

LATAH COUNTY PROSECUTOR'S OFFICE  
WILLIAM W. THOMPSON, JR., ISB 2613  
PROSECUTING ATTORNEY  
INGRID BATEY, ISB 10022  
SPECIAL ASSISTANT ATTORNEY GENERAL  
Latah County Courthouse  
P.O. Box 8068  
Moscow, ID 83843  
Phone: (208) 883-2246  
paservice@latahcountyid.gov

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,  
Plaintiff,

V.

BRYAN C. KOHBERGER  
Defendant.

Case No. CR01-24-31665

STATE'S OBJECTION TO DEFENDANT'S  
MOTION TO STRIKE NOTICE OF INTENT  
TO SEEK DEATH PENALTY ON GROUNDS  
OF INTERNATIONAL LAW

COMES NOW the State of Idaho, by and through the Latah County Prosecuting Attorney, and hereby objects to Defendant's Motion to Strike State's Notice of Intent to Seek Death Penalty on Grounds of International Law. The Defendant's motion is made with no legal authority to support his position and should be denied.

The defendant argues that Idaho's death penalty scheme violates the International Covenant on Civil and Political Rights ("ICCPR"), which was ratified by the United States in 1992. The ICCPR prohibits "cruel, inhuman or degrading treatment or punishment" and prohibits the arbitrary deprivation of life. Part III, Article 6, Section 1. However, the ICCPR also states:

In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious of crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

ICCPR, Part III, Article 6, Section 2.

Therefore, the ICCPR has not completely abolished capital punishment, but in countries that continue to allow its imposition, permits capital punishment for the most serious crimes. Additionally, as the Defendant points out in his own motion, the United States carved out an exception specifically for the death penalty when it ratified the treaty:

(2) That the United States reserves the right, subject to its Constitutional constraints, to impose capital punishment on any person (other than a pregnant woman) duly convicted under existing or future laws permitting the imposition of capital punishment, including such punishment for crimes committed by persons below eighteen years of age.

(3) That the United States considers itself bound by article 7 to the extent that cruel, inhuman or degrading treatment or punishment' means the cruel and unusual treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.

See United Nations Treaty Collection, available at

[https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mtdsg\\_no=IV-](https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mtdsg_no=IV-4&src=IND#EndDec)

[4&src=IND#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=en&mtdsg_no=IV-4&src=IND#EndDec) (last visited September 17, 2024). By doing this, the United States unambiguously reserved the right to impose capital punishment in accordance with the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, which is the appropriate authority and binding law on this Court.

The Court should decline the Defendant's invitation to entertain this novel and unprecedented theory and instead follow the example of another Idaho district court that recently denied a similar motion. As the district court in *State v. Richard Ross* aptly explained:

The clear weight of both United States and Idaho Supreme Court authority shows the legality of the death penalty under appropriate circumstances. To craft an outright prohibition based on an interpretation of language in an international treaty would circumvent that authority, to say nothing of the authority of the Idaho legislature.

*Order on Defendant's Pretrial Motions, State v. Richard Ross*, CR35-21-6093 (filed 10/02/2023). The Court should deny the Defendant's motion.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of October, 2024.



Ingrid Batey  
Special Assistant Attorney General



William W. Thompson, Jr.  
Prosecuting Attorney

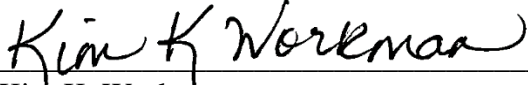
**CERTIFICATE OF DELIVERY**

I hereby certify that true and correct copies of the STATE’S OBJECTION TO DEFENDANT’S MOTION TO STRIKE NOTICE OF INTENT TO SEEK DEATH PENALTY ON GROUNDS OF INTERNATIONAL LAW was served on the following in the manner indicated below:

Anne Taylor  
Attorney at Law  
PO Box 2347  
Coeur D Alene, ID 83816-9000

- Mailed
- E-filed & Served / E-mailed
- Faxed
- Hand Delivered

Dated this 9th day of October, 2024.

  
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Kim K. Workman