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Applicant

Alfaro, Belvin & Cohn, LLP

123 St

CA

Maria Castile, Assistant US Attorney

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Dear Ms. Castille,

As you may know, we represent Blake Davis. Mr Davis and his wife were traveling aboard a cruise ship, "the Esprit," with his wife Ann to celebrate their 40th wedding anniversary. Unfortunately while on board the ship, Mr. Davis had his constitutional rights violated when Customs Officers conducted an unreasonable search of Mr. Davis' cabin under the Fourth Amendment to the United States Constitution. We are aware that Mr. Davis may be charged with a misdemeanor of resisting Agents, and a felony possession of cocaine. Mr. Davis is willing to plea guilty to the misdemeanor charge, but will fight the unfounded felony drug possession charge. The felony possession charge of cocaine is unwarranted and Mr. Davis will be contesting the charge because it was the product of a search which violated Mr. Davis' reasonable expectation of privacy.

As you are aware, the Fourth amendment protects a person from unreasonable searches and seizures of their property. In order for a search to be valid, there must be a search warrant or the circumstance must fall under an exception to the warrant clause. As you are also aware, the Customs agents did not have a

search warrant when they entered into Mr. Davis' cabin. The officers also failed to have reasonable suspicion that Davis committed any crime. Thus, the drugs seized from the cabin must be suppressed.

The officers did not have a justified reasonable suspicion that Mr. Davis had contraband onboard the ship.

Even at the border, however, an individual is entitled to be free from an unreasonable search and privacy interests must be balanced against the sovereign's interests. According to *US v. Clark, US Court of Appeals, 15th Circuit* (2014) (*Clark*), it is an open question as to whether the search of a cruise ship cabin is a routine or non-routine search. The court sided with numerous other decisions that found for the notion that the search of a private living quarter aboard a cruise ship at a port is a non-routine search and must be supported by reasonable suspicion of criminal conduct. *Id.* The *Clark* case was a case in which an individual had his room searched when his roommate consented to the search after a dog was alerted in the hallway to drugs. *Clark* argued that the Officer's did not have reasonable suspicion to enter into his room and conduct a search. However, this case can be distinguished from Mr. Davis' situation because the Officer's that arrested Mr. Davis made many unreasonable mistakes.

The officer's mistakenly entered Mr. Davis' cabin when they erroneously thought that the room was occupied by an individual named "Blake C. Daviss." While it is true that these two names are similar, it is unreasonable for an officer to misread and misidentify an individual with a completely different name. The officer told Mrs. Davis that they had "reliable information" that the couple possessed drugs. However, the officer's relied on the wrong name to search the wrong Cabin.

Also, the officers made an unreasonable mistake when they assumed that Mr. Davis was Blake Daviss because there is a large age gap between the two. Mr. Davis is a 61 year old man, while Blake Daviss is a 21 year old male. This is

quite the age difference and the officer's made an unreasonable mistake when they assumed Mr. Davis was Blake Daviss.

The officer's did not have reasonable suspicion to search the de facto home of the Davis family because there was no evidence that the officer's could have reasonably relied on when searching the cabin. First, the name was wrong and it was unreasonable for the officer's to believe that mr Davis was Blake Daviss. Second, Mr. Davis was in his home which requires a higher level of suspicion than a routine search.

The Officer's did not have the authority to dig through Mr. Davis'

Belongings. The search conducted by the Custom's officers was not analagous to the search in the *Clark* decision. The dog in the *Clark* decision alerted officers when they walked it down the hallways on a routine narcotic search. After the dog alerted to the presence of narcotics outside of Clark's room, the officer's then enterered the room and conducted a search of the room based solely on the dogs direction and alerts. Here, the dog may have alerted officers to the presence of cocaine, but once in the room, the officers tore through the belongings of the Davis family and searched compartments.

As you know, a search is limited, especially a search of one's temporary home, which is highly intrusive by nature. The officer's should have waited for an alert from the dog and concentrated on that area. That was far from what was done here. The Officer's rummaged through the belongings of our client until they found cocaine in a compartment under the balcony.

In sum: Davis will be able to prove that the search was unreasonable because the officer's lack reasonable suspicion.

Drugs will be supressed because they were illegally seized

Under the exclusionary rule, all items which were obtained during an illegal

search will be excluded. The cocaine found in the balcony compartment will be excluded because Davis' constitutional rights were violated. There are strong US Supreme Court cases which will evidence that this type of unlawful search will result in the suppression. We are prepared to argue on behalf of our client and will get the cocaine suppressed.

Mr. Davis is willing to accept a plea agreement

For the reasons stated above, the drugs will be suppressed. Mr. Davis is willing to plead guilty to the misdemeanor resisting arrest charge. He is not entirely innocent of this charge and should have respected the Officer's even though what they did to him and his wife was unreasonable and violated their constitutional right to be free of unreasonable searches.

Please contact us so we can discuss this further.

Sincerely,
Applicant

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