

9-14-2009

State v. Lombard Clerk's Record Dckt. 36454

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**IN THE SUPREME COURT OF THE STATE OF IDAHO
DOCKET #36454-2009**

STATE OF IDAHO,

Plaintiff/Respondent,

Vs.

VERNA L. LOMBARD,

Defendant/Appellant,

Plaintiff/Respondent, – Lawrence G. Wasden, Attorney General, 1299 N. Orchard St., Suite 110, Boise, ID 83706

Attorney for Defendant/Appellant – John C. Mitchell, Clark and Feeney, P.O. Box Drawer 285, Lewiston, ID 83501

TRANSCRIPT OF APPEAL

Appealed from District Court of the Second Judicial District of the State of Idaho, in and for the County of Clearwater

Honorable John Bradbury, District Judge Presiding

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State of Idaho vs. Verna L Lombard

Date	Code	User		Judge
3/23/2009	DCHH	SUE	District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100	John H. Bradbury
	MISC	SUE	Plea agreement	John H. Bradbury
	CAGP	SUE	Court Accepts Guilty Plea (I18-1401 Burglary)	John H. Bradbury
	CAGP	SUE	Court Accepts Guilty Plea (I18-2407(1) Theft-grand)	John H. Bradbury
	SNIC	SUE	Sentenced To Incarceration (I18-1401 Burglary) Confinement terms: Penitentiary determinate: 2 years 6 months. Penitentiary indeterminate: 5 years 6 months.	John H. Bradbury
	OTST	SUE	Other Sentencing Information: (I18-1401 Burglary) Consecutive Sentence: Concurrent with: count 2	John H. Bradbury
	OTST	SUE	Other Sentencing Information: Penitentiary suspended.	John H. Bradbury
	SNIC	SUE	Sentenced To Incarceration (I18-2407(1) Theft-grand) Confinement terms: Penitentiary determinate: 2 years 6 months. Penitentiary indeterminate: 5 years 6 months.	John H. Bradbury
	OTST	SUE	Other Sentencing information: (I18-2407(1) Theft-grand) Consecutive Sentence: Concurrent with: count 1	John H. Bradbury
	OTST	SUE	Other Sentencing Information: Life sentence.	John H. Bradbury
	SNPF	SUE	Sentenced To Pay Fine 88.50 charge: I18-1401 Burglary	John H. Bradbury
	SNPF	SUE	Sentenced To Pay Fine 88.50 charge: I18-2407(1) Theft-grand	John H. Bradbury
4/7/2009	JDMT	SUE	Judgment of conviction	John H. Bradbury
	SCAN	SUE	Scanned: 04/13/2009	John H. Bradbury
4/9/2009	HRSC	SUE	Hearing Scheduled (Restitution 04/20/2009 02:00 PM)	John H. Bradbury
		SUE	Notice Of Hearing	John H. Bradbury
4/20/2009	HRHD	SUE	Hearing result for Restitution Hearing held on 04/20/2009 02:00 PM: Hearing Held	John H. Bradbury
	AFFD	SUE	Affidavit for restitution	John H. Bradbury
	RESO	SUE	Restitution Ordered 5000.00 victim # 2	John H. Bradbury
	RESO	SUE	Restitution Ordered 80000.00 victim # 1	John H. Bradbury
	CMIN	SUE	Court Minutes	John H. Bradbury
	COMM	SUE	Commitment - Held To Answer	John H. Bradbury
	AJUD	SUE	Amended Judgment	John H. Bradbury
	SCAN	SUE	Scanned:	John H. Bradbury

State of Idaho vs. Verna L Lombard

Date	Code	User		Judge
4/23/2009	BNDC	SUE	Bond Posted - Cash (Receipt 5774 Dated 4/23/2009 for 2000.00)	John H. Bradbury
	MOTN	SUE	Motion to Stay Commitment Pending Hearing on Motion for Bail and Stay of Execution	John H. Bradbury
	MOTN	SUE	Motion for bail and stay of execution of amended judgment of conviction	John H. Bradbury
	NOTH	SUE	Notice Of Hearing	John H. Bradbury
	NOTA	SUE	NOTICE OF APPEAL	John H. Bradbury
	APSC	SUE	Appealed To The Supreme Court	John H. Bradbury
4/27/2009	ORDR	SUE	Order of restitution	John H. Bradbury
	SCAN	SUE	Scanned: 05/06/2009	John H. Bradbury
	HRHD	SUE	Hearing Held	John H. Bradbury
	CMIN	SUE	Court Minutes	John H. Bradbury
	DCHH	SUE	District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100	John H. Bradbury
4/28/2009	OTST	SUE	Other Sentencing Information: Life sentence removed. Penitentiary suspended.	John H. Bradbury
5/12/2009	MISC	SUE	Estimate of Reporter's Transcript and Estimate of Clerk's Record	John H. Bradbury
5/13/2009	BNDC	SUE	Bond Posted - Cash (Receipt 6060 Dated 5/13/2009 for 120.00)	John H. Bradbury
5/26/2009	NOTC	SUE	Amended Notice of Appeal	John H. Bradbury
8/4/2009	BNDV	SUE	Bond Converted (Transaction number 584 dated 8/4/2009 amount 1,001.00)	John H. Bradbury
	BNDE	SUE	Cash Bond Exonerated (Amount 999.00)	John H. Bradbury

