

10-21-2009

Amboh v. State Clerk's Record v. 1 Dckt. 36779

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LAW CLERK Vol. 1 of 2

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

JASON CHARLES AMBOH

_____ and
Appellant

VS.

STATE OF IDAHO

_____ and
Respondent

Peter D. McDermott District Judge

Appealed from the District Court of the Sixth
Judicial District of the State of Idaho, in and
for Power County.

MOLLY HUSKEY,

Attorney _ for Appellant

Lawrence G. Wasden

Attorney _ for Respondent

Filed this _____ day of _____,
20 ____.

FILED COPY
OCT 21 2009
Supreme Court Court of Appeals
Entered on AJS by

Clerk

Deputy

36779

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Inmate Name Jason Amboh
IDOC No. 41863
Address P.O. Box 8509 ND.D20
Boise, Idaho 83707

CASE NO. CV 2009-77
FILED 3-11 20 09
CHRISTINE STEINLICHT

Petitioner

BY L. Ammer CLERK
DEPUTY

IN THE DISTRICT COURT OF THE Sixth JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Power

Jason Charles Amboh,)
)
Petitioner,)
)
vs.)
)
State of Idaho,)
)
Respondent.)
)

CV 2009-77
Case No. CR-06-1713
**PETITION AND AFFIDAVIT
FOR POST CONVICTION
RELIEF**

The Petitioner alleges:

1. Place of detention if in custody: Southern Idaho Correctional Institute
2. Name and location of the Court which imposed judgement/sentence: Sixth
Judicial District in Power County, American Falls, Idaho
3. The case number and the offense or offenses for which sentence was imposed:
 - (a) Case Number: CR-06-1713
 - (b) Offense Convicted: DUI
4. The date upon which sentence was imposed and the terms of sentence:
 - a. Date of Sentence: June 21, 2007
 - b. Terms of Sentence: 2-4

3.

5. Check whether a finding of guilty was made after a plea:

Of guilty Of not guilty

6. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes No

If so, what was the Docket Number of the Appeal? CR-2006-1713

7. State concisely all the grounds on which you base your application for post conviction relief: (Use additional sheets if necessary.)

(a) My Public Defender Did not file my appeal in a timely fashion.

(b) Public Defender Mr Eldredge and appeal attorney for the state Appellate did not inform me my appeal was denied

(c) Ineffective assistance of council during the criminal case and/or on appeal

8. Prior to this petition, have you filed with respect to this conviction:

a. Petitions in State or Federal Court for habeas corpus? NO

b. Any other petitions, motions, or applications in any other court? NO

c. If you answered yes to a or b above, state the name and court in which each petition, motion or application was filed:

NA

9. If your application is based upon the failure of counsel to adequately represent you, state concisely *and in detail* what counsel failed to do in representing your interests:

(a) My Public Defender Did not file my appeal in a timely fashion

(b) Public Defender Mr Eldredge and appeal attorney for the State Appellate did not inform me my appeal was denied

(c) Ineffective assistance of council during the criminal case and/or on appeal

10. Are you seeking leave to proceed in forma pauperis, that is, requesting the proceeding be at county expense? (If your answer is "yes", you must fill out a Motion to Proceed in Forma Pauperis and supporting affidavit.)

Yes [] No

11. Are you requesting the appointment of counsel to represent you in this case? (If your answer is "yes", you must fill out a Motion for the Appointment of Counsel and supporting affidavit, as well as a Motion to Proceed In Forma Pauperis and supporting affidavit.)

Yes [] No

12. State specifically the relief you seek:

Public Defender Mr Eldredge failed to represent or argue the states claim of offense.

13. This Petition may be accompanied by affidavits in support of the petition. (Forms for this are available.)

DATED this 5 day of March, 2009.

Jason Ambok
Petitioner

STATE OF IDAHO)
) ss
County of Ada)

Jason Ambok being sworn, deposes and says that the party is the Petitioner in the above-entitled appeal and that all statements in this PETITION FOR POST CONVICTION RELIEF are true and correct to the best of his or her knowledge and belief.

Jason Ambok
Petitioner

SUBSCRIBED AND SWORN and AFFIRMED to before me this 5 day of March, 2009.

Terri M. Hinckley
(SEAL) Notary Public
State of Idaho

Terri M. Hinckley
Notary Public for Idaho
Commission expires: 8/31/2011

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 5 day of March, 2009, I mailed a copy of this PETITION FOR POST CONVICTION RELIEF for the purposes of filing with the court and of mailing a true and correct copy via prison mail system to the U.S. mail system to:

Power County Prosecuting Attorney

Paul S. Laggis

P.O. Box 419 American Falls, Id,
83211-0419

Jason Ambok
Petitioner

~~_____~~
The Petitioner Preserves the Right To Amend this Petition.

Jason Anshoh
Signature of Affiant

SUBSCRIBED AND SWORN AND AFFIRMED TO before me this 5 day of
March, 2009.

Terri M. Hinckley
Notary Public
State of Idaho

Terri M. Hinckley
Notary Public for Idaho
My Commission Expires: 8/31/2011

ROBERT O. ELDREDGE
ATTORNEY AT LAW

1347 EAST CLARK
POCATELLO, ID 83201

ROBERT O. ELDREDGE

TELEPHONE (208) 233-3523

August 14, 2007

Jason Amboh
1415 Albion Avenue
Burley, Idaho 83318

Dear Jason:

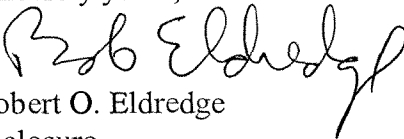
I received your letter dated August 12, 2007 today. As you know, you had 42 days to appeal the Court's sentencing. That time has passed. You indicated you have attempted to get a hold of me. I have reviewed my phone messages and do not see that you called. If you tried to call me collect from jail, I would not reflect that on my phone messages.

You still have Post Conviction Relief rights. This is contained in the Idaho Criminal Rule 57. If you have any question about Rule 57, call me or write me.

I assume you will be disappointed your appeal period has run, but honestly that appeal had no legs to run on. (I do not believe the appeal would be successful.) I also do not believe your Rule 57 will have any success, but you can file it if you want to. As always, I will respond to any of your letter.

I have filed the Appeal anyway.

Sincerely yours,


Robert O. Eldredge
enclosure

MOLLY J. HUSKEY
State Appellate Public Defender
State of Idaho
I.S.B. # 4843

SARA B. THOMAS
Chief, Appellate Unit
I.S.B. # 5867

MOLLY J. HUSKEY
Deputy State Appellate Public Defender
I.S.B. # 4843
3647 Lake Harbor Lane
Boise, Idaho 83703
(208) 334-2712

CASE NO. _____
FILED 3-11 2009
CHRISTINE STEINLICHT

BY L. Ammer CLERK
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
JASON CHARLES AMBOH,)
)
Appellant-Defendant.)
_____)

CASE NO. 34504

AFFIDAVIT OF MOLLY J. HUSKEY
STATE APPELLATE PUBLIC
DEFENDER

STATE OF IDAHO)
)
:ss)
County of Ada)

COMES NOW, Molly J. Huskey, Deputy State Appellate Public Defender, and swears and affirms under oath and upon his personal knowledge the following:

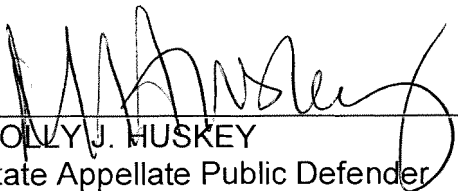
1. I am currently appointed as the State Appellate Public Defender and was so appointed during all relevant times herein. I have personal knowledge of the above captioned case;
2. The State Appellate Public Defender's Office was appointed in the above-entitled case on August 15, 2007;

3. Attached to this affidavit are true and accurate copies of the Order Appointing the Office of the State Appellate Public Defender, filed August 15, 2007 (Appendix A), the Notice Of Conditional Dismissal, issued August 24, 2007 (Appendix B), the Response to Conditional Dismissal, filed September 11, 2007 (Appendix C), the Order Dismissing Appeal, filed September 25, 2007 (Appendix D) and the Remittitur, filed September 25, 2007 (Appendix E.)
4. The policies and procedures of the Office of the State Appellate Public Defender's office governed the handling of this case;
5. That upon receipt of a Notice of Appeal and the Order Appointing the Office of the State Appellate Public Defender, the office waits until it receives the Record and Transcript before appointing counsel;
6. This reason counsel is not appointed is that until the Transcript and Record is received, while a general assessment of the complexity of the case can be made, an assessment of the attorneys' workload and a determination of which attorney to assign it to cannot be made;
7. That complexity of cases should be matched to attorneys' skill sets;
8. That workload should be balanced among the attorneys such that, to the extent possible, each attorney's workload is comparable;
9. That until the time that counsel is appointed, the undersigned usually handles the client telephone calls and pleadings;
10. If the undersigned is not available, other available attorneys will accept telephone calls or sign pleadings;

11. That in this case, Mr. Amboh pled guilty to a felony charge of driving under the influence;
12. That he was sentenced to a unified term of incarceration of six (6) years, with two (2) of those years fixed with the Minute Entry and Order filed June 28, 2007;
13. That because he pled guilty, it appears that the only issue on appeal would have been a claim that his sentence was excessive;
14. That in this particular case, the Idaho Supreme Court issues an Order Conditionally Dismissing the Appeal on the grounds that the Notice of Appeal was not filed within the 42 days from the date of entry of the final Order entered June 28, 2007;
15. That on September 7, 2007, Heather Crawford, support staff for the SAPD telephoned Mark Echohawk, Mr. Amboh's trial attorney, to determine what reasons existed for the late filing of the notice of appeal;
16. Based on the Response, the undersigned attorney filed a Response to the Conditional Dismissal and that the reason for the untimely filing of the Notice of Appeal was that Mr. Amboh had not notified his attorney that he wanted an appeal until day number 44 – two days after the deadline had passed.
17. That the trial attorney had filed the Notice of Appeal as requested but had advised Mr. Amboh that the Notice of Appeal was not timely and what his options were.
18. Following the filing of this response, the Supreme Court dismissed the Appeal on the grounds that it was untimely filed and issued a Remittitur;

19. That the Order Dismissing the Appeal and the Remittitur was docketed in the SAPD database, but no letter was generated or sent to Mr. Amboh;
20. That because there had never been an attorney assigned to the case, once the appeal was dismissed, the case was archived without any further action by an attorney;
21. That following the signing of the Response to Conditional Dismissal, another attorney reviewed the Order Dismissing the Appeal;
22. That no attorney reviewed the Remittitur;
23. That Mr. Amboh did not contact this office by writing or telephone until February 2, 2009;
24. That at that time, a review of the case resulted in the above information; and
25. Further your affiant sayeth naught.

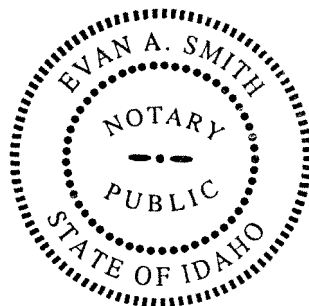
Dated this 4th day of March, 2009.




