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IN THE SUPREME COURT OF THE STATE OF IDAHO

ST. LUKE'S HEALTH SYSTEM, LTD; ST. LUKE'S REGIONAL MEDICAL CENTER, LTD; CHRIS ROTH, an individual; NATASHA D. ERICKSON, MD, an individual; and TRACY W. JUNGMAN, NP, an individual, Plaintiffs/Respondents, vs. DIEGO RODRIGUEZ, an individual, Defendant/Appellant, AMMON BUNDY, an individual; AMMON BUNDY FOR GOVERNOR, a political organization; FREEDOM MAN PRESS LLC, a limited liability company; FREEDOM MAN PAC, a registered political action committee; and PEOPLE'S RIGHTS NETWORK, a political organization, Defendants.	Idaho Supreme Court Case No. 51244-2023 Ada County Case No. CV01-22-06789 **REPLY IN SUPPORT OF MOTION TO AUGMENT THE RECORD ON APPEAL**

COMES NOW the Appellant, Diego Rodriguez, and respectfully submits this *Reply in Support of his Motion to Augment the Record* on Appeal, filed on June 9, 2025. This Reply addresses the Opposition submitted by Appellees on June 23, 2025, and clarifies the procedural history, evidentiary basis, and factual record relevant to the request for augmentation.

I. INTRODUCTION

Appellees' *Opposition to the Motion to Augment the Record* misrepresents the evidentiary history of this case and deflects attention from the core issue: *the Idaho trial court admitted and*

displayed to the jury a materially misleading video segment (Exhibit 174B) that spliced and recontextualized statements made by Defendant Ammon Bundy in order to falsely suggest he made a violent threat.

Appellant does not seek to introduce new arguments or retry factual matters on appeal, but rather to ensure that the Idaho Supreme Court has an accurate and complete record of what *was* and *was not* shown to the jury — especially in light of sworn testimony now revealing that the video shown was edited to eliminate crucial context.

II. CLARIFICATION REGARDING CITATIONS

On June 23, 2025, Appellant filed a *Notice of Clarification and Withdrawal of Citations* to address two citations in the original Motion that were inadvertently generated using unverified AI research tools. These citations have been withdrawn, and the remaining argument is based entirely on verified trial exhibits, sworn declarations, and the official court transcript.

III. REFUTING APPELLEES' CLAIMS ABOUT THE VIDEO PRESENTATION

Appellees state that *"…the video [Exhibit 174] was admitted into evidence and shown to the jury in full…"* but this claim is unsupported by the actual trial transcript. A close review shows:

- Exhibit 174B — the *edited* clip — was played for the jury.
- Exhibit 174 — the full video — was entered into evidence but there is no indication that it was actually played in full before the jury.
- The jury was never provided with the surrounding context necessary to understand that Mr. Bundy was *rejecting* and *preventing* violence, not *inciting* it.

Appellant's request to augment the record includes:

- A side-by-side comparison of Exhibits 174 and 174B.
- A transcription of the spliced segment and omitted context.
- A sworn declaration from Mr. Bundy confirming the manipulation.

- A download link for the videos themselves.

This is not "new evidence" but *clarifying material* necessary to resolve the legal and factual dispute now central to the appeal.

Respondents mischaracterize Appellant's argument as "frivolous," relying on a false binary that any evidence originating from a party cannot be "newly discovered." This is both legally and logically flawed. The issue is not *when* the video was recorded or *who* recorded it, but rather *when Appellant discovered that the version presented at trial had been selectively edited to remove exculpatory context*. Appellant has never claimed a Brady violation, nor argued that Kohring governs this civil proceeding. Rather, Kohring was cited solely for its persuasive value: to illustrate how the concealment or distortion of video evidence — even by omission of context — can impair the integrity of a trial and warrant post-judgment relief.

IV. LEGAL STANDARD UNDER I.A.R. 30(a)

Idaho Appellate Rule 30(a) explicitly provides: *"At any time before the issuance of an opinion, any party may move the Supreme Court to augment or delete from the settled reporter's transcript or clerk's or agency's record."*

Appellees' portrayal of this Rule as limited to exhibits *"filed with the district court or considered by the district court"* is a deliberate distortion of the Rule's clear, unqualified language. It is not confined to such narrowly defined materials—it empowers parties to correct or enhance the record when necessary for a fair and faithful appellate review.

