

Erik F. Stidham (ISB #5483)
Jennifer M. Jensen (ISB #9275)
Anne Henderson Haws (ISB #10412)
HOLLAND & HART LLP
800 W. Main Street, Suite 1750
Boise, ID 83702-5974
Telephone: 208.342.5000
Facsimile: 208.343.8869
E-mail: efstidham@hollandhart.com
jmjensen@hollandhart.com
ahhaws@hollandhart.com
Counsel for Plaintiffs-Respondents

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,

and

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 and an
unincorporated association,

Defendants.

Docket No. 51244-2023

Ada County Case No. CV01-22-06789

MOTION TO DISMISS APPEAL

Plaintiffs/Respondents, St. Luke’s Health System, Ltd., St. Luke’s Regional Medical
Center, Ltd., Chris Roth, Natasha D. Erickson, M.D., and Tracy W. Jungman, NP, by and

through their attorneys of record, Holland & Hart LLP, hereby move this Court, pursuant to Idaho Appellate Rule 32, for dismissal of Appellant's appeal under the fugitive disentitlement doctrine.

This Motion is accompanied by the Memorandum in Support submitted herewith.

Oral argument is requested.

DATED: March 6, 2025.

HOLLAND & HART LLP

By: /s/ Jennifer M. Jensen

Erik F. Stidham

Jennifer M. Jensen

Anne Henderson Haws

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of March, 2025, I caused to be filed via iCourt and served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Diego Rodriguez
1317 Edgewater Dr., #5077
Orlando, FL 32804

- ☐ U.S. Mail
- ☐ Hand Delivered
- ☐ Overnight Mail
- ☒ Email/iCourt/eServe:
freedommanpress@protonmail.com

/s/ Jennifer M. Jensen

Jennifer M. Jensen
OF HOLLAND & HART LLP

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HOLLAND & HART LLP
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Telephone: 208.342.5000
Facsimile: 208.343.8869
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NATASHA D. ERICKSON, MD, an
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DIEGO RODRIGUEZ, an individual,

Defendant/Appellant,

and

AMMON BUNDY, an individual; AMMON
BUNDY FOR GOVERNOR, a political
organization; FREEDOM MAN PRESS LLC,
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NETWORK, a political organization and an
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Defendants.

Docket No. 51244-2023

Ada County Case No. CV01-22-06789

**MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS APPEAL**

Plaintiffs/Respondents, St. Luke’s Health System, Ltd., St. Luke’s Regional Medical
Center, Ltd., Chris Roth, Natasha D. Erickson, M.D., and Tracy W. Jungman, NP (“St. Luke’s

Parties”), by and through their attorneys of record, Holland & Hart LLP, hereby submit this Memorandum in Support of their Motion to Dismiss Appeal.

I. INTRODUCTION

Rodriguez’s appeal should be dismissed because he refuses to submit to the jurisdiction of the district court, which has issued two bench warrants against him for violating the protective order prohibiting witness intimidation and the permanent injunction in the underlying case. The circumstances present a classic example of fugitive disentitlement, where a party avoiding arrest in related proceedings may not pursue related relief from the court. Permitting Rodriguez’s appeal to continue would acquiesce to his continued refusal to recognize the authority of the judicial system and the rule of law.

The St. Luke’s Parties concurrently file their response brief addressing the merits of Rodriguez’s frivolous appeal. To be clear, if his appeal is permitted to proceed, the St. Luke’s Parties are fully prepared and comfortable seeking affirmance on the merits. But Rodriguez’s strategy of avoiding arrest allows him the opportunity to continue re-posting his lies, endangering the St. Luke’s Parties. He should be held accountable for continuing the very wrongdoing that convinced two judges that he should be arrested to face contempt charges and a jury that he should be punished with millions of dollars of punitive damages.

II. BACKGROUND

Rodriguez has two outstanding bench warrants against him for violating orders in the underlying case. R. Vol. 1, pp. 2, 37; OB at 24. He acknowledges the existence of the warrants. *See* OB at 24 (citing warrants with bail set at \$25,000 and \$50,000). According to Rodriguez, he resides in Orlando, Florida.

