

U.S. COURTS

JAN 26 2021

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

1 /22/2021

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA

Plaintiff

to be docketed _____

Vs

crim no 3;02-CR-00142-RCT

David Roland Hinkson

crim case no 1;04-CR-00127-RCT

Defendant

1. EMERGENCY "COMPASSIONATE RELEASE" FOR TERMINAL DYING
INMATE 18 USC 3582(C) (1) (A)
2. Will submit Forma Pauperis soon, Pro-se

Standard of Review

18 USC 3582 (C) (1) (A) Here "EMERGENCY" COMPASSIONATE RELEASE

Motion

Defendant may file after Bureau of Prisons motion 30 days lapse of such a request by the warden facility whichever is earlier MAY REDUCE TERM of imprisonment

(i) Extraordinary and compelling reasons warrant such a reduction

(1) Terminal illness defined,

Term "TERMINAL ILLNESS" means disease or condition with an

"END OF LIFE TRAJECTORY" (B.O.P SAYS DAVID HINKSON MAY DIE VERY SOON)"

U.S.S.G. §1B1.13, application note 1: Provided the defendant is not a danger,

Extraordinary and Compelling Circumstances exist when: (A) Medical condition

of the Defendant: (i) terminal illness (no specific prognosis of life

expectancy required) (ii) serious physical or medical condition, serious

functional or cognitive impairment, or deteriorating physical or mental

health that substantially diminishes the ability of the defendant to provide

self-care and no expected recovery.

Bureau of Prisons doctors say

Hinkson will die in 4 weeks, yet after surgery a 6 inch cancer tumor was removed prolonged death.

U.S.S.G. §1B1.13, application note 1: Provided the defendant is not a danger, Extraordinary and Compelling Circumstances exist when: (D) Other reasons in addition to or in combination with the above, as determined by the Director of the BOP The Guidelines have not been amended since the passage of the First Step Act. This "other reasons" category, combined with the purpose of Compassionate Release and the First Step Act, opens the door for any extraordinary and compelling reason

1) The extraordinary or compelling circumstances that the inmate believes warrant consideration. ° (2) Proposed release plans, including where the inmate will reside, how the inmate will support himself/herself, and, if the basis for the request involves the inmate's health, information on where the inmate will receive medical treatment, and how the inmate will pay for such treatment.

Given the extraordinary and compelling circumstances created by the ongoing coronavirus pandemic, Mr. XX is not able to file this request himself. Mr. XX seeks a reduction in sentence based on his [debilitated medical condition, elderly with a medical condition, elderly without a medical condition], which places him at significantly greater risk of contracting and/or suffering acutely from COVID-19

Mr. XX cannot practice regular hand hygiene, and Mr. XX cannot effectively socially distance himself from other inmates as the CDC cautions every person in the United States to do to stop COVID-19's spread.

Note, David infected with CORONA VIRUS ALSO, cannot social distance from other inmates, lockdown 24 hours a day, with same ventilation system blowing same air for all inmates in same unit, limited showers times few times a week if staff are available,

1 because MANY STAFF are infected and they want to stay home as the
 2 Governors keep telling citizens to STAY HOME.

3 §571.60 Purpose and scope.

4 §571.60 Purpose and scope. Under 18 U.S.C. 4205(g), a sentencing
 5 court, on motion of the Bureau of Prisons, may make an inmate
 6 with a minimum term sentence immediately eligible for parole by
 7 reducing the minimum term of the sentence to time served. Under
 8 18 U.S.C. 3582(c) (1) (A), a sentencing court, on motion of the
 9 Director of the Bureau of Prisons, may reduce the term of
 10 imprisonment of an inmate sentenced under the Comprehensive Crime
 11 Control Act of 1984. The Bureau uses 18 U.S.C. 4205(g) and 18
 12 U.S.C. 3582(c) (1) (A) in particularly extraordinary or compelling
 13 circumstances which could not reasonably have been foreseen by
 14 the court at the time of sentencing.

15 Bureau of Prisons doctors say Hinkson will die in four weeks,
 16 David had surgery removed 6 inch cancer tumor but still projected
 17 to die soon.

