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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
NOTICE OF INTENT TO SEEK DEATH
PENALTY ON GROUNDS OF
INTERNATIONAL LAW**

COMES NOW, Bryan C. Kohberger by and through his attorneys of record, and hereby submits the following Reply to the State's Objection to his previously filed Motion to Strike State's Notice Pursuant to Idaho Code § 19-4004A on the grounds that Idaho's death penalty scheme violates its obligations under international treaties.


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

The State argues that the language of the International Covenant on Civil and Political Rights (ICCPR) does not prohibit capital punishment. The ICCPR, ratified in 1966 is only the first instrument in a series addressing this matter. The Second Optional Protocol, signed 20 years later, specifically aims at the abolition of the death penalty, declaring “that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights....” *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, Adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989*. The Protocol specifically provides that “No one within the jurisdiction of a State Party to the present Protocol shall be executed.” *Id.*, at *Article 6*. The series of instruments make clear that the international community and international law has evolved and that the death penalty violates the mores and standards expected of modern society.

The State asserts that Idaho courts are not bound by the ICCPR because it was ratified subject to a reservation on the issue of capital punishment. The State notes that when the Senate ratified the ICCPR, it reserved the right to impose capital punishment subject to its Constitutional constraints. In the next very next subsection, the Senate states: “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. 138 Cong. Reg. S4781-01 (daily ed., April 2, 1992). Because of the improprieties of the capital sentencing process, the conditions under which the condemned are incarcerated and the excessive delays between sentencing and execution under the Idaho death penalty system, the implementation of the death penalty in Idaho constitutes “cruel, inhuman or degrading treatment or punishment” in violation of Article 7 of the ICCPR.

When international human rights norms are applied, it is clear that Idaho's death penalty scheme violates international law. It violates the mores and standards expected of modern, evolving society. Idaho's death penalty scheme on its face and as applied in Mr. Kohberger's case violates international treaties including the ICCPR. Further, it is a clear violation of the fundamental precepts of international human rights.

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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