

STATE OF SOUTH DAKOTA	)	IN CIRCUIT COURT
	:SS	
COUNTY OF DAVISON	)	FIRST JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,  
  
Plaintiff,  
  
v.  
  
DARRELL KYLE BENNETT JR.,  
  
Defendant.

17CRI23-169

**DEFENDANT'S AFFIDAVIT IN  
SUPPORT OF MOTION TO DISMISS  
PURSUANT TO MEDICAL PURPOSE  
DEFENSE AND CERTIFICATE OF  
SERVICE**

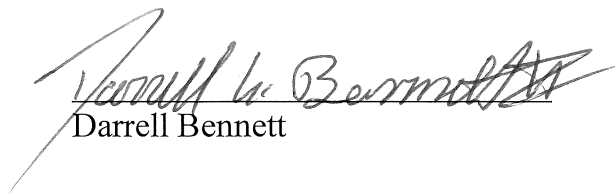
STATE OF SOUTH DAKOTA )  
:SS  
COUNTY OF DAVISON )

Darrell K. Bennett, being first duly sworn upon his oath, deposes and states:

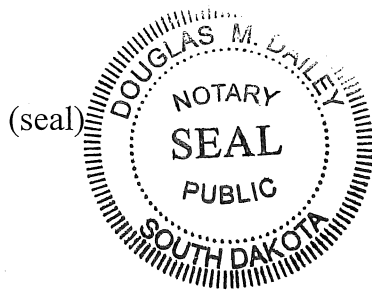
1. I am submitting this affidavit in support of the Motion to Dismiss Pursuant to Medical Purpose Defense.
2. I am a resident of Davison County, South Dakota.
3. I have a valid prescription for medical cannabis issued by the State of South Dakota on or about April 6, 2023. Attached is a true and correct copy of my South Dakota Medical Cannabis Program Certification and marked as **Exhibit A** and a copy of my Medical Cannabis Registry ID Card as **Exhibit B**. My medical cannabis registry ID card is current, valid and has not been revoked for misconduct.
4. I need medical cannabis for a litany of issues, but mostly for my severe and debilitating pain caused by my Rheumatoid Arthritis that I have suffered from the majority of my life. Without appropriate medication I have severe knee, leg, shoulder and neck pain that prevents me from engaging in normal day-to-day activities.

5. I regularly treat at Avera Grasslands clinic in Mitchell, South Dakota for my arthritis; however, because of Avera's position against the issuance of medical marijuana prescriptions by their providers, I was required to go to Dr. Kimberly Spaans at South Dakota Medical Cards and Wellness in Sioux Falls, South Dakota. Prior to her employment at SD Medical Cards and Wellness, Dr. Spaans was formerly with Sanford Health Systems and worked in Sioux Falls, South Dakota under the Sanford umbrella. I provided my medical records regarding my arthritis to Dr. Spaans prior to meeting with her. During our meeting, Dr. Spaans completed her assessment of my medical history and current medical condition and we discussed the potential benefits of using cannabis for medical purposes versus the potential health risks that may be involved. Thereafter, Dr. Spaan's recommended a prescription for the use of medical marijuana for the pain I suffer due to my arthritis. The recommendation was subsequently approved and certified by the State of South Dakota as set forth in **Exhibit A**.
6. I also routinely see Dr. Berne B. Bahnson at Avera Medical Group Behavioral Health Clinic in Sioux Falls, South Dakota for my diagnosed impulse control disorder and anger management. Although these mental health conditions are not authorized medical conditions for the use of medical marijuana, Dr. Bahnson supports my use of marijuana as a control the symptoms of my disorder as set forth in his letter dated June 22, 2023, which is attached hereto as **Exhibit C**.
7. On March 22, 2022, Dr. Franci D'Abroisio M.D. of 22603 Pacific Coast Highway in Malibu, California had also recommended I receive a prescribed for the use of marijuana as indicated by the recommendation attached hereto as **Exhibit D**. With the prescription from Dr. D'Abroiso I was able to obtain my FSST Medical Cannabis Card from the Santee Sioux Tribe which expired on or about March 22, 2023 as shown on **Exhibit E**.

