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9 Attorney for Defendant  
10 ERIC MCDAVID

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA, )

14 Plaintiff, )

15 v. )

16 ERIC MCDAVID, )

17 Defendant. )

Case No. CR.S-06-0035-MCE

**DECLARATION OF JUROR CAROL RUNGE IN SUPPORT OF DEFENSE SENTENCING MEMORANDUM**

Date: May 8, 2008

Time: 9:00 A.m.

Judge: Hon. Morrison C. England

18 I, Carol Runge, hereby Declare as follows:

19 1. I was a juror in the case of United States v. Eric McDavid. I  
20 paid very close attention to the presentation of the evidence in the  
21 case and also participated in the jury deliberations. I submit this  
22 declaration for the purposes of sentencing of Eric mcDavid as I have  
23 very strong feelings about what the sentence should be based upon my  
24 observations and findings as a juror in the case.

25 After the verdict, the court advised the jurors that we were free  
26 to talk with the lawyers in the case, if we desired, and I made the  
27 decision on my own that I did want to at some point speak with the

28 Declaration for sentence

1 attorneys on the case. I then attended a meeting with attorney Mark J.  
2 Reichel, Mr. McDavid's attorney, and 2 of the FBI agents on the case  
3 were also present. This was in the hallway after verdict. About 6-8 of  
4 the jurors were present. We spoke very openly about the evidence, our  
5 deliberations and our feelings on the case. Most of what I repeat in  
6 this Declaration paragraph numbers 3-8 was stated with the FBI present  
7 after the verdict and directed to both their attention and to Mr.  
8 Reichel, and all parties heard our comments very clearly. The FBI  
9 Agents engaged us in conversation and listened to all of our comments,  
10 which were primarily very critical of the FBI and informant Anna.

11 After the verdict, I then e mailed attorney Mark Reichel and  
12 advised him that I had thoughts and sentiments about the case and would  
13 speak with him at any time. I have now had the chance to read the *Elle*  
14 Magazine article from May 2008 regarding this case, beginning on page  
15 266 "The Believers."

16 2. The comments attributed to the jurors and to Diane Bennett in  
17 the *Elle* Magazine article about the case are true and accurate, and I  
18 know because I watched the trial and participated in the deliberations.  
19 I agree 100% with the comments attributed to Ms. Bennett and the  
20 jurors; I agree with what was stated in that regard.

21 3. My opinion of the case is that there was a very strong case of  
22 entrapment shown in the case, that the FBI agents were an  
23 "embarrassment" by their lack of knowledge of FBI procedures, that the  
24 main witness "Anna" was not a credible witness and that if the jury  
25 were able to find that McDavid was only as culpable as the other two  
26 codefendants for the general conspiracy then we would have voted for  
27

1 that only, and not the more serious charge.

2 4. My feelings on the case include that Eric did not agree  
3 with either Zach or Lauren to destroy government property. I  
4 felt the evidence was only that he agreed to do an illegal  
5 act and that he set fire in the bowl; I did not find, nor do  
6 I think any of the jurors did, that Eric agreed with someone  
7 other than Anna to destroy the IFG or the Nimbus Dam as the  
8 government alleged.

9 4. I did not find, nor do I think the other jurors did,  
10 that Eric committed crimes in the name of "ELF" or the Earth  
11 Liberation Front.

12 5. If we as a juror, at the very least myself, had been  
13 allowed to consider Eric's financial and mental and physical  
14 ability to commit the crime, his "wherewithal" to commit the  
15 crimes, without Anna's help, then we would have found that he  
16 was entrapped. Eric's entrapment claim was actually a very  
17 "close call" for us, and many of the jurors were confused as  
18 to what evidence we were allowed to consider for entrapment  
19 and what the legal instructions were.

20 6. Eric was not more culpable and not the leader among  
21 the others; he was equal with the other 2 and Anna was the  
22 leader.

23 7. I also feel that the FBI agents on the case were in essence  
24 "out of control" and did not have any concern about whether or not Mr.  
25 McDavid or any of the others could end up being entrapped by Anna. In  
26 other words, I felt that Anna could do whatever she wanted, that she

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1 had no guidance or oversight by the FBI, and that she used Eric  
2 McDavid's romantic attraction to her as a way to "keep him on the hook"  
3 until the group could be arrested. I felt that if she had directly  
4 rebuffed his advances and directly told him that at no time in the  
5 future they would have a chance at being romantic, then the evidence  
6 showed that Eric McDavid would have left this group and this idea and  
7 would not have gone as far as he did, culminating in his arrest in  
8 January 2006. Her actions were inappropriate and that is why I felt  
9 that this was a very good case for an entrapment defense.

10 7. Sentencing Eric McDavid to more time than the other 2  
11 codefendants would be an injustice in the mind of this juror.

12 8. I join Dianne Bennett in the belief that Eric McDavid did not  
13 have a fair trial for a variety of reasons and wish he could have a new  
14 one and that should be considered in sentencing him; as well, I urge  
15 that the court sentence him exactly as the other 2 codefendants in the  
16 case.

17 I declare under the penalty of perjury that the foregoing is true  
18 and correct to the best of my knowledge.

19 Respectfully submitted

20 DATED: April 30, 2008.

21  
22 CAROL RUNGE  
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