

The Honorable Richard S. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re Grand Jury Subpoena,

Matthew Duran,

Subpoenaed Party.

Cause No. GJ12-149

DECLARATION OF
MATTHEW DURAN

FILED UNDER SEAL

DECLARATION OF MATTHEW DURAN

I, Matthew Duran, declare as follows:

1. My name is Matthew Kyle Duran. I am 24 years old.
2. I was subpoenaed to testify before a grand jury on September 13, 2012. I walked into the United States District Courthouse twice on that day, first for a Motion to Quash and then for my grand jury appearance. The second time I walked into the courthouse, I understood that I was likely not walking out.
3. The show of force was incredibly intimidating. I've been to court before, but I've never seen anything like that. In fact, by the time I made my second appearance, the Courthouse was surrounded by well-armed law enforcement officers, nearly standing elbow to elbow. Other groups of law enforcement were stationed throughout the

courthouse, so that I could hardly turn a corner without encountering a number of them. The closest I have come is experiencing this type of situation, was when I've seen a lockdown of entire blocks during the Olympics or the national political conventions.

4. While there seemed to be a sea of people behind me as I walked into the Courthouse for my grand jury appearance, and while I had my partner and attorney next to me, I felt totally and utterly alone. It was harrowing unlike any experience I have previously had.
5. The build up to my going to prison was worse for my partner, than for me. As soon as I got the subpoena, I knew that I was going in to custody. My partner has always hoped that it would not happen and was incredibly stressed about how it could be stopped. One of the hardest things is for me to know what I have put her through. But I also know that even if I cooperated now, I could not take away what she went through.
6. I thought I knew what it would be like to be incarcerated, because I have been arrested in the past (although I was only held for 13 hours.) I've also done prisoner support work in the past – visiting them and make sure they had help taking care of their needs. Finally, my father has been incarcerated. But my father was at a camp, so he was able to go outside and to work. Those prior experiences did not assist me on the day of my grand jury appearance.
7. Instead, as I walked into the courthouse, the pictures that I had in mind were of institutions like Attica or Sing Sing or Soledad prison. They were pictures of horrible prisons with horrible conditions and beatings around the clock. My brain told me that

it was not likely to be what I'd experience, but my imagination was convincing me otherwise, and the police presence only bolstered that image. My fears and imagination made me worry more about others. How much would my partner suffer and worry? What about my parents?

8. My decision not to testify is one of conscience. This is a highly personal choice. I decided for myself that I do not wish to be used in this way by the government. If they want to prosecute people, that is their business. I do not wish to be a part of that. A lot of my prior activism was in the realm of prisoner support. It has caused me to abhor the prison industrial complex and the fact that we have 25% of the world's inmates in our prisons. I feel very strongly about it. I would not be able to live with myself if I was responsible for sending someone else there. I do not believe that I have that in me. I would not be able to do it and still look at myself.
9. I realize I have supporters, but I do not believe that I have anyone telling me what to do. I do not wish to be a person in control of others decisions or fates either. I believe strongly in personal autonomy and personal choice. I also feel it is important to live my life by my convictions and I hope that my choice will lead others to live their lives well. If they do, then I believe that we will have a better world.
10. I knew I had options besides incarceration or testimony. I believed I could run. But I did not want to do that and I still am not interested in that response. I do not believe that running would do me, other people, or the issues that I care about, any good. I believe that running will make me irrelevant. If I ran, I would never again be able to stand up for my convictions. On the day of my grand jury appearance, I wanted to stay and stand up for what I believed in. I still do.

