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480 Alta Road
3 San Diego, CA 92179

4 ERIK MENENDEZ
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7 In Pro Per

8
9 IN THE SUPERIOR COURT
10 OF THE STATE OF CALIFORNIA
11 LOS ANGELES COUNTY

12 LYLE MENENDEZ,

13
14 Petitioner,

15 On Habeas Corpus.
16

No.:

Court of Appeal Case No.
B104022

Superior Court Case No.
BA068880

DECLARATION OF JOSEPH
LYLE MENENDEZ

17
18 ERIK MENENDEZ,

19
20 Petitioner,

21 On Habeas Corpus.
22

23 I, Joseph Lyle Menendez, declare:
24

25 1. I am one of the defendants in *People v. Joseph Lyle Menendez* and *Erik*
26 *Galen Menendez*.

27
28 2. I was convicted of two counts of murder after a trial in 1995. Because I

1 was indigent, I was represented by the Los Angeles County Public Defender's office. I
2 appealed my conviction; because I was indigent the Court of Appeal appointed counsel to
3 represent me.

4
5 3. I am still indigent. I do not have money to hire counsel or fund a habeas
6 investigation. There is approximately \$50.00 currently in my inmate account.

7
8 4. Andy Cano was my cousin. Andy was the son of my aunt, Marta Cano.
9 Andy died some years ago -- around 2003. In 2015 I first heard something about a letter
10 my brother Erik had written to Andy when they were younger. There was a Barbara
11 Walters special about our case in 2015, and the special covered a letter which Erik had
12 written to Andy. Ms. Walters said this letter was presented by our lawyers at trial but
13 ruled inadmissible by the judge. See [https://www.youtube.com/watch?v=Kav](https://www.youtube.com/watch?v=KavYPuL3XUA)
14 [YPuL3XUA](https://www.youtube.com/watch?v=KavYPuL3XUA) Although I did not recall all the evidence that was either admitted or ruled
15 inadmissible at my two trials, because the report said the letter had been offered and
16 excluded at trial, it never occurred to me that the letter could be considered new evidence.
17 I gave it no more thought.

18
19 5. In early 2018, I was advised that my trial counsel Jill Lansing had said she
20 had no recollection of any such letter being offered at trial and excluded. I contacted
21 Cliff Gardner, who had been appointed to represent me on appeal years earlier. Mr.
22 Gardner had not heard of any such letter and said he would contact my trial lawyers from
23 the second trial to see if they recalled such a letter. Some time later Mr. Gardner
24 informed me that he had spoken with Terri Towery, and she had no recollection of having
25 seen such a letter, much less having offered it into evidence. Mr. Gardner advised me to
26 try and get a copy of the letter.

27
28 6. Robert Rand is a journalist who has continued to cover this case since well

1 before the first trial and whom I have known for some time. Mr. Rand has continued to
2 investigate the case, and has written a book about the case as well. In the course of his
3 investigation he has spoken with, and he knows, my Aunt Marta. I asked Mr. Rand to see
4 if he could obtain a copy of the letter. In April of 2018 Mr. Rand informed me that he
5 had been in touch with Marta Cano, my aunt. My understanding is that Aunt Marta came
6 across some of Andy's papers and gave Mr. Rand a letter Andy had received from Erik.
7 That same month, Mr. Rand gave a copy of this letter to Cliff Gardner.

8
9 7. After seeing the letter, Mr. Gardner explained that he did not recall ever
10 seeing this letter before. But because it had been so long since he had reviewed
11 transcripts from the trials, and to make sure the evidence was indeed new evidence and
12 had not, in fact, been offered and excluded as the 2015 Barbara Walters special had
13 indicated, he advised me to review the transcripts from both trials to see if this evidence
14 had actually been offered.

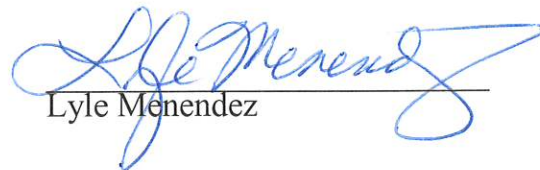
15
16 8. At that point, I was stymied. I no longer had a copy of the transcripts from
17 either trial. I tried various places to obtain a copy of the transcripts without success. In
18 late 2020, Court TV posted on its website a transcript of the second trial and a video of
19 the first trial. Because I did not have access to the internet, my wife and other family
20 members reviewed this material and we concluded that the letter was indeed new
21 evidence and had not been offered (and excluded) at either trial.

22
23 9. Mr. Gardner advised me that Mr. Rand had informed him that he was in the
24 process of transcribing hundreds of audiotaped interviews he had conducted with
25 witnesses at my trial. Mr. Gardner explained that California courts frown on petitioners
26 presenting habeas claims in "piecemeal" fashion -- that is, in separate habeas petitions
27 filed one after another. He suggested waiting until Mr. Rand completed these
28 transcriptions before pursuing habeas relief. In this way, I was advised, we could avoid

1 the piecemeal presentation of habeas claims should these transcriptions reveal any new
2 evidence that had not been presented at trial.

3
4 10. While waiting for the transcriptions to be completed, I learned that
5 producers of a documentary involving Menudo, a boy band formed in Puerto Rico, had
6 approached Mr. Gardner with new information they believed was relevant to my case. In
7 November 2022 I was told that a former member of the band had come forward to say
8 that my father had raped him.

9
10 I declare under penalty of perjury that the foregoing is true and correct. Executed
11 this 29 day of March, 2023 in San Diego, California.

12
13 
14 Lyle Menendez