

FILED

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Mr. Piero A Bugoni, c/o
American Justice Corporation
1776 I St NW, 9th Floor
Washington DC 20006

2014 AUG -7 PM 3:07

CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA FLORIDA

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE MIDDLE DISTRICT OF FLORIDA

Piero A. Bugoni

PLAINTIFF

vs.

Governor Rick Scott

In His Official Capacity

DEFENDANT

District Court Case No.:

8:14 cv 1903 T 35 EAJ

CLAIM FOR RELIEF

JURY DEMANDED

Grounds for Jurisdiction And Venue

Per FRCP Rule 8 (a) (1), Plaintiff claims jurisdiction herein because 42 USC Chapter 21, and 18 USC Chapter 13, statutorily protect explicit civil and criminal actions against public officers of trust or for profit, acting under color of law or official right, bogus authority, excess of or without jurisdiction, ultra-vires, or by policy, custom, or usage, for violating the Civil Rights, of any Person, and because 28 USC 1331 Statutorily authorizes this Court to hear and decide Claims concerning Federal Questions, 28 USC 1343 statutorily authorizes this Court to try and grant relief for Civil Rights Violations, and 28 USC 1391 grants Venue herein because the acts of defendants that are charged by claim herein, were committed in the State of Florida, in Hillsborough County.

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T.F.P.

1 Plaintiff seeks supplemental Jurisdiction herein over State Claims pursuant to 28 USC 1367, because the Uniform Declaratory Judgments Act, Codified in Florida under FRS Chapter 86, grants authority to Florida State Courts to declare Judgments on questions of Constitutional Law and because the Civil Rights violations charged against defendants are violations of the Florida State Constitution and State Laws, as stated herein.

All statutory claims for Jurisdiction supra, are pursuant to The Constitution of The United States of America, and per Article III, thereof.

Entitlement to Relief:

Per FRCP Rule 8 (a) (2), and 28 USC 2201 and 2202, Plaintiff is entitled to relief because the United States Constitution, and all statutes made in pursuance thereof guarantee such relief as requested infra, and because no Reasonable Man could ever agree that the conduct proscribed by the statute challenged is by Consent of The Governed, and because Plaintiff is a member of the Public, and because Plaintiff and all persons similarly situated are under imminent threat of physical injury, loss of Property, loss of Time, loss of Business, loss of Money, Outrage, loss of Privacy, loss of Liberty, violation of Peace and Dignity, denial of Due Process, and Equal Protection of Law, by enforcement of the Florida Statutes challenged, Plaintiff, and all persons similarly situated are entitled to relief as a matter of Law and Right, as stated herein, and to enjoin further enforcement of the law challenged, and for this Court to protect by declaration, Plaintiff's Rights, and the Rights of The Public, and per this Court's jurisdiction stated supra, pursuant to the Constitution of The United States of America, Plaintiff is entitled to a Jury to be called to decide this matter, and that they may be called to to so with expedience, per FRCP Rule 57.

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Parties:

- 1) Piero Bugoni, Plaintiff, appears Pro Se.
- 2) Rick Scott, Governor of The State of Florida, sued in his official capacity thereas.

Synopsis:

- 3) This complaint challenges the Constitutionality of the so-called "Florida Comprehensive Drug Abuse Prevention and Control Act", specifically with regard to its prohibition of Genus *Cannabis*, TetraHydroCannabinol, its analogs and metabolites.
- 4) Plaintiff was charged with violating the law stated, and ultimately plead "No Contest" because his pre-trial release was revoked pursuant to FRS 903.0471 due to an additional charge pursuant to FRS 322.34 (DWLS). The Civil Rights violations that are being caused and have been caused by that charge are or may be the subject of a separate complaint.
- 5) The following is a brief chronological narrative of events giving rise to this complaint:
 - 6) On 24 February 2013, Plaintiff was arrested and charged with violating FRS 893.13(6B), for possessing *Cannabis* in an amount less than 20 Grams.
 - 7) Plaintiff originally plead not guilty in that case and demanded a Jury Trial. Plaintiff ultimately plead "no contest", because taking the case to trial would have led to longer pre-trial detention than was the sentence sought by the State. As a result, Plaintiff stood to suffer greater damages even if acquitted, for taking the case to trial, than if pleading "No Contest". That case has now concluded, and Plaintiff has completed the sentence.