11. I was transferred to the Federal Detention Center in SeaTac (“FDC”) on the same day that I was taken into custody. Upon my arrival at the FDC, I was screened and determined to be eligible for placement in the “general population”. I was dressed in the general population clothing. I was put in a holding cell with four other new inmates. But then everyone but me was taken to general population. I was left in holding, given an orange jumpsuit, and placed in solitary confinement (in the Secured Housing Unit or “SHU”). Inmates and officers also refer to this unit as the “hole.” Since that day, I have found that it is common for people to be sent to general population, even on their first incarceration. I could list the names of numerous inmates that fit this category. I was not one of them. I was sent to the SHU for two weeks – until September 27, 2012.
12. There are different kinds of beatings; some are physical and some are emotional. I have not been physically beaten, like I imagined at Attica or Sing Sing. But I believe I have experienced, and am experiencing, some of the worst what the FDC has to offer. Although I remain firm in my conviction, I definitely do not want to come back. My experience has been a lot more difficult than I could imagine or know.
13. When I first went to the SHU, I was absolutely terrified. I could not sleep. I panicked about things like being so close to the airport. My imagination convinced me that if I became National Security issue, I could be renditioned away easily. The orange jump suit did not help. It evoked images of military prisons and Abu Garib. It was hard not to make the nerve-wracking emotional and psychological connection in my mind, even though the rational person in me was telling me that this wasn’t really going to happen.

14. My cell in the SHU is about eight by twelve feet. In that space is a bunk bed, a shower (which for the first two weeks did not have a curtain), a toilet that is also a sink, a concrete column that is used as a chair, and a desk. There is a small window at the head of the bed, but the glass is frosted and there is no fresh air. The temperature varies if the heat comes on. However, it is usually always cold. My clothes have short-sleeves, and I'm given two sheets and two blankets. But I often run the shower to keep the cell warmer.
15. My life became a wait for the guard while I was in the isolation unit. There was no other contact with the outside world. When I was in isolation, he became my world. He dictated what would happen and when I could do things. My world was reduced to him, and my cell. Food was delivered through a slot in the door, so there was no human contact at that time. I was not able to tell what time it was. I've never experienced that before.
16. I was confined to my cell for twenty-three hours per day. When I was "released" from that cell, it was to go to one of several, indoor, exercise "rooms". The "rooms" were really just cages surrounded by wire mesh that is in the shape of a slightly larger room. There was a window, but it was also is frosted and closed to fresh air. It was also colder in the cages, and I was not given a coat. (Only inmates that get to go outside are given a coat. I have not been outside since September 13th, except for my one visit to and from Court.)
17. Prior to my incarceration, I biked everywhere. Biking outdoors was my escape. If I did not bike, I would walk. I would commonly walk from one side of Olympia to the other. It kept me calm and sane. I haven't experienced that in close to half a year.

There is no exercise equipment in the cages, they are just empty rooms. But at least I can walk here. All there is to do is pace.

18. During my first stay in the SHU, I was not been able to call anyone – not even my lawyer. I was not permitted contact with other inmates. I was not allowed to have any visitors. I was not allowed phone calls because my contact list was not yet approved. Neither did I know how to get a contact list approved because I did not have contact with other inmates who could tell me. Accordingly, my only outgoing communication was with my lawyer, who was able to make two short visits. While this may be the same treatment that other SHU inmates receive, this was a level of deprivation and loss of control that I had never previously imagined or experienced in my life. It was the most withdrawn I'd ever been. The closest I'd previously come to such isolation was when I'd stayed in my room for two days due to being sick. But even then, it is different when I knew I could go outside. This was totally shocking to me.

19. Starting with the day of my arrest, I have been continually strip-searched. While this may not be unusual for an inmate housed in the FDC, I had never previously experienced a personal violation of this nature. It is utterly dehumanizing. Previously, I had been halfway strip-searched by TSA once and that made me stop flying. But I could not opt out of this. Even for a visit with my lawyer, I would be cuffed at the door to my cell, strip-searched, allowed to dressed, and sent for the visit. Afterwards, I would be strip-searched immediately after leaving the visitation room, taken to another room, strip-searched again, and then returned to my cell. Every visit

from my attorney results in three strip searches for inmates housed in the SHU. For those in general population, it is one.

