

INTERVIEW: THREATS TO A PUBLIC OFFICIAL BETWEEN DETECTIVE WEIERS AND BYRON LEE SANCHEZ

:07 Introduction, ID Sanchez, birthdate, reads him his rights.

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Detective Weiers: in()

Byron Lee Sanchez: BS:

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:58 (I am here to talk to you about something incident that took place. Possibly.)

1:05 (Do you recognize this? I am showing you an offender concern form FEB 05, 2016?)

BS: I recognize the handwriting, that's mine (signature) yes

1:38 (Can I have that back sir, that's not what I'm here to talk to you about.)

1:40 IDOC number 112101

1:50 (I am here to talk to you about a letter that was sent out, do you recognize that letter?)

BS: yes,

(is that something you wrote?)

BS: Absolutely is.

(Sent that to who?)

BS: Erik Thomson. Prosecutor from Gem County that is where I am from originally, that is where my charges are from.

INVESTIGATOR READS LETTER ALOUD: ( seeking mitigation/ informal resolution/accountability)

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Hello Erick, 9-29-2016

I hope you and yours are doing well and congratulations on the new addition to your family.

To Business: A prosecutor has the responsibility of a minister of justice... This responsibility carries with it specific obligations to see that the defendant is accorded justice, that guilt is decided upon the basis of sufficient evidence and that precautions are taken to prevent and to rectify the conviction of innocent persons. I.R.C.3.8(.9);(H)

I am about to put things into motion that neither you nor I can undo. I don't want to, but I absolutely will. I would like to think that we are reasonable. I consider myself a Christian. Retribution does not restore. Hurting others (even when they deserve it) also injures me. I seek mitigation. I am coming to you from a position of legal strength asking you to consider coming to the prison and talking privately. I have operated transparently from a one time offer which must be acted upon very soon; otherwise I will be forced to do this the hard way. My chess pieces are ready to move, and moving. Parties have been contacted who await instruction.

I seek an opportunity to show Idaho what mercy looks like.

My God desires mercy over judgment, but make no mistake, when left no options, He will execute vengeance and wrath. Mistakes have been made; let us mitigate them by having an honest private conversation and decide what action may be acceptable to all parties.

Me, sitting in prison, with my children in harm's way, for a crime I didn't commit, past my fixed time, is unacceptable.

I have four possible solutions to offer and all of them are more pleasant than what is about to happen. Refuse, and what happens next is your doing.

Byron Lee Sanchez

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3:05 ("I am about to put things into motion that neither you or I can undo." What do you mean sir?)

BS: I am considering hiring an outside attorney who would be getting paid on commission; he doesn't get paid unless he recovers money for me. And so once I hire him, he is going to want his money, and I can't afford to pay him. So if I hire that attorney then he is going to pursue this until he recovers some money. So that would be specifically what I am talking about.

3:40 " I don't want to but I absolutely will. I would like to think we are reasonable. I consider myself a Christian. Retribution does not restore. Hurting others, (even when they deserve it) also injures me. I seek mitigation. I am coming to you from a position of legal strength asking you to consider coming to the prison and talking privately. I have operated transparently from the beginning. I am willing to make a one time offer which must be acted upon very soon; otherwise I will be forced to do this the hard way."

4:10 (What does that mean?)

BS: Well that means it's going to take a long time in the court system. That's the hard way. That means I am going to have to get an outside attorney, I am going to, and if you don't believe me my brother could

witness all this because he is the one helping me locate the attorney and I am also, I published a couple newspaper articles in the local Gem County paper that would make things more difficult, I have to keep publishing newspaper articles at my own expense, and so it's more difficult for me than if they would simply release me, like they should. (okay)

4:53 (My chess pieces are ready to move and moving. Parties have been contacted who await instructions. I seek an opportunity to show Idaho what mercy looks like. My God requires mercy over judgment, but make no mistake, when left no options, He will execute vengeance and wrath. Mistakes have been made; let us mitigate them by having an honest private conversation and decide what action may be acceptable to all parties. Me sitting in harms way for a crime I did not commit, past my fixed time is unacceptable. Refuse and what happens next is your doing.)

5:40 (So what is meant by "all four more pleasant than what is about to happen, refuse and what happens next is your doing. (?)")

