

HANSEN RASMUSSEN, LLC  
1835 Village Center Circle  
Las Vegas, NV 89134  
(702) 385-5533

1 **JOEL F. HANSEN, ESQ.**  
Nevada Bar No. 1876  
2 **HANSEN RASMUSSEN, LLC**  
1835 Village Center Circle  
3 Las Vegas, Nevada 89134  
(702) 385-5533  
4 Attorney for Defendant

5  
6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA, CASE NO. 2:16-cr-00046-GMN-PAL  
9 Plaintiff,  
10 vs.  
11 CLIVEN D. BUNDY, et al,  
12 Defendants

13  
14 **SUPPLEMENT TO DEFENDANT’S MEMORANDUM IN SUPPORT OF PRETRIAL**  
**RELEASE OF CLIVEN BUNDY**

15 Comes now, the Defendant, Cliven Bundy, by and through his attorney, Joel F. Hansen, Esq.,  
16 and files with the Court this Supplement to his Memo in Support of his Pretrial Release.

17 Due process” means that there should be a hearing in front of a neutral fact-finder, and an  
18 opportunity to be heard at a meaningful time and in a meaningful manner, before an individual is  
19 deprived of a fundamental right. [U.S.C.A. Const.Amend. 5](#). *United States v. Karper*, 847 F. Supp. 2d  
20 350 (N.D.N.Y. 2011). Carol Bundy presented in her declaration her impressions of her telephone  
21 conference with Mr. Bundy’s defense attorney in Oregon, Mr. Noel Grefenson. Her impressions were  
22 derived from a short phone conference with Mr. Grefenson. Now the Defendant’s local attorney, Mr.  
23 Hansen, has had an opportunity to consult with Mr. Grefenson by phone and ask him to submit a  
24 declaration as to what actually happened at the hearing before the magistrate in Oregon. A review of  
25 the attached declaration, **Exh. B** shows that indeed, due process of law was denied to the Defendant.  
26 The hearing was scheduled for 1:30 pm, and Mr. Grefenson lived approximately one hour and 15  
27 minutes away from the Court House. He was about to leave to drive to the Court, when he received the  
28 government’s lengthy Memorandum in Support of Detention. Mr. Grefenson had to leave within five

1 minutes after he received the memo, and therefore had no time to read the memo before the hearing.  
2 He asked during the hearing if he could have a recess to read the memo, but the Judge did not afford  
3 him that opportunity. Therefore, Mr. Bundy was denied due process, because his attorney was not  
4 allowed to argue against the government's memo in a meaningful manner at a meaningful time. Mr.  
5 Grefenson was "sandbagged" by the government, because the government obviously knew where Mr.  
6 Grefenson office was located and how long it would take him to drive to the Court house, so they timed  
7 the service of the memo for just a few short minutes before he had to leave to drive to Court. This is  
8 outrageous conduct by the government and should not be tolerated by this Court. Mr. Grefenson was  
9 asked by the magistrate judge if he had read the memo, and he then explained what had happened, to  
10 no avail. He had had no opportunity to prepare a memorandum in opposition to the government's, by  
11 obvious design of the federal prosecutor in Oregon. See Transcript of Hearing, **Exh. D.**

12         The 1984 Bail Reform Act requires that the Defendant "be afforded the opportunity . . . to  
13 present witnesses . . ." at the detention hearing. 18 U.S.C.A. § 3142 (West). Mr. Bundy was denied  
14 the opportunity to present his main witness, Michelle Fiore, current Nevada Assembly- woman and  
15 candidate for Congress. The judge denied her request to appear by phone, even though the government  
16 had agreed to this before the hearing. Mr. Grefenson was relegated to presenting her testimony by  
17 proffer, which as this Court knows, is a much less effective way to present evidence than a live witness  
18 testifying.

19         Mr. Grefenson's declaration shows that the materials he presented to the Court were not  
20 reviewed by the magistrate. He was not allowed an opportunity to prepare a meaningful argument  
21 against the government's lengthy memo, thus depriving Mr. Bundy of effective assistance of counsel,  
22 obviously by the intentional presentation of the lengthy memorandum at a time when Mr. Grefenson  
23 would have no opportunity to read it, much less prepare a memorandum in reply. The magistrate even  
24 state in the hearing that she agreed with everything the government had said in its memorandum,  
25 without ever giving Mr. Grefenson an opportunity to read it. That is not due process of law. And the  
26 government was intentionally complicit in this denial of due process.

27         The facts the judicial officer uses to support a finding must show that no condition or  
28 combination of conditions will reasonably assure the safety of any other person and the community and

1 must be supported by clear and convincing evidence. 18 U.S.C.A. § 3142 (f)(2)(B). No such clear and  
2 convincing evidence has been presented. The supposed facts presented by the government in its prolix  
3 memorandum are backed up by nothing but the prosecutor's bald assertions. There is no sworn affidavit  
4 or other evidence to back up any of the facts put forth by the government. But they must know that they  
5 must present clear and convincing evidence. Why haven't they done so? The answer is obvious: They  
6 don't have any clear and convincing evidence. In fact, they don't have any evidence at all. No where  
7 in their memorandum do they show that Cliven Bundy has ever done anything violent, and they could  
8 not possibly have considered him to be a flight risk, because they left him at liberty to fly all over the  
9 country from the time of the standoff until his arrest in of all places, Oregon. See Mr. Bundy's flight  
10 itinerary attached as part of **Exh. C**.

11 Mr. Grefenson has attached to his declaration the materials which he handed to the magistrate  
12 judge in open court, which she did not review before she ruled against the Defendant. See **Exh. C**. So  
13 she never took the opportunity to read the letter from Michelle Fiore, contained in those exhibits, even  
14 though she had denied Ms. Fiore an opportunity to testify by phone. Again, this is not due process of  
15 law. And even though she said she believed everything in the government's memorandum. A pretty  
16 lopsided way of making a decision.

### 17 CONCLUSION

18 This Court should deny the Motion to Vacate. Either the magistrate may consider this to be a  
19 new hearing in Nevada, or the magistrate has authority to re-open the hearing to take additional  
20 evidence at the request of Counsel. *U.S v. Gallo*, 653 F.Supp. 320 (E.D.N.Y. 1986),  
21 18 U.S.C.A. § 3142.

22 DATED this 17th day of March, 2016.

23 Respectfully submitted,

24 BY: /s/ Joel F. Hansen  
25 JOEL F. HANSEN, ESQ.  
26 Nevada Bar # 1876  
27 1835 Village Center Circle  
28 Las Vegas, NV 89134  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5 (b), I hereby certify that on this 17th day of March, 2016, I served a copy of the foregoing **SUPPLEMENT TO DEFENDANT’S MEMORANDUM IN SUPPORT OF PRETRIAL RELEASE OF CLIVEN BUNDY** as follows:

- Electronic Service - via the Court’s electronic service system; and/or
- U.S. Mail – By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or
- Facsimile – By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below and in the confirmation sheet filed herewith. Consent to service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by facsimile transmission is made in writing and sent to the sender via facsimile within 24 hours of receipt of this Certificate of Service; and/or
- Hand Delivery – By hand - delivery to the address listed below.

DANIEL G. BOGDEN  
United States Attorney  
STEVEN W. MYHRE  
NICHOLAS D. DICKINSON  
Assistant United States Attorneys  
NADIA J. AHMED  
ERIN M. CREEGAH  
Special Assistant United States Attorneys  
333 Las Vegas Blvd. South, Suite 5000  
Las Vegas, NV 89101

/s/ Lisa M. Sabin  
An Employee of HANSEN ◊ RASMUSSEN