18 ARGUMENT

19 ISSUE 1, 18 USC 3582 (2) Terminal illness defined,

20 Term "TERMINAL ILLNESS" means disease or condition with an
 21 "END OF LIFE TRAJECTORY" (B.O.P SAYS DAVID HINKSON MAY DIE VERY SOON)"
 22 Bureau of Prison doctors informed David he has 4 weeks to live he will die
 23 soon, was transferred to BUTNER North Carolina MEDICAL prison, were CANCER
 24 medical patients are sent to be treated or to be when they pass-a-way.

25 ISSUE 2, PRESIDENT Trump "HERO'S ACT" and "FIRST STEP ACT" were passed to
 26 reduce prison population, for prisoners,

27 A, Few time left on sentence

28 B, non violent inmates

C, terminal ill dying inmates

ACTUALLY INNOCENT DAVID R. HINKSON

David R. Hinkson is ACTUALLY INNOCENT OF THE FRAUD FALSE LIES
KEY WITNESS LIED AT TRIAL TO CONVICT Hinkson,
See appendix 110, sworn affidavits of key witness Elvon Swisher admits he
LIED AT TRIAL TO CONVICT DAVID HINKSON, AS SWISHER admitted he lied during
trial also,

1. Prior to trial, Swisher conspired a Hostile takeover of David's WATER
OZ mineral company,
2. Swisher was hired to submit test bottles for approval, where Swisher
deliberately submitted water a one time, and Swisher's company has
arsenic poison. Swisher put the same poisons in the test bottles
submitted to the test company.
3. Swisher filed to the U.S DISTRICT court under penalty of perjury that
he was the owner of Water oz factory, and THE DISTRICT COURT granted
the motion, Switzer sabotage the business, found all the mineral
private formulas and submitted them on the internet.
4. Swisher extorted Hinkson to \$500,000.00 to pay Swisher cash money.
5. Swisher filed to the Court again, under penalty of perjury that Swisher
was the land title owner on deed to David's 500 acre land which water
oz factory sits and David's residence back of Water oz factory which is
LANDLOCKED BEHIND Water oz factory.

The court asked who are the other names on the land deed of the
property? Swisher had no clue as to all the other names on the deed
he lied falsely claimed he was the deed owner? The court denied
Swishers motion because he had no clue who's other names on the deed of
the properties.

- 1 6. From all the erroneous false HOSTILE TAKEOVER TACTICS SWISHER did to
2 steal the Water oz factory business from David. David had Swisher
3 BANNED from Water oz to stop this LYING FRAUD HOSTILE TAKEOVER.
- 4 7. Swisher enjoyed the benefits of water oz mineral drinks, had to
5 purchase his supply of water oz minerals through woman worker that come
6 out to Swisher vehicle to take his order and go inside the office and
7 process his order and bring the bottles purchase to Swisher because he
8 was BANNED from entering the 53,000 sq feet building.
- 9 8. David Hinkson resides in his home 4 bedroom two story home behind the
10 Water oz building which is land locked. No vehicles or pedestrian s
11 can walk or drive around the sides of water oz 53,000 sq ft building to
12 get to David's LAND LOCKED BUILDING UNLESS
13 YOU DRIVE THROUGH THE LOCKED GATE DRIVEWAY. I REPEAT CHAIN LOCKED
14 GATE.
- 15 9. SWISHER fraud lied to prosecutor for indictment and grand jury that he
16 went to see David behind water oz building at David's trailer home
17 where David solicited David to murder the prosecutor and torture his
18 kids, June 2002 indictment.
- 19 10. Prosecutor discovered by reading the discovery, David's
20 passport, reads David was in Russia during June 2002, the indictment
21 is false.
- 22 11. Prosecutor amended the indictment lie, to January 2003. Where
23 David was traveling Los Angeles, Texas and in New York mostly. A few
24 days David was home, Ineffective assistance of counsel failure to
25 cross examine which days Swisher lied he went to back of water oz
26 factory to see David at his trailer home. Had Attorney cross examine
27 lying Swisher which days, this solicitation occurred, may of defined
28 which days David was no in Idaho but traveling.

12. SO examine this new lie, Swisher lies he went to back of Water oz factory to see David at David's resident "trailer home" back of Water oz factory?

