ORIGINAL

Samuel Richard Rubin
FEDERAL DEFENDERS OF EASTERN
WASHINGTON AND IDAHO
350 North 9th Street, Suite #301
Boise, ID 83702
Phone: (208) 388-1600
Fax: (208) 388-1757

Attorney for Defendant
KENNETH PUGH

FILED NOV 02 '04 PM 04:23 USDCTID

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA, Plaintiff, v. KENNETH PUGH, Defendant.	CR-02-114-S-BLW MOTION FOR DISCLOSURE OF EVIDENCE RE REVOCATION OF SUPERVISED RELEASE AND FOR PRODUCTION OF EXCULPATORY EVIDENCE

COMES NOW the Defendant, KENNETH PUGH, by and through his counsel of record, Samuel Richard Rubin, Federal Defenders of Eastern Washington and Idaho, and pursuant to 18 USC 3583, Fed.R.Crim.P. 32.1, the Due Process Clause of the Fifth Amendment to the United States Constitution and the Compulsory Process Clause of the Sixth Amendment to the United States Constitution, requests that the evidence against him be disclosed, including but not limited to:

1. Probation Officer's File - A copy of, or the opportunity to inspect and copy, the complete file of the probation officer regarding the supervision of the Defendant. The Defendant represents that the entire file should be disclosed because it contains material evidence that supports the Defendant's position that supervision should not

23

be revoked. See Brady v. Maryland, 373 US 83 (1963) (due process required disclosure of all favorable evidence relevant to sentencing). This evidence would include contacts made between the Defendant and the Probation Department, or between members of the Defendant's family and the Probation Department advising of the whereabouts of the Defendant and would show a lack of effort to determine where the Defendant was during the time in question.

2. Evidence - *All* evidence in possession of the Government or its agents against the Defendant. Rule 32.1(a)(2)(B), including but not limited to the "Chronos" records which comprise the record of all contacts with the Defendant, which may be redacted in order to preserve confidentiality.

3. Statements - Copies of all written or recorded statements and the substance of all oral statements made to the attorney for the Government or a person known by the Defendant to be a Government agent or law enforcement officer, including any member of the United States Probation Department which the Government intends to introduce at the revocation proceeding or which are of any relevance to the revocation petition.

4. Prior Record - A copy of the Defendant's prior criminal record, a copy of the Defendant's presentence report on the underlying conviction, and a copy of the Judgment and Commitment order entered upon the underlying conviction.

5. Tangible Evidence - Copies of or the opportunity to inspect and copy if feasible, all books, papers, documents, photographs, tangible objects, buildings or places which are intended for use by the Government at the revocation proceeding or which were obtained from or belong to the Defendant.

6. Examinations / Tests: Copies of and the opportunity to inspect and photograph the results of or reports of all physical or mental examinations, and of scientific tests or experiments the existence of which is known or by due diligence may become known to the attorney for the Government and which are intended for use by the prosecution as evidence in the case.

This motion is supported by the files and records in this case, the Memorandum of Law, and the Affidavit of Counsel filed contemporaneously herewith.

RESPECTFULLY SUBMITTED this 7 day of November, 2004.

Samuel Richard Rubin
FEDERAL DEFENDERS OF EASTERN
WASHINGTON AND IDAHO
Attorney for Defendant
KENNETH PUGH

350 North 9th, Suite #301
Boise, ID 83702
(208) 388-1600

Samuel Richard Rubin
FEDERAL DEFENDERS OF EASTERN
WASHINGTON AND IDAHO
350 North 9th Street, Suite #301
Boise, ID 83702
Phone: (208) 388-1600
Fax: (208) 388-1757

Attorney for Defendant
KENNETH PUGH

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,	)	
	)	CR-02-114-S-BLW
Plaintiff,	)	
	)	CERTIFICATE OF SERVICE
v.	)	
KENNETH PUGH,	)	
Defendant.	)	
	)	

I HEREBY CERTIFY that on this date, I served a true and complete copy of the herein and foregoing MEMORANDUM IN SUPPORT OF MOTION FOR DISCLOSURE OF EVIDENCE RE REVOCATION OF SUPERVISED RELEASE upon the following parties to this action via general mail delivery addressed as follows:

George Breitsameter
Assistant U.S. Attorney
MK Plaza, Plaza IV, Suite 600
800 Park Blvd.
Boise, ID 83712

U.S. Probation

DATED this 2 day of Nov., 2004.

Kathy Bozman

Samuel Richard Rubin
FEDERAL DEFENDERS OF EASTERN
WASHINGTON AND IDAHO
Attorney for Defendant
KENNETH PUGH