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Attorneys for Defendant

UNITED STATES DISTRICT COURT FOR THE STATE OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PEDRO DUENAS-RIVERA, aka
JOSE DIAZ,

Defendant.

Case No. CR-04-85-E-BLW

**MOTION TO SUPPRESS
EVIDENCE**

Defendant, Pedro Duenas-Rivera, through his attorney, Scott H. Hansen, hereby motions the court for its order suppressing evidence obtained at the apartment where the Defendant was arrested pursuant to an illegal search.

This motion is made pursuant to the Federal Criminal Rules of Procedure. Defendant alleges that the Fourth Amendment to the Constitution of the United States of American which prohibits illegal searches or warrantless searches has been violated.

Defendant alleges that the following occurred that created an illegal search of the apartment where Defendant was staying.

1. Police arrived early in the morning and knocked at the door of the apartment. The Defendant answered the door and the police forced their way into the apartment and ordered the

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Defendant to sit down on a chair. The police immediately started looking around the apartment doing the initial start of a search of the apartment.

2. The police then read Defendant his Miranda Rights. The Defendant understood his Miranda Rights having had them read to him before.

3. The police then brought out a piece of paper indicating that they wanted Defendant to sign the piece of paper. Defendant stated that he could not read the paper without his glasses and requested that he be allowed to locate his glasses to read the paper with. He was not allowed by the police to locate his glasses so he could read the piece of paper. He was told that the piece of paper was an acknowledgment of his rights and he was required to sign the document. The Defendant did sign the document. The Defendant did not understand that he was signing a consent to search.

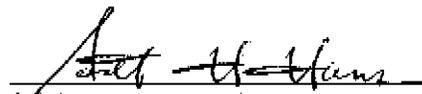
4. The police then proceeded to search the apartment where the Defendant was staying and found drugs in the apartment and other paraphernalia related to drug usage.

5. Defendant speaks very little English. This native language is Spanish.

Under this set of circumstances, the Defendant seeks this court's order suppressing the evidence that the police found at the apartment where the Defendant was staying. Further, that the court order that the prosecution shall not be allowed to use the evidence that it illegally obtained against the Defendant in a trial against him for illegal drug use.

DATED and signed this 8th day of July, 2004.

BLASER, SORENSEN & HANSEN, Chrt.

By: 
SCOTT H. HANSEN
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of July 2004, a true and correct copy of the foregoing **MOTION TO SUPPRESS EVIDENCE** was served by the method indicated below and addressed to each of the following:

Michael J. Fica
Assistant United States Attorney
801 E. Sherman #192
Pocatello, ID 83201

- U.S. Mail
- Fax (478-4175)
- Overnight Delivery
- Hand-Delivery



SCOTT H. HANSEN