

IN THE \_\_\_\_\_ COURT FOR THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_

vs.

Plaintiff,

Defendant.

NO.

**AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS  
(State Secrets Privilege & Federal Immunity)**



I, [NAME OF AFFIANT] \_\_\_\_\_,

being first duly sworn, depose and state as follows:

**1. STATUS AND AUTHORITY I am currently serving as a [Rank/Title]**

\_\_\_\_\_ with the

[Branch of Service/Agency] \_\_\_\_\_.

At all times relevant to the charges herein, I was operating under the authority of the United States Government pursuant to Title 10 or Title 32 of the U.S. Code. My duties involved Domestic Deployment operations validated by federal law.

2. **LIMITED AUTHORITY PEACE OFFICER STATUS** Pursuant to **RCW 10.93.020(6)**, I qualify as a "Limited authority Washington peace officer" by virtue of my federal status and agency definitions. I am authorized to enforce laws within specific areas and possess the **Federal Security Clearance** (Confidential, Secret, or Top Secret) which grants me access to information that could cause grave damage to national security if released.
3. **ASSERTION OF STATE SECRETS PRIVILEGE** The conduct for which I am currently charged occurred during the execution of official orders. The specific details of these orders, the Rules of Engagement (ROE), and the operational objectives are classified.
  - **The Reynolds Standard:** The United States Supreme Court has established that the government may prevent the disclosure of information if it could reasonably be expected to cause significant harm to national security.
  - **Privilege Invocation:** Disclosure of the specific tactical reasons for my actions would reveal sensitive intelligence sources, methods, or ongoing operations.
4. **MOTION TO DISMISS (TOTEN DOCTRINE & DUE PROCESS)** Because the evidence required to explain and justify my actions is classified, it cannot be introduced in open court.
  - **The Totten Bar:** Under the rule established in *Totten v. United States*, when the very subject matter of the litigation is a state secret, the action must be dismissed.
  - **Constitutional Violation:** Proceeding with this prosecution without the ability to introduce my exculpatory classified orders would violate my **Fifth Amendment** right to Due Process and my **Sixth Amendment** right to a fair trial. I cannot defend myself without revealing state secrets; therefore, the case must be dismissed.
5. **JUSTIFICATION OF FORCE AND NO WARRANT REQUIRED** Regarding the specific allegations of force or seizure:
  - **No Warrant Needed:** As a federal agent operating under specific statutory authorities (e.g., border enforcement or insurrection statutes), I am authorized to conduct search and seizure operations without a warrant in the performance of my duties.
  - **Necessary Force:** My actions were consistent with **RCW 9A.16**, which authorizes the use of force in the performance of a legal duty.
  - **Duty to Act:** I was presented with a situation requiring immediate intervention. Failure to utilize **Necessary Force** to defend the community or myself would have constituted negligence and a dereliction of my federal duty.
6. **CONCLUSION** To avoid the "appearance of impropriety" or the unauthorized disclosure of classified material, and because the "truth" of this matter is protected by the State Secrets Privilege, I respectfully request this Court dismiss all charges with prejudice.

## 7. REFERENCES

### Federal Statutes (U.S. Code)

- **10 U.S.C. §§ 251–255:** *The Insurrection Act.* These statutes provide the President with the authority to deploy military forces domestically to suppress insurrection and enforce federal law.
- **8 U.S.C. § 1357:** *Powers of immigration officers and employees.* This statute grants federal agents (specifically within immigration enforcement, often applicable to border security operations) the power to interrogate and arrest without a warrant.
- **Title 10 & Title 32 U.S.C.:** The general statutory frameworks governing the Armed Forces (Title 10 for federal service, Title 32 for National Guard).

### Case Law (Supreme Court)

- **United States v. Reynolds, 345 U.S. 1 (1953):** The landmark Supreme Court case establishing the **State Secrets Privilege**, allowing the government to withhold information that would harm national security.
- **Totten v. United States, 92 U.S. 105 (1876):** The Supreme Court decision establishing the rule that lawsuits based on secret contracts or services (espionage/covert operations) must be dismissed entirely to prevent the disclosure of state secrets.

### Washington State Statutes

- Washington State Legislature. (n.d.). *RCW 9A.16.020: Use of force—When lawful.* Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=9A.16.020>
- Washington State Legislature. (n.d.). *RCW 9A.16.050: Homicide—By other person—When justifiable.* Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=9A.16.050>
- Washington State Legislature. (n.d.). *RCW 10.93.020: Definitions.* Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=10.93.020>
- Washington State Legislature. (n.d.). *RCW 10.93.200: Firearms—Authority to carry.* Retrieved from <https://app.leg.wa.gov/rcw/default.aspx?cite=10.93.200>

### Government & Legal Resources

- Congressional Research Service. (2022). *The state secrets privilege: National security information in civil litigation* (CRS Report No. R47081).
- U.S. Department of Justice. (2022). *Justice Manual 1-16.000: Department of Justice policy on use of force.* Retrieved from <https://www.justice.gov/jm/1-16000-department-justice-policy-use-force>
- U.S. Department of Justice. (n.d.). *Criminal Resource Manual 1615: Protection of foreign officials—Internationally protected persons and official guests.* Retrieved from <https://www.justice.gov/archives/jm/criminal-resource-manual-1615-protection-foreign-officials-internationally-protected-persons>

### Government Reports

- Congressional Research Service (CRS) Report R47081: *The State Secrets Privilege: National Security Information in Civil Litigation* (Shaw, 2022). This report provides the modern interpretation and application of the privilege.
- U.S. Department of Justice Criminal Resource Manual 1615: *Protection of Foreign Officials—Internationally Protected Persons.* Used to reference international authority and protections.

FURTHER AFFIANT SAYETH NAUGHT.



[Signature of Affiant] \_\_\_\_\_

[Rank/Title] \_\_\_\_\_

[Date] \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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NOTARY PUBLIC in and for the State of Washington.

Submitted by: \_\_\_\_\_

Petitioner  Respondent  Other