 MOLLY J. HUSKEY
 State Appellate Public Defender

STATE OF IDAHO)
 :SS
 County of Ada)

SUBSCRIBED AND SWORN to before me on this 4th day of March, 2009.



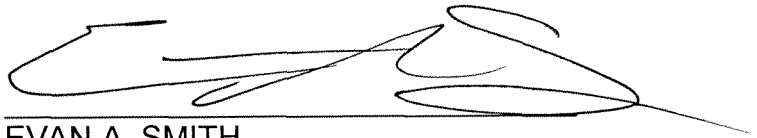


 NOTARY PUBLIC FOR IDAHO
 Residing in Boise, Idaho
 Commission Expires 2/12/2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 4th day of March, 2009, served a true and correct copy of the forgoing AFFIDAVIT OF MOLLY J. HUSKEY by the method indicated below:

JASON CHARLES AMBOH
INMATE # 41863
SICI
PO BOX 8509
BOISE ID 83707

A handwritten signature in black ink, appearing to read 'EVAN A. SMITH', written over a horizontal line.

EVAN A. SMITH
Administrative Assistant

MJH/eas

Appendix A

CASE NO. _____
FILED 8.15 20 07
CHRISTINE STEINLICHT

COPY RECEIVED

AUG 20 2007
STATE APPELLATE
PUBLIC DEFENDER

BY J. Anne CLERK
DEPUTY

ROBERT O. ELDRIDGE
Public Defender
1347 East Clark
Pocatello, ID 83201
Telephone: (208) 233-3523
ISB 2284

STATE OF IDAHO
COUNTY OF POWER

I hereby certify that the foregoing instrument is a full, true and correct copy of the original on file in the office of the undersigned Clerk of the District Court, of the Sixth Judicial District of Idaho, for Power County.

By Christine Steinlicht DEPUTY CLERK
STATE OF IDAHO
COUNTY OF POWER
DISTRICT COURT
CHRISTINE STEINLICHT
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER**

STATE OF IDAHO,	)	Case No. CR-06-1713
)	
Plaintiff,	)	ORDER RE: MOTION FOR
	)	APPOINTMENT OF STATE
vs.	)	APPELLATE PUBLIC DEFENDER
)	
JASON CHARLES AMBOH,)	
)	
Defendant.)	
_____)	

AFTER HAVING CONSIDERED the motion filed with this Court without the request for oral argument, the Court having reviewed the pleadings on file and the motion, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Robert O. Eldredge, is withdrawn as counsel of record for the Defendant and the State Appellate Public Defender is hereby appointed to

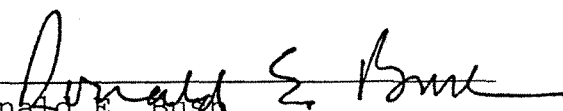
ORDER TO APPOINT APPELLATE PUBLIC DEFENDER

represent the Defendant, JASON CHARLES AMBOH, in the above-entitled matter.

The appointment of the State Appellate Public Defender is for purposes of the appeal only.

IT IS SO ORDERED.

DATED this 15 day of August, 2007.


Ronald E. Bush
SIXTH DISTRICT JUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to the following this 15 day of August, 2007, with postage prepaid, to the following address:

Robert O. Eldredge
1347 East Clark
Pocatello, Idaho 83201

Paul S. Laggis
P. O. 419
American Falls, Idaho 83211-0419


Lawrence G. Wasden
Office of Attorney General
Statehouse, Room 210
P.O. Box 83720
Boise, Idaho 83720-0010

ORDER TO APPOINT APPELLATE PUBLIC DEFENDER

2

Clerk of the Court
Idaho State Supreme Court
P.O. Box 83720
Boise, Idaho 83720-0010

State Appellate Public Defender's Office
3647 Lake Harbor Lane
Boise, Idaho 83703



DEPUTY CLERK OF THE COURT

Appendix B

5/4 WA due 8/9

In the Supreme Court of the State of Idaho



STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	ORDER CONDITIONALLY
	)	DISMISSING APPEAL
v.)	
)	
JASON CHARLES AMBOH,	)	NO. 34504
)	
Defendant-Appellant.)	

The NOTICE OF APPEAL filed August 15, 2007, is from the Minute Entry & Order entered by the Honorable Ronald E. Bush, District Judge, on June 28, 2007. Appellate Rule 14 requires that an appeal be filed within forty-two (42) days from the date of entry of the final judgment. It appears that the NOTICE OF APPEAL was not filed within forty-two (42) days from the date of entry of the final Order entered June 28, 2007; therefore, good cause appearing,

IT HEREBY IS ORDERED that this appeal be, and hereby is, CONDITIONALLY DISMISSED for the reason the appeal may not be timely filed; however, the Appellant may file a RESPONSE to this Order, with regard to the issue of timeliness, within twenty-one (21) days from the date of this Order which shall show good cause, if any exists, why this appeal should not be dismissed.

IT FURTHER IS ORDERED that proceedings in this appeal shall be SUSPENDED pending an appropriate Order from the Court.

DATED this 24th day of August 2007.

For the Supreme Court

Dorothy Beaton
Stephen W. Kenyon, Clerk

RECEIVED

AUG 27 2007

STATE APPELLATE
PUBLIC DEFENDER

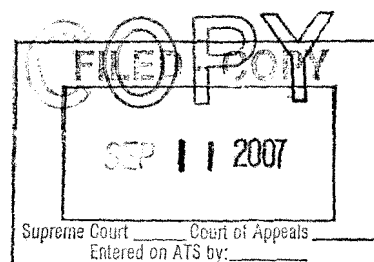
cc: Counsel of Record
District Court Clerk
District Court Reporter

Appendix C

MOLLY J. HUSKEY
State Appellate Public Defender
State of Idaho
I.S.B. # 4843

SARA B. THOMAS
Chief, Appellate Unit
I.S.B. # 5867
3647 Lake Harbor Lane
Boise, Idaho 83703
(208) 334-2712

CONFORM



IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,
Plaintiff-Respondent,

CASE NO. 34504

v.

JASON CHARLES AMBOH,
Defendant-Appellant.

RESPONSE TO
CONDITIONAL DISMISSAL

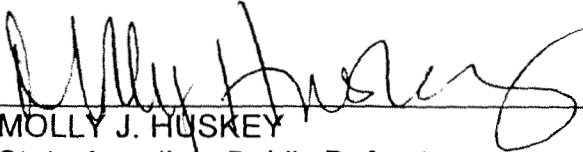


COMES NOW appellant, by and through Molly J. Huskey, State Appellate Public Defender, and hereby responds to the conditional dismissal entered by the Idaho Supreme Court on August 24, 2007. Heather R. Crawford, Administrative Assistant, spoke with Robert O. Eldredge on September 10, 2007. Mr. Eldredge stated that the case was given to Mark Echohawk to handle. Mr. Eldredge received a letter from Mr. Amboh two days after the Notice of Appeal was due requesting that an appeal be filed on his behalf. Mr. Eldredge filed the Notice of Appeal as requested regardless of the fact that the time had run. Mr. Eldredge informed the client of the fact that the Notice of Appeal was untimely and what Mr. Amboh's options would be at this point.

Mr. Eldredge stated he checked around with several individuals to make sure that Mr. Amboh did not inform them that he wished to have an appeal filed, Mr. Eldredge could not find anyone that could attest to a request made by Mr. Amboh. The Notice of Appeal was filed on August 15, 2007, 48 days after the Minute Entry & Order was entered on June 28, 2007.

Accordingly, appellant respectfully requests that this appeal not be dismissed as untimely as it is clear that Mr. Amboh wished to appeal his case.

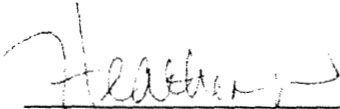
DATED this 11th day of September, 2007.


MOLLY J. HUSKEY
State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 11th day of September, 2007, I caused to be served a true and correct copy of the attached RESPONSE TO CONDITIONAL DISMISSAL, by hand delivery to the Attorney General's Mail Box at the Idaho Supreme Court:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
P.O. BOX 83720
BOISE, ID 83720-0010


HEATHER R. CRAWFORD
Administrative Assistant

MJH/hrc

Appendix D

In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

JASON CHARLES AMBOH,

Defendant-Appellant.

ORDER DISMISSING APPEAL

Supreme Court Docket No. 34504
Power County Case No. 2006-1713

Ref. No. 07S-226

RECEIVED
SEP 27 2007
STATE APPELLATE
PUBLIC DEFENDER

An ORDER CONDITIONALLY DISMISSING APPEAL was issued by this Court August 24, 2007 as it appears the Notice of Appeal was not filed within forty-two (42) days from the date of entry of the final judgment but, allowed Appellant to file a response showing good cause why the appeal should not be dismissed. A RESPONSE TO CONDITIONAL DISMISSAL was filed by Appellant September 11, 2007. Therefore, good cause appearing,

IT HEREBY IS ORDERED that the ORDER CONDITIONALLY DISMISSING APPEAL be, and hereby is, AFFIRMED and this appeal is DISMISSED.

DATED this 25th day of September 2007.

By Order of the Supreme Court

Stephen Kenyon

Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk
District Judge Ronald E. Bush
Court Reporter Shiela Fish

Appendix E

u ★

In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

JASON CHARLES AMBOH,

Defendant-Appellant.

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REMITTITUR

NO. 34504

RECEIVED

OCT 01 2007

STATE APPELLATE
PUBLIC DEFENDER

TO: SIXTH JUDICIAL DISTRICT, COUNTY OF POWER.

The Court having entered an Order dismissing this appeal September 25, 2007;
therefore,

IT IS HEREBY ORDERED that the appeal herein from the Judgment of the
District Court be, and hereby is, DISMISSED.

DATED this 28 day of September, 2007.

