

3-5-2010

State v. Cochran Augmentation Record Dckt. 35285

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs

Recommended Citation

"State v. Cochran Augmentation Record Dckt. 35285" (2010). *Idaho Supreme Court Records & Briefs*. 258.
https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/258

This Court Document is brought to you for free and open access by Digital Commons @ UIIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs by an authorized administrator of Digital Commons @ UIIdaho Law.

In the Court of Appeals of the State of Idaho

LAW CLERK

STATE OF IDAHO,
Plaintiff-Respondent,
v.
JAMES COCHRAN,
Defendant-Appellant.

ORDER GRANTING MOTION TO
AUGMENT THE RECORD

Supreme Court Docket No. 35285-2008
Idaho County District Court No.
2006-32068

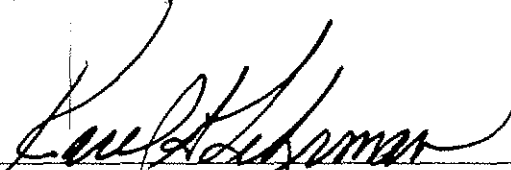
A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF with attachments was filed by counsel for Appellant on March 1, 2010. This Court being fully advised; therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the documents listed below, file stamped copies of which accompanied this Motion:

1. Order Vacating and Re-Entering Judgment of Conviction, file stamped July 17, 2008; and
2. Notice of Appeal, file stamped August 11, 2008.

DATED this 5th day of March 2010.

By Order of the Court of Appeals


Karel A. Lehrman, Chief Deputy Clerk for
Stephen W. Kenyon, Clerk

cc: Counsel of Record

AUGMENTATION RECORD

In the Court of Appeals of the State of Idaho

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
JAMES COCHRAN,)
)
Defendant-Appellant.)

ORDER GRANTING MOTION TO
AUGMENT THE RECORD

Supreme Court Docket No. 35285-2008
Idaho County District Court No.
2006-32068

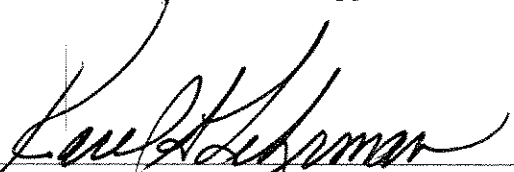
A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF with attachments was filed by counsel for Appellant on March 1, 2010. This Court being fully advised; therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the documents listed below, file stamped copies of which accompanied this Motion:

1. Order Vacating and Re-Entering Judgment of Conviction, file stamped July 17, 2008; and
2. Notice of Appeal, file stamped August 11, 2008.

DATED this 5th day of March 2010.

By Order of the Court of Appeals


Karel A. Lehrman, Chief Deputy Clerk for
Stephen W. Kenyon, Clerk

cc: Counsel of Record

IDAHO COUNTY DISTRICT COURT

FILED AT 5:06 O'CLOCK P.M.

DOCKETED

RECEIVED

FEB 22 2010

STATE APPELLATE PUBLIC DEFENDER



JUL 17 2008

ROSE E. GEHRING CLERK OF DISTRICT COURT DEPUTY

TRC

Kathy Johnson

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

JAMES A. COCHRAN

Plaintiff,

vs.

STATE OF IDAHO,

Respondent.

CR-2006-32068
CV-2008-38860

ORDER VACATING AND RE-ENTERING JUDGMENT OF CONVICTION

BASED UPON the stipulation of the parties filed in this matter, and good cause appearing, IT IS HEREBY ORDERED that the Plaintiff's Petition for Post-Conviction Relief shall be GRANTED, and that the Judgment of Conviction previously entered in CR-2006-32068 on October 18, 2007, is and shall be VACATED and RE-ENTERED under the same terms, conditions, and language as previously entered.

DATED this 17 day of July, 2008.

Paul Brabury

District Judge



DOCKETED

JMG

IDAHO COUNTY DISTRICT COURT
FILED AT 3:56 O'CLOCK P.M.

AUG 11 2008

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

ROSE E. GEHRING
CLERK OF DISTRICT COURT
Kathy Johnson DEPUTY

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

RECEIVED

FEB 22 2010

STATE APPELLATE
PUBLIC DEFENDER

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

STATE OF IDAHO,
Plaintiff-Respondent,
v.
JAMES A. COCHRAN,
Defendant-Appellant.

