

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 STATE'S NOTICE OF
INTENT TO SEEK DEATH PENALTY ON
GROUNDS OF CONTEMPORARY
STANDARDS OF DECENCY

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 Contemporary Standards of Decency. For the following reasons, the Court should deny Defendant's motion.

Analysis

The crux of Defendant's argument is that there has been a major shift in public opinion regarding the morality, decency, and humanity of the death penalty. Defendant suggests this shift has taken place among the states, internationally, and among religious and professional organizations. Because of this "shift" in public opinion and the alleged downward trend of the

application of the death penalty, Defendant argues that the punishment now violates modern standards of decency, ultimately deeming the death penalty cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution and Article I, Section 6 and 13 of the Idaho Constitution.

The Eighth Amendment states “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. Amend. VIII. The Eighth Amendment is applicable to the States through the Fourth Amendment’s Due Process Clause. *Robinson v. California*, 370 U.S. 660, 666 (1962). Article I, Section 6 of the Idaho Constitution also prohibits the imposition of cruel and unusual punishments. Capital punishment is not prohibited under the United States Constitution and the States may enact laws specifying that sanction. *Baze v. Rees*, 553 U.S. 35, 48 (2008).

When considering whether a punishment violates the Eighth Amendment, the Court first considers “objective indicia of society's standards, as expressed in legislative enactments and state practice to determine whether there is a national consensus against the sentencing practice at issue.” *State v. Abdullah*, 158 Idaho 386, 455 quoting *Roper v. Simmons*, 543 U.S. 551, 572 (2005). Next, guided by “the standards elaborated by controlling precedents and by the Court's own understanding and interpretation of the Eighth Amendment's test, history, meaning, and purpose, the Court must determine in the exercise of its own independent judgment whether the punishment in question violates the Constitution.” *Id.*

In *State v. Abdullah*, the Idaho Supreme Court held that Idaho’s death penalty scheme does not violate the Eighth Amendment to the United States Constitution. 158 Idaho 386, 455 (2015). The defendant argued that “our evolving standards of decency, which mark our progress as a maturing society, no longer support the death penalty as an acceptable sentencing option.” *Id.* He

cited the increasing number of states that have abolished the death penalty or issued moratoriums on scheduled executions, as well as public opinion polls that tend to denounce the death penalty as a sentencing option. *Id.* The court rejected his claim: “While [the defendant] may have identified a shift in support for imposition of the death penalty, this shift does not provide objective indicia of society's standards, such as legislative enactments or executive action, to allow this Court to determine that there is a national consensus against the death penalty as a sentence for first-degree murder.” *Id.*


Defendant’s argument here is no different than the argument the court rejected in *Abdullah*. A majority of the states, the military, and the federal government continue to allow the death penalty as a sentencing option. See *Death Penalty Information Center*, <https://deathpenaltyinfo.org/states-landing> (last visited September 13, 2024). As the court noted in *Abdullah*, “[i]t is difficult to regard a practice as objectively intolerable when it is in fact widely tolerated.” 158 Idaho at 456 (quoting *Baze*, 553 U.S. at 53).

Conclusion

The Court should deny the defendant’s motion because this is an issue that has already been ruled upon by the Idaho Supreme Court in *State v. Abdullah*. Defendant is asking this Court to ignore Idaho precedent as well as precedent set by the Supreme Court of the United States. This Court should deny Defendant’s motion.

RESPECTFULLY SUBMITTED this 9th day of October 2024.


Ingrid Batey
Special Assistant Attorney General


William W. Thompson, Jr.
Prosecuting Attorney

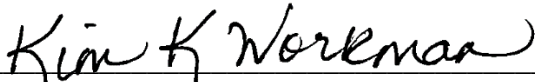
CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the STATE’S OBJECTION TO DEFENDANT’S MOTION TO STRIKE STATE’S NOTICE OF INTENT TO SEEK DEATH PENALTY ON GROUNDS OF CONTEMPORARY STANDARDS OF DECENCY 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.



Kim K. Workman