

1 LYLE MENENDEZ
K13758
2 R.J. Donovan Correctional Facility
480 Alta Road
3 San Diego, CA 92179

4 ERIK MENENDEZ
K14101
5 R.J. Donovan Correctional Facility
480 Alta Road
6 San Diego, CA 92179

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
16 On Habeas Corpus.

No.:

Court of Appeal Case No.
B104022

Superior Court Case No.
BA068880

DECLARATION OF ERIK GALEN
MENENDEZ

17
18 ERIK MENENDEZ,
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20 Petitioner,
21
22 On Habeas Corpus.

23 I, Erik Galen Menendez, declare:

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25 1. I am one of the defendants in *People v. Menendez*, BA068880.

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27 2. I was convicted of two counts of murder after a trial in 1995. Because I
28 was indigent, I was represented by appointed counsel at trial. When I appealed my

1 convictions, the Court of Appeal appointed counsel to represent me.

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3 3. I am still indigent. I do not have money to hire counsel or fund a habeas
4 investigation. There is usually between \$200 and \$300 in my inmate account.

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6 4. Andy Cano was my cousin and was one of my closest family members and
7 friends growing up. Andy was the son of my aunt, Marta Cano. Andy died some years
8 ago -- around 2003.

9
10 5. In 2015 I first heard something about a letter I had written to Andy in
11 December of 1988. I heard about a Barbara Walters special in 2015 or 2016 covering our
12 case. I did not see the special but heard that she talked about a letter I had written to
13 Andy which had been offered into evidence at the trial, but was excluded. I did not recall
14 all the evidence that was either admitted or ruled inadmissible at my two trials. But
15 because my understanding was that Ms. Walters 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
18 6. Sometime between February and April of 2018, my brother Lyle and I were
19 put in the same prison. Lyle advised me that he had been told his trial lawyer from the
20 first trial (Jill Lansing) said she had no recollection of any such letter being offered at trial
21 and excluded. He said that he then contacted his appointed appellate lawyer, Cliff
22 Gardner, who said he knew nothing about such a letter and would try and contact Lyle's
23 trial lawyers from the second trial to see if they recalled such a letter. Lyle later told me
24 that Mr. Gardner had contacted Lyle's trial counsel from the second trial who also had no
25 recollection of having seen such a letter. Lyle said that Mr. Gardner advised him to try
26 and get a copy of the letter. Lyle asked journalist Robert Rand, who has covered the case
27 for many years and knew my Aunt Marta, to see if he could get a copy of the letter. I was
28 later told that Aunt Marta gave Mr. Rand a letter Andy had received from me and Mr.

1 Rand gave a copy of this letter to Mr. Gardner.

2
3 7. Lyle told me that after seeing the letter, Mr. Gardner said he did not recall
4 having seen it before. But to make sure the evidence was indeed new evidence and had
5 not been offered and excluded at trial as Ms. Walters had said in her 2015 special, Mr.
6 Gardner advised Lyle to review the transcripts from both trials to see if this evidence had
7 actually been offered.

8
9 8. This presented a problem. Neither Lyle nor I had a copy of the transcripts
10 from either trial. But sometime in 2020, Court TV posted on its website transcripts of the
11 second trial and a video of the first trial. It turns out that Ms. Walters made a mistake and
12 my letter to Andy had not been offered (and excluded) at either trial.

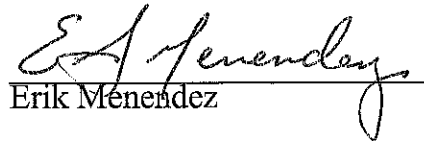
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14 9. Lyle told me that he had been told Mr. Rand had many audio-taped
15 interviews conducted with witnesses at my trial and that he was in the process of
16 transcribing. Lyle said that Gardner told him that generally, state habeas petitioners get
17 one shot at habeas relief, and that in order to present all potential claims in one petition
18 we should wait until Mr. Rand had transcribed these interviews. In that way we could
19 determine if there was any additional new evidence.

20
21 10. While waiting for these transcriptions to be completed, I learned that
22 producers of a documentary involving Menudo, a boy band formed in Puerto Rico, had
23 approached Gardner with new information. In November 2022 I was told that a former
24 member of the band had come forward to say that my father had raped him. I have a
25 vague recollection of meeting some members of the band when I was a boy, and when my
26 family lived in New Jersey.

27
28 11. I am now 52 years old. My senior year of high school was the 1988-1989

1 school year. I would have entered college in the fall of 1989.

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3 I declare under penalty of perjury that the foregoing is true and correct. Executed
4 this 13 day of MARCH, 2023 in SAN DIEGO, California.

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6 
7 Erik Menendez
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