BS: ....I actually have those right here. I am not going to go into details because it is my private business for my legal case but they involve um, my acquittal and release, **and I would release them from financial liability because I lost an eye and I have steel..er.. titanium rods in my leg, so I would be willing to not seek medical damages if they would give me an acquittal and get me out of here within 30 days. Anyhow.. all of them are similar to that. I would be willing to plead to a specific misdemeanor, but they would have to pay me \$500 per day after one year as gate money and have full liability, so those are the types of...**

6:40 (So, you're saying, acting in the like, if I plead to this... pay me this, for my disability.)

BS: That's one of them. That one of them. Along those lines... along those lines...

(okay, well the way it looks though, why didn't you just specify what you're talking about, because right here Mr. Sanchez it says the responsibility carries with it specific obligations.... and right here it says that I'm going to put things in motion that neither you or I can undo. If you hire someone, you can undo it at any time, that's a legal obligation. If you tell an attorney to stop he has to stop. It's not up to him when he stops.)

7:23 BS: Well, I couldn't do that in good conscience. If he went and put out a bunch of effort into my case, then he doesn't get paid if I chicken out at the last minute.

(but you could have put that in there. You know what I mean? "I am gonna hire an attorney." (?)

Well, that wouldn't sort of give me an advantage. I have been in prison for three years for a crime I didn't commit.

(okay, can I have your pen real quick?)

certainly....

8:00 BS: We have gone over it. There is no threat. (okay)

8:04 ("my pieces are ready to move and moving parties have been contacted and await my instructions.")

BS: I contacted my minister, my brother, and I contacted the minister that comes in here, and he has already got mail, and I am getting ready to start a media campaign, and I am going to start putting newspaper articles. I already put one in the Gem County local Gazette

and I intend to start putting articles in the statesman soon and so that's not good for them because they have abused my constitutional rights and they aren't doing anything to fix it, I would rather not embarrass them, I would rather not drag this thing out, I would rather not have to get an out of state attorney. If you understood what my case looked like, that would make a lot more sense to you; He should know what that means, the only reason he views that as a threat, and I'm gonna' explain it to you, the only reason he views that as some sort of a physical threat is because he knows how badly he screwed me over and that his own guilty conscience's nagging at him. There is no threat there. (okay)

9:22 (parties have been contacted..... in reference to god?)

BS: He will.. not me....

(how is that not a threat?)

BS: Excuse me; if he is not willing to take other legal action; I am going to have to follow through with my legal actions. It's not a threat.

10:12 (refuse and what happens next is your doing?)

BS: Right.

(That sounds like a threat to me. Refuse and what happens next is your doing. (?) I don't know how you couldn't take that as not a threat Mr. Sanchez. It's plain English. "I have four possible solutions to offer and all of them are more pleasant than what is about to happen. Refuse and what happens next is your doing." (?) (That's a threat.)

BS: No it's not.

(I don't see how it isn't.)

BS: We can quibble about it in court then, and if you want to make something out of nothing; which is exactly what's going on here. There is no threat there.

( I am not trying to make something out of nothing. I am just reading your letter that you wrote; that you admitted you wrote.)

BS: and you are putting your own interpretation on it because there is no threat there.

(okay)

11:09 BS: If you tell me.. "Mr. Sanchez, I want you to place your hands behind your back or you won't like what happens next." You know what? I have options. I told him he has four different options. There is no threat there, if I put my hands behind my back.

(Actually there is a possible threat there. If I tell you to put your hands behind your back or you won't like what happens next there is a belief that something bad will happen and that is considered a threat. So if you tell me, if you write this letter and say that you have four possible solutions to offer, and using the analogy that you just gave me, it comes across as a threat. You just gave me those. You just told me that. If I tell you to put your hands behind your back or you won't like what happens next, that is pretty much a threat, because I am telling you something worse will happen to you if you refuse; if you don't put your hands behind your back, and that's your analogy, not mine. So given that analogy, what you wrote in this letter tells me that is a threat.)

12:18 BS: Okay then, it's a legal threat. The same as you telling me to put my hands behind my back, or I won't like what happens next; is a legal threat.

(I am not saying what's legal. I am not saying what is legal. I'm just saying that's a threat.)

BS: No it's not. I'm saying it's not.

(Well, you just got done telling me it's a legal threat, you just got done telling me that.

BS: NO, No, no; this conversation is over. You are just trying to hem me into a corner because these guys are losing.

(Well, I'm just using your words. I'm not using mine.)

BS: Yes, you're twisting, the same as you twisted this.

(You told me this is a legal threat. Therefore it is a threat. Correct?)

BS: This conversation right here is a legal threat.

