

LLOYD HARDIN MCNEIL
IDOC No. 103513
C-Block
Eagle Pass Correctional Facility
410 S. Bibb Ave.
P.O. Box 849
Eagle Pass, Texas 78853

Petitioner, pro se

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LLOYD HARDIN MCNEIL,)	
)	
Petitioner,)	Case No. CV PC 2014-15680
)	
v.)	MOTION AND DECLARATION
)	IN SUPPORT FOR CHANGE
STATE OF IDAHO,)	OF VENUE FROM JUDGE
)	
Respondent.)	
)	
)	

COMES NOW the petitioner/movant, Lloyd Hardin McNeil, pro se, and prays this Court grant him a change of venue from judge. In support, petitioner would state as follows:

1. I am the petitioner/movant in the foregoing post-conviction action;
2. Petitioner is currently incarcerated at Eagle Pass Correctional Facility, Maverick County, Texas, by authority of the Idaho Department of Correction, and under the direct care, custody and control of Waymon Barry, warden, pursuant to Idaho Code, Title 20;

3. On February 19, 2019, the petitioner filed his motion for relief from judgment pursuant to I.R.C.P. 60(b)(6);

4. The court has made no ruling on said motion;

5. Petitioner attaches his declaration setting forth the facts upon which he bases his belief that District Judge Deborah A. Bail has a personal bias or prejudice against petitioner, and that such would effectively preclude her from any further rule over petitioner's action in a fair and impartial manner.

WHEREFORE, petitioner prays this Court change the venue from judge in the interest of justice.

DATED this ____ day of June, 2019.

Lloyd Hardin McNeil
Petitioner, pro se

CERTIFICATION

I, the undersigned, LLOYD HARDIN MCNEIL, certify that I have read and signed the foregoing Motion for Change of Venue From Judge, and affirm on belief that I have demonstrated good reason and cause to show the Judge named herein has a bias and/or prejudice against me.

DATED this ____ day of June, 2019.

Lloyd Hardin McNeil
Petitioner, pro se

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the _____ day of June, 2019, I mailed a true and correct copy of this MOTION AND DECLARATION IN SUPPORT FOR CHANGE OF VENUE FROM JUDGE for the purposes of filing with the court and of mailing a true and correct copy—via the prison mail system—for processing to the U.S. mail system to:

Ada County Prosecuting Attorney
200 W. Front Street
Boise, Idaho 83702

Lloyd Hardin McNeil
Petitioner, pro se

DECLARATION IN SUPPORT OF MOTION FOR CHANGE OF VENUE FROM JUDGE

STATE OF TEXAS)
) ss.
COUNTY OF MAVERICK)

I, the undersigned, LLOYD HARDIN MCNEIL, being first duly sworn on oath, depose and say that:

1. I am the petitioner in the underlying post-conviction action;
2. I am currently incarcerated at Eagle Pass Correctional Facility, Maverick County, Texas, by authority of the Idaho Department of Correction, and under the direct care, custody and control of Waymon Barry, warden, pursuant to Idaho Code, Title 20;
3. The impartiality of District Judge Deborah A. Bail can be reasonably questioned;
4. A reasonable person—knowing all the relevant facts of the court’s dilatory style in the foregoing post-conviction proceedings—would consider this judge to harbor personal bias and prejudice against the petitioner;
5. The reasonable person in this context would mean a well-informed, thoughtful observer, and not a hypersensitive or unduly suspicious party;
6. The petitioner contends the judge acts with hypersensitivity and impassioned prolixity as regards the decedent, even wildly misrepresenting fact-pattern evidence from the trial in her Notice of Intent to Dismiss (“Notice”);
7. These passions have caused the judge to career determinedly from her judicial jurisdiction to otherwise pursue executive-branch police activity, to-wit:

(a) The manufacture of a pretext by the notice of intent to dismiss—à la clairvoyance—so as to stake the judge’s wannabe-detective wits on knowing “exactly the defense’s theory of the case.” Notice at p. 10;

(b) The repeated falsity that “the body was located under the mattress and above the box springs,” stated as fact, despite the judge’s own observation of witnesses who testified to such placement as nothing more than a hunch. Notice at pp. 12, 13;

(c) And the judge’s sinister characterization of petitioner as “prying the ring from [decedent’s] cold, dead finger” in her dismissal of petitioner’s post-conviction application. Notice at p. 20;

5. Left to the judge’s unchecked devices, logic dictates any petitioner—under similar constraints—would carry away with him a very poor image of the justice system which he might perforce be involved, and this, of itself, sets out a compelling argument for a change of venue;

6. As Mr. Justice Holmes said, “[n]ot logic, but experience is the lifeblood of the law”; and a major component in the “experience” of this petitioner has been an overt disregard by the court in the timely rendering of its findings of fact and orders;

7. The petitioner’s oft-articulated concerns before the court have been heretofore let to wither under the auspices of this judge;

8. The petitioner has patiently waited some 120 days for the court simply to weigh on balance the merits of his I.R.C.P. 60(b)(6) motion for relief from judgment—and, by any measure, the risk to petitioner must be quantified here as substantially out of the ordinary;

9. Support for petitioner's claims that the court has engaged in stall tactics can be found in the record—to include the forbearing of the instant I.R.C.P. 60(b)(6) motion—and a change of venue from judge would serve to remedy petitioner's real and true complaints of judicial bias and prejudice;

10. The petitioner believes these complex criminal matters have been shown to fall outside the range of competence expected of a district court judge, and have indeed embarrassed the proper administration of justice.

FURTHER your declarant sayeth not.

DATED this _____ day of June, 2019.

LLOYD HARDIN MCNEIL
IDOC No. 103513
Eagle Pass Correctional Facility
Maverick County, Texas

CERTIFICATION UNDER PENALTY OF PERJURY

I certify under penalty of perjury, pursuant to the law of the state of Idaho, that the foregoing is true and correct.

DATED this _____ day of June, 2019.

Lloyd Hardin McNeil
Petitioner, pro se