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6  
7

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SANTA CRUZ

10 THE PEOPLE OF THE STATE OF CALIFORNIA, )

NO. 17CR02952

11 Plaintiff, )

**OPPOSITION TO  
DEFENDANT'S  
BAIL REQUEST**

12 -vs- )

13 **JAMES KOHUT.** )

Date: 6-19-17

14 Defendant .) )

Time: 8:15

Dept: 7

15  
16 The People request that bail remain at "no bail". For nearly 20 years, defendant has had a  
17 fixed sexual desire to be a part of multiple "taboo" families where the parents raise their children  
18 sexually. In that, he has a specific desire to have sex with a mother and a daughter. He then wants to  
19 impregnate the daughter and raise the child sexually in the "taboo" family lifestyle. Now he is facing  
20 165 to life sentence, and he is unstable and suicidal. No bail is appropriate base on the heinous  
21 nature of the crimes charged, the amount of punishment he faces, his significant wealth, and the  
22 potential danger to other children. If bail is set, given his wealth, this Court needs a full financial  
23 accounting of his assets before choosing a dollar amount.  
24

25 **I.**  
26 **FACTS**

27 Defendant is not A Resident of Santa Cruz:

28 Defendant does not live in Santa Cruz County, and thus, he does not have permanent

1 connection to Santa Cruz. While he did live in Santa Cruz for many years, he recently moved to  
2 another State. Defendant was fired from his employment at the Palo Alto Medical Foundation, and  
3 he started a new job in Arkansas. At the time of his arrest, he and his wife had permanently moved  
4 in to a home in Arkansas, and defendant began work as a neuro-surgeon at Sparks Health Systems.  
5 Since he has shown a permanent intent to live in Arkansas, he is no longer domiciled in Santa Cruz.

6  
7 Defendant Has Ample Funds for Flight:

8 Defendant is wealthy. He has been a practicing neuro-surgeon for years. That practice  
9 generates a significant income. He has multiple houses in Santa Cruz County as well as others in the  
10 State. He has a significant amount of liquid cash-like assets at his disposal. In addition to his own  
11 practice, defendant's wife is also a doctor. Thus, defendant has ample funds for flight. If this Court  
12 decides to set bail, it should have a full accounting of defendant's finances.

13  
14 Defendant Faces Significant Incarceration Time:

15 Defendant is currently charged with the following:

16	1)	Penal Code section 288.7(a)	25 to Life
17	2)	Penal Code section 288.7(b)	15 to Life
18	3)	Penal Code section 288.7(b)	15 to Life
19	4)	Penal Code section 288.7(a)	25 to Life
20	5)	Penal Code section 288.7(b)	15 to Life
21	6)	Penal Code section 288.7(b)	15 to Life
	7)	Penal Code section 288 (b)(1)	10 year max
	8)	Penal Code section 288 (b)(1)	10 year max
	9)	Penal Code section 288 (b)(1)	10 year max
	10)	Penal Code section 288 (b)(1)	10 year max
		Penal Code section 667.61	15 to life

22 **Total Punishment**

**165 to life**

23  
24 Defendant Has Been Investigated For Years:

25 Defendant has a sexual compulsion, and has solicited victims for decades. Multiple police  
26 agencies have investigated defendant over the last 20 years including: Santa Cruz County Sheriff's  
27 office, Seaside Police, Australian Federal Police, as well as the Federal Bureau of Investigations have  
28 investigated defendant for similar crimes dating back to 1997. Like the crimes charged here,

1 defendant was soliciting mothers to engage in sexual acts with children.

2 For example, K. D. from Vermont reported in 2001 that she had a relationship with defendant  
3 from 1997 to 2000. During that relationship, he told her that he wanted to get her pregnant so she  
4 could have a child and then they could be sexual with that child. He told her that he was most  
5 interested in children between the ages of 6 to 8. He admitted that he had been in a relationship with  
6 a woman in Florida who had a 13 year old and 4 year old child. He admitted that he had sex in front  
7 of those children, and fondled the 13 year old. He would explain that he wanted a “sexual family”.  
8 He would ask her to recruit friends for him, and he wanted her to call him “daddy”. He also  
9 described wanting to go to a college town and tie her up for sex.