(No it's not; it's a conversation.)

BS: All that is; Is a conversation.

(With a threat involved and implied there.)

13:13 BS: There is a threat implied when you show up here as a detective to ask me questions about a letter.

(No, there isn't a threat at all. It's just implied that I am gonna' interview you. Question you about a letter, you told me, using your own words, in the analogy of you putting your hands behind your back; you won't like what happens next, is a threat. I pointed out to you is similar to, "I have four possible solutions to offer more pleasant than what is about to happen, refuse and what happens next is your

doing. Similar to your analogy. You said that is a legal threat, therefore a legal threat by definition would be a threat. You just got done telling me it is a threat. Did you not?)

BS: Let me explain something to you right now. I am doing ten years in prison because the State of Idaho didn't like how I talked to my son. Nobody touched anybody. They said I committed Felony Injury of a Child on a 17&1/2 year old who was making an unlawful entry into my house.

(Okay)

14:16 Nobody touched anybody. They decided to construe that as an injury of a child.

(felony)

They did a bait and switch on me, and now I am doing ten years in prison on my one and only felony ever anywhere. I have no criminal history and this is not a threat to anyone who isn't breaking the law already.

(and who is breaking the law already)

The prosecutor.

(So you just admitted to me that it was a threat to the prosecutor)

BS: This isn't a threat to anybody who isn't breaking the law; the same as you're not a threat to anybody who isn't breaking the law.

(but you just got done telling me this is a threat to someone who breaks the law and you just got done telling me that.)

BS: I don't know. What I am going to say is, apparently.. I don't know the meaning of the word threat, because I somehow think that you are going to twist that around on me somehow. I need a definition of the word "threat" from a legal dictionary before I can answer any more questions.

(okay)

BS: because this is.... I can see you are trying to entrap me right now is what is going on.

(Sir, I am not entrapping you in any way shape or form, not even remotely close. You are the one that just got done telling me the analogy. That isn't a threat to someone who doesn't break the law and then right afterward said when I asked who broke the law, you said the prosecutor. And the prosecutor is who you addressed this letter to. So you just got done telling me you wrote this as a letter to the prosecutor as a threat. That's exactly what you said, I didn't entrap you. I didn't mix words. I didn't change your words. I didn't do any of that sir. You said that yourself.)

16:18 BS: Do what you need to do, this conversation is over as far as I'm concerned (okay) There is nothing more to talk about. We already established that in this letter there is no physical threat of any sort of physical violence to anybody. I told you that. I broke it down for you, exactly what I am talking

about. The only sort of threat, if there is any, is if he is afraid of lawyers. If he is afraid of lawyers it is a threat. If he is afraid of media attention it is a threat. As a matter of fact I would like to write down a brief statement and send it with that, to that affect. That, that,... this letter is only a threat to someone that's afraid of media attention or lawyers because that's all I am talking about. There is no physical threat. Threat of violence. There is no threat remotely like that.

17:20 (why would you then tell me that this is a threat to somebody who broke the law?)

BS: Because people who break the law don't like cops, people who break the law don't like lawyers, people who break the law don't like media attention. To them it's a threat. Cops are a threat to crooks, judges are a threat to crooks, (okay) So if in that sense you want to call it a threat, it's a threat.

(Okay, and you wrote this to the prosecutor)

BS: I wrote that to a prosecutor.

(Okay. All right. Well.. we will get you back to your cell, do you have any questions for me sir? I don't know anything about your other case. I have zero knowledge about what it's all about, zero. I don't know anything that took place prior to this other than this letter.)

18:05 BS: Well, alright; just for giggles, since I have you here, this is a letter that went to the Judge, mailed October 3rd, you can confirm this so you don't have to take my word for it and I would appreciate it since you have taken up some of my time, if you just read this, that is in the possession of the court. Anyhow it is filed now.

(So who is this written to sir?)

BS: It says exactly who it is. Everything is there. You don't need to guess.

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Detective Weier READS: SPECIAL DUTIES AND RESPONSIBILITIES OF PROSECUTORS 3.8 AND "ORDER" TO THE COURT DEMANDING AN INVESTIGATION INTO MY INNOCENCE.

