

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WASHINGTON

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5 UNITED STATES OF AMERICA,
6 Plaintiff,

7 v.

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9 RHONDA FIRESTACK-HARVEY, LARRY
10 HARVEY, MICHELLE GREGG, ROLLAND
11 GREGG, and JASON ZUCKER,
12 Defendants.

No. CR-13-24-FVS

ORDER DENYING MICHELLE
GREGG'S MOTION TO
SUPPRESS EVIDENCE SEIZED
PURSUANT TO THE SEARCH
WARRANT THAT WAS ISSUED
BY A STATE SUPERIOR COURT
JUDGE

13 **THE DEFENDANTS** have filed a number of motions. The Court
14 considered their motions at a pretrial conference that was held on
15 April 22 and 23, 2014. This order addresses one of the arguments
16 Michelle Gregg made in support of her motion to suppress.

17 **BACKGROUND**

18 Michelle Gregg insists the evidence that was available to Stevens
19 County Sheriff's Detective Loren A. Erdman on August 8, 2012,
20 indicated the persons who were growing marijuana at 939 Clugston-Onion
21 Creek Road, Colville, Washington, were doing so for medical purposes.
22 Had Detective Erdman presented such evidence to the state superior
23 court judge when he applied for a search warrant, says Ms. Gregg, the
24 judge would have been unable to find probable cause to believe the
25 growers were engaged in the illicit sale or distribution of marijuana.
26 In Ms. Gregg's opinion, the judge would have refused to authorize

1 officers to search for evidence that is associated with drug
2 trafficking. Of course, that is not what happened. The judge did
3 authorize the officers to search for drug-trafficking evidence. Ms.
4 Gregg argues the search warrant was overbroad. According to her, the
5 warrant instructed law enforcement officers to search for items that
6 were outside the scope of probable cause.

7 **STANDARD**

8 The Fourth Amendment provides in part, "[N]o Warrants shall
9 issue, but upon probable cause . . . and particularly describing the
10 place to be searched, and the persons or things to be seized." U.S.
11 Const. amend. IV. In order to satisfy the Warrant Clause of the
12 Fourth Amendment, a search warrant must be "specific." *United States*
13 *v. SDI Future Health, Inc.*, 568 F.3d 684, 702 (9th Cir.2009) (internal
14 punctuation and citation omitted). At a minimum, the warrant "must
15 make clear to the executing officer exactly what it is that he or she
16 is authorized to search for and seize. *Id.* (internal punctuation and
17 citation omitted). In addition, "there must be probable cause to
18 seize the particular things named in the warrant." *Id.* (internal
19 punctuation and citation omitted).

20 **RULING**

21 As the Court has explained in a separate order (ECF No. 278),
22 Detective Erdman did not withhold exculpatory evidence in violation of
23 the Fourth Amendment. The affidavit he submitted to the judge
24 established probable cause to believe the persons who were growing
25 marijuana at 939 Clugston-Onion Creek Road were engaged in drug
26 trafficking. Consequently, the judge properly issued a warrant

1 authorizing the officers to search for such evidence. The search
2 warrant was not overbroad.

3 **IT IS HEREBY ORDERED:**

4 "[Defendant Michelle Gregg's] Motion . . . to . . . Suppress
5 Evidence" (ECF No. 213) is **denied** to the extent she argues the search
6 warrant that was issued on August 8, 2012, was a general warrant.

7 **IT IS SO ORDERED.** The District Court Executive is hereby
8 directed to enter this order and furnish copies to counsel.

9 **DATED** this 30th day of April, 2014.

10 _____
11 s/ Fred Van Sickle
12 Fred Van Sickle
13 Senior United States District Judge
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