

8-17-2009

State v. Blair Augmentation Record Dckt. 36328

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In the Supreme Court of the State of Idaho

STATE OF IDAHO,
Plaintiff-Respondent,
v.
JOANNA C. BLAIR,
Defendant-Appellant.

)
) ORDER GRANTING MOTION TO
) AUGMENT AND TO SUSPEND THE
) BRIEFING SCHEDULE
)
) Supreme Court Docket No. 36328-2009
) Twin Falls County Docket No.
) 2008-3021
)

A MOTION TO AUGMENT AND TO SUSPEND THE BRIEFING SCHEDULE AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on August 10, 2009. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT be, and hereby is, GRANTED and the District Court Reporter shall prepare and lodge the transcript listed below with this Court within twenty-eight (28) days of the date of this ORDER and the District Court Clerk shall immediately serve counsel and file the transcript with this Court. Any corrections shall be filed with this Court as provided by I.A.R. 30.1:

- 1. Transcript of the Retained Jurisdictional Review hearing conducted on July 29, 2009. (Court Reporter Sabrina Torres)(estimate of pages: none listed)

IT FURTHER IS ORDERED that the augmentation record shall include the document listed below, file stamped copies of which accompanied this Motion:

- 1. Order Upon 180-Day Review Hearing, I.C. § 19-2601(4), file-stamped July 29, 2009.

IT FURTHER IS ORDERED that Appellant's MOTION TO SUSPEND THE BRIEFING SCHEDULE be, and hereby is, GRANTED and proceedings in this appeal are SUSPENDED until the transcript listed above is filed with this Court at which time the due date for filing Appellant's Brief shall be reset.

DATED this 17th day of August, 2009.

For the Supreme Court

Stephen Kenyon
Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk
District Court Reporter

LAW CLERK

AUGMENTATION RECORD

In the Supreme Court of the State of Idaho

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) ORDER GRANTING MOTION TO
) AUGMENT AND TO SUSPEND THE
) BRIEFING SCHEDULE
 v.)
) Supreme Court Docket No. 36328-2009
 JOANNA C. BLAIR,) Twin Falls County Docket No.
) 2008-3021
 Defendant-Appellant.)

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DATED this 17th day of August, 2009.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk
District Court Reporter

file



DISTRICT COURT
Fifth Judicial District
County of Twin Falls - State of Idaho

JUL 29 2009

By _____ 10:00 AM
Clerk
Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

State of Idaho,

Plaintiff,

vs.

Case No. CR-08-3021

Joanna Christine Blair
SSN xxx-xx-8810
DOB 03/09/1960,

Defendant.

RECEIVED

AUG 10 2009

STATE APPELLATE
PUBLIC DEFENDER

ORDER UPON 180-DAY REVIEW HEARING, I.C. §19-2601(4),

I. INTRODUCTION.

1. The date of the disposition hearing following the completion of the 180-Day Retained Jurisdiction program was 07/27/09, (hereinafter called disposition date).
2. The State of Idaho was represented by counsel, Stan Holloway, of the Twin Falls County Prosecutor's office.
3. The defendant, Joanna Christine Blair, appeared personally. I.C. § 19-2503.
4. The defendant was represented by counsel, Robin Weeks.
5. Randy J. Stoker, District Judge, presiding.

II. BRIEF PROCEDURAL BACKGROUND.

1. In Case No. CR-08-3021 an Information was filed against the defendant on 05/20/08, charging Grand Theft.
2. On 10/19/08, a jury found the defendant guilty of Grand Theft.

3. On 02/09/09, the defendant was committed to the custody of the Idaho State Board of Correction, Boise, Idaho for a unified sentence (I.C. § 19-2513) of **10 years**; which is comprised of a mandatory minimum period of commitment of **3 years**, followed by an indeterminate period of custody of **7 years**, with the precise time of the indeterminate portion to be set by said Board according to law, with the total sentence not to exceed 10 years (the original sentence).

However, pursuant to I.C. § 19-2601(4), the Court suspended the execution of the judgment during the first one hundred and eighty (180) days of the sentence to the custody of the Idaho State Board of Correction, during which time the Court **retained jurisdiction** over the defendant.