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Factual Allegations:

8) FRS §§ 893.02(3), 893.03 are unconstitutional with regard to Cannabis. They specifically control the entire genus "Cannabis" as a Controlled Substance. Cannabis is a plant that grows wild without the intention of, and despite Man. As with any wildy occurring plant it will grow and propagate itself without any action by any person. There is no rational relation to the presence of Cannabis and the probability of cause. The Cannabis plant is capable of growing and producing odiferous compounds without producing any drug scheduled under FRS § 893.03. An example of that circumstance is "Industrial Hemp", (As defined in HR-1831, "Industrial Hemp Farming Act of 2011", and H.R.1009 -- Industrial Hemp Farming Act of 2007), which is indistinguishable by odor from drug-containing Cannabis. FRS § 893.03 schedules numerous specific chemical compounds as controlled substances, including the accepted "drug" components of Cannabis, (TetraHydroCannabinols, FRS § 893.03(1)(c)(37)), but also schedules the entire Cannabis genus as a controlled substance, FRS § 893.02(3), FRS § 893.03(1)(c)(7). Cannabis contains certain drug components, which are specifically identified as controlled substances under FRS § 893.03 as well as 21 U.S.C. §§ 802, 812. Minus these compounds Cannabis is not substantially different in any way from any other plant. It is more than 90% water, the remainder is mostly cellulose. (Cotton, Wood Fiber, Paper. Nothing illegal). In the case of Cannabis, certain drug-compounds are produced by the plant as well as certain odiferous compounds. The rest of the plant is no different than any other. The odiferous compounds it produces (Terpenes) are legal and common to all herbs and spices, plants of the genus Pinaceae (Pine), Citrus, and other plants as well. The drug-compounds themselves have no odor. Minus the drug compounds, Cannabis is no different from Rosemary, Thyme, Oregano, Bay Leaf, Lemon Grass, Oranges, Lemons, Limes, Grapefruit or any Citrus. It is only the drug-components of Cannabis that potentially meet the criteria for scheduling as a controlled substance. (The notion of herbs, spices, and citrus fruits having a "high potential for abuse" is ridiculous in se and cannot be addressed). FRS § 893.03(1) (Schedule I), proscribes that a substance must have no medical use and a high probability for abuse. Both

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1 these criteria must be met because simply the fact that something has no medical use cannot by itself be a criteria for control under or by law, and likewise a substance that has "high potential for abuse" may be legal if it has medical value. In FRS § 893.03 the term "abuse" is vague and over broad. Neither "Drug", nor "Abuse" are defined anywhere in FRS Chapter 893, The so-called Florida Comprehensive "Drug Abuse" Prevention and Control Act. By its colloquial meaning "abuse" means "wrongful use". This statute deprives an individual who would use these controlled substances rightfully of the Liberty Interest of using them, because of a presumption of "high probability" of "abuse" by some other party. This presumption constitutes prior restraint. The "clear and present danger" standard is not met. "High Probability" is not synonymous with "clear and present", and "abuse" does not sufficiently define the conduct sought to be proscribed. The provision in FRS § 893.03(1) that Cannabis has "no currently accepted medical use in treatment in the United States" is simply in error because sixteen of the United States, and the District of Columbia, have passed Medical Marijuana legislation. In addition, two states, Washington and Colorado, have fully repealed criminal statutes proscribing the personal possession of Cannabis. Citizens in Florida are Guaranteed by The United States Constitution the Full Faith and Credit of those Public Acts, and likewise, The Equal Privileges and Immunities concomitant with those acts. Because the law makes illegal a wildly growing plant that may not have any component at all that is schedulable as a controlled substance, and because the law is vague and over broad, and because enforcement of this law impugns Plaintiff's Fundamental Rights to Life, Liberty, Property, To Be Let Alone, To Free Expression, To Privacy of Ones Own Body, to Freedom of Conscience, and to Freedom of Thought, and likewise, because Washington and Colorado have legalized Cannabis, the law stated is unconstitutional.

