

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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)  
In re: GRAND JURY PROCEEDINGS ) Misc. No.: 13-0153  
GERALD KOCH, )  
)  
MOVANT. ) **DECLARATION OF**  
-----X **GERALD KOCH**

1. My name is Gerald William Koch. I am competent to be a witness, and I have personal knowledge of the facts set forth below.
2. I am currently in custody at the Metropolitan Correctional Center (“MCC”) in lower Manhattan. I have been confined since May 21, 2013, first at Metropolitan Detention Center in Brooklyn (“MDC”), and then here at MCC, when I was found to be in civil contempt for my refusal to cooperate in a grand jury investigation.
3. When I arrived at MDC, I was initially placed in the Special Housing Unit (“SHU”),  
[REDACTED]  
[REDACTED]. Since arriving at MCC I have spent most of my time in the general population of Nine North.
4. I was placed in the SHU at MCC for five days at the end of June. During that time, I was on complete 24-hour lockdown, was not allowed to shower or given any reading material, and was not given clean clothes for more than 72 hours. No explanation was ever given for my placement there, but it coincided with a demonstration by my supporters. Although I clearly had no control over the conduct of my friends and allies, several staff at MCC indicated that I was being punished for the public support I was receiving. When told of this incident, [REDACTED] a staff

psychologist, said “They are treating you like an inmate of 10 South [the Terrorism Unit].” It is reasonable to assume this punishment was not within BOP guidelines.

5. I have been incarcerated now for almost seven months, and I have been resistant to grand jury subpoenas since 2009, when I was subpoenaed in connection with the same investigation. I can assert without any hesitation that there is nothing that will convince me to testify before this or any grand jury. My belief that the federal grand jury is a tool that serves to disrupt and harass activist communities predates my 2009 subpoena, and has been vindicated by the treatment that I – who am ignorant of meaningful knowledge of this crime – have received as a result of my refusal to cooperate. With each passing day, my sorrow at confinement deepens, but so does my conviction that I am doing the right thing.

6. My decision not to testify before the grand jury is predicated on my study of history and philosophy. It is clear to me that at many times in this nation’s history, those who would dare to speak out against the government have faced many forms of repression. One such form of silencing involves the targeting of peaceful activists in an effort to sow distrust within activist political communities, and to identify and disrupt constitutionally protected activity.

7. [REDACTED]

[REDACTED] My own principles are based around doing my best to help others, and to end all uses of power that contribute to people’s fears or manipulation. [REDACTED]

[REDACTED] what makes prison so hard to bear is seeing the ways in which prison [REDACTED] depends upon the use of fear, manipulation, and violence.

8. As far as I know, this investigation has not led to any information that could help to solve the crime, and I do not have any reason to believe my participation would help to solve the crime. I find it difficult to understand why the prosecutors believe that I am actually of value to this investigation, and their reasons for stating that I am are unknown to me. To the best of my knowledge there have been no further crimes like this since 2008. To the best of my knowledge, nobody was hurt by the events of 2008, and that appears to have been intentional.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11. It is, however, my staunch belief that the event under investigation by this Grand Jury is an excuse to intimidate activists. I believe it is wrong for the government to exercise the grand jury power to question people about their political associations and beliefs. Therefore, I believe that to participate in this fishing expedition, potentially exposing other innocent activists to the same sanctions under which I am suffering, would be an immoral act. Especially now that I have sustained what I expect will be permanent psychological injuries as a result of my confinement, I would never be able to live with myself if I thought that I had contributed to another person having to endure the constant trauma and humiliation of being confined.

12. While I have been in prison, I have tried my best to maintain my intellectual capacity, my physical health, mental health, and my dignity. I have been social with people on my tier, helping people to decipher various legal documents, talking people through hard times, and allowing people to support me through my many difficult times.

13. I have tried to maintain a positive attitude, despite struggling with overwhelming feelings of loss and depression. I have read voraciously, as I always do. [REDACTED]

[REDACTED]

14. I have endured and almost grown used to the constant intrusions and humiliations of having no privacy, of being strip-searched, and having my every possession and every word monitored. I have spent time every day writing, and attempting to compensate for the fact that the final stage of my undergraduate studies has been jarringly interrupted.

[REDACTED] But there is no way for me to deny that my decision not to testify has come at overwhelming cost. My physical and mental health have deteriorated. I have been almost entirely without sunlight. My physical health has gone downhill. A chronic but easily treated joint condition in my jaw has gone untreated for so long that I have permanent hearing loss, dental damage, and am in constant pain. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18. I am allowed only two social visitors, and my first visitor was not approved for more than two months. My Mother, who is my only family member capable of visiting me, lives in Florida. I have seen her for fewer than five total hours since my incarceration began.

19. Because my mail has been delayed and even withheld entirely (without explanation) I have had a difficult time maintaining my relationships through written correspondence. I know this has had an impact on many of my friends and supporters. It has certainly made me feel alienated and alone.

[REDACTED]

[REDACTED]

[REDACTED]

21. I am aware I have enormous support from academic and political communities around the world, as well as the people who turn to my mother for spiritual guidance. I know my mother is proud of me. [REDACTED] the generosity of spirit that I have seen from friends, professors, employers, and even strangers as far away as Thailand, Australia, Chile, Japan, Norway and Mexico. I have received letters from supporters as young as 13 years old, and as old as 75. [REDACTED]

[REDACTED]

22. Nevertheless, I have never considered cooperating with the Grand Jury an option. At this point, cooperating with the Grand Jury would only make a mockery of my ideals, and would destroy my last shred of self-respect. At this point, cooperating with the Grand Jury would mean all my sacrifices, the sacrifices of my friends and former partner, the sacrifices of my mother, and the support of my community would all have been for naught. I will never allow that to happen.

23. I will never be able to regain the time that has been lost to me. I will never be able to fully repair the damaged relationships, or my own mental health. Whatever anyone might make of my political ideals and my decision, however, I am ready to sacrifice myself rather than relinquish my ethics.

24. [REDACTED] I have never been so unhappy in my life. The only thing that could meaningfully increase my unhappiness would be to turn my back on all I believe and agree to testify before the Grand Jury. Prison is an endless stream of dehumanizations and humiliations. It is a trail of mounting losses. It is indescribably stultifying. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25. I want so badly to spend Christmas with my mother, in a place where I can move freely and sleep in peace. But the idea that I hold the keys to my cell is hollow: I know that cooperating with the Grand Jury will only increase my suffering. It will disappoint and alienate my community. It will undermine everything I believe in, and all I have sacrificed for. My father used to say that to be a man, you stood up for your beliefs and for the little guy. If I were to cooperate with the Grand Jury I would not be standing up for my beliefs. But most of all, it will remove from me the one thing I have left: my integrity. I want very much to end my confinement. I will never do so by testifying before the Grand Jury.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated: December 19, 2013  
New York, New York

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Gerald William Koch