The district court in this case issued the two warrants under Idaho Rule of Civil Procedure 75, in contempt proceedings. The district court issued the first warrant on June 6, 2023, after Rodriguez had failed to appear at multiple hearings on contempt. Tr. p. 2221, Ls. 3–14; R. Vol. 1, p. 2. The district court found probable cause that Rodriguez had violated the protective order prohibiting threatening witnesses. *Id.*; *see also* R. Vol. 1, pp. 1727–29 (protective order); R. Vol. 1, pp. 2370–3124 (motion for contempt filing). The warrant remains outstanding.

The district court issued the second warrant on July 17, 2024, after Rodriguez failed to appear on further contempt charges, this time for violating the permanent injunction. Aug. Vol. 2, pp. 2–1048; *see* OB at 24. The permanent injunction was based on the court’s findings of fact from the two-week trial held on damages.

In a 40-page memorandum decision and order, including findings of fact and conclusions of law, the permanent injunction required Rodriguez and the other Defendants to:

1. Cease posting and disseminating defamatory statements against all Plaintiffs.
2. Cease making statements that any of the Plaintiffs are criminals and/or are participating in unlawful kidnapping, trafficking, sexual or other abuse, and/or killing of children.
3. Remove from all online locations or websites Defendants have authority to do so any and all statements that the Plaintiffs are criminals and/or participating in the kidnapping, trafficking, sexual or any other abuse, and/or killing of children.
4. Cease disseminating and encouraging others to disseminate the contact information, personal information, and images of Mr. Roth, Dr. Erickson, and NP Jungman.
5. Remove from all online locations and websites Defendants have authority to do so the contact information, personal information, and/or images of Mr. Roth, Dr. Erickson, and NP Jungman.
6. Deactivate links on other websites where Defendants or their agents posted links to defamatory statements or statements that invade the privacy of Plaintiffs by portraying them in a false light.

R. Vol. 1, p. 4279.

Rodriguez maintained the posts. Aug. Vol. 2, pp. 19–24. And he re-posted them repeatedly when third parties removed them when put on notice of the permanent injunction. *Id.* The second warrant also remains outstanding.

Rodriguez litigates from Florida to avoid arrest in Idaho. While disobeying court orders, he concurrently seeks this Court’s assistance through his appeal of the same issues on which he defies the court below.

III. ARGUMENT

This Court should not permit Rodriguez to pursue his appeal remotely while defying the warrants issued on contempt charges for his violations of the order protecting witnesses and the permanent injunction.

A. THE COURT HAS DISCRETION TO DISMISS AN APPEAL WHEN THE APPELLANT HAS OUTSTANDING ARREST WARRANTS.

Many jurisdictions recognize the fugitive disentitlement doctrine, an equitable rule permitting the court to prevent injustice when a litigant simultaneously seeks relief from a court while evading a warrant. *See, e.g., Ener v. Martin*, 987 F.3d 1328, 1333 (11th Cir. 2021) (affirming dismissal due to outstanding contempt and order of referral to law enforcement); *Sasson v. Shenhar*, 667 S.E.2d 555, 628 (Va. 2008) (affirming dismissal of appeal because appellant had an outstanding warrant for contempt); *Colombe v. Carlson*, 757 N.W.2d 537, 542 (N.D. 2008) (dismissing appeal due to appellant leaving jurisdiction during contempt proceedings); *Wechsler v. Wechsler*, 45 A.D.3d 470, 474 (N.Y. Ct. App. 2007) (dismissing appeal with potential for reinstatement if appellant posted security for amounts he was ordered to pay before leaving the jurisdiction); *Matsumoto v. Matsumoto*, 792 A.2d 1222, 1235 (Miss. 2002) (requiring defendant evading bench warrant to post bond for the judgment before permitting appeal to proceed on related issue); *Guerin v. Guerin*, 993 P.2d 1256, 1258 (Nev.

2000) (dismissing appeal in divorce case due to wife evading arrest under a bench warrant for contempt); *Conforte v. Comm'r*, 692 F.2d 587, 590 (9th Cir. 1982) (applying doctrine to dismiss civil tax appeal while appellant remained a fugitive from related criminal tax conviction).