State of Idaho vs. Verna L Lombard

Date	Code	User		Judge
2/19/2008	NCRF	RENEE	New Case Filed - Felony	Randall W. Robinson
	PROS	RENEE	Prosecutor assigned E. Clayne Tyler	Randall W. Robinson
	SMIS	RENEE	Summons Issued	Randall W. Robinson
	HRSC	RENEE	Hearing Scheduled (Arraignment 03/03/2008 01:00 PM)	Randall W. Robinson
2/25/2008	SMRT	VICKY	Summons Returned: Verna L. Lombard	Randall W. Robinson
	SMRT	CHRISTY	Summons Returned - Verna L. Lombard @ 4040 Lombard Road - Weippe, Idaho 83553	Randall W. Robinson
3/3/2008	ARRN	RENEE	Hearing result for Arraignment held on 03/03/2008 01:00 PM: Arraignment / First Appearance	Randall W. Robinson
	ORPD	RENEE	Defendant: Lombard, Verna L Order Appointing Public Defender Court appointed John R Hathaway	Randall W. Robinson
	HRSC	RENEE	Hearing Scheduled (Preliminary 03/24/2008 11:00 AM)	Randall W. Robinson
	REQD	CHRISTY	Request For Discovery	Randall W. Robinson
3/13/2008	REQD	CHRISTY	Request For Discovery	Randall W. Robinson
3/19/2008	SCDS	VICKY	State's Compliance With Discovery	Randall W. Robinson
3/24/2008	WSP	MICHELLE	Waive Speedy Preliminary Hearing	Randall W. Robinson
	CONT	MICHELLE	Continued (Preliminary 04/14/2008 03:00 PM)	Randall W. Robinson
4/14/2008	HRWV	MICHELLE	Hearing result for Preliminary held on 04/14/2008 03:00 PM: Hearing Waived	Randall W. Robinson
	BOUN	MICHELLE	Bound Over (after Prelim)	Randall W. Robinson
	CHJG	MICHELLE	Change Assigned Judge	John H. Bradbury
	HRSC	MICHELLE	Hearing Scheduled (Arraignment 04/15/2008 01:30 PM)	John H. Bradbury
	ORSP	MICHELLE	Order Setting Time And Place For Arraignment In District Court	John H. Bradbury
	CMIN	MICHELLE	Court Minutes	John H. Bradbury
4/15/2008	ORDR	VICKY	Order Binding Over	Randall W. Robinson
	INFO	VICKY	Information	John H. Bradbury
	ARRN	CHRISTY	Hearing result for Arraignment held on 04/15/2008 01:30 PM: Arraignment / First Appearance	John H. Bradbury
	CMIN	CHRISTY	Court Minutes	John H. Bradbury
	DCHH	CHRISTY	District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100 PAGES	John H. Bradbury
	APNG	CHRISTY	Appear & Plead Not Guilty - NG (118-1401 Burglary)	John H. Bradbury

State of Idaho vs. Verna L Lombard

Date	Code	User		Judge
4/17/2008	SCOR	CHRISTY	Scheduling Order	John H. Bradbury
	HRSC	CHRISTY	Hearing Scheduled (Jury Trial 09/29/2008 08:30 AM)	John H. Bradbury
	HRSC	CHRISTY	Hearing Scheduled (Pretrial Conference 09/15/2008 03:30 PM)	John H. Bradbury
4/22/2008	PPAS	SUE	Probation And Parole Agreement Of Supervision	John H. Bradbury
4/29/2008	SUBR	DIANE	Subpoena Returned	John H. Bradbury
	SUBR	DIANE	Subpoena Returned	John H. Bradbury
9/10/2008	APER	SUE	Defendant: Lombard, Verna L Appearance John Charles Mitchell	John H. Bradbury
9/11/2008	MOTN	SUE	Motion to continue trial	John H. Bradbury
	WAIV	SUE	Waiver Of Speedy Trial	John H. Bradbury
	NOTH	SUE	Notice Of Hearing	John H. Bradbury
	HRSC	SUE	Hearing Scheduled (Motion 09/15/2008 03:30 PM)	John H. Bradbury
9/15/2008	HRHD	RENEE	Hearing result for Motion held on 09/15/2008 03:30 PM: Hearing Held	John H. Bradbury
	CMIN	RENEE	Court Minutes Hearing type: Pretrial Conference Hearing date: 9/15/2008 Time: 1:42 pm Court reporter: Keith Evans Audio tape number: CD#293-2	John H. Bradbury
9/17/2008	SCOR	RENEE	Amended Scheduling Order	John H. Bradbury
	CONT	RENEE	Continued (Pretrial Conference 11/17/2008 03:00 PM)	John H. Bradbury
	CONT	RENEE	Continued (Jury Trial 12/01/2008 08:30 AM)	John H. Bradbury
11/17/2008	HRHD	CHRISTY	Hearing result for Pretrial Conference held on 11/17/2008 03:00 PM: Hearing Held (Off Record)	John H. Bradbury
	ORSP	CHRISTY	Order Setting Time And Place For Change of Plea and Sentence	John H. Bradbury
11/18/2008	HRSC	CHRISTY	Hearing Scheduled (Change Plea and Sentence 11/24/2008 03:00 PM)	John H. Bradbury
11/24/2008	STIP	CHRISTY	Stipulation to Continue	John H. Bradbury
	ORDR	CHRISTY	Order Continuing Change of Plea	John H. Bradbury
	CONT	CHRISTY	Continued (Change Plea and Sentence 12/01/2008 03:00 PM)	John H. Bradbury
	HRVC	CHRISTY	Hearing result for Jury Trial held on 12/01/2008 08:30 AM: Hearing Vacated	John H. Bradbury
12/1/2008	HRHD	SUE	Hearing result for Change Plea and Sentence held on 12/01/2008 03:00 PM: Hearing Held	John H. Bradbury
	CMIN	SUE	Court Minutes	John H. Bradbury