10 For example, J. A. from Australia report in 2003 that defendant told her that he was searching  
11 for a woman who he can impregnate, and will then “raise their children sexually”. He then asked  
12 Joanne if she would let him impregnate her and raise their child sexually. Defendant then told her  
13 that if he had a daughter, he would want to impregnate her at the age of 10 and raise that child  
14 sexually as well. He also admitted to having sexual encounters with other children in the past.  
15 Finally, he asked her to find him children. He wanted her to volunteer at a homeless shelter or do  
16 babysitting jobs and find children that she would molest and he would then listen to them over the  
17 phone.

18 For example, in 2003 the National Center for Missing and Exploited Children received and  
19 anonymous tip that the caller recently meet defendant online. He then called her at work and told her  
20 that he believes in sexual expression with children. He told her that he visits “sexual families”, and  
21 he wants to have a child soon to start his own family.

22 For example, M.D. from Sacramento described in 2004, have a series of online sex chats with  
23 defendant. In April of 2004, he described wanting a “sexual family” where the mother and daughter  
24 would have sex with him. He then wanted to impregnate the daughter and subsequently molest the  
25 baby as it grew up. He then admitted that he had sex with an 11 year old girl and her mother who  
26 was 40 years old.

27 For example, the Federal Bureau of Investigation conducted a “pretext” email exchange with  
28 defendant in 2003. In that exchange, defendant admitted that he was very sexual and very taboo. He

1 then talked about having a relationship with “her” and her daughter. He then explained, “I think it  
2 would be deeply bonding and erotic to have a daughter participate in a mommy and daddy making  
3 another baby ... helping and feeling the joy and arousal and felling like the baby which is conceived  
4 in love . . .”

5 For example, C. R. from Ohio complained to the Seaside police that in 2005 she had an  
6 dating relationship with defendant. During that relationship, he sent her child pornography and links  
7 to child pornography. He would tell her that he had sexual fantasies about children and admitted  
8 having sex with a 9 year old and her mother. She told him that she did not want any part of that kind  
9 of material. Defendant then flew to Ohio and physically threatened her.

10  
11 Other Potential Victims:

12 Besides the women that have come forward, there are more. Since 1997, defendant has been  
13 using the internet to find new women to participate in a “taboo family”. K. D. reported in 2001 that  
14 she found defendant’s multiple on-line relationships. She found that all of his sexual requests of  
15 these were the same. He wanted bestiality, incest, and a “sexual family”. During that relationship,  
16 he admitted that he had been in a relationship with a woman in Florida who had a 13 year old and 4  
17 year old child. He admitted that he had sex in front of those children, and fondled the 13 year old.

18 For example, J. A. from Australia report in 2003 that defendant admitted to having sexual  
19 encounters with other children in the past. In addition, he asked her to find him children. He wanted  
20 her to volunteer at a homeless shelter or do babysitting jobs and find children that she would molest  
21 and he would then listen to them over the phone.

22 For example, M. D. from Sacramento described in 2004, have a series of online sex chats  
23 with defendant. He then admitted that he had sex with an 11 year old girl and her mother who was  
24 40 years old.

25 For example, C.R. from Ohio complained to the Seaside police that in 2005 she had an dating  
26 relationship with defendant. He would tell her that he had sexual fantasies about children and  
27 admitted having sex with a 9 year old and her mother.

28 Like the women in the past, defendant has admitted to Brandon that he has many other

1 “taboo” families. He has admitted to being sexually involved with a mother and daughter in  
2 Louisiana. She was told that the child was 14 years old. (Please see new charges below). Defendant  
3 also talked about a female named “Donna” in Riverside, CA, a “Jenna” in Las Vegas, NV, a Natalie  
4 in Santa Cruz, and Mary in Santa Cruz.

5 Like the women in the past reported, during Brandon’s relationship with defendant, he would  
6 constantly ask Brandon ro bring him other girls. Brandon describes how the two of them made plans  
7 to adopt a child through a foster care facility, and even had plans to try to adopt a child from the  
8 country of Mexico.

9  
10 April 1, 2017 Text Messages:

11 Like the women in the past, defendant has tried to cultivate multiple “taboo” families at the  
12 same time. For example, on April 1, 2017, defendant was texting defendant Brandon about a  
13 conversation he had with “Alison”. Based on the test messages, defendant is communicating with  
14 Alison about having “taboo family” sex. Defendant’s texts are in blue.



