore*, instead of the Secretary of State bringing allegations of fraudulently obtained signatures on petitions, citizens opposed to the measure sought to prevent the measure from being placed on the ballot. *Id.* at 567-68. What is interesting is that while the respondent (apparently the Secretary of State) did not challenge certain proof of fraud argued by the petitioner, the respondent took “issue with the contention that proof of fraud as to some of the signatures taints all other signatures upon the same petitions and casts on respondent the burden of showing that such signatures were genuine.” *Id.* at 568. In other words, then Secretary Meier apparently took a contrary position to the one taken in this matter by Secretary Jaeger. The *Shore* Court did not address this issue because the petition was too late and the matter was already on the ballot. Here, the issue is squarely before the Court for a determination. Again, as argued above, a reading of our constitution, and statutory framework, makes it clear that there is a mighty deference to citizen-led initiatives and the constitution is to be broadly and liberally construed. It is the Chairman’s position that the Secretary must determine the sufficiency of all of the petitions—even the petitions from the six circulators accused of fraud.

## **II. EQUITY SHOULD APPLY TO PLACE THE MEASURE ON THE BALLOT.**

When a petition is circulated, signed, and submitted to the Secretary of State, Article III, Section 6 of the North Dakota Constitution requires that the secretary of state “pass upon each petition, and if he finds it insufficient, he shall notify the “committee for the petitioners.” N.D. CONST. art. III, § 6; *McCarney v. Meier*, 286 N.W.2d 780, 782 (N.D. 1979). Additionally, N.D.C.C. § 16.1-01-10 requires the secretary of state, within a reasonable period, not to exceed

thirty-five days, to pass upon the sufficiency of a petition and as part of its examination to conduct a representative random sampling of the signatures in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or a combination of, to determine the validity of the signatures. *Id.*

The Secretary made no notification to the Chairman of any insufficiency of the signatures prior to September 4, 2012. The letter informed the Chairman, that the Secretary had “in accordance with requirements of Section 6 of Article III and the North Dakota Constitution and state law, N.D.C.C. § 16.1-01-10, completed the required review to determine the sufficiency of the petitions.” The letter went on to state the Secretary was “unable to accept at least 7,559 signatures,” and that the measure therefore did not qualify for placement of the November 6, 2012 ballot. Ex. 3. Additionally, the Secretary excused his duty to randomly select 2,000 names from the petitions for mailing postcards because the circulators had already indicated that they would not re-affirm that all of the signatures that they had collected were genuine. *Id.*

The Chairman is unaware of any provision in North Dakota statutory or case law that acknowledges a circulator’s failure to “re-affirm” an affidavit as a basis to excuse adherence to Article III, Section 6 of the North Dakota Constitution, or N.D.C.C. § 16.1-01-10. The Secretary should be estopped from relying on a conclusory determination of fraud that was the result of his own willful failure to execute the Constitutional and statutory duties of his position. Even in the face of what it called “gross and extensive fraud,” this Court has held that “lamentable proof of venality on the part of a petition circulator, if circulator be the right word, can not justify ignoring the clear mandate of the Constitution.” *Shore v. Meier*, 122 N.W.2d 566, 568 (N.D. 1963).

By issuing a letter that flatly disqualifies the initiated measure from appearing on the ballot, without determining whether each invalidated signature was actually valid or relying on the random sampling method required by statute, the Secretary has circumvented the voter protections and constitutional verification process put into place. The Secretary has disqualified an initiated measure without actually knowing whether or not it contained a sufficient number of signatures. And he has done so at a time when there is no opportunity to correct the error.

While there may be evidence of some fraud before the secretary, there is certainly no conclusive proof of fraud put forth. What does exist is evidence that at least some of the subject signatures are in fact valid. The Secretary should be estopped from throwing out all 6,045 signatures based on the subject circulators refusal to re-affirm an affidavit they have already signed; the Secretary has not based his decision on any precedent or law that such a refusal to re-affirm is sufficient to excuse a full review of the sufficiency of the petitions.

In *Thompson v. Jaeger*, 2012 ND 174, this Court noted that “the right to initiate and refer laws is part of the fabric of our liberty as North Dakotans.” Yet it also strictly construed the requirements mandated by the North Dakota Constitution and Century Code that are designed to protect that right. Words in a constitutional provision are given their plain, ordinary and commonly understood meaning. *Id.*, at ¶ 7. Furthermore, “[t]he people’s power to initiate or refer legislation is a fundamental right, and the relevant constitutional provisions must be liberally construed in favor of the people’s exercise of that right.” *Id.* at ¶ 12 (citing *Huesby v. Jaeger*, 534 N.W.2d 811, 814 (N.D. 1995)). It would be not only inequitable in this circumstance but would also cut against these legal principles to strictly construe the constitutional requirements of Article III against the people and sponsors of initiated measures when they allegedly fail to strictly comply with them, but to then allow the Secretary of State to disregard



constitutional duties and keep an initiated measure off of the ballot without completing a review as to the sufficiency of the petitions.

In this case the equities favor allowing the initiated measure to be placed on the ballot. The actions of the Secretary have made any time for correction unavailable, which, similar to the case of *Haugland v. Meier*, 339 N.W.2d 100, 107 (N.D. 1983), prevents other equitable principles from being applicable in this case. As it stands now, even with the Secretary throwing out 6,045 signatures based upon a “failure to re-affirm” and no evidence of further investigation, the Sponsoring Committee fell only 919 signatures short. There is evidence in the police reports and interviews taken with Aireal Boyd, Brendin Pierre, Antonio Rodgers, and Marcus Williams that some, as many as half, of the signatures obtained by them were, in fact, legitimate signatures. The North Dakota Bureau of Criminal Investigation agents questioned the suspects as to whether or not they would be able to identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated. Most, if not all, of the suspects, indicated they could not. Ex. 6. What is troubling about this investigative tactic is that the Secretary appears to have used this “lack of re-affirmation” as a reason not to circulate the postcards to a random sampling of names on the petitions to attempt to identify whether signatures were valid, as required by statute. It appears that the state officials gave attention only to the fact that the suspects admitted to some fraud, and chose to ignore the information that indicated that potentially hundreds, or thousands, of valid signatures were also collected. By selectively accepting evidence, the Secretary determined that all of the signatures collected by those circulators were invalid, or at least that his duty to investigate the matter was fulfilled and effectively ended the investigation.

But North Dakota jurisprudence clearly tips in favor of the electors, presuming that each signature upon a referral petition is the genuine signature of the person whose name it purports to be. *Hernett*, 173 N.W.2d at 911. Secretary Jaeger's blanket exclusion of all 6,045 signatures is inconsistent with this principle, and works an inequitable resolution that disenfranchises legitimate voters. The constitution assigns to him, as part of the duties of his office, the duty to investigate the validity of petition signatures. The citizens of North Dakota should not be denied their right to initiate measures by virtue of some alleged fraudsters and the unwillingness of the Secretary to determine the sufficiency of petitions. Secretary Jaeger did not state that he could not uphold his constitutional and statutory duty to determine the sufficiency of the 6,045 signatures, he simply told the Chairman that he would not check the 6,045 signatures. As a result, if this Court does not overturn the Secretary's determination, the sponsors of the initiative, and the citizens of North Dakota, will be inequitably denied their constitutional right to have their initiated measure properly considered for placement on the November 6, 2012, general election ballot.

### **III. THE INITIATIVE SHOULD BE PLACED ON THE BALLOT PENDING THE OUTCOME OF THIS PETITION.**

The North Dakota Constitution provides that if this Court is reviewing the sufficiency of a petition "at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon." N.D. CONST. art. III, § 6. : Section 7 repeats the importance of placing the measure on the ballot if the Secretary's decision is being reviewed at the time the ballot is prepared. *See also Dawson v. Meier*, 78 N.W.2d 420, 423 (N.D. 1956). Thus, the constitution dictates that where there is uncertainty about the verification process, the requirement is to place the initiative on the ballot and let the people vote on the matter. The

present case has undoubtedly given rise to a situation in which there is uncertainty about the verification process. It is not -- *yet* -- a matter of the Secretary's decision being under review at the time the ballots are being prepared. Rather, the Sponsoring Committee is confronted with a situation in which, due to the Secretary's improper termination of the verification process, there is no longer time to conduct the statutorily required verification process before the ballots are prepared. As we cannot ascertain whether the measure would have qualified for the ballot before the ballots are printed, the appropriate remedy based on a reasonable interpretation of the intent of the constitution is to place it on the ballot. And, in the event the Court is still reviewing this petition when the ballots have to go to the printing press, then the constitution also provides that the Secretary shall place the measure on the ballot.

### **CONCLUSION**

An instance of alleged fraud has tainted our state's open approach to government—it truly is a sad day in North Dakota. There are no winners here. The Secretary has been placed in a difficult position, although the Chairman respectfully disagrees with him. The circulators are facing criminal charges. The Sponsoring Committee, barring an order from this Court to the contrary, will have expended great resources on a ballot initiative it strongly believes in for nothing—with only 919 signatures short according to the Secretary. But the biggest losers, at present, are the citizens of North Dakota; especially those citizens who legitimately signed the subject petition and have had their signatures rejected without any attempt by the Secretary to determine their sufficiency. Those citizens have no choice at present but to lament the fact that their voice under our democracy will fall silent. The Chairman respectfully requests the Court to issue an injunction ordering the Secretary to immediately place the ballot initiative on the

November 6, 2012, general election ballot and, in the short term, enjoin the Secretary from approving or printing a ballot until the Court renders a decision.

Dated this 14<sup>th</sup> day of September, 2012.

**PEARCE & DURICK**

A handwritten signature in black ink, appearing to read 'Zachary E. Pelham', written over a horizontal line.

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Exhibit 5	Criminal Information Documents
Exhibit 6	Criminal Reports

**Time Line for Statutory Initiative Relating to  
The North Dakota Medical Marijuana Act  
(as of June 4, 2012)**

Submitted to the Secretary of State for review and approval for circulation	May 22, 2012
Earliest date the law allows Secretary of State to approve the petition title	Wednesday, May 30, 2012
Latest date by which the Secretary of State must provide the petition title	Friday, June 1, 2012
Date that Secretary of State supplied Sponsoring Committee with petition title for petition along with a listing of corrections for the petition's format	Thursday, May 31, 2012
Date that Sponsoring Committee returned petition to Secretary of State for review	Friday, June 1, 2012
Date that Secretary of State approved petition for circulation	Monday, June 4, 2012
Deadline for submitting petition signatures to the Secretary of State (90 days before the election at which the measure is to appear on the ballot <u>or</u> one year from the date the petition is approved for circulation)	<p>2012 General Election – Prior to midnight on Wednesday, August 8, 2012</p> <p>One year from date petition was approved for circulation – Tuesday, June 4, 2013</p>
Number of signatures needed to place measure on ballot.	13,452
Contact person for the sponsoring committee	<p>Dave Schwartz North Dakotans for Compassionate Care PO Box 2702 Fargo ND 58108-2702</p> <p>Telephone: (701) 361-5800</p>

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Steven Zaiser, Chairman  
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## PETITION TITLE

This initiated measure would create chapter 19-24 in the North Dakota Century Code permitting qualifying patients to use, possess or grow limited amounts of marijuana for medical use if authorized by a medical practitioner in order to treat certain medical conditions, including cancer, glaucoma, Alzheimer's disease, Crohn's disease, and post-traumatic stress disorder. Medical marijuana could not be used in public places, on school buses or grounds, in prisons, or on public transportation. The state Department of Health would regulate medical marijuana organizations involved in the process of producing, dispensing, and testing of medical marijuana; it would also adopt rules, create a registry of qualifying patients and caregivers, and issue identification cards.

## FULL TEXT OF THE MEASURE

**IF MATERIAL IS UNDERScoreD, IT IS NEW MATERIAL WHICH IS BEING ADDED.  
IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED.  
IF MATERIAL IS NOT UNDERScoreD OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW  
THAT IS NOT BEING CHANGED.**

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:**

**SECTION 1.** Chapter 19-24 of the North Dakota Century Code is created and enacted as follows:

### **19-24-01. Definitions.**

For purposes of this chapter, unless the context otherwise requires:

1. "Agent" includes a principal officer, board member, employee, or volunteer of a medical marijuana organization who is at least twenty-one years of age and who is working at the direction or on behalf of the medical marijuana organization.
2. "Allowable amount of marijuana" means:
  - a. With respect to a qualifying patient:
    - (1) Two-and-one-half [70.8738 grams] ounces of usable marijuana; and
    - (2) If the qualifying patient's registry identification card states that the qualifying patient is authorized to cultivate marijuana, twelve marijuana plants contained in an enclosed, locked facility except the plants are not required to be in an enclosed, locked facility if the plants are being transported because the qualifying patient is moving.
  - b. With respect to a designated caregiver, for each patient assisted by the designated caregiver under this chapter:
    - (1) Two-and-one-half ounces [70.8738 grams] of usable marijuana; and



- (2) If the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana, twelve marijuana plants, provided that the total number of plants may not exceed 30, contained in an enclosed, locked facility except the plants are not required to be in an enclosed, locked facility if the plants are being transported because the designated caregiver is moving.
- c. Marijuana that is incidental to medical use, but is not usable marijuana as defined in this chapter, may not be counted toward a qualifying patient's or designated caregiver's allowable amount of marijuana.
3. "Cardholder" means a qualifying patient, a designated caregiver, or an agent of a medical marijuana organization who has been issued and possesses a valid registry identification card.
4. "Debilitating medical condition" means:
- a. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, post-traumatic stress disorder, or the treatment of these conditions;
- b. A chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome, severe and chronic pain, severe nausea, seizures, including those characteristic of epilepsy, or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
- c. Any other medical condition or its treatment added by the department pursuant to section 19-24-01.01.
5. "Department" means the state department of health.
6. "Designated caregiver" means a person who:
- a. Is at least twenty-one years of age; and
- b. Has agreed to assist no more than five qualifying patients with the medical use of marijuana.
7. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.
8. "Marijuana" means all parts of any plant of the genus cannabis whether growing or not, the seeds of the plant, the resinous product of the combustion of the plant cannabis, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

9. "Medical marijuana dispensary" means an entity registered under section 19-24-04 that acquires marijuana plants, seeds, or usable marijuana from medical marijuana production facilities and distributes marijuana or related supplies and educational materials to registered qualifying patients or registered designated caregivers.
10. "Medical marijuana organization" means a medical marijuana dispensary, a medical marijuana production facility, or a safety compliance facility.
11. "Medical marijuana production facility" means an entity registered under section 19-24-04 that cultivates, harvests, processes, manufactures, prepares, packs, and stores marijuana and delivers, transfers, or sells the marijuana to medical marijuana dispensaries.
12. "Medical use" means the acquisition, possession, planting, cultivation, propagation, harvest, production, process, manufacture, testing, compounding, converting, use, administration, preparation, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
13. "Practitioner" means an individual who is licensed and registered by the board of medical examiners and who is authorized to prescribe drugs.
14. "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition.
15. "Registration certificate" means a document issued by the department that identifies an entity as a medical marijuana dispensary, medical marijuana production facility, or a safety compliance facility.
16. "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver, or an agent of a medical marijuana organization.
17. "Safety compliance facility" means an entity registered under section 19-24-04 by the department to provide consumer protection services to the public by means of laboratory sampling and testing for potency and contaminants or public information and training services regarding:
- (1) The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;
  - (2) Security and inventory accountability procedures; or
  - (3) Scientific and medical research findings related to medical marijuana.
18. "Usable marijuana" means the flowers of the marijuana plant, or any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.
19. "Verification system" means a secure, phone or web-based system that is established and maintained by

the department and is available to law enforcement personnel and registered medical marijuana organization agents for verification of registry identification cards.

20. "Visiting qualifying patient" means a person who was diagnosed with a debilitating medical condition by a person who is licensed with authority to prescribe drugs to humans in the state of the person's residence, who possesses a registry identification card, or its equivalent, that was issued pursuant to the laws of another state, and:

- a. Is not a resident of North Dakota, or
- b. Has been a resident of North Dakota fewer than thirty days.