State of Idaho vs. Verna L Lombard

Date	Code	User		Judge
12/1/2008	DCHH	SUE	District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100	John H. Bradbury
	HRSC	SUE	Hearing Scheduled (Jury Trial 01/12/2009 08:30 AM)	John H. Bradbury
12/29/2008		SUE	Notice Of Hearing	John H. Bradbury
1/6/2009	SUBR	DIANE	Subpoena Returned	John H. Bradbury
	SUBR	DIANE	Subpoena Returned	John H. Bradbury
	SUBR	DIANE	Subpoena Returned	John H. Bradbury
1/7/2009	MISC	DIANE	District Court Jury Panel	John H. Bradbury
1/8/2009	SDIS	SUE	State's Additional Discovery	John H. Bradbury
1/12/2009	DFJI	SUE	Defendants Requested Jury Instructions	John H. Bradbury
	SUBR	SUE	Subpoena Returned	John H. Bradbury
	JTST	SUE	Hearing result for Jury Trial held on 01/12/2009 08:30 AM: Jury Trial Started	John H. Bradbury
1/14/2009	JUIN	SUE	Jury Instructions Filed	John H. Bradbury
	VERD	SUE	Verdict Form	John H. Bradbury
	PLEA	SUE	A Plea is Entered for Charge: - GT (118-1401 Burglary)	John H. Bradbury
	HRSC	SUE	Hearing Scheduled (Sentencing 03/16/2009 03:30 PM)	John H. Bradbury
		SUE	Notice Of Hearing	John H. Bradbury
	MISC	SUE	Criminal Case Jury Selection - Script	John H. Bradbury
	JURY	SUE	Jury Chart	John H. Bradbury
	WITN	SUE	Witness List	John H. Bradbury
	EXLT	SUE	Exhibit List	John H. Bradbury
	CMIN	SUE	Court Minutes	John H. Bradbury
1/22/2009	CERT	SUE	Certificate Of Mailing	John H. Bradbury
2/10/2009	ORDR	SUE	Order for substance abuse assessment and mental health examination	John H. Bradbury
3/13/2009	STIP	RENEE	Stipulation to continue sentencing	John H. Bradbury
3/16/2009	ORDR	SUE	Order continuing sentencing	John H. Bradbury
	CONT	SUE	Continued (Sentencing 03/23/2009 01:30 PM)	John H. Bradbury
3/23/2009	HRHD	SUE	Hearing result for Sentencing held on 03/23/2009 01:30 PM: Hearing Held	John H. Bradbury
	CMIN	SUE	Court Minutes	John H. Bradbury

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611

4 Chief Deputy: Lori M. Gilmore ISBN:5877
5

CLERK-DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

2008 FEB 19 P 4:36

CASE NO. CR208-175

BY _____ DEPT

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

8 STATE OF IDAHO,)

CASE NO. CR2008-175

9 Plaintiff,)

CRIMINAL COMPLAINT

10 vs.)

11 VERNA L. LOMBARD,)

12 DOB: 04/14/1957)

13 SS# OR IDN: 519-84-0707)

14 Defendant.)

15 PERSONALLY APPEARED Before me this 19th day of Feb, 2008,

16 Amanda Barber a duly qualified officer serving with the Clearwater County Sheriff's

17 Office who, being first duly sworn on oath, complains and says:

18 **COUNT I**

19 **BURGLARY**
20 **Felony, I.C. 18-1401**

21 That the Defendant, VERNA L. LOMBARD, on or between the 1st day of June,
22 2004 and the 9th day of September, 2007, both dates being approximate and inclusive, in
the County of Clearwater, State of Idaho, did enter into a certain store, to-wit: Mary
23 Ann's Grocery the property of Don and Cammie Ebert located at 116 N. Main, Weippe,
Idaho with the intent to commit the crime of theft.

24 All of which is contrary to I.C. § 18-1401 and against the peace and dignity of the
State of Idaho.
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CRIMINAL COMPLAINT

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**COUNT II
GRAND THEFT
Felony, I.C. 18-2403(1), 2407(1)(b)**

That the Defendant, VERNA L. LOMBARD, on or between the 1st day of June, 2004 and the 9th day of September, 2007, in the County of Clearwater, State of Idaho, did wrongfully take and/or withhold and/or embezzle certain funds or property from Don and Cammie Ebert, with the intent to permanently deprive the same thereof, and/or to appropriate said funds or property to herself, to wit: That said Defendant did commit one or more thefts with an individual or aggregate value in excess of \$1,000.00, or did commit three (3) or more incidents of theft during a series of unlawful acts committed over a period of up to three (3) days, with an aggregate value of in excess of fifty dollars (\$50.00).

All of which is contrary to Idaho Code Section 18-2403(1), 18-2407 (1)(b), and the peace and dignity of the State of Idaho.

Amarda Barber
Complainant

Subscribed and sworn to before me on this 19th day of February, 2008.

Randall M. Palmer
Magistrate Judge

CARRIE J. JUD
CLERK-DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

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

2008 MAR 31
CASE NO. CR 2008-175

STATE OF IDAHO, Plaintiff

VS
VERNA LOMBARD
Defendant

BY 1 DEF
Case No. CR 2008-175

ORDER APPOINTING ATTORNEY

The Court having made a determination that the defendant is financially unable to obtain counsel;

IT IS ORDERED that JOHN R. HATHAWAY
is appointed to represent said defendant.

Dated this 3rd day of March, ~~15~~ 2008.

Ronald W. Palmer
Magistrate

Present Status O/R

Bail Set at _____

Preliminary Hearing Set for 3/1/08 at _____ o'clock.

Copy of Complaint attached.

Copy to:

- Court
- Defense Attorney
- Prosecutor

K DEFENDANT

ORDER APPOINTING ATTORNEY

000003

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

CARRIE BOB
CLERK-DISTRICT COURT
CLEARWATER COUNTY
DISTRICT COURT

2008 MAR -3 P 1:58

CASE NO. CR08-175

STATE OF IDAHO

Plaintiff,

vs.

Verna Lombard

Defendant.

Case No. CR08 175

ORDER SETTING TIME AND PLACE

FOR preliminary hearing

IT IS HEREBY ORDERED THAT the above entitled case now pending before this Court be set for preliminary hearing on MONDAY the 24th day of MARCH, 20 08, at the hour of 11:00 AM in the courtroom of the above entitled Court in the City of Orofino, County of Clearwater, State of Idaho, and that the Defendant be in Court at that time.

FAILURE OF THE DEFENDANT TO APPEAR at the above time and place may result in his bond, if any he has posted, being forfeited and a bench warrant being issued.

Dated this 3rd day of March, 20 08.

Randall W. Rubin
Magistrate

- Copy Delivered to Court
- Copy Delivered to Attorney JACK HATHAWAY
- Copy Delivered to Prosecuting Attorney
- Defendant

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

CLERK DISTRICT COURT

2008 APR 14 P 3:23

STATE OF IDAHO

Plaintiff,

vs.

VERNA LOMBARD

Defendant.