Although Idaho courts generally do not allow new evidence in appeals, Rule 30(a) has been applied to cases involving materials that:

- Clarify the record (e.g., missing exhibits or transcripts).
- Correct omissions or inaccuracies in the settled reporter's transcript.

- Ensure the appellate record accurately reflects what occurred at trial, especially if there is dispute over jury information or exhibit presentation.

Appellant's Motion squarely fits within these objectives. It does not introduce *new* legal contentions or argumentation, but instead offers authenticated and materially *clarifying* exhibits related to Exhibit 174B—a trial exhibit shown to the jury—and sworn testimony confirming how the exhibit was edited to misrepresent the context.

This augmentation is not only permitted, it is necessary to prevent distortion of the record and to allow this Court to fully evaluate whether the jury was misled by an edited video. As such, the Motion satisfies Rule 30(a) in letter and spirit—and Appellees have offered no valid legal basis to deny augmentation.

Clarification Is Not Moot, Even If the Transcript Exists - Appellees incorrectly assert that Appellant's request to augment with *"transcript excerpts and trial references"* is moot because the transcript is already part of the appellate record. This is a mischaracterization of both the motion and the purpose of I.A.R. 30(a). Appellant is not attempting to reintroduce the transcript itself, but to highlight and clarify the specific portions of the record that show how Exhibit 174B was introduced in an *altered* form.

Even when the full transcript is present, the appellate court may not have been directed to the relevant trial points absent a proper augmentation request. The identification and highlighting of these moments is neither moot nor duplicative — it is vital to resolving the disputed issue at the heart of this appeal: *whether the jury was shown an exhibit that materially misrepresented the speaker's intent*.

Idaho courts have previously granted augmentation under Rule 30(a) in cases involving:

- Clarification of the record, such as including missing exhibits or video footage that was admitted but not included in the appellate record. See *State v. Grant, 169 Idaho 610, 499 P.3d 785 (Ct. App. 2021)*.

- Correction of transcript inaccuracies to ensure a true and complete record. See *State v. McKeeth, 136 Idaho 303, 32 P.3d 233 (Ct. App. 2001).*
- Ensuring the appellate court understands what the jury actually saw or heard at trial, including proper identification of admitted evidence and display of exhibits. See *State v. Peterson, 167 Idaho 350, 470 P.3d 1204 (Ct. App. 2020).*

These cases demonstrate that Idaho appellate courts have used Rule 30(a) to preserve fidelity to the trial record, particularly where disputes arise over exhibit presentation or context. Appellant's request is entirely consistent with this established usage.

V. ARGUMENT AND REBUTTAL

Appellees argue that the *Declaration of Ammon Bundy* and the accompanying timeline must be excluded because they were not filed in the district court. This is a misstatement of the plain language of Idaho Appellate Rule 30(a), which states that *"At any time before the issuance of an opinion, any party may move the Supreme Court to augment or delete from the settled reporter's transcript or clerk's or agency's record."* The Rule imposes no requirement that augmentation materials must have been *"filed with or considered by the district court,"* and Appellees offer no case where such a restriction has been applied to deny a motion under Rule 30.

Appellees cite *State v. Ellis, 167 Idaho 1, 467 P.3d 365 (2020),* suggesting that materials not filed in the district court cannot be added to the record on appeal. However, *Ellis* merely stands for the proposition that evidentiary materials must be properly submitted—through an appropriate motion under Idaho Appellate Rule 30—to be considered on appeal. The case does not limit the *types* of materials that may be submitted under Rule 30(a), nor does it require that such materials originate in the district court. Appellant has complied with Rule 30 by filing a motion, and the materials submitted serve the well-established purposes of *clarification* and *context*. Thus, Ellis does not support exclusion here—it *affirms* the procedural pathway Appellant is properly using.