21. "Written certification" means a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. The practitioner must:

- a. Specify the qualifying patient's debilitating medical condition in the written certification; and
- b. Sign and date the written certification only in the course of a practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history and current medical condition.

#### **19-24-01.01. Addition of debilitating medical conditions.**

- 1. The public may petition the department to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 19-24-01(4). The department shall consider petitions in the manner required by department rule. The department shall approve or deny a petition within one hundred eighty days of its submission. The approval or denial of a petition is a final decision of the department subject to judicial review pursuant to chapter 28-32. Jurisdiction and venue are vested in the district court of Burleigh County.
- 2. The department shall add a debilitating medical condition or treatment to the list of debilitating medical conditions set forth in 19-24-01(4) upon receipt by the department of a petition signed by at least fifty practitioners requesting the debilitating medical condition or treatment be added.

#### **19-24-02. North Dakota Medical Marijuana Act - Limitations.**

This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for:

- 1. Undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice.
- 2. Possessing or engaging in the medical use of marijuana:

a. On a school bus.

b. On the grounds of any preschool or primary or secondary school.

c. In any correctional facility.

3. Smoking marijuana:

a. On any form of public transportation.

b. In any public place.

4. Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana, except a registered qualifying patient or a visiting qualifying patient may not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

5. Using marijuana except as authorized under this chapter.

**19-24-03. Rulemaking.**

1. The department shall adopt rules that set forth the procedures and methods for implementing this chapter, including rules:

a. Governing the manner it must consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 19-24-01.01, including public notice of, and an opportunity to comment in a public hearing upon, petitions.

b. Establishing the form and content of registration and renewal applications submitted under this chapter.

c. Establishing a system to numerically score competing medical marijuana dispensary applicants that must include analysis of:

(1) The suitability of the proposed location and its accessibility for patients;

(2) The character, veracity, background, and relevant experience of principal officers and board members;

(3) The business plan proposed by the applicant, including its ability to maintain an adequate supply of marijuana, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income registered qualifying patients.

d. Governing the manner it shall consider applications for and renewals of registry identification cards.

- e. Governing medical marijuana organizations to prevent diversion and theft without imposing an undue burden or compromising the confidentiality of cardholders, including:
- (1) The manner it must consider applications for and renewals of registration certificates.
  - (2) Oversight requirements.
  - (3) Recordkeeping requirements.
  - (4) Security requirements, including requirements for protection of each location by a fully operational security alarm system.
  - (5) Safety requirements.
  - (6) Requirements for the dispensing of medical marijuana by use of an automated machine.
  - (7) Requirements and procedures for the safe and accurate packaging and labeling of medical marijuana.
- f. Procedures for suspending or revoking the registration certificates or registry identification cards of medical marijuana organizations or cardholders who violate the provisions of this chapter or the rules adopted pursuant to this section.
- g. Establishing application and renewal fees for registry identification cards and registration certificates, according to the following:
- (1) The total amount of all fees must generate revenues sufficient to implement and administer this chapter except fee revenue may be offset or supplemented by private donations.
  - (2) The fee for a registration certificate or for renewal of a registration certificate may be no greater than necessary.
  - (3) The total amount of revenue from registration certificate application and renewal fees and registry identification card fees for the agents of medical marijuana organizations must be sufficient to implement and administer the provisions of this chapter relating to medical marijuana organizations, including the verification system, except fee revenue may be offset or supplemented by private donations.
  - (4) The department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income.
  - (5) The department may consider private donations under section 19-24-25 to reduce application and renewal fees.
2. The department is authorized to adopt the rules set forth in subsection 1 and must adopt those rules pursuant to chapter 28-32.

**19-24-04. Registration and certification of medical marijuana organizations.**

1. Medical marijuana organizations shall register with the department.
2. Not later than ninety days after receiving an application for a medical marijuana organization, the department shall register the prospective medical marijuana organization and issue a registration certificate and a random twenty-digit alphanumeric identification number if all of the following conditions are satisfied:
  - a. The prospective medical marijuana organization has submitted all of the following:
    - (1) The application fee.
    - (2) An application, including:
      - (a) The legal name of the prospective medical marijuana organization;
      - (b) The physical address of the prospective medical marijuana organization that is not within one thousand feet of a public or private school existing before the date of the medical marijuana organization application;
      - (c) The name and date of birth of each principal officer and board member of the proposed medical marijuana organization;
      - (d) The name and date of birth of each additional agent of the proposed medical marijuana organization; and
      - (e) Any additional information requested by the department.
    - (3) Operating procedures consistent with department rules for oversight of the proposed medical marijuana organization, including procedures to ensure accurate record keeping and adequate security measures.
    - (4) If the city or county where the proposed medical marijuana organization would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical marijuana organization is in compliance with the restrictions.
  - b. None of the principal officers or board members has served as a principal officer or board member for a medical marijuana organization that has had its registration certificate revoked.
  - c. None of the principal officers or board members is under twenty-one years of age.
  - d. At least one principal officer is a resident of North Dakota.
  - e. If the proposed medical marijuana organization is a medical marijuana dispensary applicant, it is

located in a county with more than twenty thousand permanent residents and the county does not already contain a medical marijuana dispensary.

3. When competing applications are submitted for a proposed medical marijuana dispensary within a single county, the department shall use an impartial and numerically scored competitive bidding process to determine which application among those competing will be approved. The department may conduct a background check of the principal officers and board members of the prospective medical marijuana dispensary to carry out this provision.
4. The department may register additional medical marijuana organizations at its discretion.

#### **19-24-05. Registration of medical marijuana organization agents – Notices.**

1. Any prospective agent of a medical marijuana organization shall be registered with the department before volunteering or working at a medical marijuana organization.
2. A medical marijuana organization may apply to the department for a registry identification card for each prospective agent of the medical marijuana organization by submitting:
  - a. The name and date of birth of the prospective agent;
  - b. A medical marijuana organization agent application; and
  - c. The application fee.
3. A medical marijuana organization shall notify the department within ten days after an agent ceases to be employed by or volunteer at the medical marijuana organization.

#### **19-24-06. Registration of qualifying patients and designated caregivers.**

1. A qualifying patient may apply to the department for a registry identification card by submitting all of the following:
  - a. Written certification issued by a practitioner within the ninety days immediately preceding the date of application.
  - b. The application fee.
  - c. An application, including:
    - (1) Name, mailing address, and date of birth of the qualifying patient except that if the applicant is homeless no address is required;
    - (2) Name, mailing address and telephone number of the qualifying patient's practitioner;
    - (3) Name, mailing address, and date of birth of the qualifying patient's designated caregiver, if any;

- (4) A signed statement from the designated caregiver, if any, agreeing to be the patient's designated caregiver and certifying that if the application is approved he will not be a registered designated caregiver for more than five registered qualifying patients; and
  - (5) A designation as to who will be allowed to cultivate marijuana plants for the qualifying patient's medical use if a medical marijuana dispensary is not operating within twenty-five miles of the qualifying patient's home and the address where the marijuana plants will be cultivated.
2. The application for a qualifying patient's registry identification card must ask whether the patient would like the department to notify him of any clinical studies needing human subjects for research on the medical use of marijuana. The department shall notify interested patients if it is notified of studies that will be conducted in the United States.

#### **19-24-07. Issuance of registry identification cards.**

1. Except as provided in subsection 2 and in section 19-24-09, the department shall:
- a. Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within ten days of receiving a completed application or renewal.
  - b. Issue a registry identification card to a qualifying patient and his designated caregiver, if any, within five days of approving the application or renewal. A designated caregiver must have a registry identification card for each of his qualifying patients.
  - c. Issue each medical marijuana organization agent a registry identification card and log-in information for the verification system within five days of approving the application or renewal.
2. The department may not issue a registry identification card to a qualifying patient who is under the age of eighteen unless:
- a. The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian responsible for health care decisions for the qualifying patient;
  - b. A custodial parent or legal guardian responsible for health care decisions for the qualifying patient submits a written certification from two practitioners; and
  - c. The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to allow the qualifying patient's medical use of marijuana, to serve as the qualifying patient's designated caregiver, and to control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.
3. If the registry identification card of either a qualifying patient or the patient's designated caregiver does not state that the cardholder is authorized to cultivate marijuana plants, the department must give written



notice to the registered qualifying patient, when the qualifying patient's registry identification card is issued, of the names and addresses of all registered medical marijuana dispensaries.

**19-24-08. Contents of registry identification cards.**

1. Registry identification cards for qualifying patients and designated caregivers must contain all of the following:

- a. Name and date of birth of the cardholder;
- b. A statement of whether the cardholder is a qualifying patient or a designated caregiver;
- c. The date of issuance and expiration date of the registry identification card;
- d. A random twenty-digit alphanumeric identification number that is unique to the cardholder and contains at least four numbers and at least four letters;
- e. If the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting;
- f. A photograph of the cardholder; and
- g. A clear indication of whether the cardholder has been authorized by this chapter to cultivate marijuana plants for the qualifying patient's medical use.

2. Registry identification cards for medical marijuana organization agents must contain the following:

- a. The name and date of birth of the agent;
- b. A statement that the cardholder is an agent of a medical marijuana dispensary, a medical marijuana production facility, or a safety compliance facility;
- c. The legal name and the registration certificate number of the medical marijuana organization that the agent is affiliated with;
- d. A random twenty-digit alphanumeric identification number that is unique to the cardholder;
- e. The date of issuance and expiration date of the registry identification card; and
- f. A photograph of the cardholder, if the department decides to require one.

**19-24-09. Denial of registry identification cards.**

1. The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

- a. Does not meet the requirements of section 19-24-01(14);
  - b. Does not provide the information required;
  - c. Previously had a registry identification card revoked for violating this chapter; or
  - d. Provides false information.
2. The department may deny an application or renewal of a designated caregiver's registry identification card only if the applicant:
  - a. Does not meet the requirements of section 19-24-01(6);
  - b. Does not provide the information required;
  - c. Previously had a registry identification card revoked for violating this chapter; or
  - d. Provides false information.
3. The department may deny a registry identification card to a prospective agent of a medical marijuana organization only if:
  - a. The applicant does not meet the requirements of section 19-24-01(1);
  - b. The applicant or medical marijuana organization does not provide the required information;
  - c. The applicant previously had a registry identification card revoked for violating this chapter; or
  - d. The applicant or medical marijuana organization provides false information.
4. The department shall give written notice to the medical marijuana organization of the reason for denying a registry identification card to the prospective agent.
5. The department shall give written notice to the qualifying patient of the reason for denying a registry identification card to the qualifying patient or to the qualifying patient's designated caregiver.
6. Denial of an application or renewal is considered a final decision of the department subject to judicial review pursuant to chapter 28-32. Jurisdiction and venue for judicial review are vested in the district court of Burleigh County.

**19-24-10. Expiration and renewal of registry identification cards and registration certificates - Replacement.**

1. All registry identification cards and registration certificates expire at least one year after the date of issue.

2. The department shall cancel the registry identification card of a registered medical marijuana organization agent and shall deactivate a registered medical marijuana dispensary agent's access to the verification system upon notification to the department by a medical marijuana organization that the agent is no longer employed by or no longer volunteers at the medical marijuana organization.
3. The department shall issue a renewal registration certificate within ten days of receipt of the prescribed renewal application and renewal fee from a medical marijuana organization if its registration certificate is not under suspension and or has not been revoked.
4. If a cardholder loses his registry identification card, he shall promptly notify the department. Within five days of the notification, and upon payment of a ten dollar fee, the department shall issue a new registry identification card with a new random identification number to the cardholder and, if the cardholder is a registered qualifying patient, to the registered qualifying patient's registered designated caregiver, if any.

#### **19-24-11. Facility restrictions.**

1. Any nursing care home, intermediate care facility, basic care facility, hospice, medical hospital, or other type of assisted living facility may adopt reasonable restrictions on the use of marijuana by their residents or persons receiving inpatient services, including:
  - a. That the facility will not store or maintain the patient's supply of marijuana;
  - b. That the facility, caregivers, or hospice agencies serving the facility's residents are not responsible for providing the marijuana for qualifying patients;
  - c. That marijuana be consumed by a method other than smoking; or
  - d. That marijuana be consumed only in a place specified by the facility.
2. Nothing in this section requires a facility listed in subsection 1 to adopt restrictions on the medical use of marijuana.
3. A facility listed in subsection 1 may not unreasonably limit a registered qualifying patient's access to or use of marijuana authorized under this chapter unless failing to do so would cause the facility to lose a monetary or licensing-related benefit under federal law or rule.

#### **19-24-12. Medical marijuana organizations - Requirements.**

1. The operating documents of a medical marijuana organization must include procedures for the oversight of the medical marijuana organization and procedures to ensure accurate recordkeeping.
2. A medical marijuana organization shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.
3. All cultivation, harvesting, manufacture, and packaging of marijuana by a medical marijuana production

facility must take place in an enclosed, locked facility at a physical address provided to the department during the registration process. The enclosed, locked facility may only be accessed by registered agents of the medical marijuana production facility.

4. A medical marijuana dispensary or medical marijuana production facility may acquire usable marijuana or marijuana plants from a registered qualifying patient or a registered designated caregiver only if the registered qualifying patient or registered designated caregiver receives no compensation for the marijuana.
5. A medical marijuana dispensary shall not share office space with or refer patients to a practitioner.
6. A medical marijuana organization may not permit any person to consume marijuana on the property of a medical marijuana organization.
7. Medical marijuana organizations are subject to reasonable inspection by the department. The department shall give reasonable notice of an inspection under this subsection.

#### **19-24-13. Medical marijuana organization locations.**

A city, in the manner provided in chapter 40-47, or a county, in the manner provided in chapter 11-33, may enact reasonable zoning rules that limit the use of land for medical marijuana dispensaries, medical marijuana production facilities, or safety compliance facilities to specified areas.

#### **19-24-14. Dispensing marijuana for medical use.**

1. Before marijuana may be dispensed to a registered qualifying patient or a registered designated caregiver, a registered medical marijuana dispensary agent must not believe that the amount dispensed would cause the cardholder to possess more than the allowable amount of marijuana.
2. Usable marijuana may be dispensed to a registered qualifying patient or to a registered designated caregiver by an automated machine located in a restricted access area of the medical marijuana dispensary if the machine complies with the rules promulgated by the department and the requirements of this section.

#### **19-24-15. Verification system.**

1. The department shall establish and maintain a verification system for use by law enforcement personnel and registered medical marijuana organization agents to verify registry identification cards.
2. The verification system must allow law enforcement personnel and registered medical marijuana dispensary agents to enter a registry identification number and verify whether the number corresponds with a current, valid identification card.
3. The system may disclose only whether the identification card is valid, the name of the cardholder, whether the cardholder is a qualifying patient, a designated caregiver, or a medical marijuana organization agent, whether the cardholder is permitted to cultivate marijuana plants and the location

where the plants are cultivated, the registration certificate number of any affiliated medical marijuana organization, and the registry identification number of any affiliated registered qualifying patient.

4. At the cardholder's request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.

#### **19-24-16. Notifications to department.**

1. A registered qualifying patient shall notify the department within ten days of any change in the registered qualifying patient's name, mailing address, designated caregiver, preference regarding who may cultivate marijuana for the registered qualifying patient, address where marijuana plants are cultivated, or if the registered qualifying patient ceases to have his debilitating medical condition.
2. A registered designated caregiver shall notify the department within ten days of any change in his name or mailing address.
3. A registered medical marijuana organization agent shall notify the department within ten days of any change in his name.
4. If a cardholder notifies the department of any changes listed in this section but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with new random twenty-digit alphanumeric identification numbers within ten days of receiving the updated information and a ten dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue his registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.
5. If the registered qualifying patient's certifying practitioner notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the card is void upon notification by the department to the qualifying patient.
6. If a registered qualifying patient ceases to be a registered qualifying patient or changes the registered designated caregiver, the department shall promptly notify the former designated caregiver that his duties and rights under this chapter for the qualifying patient expire fifteen days after the department sends notification.
7. A medical marijuana organization shall notify the department within one business day of any theft or significant loss of marijuana.