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IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT IN AND FOR THE COUNTY OF GEM

Byron Lee Sanchez ) CASE NO. CV-2016-3333

PETITIONER ) POST CONVICTION RELIEF

Vs. ) NOTICE of Special Responsibilities of a Prosecutor

STATE OF IDAHO )

RESPONDENT )

COMES NOW, BYRON LEE SANCHEZ, the petitioner in the above-entitled action NOTIFYING The Court, Counsel, and Opposing Parties of the Special Responsibilities of a Prosecutor, as it relates to this case NO. CV-2016-333

I.

#### REFERENCES

A) IDAHO COURT RULES: RULE 3.8

SPECIAL Responsibilities of a Prosecutor.

The Prosecutor in a Criminal Case SHALL: (G) When a Prosecutor knows of new, credible material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the Prosecutor SHALL: (G) (1) Promptly disclose that evidence to an appropriate court or authority, and (2) If the conviction was obtained in the Prosecutor's Jurisdiction, (A) Promptly disclose that evidence to the defendant unless a court authorizes delay, and (B) Undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense the defendant did not commit.

(H) When a Prosecutor knows of clear and convincing evidence establishing that a defendant in the Prosecutor's Jurisdiction was convicted of an offense that the defendant did not commit, the Prosecutor SHALL seek to remedy the conviction. (Effective July 1, 2004; Ammended May 4, 2010)

B.) IDAHO CODE SS 18-1501 3.ELEMENTS

Offense of felony injury to children requires proof that victim was a child and that the accused willfully inflicted upon the child unjustifiable physical pain or mental suffering.

II.

#### ISSUES

A.) ERICK THOMSON (PROSECUTOR) is aware that the elements required for the crime under I.C. SS 18-1501 etc. to have actually been committed, has been legitimately called into question.

(1) the 17-1/2 year old (alleged) victim was being confronted while unlawfully entering the house in the dark in violation of the POSTED: Knock-And-Announce Rule Which requires that all persons knock at the door and announce their identity upon entering the residence. He was perceived to be an intruder by both home owners and old enough to be charged as an adult.

(2) No person sustained any physical injuries; no one touched anyone.

(3) No evidence exists to support the assertion that mental suffering was sustained; justifiable or not.

(4) It is legal for a minor to have possession of a handgun with the permission of a legal guardian or the property owner. He didn't want one; nothing happened.

B.) Prosecutor Erick Thomson is aware that evidence which was not previously heard was made known in the related CASE NO. CV2014-370 Child Protective Action before GEM COUNTY Magistrate Judge SMITH; Including:

(1) Carter Winters was shown to have a conflict of interest in the C.P.A.

(2) Judge SMITH was aware of Byron Lee Sanchez's attendance at Drug Court, as an observer, prior to entry of the ill advised guilty plea.

(3) Judge SMITH ordered new counsel be appointed Mr. Sanchez in the C.P.A

(4) Judge SMITH recommended lifting the No-Contact Order between Mr. Sanchez and his children including the (so called) victim in the C.P.A.

(5) The No-Contact Order has been lifted between Byron Lee Sanchez and his children, including any Child Protective Services supervision.

(6) Mr. Sanchez had no opportunity to respond to any allegations made by N.I.C.I. Staff or to defend his Liberty interest in the Idaho Rider Program.

III.

ACCORDING TO I.C.R.P. RULE II; I state that all Data in this document is true and correct to my knowledge and belief.

IV.

I state that I mailed the original of this document to: GEM COUNTY DISTRICT COURT, and copies sent to appropriate parties.

DATED THIS 3rd Day October, 2016.

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT IN AND FOR THE COUNTY OF GEM

Byron Lee Sanchez ) CASE NO. -----Petitioner ) CV-2016-333 VS. ) ORDER

STATE OF IDAHO )

The Court having received the notice of Special Responsibilities of a Prosecutor and Related Information sent from Byron Lee Sanchez on Oct 3, 2016 and good cause appearing, the Court hereby orders, adjudges and decrees:

Prosecutor Richard Linville SHALL undertake further investigation and make reasonable efforts to determine if Byron Lee Sanchez was convicted of an offense the Defendant did not actually commit.

It is further ordered that the Prosecutor SHALL promptly disclose that evidence to both the appropriate court authority and the defendant any evidence of actual innocence of the offense of Injury to Children.

It is further ordered that the Prosecutor SHALL immediately and without delay seek to remedy the conviction of the only substantial evidence that a crime has been committed - is the questionable plea entered before Judge G.D. Carey on July 28, 2014 in CASE NO. CR14-727.

Dated this 3rd day of October, 2016.

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22:00 BS: So maybe that will give you a little bit of an idea where we are at here.