1  
2 New Charges:

3           Because defendant has a 20 year history, new victims have been found since the initial filing.  
4 After the initial filing, G. R. has come forward. In 2004, Grace R. was only 13 years old and grew  
5 up in Baton Rouge, Louisiana. Her mother started an online relationship with defendant. Defendant  
6 flew her and her mother to Santa Cruz for five days. They stayed at the Chaminade hotel. One night  
7 defendant, her mother, and G. R. were all on the same bed. G.R.'s mother passed out on the bed, and  
8 defendant then sexually molested G.R..

9           She has no factual connection to the charged events with Brandon or Stephenson. A Santa  
10 Cruz citizen found a Facebook posted dated in 2015 where G.R. called defendant a "pedophile".  
11 That "tip" was given to the Santa Cruz District Attorney's office, and G.R. decided to disclose after  
12 13 years.

13           As shown above, prior to speaking with G.R., when we interviewed Brandon in custody, she  
14 stated that defendant admitted to having molested a 14 year old girl from Louisiana with her mother.  
15

16 Defendant Is A Significant Danger to Himself:

17           Defendant is suicidal. While in jail, defendant has stated that he wants to kill himself  
18 numerous times, and has taken steps to take his own life. If released, defendant would have a much  
19 greater opportunity to commit suicide. There is a humanitarian need to prevent such a drastic  
20 measure. In addition, these attempts show a level of desperation and a man with "nothing to loose".  
21

22  
23 **II.**  
**ARGUMENT**

24 **A) No Bail Is Appropriate:**

25           Due to the nature of the crimes, the significant punishment, his lack of ties to California, and  
26 his wealth, no bail is appropriate. Both the Seventh Amendment to the United States Constitution,  
27 and Article I, section 12 of the California Constitution, prohibit excessive bail. Before the voters'  
28 1982 amendment of section 12, only people charged with capital crimes could be held without bail.

1 But Proposition 4 added two additional circumstances in which bail can be denied:

2 (1) felony acts of violence where “there is substantial likelihood the person’s release would  
3 result in great bodily harm to others,” and

4 (2) any felony in which there is “clear and convincing evidence that the person has threatened  
5 another with great bodily harm and that there is a substantial likelihood that the person would  
6 carry out the threat if released.” (*In re Bright* (1993) 13 Cal.App.4th 1664, 1667, fn. 4.)

7 Proposition 4 added another provision that allowed court to consider factors other than the  
8 probability that the defendant would appear at trial. It states, “[i]n fixing the amount of bail, the  
9 court shall take into consideration the seriousness of the offense charged, the previous criminal  
10 record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.”  
11 In reviewing an order concerning bail the appellate court considers “the character of the crimes ...  
12 the moral turpitude involved and the dangerous results to the public from their commission, as well  
13 as the punishment imposed or authorized by law.” (*In re Horiuchi* (1930) 105 Cal.App. 714, 715; see  
14 also *In re Williams* (1889) 82 Cal. 183, 184; *Ex parte Ruef* (1908) 7 Cal.App. 750, 753.)

15 In the present case, defendant represents a substantial danger to other children. He has been  
16 soliciting women and children for years. The current co-defendants are not the only families he has  
17 molested. Instead, they are one of many. His sexual interest show no limits. He is sexually  
18 interested in both boys and girls. He is sexually interested in both infants, pre-teens, and adults. His  
19 sexual interests also shows no geographic boundaries. Nor has it changed over time. The People  
20 believe that defendant has solicited other families in other areas of the country. If released, will  
21 continue with his long-standing, very current, sexual interests. Thus, “there is substantial likelihood  
22 the person’s release would result in great bodily harm to others”, and no bail is appropriate.

23 This concern is heightened since defendant’s history has shown that he cultivating multiple  
24 “families” at any given time. Consistent with his past, defendant is texting “Alison” on April 1,  
25 2017 about having family sex. In addition defendant has admitted to defendant Brandon that he  
26 is/was involved with “Donna” in Riverside, CA, a “Jenna” in Las Vegas, NV, a Natalie in Santa  
27 Cruz, and Mary in Santa Cruz. Like the women in the past reported, during Brandon’s relationship  
28 with defendant, he would constantly ask Brandon to bring him other girls. Brandon describes how  
the two of them made plans to adopt a child through a foster care facility, and even had plans to try

1 to adopt a child from the country of Mexico. Thus, this Court should be concerned that, if released,  
2 he will contact his other “families” to either molest them, hurt them, threaten them, or try to coerce  
3 them.

