

U.S. COURTS

Diego Rodriguez
1317 Edgewater Dr #5077
Orlando, FL 32804

MAY 9 2023

Recd. _____ Filed _____ Time _____
STEPHEN W. KENYON
CLERK, DISTRICT OF IDAHO

Defendant in Propria Persona

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Ammon Bundy, Ammon Bundy for Governor,
Diego Rodriguez, Freedom Man PAC, People's
Rights Network, Freedom Man Press LLC,

Petitioners,

vs.

St. Lukes Health System LTD, St. Lukes Regional
Medical Center LTD, Chris Roth, Natasha
Erickson, MD, Tracy Jungman,

Respondents.

1:23-CV-212-DCN
CASE NO. CV01-22-06789

PETITION TO ENJOIN PETITIONER

AMMON BUNDY IN TRANSFERRING

FROM STATE COURT TO FEDERAL COURT

COMES NOW the Petitioner/Defendant Diego Rodriguez in the above captioned action and Petition this Court to transfer him to ENJOIN Petitioner/Defendant Ammon Bundy from the current state case from State Court to this Court at the Federal level and states:

JURISDICTION AND VENUE

Jurisdiction and Venue is proper before this Court pursuant to Title 28 U.S.C. Section 1441 et. seq.; Title 28 U.S.C. Section 1443 et. seq., in that this case involves Federal Civil Rights violations against Petitioners and also

done under color of law; and Title 28 Section 1446. Venue is proper also pursuant to U.S.C. Title 28 Section 1391 et. seq.

Additional Jurisdiction and Venue for this action is that it involves a Federal Question, Title 28 U.S.C. Section 31. and Title 28 U.S.C. Sections 1343(3) and (4).

PARTIES TO THE ACTION

3. Petitioner/Defendant appears before this Court in Propria Persona and is a Defendant in an Idaho State Court civil proceeding, Case No, CV01-22-06789, currently before the 4th Judicial District Court, County of Ada, State of Idaho.

4. Respondents/Plaintiffs are represented by the law firm, Holland and Hart, Erik F. Stidham, Jennifer M. Jensen, and Zachery J. McCraney, all attorneys licensed with the Idaho State Bar.

CAUSE FOR ACTION

5. I, Diego Rodriguez, am a Defendant in the proceeding court case in State Court, and I am not a citizen of the state of Idaho, nor was I a citizen of the state of Idaho when this case was originally filed in May of 2022. The United States Constitution is extremely clear on the jurisdiction of the Federal judiciary in such cases. In Article III, Section 2, Clause 1 of the U.S. Constitution, it states in black and white, as plain as can be, for anybody with the ability to read and understand clearly that, *"The Judicial Power shall extend to all Cases...to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States..."* It could not be any clearer that this lawsuit which is a "controversy" or legal complaint between citizens of Idaho and myself, a citizen of Florida, is under Federal jurisdiction according to the U.S. Constitution and should not be held in a local court in Idaho. To keep this lawsuit in the state court would be a total slap in the face to the U.S Constitution and the judicial process itself, and will only serve to further the narrative that the

United States justice system can no longer be trusted because it does not obey its own rules. There is no higher law in the land than the U.S. Constitution, and Article III, Section 2, Clause 1 demands that the Federal court take this case into its jurisdiction.

Also, I am filing Judicial Misconduct Complaints with the Idaho Judicial Review Board for very plain demonstrations of bias and partiality on behalf of Judge Lynn Norton of Ada County, who is ruling over the state case.. She has issued unlawful orders against me when I was never served legal paperwork in the matter at hand, and when she admitted in the court order itself that I had not been properly served, and regardless of proper service, the court did not have jurisdiction over the case at the time the order was issued. Additionally, the Judge has rejected Idaho Rules of Civil Procedure #55 in preceding against defendant, Ammon Bundy, on the case, which has put his life, liberty, and property in jeopardy, in a civil lawsuit, when the Idaho Rules of Civil Procedure, which govern her actions, would have protected Mr. Bundy from such judicial tyranny had she obeyed them. How can the defendants have any hope for justice in a courtroom that has already shown extreme bias against us as defendants, particularly when there will exist a desire for retaliation on behalf of Judge Lynn Norton against me for calling attention to her Judicial misconduct.

As a matter of pragmatism, I now can see the absolute wisdom of our Founding Fathers when they put this rule in our beloved Constitution, because after a year of harassment, frivolous filings, and legal abuse—as a citizen of another state, I am at a complete disadvantage and am unable to properly respond and participate since I am a citizen of another state over 2,000 miles away. It is simply not fair and our Founding Fathers recognized this fact.

Additionally, careful and attentive scrutiny over our founding documents, published records, and letters between our founders demonstrates that one of the driving forces for the existence of the Federal Government and the creation of our Constitution was the need for a Federal Judiciary to ensure fairness and equity in lawsuits

between the states, or between entities or citizens of the various states. This need existed both to ensure justice, but also to ensure peace.

