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2 IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO
3 FOR THE COUNTY OF ADA

4 BYRON LEE SANCHEZ,
5 Petitioner,

6 vs.

7 STATE OF IDAHO,
8 Respondent

Case No.: CRO1

STATEMENT IN SUPPORT OF MOTION TO
DISMISS

9 Comes Now, Byron Lee Sanchez the above named Defendant submitting for the court's
10 consideration a Statement in support of the MOTIONS TO DISMISS - submitted by & through Counsel, Michael
11 DeAngelo, of the Ada County Public Defender's Office. This Statement is in my own words. I am untrained in the
12 law, & humbly seek the court's forbearance as it reviews my Statement.

13 It is my intent to clarify my motives in the letter dated Sep 29, 2016. I will dispel the state's false
14 presumption of malice w/ facts. To presume a crime, the State must disregard both my will & the outcome of my
15 actions. My intent, rather than prosecutorial perceptions, should be considered.

16 I. STATEMENT

17 (A.) when I sent the letter to Erick Thomson, dated 9/29/16, through the Prosecutor's office,
18 exculpatory evidence, which supports my claims of actual innocence, including eye-witness testimony, had been
19 submitted in the Child Protection Action (C.P.A.) before Magistrate Judge Taylor Smith, the ongoing Post-
20 Conviction Relief case, & in documents with which I tried to withdraw my guilty plea; seeking a trial. Erick was
21 aware of this.

22 (B.) The NATIONAL PROSECUTION STANDARDS State in part: 8-1.7 Duty to cooperate in
23 Post-Conviction Discovery Proceedings where (1) required to do so by law, court order or rule, (2) the evidence is
24 Constitutionally exculpatory, or (3) he or she reasonably believes that the convicted person's claim of actual
25 innocence is supported by specific factual allegations which IF TRUE, would entitle the convicted person to relief
26 under the legal standard applicable in the jurisdiction, & the evidence relates to that claim

27 (C.) Erick Thomson has been my opponent in court, but I had respect for him as an honorable
28 adversary & family man. I would have voted for him in the recent election. Erick serves to protect the interests of

1 the State in an adversarial judicial system. As for my questionable incarceration, Erick Thomson did his job well,
2 my court appointed counsel did not. Based upon this previous performance I supposed Mr. Thomson would take the
3 special responsibilities for a Prosecutor seriously & would act as outlined in I.C.R.3.8, which I mention in the
4 second paragraph of the letter; clearly expressing the duties of a minister of Justice with specific obligations to
5 rectify the conviction of innocent persons

6 (D.) When I drafted the letter of 9/29/16, I was operating as Pro-Se due to confusion regarding the
7 status of court appointed counsel & my unanswered objection. I am seeking an informal resolution through
8 mitigation

9 (E.) I believed Erick Thomson could be an appropriate mitigator because he is Not an actor in the
10 Post-Conviction Relief Case. The letter was sent to Mr. Thomson, at the Prosecutor's Office, in an attempt to be
11 transparent & give parties the ability to say "Thanks, but No Thanks". Language indicates this is not a threat, but an
12 offer which can be refused, i.e., "...asking you to consider..." doing this and such. "...let us mitigate...& decide what
13 action may be acceptable to all parties," etc.

14 (F.) Logic dictates that it would be stupid for me to threaten someone who can't do what I want in
15 the first place. NO THREAT was made beyond the Lawful threat to continue taking legal action against the State in
16 an adversarial Judicial process. When Judge Smith commented upon this letter, which he read & reviewed; Judge
17 Smith stated in court on 10/19/16, with myself present telephonically, Richard Linville - the Prosecuting Attorney of
18 Gem County - present & Counsel Rolfe Kehne present: That he saw No threat in my letter. I allege that Gem County
19 was answer shopping. When Judge Smith, who is familiar w/ the entire context of the case, stated in court there was
20 no threat, the prosecution sought a change of venue to find an environment more favorable to the State, & less
21 informed.

22 (G.) My attempts to prick the State's conscience w/ references to a Just God, whom I believe to
23 exist; should have no effect on a Godless State. I fear God's Justice & Retribution. You can do as you please.

24 (H.) The State refused my offer several months ago. I have moved my chess pieces & contacted
25 the parties, who awaited instructions, & have done the things I said I would do - none of which have been unlawful -
26 & am continuing to execute my plan as we speak; I believe w/ the help of a Just God. i still sit in prison past my
27 fixed time, w/ my children in harm's way as the State obstructs my ability to be heard or released.

1 (I.) I allege malicious prosecution; there will be no plea. ELEMENTS: (1) The initiation of
2 continuation of a lawsuit, (2) Lack of probable cause, (3) malice; & (4) Favorable termination of the lawsuit.

3 I only lack the final ELEMENT. What has happened has been your doing. I suggest a dismissal
4 with prejudice. Retribution does not restore.

5 (J.) According to Black's Law Dictionary

6 1. Threat: A communicated intent to inflict harm or loss on another on another's property, esp. one
7 that might diminish a person's freedom to act voluntarily or w/ lawful consent <the kidnapper's threat was that if the
8 magnate did not meet the demands, his son would never be seen again.>

9 2. An indication of an approaching menace <the threat of bankruptcy>.

10 3. A person or thing that might well cause harm <Mrs. Harrington testified that she never viewed
11 her husband as a threat. This definition as well as other definitions in Webster's Dictionary & the Oxford Dictionary
12 agree that there are both lawful threats & unlawful threats. Kidnapping is unlawful, but going bankrupt is not. Both
13 are unpleasant.

14 <Earthquakes are a constant threat in Japan.> <He threatened to beat me at checkers> <Rap music
15 threatens sanity>.

16 (K.) Lawful threats are a well established part of an adversarial judicial process. They are
17 frequently used by prosecutors to obtain plea agreements, deals & compromises which affect due process of law &
18 pre-trial negotiations.

19 Other informal resolutions are used daily to resolve and mitigate legal issues; like my plea
20 agreement.

21 The Prosecution communicated their intent to inflict harm & loss upon me, my property & my
22 loved ones, unless I consented to entering guilty plea in the Felony injury of a child case, after they realized no
23 aggravated assault had occurred, & I would go free. My personal freedom & ability to act voluntarily or w/ lawful
24 consent was diminished. My wife w/ cancer was going to lose our home w/ me incarcerated, & I was afraid for my
25 children's safety in the Idaho State Child Welfare System. After my arrest I lost everything & have spent no time w/
26 them since. Total loss. In the letter I drafted on 9/29/16, I admit I made "an indication of an approaching menace." I
27 maintain that "I am coming to you from a position of legal strength..." I believe the time has passed for me to offer

1 other possible solutions besides seeing this through to the end. Make no mistake, I am threatening to beat the State at
2 checkers.

3 As for Erick's claim that he thought I meant him or his family some sort of actual injury... I find
4 this claim offensive. I am not the party that deprives families of fathers. This claim of physical harm is repugnant to
5 me & further evidence of intent to maliciously prosecute a man whom the State knows to be innocent... or perhaps a
6 combination of an overactive imagination & guilty conscience. In either case - NONSENSE. I'm not responsible for
7 another man's perception, only my intent to seek a semblance of justice.

8 According to I.C.R.P. Rule 11; I STATE THAT ALL DATA INCLUDED IN THIS
9 DOCUMENT IS TRUE & CORRECT TO MY KNOWLEDGE & BELIEF.

10 "Let God be true, but all men liars."

11 Dated this 20 of April, 2017.

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14 Byron Lee Sanchez
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