CASE NO. CR08-175

Case No. CR08-175 mn

ORDER SETTING TIME AND PLACE

FOR Arraignment in District Court

IT IS HEREBY ORDERED THAT the above entitled case now pending before this Court be set for Arraignment in District Court on Tuesday the 15th day of April, 20 08, at the hour of 1:30 p.m. in the courtroom of the above entitled Court in the City of Orofino, County of Clearwater, State of Idaho, and that the Defendant be in Court at that time.

FAILURE OF THE DEFENDANT TO APPEAR at the above time and place may result in his bond, if any he has posted, being forfeited and a bench warrant being issued.

Dated this 14th day of April, 20 08.

[Signature] Magistrate

- Copy Delivered to Court
Copy Delivered to Attorney J. Hathaway
Copy Delivered to Prosecuting Attorney
Defendant

000005

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

CLERK-DISTRICT COURT CLEARWATER COUNTY IDAHO

STATE OF IDAHO,

Plaintiff,

TRANSCRIPT OF PROCEEDINGS
ABSTRACT OF COURT RECORD AND DOCKET

2008 APR 14 P 3:27

vs.

Verna Lombard

DISTRICT COURT DOCKET NO. CR 08-175

CASE NO. CR08-175
BY mn

Defendant.

DISPOSITION BY COURT

DATE

2/16/08

Complaint filed by amanda bartow alleging the commission of the crime felony or indictable misdemeanor by the defendant in violation of Section 18-1401

of the Idaho Code, that being the crime of burglary

on or about bet. 6/1/04 & 9/9/07 in Clearwater County, Idaho. Summons issued or Warrant of arrest issued bond of _____ endorsed on warrant. SUMMONS returned and served by CCSO

3/3/08

Defendant appeared in court without counsel with counsel JACK HATHAWAY
 Complaint was read to defendant by the Magistrate; defendant was advised of his right to counsel either of his own choosing or that one would be provided for him if he did not have the funds to obtain one. Defendant waived right to counsel, requested counsel be appointed and signed an affidavit showing that he could not employ counsel.
 Court denied Public Defender.

Fape/Disk: CD 259-2
Foot/Time: 1:55

3/3/08
3/3/08

JOHN R HATHAWAY appointed or retained by defendant.
Bond fixed at _____ Posted by _____ cash, _____ surety (Bonding Co. _____), or _____ other _____
in the sum of _____, Receipt No. _____
 Defendant released on his own recognizance. Committed to custody of sheriff.
No Contact Order issued for: _____

3/3/08

Defendant was advised of his right to and the purposes of a preliminary hearing: of his right to trial on the charge before a jury in District Court; of his right to remain silent. Defendant understood the charges in the complaint.
Preliminary hearing set for the 24 day of MARCH, 2008 at 11:00 A. M. Continued to the 14th day of April, 2008 at 9:00 p. M. Cont'd to _____ at _____ M.; Cont'd to _____ at _____ M.

3/3/08

Other proceedings: 3/24/08 Waiver of Speedy Preliminary Hearing.

4/14/08

Defendant failed to appear for preliminary hearing and bond ordered forfeited. ___ Bench Warrant issued, bond set at ___
Preliminary hearing ___ held or waived. Proceedings reported by ___ Court Reporter (none)
or electronic recorder. Tape/Disk: CD2851 Foot/Time: 3:20 pm; Tape/Disk: C ___
Foot/Time: _____; Tape/Disk: C _____ Foot/Time: _____

Witnesses sworn and testified for State were: _____

Defendant called no witnesses ___; or witnesses sworn and testified for defendant were _____

Exhibits _____

4/14/08

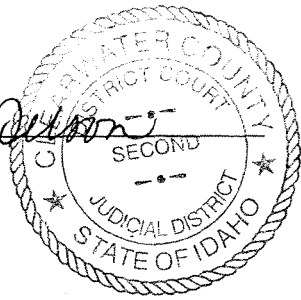
___ Matter taken under advisement ___ Bond continued or _____
 Court found that there was probable cause to hold defendant for trial.
 Defendant ordered held for trial in the District Court on the charge of Burglary

Arraignment set for the 15th day of April, 2008 at 1:30 p.m.
___ Court found that there was not probable cause to hold defendant for trial. Case dismissed.
___ Defendant recommitted to custody of Sheriff. ___ Bond amount reset for \$ _____
Other proceedings _____

I, the undersigned, deputy clerk of the District Court, hereby certify that the foregoing is a true copy of the abstract of record, transcript of proceedings and docket of Randall W. Robinson, District Court Magistrate, showing all proceedings in the above entitled matter.

CARRIE BIRD
Clerk of the District Court

By Michelle Robinson
Deputy Clerk



CARRIE ...
CLERK-DISTRICT COURT
CLEARWATER COUNTY
CLEARWATER, IDAHO

2008 APR 15 A 9:47

CASE NO. CR2008-175

BY K

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
4 Chief Deputy: Lori M. Gilmore ISBN: 5877
5
6

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


8 STATE OF IDAHO,) CASE NO. CR2008-175
9)
Plaintiff,)
10 v.)
11 VERNA L. LOMBARD,) ORDER BINDING OVER
12 Defendant.)

13
14 A Criminal Complaint having been filed in the District Court of the Second Judicial District
15 of the State of Idaho, in and for the County of Clearwater, by Detective Amanda Barlow, of the
16 Clearwater County Sheriff's Department, charging the defendant, VERNA L. LOMBARD, with
17 having committed the felony crime of BURGLARY, a violation of I.C. §18-1401, and GRAND
18 THEFT, a violation of I.C. §18-2403(1) and 18-2407(1)(b). Said defendant having been brought
19 before the Honorable Randall W. Robinson, Magistrate of said District Court on the 19th day of
20 February, 2008, John R. Hathaway, having been appointed as attorney for the defendant, the
21 defendant, through counsel, having waived her right to a preliminary hearing on the 14th day of April,
22 2008; and the Court finding the waiver to be knowing, intelligent and voluntary, and it therefore
23 having been determined that the crime charged was committed, and that there is sufficient cause to
24 believe that the above-named defendant may have perpetrated the said crime;

25 NOW, THEREFORE, IT IS HEREBY ORDERED that the defendant, VERNA L.
26 LOMBARD be and she is hereby held and bound over to the District Court of the Second Judicial
27 District of the State of Idaho, in and for the County of Clearwater, to answer to the felony crime of

1 BURGLARY, a violation of I.C. §18-1401, and GRAND THEFT, a violation of I.C. §18-2403(1)
2 and 18-2407(1)(b) ; bond is hereby set in the penal sum of o/r pending the appearance
3 of the defendant at the time and place fixed for hearing in said District Court.