9) The Florida Statutes Challenged impugn Plaintiffs' Fundamental Rights because:
 a) Cannabis itself is Property: "Property" is "anything of value". "Value" is "the object of any Human Desire" Cannabis costs money, and Cannabis has value *in se* to its possessors.

28 As such Cannabis is Property. Property Rights are Fundamental Rights. As such, FRS

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893.13 criminalizes possession of this property, namely Cannabis itself.

b) The Effects of Cannabis are Property: The cerebral and corporeal effects of Cannabis have value to its users. Use requires at least temporary possession. Prohibition thereof impedes or impugns the obtaining and enjoyment of these benefits, namely the effects of Cannabis, desired by its users, and as such FRS 893.13 criminalizes the enjoyment of this property.

10) FRS 893.13 is vague because:

a) The word "Drug" is not defined anywhere in FRS Chapter 893.

b) The word abuse is "Abuse" not defined anywhere in FRS Chapter 893.

c) "High Probability" not defined. Probability neither evaluated nor stated mathematically is bogus on its face, and is merely an arbitrary claim.

d) The Law in question is called the "Florida Comprehensive Drug Abuse Prevention and Control Act", yet the very cause for the Act is not defined in any kind of meaningful way.

11) FRS 893.13 is overbroad because:

a) Industrial hemp, (a plant with no drug components), is included in prohibition of genus Cannabis. This is a natural product that grows despite Man, and a very useful and commercially valuable commodity. The law prohibits individuals, industry, and communities from enjoying these benefits, and constitutes an arbitrary enforcement because the commercial use and enjoyment of otherwise harmless and beneficial products is prohibited by its inclusion in the proscription of a separate, distinct and unrelated material as contraband.

12) FRS 893.13 fails to meet its burden of Substantive due process because:

a) The law is factually in error with its claim of "No Accepted Medical Use" of Cannabis. Laws must be factually correct in order to be reasonably obeyable, much less legitimately enforceable.

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b) False factual claims within a law, amount to at minimum arbitrary and capricious conditions upon which the law is based, and as such places arbitrary and capricious restrictions upon Plaintiff and all individuals.

c) Because the false factual claims stated supra, are in the law's "Compelling Objective" that objective is non-existent, and because the law impugns the Fundamental Rights stated herein, minus a "Compelling Objective" the law fails to meet its Constitutional mandate.

13) FRS 893.13 fails to meet its burden to Interstate Comity, as required by The United States Constitution, Article IV, Sections 1 and 2, because:

a) A Recent Intervening Change In Law, namely the "legalization" (or repeal of statutes proscribing use, or prohibiting possession), of Cannabis in Colorado, and Washington State, immediately emburdens the State of Florida to do Likewise, pursuant to Article IV, §§ 1 and 2 of The Constitution of The United States of America. Because the State of Florida has failed to do so, the law in question is unconstitutional, and results in Citizens suffering loss of or interference with the free exercise of the Fundamental Rights stated supra, under color of state law, and without Constitutional Authority.

14) FRS 893.13 violates Plaintiffs' Right to Privacy because:

a) Per *Lawrence v. Texas*, *Roe v. Wade*, and *Griswold v. Connecticut*, Amendment IV of the US Constitution, and Article I, Section 23 of the Florida Constitution, the penumbral protections of The Constitution, namely to the Right of Privacy within one's own body, apply. A person may put Cannabis, and its chemical compounds into their blood, brain, and lungs, or otherwise, and but for both a *clear* and *present* danger to others, created thereby, the state may not prohibit them doing so. Because FRS 893.13 does prohibit doing so, under imminent threat of arrest, criminal prosecution, and incarceration, Plaintiff's and all similarly situated persons' Fundamental Rights to Privacy are violated by this law.

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15) FRS 893.13 violates Plaintiff's Rights to Free Expression because:

a) Cannabis is a facilitator thereof. The use of Cannabis enhances one's ability to perceive and create Music, Art, Literature, Science and Technology, because of its effects on the Mind. Prohibition of the use of Cannabis by the statute challenged denies Plaintiff and all persons similarly situated the enjoyment of this Right, by the use of Cannabis, under imminent threat of arrest, prosecution, and incarceration.