Stephen Kenyon
Clerk of the Supreme Court
STATE OF IDAHO

cc: Counsel of Record
District Court Clerk
District Judge

I, Stephen W. Kenyon, Clerk of the Supreme Court
of the State of Idaho, do hereby certify that the
above is a true and correct copy of the Remittitur
entered in the above entitled cause and now on
record in my office. 9/28/07

WITNESS my hand and the Seal of this Court _____

STEPHEN W. KENYON

Clerk

By: Jan UO Deputy

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 03/05/2009 =

Doc No: 41863 Name: AMBOH, JASON CHARLES
 Account: CHK Status: ACTIVE

SICI/NORTH PRES FACIL
 TIER-D CELL-1

Transaction Dates: 03/05/2008-03/05/2009

Beginning Balance	Total Charges	Total Payments	Current Balance
146.70	3162.90	3220.63	204.43

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
03/05/2008	HQ0408991-003	061-CK INMATE	165616	21.75DB	124.95
03/06/2008	SI0409022-136	099-COMM SPL		30.60DB	94.35
03/06/2008	SI0409022-137	099-COMM SPL		13.50DB	80.85
03/10/2008	HQ0409687-007	011-RCPT MO/CC		75.00	155.85
03/12/2008	HQ0409934-026	061-CK INMATE	73716	0.65DB	155.20
03/13/2008	SI0410017-149	099-COMM SPL		40.13DB	115.07
03/13/2008	SI0410017-150	099-COMM SPL		3.72DB	111.35
03/20/2008	SI0410830-141	099-COMM SPL		30.60DB	80.75
03/20/2008	SI0410830-142	099-COMM SPL		27.88DB	52.87
03/27/2008	SI0411556-128	099-COMM SPL		17.02DB	35.85
04/02/2008	HQ0412381-008	011-RCPT MO/CC	RCPT/MO	100.00	135.85
04/03/2008	SI0412409-149	099-COMM SPL		13.86DB	121.99
04/03/2008	SI0412409-150	099-COMM SPL		13.60DB	108.39
04/08/2008	SI0413048-001	217-LUCKY PEAK N.	3/16-3/22	20.00	128.39
04/08/2008	SI0413057-001	217-LUCKY PEAK NUR	3/23-3/29	12.00	140.39
04/10/2008	SI0413326-131	099-COMM SPL		20.40DB	119.99
04/10/2008	SI0413326-132	099-COMM SPL		50.16DB	69.83
04/17/2008	SI0413989-119	099-COMM SPL		52.05DB	17.78
04/17/2008	SI0413989-120	099-COMM SPL		11.69DB	6.09
04/24/2008	SI0414798-128	099-COMM SPL		3.40DB	2.69
04/24/2008	HQ0414919-010	011-RCPT MO/CC	RCPT/MO	100.00	102.69
05/01/2008	SI0415638-147	099-COMM SPL		15.19DB	87.50
05/01/2008	SI0415638-148	099-COMM SPL		56.04DB	31.46
05/07/2008	HQ0416299-019	011-RCPT MO/CC	MAIL	100.00	131.46
05/07/2008	SI0416456-013	217-ROAD CREW #3	3/31-4/5	9.00	140.46
05/07/2008	II0416486-006	072-METER MAIL	HQ 73971	0.97DB	139.49
05/08/2008	SI0416531-170	099-COMM SPL		45.29DB	94.20
05/08/2008	SI0416531-171	099-COMM SPL		10.20DB	84.00
05/15/2008	SI0417353-149	099-COMM SPL		29.60DB	54.40
05/22/2008	SI0418050-143	099-COMM SPL		35.70DB	18.70
05/22/2008	SI0418050-144	099-COMM SPL		13.60DB	5.10
05/27/2008	HQ0418421-017	011-RCPT MO/CC	RCPT/CHK	100.00	105.10
05/29/2008	SI0418733-137	099-COMM SPL		14.47DB	90.63
05/29/2008	SI0418733-138	099-COMM SPL		39.37DB	51.26
06/05/2008	SI0419675-146	099-COMM SPL		10.20DB	41.06
06/05/2008	SI0419675-147	099-COMM SPL		24.36DB	16.70
06/05/2008	HQ0419788-011	011-RCPT MO/CC	RCPT/MO	100.00	116.70
06/12/2008	SI0420705-143	099-COMM SPL		20.16DB	96.54
06/12/2008	SI0420705-144	099-COMM SPL		37.55DB	58.99

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 03/05/2009 =

Doc No: 41863 Name: AMBOH, JASON CHARLES
 Account: CHK Status: ACTIVE

SICI/NORTH PRES FACIL
 TIER-D CELL-1

Transaction Dates: 03/05/2008-03/05/2009

Beginning Balance 146.70	Total Charges 3162.90	Total Payments 3220.63	Current Balance 204.43
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===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
06/19/2008	SI0421600-141	099-COMM SPL		17.40DB	41.59
06/23/2008	II0421971-027	072-METER MAIL	75926	0.59DB	41.00
06/26/2008	SI0422324-129	099-COMM SPL		6.80DB	34.20
06/26/2008	SI0422324-130	099-COMM SPL		30.18DB	4.02
07/09/2008	HQ0423791-015	011-RCPT MO/CC	MAIL	175.00	179.02
07/10/2008	SI0423931-183	099-COMM SPL		46.62DB	132.40
07/10/2008	SI0423931-184	099-COMM SPL		41.44DB	90.96
07/17/2008	SI0424683-164	099-COMM SPL		10.20DB	80.76
07/17/2008	SI0424683-165	099-COMM SPL		27.97DB	52.79
07/24/2008	SI0425380-158	099-COMM SPL		20.17DB	32.62
07/24/2008	II0425476-013	072-METER MAIL	76306	0.42DB	32.20
07/29/2008	II0425877-015	072-METER MAIL	76307	0.42DB	31.78
07/31/2008	SI0426237-159	099-COMM SPL		23.20DB	8.58
07/31/2008	HQ0426371-010	011-RCPT MO/CC	RCPT/MO	300.00	308.58
08/07/2008	SI0427338-166	099-COMM SPL		53.45DB	255.13
08/07/2008	SI0427338-167	099-COMM SPL		236.56DB	18.57
08/11/2008	HQ0427609-019	011-RCPT MO/CC	MAIL	175.00	193.57
08/14/2008	SI0428208-136	099-COMM SPL		27.51DB	166.06
08/14/2008	SI0428208-137	099-COMM SPL		20.40DB	145.66
08/20/2008	SI0428820-009	071-MED CO-PAY	192361	3.00DB	142.66
08/21/2008	SI0428936-129	099-COMM SPL		26.32DB	116.34
08/28/2008	SI0429695-112	099-COMM SPL		45.79DB	70.55
08/29/2008	II0429935-010	072-METER MAIL	HQ75168	2.53DB	68.02
09/04/2008	SI0430328-134	099-COMM SPL		40.87DB	27.15
09/04/2008	SI0430328-135	099-COMM SPL		10.20DB	16.95
09/04/2008	HQ0430515-011	011-RCPT MO/CC	RCTP/CHK	425.00	441.95
09/11/2008	SI0431471-151	099-COMM SPL		32.65DB	409.30
09/11/2008	SI0431471-152	099-COMM SPL		48.09DB	361.21
09/11/2008	SI0431508-013	071-MED CO-PAY	237539	3.00DB	358.21
09/11/2008	SI0431552-006	071-MED CO-PAY	237538	3.00DB	355.21
09/12/2008	HQ0431632-017	061-CK INMATE	75191	80.35DB	274.86
09/12/2008	HQ0431632-018	061-CK INMATE	75192	26.00DB	248.86
09/18/2008	SI0432155-136	099-COMM SPL		12.72DB	236.14
09/18/2008	SI0432155-137	099-COMM SPL		44.92DB	191.22
09/25/2008	SI0432769-123	099-COMM SPL		39.06DB	152.16
10/02/2008	SI0433570-128	099-COMM SPL		30.60DB	121.56
10/02/2008	SI0433570-129	099-COMM SPL		48.93DB	72.63
10/09/2008	SI0434656-161	099-COMM SPL		37.34DB	35.29
10/10/2008	HQ0434822-004	061-CK INMATE	75810	16.90DB	18.39

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 03/05/2009 =

Doc No: 41863 Name: AMBOH, JASON CHARLES
 Account: CHK Status: ACTIVE

SICI/NORTH PRES FACIL
 TIER-D CELL-1

Transaction Dates: 03/05/2008-03/05/2009

Beginning Balance	Total Charges	Total Payments	Current Balance
146.70	3162.90	3220.63	204.43

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
10/14/2008	II0435005-076	072-METER MAIL	HQ75166	1.00DB	17.39
10/16/2008	SI0435232-145	099-COMM SPL		15.86DB	1.53
10/20/2008	HQ0435680-025	011-RCPT MO/CC	RCPT/MO	100.00	101.53
10/23/2008	SI0436117-120	099-COMM SPL		23.33DB	78.20
10/28/2008	II0436540-026	072-METER MAIL	74484	0.42DB	77.78
10/29/2008	HQ0436793-013	061-CK INMATE	76470	43.68DB	34.10
10/30/2008	SI0436856-110	099-COMM SPL		3.40DB	30.70
10/30/2008	SI0436856-111	099-COMM SPL		28.60DB	2.10
11/06/2008	SI0437768-134	099-COMM SPL		1.98DB	0.12
11/06/2008	HQ0437862-013	011-RCPT MO/CC	RCPT MO	225.00	225.12
11/10/2008	SI0438174-003	100-CR INM CMM		1.98	227.10
11/13/2008	SI0438447-146	099-COMM SPL		54.53DB	172.57
11/13/2008	SI0438447-147	099-COMM SPL		39.45DB	133.12
11/14/2008	SI0438672-033	071-MED CO-PAY	238104	5.00DB	128.12
11/18/2008	II0438945-031	072-METER MAIL	75365	0.42DB	127.70
11/19/2008	II0439091-027	072-METER MAIL	75863	1.34DB	126.36
11/20/2008	SI0439168-116	099-COMM SPL		34.32DB	92.04
11/20/2008	SI0439347-005	071-MED CO-PAY	238131	5.00DB	87.04
11/25/2008	SI0439668-091	099-COMM SPL		10.20DB	76.84
11/25/2008	SI0439668-092	099-COMM SPL		46.00DB	30.84
12/04/2008	SI0440632-150	099-COMM SPL		27.47DB	3.37
12/08/2008	HQ0441207-022	011-RCPT MO/CC	RCPT/MO	400.00	403.37
12/11/2008	SI0441688-145	099-COMM SPL		69.90DB	333.47
12/11/2008	SI0441688-146	099-COMM SPL		117.12DB	216.35
12/18/2008	SI0442490-125	099-COMM SPL		63.73DB	152.62
12/18/2008	SI0442490-126	099-COMM SPL		10.20DB	142.42
12/22/2008	II0442704-016	072-METER MAIL	75314	0.42DB	142.00
12/23/2008	SI0442794-093	099-COMM SPL		55.00DB	87.00
12/23/2008	SI0442794-094	099-COMM SPL		10.20DB	76.80
12/23/2008	HQ0442879-011	011-RCPT MO/CC	RCPT MO	125.00	201.80
12/24/2008	HQ0443037-009	061-CK INMATE	75366	43.59DB	158.21
12/29/2008	II0443261-021	072-METER MAIL	75404	0.59DB	157.62
12/30/2008	SI0443435-121	099-COMM SPL		47.12DB	110.50
12/30/2008	SI0443435-122	099-COMM SPL		20.40DB	90.10
01/06/2009	HQ0444546-010	011-RCPT MO/CC	RCPT MO	175.00	265.10
01/08/2009	SI0444835-168	099-COMM SPL		52.23DB	212.87
01/08/2009	SI0444835-169	099-COMM SPL		27.96DB	184.91
01/12/2009	SI0445236-022	100-CR INM CMM		2.65	187.56
01/15/2009	SI0445666-133	099-COMM SPL		34.69DB	152.87

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 03/05/2009 =

Doc No: 41863 Name: AMBOH, JASON CHARLES
 Account: CHK Status: ACTIVE

SICI/NORTH PRES FACIL
 TIER-D CELL-1

Transaction Dates: 03/05/2008-03/05/2009

Beginning Balance	Total Charges	Total Payments	Current Balance
146.70	3162.90	3220.63	204.43