#### **19-24-17. Annual report.**

The department shall submit to the legislature an annual public report that does not disclose any identifying information about cardholders, medical marijuana organizations, or practitioners but contains all of the following information:

1. The number of registry identification card applications and renewals;
2. The number of qualifying patients and designated caregivers approved;
3. The nature of the debilitating medical conditions of the qualifying patients;
4. The number of registry identification cards revoked;
5. The number of practitioners providing written certifications for qualifying patients;
6. The number of medical marijuana dispensaries, medical marijuana production facilities, and safety compliance faculties; and
7. The number of medical marijuana dispensary agents, medical marijuana production facility agents, and safety compliance facility agents.

#### **19-24-18. Confidentiality.**

1. Information received and records kept by the department for purposes of administering this chapter are confidential and may be disclosed only as authorized by this chapter, including:
  - a. Applications or renewals, their contents, and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and practitioners.
  - b. Applications or renewals, their contents, and supporting information submitted by agents of medical marijuana organizations.
  - c. Applications or renewals, their contents, and supporting information submitted by or on behalf of medical marijuana organizations operating in compliance with this chapter, including the physical addresses of medical marijuana organizations.
  - d. The individual names and other information identifying persons to whom the department has issued registry identification cards.
2. Any dispensing information kept or maintained by medical marijuana organizations or by the department must identify cardholders and medical marijuana organizations by their registry identification numbers and not contain names or other personally identifying information.
3. Any department hard drives or other data recording media that are no longer in use and that contain cardholder information must be destroyed. The department shall retain a signed statement from a department employee confirming the destruction.
4. Data subject to this section must not be combined or linked in any manner with any other list or database, and it may not be used for any purpose not provided for in this chapter.

5. Confidential information may be disclosed as necessary for authorized department employees to perform official duties of the department pursuant to this chapter, including the verification of registration certificates and registry identification cards pursuant to section 19-24-15 or submission of the section 19-24-17 report to the legislature.

6. Nothing in this section precludes the following notifications:

- a. Department employees may notify state or local law enforcement about falsified or fraudulent information submitted to the department if the employee who suspects falsified or fraudulent information was submitted has conferred with his supervisor and both agree the circumstances warrant reporting.
- b. The department may notify state or local law enforcement about apparent criminal violations of this chapter if the employee who suspects the offense has conferred with his supervisor and both agree the circumstances warrant reporting.
- c. Department employees may notify the board of medical examiners if they have reason to believe that a practitioner provided a written certification without completing a full assessment of the qualifying patient's medical history and current medical condition or if the department has reason to believe the practitioner violated the standard of care, or for other suspected violations of this chapter.

#### **19-24-19. Presumption of medical use of marijuana - Protections - Civil penalty.**

1. There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana pursuant to this chapter.

a. The presumption exists if the qualifying patient or designated caregiver:

(1) Is in possession of a registry identification card; and

(2) Is in possession of an amount of marijuana that does not exceed the allowable amount of marijuana.

b. The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to this chapter.

2. A registered qualifying patient or registered designated caregiver is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau for:

a. The registered qualifying patient's medical use of marijuana pursuant to this chapter, if the registered qualifying patient does not possess more than the allowable amount of marijuana;

b. The registered designated caregiver assisting a registered qualifying patient to whom he is connected through the department's registration process with the registered qualifying patient's medical use of

- marijuana pursuant to this chapter if the registered designated caregiver does not possess more than the allowable amount of marijuana;
- c. Payment by a registered qualifying patient and receipt by the patient's registered designated caregiver for goods or services provided in assisting with the registered qualifying patient's medical use of marijuana;
  - d. Transferring marijuana to a safety compliance facility for testing;
  - e. Compensating a medical marijuana dispensary or a safety compliance facility for goods or services provided; or
  - f. Offering or providing marijuana to a registered qualifying patient, to a registered designated caregiver for a registered qualifying patient's medical use, to a visiting qualifying patient, or to a medical marijuana dispensary if nothing of value is transferred in return and the person giving the marijuana does not knowingly cause the recipient to possess more than the allowable amount of marijuana.
3. A visiting qualifying patient is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau for the medical use of marijuana pursuant to this chapter, if the visiting qualifying patient does not possess more than the allowable amount of marijuana.
4. A practitioner may not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by the North Dakota board of medical examiners or by any other business, occupational, or professional licensing board or bureau, based solely on providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition, but nothing in this chapter prevents a professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.
5. No person may be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:
- a. Providing or selling marijuana paraphernalia to a cardholder or to a medical marijuana organization upon presentation of a valid registry identification card or registration certificate;
  - b. Being in the presence or vicinity of the medical use of marijuana authorized under this chapter; or
  - c. Assisting a registered qualifying patient with administering marijuana as authorized by this chapter.
6. A medical marijuana dispensary or a medical marijuana dispensary agent is not subject to prosecution, search, or inspection, except by the department pursuant to 19-24-12(7), seizure, or penalty in any



manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and department rule to:

- a. Purchase or otherwise acquire marijuana from medical marijuana production facilities or from other medical marijuana dispensaries;
- b. Possess, deliver, transfer, or transport marijuana or related supplies and educational materials to or from other medical marijuana organizations;
- c. Provide or otherwise transfer marijuana to a safety compliance facility or to compensate a safety compliance facility for services or goods provided;
- d. Accept marijuana offered by a registered qualifying patient or a registered designated caregiver if nothing of value is transferred in return; or
- e. Dispense, supply, or sell marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other medical marijuana dispensaries.

7. A medical marijuana production facility or a medical marijuana production facility agent is not subject to prosecution, search, or inspection, except by the department pursuant to 19-24-12(7), seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and department rule to:

- a. Acquire, possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store marijuana;
- b. Purchase or otherwise acquire marijuana from another medical marijuana production facility or from a medical marijuana dispensary;
- c. Deliver, transfer, transport, supply, or sell marijuana to a medical marijuana dispensary; or
- d. Provide or otherwise transfer marijuana to a safety compliance facility or to compensate a safety compliance facility for services or goods provided.

8. A safety compliance facility or a safety compliance facility agent is not subject to prosecution, search, or inspection, except by the department pursuant to 19-24-12(7), seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and department rule to provide the following services:

- a. Acquiring, possessing, or transporting usable marijuana obtained from registered cardholders or medical marijuana organizations;
- b. Returning the usable marijuana to the registered cardholder or medical marijuana organization from

whom it was obtained;

- c. Producing or selling educational materials related to medical marijuana;
  - d. Producing, selling, or transporting equipment or materials other than marijuana to medical marijuana organizations or to cardholders, including lab equipment and packaging materials;
  - e. Testing usable marijuana, including for potency, pesticides, mold, or contaminants;
  - f. Providing training to cardholders; or
  - g. Receiving compensation for services or goods provided under this chapter.
9. Property, including all interests in the property, otherwise subject to forfeiture under chapter 19-03.1 that is possessed, owned, or used in connection with the medical use of marijuana authorized under this chapter or acts incidental to the medical use of marijuana authorized under this chapter, is not subject to seizure or forfeiture. This subsection does not prevent civil forfeiture if the basis for the forfeiture is unrelated to the medical use of marijuana.
10. Mere possession of, or application for, a registry identification card may not constitute probable cause or reasonable suspicion, nor may it be used to support the search of the person or property of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card does not preclude the existence of probable cause if probable cause exists on other grounds.
11. No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder and no landlord may be penalized or denied any benefit under state law for leasing to a registered medical marijuana organization.
12. An attorney may not be subject to disciplinary action by the state bar association or other professional licensing association for providing legal assistance to persons related to activity that is not subject to criminal penalties under state law pursuant to this chapter.

#### **19-24-20. Affirmative defense.**

- 1. Except as provided in section 19-24-02, a qualifying patient, a visiting qualifying patient, or a caregiver may assert the medical purpose for using marijuana as a defense to any prosecution of an offense involving marijuana intended for a qualifying patient's or visiting qualifying patient's medical use, and this defense must be presumed valid if the evidence shows that:
  - a. A person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence states that, in his professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition;

- b. The patient and the patient's caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition;
  - c. All marijuana plants were contained in an enclosed locked facility; and
  - d. The patient and the patient's caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, or transportation of marijuana, paraphernalia, or both, relating to the administration of marijuana solely to treat or alleviate the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
2. A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges must be dismissed following an evidentiary hearing if the person shows the elements listed in subsection 1.
3. If a patient or a patient's caregiver demonstrates the patient's medical purpose for using marijuana pursuant to this section, the patient and the patient's caregiver must not be subject to disciplinary action by a court or occupational or professional licensing board or forfeiture of any interest in or right to non-marijuana licit property for the patient's medical use of marijuana.

#### **19-24-21. Discrimination prohibited.**

1. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a cardholder, unless failing to do so would violate federal law or cause the school or landlord to lose a monetary or licensing-related benefit under federal law.
2. Except as provided in this chapter, a registered qualifying patient who uses marijuana for medical purposes is afforded all the same rights under state and local law, including those guaranteed under chapter 14-02.4, as the individual would have been afforded if he were solely prescribed pharmaceutical medications as it pertains to:
- a. Any interaction with the person's employer;
  - b. Drug testing by the person's employer; or
  - c. Drug testing required by a state or local law, agency, or government official.
3. The rights provided by subsection 2 do not apply to the extent that they conflict with an employer's obligations under federal law or rule or to the extent that they would disqualify an employer from a monetary or licensing-related benefit under federal law or rule.
4. For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana is the equivalent of the authorized use of any other medication used as directed by a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a

registered qualifying patient from medical care.

5. No person may be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

#### **19-24-22. Acts not required - Acts not prohibited.**

##### **1. Nothing in this chapter requires:**

- a. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana;
  - b. Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property; or
  - c. An employer to allow the ingestion of marijuana in any workplace or any employee to work while under the influence of marijuana, except a registered qualifying patient may not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
2. Nothing in this chapter prohibits an employer from disciplining an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

#### **19-24-23. Revocation.**

1. The department shall immediately revoke the registry identification card of a medical marijuana dispensary agent who violates section 19-24-24(2).
2. The department shall immediately revoke the registry identification card of a medical marijuana production facility agent who violates section 19-24-24(3).
3. The department shall immediately revoke the registry identification card of a safety compliance facility agent who violates section 19-24-24(4).
4. The department shall revoke the registry identification card of a medical marijuana dispensary agent who willfully provides marijuana to a registered qualifying patient or a registered designated caregiver if there is reason to believe that the patient is attempting to acquire an amount of marijuana that exceeds the patient's personal need.
5. The department may suspend or revoke the registry identification card of a medical marijuana organization agent for other violations of this chapter.

6. The department shall immediately revoke the registration certificate of a medical marijuana dispensary that violates section 19-24-24(2), and its board members and principal officers may not serve as board members or principal officers for any other medical marijuana dispensary.
7. The department shall immediately revoke the registration certificate of a medical marijuana production facility that violates section 19-24-24(3), and its board members and principal officers may not serve as board members or principal officers for any other medical marijuana dispensary.
8. The department shall immediately revoke the registration certificate of a safety compliance facility that violates section 19-24-24(4), and its board members and principal officers may not serve as board members or principal officers for any other medical marijuana dispensary.
9. The department shall immediately revoke the registry identification card of any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter.
10. The department may revoke the registry identification card of any cardholder who knowingly violates this chapter.
11. Revocation is a final decision of the department subject to judicial review pursuant to chapter 28-32. Jurisdiction and venue are vested in the district court of Burleigh County.

**19-24-24. Violations - Civil penalty - Classification.**

1. A registered qualifying patient, designated caregiver, or medical marijuana organization agent who willfully fails to comply with subsection 19-24-16(1), (2), or (3) is guilty of an infraction.
2. A medical marijuana dispensary or its agent may not willfully dispense, deliver, or otherwise transfer marijuana to a person other than another medical marijuana organization or its agent, a registered qualifying patient, or a registered qualifying patient's registered designated caregiver.
3. A medical marijuana production facility or its agent may not willfully deliver or otherwise transfer marijuana to a person other than a medical marijuana dispensary or its agent or a safety compliance facility or its agent.
4. A safety compliance facility or its agent may not willfully deliver or otherwise transfer marijuana to any person other than the registered qualifying patient, visiting qualifying patient, registered designated caregiver, medical marijuana dispensary or its agent, or medical marijuana production facility or its agent that provided the marijuana to the safety compliance facility for laboratory sampling or testing.
5. A practitioner may not refer patients to a medical marijuana organization or to a registered designated caregiver and shall not advertise in a medical marijuana organization. A person who willfully violates this subsection is guilty of an infraction.
6. A practitioner who holds a financial interest in a medical marijuana organization may not issue written certifications. A person who violates this subsection is guilty of an infraction.

7. It is a class A misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter.
8. A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is guilty of an infraction in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of marijuana not protected by this chapter.

#### **19-24-25. Medical marijuana fund - Private donations.**

1. The medical marijuana fund is established consisting of fees collected, civil penalties imposed, and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.
2. The director of the department may accept and spend private grants, gifts, donations, contributions, and devises to assist in carrying out the provisions of this chapter.
3. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.

#### **19-24-26. Enforcement of this act - Mandamus.**

1. If the department fails to adopt rules to implement this chapter within one hundred twenty days of the effective date of this chapter, any citizen may commence a mandamus action in the district court of Burleigh County to compel the department to perform the actions mandated under this chapter.
2. If the department fails to establish the verification system required by section 19-24-15 within one hundred twenty days of the effective date of this chapter, any citizen may commence a mandamus action in the district court of Burleigh County to compel the department to perform the actions mandated by this chapter.
3. If the department fails to issue a registry identification card within forty-five days of submission of a valid application or renewal, the registry identification card is deemed issued, and a copy of the registry identification card application or renewal is deemed a valid registry identification card.
4. If at any time after the one hundred forty days following the effective date of this chapter the department is not accepting applications or has not promulgated rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application pursuant to section 19-24-06, together with a written certification issued by a practitioner within the ninety days immediately preceding the notarized statement, are deemed a valid registry identification card.

#### **SECTION 2. Exemption from rule making**

For the purposes of this act, the department is exempt from the rule making requirements of chapter 28-32 for one year after the effective date of this act, except that the department shall provide the public with an opportunity to comment on proposed rules and shall publish otherwise exempted rules.

### INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

### QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			
26.			
27.			
28.			
29.			



Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
30.			
31.			
32.			
33.			
34.			
35.			
36.			
37.			
38.			
39.			
40.			
41.			
42.			
43.			
44.			
45.			



ALVIN A. JAEGER  
SECRETARY OF STATE

HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

September 4, 2012

PHONE (701) 328-2900  
FAX (701) 328-2992  
E-MAIL [sos@nd.gov](mailto:sos@nd.gov)

Exhibit 3

Steven Zaiser  
Chairman  
Sponsoring Committee  
802 7th Street S  
Fargo ND 58103-2706

RE: Proposed statutory initiative relating to using marijuana for medical purposes

Dear Mr. Zaiser,

On August 6, 2012, related to the subject initiative, I accepted delivery of 460 petitions containing 20,092 signatures. In accordance with the requirements of Section 6 of Article III of the North Dakota Constitution and state law, N.D.C.C. § 16.1-01-10, I have completed the required review to determine the sufficiency of the petitions. That is, whether the petitions contained a sufficient number of valid signatures of North Dakota electors to qualify the proposed measure for placement on the ballot for the election on November 6, 2012.

To place an initiated statutory amendment on the ballot requires that the petitions contain the valid signatures of 13,452 qualified North Dakota electors, which is equal to at least 2% of the resident population of North Dakota (as determined by the most recent federal census).