4 DATED this 15th day of April, 2008.

5
6 
7 _____
8 JUDGE

9 **CERTIFICATE OF MAILING**

10 The undersigned hereby certifies that a true and correct copy of the INFORMATION and
11 ORDER BINDING OVER were mailed or delivered to the following on this 5 day of April, 2008:

12 E. Clayne Tyler
13 Prosecuting Attorney
14 Clearwater County Courthouse Mail
15 Orofino, ID 83544

16 John R. Hathaway
17 Public Defender
18 Clearwater County Courthouse Mail
19 Orofino, ID 83544

20 CARRIE BIRD
21 Clerk of the Court

22 By: 
23 Deputy

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611

4 Chief Deputy: Lori M. Gilmore ISBN: 5877
5

CAMIE JO
CLERK-DISTRICT COURT
CLEARWATER COUNTY
ORONOGO, IDAHO

2008 APR 15 A 9:47

CASE NO. CR08-175 ✓
BY RE SET

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

9 STATE OF IDAHO,) CASE NO. CR2008-175
10 Plaintiff,)
v.)
11 VERNA L. LOMBARD,) INFORMATION
12 Defendant.)
13 -----

14 E. CLAYNE TYLER, Prosecuting Attorney in and for the County of Clearwater, for and in
15 behalf of the State of Idaho, comes into the above-entitled Court in the year 2008, and gives the
16 Court to understand and be informed that the above-named defendant, VERNA L. LOMBARD, is
17 accused by this Information of the felony crimes of BURGLARY, a violation of I.C. §18-1401, and
18 GRAND THEFT, a violation of I.C. §18-2403(1) and 18-2407(1)(b), committed as follows:

20 **COUNT I**
21 **BURGLARY**
Felony, I.C. 18-1401

22 That the Defendant, VERNA L. LOMBARD, on or between the 1st day of June, 2004
23 and the 9th day of September, 2007, both dates being approximate and inclusive, in the
24 County of Clearwater, State of Idaho, did enter into a certain store, to-wit: Mary Ann's
Grocery the property of Don and Cammie Ebert located at 116 N. Main, Weippe, Idaho with
the intent to commit the crime of theft.

25 All of which is contrary to I.C. § 18-1401 and against the peace and dignity of the State of
26 Idaho.


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COUNT II
GRAND THEFT
Felony, I.C. 18-2403(1), 2407(1)(b)

That the Defendant, VERNA L. LOMBARD, on or between the 1st day of June, 2004 and the 9th day of September, 2007, in the County of Clearwater, State of Idaho, did wrongfully take and/or withhold and/or embezzle certain funds or property from Don and Cammie Ebert, with the intent to permanently deprive the same thereof, and/or to appropriate said funds or property to herself, to wit: That said Defendant did commit one or more thefts with an individual or aggregate value in excess of \$1,000.00, or did commit three (3) or more incidents of theft during a series of unlawful acts committed over a period of up to three (3) days, with an aggregate value of in excess of fifty dollars (\$50.00).

All of which is contrary to Idaho Code Section 18-2403(1), 18-2407 (1)(b), and the peace and dignity of the State of Idaho.

DATED this 15th day of April, 2008.



E. CLAYNE TYLER
Prosecuting Attorney

2008 APR 17 P 2:35

CASE NO. CR08-175

BY [Signature]

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

STATE OF IDAHO,	)	CASE NO. CR2008-175
)	
Plaintiff,)	
	)	SCHEDULING ORDER
vs.)	
)	
VERNA L. LOMBARD,)	
)	
Defendant.)	

This matter came before the court on April 15, 2008, for arraignment of the above named Defendant.

Counsel present: E. Clayne Tyler for the State and John R. Hathaway for the Defendant.

The Defendant entered a plea of not guilty and requested a jury trial. The court instructed the clerk to enter a plea of not guilty into the court minutes.

Pursuant to ICR 12 and ICR 18 the court hereby orders the parties and their counsel to comply with the following scheduling order:

1) **TRIAL DATE:** The trial of this action by jury shall commence before this court on September 29, 2008 at 8:30 a.m.

2) **JURY INSTRUCTIONS AND TRIAL BRIEFS:** The parties shall submit their proposed jury instructions and trial briefs to the court on or before _____.

3) **PRE-TRIAL CONFERENCE:** All counsel and the Defendant shall personally appear before this court on September 15, 2008 at 3:30 p.m. for pre-trial conference. Counsel shall be prepared to discuss any and all factors set forth in ICR 18. Before the conference counsel shall have determined the availability and have under subpoena all witnesses. Any and all problems regarding witnesses or other trial logistics shall be raised and resolved at the conference. Failure of the Defendant who is not in custody to appear at this pre-trial conference will result in forfeiture of bail and the court will issue a bench warrant.

4) **MOTIONS:** All motions brought pursuant to ICR 12 and all other motions, including in limine motions shall be scheduled for argument on a date not later than September 8, 2008.

5) **DISCOVERY CUT OFF:** All discovery pursuant to ICR 15 and ICR 16 shall be completed by September 2, 2008.

6) **PLEA BARGAINS:** The State shall offer its best plea bargain by September 3, 2008. At the conclusion of the pre-trial conference the only options available to the parties are an unqualified guilty plea by the defendant, a dismissal of the criminal complaint by the State or a jury trial.

7) **CONTINUANCES:** In the event the trial is continued after the conclusion of the pretrial conference, any costs involved in summoning the prospective juror will be assessed against the party and/or lawyer who requests or is responsible for the continuance. The court will not grant continuances unless extraordinary circumstances exist and the parties waive their right to a speedy trial.