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
01/21/2009	HQ0446134-011	061-CK INMATE	75403	22.45DB	130.42
01/22/2009	SI0446199-102	099-COMM SPL		29.60DB	100.82
01/22/2009	SI0446199-103	099-COMM SPL		20.40DB	80.42
01/29/2009	SI0447003-104	099-COMM SPL		60.00DB	20.42
01/29/2009	SI0447003-105	099-COMM SPL		10.20DB	10.22
02/05/2009	SI0447804-097	099-COMM SPL		4.24DB	5.98
02/05/2009	HQ0447881-015	011-RCPT MO/CC	RCPT/MO	200.00	205.98
02/06/2009	HQ0448058-011	011-RCPT MO/CC	RCPT/MO	100.00	305.98
02/12/2009	SI0448677-127	099-COMM SPL		56.15DB	249.83
02/12/2009	SI0448677-128	099-COMM SPL		46.30DB	203.53
02/13/2009	HQ0448796-007	061-CK INMATE	73019	21.75DB	181.78
02/18/2009	HQ0449104-003	061-CK INMATE	80113	70.83DB	110.95
02/19/2009	SI0449244-117	099-COMM SPL		43.56DB	67.39
02/25/2009	II0449886-003	072-METER MAIL	77547	4.95DB	62.44
02/26/2009	SI0449983-087	099-COMM SPL		24.69DB	37.75
02/26/2009	SI0449983-088	099-COMM SPL		2.01DB	35.74
03/05/2009	SI0450904-135	099-COMM SPL		31.31DB	4.43
03/05/2009	HQ0451003-004	011-RCPT MO/CC	RCPT/MO	200.00	204.43

I hereby certify that these records are true and correct copies of official records or reports or entries therein of the Idaho Department of Correction

Dated: 3/5/09

Signature: John M. Hinkley



STATE OF IDAHO
OFFICE OF THE STATE APPELLATE PUBLIC DEFENDER

March 4, 2009

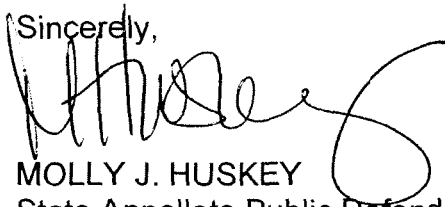
Jason Charles Amboh
INMATE # 41863
SICI
P.O. Box 8509
Boise ID 83707

RE: Docket No. 34504

Dear Mr. Amboh:

Following our telephone conversation, I had your file pulled from archives. Because your Notice of Appeal was not timely filed, the Supreme Court dismissed your Appeal on September 25, 2007. As no letter was sent, I have attached copies of all relevant documents.

If you have any questions, please don't hesitate to call.

Sincerely,

MOLLY J. HUSKEY
State Appellate Public Defender

FILED CU 2009-77
FILED 3-11 20 09
CHRISTINE STEINLICHT

Inmate name Jason Ambok
IDOC No. 41863
Address P.O. Box 8509
Boise, Id 83707

BY L. Amner CLERK
DEPUTY

Petitioner

IN THE DISTRICT COURT OF THE Sixth JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Power

Jason Charles Ambok,)
)
Petitioner,)
)
vs.)
)
State of Idaho,)
)
Respondent.)

CU 2009-77
Case No. CR-06-1713
**MOTION AND AFFIDAVIT IN
SUPPORT FOR
APPOINTMENT OF
COUNSEL**

COMES NOW, Jason Charles Ambok, Petitioner in the above
entitled matter and moves this Honorable Court to grant Petitioner's Motion for Appointment of
Counsel for the reasons more fully set forth herein and in the Affidavit in Support of Motion for
Appointment of Counsel.

1. Petitioner is currently incarcerated within the Idaho Department of Corrections
under the direct care, custody and control of Warden Randy Blades,
of the Southern Idaho Correctional Institute.
2. The issues to be presented in this case may become to complex for the Petitioner
to properly pursue. Petitioner lacks the knowledge and skill needed to represent him/herself.
3. Petitioner/Respondent required assistance completing these pleadings, as he/she
was unable to do it him/herself.

4. Other: NA

DATED this 28 day of February, 2009.

Jason Ambok
Petitioner

AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL

STATE OF IDAHO)
) ss
County of Ada)

Jason Charles Ambok, after first being duly sworn upon his her oath, deposes and says as follows:

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the Southern Idaho Correctional Institute under the care, custody and control of Warden Randy Blades;
3. I am indigent and do not have any funds to hire private counsel;
4. I am without bank accounts, stocks, bonds, real estate or any other form of real property;
5. I am unable to provide any other form of security;
6. I am untrained in the law;
7. If I am forced to proceed without counsel being appointed I will be unfairly handicapped in competing with trained and competent counsel of the State;

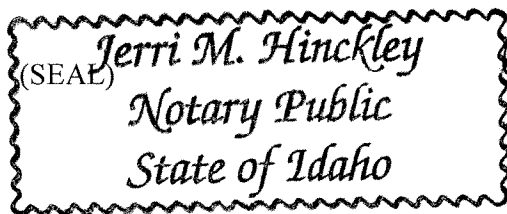
Further your affiant sayeth naught.

WHEREFORE, Petitioner respectfully prays that this Honorable Court issue its Order granting Petitioner's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Petitioner is entitled to.

DATED This 5 day of March, 2009.

Jason Anshok
Petitioner

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 5 day of March, 2009.



Jerri M. Hinckley
Notary Public for Idaho
Commission expires: 8/31/2011

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 28 day of February, 2009, I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

Power County Prosecuting Attorney
Paul S. Laggis
American Falls, Id 83211-0419

Jason Amloh
Petitioner

CASE NO. CV 2009-077
FILED 3-11 2009
CHRISTINE STEINLICHT

Jason Charles Ambok
Full Name of Party Filing This Document
P.O. Box 8509
Mailing Address (Street or Post Office Box)
Boise, Idaho 83707
City, State and Zip Code
NA
Telephone Number

BY L. Ammer CLERK
DEPUTY

IN THE DISTRICT COURT OF THE Sixth JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Power

Case No.: CV 2009-077
CR-06-1713

Jason Charles Ambok
Plaintiff,
vs.
State of Idaho
Defendant.

MOTION AND AFFIDAVIT FOR
PERMISSION TO PROCEED ON PARTIAL
PAYMENT OF COURT FEES (PRISONER)

IMPORTANT NOTICE: Idaho Code § 31-3220A requires that you serve upon counsel for the county sheriff, the department of correction or the private correctional facility, whichever may apply, a copy of this motion and affidavit and any other documents filed in connection with this request. You must file proof of such service with the court when you file this document.

STATE OF IDAHO)
County of Alda) ss.

Plaintiff Defendant asks to start or defend this case on partial payment of court fees, and swears under oath

1. This is an action for (type of case) Criminal. I believe I'm entitled to get what I am asking for.

2. I have not previously brought this claim against the same party or a claim based on the same operative facts in any state or federal court. I have filed this claim against the same party or a claim based on the same operative facts in a state or federal court.

3. I am unable to pay all the court costs now. I have attached to this affidavit a current statement of my inmate account, certified by a custodian of inmate accounts, that reflects the activity of the account over my period of incarceration or for the last twelve (12) months, whichever is less.

4. I understand I will be required to pay an initial partial filing fee in the amount of 20% of the greater of: (a) the average monthly deposits to my inmate account or (b) the average monthly balance in my inmate account for the last six (6) months. I also understand that I must pay the remainder of the filing fee by making monthly payments of 20% of the preceding month's income in my inmate account until the fee is paid in full.

5. I verify that the statements made in this affidavit are true. I understand that a false statement in this affidavit is perjury and I could be sent to prison for an additional fourteen (14) years.

Do not leave any items blank. If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.

IDENTIFICATION AND RESIDENCE:

Name: Jason Charles Amboh Other name(s) I have used: NA

Address: 5101 P.O. Box 8509 Boise, Idaho, 83707

How long at that address? 14 months Phone: NA

Date and place of birth: 8-4-74 Pocatello, Idaho

DEPENDENTS:

I am single married. If married, you must provide the following information:

Name of spouse: NA

My other dependents (including minor children) are: NA

INCOME:

Amount of my income: \$ 0 per [] week [] month

Other than my inmate account I have outside money from: NA

My spouse's income: \$ NA per [] week [] month.

ASSETS:

List all real property (land and buildings) owned or being purchased by you.

Your Address	City	State	Legal Description	Value	Equity
<u>NA</u>					

List all other property owned by you and state its value.

Description (provide description for each item)	Value
Cash	<u>NA</u>
Notes and Receivables	<u>NA</u>
Vehicles:	<u>NA</u>
Bank/Credit Union/Savings/Checking Accounts	<u>NA</u>
Stocks/Bonds/Investments/Certificates of Deposit	<u>NA</u>
Trust Funds	<u>NA</u>
Retirement Accounts/IRAs/401(k)s	<u>NA</u>
Cash Value Insurance	<u>NA</u>
Motorcycles/Boats/RVs/Snowmobiles:	<u>NA</u>
Furniture/Appliances	<u>NA</u>
Jewelry/Antiques/Collectibles	<u>NA</u>

Description (provide description for each item)

Value

TVs/Stereos/Computers/Electronics

NA

Tools/Equipment

NA

Sporting Goods/Guns

NA

Horses/Livestock/Tack

NA

Other (describe)

NA

EXPENSES: List all of your monthly expenses.

Expense

**Average
Monthly Payment**

Rent/House Payment

NA

Vehicle Payment(s)

NA

Credit Cards: (list each account number)

NA

Loans: (name of lender and reason for loan)

NA

Electricity/Natural Gas

NA

Water/Sewer/Trash

NA

Phone

NA

Groceries

NA

Clothing

NA

Auto Fuel

NA

Auto Maintenance

NA

Cosmetics/Haircuts/Salons

NA

Entertainment/Books/Magazines

NA

Home Insurance

NA

MOTION AND AFFIDAVIT FOR PERMISSION TO
PROCEED ON PARTIAL PAYMENT OF COURT FEES
(PRISONER)
CAO 1-10C 2/25/2005

PAGE 4

Expense	Average Monthly Payment
Auto Insurance	NA
Life Insurance	NA
Medical Insurance	NA
Medical Expense	NA
Other	NA

MISCELLANEOUS:

How much can you borrow? \$ NA From whom? NA
 When did you file your last income tax return? NA Amount of refund: \$ NA

PERSONAL REFERENCES: (These persons must be able to verify information provided)

Name	Address	Phone	Years Known
William Ambok	Rte 2N Box 65 E	(208) 238-3351	35 years
Scott AA Ambok	Fort Hall, Idaho	(208) 637-0231	32 years

Jason Ambok
 Signature
Jason Ambok
 Typed or Printed Name

2009 SUBSCRIBED AND SWORN TO before me this 5th day of March.

Terri M. Hinckley
 Notary Public
 State of Idaho
Terri M. Hinckley
 Notary Public for Idaho
 Residing at Boise, ID
 My Commission expires 8/31/2011

Jason Charles Amboh
Full Name of Party Submitting This Document
P.O. Box 8509 SIC1
Mailing Address (Street or Post Office Box)
Boise, Idaho 83707
City, State and Zip Code
NA
Telephone Number

CASE NO. CV 2009.77
FILED 3-16 20 09
CHRISTINE STEINLICHT
BY L. Ammer CLERK
DEPUTY

IN THE DISTRICT COURT OF THE Sixth JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Power

Jason Charles Amboh,
Plaintiff,
vs.
State of Idaho,
Defendant.