As summarized on the next page, the review conducted by my office (and based on an investigation conducted by the Bureau of Criminal Investigation) revealed that I am unable to accept at least 7,559 signatures. When that number is subtracted from the 20,092 signatures that were submitted on the petitions, the remaining balance is 12,533 or 919 signatures fewer than the required threshold of 13,452.

Therefore, the measure does not qualify for placement on the ballot for the November 6, 2012, election.

If you have questions or need additional information, please contact either Lee Ann Oliver, Election Specialist, at (701) 328-4146, (800) 352-0867, ext. 388-4146, through e-mail at [loliver@nd.gov](mailto:loliver@nd.gov) or me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alvin A. Jaeger".  
Alvin A. Jaeger  
Secretary of State

Breakdown of signature review

The following circulators are unwilling to re-affirm with their signature the following affidavit that appears on each of the petitions that he or she circulated.

"I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I reside at \_\_\_\_\_; that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be."

Consequently, I cannot accept the petitions they circulated containing the following number of signatures.

Boyd, Areal .....	1,030
Gatlin, Josh.....	705
Pierre, Brendin.....	1,132
Rodgers, Antonio.....	1,113
Shepherd, Bryan.....	929
Williams, Marcus .....	<u>1,136</u>

Total that cannot be accepted ..... 6,045

I also cannot accept the following signatures.

Bogus names.....	12
Circulator from out-of state.....	800
Petition not circulated in its entirety.....	174
No address associated with signature .....	175
Only a first name or a last name .....	35
No name .....	3
Signature with out-of-state address.....	244
Same person signed their own name and that of spouse/friend.....	39
No date appears on signature line beginning with first line.....	8
No date appears on signature line at the end .....	18
Date of signature was after the date the notarial act was executed .....	<u>6</u>

Total that cannot be accepted ..... 1,514

There was no random selection made of 2,000 names from the petitions for mailing postcards because the circulators had already indicated that they would not re-affirm that all of the signatures were genuine on the petitions they claimed to have circulated.

# The Forum

OF FARGO-MOORHEAD

LATE EDITION

WEDNESDAY, SEPTEMBER 5, 2012

INFORUM.COM

Exhibit 4

## UNDER REVIEW

### Bison players among 11 facing voter fraud charges



Marcus Williams



Brendin Pierre



Josh Colville



Sam Ojuri



Areal Boyd



Bryan Shephard



Demetrius Gray



Antonio Rodgers

Current NDSU players facing voter fraud charges

### Teammates helped circulate petitions for two measures

### No suspensions handed out

■ Backers of measures for medical marijuana, creation of land and water trust disappointed they won't be on ballot; those charged face up to year in jail, \$2,000 fine.

By Dave Olson  
dolson@forumcomm.com

BISMARCK – Eight current North Dakota State University football players and one former player are among 11 people expected to be charged with voter fraud tied to two attempts to place measures on this fall's general election ballot.

Backers of the measures pulled from the ballot expressed sadness Tuesday. "We're extremely disappointed that this alleged fraud occurred. We had no desires to be on the ballot in any other than a pure and honest way," said Stephen Adair, chairman of the committee backing a constitutional initiative that, had it passed, would have created a land and water conservation fund.

Steven Zaiser, chairman of the committee behind an initiative relating to legalizing marijuana for medical use, said Tuesday that he was still looking into details of the allegations and could not comment at length regarding them.

However, Zaiser said he was disappointed that an effort more than two years in the making and which he said sought to provide relief to chronic pain sufferers had apparently gone up in flames.

Four of the eight suspects in the voter fraud case who are Bison players are starters on the defending national championship football team. In a news

### How a petition gets approved (or not)

By Marino Eccher  
meccher@forumcomm.com

BISMARCK – The first mistake Lee Ann Oliver notices on a petition is that there aren't enough mistakes.

Every line is filled in completely. Every name is printed neatly. There are no abbreviations or illegible portions. None of the signatories is from out of state.

In a legitimate petition, that level of regularity is downright irregular.

"You don't run into that," Oliver said. "Once you just start hitting all the same colored ink and the same type of writing and all the 'f's in 'Fargo' look the same, you know the same person was doing it."

Oliver, an elections specialist with the North Dakota secretary of

PETITIONS: Page A11

conference Tuesday, NDSU head coach Craig Bohl said all eight will have their day in court. No suspensions were handed out Tuesday.

North Dakota Attorney General

FRAUD: Back Page

Former NDSU player facing voter fraud charge



Josh Gatlin

Former NDSU players named in case but not facing charges



Don Carter



D.J. McNorton

Current NDSU player named in case but not facing charge



Lucas Albers

### Bohl: Waiting for legal process to play out before deciding on discipline

■ Those named in case will dress for Colorado State game; head coach notified of investigation a couple of weeks ago.

By Jeff Kolpack  
jkolpack@forumcomm.com

FARGO – Seven North Dakota State football players who face voter fraud charges will be on the flight Saturday to Fort Collins for a game against Colorado State.

Head coach Craig Bohl said Tuesday he's going to wait for the legal process to play out before deciding on any discipline.

It was a stance backed up by his athletic director, Gene Taylor, who said the severity of the charges were the reason no immediate action was taken.

"The knowledge that we have in what goes on in an investigation in terms of seriousness – felony, violence, theft, DUI, sexual in nature – is very different than putting names on a petition," Taylor said. "And that's how we determined right now why

TEAM: Back Page

“

The knowledge that we have in what goes on in an investigation in terms of

seriousness – felony, violence, theft, DUI, sexual in nature – is very different than putting names on a petition. And that's how we determined right now why we're going to let somebody go through court and somebody who doesn't.

GENE TAYLOR,  
NDSU athletic director



## FRAUD

From Page A1

Wayne Stenehjelm and Secretary of State Al Jaeger identified the individuals who will face charges as: Aireal Boyd, Josh Colville, Josh Gatlin, Demetrius Gray, Jennifer Krahn, Lane O'Brien, Samuel Ojuri, Brendin Pierre, Antonio Rodgers, Bryan Shepherd and Marcus Williams.

Williams, Pierre, Colville, Ojuri, Boyd, Rodgers, Shepherd and Gray are all current members of the Bison team. Gatlin is a former player.

Suspects named in the case face charges of facilitation of voter fraud or filing a false statement, according to Stenehjelm and Jaeger, who said the Cass County state's attorney's office will handle the cases.

Assistant Cass County State's Attorney Cherie Clark said charges had not been filed as of Tuesday afternoon, and she said she could not discuss the cases.

According to the attorney general's office, the expected charges are Class A misdemeanors. A conviction could be punished by up to a year in jail and a \$2,000 fine.

According a statement released by Jaeger and Stenehjelm, criminal complaints claim that all circulators of a petition are required to sign an affidavit stating they witnessed all the signatures and that all signatures are genuine.

An investigation by the North Dakota Bureau of Criminal Investigation found that some statements submitted to the state were not correct and many of the individuals whose signatures appeared on the petitions had not signed them.

According to the statement, investigators believe the forged signature names

were lifted from telephone directories and cellphone contact lists of the circulators. Some were simply made up.

Letters sent from Jaeger's office to officials backing the initiated measures state that a number of individuals who circulated petitions are not willing to reaffirm their signatures to affidavits they submitted.

The list includes names of individuals Jaeger and Stenehjelm said will be charged, as well as names of individuals who, as of Tuesday, were not listed as suspects. The investigation is ongoing and additional charges against other individuals are possible, according to the statement released by Jaeger and Stenehjelm.

Petition circulators who are no longer willing to affirm their affidavits and who weren't named Tuesday as suspects include D.J. McNorton and Don Carter, two former NDSU football players, and Lucas Albers, who is currently a member of the team.

An individual named William Brown was also listed by Jaeger as a petition circulator who had signatures rejected. Brown's name was not on the list of suspects released Tuesday.

O'Brien, who was on the list of suspects, was the only one of the 11 suspects not mentioned in Jaeger's letters listing petition circulators whose petitions were later rejected.

Because of rejected petitions, both ballot initiatives fell short of the signatures they needed to be placed on the ballot in the November general election.

The medical marijuana initiative needed 13,452 signatures and 20,092 were submitted. It ended up being more than 900 signatures short, according to Jaeger's office.

The conservation fund, as a proposed constitutional amendment, required 26,904 signatures, and 37,785 were submitted. After losing the signatures the investigation found invalid, the petition drive came up 7,938 votes short, according to Jaeger's office.

"Petition fraud is an affront to the election process and to all citizens, and particularly to those who legitimately signed the petitions hoping to have these measures placed on the ballot. That's why it's essential that these allegations are investigated and violations prosecuted," Stenehjelm said in a written statement.

Jaeger said a petition has been disqualified because of signature fraud just one other time in his 19-plus years in office.

He said such misdeeds lead to good signatures being thrown out with the bad.

"There's a lot of people that had interest in this and signed it legitimately, and I'm sure they're disappointed," he said.

Jaeger, a Republican, said political considerations played no role in rejecting the two left-leaning measures – or any ballot measure his office evaluates.

"We do our job," he said. "It doesn't make any difference what the subject is or what my personal opinion

is; they're all treated the same way."

Zaiser said it was his understanding that backers of the medical marijuana initiative hired people to circulate petitions, adding that workers were paid on an hourly basis, not by the number of signatures collected. Petition advocates spent about \$45,000 to hire workers to collect signatures, The Associated Press reported last month.

Adair said the group behind the conservation fund initiative hired a company out of Iowa – Terra Strategies – to coordinate its petition drive.

He said workers were to be paid \$9 an hour.

Adair added that initiative officials are looking into the possibility of getting a refund of the approximately \$140,000 paid to Terra Strategies.

He said that based on information released by state officials, initiative backers have accepted the decision to pull the conservation fund measure from the ballot.

Zaiser said it had not been decided whether an effort would be made to fight the decision to pull the medical marijuana initiative from the ballot.

A phone call to Terra Strategies was not returned Tuesday.

Readers can reach Forum reporter Dave Olson at (701) 241-5555. Reporters Marino Echer and Jeff Kolpack contributed to this report.



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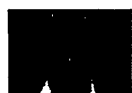
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## N.D. initiatives rejected, petition fraud alleged

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September 04, 2012 11:20 pm • By NICK SMITH | Bismarck Tribune



North Dakota Secretary of State Al Jaeger, right, and Attorney General Wayne Stenehjem announced two ballot measures have been disqualified from the November ballot at a press conference Tuesday morning in the state Capitol in Bismarck. Jaeger is holding a tray filled with postcards that were incorrect addresses of voters. The bins at right contain petitions with signatures in question.

Enlarge Photo

BISMARCK, N.D. - Eleven paid petition circulators have been charged with facilitating election fraud and filing false statements in gathering signatures for two proposed November ballot measures.

Secretary of State Al Jaeger announced Tuesday morning that the fraudulent signatures have disqualified the proposed state conservation fund measure and medical marijuana initiatives from the ballot.

Jaeger said as signatures were reviewed by staff it became apparent that petition circulators were engaged in some potentially fraudulent practices. Jaeger reported the matter to Attorney General Wayne Stenehjem a couple of weeks ago and an investigation was launched.

"My staff and I take that responsibility very seriously," Jaeger said.

Stenehjem said 11 people were charged following questioning by investigators from the Bureau of Criminal Investigation in recent weeks. The 11 are each facing charges of facilitation of voter fraud or filing false statements. The charge is a Class A misdemeanor with a maximum penalty of one year's imprisonment, \$2,000 in fines or both.

### 11 charged

Eight of the 11 facing charges are current North Dakota State University football players. Four of them are starters: running back Samuel Ojuri, defensive backs Marcus Williams and Brendin Pierre, and offensive lineman Josh Colville. Backup defensive backs Bryan Shepherd and Aireal Boyd, reserve middle linebacker Antonio Rodgers and Demitrius Gray, a freshman wide receiver, also face charges. Gray is a redshirt and does not travel with the team. Players were paid \$9 an hour to collect signatures for the two initiatives.

NDSU Bison coach Craig Bohl said the players will still be eligible to play in Saturday's game against Colorado State. Any disciplinary action against the players would occur after legal proceedings have ended, he said.

Jeff Schwartz, director of athletic media relations at NDSU, said there was no further comment at this time beyond Tuesday's press conference.

The other three charged are Josh Gatlin, Jennifer Krahn and Lane O'Brien.

"Petition fraud is an affront to the election process and to all citizens, particularly to those who legitimately signed the petitions hoping to have these measures placed on the ballot," Stenehjem said.



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### Flyerboard



Sponsoring committee members for the state conservation measure turned in 37,785 signatures on Aug. 6. A total of at least 17,034 signatures have been rejected, dropping the number of valid signatures to 18,966. That is 7,938 short of the 26,904 needed for the proposed constitutional initiative to appear on the ballot.

#### Medical marijuana

With the medical marijuana initiative, a total of 7,559 signatures were rejected. The sponsoring committee for the medical marijuana initiative had turned in 20,092 signatures. The rejected signatures dropped the total signatures to 12,533, or 919 short of the 13,452 needed for the statutory initiative to appear on the ballot.

Supporters for both measures paid outside firms to collect signatures. The North Dakotans for Clean Water, Lands and Outdoor Heritage group paid Terra Strategies, a Des Moines, Iowa, consulting firm, more than \$145,000 to collect signatures. Messages left with Terra Strategies on Tuesday weren't returned.

Proponents of the medical marijuana measure paid a firm about \$45,000.

Jaeger said there were approximately a dozen bogus names located among the medical marijuana signatures. He said some of the bogus names were creative, including the likes of Jesse James, characters from the animated television program "Family Guy" and Hillary Rodham, a reference to the U.S. secretary of state.

Jaeger said the investigation revealed that several of the paid petition circulators had forged signatures by a variety of methods, including taking names from phone books, cellphone contact lists and making up false names.

Jaeger said all petition circulators are required to sign an affidavit swearing that all signatures turned in are legitimate and they witness to each signature being attained.

It's been nearly 20 years since a measure in North Dakota has been disqualified from the ballot following voter fraud charges against petition circulators. Eight people were charged in 1994 for voter fraud while circulating petitions for a proposed measure that would have imposed term limits on legislators.

Six people were charged with voter fraud in 2006 in a child custody and support measure and two people were charged in 2008 with voter fraud involving a proposed income tax measure. In the 2006 and 2008 cases, the measures still had enough valid signatures to remain on the ballot.

#### Conservation

Stephen Adair, sponsoring committee chairman for North Dakotans for Clean Water, Lands and Outdoor Heritage, issued a statement on the disqualification of the proposed conservation measure. Adair is also director of the Bismarck regional office of national conservation group Ducks Unlimited.

Adair said he was disappointed by what had transpired among a number of the paid petition circulators. He said he felt "sick to my stomach" when informed over the holiday weekend by the attorney general's office of the charges and ballot disqualification.

"The North Dakotans who signed our petitions in good faith, our coalition partners and hundreds of volunteers have borne a heavy cost of this fraud," Adair said.

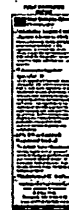
Adair said North Dakotans for Clean Water, Lands and Outdoor Heritage is cooperating fully with state officials and BCI. He said nearly \$500,000 in advertising had been reserved for this fall by the group. Adair said it will now likely seek reimbursement. Adair said the group may also take legal action against the firm it hired, to recoup costs from the failed petition effort.

North Dakota Chamber of Commerce President Andy Peterson said it was gratifying to see that the conservation measure won't be on the November ballot. Peterson is also a spokesman for the People First of North Dakota Coalition, which opposed the measure.

"I think at the end of the day, North Dakotans would have looked at the measure and rejected it out of hand," Peterson said.

Peterson said he was surprised when he learned of the voter fraud charges in the petition-gathering process. However, he called the failure of the measure "good in the long run." He said if the proponents of the measure come to the table with officials and the Legislature, a better alternative for strengthening conservation may come of it. Peterson said when an initiative is proposed, whether good or bad, it's proper to have active discussion take place.

"I think this will show that the people of North Dakota do care about conservation," Peterson said.