4  
5 1) There Is No Scheduled Bail for 288.7 In Santa Cruz County:

6 A review of the Santa Cruz County bail schedule shows that there is no set bail for a violation  
7 of Penal Code section 288.7 subdivision (a) or (b). However, Santa Clara County has a set schedule  
8 for a charge of Penal Code section 288.7. The People request that this Court follow the Santa Clara  
9 bail schedule. It states:

10  
11

288.7(a)	Engaging in sexual intercourse or sodomy with a child 10 or younger	25 years to LIFE	NO BAIL*
288.7(b)	Engaging in oral copulation or sexual penetration with a child 10 or younger	15 years to LIFE	NO BAIL*

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19 **B) Guilt Is Presumed For Fixing Bail Amount:**

20 Defendant asks this Court to set bail based on the “strength” of the case. However, the Court  
21 is to presume guilt for purposes of setting bail. “For the purpose of fixing the amount of bail this  
22 court will assume the guilt of the accused. In *Ex parte Duncan*, 53 Cal. 410, the Supreme Court said:  
23 ‘We must assume in this proceeding that the petitioner is guilty of ten distinct felonies of which he is  
24 indicted. We must assume his guilt though when he shall be tried it may be made to appear that he is  
25 wholly innocent of all the charges.’” (*Ex parte Ryan*, 44 Cal. 555; *Ex parte Ruef*, 7 Cal. App. 750; *In*  
26 *re in re Horiuchi*, 105 Cal. App. 714, 715 (Dist. Ct. App. 1930).)

27 In reviewing an order concerning bail the appellate court considers “the character of the  
28 crimes ... the moral turpitude involved and the dangerous results to the public from their



1 commission, as well as the punishment imposed or authorized by law.” (*In re Horiuchi* (1930) 105  
2 Cal.App. 714, 715; see also *In re Williams* (1889) 82 Cal. 183, 184; *Ex parte Ruef* (1908) 7 Cal.App.  
3 750, 753.)

4 Defendant’s request is best saved after the preliminary hearing. Then the court will be in a  
5 better position to evaluate the case.

6  
7 **C) The Court Must Know Defendant’s Assets Before Setting A Specific Amount:**

8 If this Court sets a bail amount, it must bare some relation to defendant’s assets. The purpose  
9 of the bail amount is ensure compliance by requiring that the defendant have a “stake in the game”.  
10 The idea is that the financial loss of the bail amount is so unacceptable to the defendant, that  
11 compliance is assured. In the present case, defendant’s income over the last 20 years has been  
12 considerable. His accumulated assets could easily make any proposed bail amount seem  
13 insignificant. This court must have an accounting of defendant’s total assets before setting an  
14 amount. To do otherwise, this Court would simply guessing at defendant’s loss threshold. When  
15 this Court factors in defendant’s suicidal mental state, he may not have a loss threshold.

16  
17 **D) Defendant Is A Risk to Himself:**

18 Defendant has shown that he is mental unstable. He has written several letters showing an  
19 intent to kill himself. He has been found in the jail with a sharp object. Obviously, his ability to kill  
20 himself is increased if released. But even if his statements are taken as just suicidal gestures, it show  
21 a mental instability where he has “nothing to loose”. A person with that mentality will take larger  
22 risks whether its flight, harming himself, harming others, or threatening witnesses.

23  
24 **E) Defendant Is A Massive Flight Risk:**

25 Defendant is not a resident of California. He has completely relocated to Arkansas. If  
26 released, defendant has no incentive to return, and all the resources to flee. Defendant faces up to  
27 165 years to life if convicted. As an established neuro-surgeon, defendant cash resources and owns  
28 numerous houses. This Court has no real idea what defendant’s assets are, or if any specific bail

1 amount would have any impact on his finances.

2  
3 **F) Defendant Is A Risk To Others:**

4       If released, he has every incentive to communicate with other victims or their mothers.  
5 Whether he would want to influence them, silence them, hurt them, touch them, any of those types of  
6 contacts creates a “substantial likelihood the person’s release would result in great bodily harm to  
7 others.” Added on top of these concerns is defendant is suicidal. Those gestures in jail show a  
8 mental instability. He is now a man with nothing to loose. If killing himself is an option for himself,  
9 why would anything else be off limits.

10  
11  
12  
13  
14 **DATE:** \_\_\_\_\_

\_\_\_\_\_  
15 **Steven J. Moore**  
16 **ASSISTANT DISTRICT ATTORNEY**