While this Court has not adopted the fugitive disentitlement doctrine, the Idaho Court of Appeals has addressed it in criminal cases. *See State v. Nath*, 137 Idaho 712, 52 P.3d 857 (2002) (declining to dismiss when fugitive no longer at large); *State v. Gottlieb*, 167 Idaho 940, 944, 477 P.3d 994, 998 (Ct. App. 2020) (dismissing appeal); *State v. Moran-Soto*, 150 Idaho 175, 179, 244 P.3d 1261, 1265 (Ct. App. 2010).

The doctrine exists to uphold the rule of law. “Permitting an appellant who is dissatisfied with the process to disregard the court’s order, merely because the appellant determines that order unfair or unjust, would result in an abuse of our court system.” *Columbe*, 757 N.W.2d at 542. It would be “unfair to allow a fugitive to use court resources only if the outcome is an aid to him.” *Ener*, 987 F.3d at 1332 (internal quotation marks omitted). As the Ninth Circuit put it, “‘heads I win, tails you’ll never find me.’” *Antonio-Martinez v. INS*, 317 F.3d 1089, 1093 (9th Cir. 2003). A party should not be permitted to benefit himself by selectively submitting to the court’s jurisdiction. *Sasson*, 667 S.E.2d at 624.

The fugitive disentitlement doctrine bars a litigant from seeking relief from a court when (1) the party is a fugitive in a civil or criminal proceeding; (2) the party’s fugitive status is sufficiently connected to the litigation in which the doctrine is sought to be invoked; (3) invocation of the doctrine must be necessary to enforce the judgment of the court or to avoid prejudice to the other party caused by the adversary’s fugitive status; and (4) invocation of the doctrine is not an excessive response. *Matsumoto*, 792 A.2d at 1233 (reciting rule after analyzing case law nationwide).

To be a fugitive, an appellant must know that he has a warrant issued against him and decline to enter the jurisdiction where the warrant is outstanding. *Ener*, 987 F.3d at 1332 (rejecting appellant's argument that she was not a fugitive because no law prohibited her from leaving the jurisdiction, although she knew she was subject to arrest upon return).

B. THIS COURT SHOULD ADOPT THE FUGITIVE DISENTITLEMENT DOCTRINE AND DISMISS RODRIGUEZ'S APPEAL.

Rodriguez's appeal presents the quintessential situation for fugitive disentitlement. First, Rodriguez is a fugitive within the meaning of the doctrine. He knows that there are pending charges of contempt and bench warrants against him in Idaho and litigates from afar to evade arrest. *See* OB at 24, n.19 (citing online record of two warrants against him). Second, the contempt actions are related to the appeal; the warrants issued because the court found probable cause that Rodriguez had threatened witnesses before the trial and because Rodriguez was violating the permanent injunction issued against him for his defamation. Third, the St. Luke's Parties are prejudiced by Rodriguez's refusal to present himself in the contempt proceedings so that the district court can enforce its orders against him. As it stands, he maintains the defamatory posts online and has created new ones since the permanent injunction was entered. Fourth, dismissal would not be excessive because Rodriguez manipulates the court system by selectively seeking aid of this Court while disobeying court orders.

The St. Luke's Parties urge this Court to join the other jurisdictions who agree the rule of law prohibits litigants who evade a court's warrant authority from concurrently seeking related legal relief. The St. Luke's Parties request that this Court dismiss his appeal with prejudice, or in the alternative, dismiss with leave to file a motion to reinstate (within a defined, reasonable period of time), if he appears in person and submits to the district court's jurisdiction in the two pending contempt actions.

IV. CONCLUSION

For all the foregoing reasons, the St. Luke's Parties request that this Court dismiss Diego Rodriguez's appeal with prejudice, or in the alternative, dismiss with leave to file a motion to reinstate (within a reasonable, set amount of time) if he appears and submits to the district court's jurisdiction in the two pending contempt actions.

DATED: March 6, 2025.

HOLLAND & HART LLP

By: /s/ Jennifer M. Jensen

Erik F. Stidham

Jennifer M. Jensen

Anne Henderson Haws

Counsel for Plaintiffs-Respondents

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