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With the two measures being disqualified from the ballot, five other measures remain. Three are on the ballot through petitions and two are on the ballot through action of the state Legislature.

The three measures on the ballot by petition are a statewide public smoking ban, increased penalties for animal cruelty and a constitutional guarantee of farmers' and ranchers' right to farm using modern methods. The two measures by legislative action are a repeal of the annual poll tax and a requirement for members of the executive branch of government to take an oath of office.

Reach Nick Smith at 250-8255 or 223-8482 or at [nick.smith@bismarcktribune.com](mailto:nick.smith@bismarcktribune.com).

**Tags** North Dakota, Petition, Fraud, Alvin Jaeger, Al Jaeger, Wayne Stenehjem, Initiative, Ballot, Cruelty To Animals, Bismarck, Secretary Of State, Attorney General, Politics, North Dakota State University, Craig Bohl, Bureau Of Criminal Investigation, Stephen Adair, Demetrius Gray, Brendin Pierre, Josh Colville, Marcus Williams, Samuel Ojuri, Aired Boyd, Antonio Rodgers, Bryan Shepherd, Andy Peterson, Jeff Schwartz, Josh Gattlin, Jennifer Krahn, Conservation, North Dakota Chamber Of Commerce

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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

Exhibit 5

State of North Dakota,

Plaintiff,

vs.

Aireal Boyd,

Defendant(s).

INFORMATION

09-2012-CR-03234

SA#12-CR-00805

The Cass County State's Attorney charges that the above-named defendant(s) committed the following offense in Cass County, North Dakota:

Count 1: ELECTION OFFENSE in violation of Section 16.1-01-12(9), N.D.C.C. in that on or about between January 1, 2012 and August 30, 2012: The defendant, intentionally signed a name, other than that person's own name, to an initiative, referendum, recall, or any other election petition, to-wit: that on or about the above-stated date, the defendant, **AIREAL BOYD**, intentionally signed a name to an initiative petition other than his own name.

Against the peace and dignity of the State of North Dakota.

State's Witnesses:

Dated: September 06, 2012

Special Agent Mark Nickel

Lucas Albers

Don Carter

Charles Smith III

William Brown

Darren McNorton, Jr.

Marcus Williams

Josh Colville

Jennifer Krah

Lane O'Brien

Samuel Ojuri

Josh Gatlin

Demitrius Gray

Bryan Shepherd

Brendin Pierre

Antonio Rodgers

Penalty Section:

Count 1: 16.1-01-12(9)

Class A Misdemeanor



Cherie L. Clark, NDID #06306

Assistant State's Attorney

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

CASS COUNTY, ND

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

**ORIGINAL**

EAST CENTRAL JUDICIAL DISTRICT

State of North Dakota,

Plaintiff,

vs.

Joshua Rashuad Gatlin,

Defendant(s).

**INFORMATION**

09-2012-CR- 03242

SA#12-CR-00815

The Cass County State's Attorney charges that the above-named defendant(s) committed the following offense in Cass County, North Dakota:

**Count 1: ELECTION OFFENSE** in violation of Section 16.1-01-12(9), N.D.C.C. in that on or about between January 1, 2012 and August 30, 2012: The defendant, intentionally signed a name, other than that person's own name, to an initiative, referendum, recall, or any other election petition, to-wit: that on or about the above-stated date, the defendant, **JOSHUA RASHUAD GATLIN**, intentionally signed a name to an initiative petition other than his own name.

Against the peace and dignity of the State of North Dakota.

State's Witnesses:

Dated: September 06, 2012

Special Agent Mark Nickel

Aireal Boyd

Lucas Albers

Don Carter

Charles Smith III

William Brown

Darren McNorton, Jr.

Marcus Williams

Josh Colville

Jennifer Krahn

Lane O'Brien

Samuel Ojuri

Demitrius Gray

Bryan Shepherd


Brendin Pierre

Antonio Rodgers

Penalty Section:

Count 1: 16.1-01-12(9)

Class A Misdemeanor

  
Cherie L. Clark, NDID #06306

Assistant State's Attorney

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

CASS COUNTY, ND

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

State of North Dakota,

Plaintiff,

vs.

Brendin Pierre,

Defendant(s).

INFORMATION

09-2012-CR-63239

SA#12-CR-00817

The Cass County State's Attorney charges that the above-named defendant(s) committed the following offense in Cass County, North Dakota:

**Count 1: ELECTION OFFENSE** in violation of Section 16.1-01-12(9), N.D.C.C. in that on or about between January 1, 2012 and August 30, 2012: The defendant, intentionally signed a name, other than that person's own name, to an initiative, referendum, recall, or any other election petition, to-wit: that on or about the above-stated date, the defendant, **BRENDIN PIERRE**, intentionally signed a name to an initiative petition other than his own name.

Against the peace and dignity of the State of North Dakota.

State's Witnesses:

Dated: September 06, 2012

Special Agent Mark Nickel

Aireal Boyd

Lucas Albers

Don Carter

Charles Smith III

William Brown

Darren McNorton, Jr.

Marcus Williams

Jennifer Krahn

Lane O'Brien

Samuel Ojuri

Josh Gatlin

Demitrius Gray

Bryan Shepherd

Josh Colville

Antonio Rodgers

Penalty Section:

Count 1: 16.1-01-12(9)

Class A Misdemeanor

  
Cherie L. Clark, NDID #06306  
Assistant State's Attorney

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

CASS COUNTY, ND

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

State of North Dakota,

Plaintiff,

vs.

Antonio Rodgers,

Defendant(s).

INFORMATION

09-2012-CR-03243

SA#12-CR-00816

The Cass County State's Attorney charges that the above-named defendant(s) committed the following offense in Cass County, North Dakota:

**Count 1: ELECTION OFFENSE** in violation of Section 16.1-01-12(9), N.D.C.C. in that on or about between January 1, 2012 and August 30, 2012: The defendant, intentionally signed a name, other than that person's own name, to an initiative, referendum, recall, or any other election petition, to-wit: that on or about the above-stated date, the defendant, **ANTONIO RODGERS**, intentionally signed a name to an initiative petition other than his own name.

Against the peace and dignity of the State of North Dakota.

State's Witnesses:

Dated: September 06, 2012

Special Agent Mark Nickel

Aireal Boyd

Lucas Albers

Don Carter

Charles Smith III

William Brown

Darren McNorton, Jr.

Marcus Williams

Josh Colville

Jennifer Krahn

Lane O'Brien

Samuel Ojuri

Josh Gatlin

Demitrius Gray

Bryan Shepherd

Brendin Pierre

Penalty Section:

Count 1: 16.1-01-12(9)

Class A Misdemeanor

Cherie L. Clark, NDID #06306

Assistant State's Attorney

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

CASS COUNTY, ND

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

State of North Dakota,  
  
Plaintiff,

vs.

Bryan Shepherd,  
  
Defendant(s).

**INFORMATION**

09-2012-CR-03225

SA#12-CR-00810

The Cass County State's Attorney charges that the above-named defendant(s) committed the following offense in Cass County, North Dakota:

**Count 1: ELECTION OFFENSE** in violation of Section 16.1-01-12(9), N.D.C.C. in that on or about between January 1, 2012 and August 30, 2012: The defendant, intentionally signed a name, other than that person's own name, to an initiative, referendum, recall, or any other election petition, to-wit: that on or about the above-stated date, the defendant, **BRYAN SHEPHERD**, intentionally signed a name to an initiative petition other than his own name.

Against the peace and dignity of the State of North Dakota.

State's Witnesses:

Dated: September 06, 2012

Special Agent Mark Nickel  
Aireal Boyd  
Lucas Albers  
Don Carter  
Charles Smith III  
William Brown  
Darren McNorton, Jr.  
Marcus Williams  
Josh Colville  
Jennifer Krahm  
Lane O'Brien  
Samuel Ojuri  
Josh Gatlin  
Demitrius Gray  
Brendin Pierre  
Antonio Rodgers

Penalty Section:

Count 1: 16.1-01-12(9)

Class A Misdemeanor

  
Cherie L. Clark, NDID #06306  
Assistant State's Attorney

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

CASS COUNTY, ND

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

State of North Dakota,

Plaintiff,

vs.

Marcus Williams,

Defendant(s).

**ORIGINAL**

**INFORMATION**

09-2012-CR-03232

SA#12-CR-00818

The Cass County State's Attorney charges that the above-named defendant(s) committed the following offense in Cass County, North Dakota:

Count 1: ELECTION OFFENSE in violation of Section 16.1-01-12(9), N.D.C.C. in that on or about between January 1, 2012 and August 30, 2012: The defendant, intentionally signed a name, other than that person's own name, to an initiative, referendum, recall, or any other election petition, to-wit: that on or about the above-stated date, the defendant, **MARCUS WILLIAMS**, intentionally signed a name to an initiative petition other than his own name.

Against the peace and dignity of the State of North Dakota.

State's Witnesses:

Dated: September 06, 2012

Special Agent Mark Nickel

Lucas Albers

Don Carter

Charles Smith III

William Brown

Darren McNorton, Jr.

Aireal Boyd

Josh Colville

Jennifer Krahm

Lane O'Brien

Samuel Ojuri

Josh Gatlin

Demitrius Gray

Bryan Shepherd

Brendin Pierre

Antonio Rodgers

Penalty Section:

Count 1: 16.1-01-12(9)

Class A Misdemeanor

  
Cherie L. Clark, NDID #06306

Assistant State's Attorney

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

CASS COUNTY, ND

TK



REPORT OF INVESTIGATION  
OFFICE OF ATTORNEY GENERAL  
BUREAU OF CRIMINAL INVESTIGATION  
SFN 17346 (03/99)

U 1-2012-CK-03242

CIC  
12 CR-875  
Gatlin bsh  
Page 1 of 3

Exhibit 6

Case Number: 120527 Agent: S/A Nickel  
Type of Report: Supplement 05  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: The North Dakota Medical Marijuana Act Petition  
Report Title: JOSH GATLIN Interview  
Date of Offense: 05/01/2012 thru 08/23/2012  
Date of Activity: 08/22/2012 thru 08/23/2012  
Location: North Dakota

This report has been approved by Special Agent Nickel  
and by Chief Agent Grabowska.

RECEIVED  
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CASS COUNTY  
STATES ATTORNEY OFFICE

SYNOPSIS:

The North Dakota Secretary of State's office requested the assistance of the North Dakota Attorney General's office with investigating possible violations of election laws regarding petitions that had been circulated for the North Dakota Medical Marijuana Initiative. On August 22, 2012, S/A Mark Nickel interviewed petition circulator JOSH GATLIN.

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Bismarck

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

DETAILS: (ALL TIMES ARE APPROXIMATE)

CASS COUNTY, ND

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with JOSH GATLIN. JOSH GATLIN had circulated a number of petitions for the North Dakota Medical Marijuana Initiative.
2. Prior to questioning JOSH GATLIN, S/A Nickel advised JOSH GATLIN of his Miranda Rights. JOSH GATLIN acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by JOSH GATLIN. For a verbatim account of the interview, please refer to the CD-R disc containing the audio recording of the interview:
  - A. JOSH GATLIN stated that he got a job circulating petitions for the North Dakota Medical Marijuana Initiative during the summer of 2012. JOSH GATLIN stated that he worked for a guy named Dave, but did not know Dave's last name.
  - B. JOSH GATLIN stated that he was paid an hourly rate, but



Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 2 of 3

was not sure what the hourly rate was. JOSH GATLIN stated that the only thing he was told was that the petition was to legalize marijuana in North Dakota.

- C. JOSH GATLIN stated that he had the circulator's affidavit portion of the petitions he circulated notarized at Wells Fargo Bank.
- D. JOSH GATLIN stated that every signature he turned in for the North Dakota Medical Marijuana Initiative was a forged signature. JOSH GATLIN stated that he did not obtain one (1) legitimate signature on his petitions. JOSH GATLIN stated that he and his friends passed around a phone book and signed names from the phone book to fill up the petitions.

4. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

- 1. One (1) CD-R disc containing the audio recording of the interview of JOSH GATLIN on August 22, 2012, remains in the custody of S/A Mark Nickel at the Fargo office of the North Dakota Bureau of Criminal Investigation (NDBCI).

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 3

PERSON REPORTS:

GATLIN, JOSH

Subject  
2550 15th St S #30, Fargo, ND  
Home Phone: (904)994-8015  
Male, Black  
Hair: BLK, Eyes: BRO  
Additional Comments:  
No OLN or SSN available.

ATTACHMENTS:

1 - GATLIN's Qualified Electors Signatures (36 Pgs), 07/19/2012

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach  
PHIL PFENNIG, NDBCI BISMARCK, BISMARCK, ND, w/attach  
BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach  
TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach



**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
SFN 17346 (03/99)

CLC  
12-CR-810  
Shepherd, Bryan  
Page 1 of 4

Case Number: 120528 Agent: S/A Nickel  
Type of Report: Supplement - 04  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: Clean Water, Lands & Outdoor Heritage Fund & Bd Petition  
Report Title: BRYAN SHEPHERD Interview  
Date of Offense: 01/01/2012 thru 08/17/2012  
Date of Activity: 08/22/2012 thru 08/23/2012  
Location: North Dakota

This report has been approved by Special Agent Nickel and by Chief Agent Grabowska.

RECEIVED  
AUG 31 2012

CASS COUNTY  
STATES ATTORNEY OFFICE

SYNOPSIS:

The North Dakota Secretary of State's Office requested the assistance of the North Dakota Attorney General's Office with investigating possible violations of election laws regarding petitions that had been circulated for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. On August 22, 2012, S/A Mark Nickel interviewed Petition Circulator BRYAN SHEDHERD.

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Fargo

DETAILS:

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with BRYAN SHEPHERD. BRYAN SHEPHERD had circulated a number of petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative.
2. Prior to questioning BRYAN SHEPHERD, S/A Nickel advised BRYAN SHEPHERD of his Miranda Rights. BRYAN SHEPHERD acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by BRYAN SHEPHERD. For a verbatim account of the interview, refer to the CD-R disc containing the audio recording of the interview.
4. BRYAN SHEPHERD stated that he was referred to the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative to circulate petitions by a friend who was already circulating the petitions.
5. BRYAN SHEPHERD stated that Katherine (Ranft) was the person in charge of the Clean Water, Lands and Outdoor Heritage

Case: 120528  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 2 of 4

Fund and Board Initiative Petition circulators. BRYAN SHEPHERD stated that he was told that he was not being paid by the signature, but was expected to get at least sixty (60) signatures per eight (8) hour shift. BRYAN SHEPHERD stated that he was paid between Eighty Dollars (\$80) and Ninety Dollars (\$90) per eight (8) hour shift. BRYAN SHEPHERD stated that petition circulators could receive a bonus for getting extra signatures, but he could not remember exactly how many signatures were needed or how much the bonus was.

6. BRYAN SHEPHERD admitted that he forged names on the petitions he circulated. BRYAN SHEPHERD estimated that over half (1/2) of the signatures he turned in to the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative were forged signatures. BRYAN SHEPHERD estimated that approximately sixty (60) percent of the signatures listed on his petitions were forged signatures. BRYAN SHEPHERD stated that he would use the phone book to come up with last names and would make up first (1st) names to sign on the petitions. BRYAN SHEPHERD stated that he also had friends forge names on the petitions he was circulating. BRYAN SHEPHERD stated that he forged names on the petitions to get the quota of signatures he needed.
7. BRYAN SHEPHERD acknowledged that it was his signature on the petition affidavits he turned in. BRYAN SHEPHERD stated that he would sign a bunch of the affidavits at one (1) time to make it easier for Katherine (Ranft). BRYAN SHEPHERD stated that Katherine Ranft was always around somewhere in the building when he signed the affidavits, but she did not sit and watch him sign each individual affidavit.
8. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General Wayne Stenehjem, Secretary of State Al Jaeger, and Chief Agent (C/A) Phil Pfennig. Attorney General Stenehjem requested that S/A Nickel speak with BRYAN SHEPHERD and other petition circulators that had also admitted to forging qualified elector signatures on petitions. Attorney General Stenehjem wanted S/A Nickel to determine if BRYAN SHEPHERD or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated and if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.
9. S/A Nickel met with BRYAN SHEPHERD and his friends who had

Case: 120528  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. BRYAN SHEPHERD indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.