Case No.: CV 2009-077
CR-06-1713

ORDER RE: PARTIAL PAYMENT OF
COURT FEES (PRISONER)

Having reviewed the [] Plaintiff's [] Defendant's Motion and Affidavit for Partial Payment of Court Fees,

THIS COURT FINDS AND ORDERS:

[] The average monthly deposits in the prisoner's inmate account total \$ _____, the average monthly balance in the prisoner's inmate account during the last six months has been \$ _____; 20% of the greater of these amounts is \$ _____ and must be paid as a partial initial fee at the time of filing. The prisoner shall make monthly payments of not less than 20% of the preceding month's income credited to the prisoner's inmate account until the remainder of the court filing fees in the amount of \$ _____ are paid in full. The agency or entity having custody of the prisoner shall forward payments from the prisoner's inmate account to the clerk of the court each time the amount in the prisoner's inmate account exceeds ten dollars (\$10.00) until the full amount is paid

or The prisoner has no assets and need not pay any fee at this time. The prisoner shall make monthly payments of not less than 20% of the preceding month's income credited to the prisoner's inmate account until the court filing fees in the amount of \$ NA are paid in


full. The agency or entity having custody of the prisoner shall forward payments from the prisoner's inmate account to the clerk of the court each time the amount in the prisoner's inmate account exceeds ten dollars (\$10.00) until the full amount is paid.

or THIS COURT DENIES the motion because

the prisoner did not comply with all the requirements of Idaho Code §31-3220A, or

the Court finds the prisoner has the ability to pay the full filing fee at this time.

Date: 3-12-09


Judge

CLERK'S CERTIFICATE OF SERVICE

I certify that a copy was served:

To Prisoner:

Name: Jason Ambush #41863

Hand-delivery

Address: PO Box 8509, SIC

Mailing

City, State, Zip: Boise, Id 83707

Fax to (number) _____

To counsel for the county sheriff the department of correction or the private correctional facility:

Name: _____

Hand-delivery

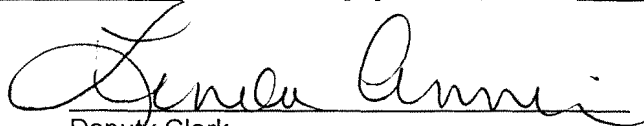
Address: _____

Mailing

City, State, Zip: _____

Fax to (number) _____

Date: 3-16-09


Deputy Clerk

Inmate name Jason Amboh
IDOC No. 41863
Address P.O. Box 8509 SIC1
Boise, Idaho 83707

CASE NO. CV 2009.77
FILED 3-16 20 09
BY Lanner DEPUTY

IN THE DISTRICT COURT OF THE Sixth JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Power

Jason Charles Amboh,)
)
Petitioner,)
)
vs.)
)
State of Idaho,)
)
Respondent.)

CV 2009.77
Case No. CR-06-1713
**ORDER GRANTING
MOTION FOR
APPOINTMENT
OF COUNSEL**

IT IS HEARBY ORDERED that the Petitioner's Motion for Appointment of Counsel is granted and Scott Heide (attorney's name), a duly licensed attorney in the State of Idaho, is hereby appointed to represent said defendant in all proceedings involving the post conviction petition.

DATED this 12 day of March, 2009

Candace M. O'Connell
District Judge

cc: Prosecuting Attorney
Scott Heide, Conflict Public Defender
Jason Amboh, P.O. Box 8509, Boise ID 83707
#41683

Power County Courthouse, on **Thursday, April 10, 2009, at 11:00 a.m.** At said time this Court will decide whether to grant or deny an evidentiary hearing or whether to grant or dismiss said Petition.

IT IS SO ORDERED.

DATED this 12th day of March, 2009.



PETER C. McDERMOTT
District Judge

cc:
Prosecuting Attorney
Scott Heide, Esq.
Jason Charles Amboh
P.O. Box 8509, SICI
Boise ID 83707

D. SCOTT HEIDE
P.O. Box 4964
Pocatello, Idaho 83205-4964
Phone: (208) 241-5087
Fax (208) 233-1126
ISH #6665

CASE NO. CV 2009.77
FILED 4-6 20 09
CHRISTINE STEINLICHT

BY L. Ammer CLERK
DEPUTY

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER**

JASON CHARLES AMBOH,

Petitioner,

v.

STATE OF IDAHO,

Respondent.

Case No. CV-2009-0077
CR-2006-1713

STIPULATION TO CONTINUE

COMES NOW the Petitioner, Jason Charles Amboh, by and through his Counsel of Record, D. Scott Heide, and the State, by and through Counsel, F. Randall Kline, hereby stipulate and agree to continuing the Oral Argument in the above and entitled matter scheduled for Thursday, 09 April 2009 at 11:00 a.m. for the reason that D. Scott Heide, Attorney for the above Petitioner, has repeatedly attempted to set a telephone conversation with the Inmate and has had no response from Legal Assistance Dept. at Idaho Department of Correction. This Stipulation is made in the interests of justice and not for unreasonable delay.

DATED this 5th day of April 2009.

F. Randall Kline
F. RANDALL KLINE

D. Scott Heide
D. SCOTT HEIDE

D. SCOTT HEIDE
P.O. Box 4964
Pocatello, Idaho 83205
(208) 241-5087

ISB #6665
Attorney for the Petitioner

CASE NO. CV2009-77
FILED 4-6 2009
CHRISTINE STEINLICHT

BY L. Annen CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)
)
Petitioner,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)

CASE NO. CV-2009-0077
CR-2006-1713

ORDER

BASED UPON, the Stipulation of the Parties to Continue, and for good cause appearing,
IT IS HEREBY ORDERED that the Oral Argument in the above and entitled matter be
continued and is rescheduled for the 14th day of May, 2009 at 11:00 a.m. or as soon thereafter as
the parties may be heard.

IT IS SO ORDERED.

DATED this 6th day of April, 2009.

Peter C. McDermott

PETER C. McDERMOTT
District Judge

cc: F. Randall Kline
D. Scott Heide
Jason Charles Amboh

F. RANDALL KLINE

**Prosecuting Attorney
Power County, Idaho**

543 Bannock Ave
American Falls, Idaho 83211-0419
Phone: (208) 226-1230
Fax: (208) 226-7612

e-mail: rkline@co.power.id.us

CASE NO. CV 2009-77
FILED 5-14 20 09
CHRISTINE STEINLICHT

BY L. Ammer CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)	
	)	Case No. CR 2009-0077
Plaintiff,)	
)	
vs.)	
	)	OBJECTION
STATE OF IDAHO,)	
)	
Defendant.)	
_____)	

COMES NOW, F. RANDALL KLINE, Prosecuting Attorney for Power County, State of Idaho, and does Object to the Defendant's Petition and Affidavit for Post Conviction Relief.

DATED this 12 day of ^{May} ~~April~~, 2009.
F. Randall Kline
F. RANDALL KLINE
Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on this 14th day of ~~April~~^{May}, 2009, I caused to be served a true and correct copy of the foregoing OBJECTION by the method indicated below, and addressed to the following.

Scott Heide, Esq.

Attorney at Law

PO Box 4964

Pocatello, ID 83205

() U.S. Mail Hand Mail () Overnight Mail () Fax



Sandra Bowman

F. RANDALL KLINE

Prosecuting Attorney
Power County, Idaho
543 Bannock Ave
American Falls, Idaho 83211-0419
Phone: (208) 226-1230
Fax: (208) 226-7612
e-mail: rkline@co.power.id.us

CASE NO. CV 2009-77
FILED 5-14 20 09
CHRISTINE STEINLICHT

BY L. Ammer CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)	
	)	Case No. CV 2009-0077
Petitioner,)	
vs.)	
	)	MOTION FOR SUMMARY
STATE OF IDAHO,	)	DISPOSITION
)	
Respondent.)	

COMES NOW, the State of Idaho, by and through F. RANDALL KLINE, and does hereby move for summary disposition of JASON CHARLES AMBOH'S petition for post-conviction relief pursuant to Idaho Code §19-4906(C) on the general basis that, in light of the pleadings, answers, admissions, and the record of the underlying criminal case, the petition fails to raise a genuine issue of material fact.

JASON CHARLES AMBOH'S ineffective assistance of counsel claims fail to raise a genuine issue of material fact regarding both deficient performance and resulting prejudice.

JASON CHARLES AMBOH'S newly discovered evidence claim fails to meet the criteria of I.C.R. 34, Idaho Code §19-2406, and the four part test set forth in State v. Drapeau, 97 Idaho 685, 551 P.2d 972 (1976).

JASON CHARLES AMBOH'S "Brady" claim fails to meet the requirements of Brady v. Maryland, 373 U.S. 83 (1963) and its progeny, i.e., fails to establish a genuine issue of material fact regarding favorable evidence that was exculpatory or impeaching, suppressed by the state willfully or inadvertently, and with resulting prejudice.

The specific grounds for dismissal of each of JASON CHARLES AMBOH'S allegations are as set forth in the Brief in Support of the State's Motion for Summary Disposition. The Brief in Support is incorporated herein.

DATED this 12 day of ~~April~~^{May} 2009.


F. RANDALL KLINE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14 day of ~~April~~^{May} 2009, I caused a true and correct copy of the foregoing MOTION FOR SUMMARY DISPOSITION to be placed in the United States mail, postage prepaid, addressed to:

D. Scott Heide
PO Box 4964
Pocatello, ID 83205


F. RANDALL KLINE

F. RANDALL KLINE

**Prosecuting Attorney
Power County, Idaho**

543 Bannock Ave
American Falls, Idaho 83211-0419
Phone: (208) 226-1230
Fax: (208) 226-7612

e-mail: rkline@co.power.id.us

CASE NO. _____
FILED 5-14 20 09
CHRISTINE STEINLICHT

BY J. Amm CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)	
	)	Case No. CV 2009-0077
Plaintiff,)	
vs.)	
	)	ANSWER
STATE OF IDAHO,)	
)	
Defendant.)	
_____)	

COMES NOW, the State of Idaho, by and through F. RANDALL KLINE, Prosecuting Attorney for Power County, and does hereby answer JASON CHARLES AMBOH petition for post-conviction relief in the above-entitled action as follows:

I.
GENERAL RESPONSES TO PETITIONER'S POST-CONVICION ALLEGATIONS

All allegations made by JASON CHARLES AMBOH are denied by the State unless specifically admitted herein.

II.
SPECIFIC ANSWERS TO PETITIONER'S POST-CONVICION ALLEGATIONS

1. Answering paragraphs 1 through 5 of JASON CHARLES AMBOH'S Petition for Post-Conviction Relief, Respondent admits the allegations contained herein.
2. Answering paragraph 6, asserting appeal was taken, the State denies that the case was appealed, however a Rule 35 motion was filed and denied.
3. Answering paragraph 7 and its parts, the State denied the conclusory allegations.
 - 7a. Ineffective assistance of Council; coercion predicated upon promises that were unfulfilled.
 - 7b. Ineffective assistance of Council at trial

- sentencing.
4. Answering paragraph 8, the State admits a Rule 35 motion was filed, the balance of 8 is denied.
 5. Answering paragraph 9, the State denies the allegations.
 6. Answering paragraph 10 through 13, the same are denied.