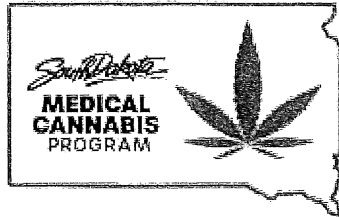
Dated this 21<sup>st</sup> day of September 2023.

  
Darrell Bennett

Subscribed to and sworn before me this 18<sup>th</sup> day of September 2023.



  
\_\_\_\_\_  
Notary Public – South Dakota  
My Commission Expires: 12-5-27



## Certification

Certification Date: 04/06/2023

### Patient

Name	Address	Email	Phone #	Date of Birth	Is Minor
Darrell Bennett II	1202 W. Hanson Ave. Mitchell, SD 57301	overdonetube75@gmail.com	(160) 563-0260	01/21/1975	No

### Practitioner


Name	Business Name	Address	Email	Phone #	Fax #
Kimberly Spaans	SD Medical Cards	2209 W. 49th Street Sioux Falls, SD 57105	sdmedicalcards@gmail.com	(605) 468-3040	

### Condition Information

In Person Date	Caregiver Count	Incapable of Cultivation
04/06/2023	0	No

**EXHIBIT A**

*South Dakota* MEDICAL CANNABIS  
REGISTRY ID CARD



CARD NO. 2HA8HAXNVD	ISS 04/14/2023
DOB 01/21/1978	EXP 04/14/2024
<b>BENNETT II DARRELL</b>	QUALIFIED PATIENT
3202 W. HANSON AVE. MITCHELL, SD 57301	HOME CULTIVATION: NO

FOR CARD VERIFICATION:  
medcannabisverify.sd.gov/2HA8HAXNVD

medcannabis.sd.gov



By possessing this card, the patient or caregiver agrees to comply with all applicable provisions of South Dakota Codified Law 34-20G and South Dakota Administrative Rules Article 44:90. Failure to comply may result in this card being revoked.

This card is property of the State of South Dakota and must be surrendered upon request. Lost or stolen cards must be reported to the Department of Health within one business day.

## EXHIBIT B

June 22, 2023

RE: Darrell Kyle Bennett II  
DOB: 01/21/1975

To Whom It May Concern,

Mr. Darrell Bennett has been a patient of mine for the past 20 years. He is followed for an Impulse Control Disorder and Anger Management. He has been consistently compliant both with medications and follow up clinic appointments. He was most recently seen on 6/22/23. During past visits we have discussed the use of marijuana, as an adjunct for the control of symptoms of his disorder. I have been willing to support his use of marijuana in that context once it becomes available for medicinal use.

If there are additional questions regarding this case I would be happy to respond to those with the with the patient's permission.

Sincerely,



Berne B. Bahnson, MD



DOCTOR FRANK

**Francis G. D'Ambrosio MD**  
Phone: (844) 537-3726

22603 Pacific Coast Hwy  
Malibu, CA 90265


PATIENT ID: **JP45857**

This certifies that **DARRELL BENNETT II** was evaluated in my physical, virtual, or telemedical office for a medical condition, which in my professional opinion, may benefit from the use of medical marijuana. It is my assessment that the above-mentioned patient qualifies under California Health and Safety Code Section 11362.5 for the use of cannabis for medical purposes. If the patient chooses to use marijuana therapeutically, I will continue to monitor his/her medical conditions and to provide advice on his/her progress at least annually. I act only as a consultant, not as primary care provider. This patient assumes full responsibility for any and all risks associated with this treatment option. I have discussed the potential medical benefits and risks of marijuana use.

This patient hereby authorizes this office to discuss the nature of their condition(s) and the information contained in this document only for verification purposes. This is a non-transferable document. It is the property of the physician indicated and can be revoked at any time without notice. Void after expiration date, or if altered or misused. Please direct all questions to the office that issued this recommendation.

