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FILED
MISSOULA, MT
2006 OCT 5 AM 10 47
PATRICK E. DUFFY
BY _____
DEPUTY CLERK

**ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA**

ORIGINAL

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BUTTE DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. THOMAS B. ROBINSON, Defendant.	CR 05-27-BU-DWM <u>UNITED STATES' NOTICE OF</u> <u>CONVENTIONAL FILING OF</u> <u>DOCUMENT</u>
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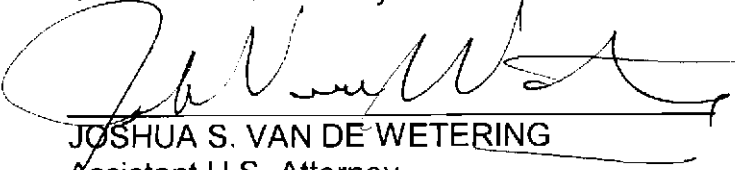
Please take notice that the United States has conventionally filed the Deferred Prosecution Agreement in the above entitled case. The document(s) or item(s) is/are not available in electronic form. The document(s) or item(s) has/have not been filed electronically because:

 X scanning is not practicable as the document contains original signatures;

_____ the electronic file exceeds megabytes in size;
_____ a court order excuses conventional filing;
_____ the filing is under seal;
_____ the filing is exempted under Local Rule ;
_____ the filer experienced the following technical difficulties as shown by
the attached documentation;
_____ pursuant to Local Rules and Judge's request.

DATED this 2nd day of October, 2006.

WILLIAM W. MERCER
United States Attorney



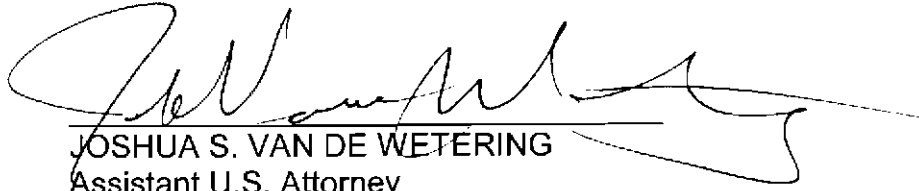
JOSHUA S. VAN DE WETERING
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on October 2, 2006, a copy of the foregoing document was served on the following persons by the following means:

- ☐ CM/ECF
- ☐ Hand Delivery
- ☒ U.S. Mail
- ☐ Overnight Delivery Service
- ☐ Fax
- ☐ E-Mail

Michael J. Sherwood
Attorney at Law
P.O. Box 8358
Missoula, MT 59807



JOSHUA S. VAN DE WETERING
Assistant U.S. Attorney

ORIGINAL

DEFERRED PROSECUTION AGREEMENT

This agreement is made and entered into on the date(s) written below by and between, Josh Van de Wetering (Van de Wetering), Asst. U.S. Attorney, representing the United States of America, Thomas B. Robinson (Robinson), and Michael J. Sherwood (Sherwood), attorney for Thomas B. Robinson.

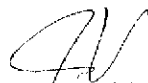
RECITALS

1. Robinson has been charged by Indictment with the offense Offering to Sell Drug Paraphernalia in violation of 21 U.S.C 863.
2. The parties have agreed to jointly move to dismiss the Indictment without prejudice.
3. The parties have entered into this agreement in an effort to resolve this matter without further litigation.

WITNESSETH

NOW, therefore, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged by all parties, *IT IS HEREBY AGREED* as follows:

1. Commitment to Defer Prosecution. The United States of America agrees that it will defer any further prosecution in this matter provided Robinson successfully performs all of the acts set forth below. Van de Wetering will execute a joint motion to dismiss the current Indictment without prejudice within FIVE (5) days of the execution of this Agreement. The United States will not re-indict Robinson based upon facts now known


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to the United States Government unless Robinson violates the terms and conditions of this Agreement.