FIRST AFFIRMATIVE DEFENSE

JASON CHARLES AMBOH, petition fails to state any grounds upon which relief can be granted. Idaho Code §19-4901(a); I.R.C.P. 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

To the extent JASON CHARLES AMBOH claims should have been raised on direct appeal, the claims are procedurally defaulted. Idaho Code §19-4901(b).

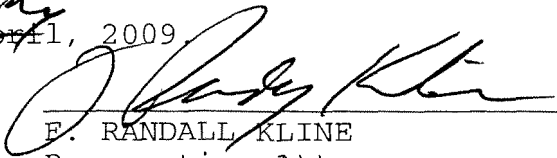
THIRD AFFIRMATIVE DEFENSE

JASON CHARLES AMBOH'S Petition for Post-Conviction Relief contains bare and conclusory allegations unsubstantiated by adequate affidavits, records, or other admissible evidence, and therefore fails to raise a genuine issue of material fact. Idaho Code §19-4902(a), §19-4903, and §19-4906.

WHEREFORE, Respondent prays of relief as follows:

- a) That JASON CHARLES AMBOH'S claims for post-conviction relief be denied;
- b) That JASON CHARLES AMBOH'S claims for post-conviction relief be summarily dismissed;
- c) For such other and further relief as the court deems necessary in the case.

DATED this 12 day of ^{my} ~~April~~, 2009.



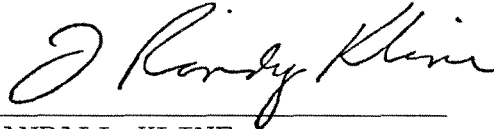
E. RANDALL KLINE
Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on this 14 day of ^{may}~~April~~, 2009, I caused to be served a true and correct copy of the foregoing ANSWER by the method indicated below, and addressed to the following.

Scott Heide, Esq.
Attorney at Law
PO Box 4964
Pocatello, ID 83205

() U.S. Mail () Hand Mail () Overnight Mail () Fax



F. RANDALL KLINE

F. RANDALL KLINE

Prosecuting Attorney

Power County, Idaho

543 Bannock Ave

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CASE NO. CV 2009.77
FILED 5-14 20 09
CHRISTINE STEINLICHT

BY L. Ammer CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)	
	)	Case No. CV 2009-0077
Petitioner,)	
vs.	)	BRIEF IN SUPPORT OF
	)	MOTION FOR SUMMARY
STATE OF IDAHO,	)	DISPOSITION
)	
Respondent.)	
_____)	

COMES NOW, the State of Idaho, by and through F. RANDALL KLINE, and does hereby move for summary disposition of JASON CHARLES AMBOH'S petition for post-conviction relief pursuant to Idaho Code §19-4906(C).

I.
Factual And Procedural History

On March 5, 2009, JASON CHARLES AMBOH filed the instant petition for post-conviction relief. The state filed an answer on May 14, 2009 and a motion to take judicial notice of the record, transcripts, and exhibits in the underlying criminal case. Presently, the state has filed a motion for summary disposition and this brief in support of the state's motion for summary disposition.

II.
Applicable Legal Standards

A. General Standards

An application for post-conviction relief initiates a proceeding which is civil in nature. State v. bearshield, 104 Idaho 676, 678, 662 P.2d 548, 550 (1983); Clark v. State, 92 Idaho 827, 830, 452 P.2d 54, 57 (1969); Murray v. State, 121 Idaho 918 921, 828 P.2d 1323, 1326 (Ct. App.1992). An application for post-conviction relief differs from a complaint in an ordinary civil action, however, an application must contain much more than "a short and plain statement of the claim: that would suffice for a complaint under I.R.C.P. 8(a)(1). Martinez v. State, 126 Idaho 813, 816, 892 P.2d 488, 491 (Ct. App. 1995). Rather, an application for post-conviction relief must be verified with respect to facts within the personal knowledge of the applicant, and affidavits, records or other evidence supporting its allegations must be attached, or the application must state why such supporting evidence is not included with the application. I.C. §19-4903. Like a plaintiff in a civil action, the applicant must prove by a preponderance of evidence the allegations upon which the request for post-conviction relief is based. I.C. § 19-4907; Russell v. State, 118 Idaho 65, 67, 794 P.2d 654, 656 (Ct. App. 1990).

The post-conviction petitioner must make factual allegations showing each essential element of the claim, and a showing of admissible evidence must support those factual allegations. Roman v. State, 125 Idaho 644, 647, 873 P.2d 898, 901 (Ct. App. 1994); Drapeau v. State, 103 Idaho 612, 617, 651, P.2d 546, 651 (Ct. App. 1982); Stone v. State, 108 Idaho 822, 824, 702 P.2d 860, 862 (Ct. App. 1985). The district court may take judicial notice of the record of the underlying criminal case. Hays v. State, 113 Idaho 736, 739, 745 P.2d 758, 761 (ct. App. 1987), *aff'd* 115 Idaho 312, 766 P.2d 785 (1988), *overruled on other grounds* State v. Guzman, 122 Idaho 981, 842 P.2d 660 (1992).

B. Legal Standards Applicable to BRADY AMOS' Burden Of Making Out A Prima Facie Case Of Ineffective Assistance of Counsel

To prevail on an ineffective assistance of counsel claim, the defendant must demonstrate both that (a) his counsel's performance fell below an objective standard of reasonableness and (b) there is a reasonable probability that, but for counsel's

errors, the result of the proceedings would be different. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); LaBelle V. State, 130 Idaho 115, 118, 937 P.2d 427, 430 (Ct. App. 1997). "Because of the distorting effects of hindsight in reconstructing the circumstances of counsel's challenged conduct, there is a strong presumption that counsel's performance was within the side range of reasonable professional assistance - that is, 'sound trial strategy.'" Davis v. State, 116 Idaho 401, 406, 775 P.2d 1243, 1248 (Ct. App. 1989) (quoting Strickland, 466 U.S. at 689-90); Aragon v. State, 114 Idaho 758, 760, 760 P.2d 1174, 1176 (1988). A petitioner must overcome a strong presumption that counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment" to establish that counsel's performance was "outside the wide range of professionally competent assistance." Claibourne v. Lewis, 64 F.3d 1272, 1377 (9th Cir. 1995) (quoting, Strickland, 466 U.S. at 690).

Thus, the first element - deficient performance - "requires a showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. At 687, 104 S. Ct. at 2064, 80 L. Ed. 2d at 693. The second element - prejudice - requires a showing that counsel's deficient performance actually had an adverse effect on his defense; i.e., but for counsel's deficient performance, there was a reasonable probability the outcome of the trial would have been different. Strickland, 466 U.S. at 693; Cowger v. State, 132 Idaho 681, 685, 978 P.2d 241, 244 (Ct. App. 1999). Regarding the second element, BRADY AMOS has the burden of showing that his trial counsels' deficient conduct "so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland, 466 U.S. at 686; Ivey v. State, 123 Idaho 77, 80, 844 P.2d 706, 709 (1992).

As explained in Ivey v. State, 123 Idaho 77, 80, 844 P.2d 706, 709 (1992), "The constitutional requirement for effective assistance of counsel is not the key to the prison for a defendant who can dredge up a long series of examples of how the case might have been tried better."

C. Legal Standards Applicable To Summary Disposition Under Idaho Code § 19-4906(c)

Idaho Code Section 19-4906(c) authorizes summary disposition of an application for post-conviction relief. Summary disposition of an application pursuant to I.C. § 19-4906 is the procedural equivalent of summary judgment under I.R.C.P. 56.

State v. LePage, 138 Idaho 803, 806, 69 P.3d 1064, 1067 (Ct. App. 2003). I.C. § 19-4906 (c) provides:

The court may grant a motion by either party for summary disposition of the application when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

Summary disposition is permissible only when the applicant's evidence has raised no genuine issue of material fact, which, if resolved in the applicant's favor, would entitle the applicant to the requested relief. If such a genuine issue of material fact is presented, an evidentiary hearing must be conducted. Gonzales v. State, 120 Idaho 759, 763, 819 P.2d 1159, 1163 (Ct. App. 1991); Hoover v. State, 114 Idaho 145, 146, 754 P.2d 458, 459 (Ct. App. 1988); Ramirez v. State, 113 Idaho 87, 89, 741 P.2d 374, 376 (Ct. App. 1987).

Conversely, the "application must present or be accompanied by admissible evidence supporting its allegations, or the application will be subject to disposition." Goodwin v. State, 138 Idaho 269, 272, 61 P.3d at 1068 (citing Roman 125 Idaho at 647, 873 P.2d at 901). Follinus v. State, 127 Idaho 897, 908 P.2d 590 (Ct. App. 1995) (Follinus's claim that his attorney had been ineffective in failing to obtain a Franks hearing at the suppression hearing); Stone v. State, 108 Idaho 822, 826, 702 P.2d 860, 864 (Ct. App. 1985) (record of extradition proceedings disproved applicant's claim that he was denied right to counsel in those proceedings). Allegations are insufficient for the grant of relief when they do not justify relief as a matter of law. Stuart v. State, 118 Idaho 865, 869, 801 P.2d 1216, 1220 (1990); Cooper v. State, 96 Idaho 542, 545, 531 P.2d 1187, 1190 (1975); Remington v. State, 127 Idaho 443, 446-47 901 P.2d 1344, 1347-48 (Ct. App. 1995); Dunlap v. State, 126 Idaho 901, 906, 894 P.2d 134, 139 (Ct. App. 1995) (police affidavit was sufficient to support issuance of search warrant, and defense attorney therefore was not deficient in failing to move to suppress evidence on the ground that warrant was illegally issued).

Bare or conclusory allegations, unsubstantiated by any fact, are inadequate to entitle a petitioner to an evidentiary hearing. Roman, 125 Idaho at 647, 873 P.2d at 901; Baruth v. Gardner, 110 Idaho 156, 159, 715 P.2d 369, 372 (Ct. App. 1986); Stone, 108 Idaho at 826, 702 P.2d at 864. If a petitioner fails to present evidence establishing an essential element on

which he bears the burden of proof, summary disposition is appropriate. Mata v. State, 124 Idaho 588, 592, 861 P.2d 1253, 1257 (Ct. App. 1993). Where petitioner's affidavits are based upon hearsay rather than personal knowledge, summary disposition without an evidentiary hearing is appropriate. Ivey v. State, 123 Idaho 77, 844 P.2d 706 (1993).

D. Standard Of Review Applied By The Appellant Court

Summary disposition under Idaho Code §19-4906(b) is the equivalent of summary judgment under I.R.C.P. 56. Ramirez v. State, 113 Idaho 87, 89, 741 P.2d 374, 376 (Ct. App. 1987). On review of a disposition of a post-Conviction application, the appellate court will review the entire record to determine if a genuine issue of material fact exists which, if resolved in petitioner's favor, would require that relief be granted. Nellsch v. State, 122 Idaho 426, 430, 835, P.2d 661, 665 (Ct. App. 1992). The appellate court will freely review this court's application of the law. Nellsch, 122 Idaho at 430, 835 P.2d at 665.