13. First Swisher just recovering from heart surgery in wheel chair, attached bladder bag, and recovering from heart surgery you CANNOT LIFT 5 LBS,

14. SWISHER LIED HE WENT TO DAVID'S "TRAILER HOME" BACK OF WATER OZ FACTORY, WELL,

THERE IS "NO SUCH THING" AS 4 BEDROOM TWO STORY HOME ANYBODY WOULD CALL A TRIALER??

THERE ARE NO WHEELS for this trailer, and trailer doors and more narrow than regular home doors.

Swisher recovering from heart attack, not able to get out of his vehicle get set up his wheel chair, there is no one he said present helping him out of his vehicle, pull out his wheel chair, open up the collapse wheel chair and push him into the residence. If the lie was a trailer,

Swisher had no help to lift him up the stairs and collapse the wheel chair bring the wheel chair into the narrow trailer door (trailer door very narrow) Steps up into a trailer or

Steps up a landing because trailer are on wheels.

Swisher admitted he lied testifying at trial, and

Here signed sworn affidavits he lied at trial. Affidavits at 5, my testimony at trial that David Hinkson did solicit or attempt to solicit my participation in the murder or unlawful killing of judge lodge, steven Hines and Nancy cook I was to perform the killing.

See 6, The statement given to the United States Attorney and grand jury, were INCORRECT, MISLEADING AND FABRICATED.

See 9, These false statements and fabrication were relayed to the grand jury and the U.S ATTORNEY because I was still angry about having lost the case no CSR 65, in the Idaho County District Court, in 2005.

I REPEAT, Lying Swisher LIED TWICE IN COURT,
1, THAT SWISHER WAS OWNER OF WATER OZ FACTORY COMPANY, that the judge granted and Swisher HOSTILE TOOK OVER FOR ONE WEEK and put the secret mineral formulas in INTERNET, yet David's attorney Hoyt filed to the court showing all the legal corporation legal papers proving David is the actual owner of Water oz company.

2. Swisher again filed to the Court saying Swisher was the deed land owner of the 500 acres and Water oz 53,000 factory, again the judge rejected Swisher as owner because Swisher had no clue as to the names on the deed.

Swisher lied and fabricated the murder torture because Swisher says; So at paragraph "9" I was still angry about having lost the case no CSR 65, in the Idaho County District Court, in 2005.

Alaimalo v United States 642 f.3d 1042 (9th cir 2011), Alaimalo filed three 28 USC 2255 MOTIONS,

Two were lost in mail because he transferred from Northern California prison to Los Angeles southern District of California. The judge dismissed three life sentences out of 6 life sentences because the Ninth circuit decided change in law, U.S V CABACCANG, 330 F.3D that IMPORTATION TO GUAM A U.S TERRITORY does not violate IMPORTATION LAW because "GUAM" is a U.S TERRITORY.

Change in law, Alaimalo filed 2241 motion he is ACTUALLY INNOCENT OF IMPORTATION LAW, AND THE APPEAL COURT REVERSED THE THREE LIFE SENTENCES FOR IMPORTATION that Alaimalo DID NOT VIOLATE ANY CRIME, IT IS NOT A CRIME TO

1 IMPORT DRUGS TO GUAM A U.S TERRITORY. REMANDED THE CASE BACK TO THE U.S
2 DISTRICT COURT TO HEAR the other THREE LIFE SENTENCES FOR DRUGS.

3 On Remand, At U.S district court, Alaimalo raised the "FORENSIC REPORT"
4 THAT SHOWS THE METH DRUGS 1,000 GRAMS WAS NOT 1,000 GRAMS BUT ACTUAL DRUGS
5 WAS 250 GRAMS BECAUSE THE FORENSIC report proves 750 grams was not METH but
6 COFFEE, to draw the dog sniff off the track.

7 The sentencing court resentence Alaimalo to 250 grams not 1000 grams of life
8 sentence down to 17 grams the correct sentence of 250 grams only.