16) FRS 893.13 violates Plaintiffs' Right to Freedom of Thought because:

a) the use of Cannabis facilitates thinking that is not available without it, and Cannabis users enjoy the thinking created by the stimulation of the imagination created by cannabis use, and in many cases convert that thinking into practical reality for their monetary gain. Prohibition of the use of Cannabis denies Plaintiff and all persons similarly situated of this enjoyment by imminent threat of arrest, criminal prosecution, seizure of property, and incarceration.

17) Plaintiff, as with all persons, and per the Hillsborough County Court's own records, no less than 16,404 people county-wide, are likewise under imminent threat because of the existence, and enforcement of the Florida Statutes challenged herein. (See Exhibit 1).

Count 1:

Governor Rick Scott, Defendant, sued in his Official Capacity.

Short and Plain Statement of Claim:

18) All facts and allegations stated supra are incorporated and restated herein as Cause of Action against Defendant Scott. Defendant Governor Scott is sued in his Official Capacity, pursuant to: The United States Constitution, the First, Fourth, Seventh, Ninth, Tenth, and Fourteenth Amendments thereof, and Pursuant to 42 USC 1983, because he is the ultimate superior in this State charged with the enforcement of State Law, and is the respondeat Party liable to be enjoined therefrom. Plaintiff is suing Governor Scott because he is aggrieved by

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1 the existence of, and obligation of compliance to a law that is unconstitutional, and is further aggrieved by the loss of Liberty *in se*, caused to him by the existence and enforcement of the Florida Statutes Challenged, as well as the loss of the particular Liberty Interests caused thereby as described infra, and additionally the interference with: Life, The Pursuit Of Happiness, Enjoyment of Property, The Rights To Be Let Alone, To Free Expression, To Privacy of One's Own Body, Freedom of Conscience, Freedom of Thought, caused to Plaintiff and all persons similarly situated by the imminent threat of enforcement of FRS 893.13. Because the proscriptions of FRS 893.13 with regard to Cannabis impugn the exercise of these stated Fundamental Rights, and because FRS 893.13 does not likewise meet its obligations to Substantive Due Process, nor Interstate Comity, Plaintiff and all persons similarly situated are deprived of the Enjoyment of the stated Rights under Color of State Law. As Chief Enforcement Officer of The State of Florida, Rick Scott is liable for these damages to Plaintiff and The Public, and as such is the Party liable to be enjoined from continuing to cause them to Plaintiff, and all persons similarly situated. Plaintiff stands in this matter because of the (now concluded) state case, wherein he suffered damages in loss of Liberty due to incarceration, loss of time, wages, and income opportunity, he suffered the financial losses concomitant with defending a criminal case, and the disruption of his Peace and Dignity. Because the law in question is a state law of general application, Plaintiff stands in this matter because the nullification of unconstitutional laws is an Urgent Matter of Public Importance. Plaintiff stands in this matter because of the Controversy of now unequal laws extant between the Several States, and the Controversy of now unequal laws extant between the Several States and The Union, created by the recent repealer in Colorado and Washington State, of laws equivalent to the Florida Law challenged. Challenging The Florida "Comprehensive Drug Abuse Prevention and Control Act" is of core nexus to that Controversy because it mirrors almost verbatim the equivalent Federal drug law, and a finding of unconstitutionality in the Florida Law implicates the same in the Federal Law.

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Relief Requested

Declaratory Judgment with Speedy Hearing per FRCP Rule 57:

19) Filing Plaintiff, and any additional Plaintiffs adjointed, DEMAND by this action, that Defendant Scott show BOTH the State of Florida's Compelling Objective for the law in question, AND, the lack of any Less Restrictive Alternative thereto, and that Defendant Scott show cause or fact why the aforementioned allegations are not true or fail to state a Cause of Action. Upon failure of Defendant thereto, Then Plaintiff Demands Declaratory Judgment by a Jury in this matter, that the law in question is unconstitutional for the reasons stated, or any other, and because Plaintiffs case is plead fully herein, that Trial On The Merits of this matter be advanced upon the Court Calendar, per FRCP Rule 57.