8) **SANCTIONS:** Failure to comply with this order will subject a party and/or his or her counsel to appropriate sanctions, including but not limited to, costs, and reasonable attorney fees and jury costs. The party may be excused from strict compliance with any provisions of this Order only upon showing extraordinary circumstances.

BY ORDER OF THE COURT.

DATED this 17th day of April, 2008.



CARRIE BIRD, Clerk

By: Christy L. Hering
Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing SCHEDULING ORDER, was mailed, postage prepaid, or hand delivered by the undersigned at Orofino, Idaho, this 17th day of April, 2008, to:

E. Clayne Tyler
Prosecuting Attorney
Courthouse Mail
Orofino, Idaho 83544

John R. Hathaway
Attorney at Law
Courthouse Mail
Orofino, Idaho 83544



CARRIE BIRD, Clerk

By: Christy L. Hering
Deputy Clerk

2008 SEP 10 P 3: 26

CASE NO. CR 08-175

BY SM DESK

1
2 JOHN CHARLES MITCHELL
3 Idaho State Bar No. 7159
4 CLARK and FEENEY
5 Attorneys for Defendant
6 The Train Station, Suite 201
7 13th and Main Streets
8 P. O. Drawer 285
9 Lewiston, Idaho 83501
10 Telephone: (208) 743-9516

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

10 STATE OF IDAHO,)
11)
12 Plaintiff,) Case No. CR 08-00175
13 vs.) **NOTICE OF SUBSTITUTION OF**
14) **COUNSEL**
15 VERNA L. LOMBARD,)
16)
17 Defendant.)

16 NOTICE IS HEREBY GIVEN that defendant's attorney of record is hereby changed and a
17 new attorney substituted. The withdrawing counsel of record is John R. Hathaway and the new and
18 substituted attorney of record is John Charles Mitchell and Clark and Feeny.
19

20 YOU ARE HEREBY NOTIFIED that all papers to be served on said Defendant shall be
21 served on John Charles Mitchell, Clark and Feeny, PO Box 285, 1229 Main Street, Ste 201,
22 Lewiston, ID 83501, until further notice or order of the Court.
23
24
25

26 NOTICE OF SUBSTITUTION OF COUNSEL -1-

DATED this 10 day of September, 2008.

By [Signature]
John R. Hathaway
Withdrawing attorney.

CLARK AND FEENEY

By [Signature]
John Charles Mitchell, a member of the firm.
Substituted attorney.

I hereby certify on the _____
day of September, 2008, a true copy
of the foregoing instrument
was: Mailed
 Faxed
 Hand delivered
 Overnight mail to:

E. Clayne Tyler
Prosecuting Attorney
County of Clearwater
PO Box 2627
Orofino, ID 83544-5611

CLARK and FEENEY

By [Signature]
Attorneys for Defendant

NOTICE OF SUBSTITUTION OF COUNSEL-2-

Date: 9/17/2008
Time: 12:10 PM
Page 1 of 1

Second Judicial District Court - Clearwater County

Minutes Report

Case: CR-2008-0000175

Defendant: Lombard, Verna L

All Items

Case No. CR-08-175

Filed 9/15/08

at 1:46 o'clock P M

By Renee Robins

By See

User: RENEE

Clerk

Deputy

Hearing type:	Pretrial Conference	Minutes date:	09/15/2008
Assigned judge:	John H. Bradbury	Start time:	01:42 PM
Court reporter:	Keith Evans	End time:	01:46 PM
Minutes clerk:	Renee' Robins	Audio tape number:	CD#293-2
Prosecutor:	E. Clayne Tyler		
Defense attorney:	John Charles Mitchell		


Tape Counter: 142 Court gives introductions and asks Mr. Mitchell if he's ready to argue his brief now. He advises he just took over the case & is scheduled to meet Mr. Hathaway today to get his file. He advises his client will waive her right to a speedy trial & moves to continue the jury trial.

Tape Counter: 144 Mr. Tyler remarks.

Tape Counter: 145 Court grants the motion to continue, questions the parties re: availability, resets the jury trial to 12/1/08 and will issue its standard scheduling order.

Tape Counter: 146 Court in recess.

Renee' Robins
Deputy Clerk

Approved: 
District Judge

2008 SEP 17 P 12:10

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

CR08-175
BY _____ / DEPUTY

STATE OF IDAHO,	)	CASE NO. CR08-175
)	
Plaintiff,	)	AMENDED SCHEDULING ORDER
)	
vs.)	
)	
VERNA L LOMBARD,)	
)	
Defendant.)	

This matter came before the court on 9/15/2008, for a motion hearing of the above named Defendant.

Counsel present: E Clayne Tyler for the State and John C Mitchell for the defendant.

The Defendant entered a plea of not guilty and requested a jury trial. The court instructed the clerk to enter a plea of not guilty into the court minutes.

Pursuant to ICR 12 and ICR 18 the court hereby orders that counsel for the State and the Defendant shall comply with the following scheduling order:

- 1) **TRIAL DATE:** The trial of this action by jury shall commence before this court on 12/01/2008 at 8:30 a.m.
- 2) **JURY INSTRUCTIONS AND TRIAL BRIEFS:** The parties shall submit their proposed jury instructions and trial briefs to the court on or before 11/17/2008.
- 3) **PRE-TRIAL CONFERENCE:** All counsel and the Defendant shall appear before this court on 11/17/2008, at 3:00 p.m. for pre-trial conference. Counsel shall be prepared

to discuss any and all factors set forth in ICR 18. Before the conference counsel shall have determined the availability and have under subpoena all witnesses. Any and all problems regarding witnesses or other trial logistics shall be raised and resolved at the conference. Failure of the Defendant who is not in custody to appear at this pre-trial conference will result in forfeiture of bail and the court will issue a bench warrant.

4) **MOTIONS:** All motions pursuant to ICR 12 and any other motions, including in limine motions shall be scheduled for argument on a date not later than 11/10/2008.

5) **DISCOVERY CUT OFF:** All discovery pursuant to ICR 15 and ICR 16 shall be completed by 11/03/2008.

6) **PLEA BARGAINS:** The State shall offer its best plea bargain by 11/04/2008. At the conclusion of the pre-trial conference the only options available to the parties are an unqualified guilty plea by the defendant, a dismissal of the criminal complaint by the State or a jury trial.