9 Alaimalo was sentence to the ACCURATE SENTENCE OF 17 YEARS AND Alaimalo has
10 completed his sentence at this time.

11 ANALOGOUS TO ALAIMALO, DAVID is ALSO "ACTUALLY INNOCENT" OF SOLICITATION TO
12 MURDER, ALL THE FABRICATED LIES, CONCOCTED BECAUSE OF SWISHER ANGRY for
13 losing his previous court

14 Lies to the courts and to David, lied to the courts twice in two hearings,
15 which he paragraph 9,

16 Angry for losing the court hearing from another SWORN to tell truth but lied,
17 angry again to fabricate the instant LIE DAVID SOLICITED TO MURDER, SWISHER
18 CONCOCTED LIES AND LIES AND LIES TO THE

19 "GRAND JURY" TO THE COURTS, DAVID IS ACTUALLY INNOCENT AS "ALAIMALO V
20 U.S" DAVID HAS SUFFERED 16 YEARS IN PRISON FROM SWISHERS LIES EXTORTION,
21 THREATS, AND NOW

22 DAVID HAS TERMINAL CANCER AND CORONA VIRUS

23 ISSUE 3, MORE FRAUD CONCOCTED LIES ATWATER U.S.P PENTIENTIARY

24 Year 2005, the FBI and IRS AGENTS went to Atwater U.S.P CALIFORNIA
25 PENITENTIARY to interview 20 inmates, see sworn affidavit Appendix 111,
26 inmate Dennis Chan Lai I was interviewed by the two agents. The asked me if
27 David recruited me to kill federal judges. I said absolutely not. Then they
28 showed me pictures of my friends in prison Mexican mafia bosses. I

1 recognized my friends in the pictures and pointed to one that is going home
 2 in few months that he is going to look for job go to work to support his
 3 family. The other old gentlemen also wish they could go home. I am listed
 4 as International Chinese Mafia and I am very familiar with mafia violence
 5 world wide. I told the FBI AND IRS AGENT, that it is a joke, that David
 6 trying to recruit murder for hire to kill judges because, David is same as
 7 the Big bank theory, the NERD "SHELDON" that David can't hurt a fly, he's
 8 harmless, and all those pictures of mafia guys I know all of them, they
 9 would not listen to "NERDS" that are harmless that this is a joke?

10 The FBI AND IRS lastly told me well we hope that's the case so we don't have
 11 to come back here. Conclusion David is just like BIG BANK THEORY MR
 12 SHELDON, HE'S HARMLESS.

13 Conclusion to issue 3,

14 Same as Swisher, fraud, lying concocting false lies, the FBI, IRS for some
 15 REASON? WHY IS SWISHER AND FBI, IRS ALL CONCOCT ALL THIS FALSE FRAUD LIES ON
 16 DAVID?

17 CONCLUSION

18 Congress pass the Hero's act, and "First step act, Compassionate
 19 Release, David R. Hinkson quality's to all aspects for relief as stated
 20 above,

- 21 1. Terminal cancer illness will soon die,
- 22 2. He has contracted Corona Virus,
- 23 3. He is actually innocent of the crime, submitted Sworn affidavit lying
 24 key witness ex 110.

25 David R. Hinkson prays the Honorable judge to grant Emergency
 26 Compassionate Release, David served 16 years in prison when ACTUALLY
 27 INNOCENT OF LIES PROVES DAVID COMMITED NO CRIMES.
 28

1 4. DAVID R. Hinkson prays the Honorable judge Emergency Compassionate
2 Release from B.O.P CANCER TERMINALLY ILL will DIE SOON, AND WITH CORONA
3 VIRUS. THAT DAVID CANNOT GET ANY LAST VISITS FROM FAMILY NOR DURING
4 BURIAL, BECAUSE OF CORONA VIRUS
5 DAVID PRAYS FOR RELEASE TO GO HOME TO HAVE HIS FAMILY SEE HIM FOR THE
6 LAST TIME BEFORE DEATH.
7
8
9
10
11

12 CERTIFICATION

13 I CERTIFY that all the above is all true and correct under penalty of
14 perjury Dated Jan 22 2021, Notary 28 USC 1746 In Lieu of Notary,
15 true copy serve to;
16