CASE NO. CR 2006-32068
S.C. DOCKET NO. 35285
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, DENNIS ALBERS, IDAHO COUNTY PROSECUTOR, 416 WEST MAIN STREET, P.O. BOX 463, GRANGEVILLE, ID, 83530, 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 Order Vacating and Re-entering Judgment of Conviction entered in the above-entitled action on the 17th day of July, 2008, the Honorable Jeff M. Brudie, 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 Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

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, are:

- (a) Did the district court abuse its discretion by imposing an excessive sentence?
- (b) Did the district court abuse its discretion by imposing an excessive sentence?

4. There is a portion of the record that is sealed. Those portions of the record that are sealed are the Presentence Investigation Report (PSI) and Memorandum of Law (Filed Under Seal) filed March 29, 2007.

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) Jury Trial held on May 15-18, 2007, including, but not limited to, the opening statements, closing arguments, jury instruction conferences, and orally presented jury instructions (Court Reporter: Sheryl Engler, no estimation of pages was listed on the Register of Actions); and
- (b) Sentencing Hearing on or about October 12, 2007 (Court Reporter: Sheryl Engler, no estimation of pages was listed on the Register of Actions); and

- (c) Status Conference held on March 3, 2008 (Court Reporter: Sheryl Engler, 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) Transcript of Preliminary Hearing held on May 5, 2006, and filed on June 13, 2006;
- (b) Affidavit of Jonathon D. Hallin in Support of Defendant's Motion to Vacate Trial Setting filed December 4, 2006;
- (c) All proposed and given jury instructions including, but not limited to, the Defendant's Requested Jury Instructions filed February 12, 2007, State's Requested Jury Instructions filed February 14, 2007, and Jury Instructions Given filed May 18, 2007;
- (d) State's Objection to Defendant's Requested Jury Instructions filed February 14, 2007;
- (e) Affidavit of Danny J. Radakovich filed February 20, 2007;
- (f) Affidavit filed March 28, 2007;
- (g) Memorandum of Law (Filed Under Seal) filed March 29, 2007;
- (h) Notice of Jury Trial Witnesses and Exhibits filed May 11, 2007;
- (i) Stipulation of Fact filed May 18, 2007;
- (j) Psychosexual Evaluation filed August 21, 2007;


- (k) Sentencing Memorandum lodged August 23, 2007;
- (l) Brief in Support of Post Trial Motions lodged August 28, 2007;
- (m) State's Memorandum in Opposition to Defendant's Motion for a New Trial filed October 9, 2007;
- (n) IDOC Notice of Duty to Register by Sex Offender filed October 15, 2007;
- (o) Affidavit of Danny J. Radakovich filed November 19, 2007;
- (p) Affidavit of James Cochran in Support of Amended Motion for Reduction of Sentence filed March 18, 2008;
- (q) State's Memorandum in Opposition to Defendant's Motion for Reconsideration of Sentence lodged March 28, 2008;
- (r) Affidavit of Defendant filed April 3, 2008;
- (s) Affidavit of James Cochran in Support of Amended Motion for Reduction of Sentence filed March 18, 2008;
- (t) State's Memorandum in Opposition to Defendant's Motion for Reduction of Sentence lodged March 28, 2008;
- (u) Affidavit of Defendant filed April 3, 2008; and
- (s) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the court reporter Sheryl Engler;

- (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 (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Idaho County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 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 11th day of August, 2008.


MOLLY J. HUSKEY
State Appellate Public Defender

CERTIFICATE OF MAILING

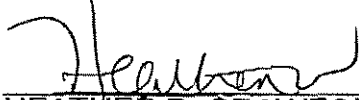
I HEREBY CERTIFY that I have this 11th day of August, 2008, caused a true and correct copy of the attached NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

DANNY J RADAKOVICH
1624 G STREET
LEWISTON ID 83501

SHERYL ENGLER
COURT REPORTER
PO BOX 8068
MOSCOW ID 83843

DENNIS ALBERS
IDAHO COUNTY PROSECUTOR
416 W MAIN STREET
PO BOX 463
GRANGEVILLE ID 83530

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. CRAWFORD
Administrative Assistant

MJH/TMF/hrc