These issues on appeal are, first, whether the petition alleges facts which, if true, would entitle the applicant to relief. Griffith v. State, 121 Idaho 371, 373, 825 P.2d 94, 96 (Ct. App. 1992). Second, whether those allegations are "supported by written statements from witnesses who are able to give testimony themselves as to facts within their knowledge, or [are] based upon otherwise verifiable information." Drapeau, 103 Idaho at 617, 651 P.2d at 551.

III.

JASON CHARLES AMBOH'S Petition Is Barred By The
Statute Of Limitations And Should Be Summarily
Dismissed

[UNTIMELY PETITION] Idaho Code §19-4902(a), setting forth a one-year statute of limitations for post-conviction proceedings, provides in pertinent part, "[a]n application may be filed at any time within one (1) year from the expiration of time for appeal or from the determination of an appeal or from the determination of proceedings following an appeal, whichever is later." The construction of such statutes is a question of law over which the appellate court exercises free review. Freeman v. State, 122 Idaho 627, 328, 836 P.2d 1088, 1089 (Ct. App. 1992); Hanks v. State, 121 Idaho 153, 154, 823 P.2d 187, 188 (Ct. App. 1992). The "determination of an appeal," as used in I.C. §19-4902(a), means the date the remittitur is issued by the Idaho Supreme Court or Idaho Court of Appeals. Atkinson v. State, 131 Idaho 222, 223, 953 P.2d 662, 663 (Ct. App. 1998); State v.

Chapman, 128 Idaho 733, 734, 918 P.2d 1088, 1089 (Ct. App. 1992). The Idaho Supreme Court reinforced the one-year statute of limitation when it held that there is no discovery exception to Idaho Code §19-4902. Evensiosky v. State, 136 Idaho 189, 191, 30 P.3d 967m 969 (2001).

JASON CHARLES AMBOH'S petition was filed more than one year from the [expiration of the time for appeal and JASON CHARLES AMBOH did not appeal from the judgment of convictions, or from the remittitur issued in BRADY AMOS' direct appeal or determination of proceedings following BRADY AMOS' appeal.] Accordingly, BRADY AMOS' post-conviction relief petition is barred by the statute of limitations and should be dismissed for that reason.

[SUCCESSIVE PETITION] The instant petition is a successive petition, the first filed on _____. While subsequent post-conviction relief petition may be permissible in certain circumstances, an applicant must raise all issues and claims in the initial application or risk waiver and forfeiture under Idaho Code §19-4908. Parsons v. State, 113 Idaho 421, 426, 745 P.2d 300, 305 (Ct. App. 1987). Claims that are not raised in the original petition are waived for the purposes of post-conviction relief as if they had been knowingly, voluntarily, and intelligently waived. State v. LePage, 138 Idaho 803, 811, 69 P.3d 1064, 1072 (Ct. App. 2003) review denied; Hooper v. State, 127 Idaho 945, 947, 908 P.2d 1252, 1254 (Ct. App.) review denied (1996). Where a second petition for post-conviction relief is filed, it must provide sufficient reason as to why the grounds asserted for relief were not raised in the first post-conviction relief application. Idaho Code §19-4908; King v. State, 114 Idaho 442, 446, 757 P.2d 705, 709 (Ct. App. 1988). Therefore, the applicant must show sufficient reason why grounds for relief were not raised in the first application or risk disposition under Idaho Code §19-4908. BRADY AMOS has not alleged any reason why grounds for relief were not raised in the first application. Accordingly, to the extent BRADY AMOS' first petition challenged the validity of the district court's [judgment or order of a certain date] the instant petition is barred by I.C. §19-4908.

IV.

JASON CHARLES AMBOH'S Claims Fail To Raise A Genuine Issue Of Material Fact And Do Not Entitle Him To Judgment As A Matter Of Law

A. Claim One

JASON CHARLES AMBOH alleges that his counsel made

promises with regard to sentence, specifically probation only, yet both the defense attorney and the transcript refute that allegation. JASON CHARLES AMBOH'S allegations are bare or conclusory allegations, unsubstantiated by any fact, and are inadequate to entitle him to an evidentiary hearing. Because JASON CHARLES AMBOH fails to present evidence establishing all the essential elements on which he bears the burden of proof, summary disposition is appropriate.

B. Claim Two

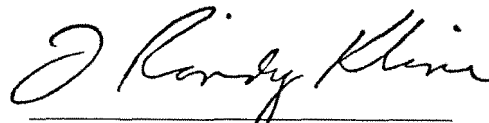
JASON CHARLES AMBOH contends that his counsel failed to be prepared at the sentencing hearing. JASON CHARLES AMBOH'S allegations fail to raise a genuine issue of material fact regarding deficient performance, therefore none are sufficient and summary disposition is appropriate.

CONCLUSION

JASON CHARLES AMBOH'S ineffective assistance of counsel claims fail to raise a genuine issue of material fact regarding both deficient performance and resulting prejudice. The state is therefore entitled to summary disposition pursuant to Idaho Code §19-4906(c).

The state requests that this court grant the state's Motion for Summary Disposition.

DATED this 14th day of May 2009.

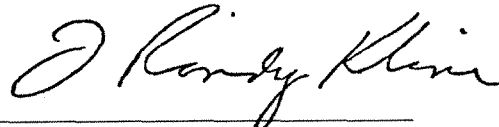


F. RANDALL KLINE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of April 2009, I caused a true and correct copy of the foregoing MOTION FOR SUMMARY DISPOSITION to be placed in the United States mail, postage prepaid, addressed to:

D. Scott Heide
PO Box 4964
Pocatello, ID 83205



F. RANDALL KLINE

CASE NO. CV 2009-77
FILED 5-21 20 09
CHRISTINE STEINLICHT

BY L. Arman CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

Register #CV-2009-77
JASON CHARLES AMBOH,)
)
Petitioner,)
-vs-)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

ORDER

The above entitled matter was scheduled for oral argument before the court on May 14, 2009.

Petitioner's attorney, Scott Heide indicated that he needed additional time to communicate with his client, and asked that the matter be continued to next Law and Motion Day. The Court considered the request, and good cause appearing therefore;

IT IS HEREBY ORDERED that this matter is continued until **Thursday, June 11, 2009, at 9:30 a.m.**

IT IS SO ORDERED.

DATED this 14th day of May, 2009.



PETER C. McDERMOTT
District Judge

cc:

Prosecuting Attorney
Scott Heide, Esq.
Jason Charles Amboh
P.O. Box 8509, SICI
Boise ID 83707

ORDER
Page 2

BY Lanner CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

Register #CV-2009-77

JASON CHARLES AMBOH,)
)
Petitioner,)
-vs-)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

MINUTE ENTRY & ORDER

The above entitled matter came before this Court on Thursday, June 11, 2009, for further oral argument on whether to grant or deny an evidentiary hearing, or whether to grant or dismiss the Petition for Post Conviction Relief filed herein.

Petitioner was not present but was represented by SCOTT HEIDE, and the State of Idaho was represented by Power County Prosecuting Attorney, RANDY KLINE.

The Court heard oral argument from Petitioner's attorney, Scott Heide, and also heard argument from the State. The Court considered the pleadings submitted and oral argument given, and finds that the Petition for Post Conviction Relief was filed in this matter on March 11, 2009, which was more than one year after the Supreme Court's Remitturer was issued, which was September 25, 2007, which presents a jurisdictional issue.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Petition for Post Conviction Relief is DISMISSED WITH PREJUDICE as it was untimely received.

IT IS FURTHER ORDERED that the allegations contained in the Petition for Post Conviction Relief present no genuine allegations of fact which relief could be granted on, and the Court GRANTS the State's Motion for Summary Dismissal.

IT IS SO ORDERED.

DATED this 11th day of June, 2009.


PETER C. McDERMOTT
District Judge

cc:
Prosecuting Attorney
Scott Heide, Esq.

D. SCOTT HEIDE, ISB #6665
P.O. Box 4964
Pocatello, Idaho 83205
(208) 241-5087

CASE NO. _____
FILED 7-28 2009
CHRISTINE STEINLICHT

BY L. Amner CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)
)
Petitioner,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

CV
Case No. ~~CR~~-2009-77-FE

NOTICE OF APPEAL

TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO AND ITS ATTORNEY, LAWRENCE WASDEN, ATTORNEY GENERAL FOR THE STATE OF IDAHO, POWER COUNTY PROSECUTING ATTORNEY, AND THE CLERK OF THE ABOVE NAMED COURT; CLERK OF THE SUPREME COURT; STATE APPELLATE PUBLIC DEFENDER; AND POWER COUNTY COURT REPORTER

NOTICE IS HEREBY GIVEN:

1. The above named Petitioner/Appellant, Jason Charles Amboh, hereby gives Notice of appeal against the above named Respondent, to the Idaho Supreme Court that the Honorable Peter C. McDermott, Sixth District Judge, presiding abused his discretion by not granting an Evidentiary Hearing and dismissing the Post Conviction Relief Petition. (Minute Entry and Order dated 11 June 2009)
2. The Petitioner/Appellant has the right to appeal to the Idaho Supreme Court the Judgments and Orders described in Paragraph 1 above. These appear to be appealable orders under and pursuant to Idaho Code §19-2801, et seq., and Rule 11 (c)(1)(6)(9), of the Idaho Appellate Rules.
3. The Petitioner/Appellant requests that the preparation of the Clerk's record and standard reporter's transcript as defined in Rule 25, Idaho Appellate Rules, and further requests that

a transcript of the following proceedings also be prepared:

1. Post Conviction Relief, Oral Arguments held on 11 June 2009.

4. I certify:

(a) That a copy of this Notice has been served on the Court Reporter.

(b) That Appellant is exempt from paying the estimated transcript fee because he has previously been determined to be indigent and was in fact appointed a Public Defender. His family has exhausted their financial resources in the previous trial proceedings.

(c) That Appellant is exempt from paying any estimated fee for the preparation of the record because he is indigent as is evident from his previous appointment of a Public Defender.

(d) That Appellant is exempt from paying the appellate filing fee because he is indigent as is evident from his previous appointment of a Public Defender.

(e) That service has been made upon all parties required to be served pursuant to Rule 20 of the Idaho Appellate Rules, and Idaho Code §67-1410(1).

5. The issues to be presented upon appeal, are as follows:

(a) Whether the Court improperly admitted Confidential Informant testimony, in the form of recordings or otherwise, at trial.

(b) Whether the Court abuse its discretion in sentencing the Petitioner to Two (2) years fixed and six (6) years unified?

DATED this 28th day of July, 2009.


D. Scott Heide

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of July 2009, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** upon the Power County Prosecuting Attorney, and the Court Reporter, by depositing a copy of the same in the Prosecutor's in-box and the Court Reporter's in-box, Power County Courthouse, Pocatello, Idaho; and by depositing in the United States Mail, postage prepaid, to: Lawrence Wasden, Attorney General - State of Idaho, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; and State Appellate Public Defender, P. O. Box 83720, Boise, Idaho 83720.