17 US Attorneys office

18 Assistant U.S Attorney for

19 David R. Hinkson

20 800 E. PARK BLVD SUITE 600

21 BOISE, ID 83712
22
23
24
25

26 THANK YOU
27 
28

1 **Dennis Chan Lai**

2 **"Friend of the Court" U.S Supreme court law**

3 **For incapacitated terminal Cancer and Corona virus dying inmate**

4 **1828 Union St**

5 **Alameda Calif 94501**

6
7
8 **ANOTHER SIGNED COPY WILL BE SUBMITTED LATER**

9 **BY TERMINAL ILL DYING INMATE BELOW**

10
11
12
13 **RESUBMIT LATE SIGNATURE SUBMITTED BY "DAVID R. HINKSON**

14
15 _____ **DATE** _____

16 **David R. Hinkson Pro-se**

17 **Reg 08795-023**

18 **Federal medical Center**

19 **FMC BUTNER**

20 **P.o.box 1600**

21 **Butner, NC 27509**

AFFIDAVIT OF JOE SWISHER

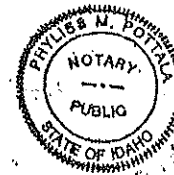
1. I testified as a witness in case styled United States of America v. David Roland Hinkson, United States District Court, District of Idaho, Case Number 1:04-cr-127-RCT.
2. I first became acquainted with David Roland Hinkson, as my business, was doing product testing for FDA Compliance.
3. Pursuant to my representations to the United States Attorney's Office, Mr. Hinkson was charged the solicitation to commit murder and attempt to commit murder.
4. At trial, I testified in a manner consistent with my statements and followed the instructions of the U.S. Attorney to not deviate or depart from the substance of the recorded statements.
5. My testimony at trial was that David Roland Hinkson, did solicit or attempt to solicit my participation in the murder or unlawful killing of Judge Lodge, Steven Hines and Nancy Cook. I was to perform the killing.
6. The statement given to the United States Attorney, and the grand jury, were incorrect, misleading, and fabricated.
7. In fact, David Roland Hinkson, at no time mentioned any desire or intention to cause bodily injury or to kill Judge Lodge, Nancy Cook, or Steven Hines.
8. This statement and those statements connected to this allegation were all fabrications on my part.
9. These false statements and fabrications were relayed to the grand jury, and the U.S. Attorneys, because I was still angry about having lost the case no. CSR 65, in the Idaho County District Court, in 2005.

Affidavit Joe Swisher
In Re: David Roland Hinkson
Page 1 of 2

Subscribed and sworn to before me on this 11
2018.

Phil M. Potter
NOTARY PUBLIC

SUBSCRIBED AND SWORN TO before me this 11



Phil M. Potter
NOTARY PUBLIC in
County and State of
Idaho
My Com. Exp. J.

Affidavit Joe Swisher
In Re: David Roland Hinkson
Page 2 of 2

AFFIDAVIT OF DAVID ROLAND HINKSON

EXHIBIT "A"

Dissent

1. I am innocent of the Solicitation Charges.
2. I asserted at my 2005 trial that I at no time ever solicited Joe Swisher to hurt or kill anyone.
3. I swear that this is the first time Joe Swisher has ever admitted to myself, or in the record, that he lied about me soliciting him to hurt or kill anyone.
4. I just discovered this affidavit from Joe Swisher within the last 12 months.
5. I have timely, per AEDPA Statute of Limitations filed this motion per 28 USC 2255 (4).
6. I am innocent of the 18 USC § 373 convictions, and it would not have been possible to convict me without Mr. Swisher's lies.
7. I attach Exhibits "A" and "B" to this affidavit. Such shows that even the 9th Circuit Appeals Court Judges believe that I could not have been convicted if Swisher did not lie, or absent his lies.

The above stated is true, Per 28 USC § 1746, so help me God.