10. S/A Nickel also spoke with the group about how they were paid by the company that hired them to circulate the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions. Everyone agreed that during their initial orientation, they were told that they would receive Ninety Dollars (\$90) per eight (8) hour shift and they were expected to obtain sixty (60) signatures. Everyone agreed that they were also told during orientation that they would receive a bonus of between Ten Dollars (\$10) to Twenty Dollars (\$20) if they obtained eighty (80) or more signatures during an eight (8) hour shift. Everyone agreed that it appeared that everyone circulating the petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative was advised of the pay and bonus quotas.
11. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the interview of BRYAN SHEPHERD on August 22, 2012 remains in the custody of S/A Nickel at the North Dakota Bureau of Criminal Investigation (NDBCI) Office in Fargo, North Dakota.
2. One (1) CD-R disc containing the audio recording of the interview of BRYAN SHEPHERD and his friends who also circulated petitions on August 23, 2012 remains in the custody of S/A Nickel at the NDBCI Office in Fargo, North Dakota.

Case: 120528  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 4 of 4

PERSON REPORTS:

SHEPHERD, BRYAN

Subject  
1132 16th St N #11, Fargo, ND  
Home Phone: (913)687-8757  
DOB: 03/03/1991  
Male, Black  
Hgt: 5'10", Wgt: 179  
Hair: BLK, Eyes: BRO  
Additional Comments:  
SS# or DL# not available.

ATTACHMENTS:

1 - SHEPHERD's Qualified Electors Signatures (35 Pgs), / /

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach  
PHIL PFENNIG, NDBCI BISMARCK, BISMARCK, ND, w/attach  
BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach  
TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach



**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
 SFN 17346 (03/99)

Page 1 of 4

Case Number: 120527 Agent: S/A Nickel  
 Type of Report: Supplement - 04  
 Agency Assisted: ND Secretary of State  
 Nature of Case: Election Law Violation  
 Case Title: The North Dakota Medical Marijuana Act Petition  
 Report Title: BRYAN SHEPHERD Interview  
 Date of Offense: 05/01/2012 thru 08/23/2012  
 Date of Activity: 08/22/2012 thru 08/23/2012  
 Location: North Dakota

This report has been approved by Special Agent Nickel  
 and by Chief Agent Grabowska.

**RECEIVED**  
 AUG 31 2012

CASS COUNTY  
 STATES ATTORNEY OFFICE

SYNOPSIS:

The North Dakota Secretary of State's office requested the assistance of the North Dakota Attorney General's office with investigating possible violations of election laws regarding petitions that had been circulated for the North Dakota Medical Marijuana Initiative. On August 22, 2012, S/A Mark Nickel interviewed petition circulator BRYAN SHEPHERD.

PERSONNEL ASSIGNED:

FILED-CLERK OF DISTRICT COURT

S/A Mark Nickel, NDBCI/Fargo

SEP 07 2012

DETAILS: (ALL TIMES ARE APPROXIMATE)

CASS COUNTY, ND

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with BRYAN SHEPHERD. BRYAN SHEPHERD had circulated a number of petitions for the North Dakota Medical Marijuana Initiative.
2. Prior to questioning BRYAN SHEPHERD, S/A Nickel advised BRYAN SHEPHERD of his Miranda Rights. BRYAN SHEPHERD acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by BRYAN SHEPHERD. For a verbatim account of the interview, please refer to the CD-R disc containing the audio recording of the interview:
  - A. BRYAN SHEPHERD stated that he worked for the North Dakota Medical Marijuana Initiative circulating the petitions.
  - B. BRYAN SHEPHERD stated that a guy named Dave was in charge of the petition circulators. BRYAN SHEPHERD stated that Dave was not organized and appeared to just

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 2 of 4

want signatures. BRYAN SHEPHERD stated that there did not appear to be any structure to the process Dave had for obtaining signatures. BRYAN SHEPHERD stated that he was paid by the hour but was expected to get at least fifty (50) signatures per eight (8) hour shift.

C. BRYAN SHEPHERD admitted that he forged names on the petitions he circulated. BRYAN SHEPHERD stated that most of the signatures that he turned in for the North Dakota Medical Marijuana Initiative were forged signatures. BRYAN SHEPHERD stated that he would use the phone book to come up with last names and would make up first names to sign on the petitions. BRYAN SHEPHERD stated that he also had friends forge names on the petitions he was circulating. BRYAN SHEPHERD stated that he forged names on the petitions to get the quota of signatures he needed.

4. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General (AG) Wayne Stenehjem, Secretary of State Al Jaeger, and C/A Phil Pfennig. AG Stenehjem requested that S/A Nickel speak with BRYAN SHEPHERD and other petition circulators that had also admitted to forging qualified elector signatures on petitions. AG Stenehjem wanted S/A Nickel to determine if BRYAN SHEPHERD or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated and, if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.
5. S/A Nickel met with BRYAN SHEPHERD and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. BRYAN SHEPHERD indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
6. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the interview of BRYAN SHEPHERD on August 22, 2012, remains in the custody of S/A Mark Nickel at the Fargo office of the North Dakota Bureau of Criminal Investigation (NDBCI).



Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

2. One (1) CD-R disc containing the audio recording of the interview of BRYAN SHEPHERD and his friends (who also circulated petitions) on August 23, 2012, remains in the custody of S/A Nickel at the Fargo office of the NDBCI.

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 4 of 4

PERSON REPORTS:

SHEPHERD, BRYAN

Subject  
1132 16th St N #11, Fargo, ND  
Home Phone: (913)687-8757  
DOB: 03/03/1991  
Male, Black  
Hgt: 5'10", Wgt: 179  
Hair: BLK, Eyes: BRO  
Additional Comments:  
No OLN or SSN available.

ATTACHMENTS:

1 - SHEPHERD's Qualified Electors Signatures (4 Pgs), 07/26/2012

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach  
PHIL PFENNIG, NDBCI BISMARCK, BISMARCK, ND, w/attach  
BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach  
TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach



**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
 SFN 17346 (03/99)

Page 1 of 4

Case Number: 120527 Agent: S/A Nickel  
 Type of Report: Supplement - 01  
 Agency Assisted: ND Secretary of State  
 Nature of Case: Election Law Violation  
 Case Title: The North Dakota Medical Marijuana Act Petition  
 Report Title: AIREAL BOYD Interview  
 Date of Offense: 05/01/2012 thru 08/23/2012  
 Date of Activity: 08/22/2012 thru 08/23/2012  
 Location: North Dakota

This report has been approved by Special Agent Nickel  
 and by Chief Agent Grabowska.

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

SYNOPSIS:

The North Dakota Secretary of State's office requested the assistance of the North Dakota Attorney General's office with investigating possible violations of election laws regarding petitions that had been circulated for the North Dakota Medical Marijuana Initiative. On August 22, 2012, S/A Mark Nickel interviewed petition circulator AIREAL BOYD. CASS COUNTY, ND  
TK

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Fargo

RECEIVED  
 AUG 31 2012

DETAILS: (ALL TIMES ARE APPROXIMATE)

CASS COUNTY  
 STATES ATTORNEY OFFICE

1. On August 22, 2012, S/A Mark Nickel conducted an interview with AIREAL BOYD. AIREAL BOYD had circulated a number of petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. S/A Nickel attempted to record the interview, but a recorder malfunction occurred so only the first nine (9) seconds of the interview were recorded.
2. Prior to questioning AIREAL BOYD, S/A Nickel advised AIREAL BOYD of his Miranda Rights. AIREAL BOYD acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by AIREAL BOYD:
  - A. AIREAL BOYD stated that he worked for Dave Schwarz circulating petitions for the North Dakota Medical Marijuana Initiative. AIREAL BOYD stated Dave Schwarz was not organized. AIREAL BOYD stated that Dave Schwarz paid AIREAL BOYD One Hundred Dollars (\$100) per eight (8) hour shift. AIREAL BOYD stated that Dave Schwarz expected AIREAL BOYD to get at least fifty (50) signatures during an eight (8) hour shift. AIREAL BOYD

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
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stated that if he did not get at least fifty (50) signatures, Dave Schwarz would have fired him. AIREAL BOYD stated that Dave Schwarz later offered to pay AIREAL BOYD One Hundred Ten Dollars (\$110) a day if AIREAL BOYD got more than seventy (70) signatures in an eight (8) hour shift.

B. AIREAL BOYD stated that he circulated the petition by going door to door, walking around downtown, and working at public events. AIREAL BOYD stated that he felt pressure to reach his quota of signatures. AIREAL BOYD stated that he forged names on his petitions and had friends forge additional names. AIREAL BOYD stated that he used the phone book and sometimes just made up names to sign on the petitions. AIREAL BOYD stated that he had friends write the names of their friends on his petitions using their cellular phone contact lists to come up with names. AIREAL BOYD could not come up with an estimate of what percent of the signatures he turned in were legitimate versus forged, but did indicate that he thought he turned in more legitimate signatures than forged signatures.

4. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General (AG) Wayne Stenehjem, Secretary of State Al Jaeger, and C/A Phil Pfennig. AG Stenehjem requested that S/A Nickel speak with AIREAL BOYD and other petition circulators that had also admitted to forging qualified elector signatures on petitions. AG Stenehjem wanted S/A Nickel to determine if AIREAL BOYD or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated and, if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.
5. S/A Nickel met with AIREAL BOYD and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. AIREAL BOYD indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
6. This investigation continues.

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Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the first nine (9) seconds of the interview of AIREAL BOYD on August 22, 2012, remains in the custody of S/A Mark Nickel at the Fargo office of the North Dakota Bureau of Criminal Investigation (NDBCI).
2. One (1) CD-R disc containing the audio recording of the interview of AIREAL BOYD and his friends (who also circulated petitions) on August 23, 2012, remains in the custody of S/A Nickel at the Fargo office of the NDBCI.

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 4 of 4

PERSON REPORTS:

BOYD, AIREAL

Subject

1441 11th Ave N #12, Fargo, ND

Home Phone: (281)917-2203

DOB: 09/10/1989

Male, Black

Hgt: 6'01", Wgt: 184

Hair: BLK, Eyes: BRO

Additional Comments:

No OLN or SSN available.

Schwarz, Dave

Mentioned

ATTACHMENTS:

1 - BOYD's Qualified Electors Signatures (2 Pgs), 07/26/2012

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach

PHIL PFENNIG, NDBCI BISMARCK, BISMARCK, ND, w/attach

BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach

TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach



**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
SFN 17346 (03/99)

11C  
19 CR-805  
Boyd, Ariel  
Page 1 of 4

Case Number: 120528 Agent: S/A Nickel  
Type of Report: Supplement - 01  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: Clean Water, Lands & Outdoor Heritage Fund & Bd Petition  
Report Title: AIREAL BOYD Interview  
Date of Offense: 01/01/2012 thru 08/17/2012  
Date of Activity: 08/22/2012 thru 08/23/2012  
Location: North Dakota

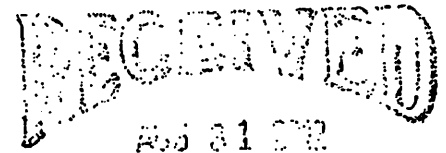
This report has been approved by Special Agent Nickel  
and by Chief Agent Grabowska.

SYNOPSIS:

The North Dakota Secretary of State's Office requested the assistance of the North Dakota Attorney General's Office with investigating possible violations of election laws regarding petitions that had been circulated for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. On August 22, 2012, S/A Mark Nickel interviewed Petition Circulator AIREAL BOYD.

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Fargo



DETAILS:

1. On August 22, 2012, S/A Mark Nickel conducted an interview with AIREAL BOYD. AIREAL BOYD had circulated a number of petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. S/A Nickel attempted to record the interview, but a recorder malfunction occurred so only the first (1st) nine (9) seconds of the interview were recorded.
2. Prior to questioning AIREAL BOYD, S/A Nickel advised AIREAL BOYD of his Miranda Rights. AIREAL BOYD acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by AIREAL BOYD.
4. AIREAL BOYD stated that he was referred to the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative to circulate petitions by a friend who was already circulating the petitions.
5. AIREAL BOYD stated that the people he worked for at the Clean Water, Lands and Outdoor Heritage Fund and Board

Case: 120528  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
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Initiative were Josh Weatherspoon and Katherine (Ranft). AIREAL BOYD stated that he was paid by the hour to get signatures for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. AIREAL BOYD stated that he worked eight (8) hour days and received Ninety Dollars (\$90) per eight (8) hour shift. AIREAL BOYD stated that Josh Weatherspoon and Katherine (Ranft) expected him to get a minimum of sixty (60) signatures per shift. AIREAL BOYD stated that if he got eighty (80) or more signatures, he would receive a Fifteen Dollar (\$15) bonus.

6. AIREAL BOYD stated that he did circulate the petition by going door to door, walking around downtown, and working at public events. AIREAL BOYD stated that he felt pressure to reach his quota of signatures because he was told that if he did not reach the quota of sixty (60) signatures, his hours would get reduced. AIREAL BOYD stated that he forged names on his petitions and had friends forge additional names. AIREAL BOYD stated that he used the phone book and sometimes just made up names to sign on the petitions. AIREAL BOYD stated that he had friends write the names of their friends on his petitions using their cellular phone contact lists to come up with names. AIREAL BOYD could not come up with an estimate of what percent of the signatures he turned in were legitimate versus forged, but did indicate that he thought he turned in more legitimate signatures than forged signatures.
7. AIREAL BOYD stated that he usually did not sign the affidavit portion of the petitions right away when he turned them in. AIREAL BOYD stated that when there was a stack of petitions that he had circulated, he would sign a bunch of affidavits at one (1) time. AIREAL BOYD stated that Katherine (Ranft), who was the notary public for the petitions AIREAL BOYD turned in, was present in the building most of the time when he signed the affidavits. AIREAL BOYD stated that on one (1) or two (2) occasions, Josh Weatherspoon stamped AIREAL BOYD's affidavits using Katherine's (Ranft) notary stamp.
8. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General Wayne Stenehjem, Secretary of State Al Jaeger, and Chief Agent (C/A) Phil Pfennig. Attorney General Stenehjem requested that S/A Nickel speak with AIREAL BOYD and other petition circulators that had also admitted to forging qualified elector signatures on petitions. Attorney General Stenehjem wanted S/A Nickel to determine if AIREAL BOYD or any of the other petition circulators could identify any legitimate qualified elector signatures they had



Case: 120528  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

obtained if shown the actual petitions they circulated and if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.

9. S/A Nickel met with AIREAL BOYD and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. AIREAL BOYD indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
10. S/A Nickel also spoke with the group about how they were paid by the company that hired them to circulate the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions. Everyone agreed that during their initial orientation, they were told that they would receive Ninety Dollars (\$90) per eight (8) hour shift and they were expected to obtain sixty (60) signatures. Everyone agreed that they were also told during orientation that they would receive a bonus of between Ten Dollars (\$10) to Twenty Dollars (\$20) if they obtained eighty (80) or more signatures during an eight (8) hour shift. Everyone agreed that it appeared that everyone circulating the petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative was advised of the pay and bonus quotas.
11. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the first nine (9) seconds of the interview of AIREAL BOYD on August 22, 2012 remains in the custody of S/A Nickel at the North Dakota Bureau of Criminal Investigation (NDBCI) Office in Fargo, North Dakota.
2. One (1) CD-R disc containing the audio recording of the interview of AIREAL BOYD and his friends who also circulated petitions on August 23, 2012 remains in the custody of S/A Nickel at the NDBCI Office in Fargo, North Dakota.