This medical document identifies this individual as a patient whose possession and/or cultivation of medical cannabis is permissible pursuant to California Health and Safety Code Section 11362.5, Compassionate Use Act of 1996 (i.e., Prop 215) and Senate Bill 420.

SIGNED

 LICENSE: G73590 Francis D'Ambrosio, MD

STATEMENT ISSUE DATE: 03-22-2022

RECOMMENDATION LENGTH: 1 Year

EXPIRATION DATE: 03-22-2023

PATIENT ID NUMBER: JP45857



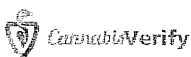
PATIENT SIGNATURE

### TO VERIFY THIS RECOMMENDATION

Online

**CANNABISVERIFY.COM/VERIFY**

24/7 Online Verification @ <https://cannabisverify.com>



To verify this recommendation please visit the website listed above. When prompted enter the 7-character Patient ID followed by the patient's birthdate located on their California ID card.

**EXHIBIT D**

Francis D'Ambrosio M.D.



22603 Pacific Coast Hwy  
90265 Malibu CA

**PATIENT ID: 6737 4743 5735**

24-Hour Online Verification: <https://getnugg.com/verify/673747435735>

This certifies that **DARRELL BENNETT** was evaluated in my physical, virtual, or telemedical office for a medical condition, which in my professional opinion, may benefit from the use of medical marijuana. It is my assessment that the above-mentioned patient qualifies under California Health and Safety Code Section 11362.5 for the use of cannabis for medical purposes. If the patient chooses to use marijuana therapeutically, I will continue to monitor his/her medical condition and to provide advice on his/her progress at least annually. I act only as a consultant, not as primary care provider. This patient assumes full responsibility for any and all risks associated with this treatment option. I have discussed the potential medical benefits and risks of marijuana use.

This patient hereby authorizes this office to discuss the nature of their condition(s) and the information contained in this document only for verification purposes. This is a non-transferable document. It is the property of the physician indicated and can be revoked at any time without notice. Void after expiration date, or if altered or misused. Please direct all questions to the office that issued this recommendation.

This medical document identifies this individual as a patient whose possession and/or cultivation of medical cannabis is permissible pursuant to California Health and Safety Code Section 11362.5, Compassionate Use Act of 1996 (i.e., Prop 215) and Senate Bill 420.

PHYSICIAN'S SIGNATURE: \_\_\_\_\_

LICENSE: G73590

STATEMENT ISSUE DATE: 03/22/2022

RECOMMENDATION LENGTH: 1 Year

EXPIRATION DATE: 03/22/2023

PATIENT ID NUMBER: 6737 4743 5735

A handwritten signature in black ink, appearing to be "Francis D'Ambrosio".

FSST Medical Cannabis Card	
Qualifying Patient	
Cultivate: No	A black and white photograph of a man with glasses, wearing a dark shirt.
First Name DARRELL	Middle Name KYLE
Last Name BENNETT	Suffix II
Patient ID #: 6ELJA889K0	Issued: 04/20/2022 Expires: 05/20/2023
A standard 1D barcode representing the patient ID number.	

**TO VERIFY THIS RECOMMENDATION**

24-Hour Online Verification: <https://getnugg.com/verify>



**EXHIBIT E**



## CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of Defendant's Affidavit in Support of Motion to Dismiss Pursuant to Medical Purpose Defense this Certificate of Service were, on 18<sup>th</sup> day of September 2023, electronically served on the following named individual using the Odyssey File and Serve program:

Jim Miskimins  
1015 S. Miller Ave.  
Mitchell, SD 57301  
[statesatty@davisoncounty.org](mailto:statesatty@davisoncounty.org)

/s/ Doug Dailey  
Doug Dailey, Esq.  
Of DAILEY LAW, PROF. LLC  
1408 N. Sanborn Blvd.  
Mitchell, SD 57301  
(605) 990-3700  
[doug@dailey-law.com](mailto:doug@dailey-law.com)

**ATTORNEY FOR DEFENDANT  
DARRELL K. BENNETT**