Preliminary Injunction:

20) This Court Preliminarily Enjoin Defendant Scott in his Ordinate Capacity from enforcing The Florida Comprehensive Drug Abuse Prevention And Control Act upon individuals for possession of Cannabis, or its related products, and compelling him to prohibit all such enforcement by any of his subordinates of the Executive Department of Government of The State of Florida, pending decision herein on the questions of Constitutionality.

Permanent Injunction:

21) Upon Declaratory Judgment in favor of Plaintiff, This Court Permanently Enjoin Defendant Scott, and any and all Officers of The Executive Department of The State of Florida, by and through Defendant Scott, from enforcing any part of the Florida Comprehensive Drug Abuse Prevention And Control Act, upon any individual, for possession of any material that is of Genus *Cannabis*, or is any condensate, concentrate, or portion thereof, or is TetraHydroCannabinol, or any of its analogs or metabolites.

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Additional Relief:

22) Plaintiff seeks additionally whatever Relief this Court may craft to the ends of Justice in this matter, and IN PARTICULAR, any Finding of Fact, Opinion, Order, Ruling, Judgment or other Edict addressing the implications that a prevailing claim in favor of Plaintiff in this matter places on the comparable Federal Laws proscribing possession or use of Cannabis, and its related products.

Submitted this 7th th Day August, 2014.



Mr. Piero A. Bugoni,
Plaintiff Pro – Se

Certificate of Filing and Service:

The Original of This Document was filed with the Court on 7 August 2014,
by: Plaintiff

A copy was delivered to: _____

on: _____

by: _____

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Exhibit 1

The following are statistical data taken from the Hillsborough County Court Caseload Records:

There were a total of 1,175,009 records contained in the data file used. An explanation of how the data were obtained and processed follows the results shown below.

The following Queries of the data were processed to reveal the statistics below:

1) Non-Duplicate Record Count Contained In Data File:

```
select count(distinct CaseNumber) from HC_CM_Data;
737,468
```

2) Most Recent Record:

```
select STR_TO_DATE(FilingDate, '%m/%d/%y') from HC_CM_Data where FilingDate != " order by
1 desc limit 1;
2014-04-09
```

3) Earliest Record:

```
select STR_TO_DATE(FilingDate, '%m/%d/%y') from HC_CM_Data where FilingDate != " order by
1 asc limit 1;
1988-12-12
```

4) Top-10 Misdemeanor Crimes, 1 January 2014 – 9 April 2014.:

```
select distinct(ChargeDescription), count(CaseNumber) as Total from HC_CM_Data where
STR_TO_DATE(FilingDate, '%m/%d/%y') between '2014-01-01' and '2014-04-09' group by
ChargeDescription order by 2 desc limit 10;
```

| ChargeDescription | Total |
|---|--------------|
| POSSESSION OF CANNABIS LESS THAN 20 GRAMS | 1329 |
| BATTERY DOMESTIC VIOLENCE | 705 |
| PETIT THEFT (\$100 OR LESS) | 529 |
| TRESPASS ON PROP OTHER THAN STRUCTURE OR CONV | 447 |
| OBSTRUCTING OR OPPOSING AN OFFICER WITHOUT VI | 289 |
| PETIT THEFT FIRST DEGREE | 263 |
| POSSESSION OF DRUG PARAPHERNALIA | 202 |
| SOLICITING ON RIGHT OF WAY | 153 |
| BATTERY | 152 |
| CONS ALC BEV W/IN 500FT OF PROP ZONED OFF PRE | 107 |