4. Thereafter, the Court received and lodged an Addendum to the Presentence Investigation, dated 07/20/09 (hereinafter called "PSI Addendum"), from the Department of Corrections, South Boise Women's Correctional Center, a copy of which is in the Court file and is by this reference incorporated herein.
5. The PSI Addendum recommends the sentencing court impose probation at this time.

III. ORDER GRANTING PROBATION

The Court, having considered the PSI Addendum recommendations from the Board of Corrections, and having heard recommendations of counsel, and having reviewed the files and records in the above entitled matter, and being fully advised in the premises, now enters the following order:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the sentence ordered on 02/09/09, in the above entitled matter is suspended and the defendant is placed on probation for a period of **10 years** beginning on 07/27/09 to and under the control of the Idaho State Board of Correction, (I.C. § 19-2601(5), I.C. § 20-219, and I.C.R. 33(d)), subject to the following terms:

- A. **Court Costs, Fines, and Restitution**: The defendant shall pay any of the remaining balance of court costs, fines, and restitution from the original sentence.
- B. **Credit for time served**: The defendant is given credit for time previously served locally and with the Idaho Department of Corrections in connection with this case. I.C. § 18-309.
- C. **Supervision Level**: Pursuant to I.C. § 20-219, I.D.O.C. is charged with the duty of supervising all persons convicted of a felony and placed on probation. As such, the level of supervision is left to the discretion of I.D.O.C.
- D. **General and Specific Conditions**: Abide by the Court Ordered General Conditions of Probation previously signed and attached hereto as Exhibit 1 and the Court Ordered Specific Conditions of Probation previously signed

and attached hereto as Exhibit 2, which exhibits are by this reference incorporated herein.

E. **Special Terms and Conditions:** In addition, the Court orders the following special conditions.

- a. **Time allowed for payment of court costs, fines and restitution:**
The defendant must pay all court costs, fines and restitution. To that end, and beginning on the date of 10/1/09, and continuing on the 1st day of each calendar month thereafter, the defendant shall make monthly payments to the clerk of the court in the sum of at least \$100, until all court costs, fines and restitution are paid in full. Payment in full of court costs, fines and restitution must be made within 3 months of termination of probation. _____
- b. **Financial Assets of Employer:** The defendant shall have no unsupervised access to financial assets of the defendant's employer and shall advise future employers in writing of this conviction, including that it was a theft offense. _____

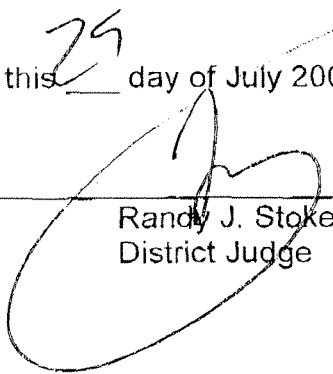
IV. **RIGHT TO APPEAL/LEAVE TO APPEAL IN FORMA PAUPERIS.**

The Right: The Court advised the defendant, of the right to appeal this judgment within forty two (42) days of the date it is file stamped by the clerk of the court. I.C.R. 33(a)(3). I.A.R. 14 (a).

In forma Pauperis: The Court further advised the defendant of the right of a person who is unable to pay the costs of an appeal to apply for leave to appeal in forma pauperis, meaning the right as an indigent to proceed without liability for court costs and fees and the right to be represented by a court appointed attorney at no cost to the defendant. I.C.R. 33(a)(3), I.C. § 19-852(a)(1) and (b)(2).

IT IS SO ORDERED.

Dated this 29 day of July 2009.



Randy J. Stoker
District Judge

ACCEPTANCE OF PROBATION

State of Idaho,)
) **ss.**
County of Twin Falls)

I, Joanna Christine Blair, being first duly sworn on oath, deposes and states that I reviewed Exhibit 1, General Conditions of Probation, and Exhibit 2, Specific Conditions of Probation. That I have received a copy of this **ORDER UPON 180-DAY REVIEW HEARING, I.C. §19-2601(4)**, that I understand the terms of that probation, and I agree to abide by the conditions outlined in this order. I further certify that I have read and understand each term of probation.