20. I have been a strict vegan for the last 6-7 years. Growing up, my older sister was vegan, and she asked me to join her in order to support her. I hated it. It did not work. But then I later *chose* to be vegan. I was lactose intolerant, and realized dairy would make me sick. I also chose to be strictly vegan because I felt healthier, I felt better, I had better focus, it was cheaper, and I could opt out of the system that is bad for the environment, animals and people. Indeed, I'd done a lot of work on migrant worker issues and saw the environment in the slaughter houses and the conditions to which they were subjected. I feel compassion for those workers and the animals, the same way I do for humans. We are all living beings. While I had tried to become vegan because others told me to do it and I had failed, I found the strength to choose that course when I realized it was dictated by my conscience. I have not gone back.
21. It is nearly impossible to be a vegan at the FDC. At the time of my arrival, I informed the FDC medical staff that I was not able to eat dairy foods – that they would make me sick. But I was placed on a meat diet. I did not start getting vegetarian food until lunch on my fifth day of confinement. Even since that time, my diet consists largely of dairy – the food that makes me sick. My reaction has been physical. Suffice to say, I've had continual, unpleasant, digestive problems – problems that are especially inconvenient in small spaces where privacy is lacking.
22. As of Friday, September 21st, I had never had a meeting with an FDC counselor. I had not received any visitation-request forms. Accordingly, I spent several weeks of my life have no idea what to expect, or what was expected of me. I'd never

previously experienced such a state of uncertainty. Since that time, I've experienced worse.

23. But as my days in isolation grew, I slowly began to develop a routine and purpose. I obtained paper and a writing utensil, to use to document my thoughts and communicate by letter. I was given some of the FDC's romance novels when I first arrived, and thereafter started receiving other books – gifts from family and friends. I also received books as gifts from publishers, and they further offered to provide me my choice of materials from their reading lists – free of charge. I was sent class materials, so that I could study to be a paralegal. I was given a scholarship to cover the costs.

24. I began receiving mail. My first letter was from someone I had never met. Nevertheless, the writer contacted me simply to say he admired my resolve and conviction. But my mail is not an easy or problem-free way to communicate with the world outside. Mail disappears, or is rejected.

25. I was moved to general population on September 27, 2012. General population is so much better than the SHU. I was allowed social contact. I was able to hear about other people's lives, and even the shallow or crazy details were rewarding. I was able to do things with others and not depend on my guard or cellmate as my only contact with the world. It was much easier to move around. I felt accepted by a lot of different types of people – African Americans, Hispanic. I felt that I could be a part of games that generated camaraderie amongst all different races and types of people.

26. I now know that a “noise demonstration” happened was around Thanksgiving. I did not hear it because of where I was housed. I did not see it. But I heard about it after

the fact. I was told things like “Matt, your people are out there. It’s cool.” Not one single person complained to me. It even became a running gag in the unit – “Matt, are your people going to show up again?” People took an interest, because nothing interesting ever happens here.

27. I stayed in general population until December 27, 2012. At that time I was woken early in the morning and sent back to the SHU. I have been there ever since and, as of the drafting of this Declaration, have spent two of my five months of incarceration in the hole.

28. My sudden and unwarned transfer from general population caused me a huge sense of loss. It was a really weird shock. I was confused. I didn’t know why I was there. I didn’t know how long I’d be there.

29. I heard about a second noise demonstration several weeks after it happened. I heard that it happened on December 31st. I didn’t hear about it and didn’t know it even happened until my lawyer told me about it. I had already been in the SHU for a number of days, and have been ever since.

30. As for the reason for my placement in the SHU. I’ve only received once notice and it is attached. I’ve never been told any other details about the investigation, or that I’m in trouble. I’ve never been written up. Everyone else that I know sent to the SHU has had an administrative hearing within a couple weeks of being sent. I have also seen SHU guidelines that say that I am entitled to hearing within 45 days of my arrival. The guidelines also say that I am also supposed have reviews every 30 days and have the right to attend. I have only had one review, a seven- day review, where they asked if I was getting food and given a chance to go to the exercise cell. I was

given no explanation for being in the hole and I have had none since. As of the time I've signed this, I will have been in the SHU for 48 days without a hearing, attendance at a review, an explanation about why I'm here, any indication about how long I'll be here, or what I have to do to get out. I've read BOP Regulation 541.33 which says "you will be released from administrative detention status when the reasons for your placement no longer exist." I do not know what the problem is, but at the time I write this, my expectation is that I'll be here until I'm released.

31. During my time in the SHU, I have not been given access to my property – to get the books being sent to me. I only get books from the FDC's book cart. I have two books from my property but I have not been allowed to switch them out.

