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**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 NUMBER CR01-24-31665

**REPLY TO 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, Bryan C. Kohberger, by and through his attorneys of record, hereby submits the following Reply to the State's Objection to his Motion to Strike the State's Notice of Intent to Seek the Death Penalty on the Grounds of Contemporary Standards of Decency.

**REPLY TO 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**


The State argues that the Idaho Supreme Court previously determined that contemporary standards of decency do not preclude the death penalty in *State v. Abdullah*, 158 Idaho 386, 455 (2015). The Court in *Abdullah* ruled against his challenge, finding that to launch such a challenge, a defendant needs to show changes in legislation or executive action to go along with changes in public opinion. *Id.* At that time, the Court found that “[t]hirty-two states, the military, and the federal government continue to allow the death penalty as an option.” *Id.* (citing DEATH PENALTY INFORMATION CENTER, <http://www.deathpenaltyinfo.org/states-and-without-death-penalty> (last visited February 23, 2015); Tracy L. Snell, Bureau of Justice Statistics, U.S. Dep’t of Justice, *Capital Punishment*, 2012–Statistical Tables (Rev.2014), available at <http://www.bjs.gov/content/pub/pdf/cp12st.pdf>).

That may have been true, but times have changed. Now, twenty-four states have an operating death penalty. DEATH PENALTY INFORMATION CENTER, <https://deathpenaltyinfo.org/state-and-federal-info/state-by-state> (last visited October 19, 2024). The federal government has declared a hold on executions. *Id.* Ohio’s governor has paused executions until a new method is adopted. *Id.* And Arizona has paused them until they can trust their courts to do the right thing. *Id.* Therefore, in reality, less than half the states still have the death penalty pursuant to legislative or executive actions. Taking population of those states into account, support for the death penalty is even bleaker. Of those that retain it, Idaho, Indiana, Kansas, Kentucky, Louisiana, Montana, Nevada, North Carolina, and Wyoming, have not executed anyone in at least ten years. DEATH PENALTY INFORMATION CENTER, <https://deathpenaltyinfo.org/executions/executions-overview/executions-by-state-and-year> (last visited October 19, 2024). That leaves thirteen jurisdictions with active death rows.

Thus, the evolving standards of society, and the unusualness of the death penalty, have

changed. This Court should take these changes into account and strike the penalty in this matter.

DATED this 24 day of October, 2024.

BY: 

JAY W. LOGSDON
FIRST DISTRICT PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 24 day of October, 2024, addressed to:

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