Dated July 2, 2019

David Roland Hinkson
David Roland Hinkson

Dissent by: KOZINSKI; W. FLETCHER; PREGERSON.
Chief Judge KOZINSKI, dissenting:
I continue to agree with, and join, that portion of the opinion explaining his discretion, but now disagree with the application of this standard to the underestimated trust some jurors would have placed in Swisher if the decorated combat veteran, and the likely backlash if they had learned his heart came about after I read the Supreme Court's summary reversal in *Cl. 447, 176 L. Ed. 2d 398 (2009)*, and the amicus brief of William Mac *Without Swisher, the government had no case, I'm now persuaded that, of the argument for the reasons articulated in his dissent, which I join in* W. FLETCHER, Circuit Judge, dissenting, joined by KOZINSKI, Chief Justice WARDLAW, and PAEZ, Circuit Judges:
I dissent.

Following a two-week trial in federal district court in Boise, Idaho, a jury of Hinkson of soliciting the murder of three federal officials. The government (2010 U.S. App. LEXIS 3) the conviction was Elven Joe Swisher. Wear on the witness stand, Swisher testified that he had told Hinkson that he was a veteran and that Hinkson, impressed by Swisher's military exploits, solicited the government maintained in its opening statement to the jury that Swisher combat veteran, and it maintained throughout the trial that Hinkson's unc military exploits showed that he was serious in his solicitations of Swisher concedes that Swisher neither served in combat nor earned any persona and that Swisher presented a forged military document in court and repeated about his military record.

Hinkson makes three arguments on appeal. First, he argues that the district court's evidence showing that Swisher presented a forged document. Second, he argues that the prosecutor engaged in misconduct when he lied in service in his closing argument despite having substantial reason to suspect about that service. Third, he argues (2010 U.S. App. LEXIS 4) that the district court in denying his motion for a new trial based upon (311 F.3d 110) new evidence conclusively establishing that Swisher had lied on the stand I would reverse the district court based on Hinkson's first and third arguments. The district court abused its discretion when it excluded documentary evidence contradicted Swisher's claim on the stand that he was a decorated combat that the district court abused its discretion when it denied Hinkson's motion reach Hinkson's second argument. I. Background
The majority opinion recites some of the background facts relevant to Hinkson however, the majority's recitation is too truncated. I begin by providing the understand what went on during Hinkson's trial, and to understand why I abused its discretion.

In an indictment filed on September 21, 2004, a federal grand jury in Idaho solicited the murders of Assistant U.S. Attorney Nancy Cook, IRS Special U.S. District Court Judge Edward J. Lodge. (2010 U.S. App. LEXIS 5) All involved in the investigation and prosecution of Hinkson on tax and current Hinkson appealed his conviction to three federal circuits.

Jan 22, 2021

Affidavit

Appendix 111

In the Matter of

David R. Hinkson

AFFIANT

1. I Depose and state all the following all true and correct to the best of my knowledge.
2. I am not on any mind alternating drugs,
3. I am over the age of 18 years old.
4. ISSUE 3, MORE FRAUD CONCOCTED LIES ATWATER U.S.P PENITENTIARY
5. Year 2005, the FBI and IRS AGENTS went to Atwater U.S.P CALIFORNIA PENITENTIARY to interview inmates, see sworn affidavit Appendix 111, Inmate Dennis Chan Lai I was interviewed by the two agents. They asked me if David recruited me to kill federal judges. I said absolutely not. Then they showed me pictures of my friends in prison Mexican mafia bosses. I recognized my friends in the pictures and pointed to one that is going home in few months that he is going to look for job go to support his family. The other old gentlemen also wish they could go home. I am listed as International Chinese Mafia and I am very familiar with mafia violence world wide. I told the FBI IRS AGENT, that it is a joke, that David trying to recruit murder for hire to kill judges because, David same as the Big bank theory, the NERD "SHELDON" that David can't hurt a fly, he's harmless, and those pictures of mafia guys I know all of them, they would not listen to "NERDS" that are harmless that this is a joke?
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Conclusion David is just like BIG BANK THEORY MR SHELDON, HE'S HARMLESS.
7. Conclusion to issue 3,
8. Same as Swisher, fraud, lying concocting false lies, the FBI, IRS for some REASON? WHY IS SWIS AND FBI, IRS ALL CONCOCT ALL THIS FALSE FRAUD LIES ON DAVID?

CERTIFICATION

I CERTIFY that all the above is all true and correct under penalty of perjury Dated Jan 22
Notary 28 USC 1746 In Lieu of Notary,
Thank you


Dennis Chan Lai