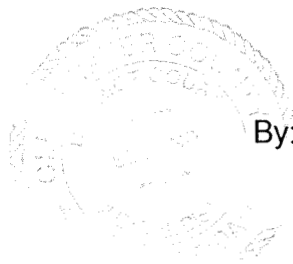
7) **CONTINUANCES:** In the event the trial is continued after the conclusion of the pretrial conference, any costs involved in summoning the prospective jurors will be assessed against the party and/or lawyer who requests or is responsible for the continuance. The Court will not grant continuances unless extraordinary circumstances exist and the parties waive their right to a speedy trial.

8) **SANCTIONS:** Failure to comply with this order will subject a party and/or his or her counsel to appropriate sanctions, including but not limited to, costs, and reasonable attorney fees and jury costs. The party may be excused from strict compliance with any provisions of this Order only upon showing extraordinary circumstances.

BY ORDER OF THE COURT

DATED this 17th day of September, 2008

CARRIE BIRD, Clerk



By: _____

Deputy

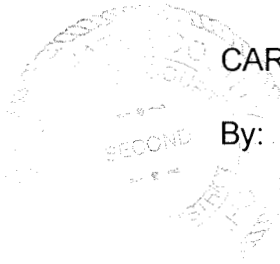
A handwritten signature in black ink, appearing to read "Carrie Bird", is written over a horizontal line.

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing AMENDED SCHEDULING ORDER, was mailed, postage prepaid, or hand delivered by the undersigned at Orofino, Idaho, this 17th day of September, 2008, on:

E Clayne Tyler
Clearwater County Prosecutor
Courthouse Mail
Orofino, ID 83544

John C Mitchell
Clark & Feeney
P O Drawer 285
Lewiston, ID 83501



CARRIE BIRD, Clerk

By: _____

Deputy Clerk

A handwritten signature in black ink, appearing to read "Carrie Bird", is written over a horizontal line.

SCHEDULING ORDER - 3

000020

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

2008 NOV 17 P 5:25

STATE OF IDAHO

Plaintiff,

vs.

Verna Lombard

Defendant.

Case No.

CR08-175

ORDER SETTING TIME AND PLACE

FOR

Change Plea + Sentence

IT IS HEREBY ORDERED THAT the above entitled case now pending before this Court be set for Change Plea + Sentence on Monday the 24th day of November, 20 08, at the hour of 3:00pm in the courtroom of the above entitled Court in the City of Orofino, County of Clearwater, State of Idaho, and that the Defendant be in Court at that time.

FAILURE OF THE DEFENDANT TO APPEAR at the above time and place may result in his bond, if any he has posted, being forfeited and a bench warrant being issued.

Dated this 17th day of November, 20 08.

James Bradbury
District Judge

- Copy Delivered to Court
- Copy Delivered to Attorney Mitchell
- Copy Delivered to Prosecuting Attorney Tyler
- Defendant

CAPRI 100
CLERK-DISTRICT COURT
CLEARWATER, IDAHO

NOV 20 11:16

CASE NO

CR 08-175

BY

[Signature]

1 JOHN CHARLES MITCHELL
2 Idaho State Bar No. 7159
3 CLARK and FEENEY
4 Attorneys for Defendant
5 The Train Station, Suite 201
6 13th and Main Streets
7 P. O. Drawer 285
8 Lewiston, Idaho 83501
9 Telephone: (208) 743-9516

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

8 STATE OF IDAHO,)
9)
10 Plaintiff,) Case No. CR 08-00175
11 vs.) **STIPULATION TO CONTINUE**
12) **CHANGE OF PLEA**
13 VERNA L. LOMBARD,)
14)
15 Defendant.)

14 COMES NOW the State of Idaho, by and through its undersigned attorney of record and the
15 defendant above-named, by and through her undersigned attorney of record, and stipulate to continue the
16 change of plea presently scheduled for November 24, 2007, at 3:00 p.m. to a date convenient to Court and
17 counsel.

18 DATED this 24th day of November, 2008.

19 STATE OF IDAHO

20 By: *[Signature]*
21 E. Clayne Tyler, Prosecuting Attorney
22 Nez Perce County

23 CLARK and FEENEY

24 By: *[Signature]*
25 John Charles Mitchell, a member of the firm.
26 Attorney for Defendant

STIPULATION TO CONTINUE CHANGE OF PLEA-1-

CLEARWATER DISTRICT COURT
CLERK'S OFFICE
CLEARWATER, IDAHO

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

NOV 24 11:02 AM
CASE NO. CR08-175
BY CP DEPT.

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
VERNA L. LOMBARD,)
)
Defendant.)

Case No. CR 08-00175
**ORDER CONTINUING
CHANGE OF PLEA**

Based upon the Stipulation of the parties and good cause appearing therefor,

IT IS HEREBY ORDERED that the change of plea previously scheduled be continued and is rescheduled for December 1, 2008 at the Clearwater County Courthouse, Orofino, Idaho. @ 3:00 pm

DATED this 24 day of November, 2008.
Kevin J. Feeney
JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24 day of November, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

E. Clayne Tyler Prosecuting Attorney County of Clearwater PO Box 2627 Orofino, ID 83544-5611	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Telecopy
John Charles Mitchell Clark and Feeney 1229 Main Street, Ste 201 Lewiston, ID 83501	<input type="checkbox"/> US Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Facsimile

CLERK OF THE COURT
By: Christy L. Herang
Deputy

LAW OFFICES OF
CLARK AND FEENEY
LEWISTON, IDAHO 83501

000023

Case No. CR2008-175
 Filed 12/1/08
 at 3:36 o'clock P M
Sue K. Summerton
 Clerk

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR2008-175
vs.)	
)	
VERNA LOMBARD,	)	COURT MINUTES
)	
Defendant.)	