5) Same Query, But Back to 1 January 2010:

| ChargeDescription | Total |
|---|--------------|
| POSSESSION OF CANNABIS LESS THAN 20 GRAMS | 16404 |
| BATTERY DOMESTIC VIOLENCE | 14665 |
| PETIT THEFT (\$100 OR LESS) | 7423 |
| TRESPASS ON PROP OTHER THAN STRUCTURE OR CONV | 6914 |
| OBSTRUCTING OR OPPOSING AN OFFICER WITHOUT VI | 5175 |
| POSSESSION OF OPEN CONTAINER | 4609 |
| BATTERY | 3881 |
| PETIT THEFT FIRST DEGREE | 3432 |
| POSSESSION OF DRUG PARAPHERNALIA | 3337 |
| PETIT THEFT | 2963 |

Explanation:

The Hillsborough County Clerk of Court publishes caseload data at the following internet location:
<ftp://HillsClerk.com>

The information published there is in the form of “Bulk Data Files” or “Raw Data Files” as they may be referred in terms of art. These are “text files” as used by ordinary consumer and commercial “computers” as an information source.

The files typically formatted to appear as lines on a printed page, with each line representing a single record.

The records typically contain a Case Number, Defendant's Name, the Charges, and additionally may have a Defendant's Address and other information.

The file used to generate the statistics is named:
FF1020CM.WP

It can be retrieved directly from:
ftp://hillsclerk.com/criminal/name_index/hccc1020/FF1020CM.WP

The most recent publication of that file was 11 April 2014. It was retrieved and processed for the purposes of this exhibit on: 5 June 2014.

The description of the contents in that file is published here:
ftp://hillsclerk.com/criminal/name_index/hccc1020/readme.txt

And from that file the following "Record Layout" describes the information contained.

RECORD LAYOUT for FF1020CF.WP and FF1020CM.WP*

| Field Position | Data Length | Type | Field Name |
|-------------------|----------------|--------------|-----------------------|
| 1 - 35 | 35 | Alphanumeric | Name Type |
| 36 - 36 | 1 | Alphanumeric | Blank |
| 37 - 45 | 9 | Alphanumeric | ID |
| 46 - 47 | 2 | Alphanumeric | Blank |
| 48 - 51 | 4 | Alphanumeric | Party Code |
| 52 - 52 | 1 | Alphanumeric | Blank |
| 53 - 64 | 12 | Alphanumeric | Defendant Case Number |
| 65 - 66 | 2 | Alphanumeric | Blank |
| 67 - 67 | 1 | Alphanumeric | Division |
| 68 - 70 | 3 | Alphanumeric | Blank |
| 71 - 71 | 1 | Alphanumeric | Sex |
| 72 - 72 | 1 | Alphanumeric | Blank |
| 73 - 73 | 1 | Alphanumeric | Race |
| 74 - 75 | 2 | Alphanumeric | Blank |
| 76 - 85 | 10 | Alphanumeric | Date of Birth |
| 86 - 87 | 2 | Alphanumeric | Blank |
| 88 - 95 | 8 | Alphanumeric | Date of Filing |
| 96 - 97 | 2 | Alphanumeric | Blank |
| 98 - 100 | 3 | Numeric | Number of Count |
| 101 - 101 | 1 | Alphanumeric | Blank |
| 102 - 103 | 2 | Alphanumeric | Level of Count |
| 104 - 105 | 2 | Alphanumeric | Blank |
| 106 - 151 | 46 | Alphanumeric | Charge Description |
| 152 - 153 | 2 | Alphanumeric | Blank |
| 154 - 158 | 5 | Alphanumeric | Disposition Code |
| 159 - 159 | 1 | Alphanumeric | Blank |
| 160 - 167 | 8 | Alphanumeric | Disposition Date |

* This record layout is subject to change without notification.

The Relational Database Table that was created to hold those data had the following structure:

| | |
|-------------------|-------------|
| FirstName | varchar(35) |
| LastName | varchar(35) |
| ID | varchar(9) |
| PartyCode | varchar(4) |
| CaseNumber | varchar(12) |
| Division | varchar(1) |
| Sex | varchar(1) |
| Race | varchar(1) |
| BirthDate | varchar(10) |
| FilingDate | varchar(9) |
| CountsNumber | varchar(3) |
| CountsLevel | varchar(2) |
| ChargeDescription | varchar(46) |
| DispositionCode | varchar(5) |
| DispositionDate | varchar(8) |