32. I have always considered myself part of a close and loving family, made up of my mother, my father, and my two sisters (one older and one younger.) Importantly, my family's love and support has been a palpable source of motivation, strength, and resilience in my life. I depended on them to get me through a lot, and they helped. In return, I have viewed myself as a caretaker and source of support for my family – especially when my father and mother separated. I was seven, and my mother said "You're the man of the family, now." But my incarceration has fundamentally changed my relationship with my family.

33. Before my incarceration, I talked to my mother several times a week. I'd gather with my family for all major holidays and birthdays. When I was in general population, I would talk to my mother every Saturday at 11:00 a.m. Now, I have not heard her voice in weeks. But when we talked during my stay in general population, our relationship was different. Before my incarceration, I used to talk to her about what

happened with my day. But since my incarceration, nothing happens with my day.

This has been good, in a way. My mother and I get to talk about things in more depth – at least we did until I was sent back to the SHU. Now we write about them.

34. My older sister was a second mother. We were always close and could talk about everything. We tried to Skype or call every week before my incarceration. I tried hard to have enough contact that her son would know me as his family. I'd even read him stories via Skype. But phone calls in custody are expensive and so I have not heard her voice in five months. This is the curse. The blessing is that our letters are also long and meaningful.

35. Prior to my incarceration, my relationship with my father was spotty. He moved out when I was seven. But he has taught me everything he knows about computers and music – integral things in my life. When I was incarcerated, he cut me out of his life. He did not even pick up the phone when I called to tell him I was going to jail. I have not heard from him since. Neither have I heard from my younger sister, who lives with my Dad. I feel a huge void in my life. I worry that these are relationships that I had that I'll never get back. I sense that this has also created a division in my family – that when I get out it will not be the same. This one of the changes, and the resulting guilt I feel, that has been excruciating for me to bear.

36. When I first came before the Court, I reported, through my lawyer, that I can, and have slept almost anywhere. I reported that I was feeling rested and physically strong. Since that time, my physical condition has fluctuated. I've was ill for a time. I was waiting for my new glasses at the time of my incarceration, and so I'm having

difficulty reading – which is virtually all there is to do here. I've been experiencing headaches.

37. Since my second transfer to the SHU, I've been having a lot of difficulty with my sleep. I have been told that I frequently talk and yell in my sleep. I have trouble sleeping at all. I'm trying to deal, but there isn't much I can do. My day consists of breakfast, reading, a shower, reading, homework, reading, lunch, reading, "exercise", shower, reading and then dinner. I have nothing to do but read, write, or homework. I do not have much of anywhere to go except for my bunk.

38. I'm hopeful that I'll have a job when I get out, but I don't know for sure.

39. I've lost my house and will not get that back.

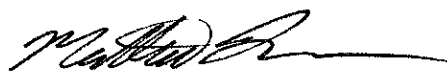
40. I have missed Christmas, New Years, birthdays with my family, and family celebrations that are not even specifically tied to any specific event. I have missed time with my partner. I miss my life.

41. I have been with my partner for nearly three years. There is been lots of talk about our relationship being like marriage. Before I was incarcerated, I saw her every day. But I last saw her in person five months ago, outside the courtroom where I went to be held in contempt. She has not been approved for a visit because we are not officially married. ~~XXXXXXXXXXXXXXXXXXXX~~^{MICD} While I was able to talk to her on the telephone every two days while I was in general population, I have not heard her voice in fifty days. I miss her terribly and know that I will never get this time back. But I also know that I have her understanding and support. It gives me strength to go forward.

42. I can unequivocally and without hesitation say that I would make the same choice again. I would hate to put my loved ones through that again, but there is no doubt in my mind, ever.
43. I now know exactly what incarceration means. But I have also spent months considering my politics and beliefs and conscience and I feel just as certain about my convictions as I did when I went in. I know who I am and what I can tolerate and I can tolerate this. I do not wish this on anyone, but I can do it and will do it as long as I have to.
44. I know the world is watching, and many people are supportive. But it is stressful to be under the microscope. I am not trying to live up to their expectations for me. I'm trying to live up to my expectations for myself.
45. I have made a huge sacrifice, but it only strengthens my resolve. I do not want my sacrifice be for nothing.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

02/15/13 Seattle, WA
Date and place


Matthew Kyle Duran