Joanna Christine Blair

Witnessing Probation Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 30 day of July 2009, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Stan Holloway	<input type="checkbox"/> U.S. Mail
Twin Falls County Prosecuting Attorney	<input type="checkbox"/> Hand delivered
P.O. Box 126	<input type="checkbox"/> Faxed
Twin Falls, ID 83303	<input checked="" type="checkbox"/> Court Folder

Robin Weeks	<input type="checkbox"/> U.S. Mail
Twin Falls County Public Defender	<input type="checkbox"/> Hand delivered
P.O. Box 126	<input type="checkbox"/> Faxed
Twin Falls, ID 83303	<input checked="" type="checkbox"/> Court Folder

Idaho Department of Corrections	<input checked="" type="checkbox"/> U.S. Mail
Central Records	<input type="checkbox"/> Hand delivered
1299 N. Orchard Ste 110	<input type="checkbox"/> Faxed
Boise, Idaho 83706	

Twin Falls County Jail	<input checked="" type="checkbox"/> Court Folder
------------------------	--

Idaho Department of Probation	<input checked="" type="checkbox"/> Court Folder
-------------------------------	--

Dorothy McMullen

Dorothy McMullen
Deputy Clerk

EXHIBIT 1

COURT ORDERED

GENERAL CONDITIONS OF PROBATION

IMPOSED AT THE REQUEST OF IDAHO DEPT. OF CORRECTION

I.C. §§ 20-219, 19-2601(5), and I.C.R. 33(d).

1. **Supervision Level:** The defendant's level of supervision including caseload type and electronic monitoring shall be determined by the Idaho Dept of Correction.
2. **Laws and Conduct:** The defendant shall obey all municipal, county, state and federal laws. The defendant shall comply with all lawful requests of any agent of the Idaho Dept of Correction. The defendant shall be completely truthful at all times with any agent of the Idaho Dept of Correction. During any contact with law enforcement personnel the defendant shall provide their identity, notify the officer(s) that they are under supervision and provide the name of their supervising officer. The defendant shall notify their supervising officer of the contact within 24 hours.
3. **Residence:** The defendant shall not change residence without first obtaining permission from an authorized agent of the Idaho Dept of Correction.
4. **Reporting:** The defendant shall report to his/her supervising officer as directed. The defendant shall provide truthful and accurate information or documentation whenever requested by the Idaho Dept of Correction.
5. **Travel:** The defendant shall not leave the State of Idaho or the assigned district without first obtaining permission from his/her supervising officer.
6. **Extradition:** If the defendant does leave the State of Idaho, with or without permission, the defendant does hereby waive extradition to the State of Idaho and will not contest any effort to return the defendant to the State of Idaho.
7. **Employment/Alternative Plan:** The defendant shall seek and maintain gainful, verifiable, full-time employment. The defendant shall not accept, cause to be terminated from, or change employment without first obtaining written permission from his/her supervising officer. In lieu of full-time employment, the defendant may participate in full-time education, a combination of employment and education, vocational program or other alternative plan based on the offender's specific situation and as approved by his/her supervising officer.
8. **Alcohol:** The defendant shall not purchase, possess, or consume alcoholic beverages in any form and will not enter any establishment where alcohol is a primary source of income.
9. **Controlled Substances:** The defendant shall not use or possess any illegal drug. The defendant shall not use or possess any paraphernalia for the purpose of ingesting any illegal drug. The defendant shall not use or possess any controlled substances unless lawfully prescribed for him/her by a licensed physician or dentist. The defendant shall use medications only in the manner prescribed by their physician or dentist.
10. **Firearms/Weapons:** The defendant shall not purchase, carry, possess or have control of any firearms, chemical weapons, electronic weapons, explosives or other dangerous weapons. Other dangerous weapons may include, but are not limited to: knives with blades over two and one half inches in length, switch-blade knives, brass knuckles, swords, throwing stars and other martial arts weapons. Any weapons or firearms seized will be forfeited to IDOC for disposal. The defendant shall not reside in any location that contains firearms unless the firearms are secured and this portion of the rule is exempted in writing by the District Manager.