Here, Appellant has properly moved under Rule 30(a) to correct and clarify the appellate record. The *Declaration* and *timeline* are not offered to introduce new claims, to reweigh factual findings, or to support appellate fact-finding. Instead, they serve a specific and appropriate purpose under Rule 30: *to clarify what actually occurred at trial regarding the presentation of Exhibit 174B*[1]*, and to demonstrate that the video shown to the jury was spliced in a way that materially altered its meaning.*

These materials demonstrate that the full, original version of the video was never shown to the jury, and that key exculpatory context was omitted by the manner in which the exhibit was edited and presented. This is precisely the type of post-trial clarification Rule 30(a) is intended to permit—especially where the integrity of a trial exhibit is directly challenged. Appellant's Motion is therefore both procedurally proper and substantively necessary to ensure the Court can fully and fairly review whether the trial record misrepresented the exhibit's content and prejudiced the outcome.

VI. The Record Confirms the Altered Video Was the Only Version Shown

The St. Luke's Parties assert that *"the entire eight-minute video the jury had already seen"* was published and shown in full. This **statement is false** and directly contradicted by *both* the certified transcript and the actual courtroom audio.

Page 330, line 9 of the official trial transcript merely states, "(Video clip published)." It offers no indication that the entire eight-minute Exhibit 174 video was played. More importantly, the corresponding courtroom audio from Day 2 has now been reviewed in full. That audio confirms unequivocally that the video published to the jury was a shortened and edited version — not the full Exhibit 174.

[1] The transcript appears to reference the compilation video as Exhibit 174A; however, the trial court later clarified this was Exhibit 174B. This discrepancy is noted here only to maintain consistency with the trial record.

This matches the sworn declaration of Ammon Bundy, who affirmed under penalty of perjury: *"The version presented in court had been edited to remove portions of my original statement and splice together two separate sections of the video in a way that changed the meaning of what I said."*

He further explained: *"Specifically, the edited version removed my clear disclaimers rejecting violence and calling for peaceful action, and instead made it appear as though I was endorsing threats or pressure by so-called 'patriot groups.'"*

Mr. Bundy verified this manipulation directly: *"I verified this manipulation by comparing the video used in court to the original, full-length recording that I published in April 2022. The alteration is clear and deliberate."*

He also presented the critical before-and-after comparison:

> **Original (Unedited) Statement:** *"... if justice was to be served, we would go into the hospital, take that baby, and we'd give it back to their mother. And then if we were further to administrate justice, we would find those that are accountable and we would uh prosecute them, and uh, and uh, you know, make them uh, pay, for the damages that they caused to this family and assure that this never happens again.*
>
> *That's what should happen. And uh, I will say this, that I'm not alone in those feelings, but uh we also have had to suppress those uh those thoughts and actions uh because we are trying to give the people that are uh, making the decisions that are doing this thing to them—give them a chance to correct this issue so that we don't have to do it for them."*
>
> **Edited Version Shown to Jury:** *"...if justice was to be served, we would go into the hospital, take that baby, and we'd give it back to their mother. And then if we were further to administrate justice, we would find those that are accountable and we would uh prosecute them, and uh, and uh, you know, make them uh, pay, I know that there are groups, uh patriot groups, that have wanted to come. And uh, and just do what needs to be done..."*

And finally, he emphasized: *"This edit reversed the meaning of my message and misled the jury about my intentions. It portrayed me as threatening or dangerous when I was actually doing the opposite — urging peace and restraint."*

Accordingly, *the St. Luke's Parties' claim that the jury had "already seen" the full eight-minute video is demonstrably false*. Their assertion that it would have been "duplicative and inefficient to replay the entire eight-minute video" is a post-hoc rationalization that contradicts the actual trial record.

This evidence supports the central claim in Mr. Rodriguez's Motion to Augment*: that the edited video presented to the jury omitted key exculpatory context and was deceptively framed to create a false impression*. This is precisely why the Motion to Augment is necessary — to provide the Idaho Supreme Court with the full version of the video and the supporting timeline and declaration that establish what was omitted and why it matters.

While Respondents repeatedly assert that the full Exhibit 174 was "published" to the jury, this terminology is misleading. The term "published" merely indicates that something was shown or made available — not that the entire content was shown in its unedited form. The transcript offers no basis to conclude that the full eight-minute video was actually displayed. On the contrary, the record confirms that only the shortened, altered segment was played. The deceptive use of "published" to imply full presentation is emblematic of Respondents' broader attempt to confuse the factual record.