6. Additionally, there exists a controversy over Diversity of Citizenship which demands that this civil lawsuit be removed from the State Court. 28 U.S. Code § 1441(a) plainly states, *"Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."* The same section of 28 U.S. Code § 1441 "Removal Based on Diversity of Citizenship," in subsection (b) refers to the determination of jurisdiction of the Federal Court under Section *"1332(a) of this title,"* where the statute plainly states, *"(a)The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—(1)citizens of different States..."*

Therefore, in addition to the plainly written U.S. Constitution, which is the highest law of the land, and which trumps all other laws or statutes, even the U.S Code states that a "civil action" between "citizens of different states" where "the controversy exceeds the sum or value of \$75,000" shall have its jurisdiction in the Federal Court.

So both the U.S. Constitution and the U.S. Code agree that this case must be removed from State Court and put into the Federal Court.

7. I understand that the plaintiffs have filed a motion to dismiss or remand Ammon Bundy's original petition to move this case to federal court. And in doing so, counsel for Plaintiffs (specifically Jennifer Jensen and Erik Stidham) try to lean on "case law" and cite the case of *Nerco Delamar Co. v. N. Am. Silver Co.*, 702 F. Supp. 809, 812 (D. Idaho 1989). However, St Luke's council fraudulently claim that the Federal court remanded the Nerco

Delamar case "to state court due to lack of complete diversity." The case they are referencing can be found here: <https://law.justia.com/cases/federal/district-courts/FSupp/702/809/2252561/>. That case was about an Oregon Company suing an Idaho Company. But in the end, using a "place of operations" approach as opposed to a "nerve center" approach, the court determined that the Oregon company (the plaintiff), was actually an Idaho corporation because its primary "place of operations" was in Idaho. Therefore, the court determined that BOTH corporations were in Idaho and therefore there was no diversity—so the Idaho court could and should handle the case. However, the Nerco Delamar case has little to no application whatsoever to the lawsuit pending against me and Ammon Bundy since I simply do not live in Idaho, period. I live and am a legal resident of the state of Florida and have been since before this lawsuit was filed in May of 2022.

I find it very disturbing to see how the counsel for the Plaintiffs have completely misrepresented the case law they quoted in order to try to manipulate the judge who would be reviewing this case. They obviously are fully aware that the jurisdiction of this case belongs to the federal court as it is plainly written in the U.S. Constitution & US Code (as I've noted above). Council Jennifer Jensen and Erik Stidham, must be assuming that the Federal judge reviewing this case will either just believe them and will not complete his/her due diligence in reviewing the referenced case, or that the judge is not competent enough to see through their misrepresentation. In either sense, this is a complete disrespect to the federal judge reviewing this case.


8. Finally, I am being persecuted for having exercised my right of free speech, which is guaranteed by the 1st amendment in the U.S. Constitution—an issue which likewise brings this matter into Federal jurisdiction.

PRAYER FOR RELIEF

WHEREFORE Petitioner Diego Rodriguez PETITION this Court for an ORDER TRANSFERRING the Idaho Civil Case, CASE NO. CV01-22-06789 be transferred to the jurisdiction of the United States District Court For The District Of Idaho, as soon as possible that Petitioner may be heard and Federal Questions addressed as well as

any other relief deemed just and proper under the circumstances. Petitioner seeks to enjoin with members of the State Court action that are Defendants.

DATED THIS DAY, the 9th of May, 2023.

A handwritten signature in black ink that reads "DIEGO RODRIGUEZ". The signature is written in a cursive style with a large, stylized "D" and "R".

Diego Rodriguez, Petitioner Pro Se

VERIFICATION

I, Diego Rodriguez, do hereby verify that the contents contained herein are true and correct to the best of my belief and knowledge pursuant to the laws of the United States of America, this 9th day of May, 2023.

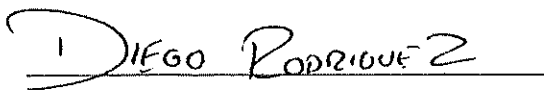
A handwritten signature in black ink that reads "DIEGO RODRIGUEZ". The signature is written in a cursive style with a large, stylized "D" and "R".

Diego Rodriguez, Petitioner Pro Se

CERTIFICATE OF SERVICE

That the original and ____ copies of the forgoing instrument titled PETITION TO TRANSFER CASE FROM STATE COURT TO FEDERAL COURT was filed with the United States District Court, For The District of Idaho, located at 550 West Fort Street, Suite 400, Boise, Idaho, 83724.

DATED THIS 9 day of May, 2023.

A handwritten signature in black ink that reads "DIEGO RODRIGUEZ". The signature is written in a cursive style with a large, stylized "D" and "R".

Diego Rodriguez, Petitioner Pro Se