07-2012-CR-03243

REPORT OF INVESTIGATION  
OFFICE OF ATTORNEY GENERAL  
BUREAU OF CRIMINAL INVESTIGATION  
SFN 17346 (03/99)

12-CR-816  
Rodgers, Antonio  
Page 1 of 4

Case Number: 120527 Agent: S/A Nickel  
Type of Report: Supplement - 02  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: The North Dakota Medical Marijuana Act Petition  
Report Title: ANTONIO RODGERS Interview  
Date of Offense: 05/01/2012 thru 08/23/2012  
Date of Activity: 08/22/2012 thru 08/23/2012  
Location: North Dakota

This report has been approved by Special Agent Nickel  
and by Chief Agent Grabowska.

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

TK

CASS COUNTY, ND

SYNOPSIS:

The North Dakota Secretary of State's office requested the assistance of the North Dakota Attorney General's office with investigating possible violations of election laws regarding petitions that had been circulated for the North Dakota Medical Marijuana Initiative. On August 22, 2012, S/A Mark Nickel interviewed petition circulator ANTONIO RODGERS.

RECEIVED  
AUG 31 2012

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Fargo

CASS COUNTY  
STATES ATTORNEY OFFICE

DETAILS: (ALL TIMES ARE APPROXIMATE)

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with ANTONIO RODGERS. ANTONIO RODGERS had circulated a number of petitions for the North Dakota Medical Marijuana Initiative.
2. Prior to questioning ANTONIO RODGERS, S/A Nickel advised ANTONIO RODGERS of his Miranda Rights. ANTONIO RODGERS acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by ANTONIO RODGERS regarding his involvement with circulating petitions for the North Dakota Medical Marijuana Initiative. For a verbatim account of the interview, please refer to the CD-R disc containing the audio recording of the interview:
  - A. ANTONIO RODGERS stated he found out about the job circulating petitions for the North Dakota Medical Marijuana Initiative when he was circulating petitions for another initiative. ANTONIO RODGERS stated a guy on the street told him that the North Dakota Medical Marijuana Initiative was paying circulators more money

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
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and gave him the contact information.

- B. ANTONIO RODGERS stated that he started circulating petitions for the North Dakota Medical Marijuana Initiative in July of 2012. ANTONIO RODGERS stated that the contact person he reported to was Dave Schwarz. ANTONIO RODGERS stated that Dave Schwarz was unorganized and met with ANTONIO RODGERS at the Red Raven Cafe in Fargo, North Dakota, to collect petitions.
  - C. ANTONIO RODGERS stated that he was paid One Hundred Dollars (\$100) a day to circulate the North Dakota Medical Marijuana Initiative petitions. ANTONIO RODGERS stated that Dave Schwarz wanted ANTONIO RODGERS to get at least fifty (50) signatures per day at first (1st). ANTONIO RODGERS stated that Dave Schwarz later wanted ANTONIO RODGERS to get more than fifty (50) signatures a day and agreed to raise the pay to Eighteen Dollars (\$18) per hour.
  - D. ANTONIO RODGERS stated that he had some difficulty finding people who were willing to sign the North Dakota Medical Marijuana Initiative petitions. ANTONIO RODGERS stated that people often told him that it was not a good cause and refused to sign the petition. ANTONIO RODGERS admitted that he forged signatures on the petitions he was circulating. ANTONIO RODGERS stated that he had no idea the number of signatures he forged versus the number of legitimate signatures he obtained. ANTONIO RODGERS stated that he and his buddies, who were also circulating the North Dakota Medical Marijuana Initiative petitions, used phone books to come up with names to forge onto the petitions.
4. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General (AG) Wayne Stenehjem, Secretary of State Al Jaeger, and C/A Phil Pfennig. AG Stenehjem requested that S/A Nickel speak with ANTONIO RODGERS and other petition circulators that had also admitted to forging qualified elector signatures on petitions. AG Stenehjem wanted S/A Nickel to determine if ANTONIO RODGERS or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated and, if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

5. S/A Nickel met with ANTONIO RODGERS and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. ANTONIO RODGERS indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
6. S/A Nickel also spoke with the group about how they were paid by the company that hired them to circulate the North Dakota Medical Marijuana Initiative petitions. Everyone agreed that they were initially paid Fifteen Dollars (\$15) per hour and were expected to obtain fifty (50) signatures during an eight (8) hour shift. Everyone also agreed that they were later offered Eighteen Dollars (\$18) per hour, but were expected to increase the number of signatures they obtained. It was stated that the raise was possibly just offered to this group of petition circulators because Dave Schwarz had told them that they were producing better numbers than the group of petition circulators in Bismarck, North Dakota.
7. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the interview of ANTONIO RODGERS on August 22, 2012, remains in the custody of S/A Mark Nickel at the Fargo office of the North Dakota Bureau of Criminal Investigation (NDBCI).
2. One (1) CD-R disc containing the audio recording of the interview of ANTONIO RODGERS and his friends (who also circulated petitions) on August 23, 2012, remains in the custody of S/A Nickel at the Fargo office of the NDBCI.

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 4 of 4

PERSON REPORTS:

RODGERS, ANTONIO

Subject  
1440 Dakota Drive #36, Fargo, ND  
Home Phone: (786)280-4237  
DOB: 01/17/1991  
Male, Black  
Hgt: 5'10", Wgt: 220  
Hair: BLK, Eyes: BRO  
Additional Comments:  
No OLN or SSN available.

ATTACHMENTS:

1 - RODGERS' Qualified Electors Signatures (4 Pgs), 07/26/2012

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach  
PHIL PFENNIG, NDBCI BISMARCK, BISMARCK, ND, w/attach  
BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach  
TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach



**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
SFN 17346 (03/99)

Page 1 of 4

Case Number: 120528 Agent: S/A Nickel  
Type of Report: Supplement - 02  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: Clean Water, Lands & Outdoor Heritage Fund & Bd Petition  
Report Title: ANTONIO RODGERS Interview  
Date of Offense: 01/01/2012 thru 08/17/2012  
Date of Activity: 08/22/2012 thru 08/23/2012  
Location: North Dakota

This report has been approved by Special Agent Nickel  
and by Chief Agent Grabowska.

**SYNOPSIS:**

The North Dakota Secretary of State's Office requested the assistance of the North Dakota Attorney General's Office with investigating possible violations of election laws regarding petitions that had been circulated for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. On August 22, 2012, S/A Mark Nickel interviewed Petition Circulator ANTONIO RODGERS.

**PERSONNEL ASSIGNED:**

S/A Mark Nickel, NDBCI/Fargo

RECEIVED  
AUG 31 2012

**DETAILS:**

CASS COUNTY  
STATES ATTORNEY OFFICE

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with ANTONIO RODGERS. ANTONIO RODGERS had circulated a number of petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative.
2. Prior to questioning ANTONIO RODGERS, S/A Nickel advised ANTONIO RODGERS of his Miranda Rights. ANTONIO RODGERS acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by ANTONIO RODGERS. For a verbatim account of the interview, refer to the CD-R disc containing the audio recording of the interview.
4. ANTONIO RODGERS stated that his friend, Don Carter, told him about a company called Terra Strategies located in the Black Building in downtown Fargo, North Dakota. ANTONIO RODGERS stated that Don Carter had been hired by Terra Strategies to circulate Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions.

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Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
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5. ANTONIO RODGERS stated he began working for Terra Strategies circulating the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions in June of 2012. ANTONIO RODGERS stated that his supervisors were Katherine (Ranft) and Josh (Weatherspoon). Antonio did not know Katherine's (Ranft) or Josh's (Weatherspoon) last names. ANTONIO RODGERS stated that he was paid Eleven Dollars and Twenty-Five Cents (\$11.25) per hour to circulate petitions. ANTONIO RODGERS stated that he worked eight (8) hour days. ANTONIO RODGERS stated that the company set goals for their circulators to obtain sixty (60) signatures per eight (8) hour shift. ANTONIO RODGERS stated that he would receive Ninety Dollars (\$90) a day for his eight (8) hour shift. ANTONIO RODGERS stated that the company would give circulators a Ten Dollar (\$10) bonus if they reached eighty (80) to ninety (90) signatures per eight (8) hour shift. ANTONIO RODGERS stated that the company did not pay circulators by the hour, but if you did not reach the signature goal, they would cut your hours and hire somebody else.
6. ANTONIO RODGERS stated that he did actually circulate petitions, but admitted he also forged signatures on the petitions he was circulating for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. ANTONIO RODGERS stated that he and some of his buddies used phone books to come up with names to write on the petitions.
7. ANTONIO RODGERS stated that when he was done with his shift, he would return his petitions to Josh (Weatherspoon) or Katherine (Ranft) at the Black Building. ANTONIO RODGERS stated that he would not always fill out the circulator signature affidavit portion of the petitions when he turned the petitions in. ANTONIO RODGERS stated that once there was a stack of petitions that he had circulated, he would fill out and sign the affidavit portion of the petitions. ANTONIO RODGERS stated that Katherine (Ranft), who was the notary public on the petitions, witnessed him sign each petition that he signed.
8. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General Wayne Stenehjem, Secretary of State Al Jaeger, and Chief Agent (C/A) Phil Pfennig. Attorney General Stenehjem requested that S/A Nickel speak with ANTONIO RODGERS and other petition circulators that had also admitted to forging qualified elector signatures on petitions. Attorney General Stenehjem wanted S/A Nickel to determine if ANTONIO RODGERS or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions

Case: 120528  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

they circulated and if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.

9. S/A Nickel met with ANTONIO RODGERS and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. ANTONIO RODGERS indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
10. S/A Nickel also spoke with the group about how they were paid by the company that hired them to circulate the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions. Everyone agreed that during their initial orientation they were told that they would receive Ninety Dollars (\$90) per eight (8) hour shift and they were expected to obtain sixty (60) signatures. Everyone agreed that they were also told during orientation that they would receive a bonus of between Ten Dollars (\$10) to Twenty Dollars (\$20) if they obtained eighty (80) or more signatures during an eight (8) hour shift. Everyone agreed that it appeared that everyone circulating the petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative was advised of the pay and bonus quotas.
11. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the interview of ANTONIO RODGERS on August 22, 2012 remains in the custody of S/A Nickel at the North Dakota Bureau of Criminal Investigation (NDBCI) Office in Fargo, North Dakota.
2. One 1) CD-R disc containing the audio recording of the interview of ANTONIO RODGERS and his friends who also circulated petitions on August 23, 2012 remains in the custody of S/A Nickel at the NDBCI Office in Fargo, North Dakota.





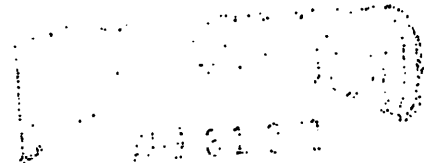
REPORT OF INVESTIGATION  
OFFICE OF ATTORNEY GENERAL  
BUREAU OF CRIMINAL INVESTIGATION  
SFN 17346 (03/99)

57-2012-CK-03232

Page 1 of 4

Case Number: 120527 Agent: S/A Nickel  
Type of Report: Supplement - 06  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: The North Dakota Medical Marijuana Act Petition  
Report Title: MARCUS WILLIAMS Interview  
Date of Offense: 05/01/2012 thru 08/23/2012  
Date of Activity: 08/22/2012 thru 08/23/2012  
Location: North Dakota

This report has been approved by Special Agent Nickel  
and by Chief Agent Grabowska.



SYNOPSIS:

CASS COUNTY  
STATES ATTORNEY OFFICE

The North Dakota Secretary of State's office requested the assistance of the North Dakota Attorney General's office with investigating possible violations of election laws regarding petitions that had been circulated for the North Dakota Medical Marijuana Initiative. On August 22, 2012, S/A Mark Nickel interviewed petition circulator MARCUS WILLIAMS.

PERSONNEL ASSIGNED:

FILED-CLERK OF DISTRICT COURT

S/A Mark Nickel, NDBCI/Fargo

SEP 07 2012

DETAILS: (ALL TIMES ARE APPROXIMATE)

CASS COUNTY, ND

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with MARCUS WILLIAMS. MARCUS WILLIAMS had circulated a number of petitions for the North Dakota Medical Marijuana Initiative.
2. Prior to questioning MARCUS WILLIAMS, S/A Nickel advised MARCUS WILLIAMS of his Miranda Rights. MARCUS WILLIAMS acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by MARCUS WILLIAMS. For a verbatim account of the interview, please refer to the CD-R disc containing the audio recording of the interview:
  - A. MARCUS WILLIAMS stated that he first (1st) found out about working for the North Dakota Medical Marijuana Initiative by speaking with other people who were already circulating the petitions. MARCUS WILLIAMS stated that he contacted Dave Schwarz, who was in charge of the petition circulation for the North Dakota Medical Marijuana Initiative, and was hired to

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
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circulate petitions.

- B. MARCUS WILLIAMS stated that he was paid Fifteen Dollars (\$15) per hour at first (1st) and was expected to get at least sixty (60) signatures during an eight (8) hour shift. MARCUS WILLIAMS stated that Dave Schwarz later offered to pay MARCUS WILLIAMS Eighteen Dollars (\$18) per hour if MARCUS WILLIAMS got at least eighty (80) signatures in an eight (8) hour shift.
  - C. MARCUS WILLIAMS stated that at first (1st) he did actually circulate petitions, but admitted he also forged signatures on the petitions he was circulating for the North Dakota Medical Marijuana Initiative. MARCUS WILLIAMS stated that he and a female friend used phone books to come up with names to write on the petitions. Marcus stated that the female friend that helped him forge names on his petitions was not a petitions circulator herself. S/A Nickel asked MARCUS WILLIAMS what percent of signatures on the petitions he turned in did he think would be legitimately obtained signatures. MARCUS WILLIAMS could not come up with an exact percentage, but stated that over half (1/2) of the signatures he turned in were forged signatures.
  - D. MARCUS WILLIAMS stated that he signed the petition circulator affidavits in front of notary publics at Wells Fargo Bank prior to turning the petitions into Dave Schwarz. MARCUS WILLIAMS stated that Dave Schwarz was not organized and did not give him any direction on what to do other than to go to any bank to get the petitions notarized. MARCUS WILLIAMS stated that he would turn in the completed signature petitions to Dave Schwarz at the Red Raven Cafe or outside the Ho Do Bar in downtown Fargo, North Dakota.
4. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General (AG) Wayne Stenehjem, Secretary of State Al Jaeger, and C/A Phil Pfennig. AG Stenehjem requested that S/A Nickel speak with MARCUS WILLIAMS and other petition circulators that had also admitted to forging qualified elector signatures on petitions. AG Stenehjem wanted S/A Nickel to determine if MARCUS WILLIAMS or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated and, if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

5. S/A Nickel met with MARCUS WILLIAMS and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. MARCUS WILLIAMS indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
6. S/A Nickel also spoke with the group about how they were paid by the company that hired them to circulate the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions. Everyone agreed that during their initial orientation they were told that they would receive Ninety Dollars (\$90) per eight (8) hour shift and they were expected to obtain sixty (60) signatures. Everyone agreed that they were also told during orientation that they would receive a bonus of between Ten Dollars (\$10) to Twenty Dollars (\$20) if they obtained eighty (80) or more signatures during an eight (8) hour shift. Everyone agreed that it appeared that everyone circulating the petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative was advised of the pay and bonus quotas.
7. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the interview of MARCUS WILLIAMS on August 22, 2012, remains in the custody of S/A Mark Nickel at the Fargo office of the North Dakota Bureau of Criminal Investigation (NDBCI).
2. One (1) CD-R disc containing the audio recording of the interview of MARCUS WILLIAMS and his friends (who also circulated petitions) on August 23, 2012, remains in the custody of S/A Nickel at the Fargo office of the NDBCI.

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 4 of 4

PERSON REPORTS:

WILLIAMS, MARCUS

Subject

1132 16th St N #11, Fargo, ND

Home Phone: (612)703-7480

DOB: 03/24/1991

Male, Black

Hgt: 5'11", Wgt: 194

Hair: BLK, Eyes: BRO

Additional Comments:

No OLN or SSN available.