D. Scott Heide

D. SCOTT HEIDE, ISB #6665
P.O. Box 4964
Pocatello, Idaho 83205
(208) 241-5087

CASE NO. CV 2009-77
FILED 7-31 20 09
CHRISTINE STEINLICHT

BY L. Amner CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)
)
Plaintiff/Petitioner,)
vs.)
)
STATE OF IDAHO,)
)
Defendant/Respondent.)
_____)

Case No. CV -2009-77

**MOTION TO APPOINT STATE
APPELLATE DIVISION**

COMES NOW, Jason Charles Amboh, the Petitioner in the above entitled matter, and hereby moves the Court for an Order, as follows:

The Defendant has filed a Notice Of Appeal for the Court's review of the Court's Order, dated 11 June 2009, by the Honorable Peter C. McDermott, Sixth District Judge. A Notice Of Appeal has been filed on 28th day of July 2009. The Defendant respectfully requests that the Court enter an Order, appointing the State Appellate Division to assist the Defendant with his Appeal in this matter, and that further, said appointment shall be relative to the appeal proceedings only.

DATED this 30th day of July 2009.



D. SCOTT HEIDE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July 2009, I served a true and correct copy of the foregoing **MOTION TO APPOINT STATE APPELLATE DIVISION** upon the Power County Prosecuting Attorney, and the Court Reporter, by depositing a copy of the same in the Prosecutor's in-box and the Court Reporter's in-box, Power County Courthouse, Pocatello, Idaho; and by depositing in the United States Mail, postage prepaid, to: Lawrence Wasden, Attorney General - State of Idaho, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; and State Appellate Public Defender, P. O. Box 83720, Boise, Idaho 83720.


D. SCOTT HEIDE

D. SCOTT HEIDE, ISB #6665
P.O. Box 4964
Pocatello, Idaho 83205
(208) 241-5087

CASE NO. CU 2009-77
FILED 7-31 2009
CHRISTINE STEINLICHT

BY L. Amner CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,
Plaintiff/Petitioner,
v.
STATE OF IDAHO,
Defendant/Respondent.

^{CU}
Case No. ~~SR~~-2009-77-

**ORDER RE: MOTION FOR
APPOINTMENT OF STATE
APPELLATE PUBLIC DEFENDER**

THIS MATTER having come before the Court pursuant to Appellant's Motion for Appointment of State Appellate Public Defender; the Court having reviewed the pleadings on file and the motion; the Court being fully apprized in the matter and good cause appearing;

IT IS HEREBY ORDERED that D. Scott Heide, is withdrawn as counsel of record for the Petitioner, Jason Charles Amboh, in the above-entitled matters and for all further proceedings.

The appointment of the State Appellate Public Defender is for purposes of the appeal only.

DATED this 31 day of July, 2009. Peter D. McDermott

Honorable PETER C. McDERMOTT

cc: Power County Prosecutor's Office
State Appellate Public Defender
Lawrence G. Wasden
Stephen W. Kenyon

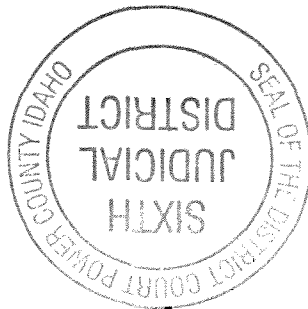
IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

JASON CHARLES AMBOH,)	
)	
Plaintiff/Appellant	)	Case No. CV-2009-77
)	
	)	SUPREME COURT #36779-2009
)	
vs.)	
)	
STATE OF IDAHO,	)	CERTIFICATE OF SERVICE
)	
)	
Defendant/Respondent.)	

I, CHRISTINE STEINLICHT, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Power, do hereby certify that the above and foregoing record in the above entitled cause was compiled and bound under my direction as, and is a true, full and correct record of the pleadings and documents as are automatically required under Rule 28 of the Idaho Appellate Rules.

I do further certify that there were no exhibits offered or admitted in the above entitled cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at American Falls, Idaho, this 19th day of Oct, 2009.



CHRISTINE STEINLICHT,
 Clerk of the District Court
 In and for Power County, Idaho

By Linda Annen
 Linda Annen
 Deputy Clerk

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF POWER

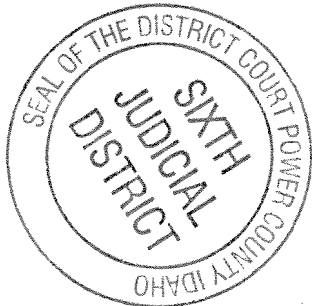
JASON CHARLES AMBOH,)	
)	
Plaintiff/Appellant	)	Case No. CV-2009-77
)	
	)	SUPREME COURT #36779-2009
)	
vs.)	
)	
STATE OF IDAHO,	)	CERTIFICATE OF SERVICE
)	
)	
Defendant/Respondent.)	
)	

I, CHRISTINE STEINLICHT, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Power, do hereby certify that I have personally served or mailed, by United States mail, one copy of the Clerk's Record and Transcript to each of the attorneys of record in this cause as follows:

Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, Id 83720-0010

Molly J. Huskey
Appellate Public Defender
P.O. Box 83720
Boise, Id 83720-0005

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at American Falls, Idaho, this 14 day of September, 2009.



CHRISTINE STEINLICHT
CLERK OF THE DISTRICT COURT

By *Lynette [Signature]*
Deputy Clerk

Jason Charles Amboh, Plaintiff vs State Of Idaho, Defendant

Date	Code	User		Judge
3/11/2009	NCPC	LINDA	New Case Filed - Post Conviction Relief	Peter D. McDermott
		LINDA	Filing: 9SPC - Post Conviction Relief Filing Paid by: Amboh, Jason Charles (subject) Receipt number: 0000984 Dated: 3/11/2009 Amount: \$.00 (Cash) For: Amboh, Jason Charles (subject)	Peter D. McDermott
	FILD	LINDA	Petition and Affidavit for Post Conviction Relief	Peter D. McDermott
	AFFD	LINDA	Affidavit if Nikkt H, Gysjet State Appellate Public Defender	Peter D. McDermott
	MOTN	LINDA	Motion and Affidavit in Support for appointment of counsel	Peter D. McDermott
	MOTN	LINDA	Motion and Affidavit for Permission to Proceed on Partial Payment of Court Fees (Prisoner)	Peter D. McDermott
3/16/2009	HRSC	LINDA	Hearing Scheduled (Further Proceedings 04/09/2009 11:00 AM) oral argument	Peter D. McDermott
	FILD	LINDA	Order	Peter D. McDermott
4/6/2009	FILD	LINDA	Stipulation to Continue	Peter D. McDermott
	FILD	LINDA	Order	Peter D. McDermott
	CONT	LINDA	Hearing result for Further Proceedings held on 04/09/2009 11:00 AM: Continued oral argument	Peter D. McDermott
	HRSC	LINDA	Hearing Scheduled (Hearing Scheduled 05/14/2009 11:00 AM) Post Conviction Relief	Peter D. McDermott
5/14/2009	FILD	LINDA	Objection	Peter D. McDermott
	FILD	LINDA	mion for Summary Disposition	Peter D. McDermott
	FILD	LINDA	Answer	Peter D. McDermott
	FILD	LINDA	Brief in Support of Motion for Summary Disposition	Peter D. McDermott
	CONT	LINDA	Hearing result for Hearing Scheduled held on 05/14/2009 11:00 AM: Continued Post Conviction Relief	Peter D. McDermott
5/18/2009	HRSC	LINDA	Hearing Scheduled (Further Proceedings 06/11/2009 09:30 AM)	Peter D. McDermott
5/21/2009	ORDR	LINDA	Order	Peter D. McDermott
6/11/2009	DSAT	LINDA	Hearing result for Further Proceedings held on 06/11/2009 09:30 AM: Dismissal During/after Trial Or Hearing	Peter D. McDermott
6/18/2009	FILD	LINDA	MINUTE ENTRY & ORDER	Peter D. McDermott
7/28/2009	FILD	LINDA	Notice of Appeal	Peter D. McDermott
	APSC	LINDA	Appealed To The Supreme Court	Peter D. McDermott
7/29/2009	APSC	LINDA	Appealed To The Supreme Court	Peter D. McDermott
7/31/2009	ORDR	LINDA	Order re: Motion for Appointment of State Appellate Public Defender	Peter D. McDermott
	FILD	LINDA	Motion to Appoint State Appellate Division	Peter D. McDermott

MOLLY J. HUSKEY
State Appellate Public Defender
State of Idaho
I.S.B. # 4843

SARA B. THOMAS
Chief, Appellate Unit
I.S.B. # 5867
3647 Lake Harbor Lane
Boise, Idaho 83703
(208) 334-2712

CASE NO.
FILED 9-2 2009
CHRISTINE STEINLICHT

BY L. Ammer CLERK
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR POWER COUNTY

JASON CHARLES AMBOH,
Petitioner-Appellant,
v.
STATE OF IDAHO,
Respondent.

CASE NO. CV 2009-77
S.C. DOCKET NO. 36779
AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, RANDALL F. KLINE, POWER COUNTY PROSECUTOR, P.O. BOX 97, AMERICAN FALLS, ID, 83211, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Minute Entry and Order entered in the above-entitled action on the 18th day of June, 2009, the Honorable Peter D. McDermott, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(a), I.A.R.

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

- (a) Did the district court err in dismissing the appellant's Petition for Post Conviction Relief?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Further Proceedings held on June 11, 2009 (Court Reporter: Stephanie Davis, no estimation of pages was listed on the Register of Actions).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

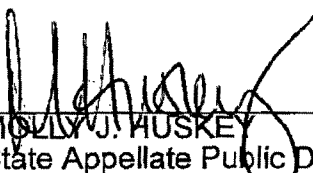
- (a) Objection filed May 14, 2009;
- (b) Brief in Support of Motion for Summary Disposition lodged May 14, 2009; and
- (c) Any exhibits, affidavits, objections, responses, briefs or memorandums, including all attachments or copies of transcripts,

filed or lodged, by the state, the appellate, or the court in support of,
or in opposition to, the dismissal of the Post-Conviction Petition.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the Court Reporter, Stephanie Davis;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Power County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 2nd day of September, 2009.



MOLLY J. HUSKE
State Appellate Public Defender

CERTIFICATE OF MAILING

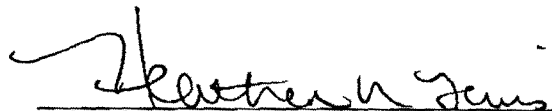
I HEREBY CERTIFY that I have this 2nd day of September, 2009, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

D SCOTT HEIDE
 ATTORNEY AT LAW
 PO BOX 4147
 POCATELLO ID 83205 4147

STEPHANIE DAVIS
 COURT REPORTER
 PO BOX 4316
 POCATELLO ID 83205

RANDALL F KLINE
 PO BOX 97
 AMERICAN FALLS ID 83211

KENNETH K JORGENSEN
 DEPUTY ATTORNEY GENERAL
 CRIMINAL DIVISION
 PO BOX 83720
 BOISE ID 83720 0010
 Hand delivered to Attorney General's mailbox at Supreme Court


HEATHER R. LEWIS
 Administrative Assistant

MJH/TMF/hrl