

SEVENTH JUDICIAL DISTRICT OF IDAHO

2012 MAY 15 AM 8:52

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IN THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, COUNTY OF BINGHAM

STATE OF IDAHO,)	Case No. CR1985-4110 AND
)	CV2008-857
Plaintiff-Respondent,)	
)	
v.)	NOTICE OF DEMAND FOR
)	OPPORTUNITY TO BE HEARD
RICHARD A. LEAVITT,)	REGARDING ISSUANCE
)	OF DEATH WARRANT
Defendant-Petitioner.)	
_____)	

The Defendant/Petitioner Richard A. Leavitt, through counsel, respectfully moves the Court for its Order directing that, prior to the issuance of any death warrant, he be given the opportunity to be heard through counsel on the question whether the warrant should issue.

This motion is made pursuant to I.C. § 19-2715(4) because it appears that no "stay of execution," I.C. § 19-2715(6) is in place, but rather the judgment of death "has not been executed" for reasons "other than those set forth in subsection (1) of this section," I.C. § 19-

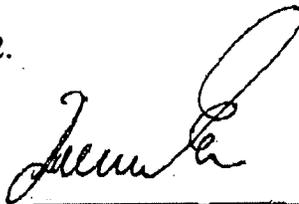
2715(4). Furthermore, "legal reason[s] exist against the execution of judgment," *id*

Mr. Leavitt's case has been subject to the Orders of the United States District Court for the District of Idaho, issued pursuant to his federal habeas corpus action *Leavitt v. Arave*, D.Idaho Case No. CV-93-0024-S-BLW. On May 14, 2012, the United States Supreme Court denied Mr. Leavitt's most recent Petition for Writ of Certiorari. In recent telephone conversations with counsel for the State of Idaho, undersigned counsel has been advised that the state intends promptly to seek a death warrant, with an eye toward scheduling Mr. Leavitt's execution to occur on or about June 12, 2012.

The warrant, however, should not issue at the present time for a variety of reasons including, but not limited to, the fact that Mr. Leavitt has filed an additional petition for relief in the federal habeas case referenced above.

Failure to grant the present motion would result in a death warrant issuing in derogation of Mr. Leavitt's rights to due process of law, the assistance of counsel, a fair trial and sentencing hearing, and to be free from cruel and unusual punishment, as guaranteed by the Fifth, Sixth and Eighth Amendments to the United States Constitution and Article 1, § 13 of the Idaho Constitution.

DATED this 14th day of May, 2012.



David Z. Nevin
Andrew Parnes
Attorney for Defendant-Petitioner

CERTIFICATE OF SERVICE

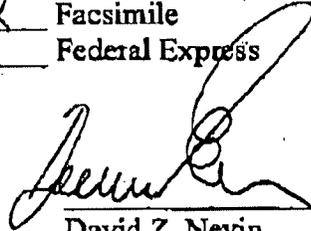
I HEREBY CERTIFY that on the 14th day of May, 2012, I served the foregoing document on all interested parties as follows:

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