VII. Factual Clarification Regarding Trial Attendance and the Alleged "False Narrative"

Respondents falsely assert that Mr. Rodriguez "skipped" the trial and attempt to discredit him by labeling his assertions as a "false narrative." This accusation is not only factually inaccurate, but it also represents a deliberate mischaracterization of the procedural history and an improper attempt to shift attention away from the merits of the Motion.

In reality, Mr. Rodriguez filed a *Notice Requesting Remote Video Access to Court Trial* on July 9, 2023 ahead of the scheduled trial. This was done in good faith, consistent with prior instructions from Judge Lynn Norton, who had advised that remote participation requests must be formally submitted to the Court. At the time, Mr. Rodriguez was located more than 2,000

miles away in Florida and was self-represented. Despite this, the trial court — now under Judge Nancy Baskin — summarily denied his request. This action effectively excluded Mr. Rodriguez from participating in the trial and is directly relevant to the constitutional issues raised on appeal, including denial of due process and the right to be heard. Plainly stated, Mr. Rodriguez did not "skip" the trial as Holland and Hart claim, he was denied reasonable access by Judge Nancy Baskin, even though he requested it.

Moreover, the Respondents' characterization of Mr. Rodriguez's motion as containing a "false narrative" is unsupported by any citation to the record and is further undermined by the fact that Respondents themselves are the ones misrepresenting the trial evidence. As previously noted, the full Exhibit 174 video was not played in its entirety to the jury. Instead, a spliced clip (174A) was presented without disclosing that it was an excerpt, and without acknowledging that it had been edited in a way that materially changed its context and meaning. The jury was never given the opportunity to view the unaltered eight-minute video, which undermines the claim that the entire video was "published to the jury in full."

Accordingly, the Court should disregard Respondents' ad hominem accusations and instead focus on the substantive legal arguments and evidentiary concerns raised in the Motion. Mr. Rodriguez's attempts to clarify the record are made in good faith and are grounded in both the transcript and procedural history.

VIII. Misleading Presentation of Evidence, Not Concealment of Existence

Respondents assert that "nothing was concealed" from Appellant or his co-defendant, claiming that because Ammon Bundy originally created the video in question, and because the edited versions (174A and 174B) were part of the trial record, no concealment occurred. This argument entirely misses the point.

Appellant does not argue that the existence of the original video or the edited clips was hidden. Rather, *the argument is that the jury was misled through the presentation of the evidence*.

The problem is not that the full video (Exhibit 174) was unavailable — it is that it was **never played for the jury**. Instead, **chopped-up segments** were played and **presented as if they were a single, continuous video**, without the jury being informed that critical exculpatory portions had been removed. This is evident from the trial transcript, and from Ammon Bundy's sworn declaration, in which he confirms that he listened to the audio recording of the trial proceedings and affirms that the full video was never played to the jury in its entirety. He further confirms that the spliced clip was presented as a single continuous segment, with no audible indication of breaks, clicks, or transitions — and without any statement on the record acknowledging that the video had been selectively edited.

The concealment here lies in ***presentation and omission***, not existence. Just as a prosecutor cannot cut exonerating statements out of a defendant's police interview and then play the rest to the jury while pretending it's unaltered — the Respondents cannot splice a video to remove contextual and exonerating content, play it in court, and then claim "nothing was concealed" because the original was technically admitted into the record.

This deception was central to the jury's perception of Appellant's and Bundy's intent and tone — which is why this issue is critical for appellate review.

IX. CONCLUSION

This Court's ability to fairly assess the integrity of the trial proceedings hinges on a complete and accurate appellate record — and the requested augmentation ensures precisely that. Appellant respectfully requests that the Idaho Supreme Court grant the *Motion to Augment the Record* and accept the supplemental exhibits for the limited purpose of clarifying what the jury actually viewed at trial.

DATED: June 25th, 2025 By: */s/ Diego Rodriguez*
Diego Rodriguez

CERTIFICATE OF SERVICE

I hereby certify that on June 25th, 2025, I served a true and correct copy to:

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DATED: June 25th, 2025

By: */s/ Diego Rodriguez*
Diego Rodriguez