ATTACHMENTS:

1 - WILLIAMS' Qualified Electors Signatures (43 Pgs), 07/12/2012

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach

PHIL PFENNIG, NDBCI BISMARCK, BISMARCK, ND, w/attach

BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach

TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach



**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
SFN 17346 (03/99)

Page 1 of 4

Case Number: 120528 Agent: S/A Nickel  
Type of Report: Supplement - 07  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: Clean Water, Lands & Outdoor Heritage Fund & Bd Petition  
Report Title: MARCUS WILLIAMS Interview  
Date of Offense: 01/01/2012 thru 08/17/2012  
Date of Activity: 08/27/2012  
Location: North Dakota

This report has been approved by Special Agent Nickel and by Chief Agent Grabowska.

SYNOPSIS:

The North Dakota Secretary of State Office requested the assistance of the North Dakota Attorney General's Office with investigating possible violations of election laws regarding petitions that had been circulated for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. On August 22, 2012, S/A Mark Nickel interviewed Petition Circulator MARCUS WILLIAMS.

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Fargo

DETAILS: (ALL TIMES APPROXIMATE)

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorder with MARCUS WILLIAMS. MARCUS WILLIAMS had circulated a number of petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative.
2. Prior to questioning MARCUS WILLIAMS, S/A Nickel advised MARCUS WILLIAMS of his Miranda rights. MARCUS WILLIAMS acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by MARCUS WILLIAMS. For a verbatim account of the interview, refer to the CD-R disc containing the audio recording of the interview.
4. MARCUS WILLIAMS stated that he was referred to the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative to circulate petitions by a friend who was already circulating the petitions.
5. MARCUS WILLIAMS stated that he started working for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative in June of 2012. MARCUS WILLIAMS stated that he was paid Ninety

Case: 120528  
Agent: Nickel  
Date: 08/27/2012  
Page: 2 of 4

Dollars (\$90) per eight (8) hour shift he worked. MARCUS WILLIAMS stated that he was told that he was not being paid by the signature, but stated that he was expected to obtain at least sixty (60) signatures per eight (8) hour shift. MARCUS WILLIAMS stated that if he obtained eighty (80) signatures during an eight (8) hour shift, he would receive a Ten Dollar (\$10) bonus. MARCUS WILLIAMS stated that he was told that if he did not obtain at least sixty (60) signatures per eight (8) hour shift, the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative would reduce his hours.

6. MARCUS WILLIAMS stated that at first he did actually circulate petitions, but admitted he also forged signatures on the petitions he was circulating for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. MARCUS WILLIAMS stated that he and a female friend used phone books to come up with names to write on the petitions. Marcus stated that the female friend that helped him forge names on his petitions was not a petitions circulator herself. S/A Nickel asked MARCUS WILLIAMS what percent of signatures on the petitions he turned in did he think would be legitimately obtained signatures. MARCUS WILLIAMS could not come up with an exact percentage, but stated that over half of the signatures he turned in were forged signatures.
7. MARCUS WILLIAMS stated that Katherine (Ranft) was the notary public for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. MARCUS WILLIAMS stated that he turned his petitions into Katherine (Ranft) at the Black Building in Fargo, North Dakota. MARCUS WILLIAMS stated that Katherine for the most part witnessed his signatures on the circulator affidavit sections of the petitions he turned in. MARCUS WILLIAMS stated that Katherine (Ranft) might have been in another room when he signed the affidavits, but she was in the same building all but maybe one (1) time.
8. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General Wayne Stenhjem, Secretary of State Al Jaeger, and Chief Agent Pfennig. AG Stenhjem requested that S/A Nickel speak with MARCUS WILLIAMS and other petition circulators that had also admitted to forging qualified elector signatures on petitions. AG Stenhjem wanted S/A Nickel to determine if MARCUS WILLIAMS or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated, and if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.

Case: 120528  
Agent: Nickel  
Date: 08/27/2012  
Page: 3 of 4

9. S/A Nickel met with MARCUS WILLIAMS and his friends, who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. MARCUS WILLIAMS indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
10. S/A Nickel also spoke with the group about how they were paid by the company that hired them to circulate the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions. Everyone agreed that during their initial orientation they were told that they would receive Ninety Dollars (\$90) per eight (8) hour shift and they were expected to obtain sixty (60) signatures. Everyone agreed that they were also told during orientation that they would receive a bonus of between Ten Dollars (\$10) and Twenty Dollars (\$20) if they obtained eighty (80) or more signatures during an eight (8) hour shift. Everyone agreed that it appeared that everyone circulating the petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative was advised of the pay and bonus quotas.
11. This investigation continues.

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2. One (1) CD-R Disc containing the audio recording of the interview of MARCUS WILLIAMS and his friends who also circulated petitions on August 23, 2012, remains in the custody of S/A Nickel at the NDBCI Office in Fargo, ND.

Case: 120528  
Agent: Nickel  
Date: 08/27/2012  
Page: 4 of 4

PERSON REPORTS:

WILLIAMS, MARCUS

Subject

1132 16th St N #11, Fargo, ND

Home Phone: (612)703-7480

DOB: 03/24/1991

Male, Black

Hgt: 5'11", Wgt: 194

Hair: BLK, Eyes: BRO

Additional Comments:

SS# or DL# not available.

ATTACHMENTS:

1 - WILLIAMS' Qualified Electors Signatures (3 Pages), / /

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach

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BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach

TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach





**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
 SFN 17346 (p3/99)

CLC  
 18 CR 817  
 Pierre, Brendin  
 Page 1 of 4

Case Number: 120527 Agent: S/A Nickel  
 Type of Report: Supplement - 03  
 Agency Assisted: ND Secretary of State  
 Nature of Case: Election Law Violation  
 Case Title: The North Dakota Medical Marijuana Act Petition  
 Report Title: BRENDIN PIERRE Interview  
 Date of Offense: 05/01/2012 thru 08/23/2012  
 Date of Activity: 08/22/2012 thru 08/23/2012  
 Location: North Dakota

This report has been approved by Special Agent Nickel and by Chief Agent Grabowska.

RECEIVED  
 AUG 31 2012

CASS COUNTY  
 STATES ATTORNEY OFFICE

SYNOPSIS:

The North Dakota Secretary of State's office requested the assistance of the North Dakota Attorney General's office with investigating possible violations of election laws regarding petitions that had been circulated for the North Dakota Medical Marijuana Initiative. On August 22, 2012, S/A Mark Nickel interviewed petition circulator BRENDIN PIERRE.

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Fargo

FILED-CLERK OF DISTRICT COURT

SEP 07 2012

DETAILS: (ALL TIMES ARE APPROXIMATE)

CASS COUNTY, ND

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with BRENDIN PIERRE. BRENDIN PIERRE had circulated a number of petitions for the North Dakota Medical Marijuana Initiative.
2. Prior to questioning BRENDIN PIERRE, S/A Nickel advised BRENDIN PIERRE of his Miranda Rights. BRENDIN PIERRE acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by BRENDIN PIERRE. For a verbatim account of the interview, please refer to the CD-R disc containing the audio recording of the interview:
  - A. BRENDIN PIERRE stated that he began circulating petitions for the North Dakota Medical Marijuana Initiative toward the end of summer 2012.
  - B. BRENDIN PIERRE stated that a guy named Dave was in charge of the petition circulators. BRENDIN PIERRE stated that he was initially paid Fifteen Dollars (\$15)

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 2 of 4

per hour to circulate petitions. BRENDIN PIERRE stated that Dave expected him to get between fifty (50) to sixty (60) signatures during a shift. BRENDIN PIERRE stated that his pay was increased to Eighteen Dollars (\$18) per hour, but Dave then expected at least eighty (80) signatures.

- C. BRENDIN PIERRE admitted that he forged names on the petitions he circulated. BRENDIN PIERRE stated that he forged names on the petitions to get the quota of signatures he needed. BRENDIN PIERRE stated that he used a phone book to come up with the names he wrote on the petitions. BRENDIN PIERRE stated that he also had some female friends that wrote names from the phone book on his petitions for him. BRENDIN PIERRE stated that he did actually acquire legitimate signatures as well and estimated that about half (1/2) the signatures he turned in were legitimately obtained signatures.
  - D. BRENDIN PIERRE stated that he had the circulator's affidavit portion of the petitions he circulated notarized at Wells Fargo Bank.
- 4. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General (AG) Wayne Stenehjem, Secretary of State Al Jaeger, and C/A Phil Pfennig. AG Stenehjem requested that S/A Nickel speak with BRENDIN PIERRE and other petition circulators that had also admitted to forging qualified elector signatures on petitions. AG Stenehjem wanted S/A Nickel to determine if BRENDIN PIERRE or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated and, if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.
  - 5. S/A Nickel met with BRENDIN PIERRE and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. BRENDIN PIERRE indicated that he would not be able to identify any legitimate signatures he obtained with a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.
  - 6. This investigation continues.

Case: 120527  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 3 of 4

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the interview of BRENDIN PIERRE on August 22, 2012, remains in the custody of S/A Mark Nickel at the Fargo office of the North Dakota Bureau of Criminal Investigation (NDBCI).
2. One (1) CD-R disc containing the audio recording of the interview of BRENDIN PIERRE and his friends (who also circulated petitions) on August 23, 2012, remains in the custody of S/A Nickel at the Fargo office of the NDBCI.



**REPORT OF INVESTIGATION**  
**OFFICE OF ATTORNEY GENERAL**  
**BUREAU OF CRIMINAL INVESTIGATION**  
SFN 17346 (03/99)

Page 1 of 4

Case Number: 120528 Agent: S/A Nickel  
Type of Report: Supplement - 03  
Agency Assisted: ND Secretary of State  
Nature of Case: Election Law Violation  
Case Title: Clean Water, Lands & Outdoor Heritage Fund & Bd Petition  
Report Title: BRENDIN PIERRE Interview  
Date of Offense: 01/01/2012 thru 08/17/2012  
Date of Activity: 08/22/2012 thru 08/23/2012  
Location: North Dakota

This report has been approved by Special Agent Nickel  
and by Chief Agent Grabowska.

SYNOPSIS:

The North Dakota Secretary of State's Office requested the assistance of the North Dakota Attorney General's Office with investigating possible violations of election laws regarding petitions that had been circulated for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative. On August 22, 2012, S/A Mark Nickel interviewed Petition Circulator BRENDIN PIERRE.

PERSONNEL ASSIGNED:

S/A Mark Nickel, NDBCI/Fargo

DETAILS:

1. On August 22, 2012, S/A Mark Nickel conducted an audio recorded interview with BRENDIN PIERRE. BRENDIN PIERRE had circulated a number of petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative.
2. Prior to questioning BRENDIN PIERRE, S/A Nickel advised BRENDIN PIERRE of his Miranda Rights. BRENDIN PIERRE acknowledged that he understood his rights and agreed to speak with S/A Nickel.
3. The following is a summary of the information provided by BRENDIN PIERRE. For a verbatim account of the interview, refer to the CD-R disc containing the audio recording of the interview.
4. BRENDIN PIERRE stated that he was referred to the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative to circulate petitions by a friend who was already circulating the petitions.
5. BRENDIN PIERRE stated that when he started working for the Clean Water, Lands and Outdoor Heritage Fund and Board

RECEIVED  
AUG 31 2012

CASS COUNTY  
STATES ATTORNEY OFFICE

Case: 120528  
Agent: Nickel  
Date: 08/22/2012 thru 08/23/2012  
Page: 2 of 4

Initiative, he was paid Seventy-Five Dollars (\$75) per shift then the pay was raised to Ninety Dollars (\$90) per shift. BRENDIN PIERRE stated that he was told that he was being paid by the hour, but it was understood that if you repeatedly fell short of the sixty (60) signatures per shift quota, your hours would get reduced. BRENDIN PIERRE stated that petition circulators would get a Ten Dollar (\$10) bonus if they reached eighty (80) signatures in a shift and would get Twenty-Five Dollars (\$25) for recruiting other petition circulators.

6. BRENDIN PIERRE admitted that he forged names on the petitions he circulated. BRENDIN PIERRE stated that he forged names on the petitions to get the quota of signatures he needed. BRENDIN PIERRE stated that he used a phone book to come up with the names he wrote on the petitions. BRENDIN PIERRE stated that he also had some female friends that wrote names from the phone book on his petitions for him. BRENDIN PIERRE stated that he did actually acquire legitimate signatures as well and stated that he turned in more legitimate signatures than forged signatures. BRENDIN PIERRE stated that the company fired someone earlier in the summer who they caught forging signatures and tried to crack down on forgeries by checking on the petition circulators and assigning them areas to work.
7. BRENDIN PIERRE stated that Katherine Ranft was present and witnessed his signature on all the petition circulator affidavits he signed.
8. On August 23, 2012, S/A Nickel had a phone conversation with Attorney General Wayne Stenehjem, Secretary of State Al Jaeger, and Chief Agent (C/A) Phil Pfennig. Attorney General Stenehjem requested that S/A Nickel speak with BRENDIN PIERRE and other petition circulators that had also admitted to forging qualified elector signatures on petitions. Attorney General Stenehjem wanted S/A Nickel to determine if BRENDIN PIERRE or any of the other petition circulators could identify any legitimate qualified elector signatures they had obtained if shown the actual petitions they circulated and if so, would they be willing to sign another petition circulator affidavit stating those signatures were legitimately obtained qualified elector signatures.
9. S/A Nickel met with BRENDIN PIERRE and his friends who had also admitted to forging signatures on the petitions they circulated. S/A Nickel made an audio recording of this conversation. BRENDIN PIERRE indicated that he would not be able to identify any legitimate signatures he obtained with

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a level of confidence that he would be willing to sign a petition circulator affidavit indicating the signatures were legitimately obtained.

10. S/A Nickel also spoke with the group about how they were paid by the company that hired them to circulate the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative petitions. Everyone agreed that during their initial orientation, they were told that they would receive Ninety Dollars (\$90) per eight (8) hour shift and they were expected to obtain sixty (60) signatures. Everyone agreed that they were also told during orientation that they would receive a bonus of between Ten Dollars (\$10) to Twenty Dollars (\$20) if they obtained eighty (80) or more signatures during an eight (8) hour shift. Everyone agreed that it appeared that everyone circulating the petitions for the Clean Water, Lands and Outdoor Heritage Fund and Board Initiative was advised of the pay and bonus quotas.
11. This investigation continues.

DESCRIPTION AND CUSTODY OF EVIDENCE:

1. One (1) CD-R disc containing the audio recording of the interview of BRENDIN PIERRE on August 22, 2012 remains in the custody of S/A Nickel at the North Dakota Bureau of Criminal Investigation (NDBCI) Office in Fargo, North Dakota.
2. One (1) CD-R disc containing the audio recording of the interview of BRENDIN PIERRE and his friends who also circulated petitions on August 23, 2012 remains in the custody of S/A Nickel at the NDBCI Office in Fargo, North Dakota..

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PERSON REPORTS:

PIERRE, BRENDIN

Subject

1132 16th St N #11, Fargo, ND

Home Phone: (945) 830-7771

DOB: 05/01/1991

Male, Black

Hgt: 5'09", Wgt: 170

Hair: BLK, Eyes: BRO

Additional Comments:

SS# or DL# not available.

ATTACHMENTS:

1 - PIERRE's Qualified Electors Signatures (25 Pages), / /

DISTRIBUTION:

MARK NICKEL, NDBCI FARGO, FARGO, ND, w/attach

PHIL PFENNIG, NDBCI BISMARCK, BISMARCK, ND, w/attach

BIRCH P BURDICK, CASS COUNTY STATES ATTORNEYS OFFICE, FARGO, ND,  
w/attach

TOM TRENBEATH, ATTORNEY GENERALS OFFICE, BISMARCK, ND, w/attach