(Okay)

So this isn't; there is no threat of any kind of physical violence in any way shape or form. I have already published newspaper articles. Cops are threats to drunk drivers.

(wouldn't say we are threats but we go after them)

BS: They are a threat to their freedom and a threat to their wallet.

(well, actually they are making themselves, we didn't do it)

BS: Okay fine, then he's making himself.

(he is making himself a threat?)

BS: He is making himself in a compromising position. I am not threatening him at all if that analogy stands. That drunk drivers made the choice to do what they did; then that's not a threat.

(It's two different things.)

BS: He's breaking the law.

(but you just got done telling me a little bit ago this letter was only written as a threat)

BS: Twisting my words.

(NO sir I am not.)

BS: I told you it's a threat the same way told me put handcuffs on.

(I believe your correct words were, this is a threat to anybody who broke the law, and I asked who you wrote the letter to, and you said "the prosecutor" who broke the law. So therefore this is a threat to the prosecutor if he is breaking the law.)

BS: "IF."

(you didn't use the word "if" before.)

BS: Well.. I am using it now to clarify it. No. You can't go, and I told you; you were trying to back me into a corner and that's what you did. It's a threat to the prosecutor IF he's breaking the law. I tried to explain that to you. That's why I made the analogy about the hand-cuffs. You have the lawful right to tell me to do whatever you tell me to do. Hop on one foot, strip search, ...probably wouldn't make me hop on one foot, but anyhow... please follow my analogy instead of trying to put words in my mouth. Anything that is lawful for you to tell me to do... if I don't do it, then it could be construed.. by me.. as a threat. When you say, "you might want to do what you are told, or else.. 'whatever'.... " It is only a threat to me if I didn't do what I am told. It is only a threat if I am breaking the law.

24:25 (the difference is that I am a peace officer in the State of Idaho and if I tell you to do something under my authority.. that I can tell you to do, (it) is completely different.)

BS: NO it's not.

(Yes it is. It is completely different than if a lay-person...)

BS: I have no constitutional rights because I am a criminal. I understand that, but I have the right to defend myself in court.

(I NEVER said you didn't have a constitutional right. Never did. Zero. You have a constitutional right to defend yourself in court. You are still a citizen of the US.)

BS: It's only a threat, if he is breaking the law. Otherwise he has nothing to fear.

(But your analogy then goes back to what I just said. That if I am telling you to do something lawfully, not on my own, I am law enforcement.)

BS: I just explained to you what I am going to do, and all of those things are lawful.. and he's not gonna' like any of them, so just me pointing out that he is not gonna' like any of them, doesn't make it an unlawful threat.

(So what are you hoping he does?)

BS: I would like for him to settle.

(By telling him that this is what's gonna' happen, or if you settle, none of this will happen.)

BS: Right. Like if you told me, "Mr. Sanchez, I would like for you to stand against the wall and if you stand against the wall things will go easier for all parties concerned. That's all that is.

(So you are telling me that if he settles, this will all go away. Unless he settles. If he does not settle?)

BS: NO.. I am giving him the option of settling, and I showed you that I have options. I am not making this stuff up. Its right here in my book, its in my Journal, dated for... I could look up the date if you want me to. Its backdated before I sent that in my Journal.... so there isn't an unlawful threat. It could be construed as a threat to him, if he doesn't want to cooperate, or want to settle, or

if he doesn't want to mitigate things. I used the word mitigate. That's what its about. If he doesn't want to mitigate things, then we are going to be in a much longer legal process.

26:48 BS: That's all we're talking about.

Det. W:(OK; all right)

BS: IS that clear?

Det. W:(I understand what you are saying.)

BS: OK, because I am not making any unlawful threat and like... we said earlier.. its a lawful threat only if its looked at from his perspective. Its only a threat to a drunk driver. If I am a drunk driver you are a threat to me.

Det. W:(Well.. what if he didn't do anything wrong or illegally? What would this mean then, if he did everything on the up and up. What would this mean?)

BS: It could still be construed as a legal threat because it would be the same as if I get in a fender bender with somebody, ...and I'm not saying whose fault the fender bender is..., and I threaten to call my lawyer. It's a threat, but it's a legal threat. AND I can or can't call my lawyer, BUT I can go either way.... It's a threat, but it's a legal threat.

Det. W:(but this is under the assumption that he has done something wrong.)

BS: He knows. He has all this paperwork. He knows what I am talking about. You don't. It..it will be for the court to decide.