11. **Search:** The defendant shall consent to the search of his/her person, residence, vehicle, personal property, and other real property or structures owned or leased by the defendant or for which the defendant is the controlling authority conducted by any agent of the Idaho Dept of Correction or law enforcement officer. The defendant waives his/her Fourth Amendment Rights concerning searches.
12. **Cost of Supervision:** The defendant shall comply with Idaho Code 20-225, which authorizes the Idaho Dept of Correction to collect a cost of supervision fee. The defendant shall make payments as prescribed in his/her monthly cost of supervision bill.
13. **Associations:** The defendant shall not associate with any person(s) designated by any agent of the Idaho Dept of Correction.
14. **Substance Abuse Testing:** The defendant shall submit to any test for alcohol or controlled substances as requested and directed by any agent of the Idaho Dept of Correction or law enforcement officer. The defendant may be required to obtain tests at their own expense. If the results of the test indicate an adulterant has been used to interfere with the results, that test will be deemed to have been positive.
15. **Evaluation and Program Plan:** The defendant shall obtain any treatment evaluation deemed necessary and as ordered by the Court or any agent of the Idaho Dept of Correction. The defendant shall meaningfully participate in and successfully complete any treatment, counseling or other programs deemed beneficial and as directed by the Court or any agent of the Idaho Dept of Correction. The defendant may be required to attend treatment, counseling or other programs at their own expense.
16. **Cooperation with Supervision:** When home, the defendant shall answer the door for the probation officer. The defendant shall allow the probation officer to enter their residence, other real property, place of employment and vehicle for the purpose of visitation, inspections and other supervision functions. The defendant shall not possess, install or use any monitoring instrument, camera, or other surveillance device to observe or alert them to the approach of his/her probation officer. The defendant shall not keep any vicious or dangerous dog or other animal on or in their property that the probation officer perceives as an impediment to accessing the defendant or their property.
17. **Abseonding Supervision:** The defendant will not leave the state or the assigned district in an effort to abscond or flee supervision. The defendant shall make himself/herself available for supervision and program participation as instructed by the probation officer and will not actively avoid supervision.
18. **Court Ordered Financial Obligations:** The defendant shall pay all costs, fees, fines and restitution in the amount and manner and to the parties ordered by the Court. The defendant shall make payments as ordered by the Court or as designated in a Payment Agreement and Promissory Note to be completed with an agent of the Idaho Dept of Correction.
19. **Confidential Informant:** The defendant shall not act as a confidential informant for law enforcement, except as allowed in Idaho Dept of Correction policy and with the written consent of both the Court and the Idaho Dept. of Correction.
20. **Intrastate/Interstate Violations:** If allowed to transfer supervision to another district or state the defendant agrees to accept any violation allegation documents purportedly submitted by the agency/officer supervising the defendant in the receiving district or state as admissible into evidence as credible and reliable. The defendant waives any right to confront the author of such documents.
21. **Additional Rules:** The defendant agrees that other supervision rules may be imposed depending on the district or specific field office that provides his/her supervision. At all times, these additional rules will be imposed only after considering the successful supervision of the defendant and the secure operation of the district or specific field office. All additional rules will be explained to the defendant and provided to him/her, in writing, by an agent of the Idaho Dept of Correction.

EXHIBIT 2

COURT ORDERED

SPECIFIC CONDITIONS OF PROBATION

IMPOSED IN ADDITION TO THE EXHIBIT 1 GENERAL CONDITIONS

I.C. § 20-221

1. **Stipulate to the admission of test results:** Should the defendant be requested to submit to tests for controlled substances, the defendant shall stipulate to the admission of those blood, urine, or breath test results in the form of a certified affidavit at any probation hearing following a judicial determination that live testimonial evidence would otherwise be impractical. However, the defendant, at the defendant's own expense may have the lab analysis of the defendant's blood, urine, or breath performed at an in-state approved lab of the defendant's choosing upon notifying the official administering the test at the time the test is requested. *JLB*
2. **Discretionary county jail time to be served in the future:** The defendant shall serve not more than 30 days in the county jail at the discretion of the defendant's probation officer, with the prior approval of the Court. Any time spent in jail pursuant to an Agent's Warrant and/or for absconding supervision does not count against this discretionary jail time. *JLB*
3. **Polygraph examinations:** The defendant shall submit to polygraph examinations at the defendant's own expense when requested to do so by the defendant's probation officer. *JLB*

I have read, or have had read to me, the above conditions of probation contained in **EXHIBIT 1** and **EXHIBIT 2**. I understand and accept these conditions of supervision. I agree to abide by and conform to them and understand that my failure to do so may result in the submission of a report of violation to the sentencing authority and revocation of my probation.

Jana C. Davis

Defendant Signature

Witnessing Probation Officer's Signature

7-22-09

Date

Witnessing Probation Officer's Name (printed)