2. Conditions of Deferred Prosecution. During the term of this deferred prosecution Robinson shall:

- a. Refrain from offering to sell: pipes of any kind that can be used for the ingestion of marijuana or any other controlled substance; any grinders or sifters capable of processing marijuana or any other controlled substances; roach clips; miniature spoons; and any scales capable of weighing a controlled substance.
- b. Refrain from being a principal, owner or partner in any business which offers to sell: pipes of any kind that can be used for the ingestion of marijuana or any other controlled substance; any grinders or sifters capable of processing marijuana or any other controlled substance; roach clips; miniature spoons and any scales capable of weighting a controlled substance.
- c. Consent to a search of the premises of any business in which he has a proprietary interest by federal law enforcement officers, during business hours without a search warrant, to insure that the business does not have any of the foregoing items on its premises or being offered for sale.
- d. Allow the United States Government to permanently retain all pipes, grinders, scales and sifters previously seized or purchased by law enforcement from the business known as the Grateful Shed. In the event this matter does not proceed to trial, allow the United States Government to destroy said items or dispose of them in any fashion the United States Government deems appropriate.
- e. Within 30 days of execution of this Agreement, Robinson shall pay to any drug enforcement fund designated by the United States Attorney's Office the sum of FIVE THOUSAND DOLLARS (\$5,000.)

3. Waiver of Speedy Trial and Waiver of Any Objection Due to Pre-accusatory Delay. Robinson and Sherwood recognize that Robinson has a right to be tried in a speedy and timely fashion under the provisions of the United States Constitution.

Robinson hereby waives any claim that he has not been afforded a speedy trial and any claim that any future charging document should be dismissed due to pre-accusatory delay in the event that the United States Government revokes this deferred prosecution commitment because Robinson has failed to comply with the terms and conditions set forth herein.

4. Term of Deferred Prosecution: This agreement shall be in effect until July 15, 2008.

5. Admissions by Parties. This agreement is entered into for purposes of attempting to settle a dispute between the parties. The United States of America makes no admission that it lacked sufficient evidence to indict and successfully prosecute Robinson for the violation charged. The United States makes no admission that the items purchased or seized from the Grateful Shed are not drug paraphernalia. Robinson makes no admission that the violations previously charged have any basis in fact. Robinson makes no admission that the items purchased or seized by the United States Government from the Grateful Shed are drug paraphernalia. Robinson does acknowledge, however, that the prosecution in this matter was not vexatious, frivolous, or in bad faith.

6. Representations of Robinson. Robinson hereby affirmatively represents that:

- a. He has had an opportunity to consult with his attorney;
- b. He is satisfied with the representations of his attorney;
- c. His attorney has reviewed and approved this agreement as is indicated below; and,
- d. He has entered into this agreement voluntarily and of his own volition.

7. Representations of Sherwood. Sherwood hereby represents that:


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- a. He has represented Robinson and negotiated the foregoing deferred prosecution agreement;
- b. He has had an opportunity to review this agreement and actively participated in the drafting of the language; and
- c. After having adequate time to consult with Robinson, he approves the agreement both as to form and content.

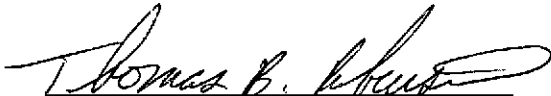
8. Representations of Van de Wetering. Van de Wetering hereby represents that:

- a. He has the authority to enter into this Agreement on behalf of the United States of America; and,
- b. Upon termination of this Agreement due to Robinson's successful completion of all the foregoing conditions the United States will initiate no further criminal prosecution against Robinson based upon facts now known to the United States or information in possession of the United States.


JOSH VAN DE WETERING
Asst. U.S. Attorney

Dated:

9/25/06


THOMAS B. ROBINSON
Defendant

Dated:

8/30/06


MICHAEL J. SHERWOOD
Attorney for Defendant

Dated:

9/11/06