John Bradbury, District Judge Presiding
 Clayne Tyler, Attorney for Plaintiff
 John Mitchell, Attorney for Defendant.
 Keith Evans, Court Reporter
 Date: 12/1/08 Tape: CD325-1 Time: 3:04 p.m.
 Subject of Proceeding: Change Plea

=====

MINUTE ENTRY:


- 3:04 Court gives introductions. Defendant present in court. Court advises now is the time for a change of plea.
- 3:04 Mr. Mitchell provides the Court a plea agreement.
- 3:06 Court reviews the plea agreement with the defendant.
- 3:06 Defendant understands the plea agreement.
- 3:11 Colloquy regarding the defendant's plea. Court advises that there will not be a plea to the restitution if the defendant doesn't admit and if the defendant doesn't admit then this case will go to trial.
- 3:11 Mr. Mitchell moves for a recess.
- 3:11 Court in recess.

CASE NO. CR08-175
STATE OF IDAHO v. VERNA LOMBARD

- 3:33 Court reconvenes.
- 3:33 Court questions the defendant regarding her plea.
- 3:35 Defendant advises she doesn't agree with the restitution.
- 3:36 Court advises the defendant that her choices now are either to an unconditional plea or jury trial. Court set jury trial for 1/12/09 at 8:30 a.m.
- 3:36 Court in recess.

Deputy Clerk - Sue K. Summerton
COURT MINUTES - Page 2 of 2

Approved: _____


District Judge

000025

DISTRICT COURT JURY PANEL

CARRIE BIRD
CLERK-DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

STATE OF IDAHO
vs.
VERNA L. LOMBARD

2009 JAN -7 P

CASE NO. CR2008-175
8:30 a.m.

January 12, 2009

CASE NO. CR2008-175

BY [Signature] DEPUT

PLAINTIFF'S ATTORNEY:
E. Clayne Tyler

DEFENDANT'S ATTORNEY:
John C. Mitchell

THE HONORABLE JOHN BRADBURY

- | | |
|-------------------------|-----------------------------|
| 1. Christine Anderson | 16. Ronald W. Gould |
| 2. Hughlyn H. Anderson | 17. Jane I. Greene |
| 3. Tammi J. Bird | 18. William E. Hall |
| 4. Robyn L. Bonner | 19. Polly S. Henderson |
| 5. Michael B. Carrico | 20. Mereta I. Higgins |
| 6. Karen L. Cole | 21. Frederick D. Hough, Jr. |
| 7. William P. Connor | 22. Kathryn L. Howard |
| 8. Linda L. Cook | 23. Travis C. Jared |
| 9. Lelonnie R. Curtis | 24. Ashly L. Johnson |
| 10. Charlene A. Douglas | 25. Deloris G. Johnson |
| 11. Lenni L. Driver | 26. Melody L. Kerr |
| 12. Robert B. Duffy | 27. Bonita L. Kryns-Perry |
| 13. Courteney L. Ellis | 28. Douglas R. Lacey |
| 14. Francis R. Feucht | 29. Jay Lee |
| 15. Thomas W. Fisher | 30. Mistie A. Lee |

JURY PANEL - 1

000026

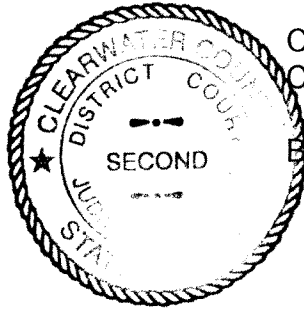
31. Kathy J. Lefferts
32. Walter A. Lineberry
33. Ann L. Lozar
34. Stewart F. Mackey
35. Stephanie R. Marek
36. Dorothy J. Martress
37. Scott D. Morgan
38. Vernon L. Morris
39. William E. Mowery
40. Allena C. McCrory
41. Richard K. McIntosh
42. Jonathan P. McPherson
43. Markley J. Pishl
44. Kurt K. Potratz
45. Diana L. Poulton
46. James A. Reed
47. George R. Reel
48. Kathleen I. Reinhardt
49. Morgan R. Renner
50. Deborah A. Salisbury
51. Tammy L. Schwartz
52. Edith C. Shapiro
53. Tyler S. Sherrill
54. Lloyd J. Sims
55. Teresa K. Smith
56. Cody D. Stanton
57. Lauri M. Stifanick
58. Lucas J. Tilley
59. Debra A. Turner
60. Virginia A. Twedell
61. Audrey Wentz
62. Robert D. White
63. Robert E. Williams
64. Karen S. Wirgau
65. Frank A. Woodworth

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was delivered, on the 7th day of January, 2009 to:

E. Clayne Tyler
Clearwater County Prosecutor
Courthouse Mail
Orofino, ID 83544

John C. Mitchell
Clark and Feeney
P.O. Drawer 285
Lewiston, ID 83501



CARRIE BIRD
Clerk of the District Court

BY: Jack - Summerton
Deputy

JURY PANEL - 3

000028

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

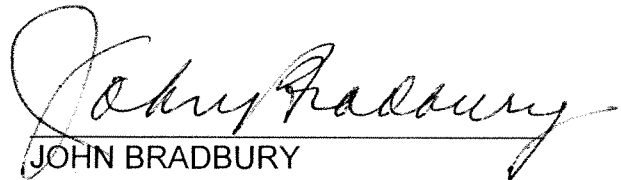
CARRIE BIRD
CLERK-DISTRICT COURT
COUNTY OF CLEARWATER
STATE OF IDAHO

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 VERNA L. LOMBARD,)
)
 Defendant.)

2009 JAN 14 P 3:03
CASE NO. CR2008-175
CASE NO. CR2008-175
JURY INSTRUCTIONS GIVEN BY JS DEPUTY

Jury instructions given by the Court.

Dated this 13 day of January, 2009.


JOHN BRADBURY
District Judge

JURY INSTRUCTIONS GIVEN

INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to explain to you how the trial will proceed so you will understand why we are doing what we do.

The Prosecuting Attorney will first make an opening statement. Immediately following the opening statement by the State, the defendant's lawyer may make an opening statement.

These opening statements by the lawyers – just like any other statement made by any lawyers in this case – are not evidence. The opening statements are limited to a statement or outline of the testimony and other evidence, which each side intends to produce during the course of the trial and what each side expects the evidence will show.

Following opening statements the State will then put on its evidence in its case in chief. When the State concludes its evidence, the defense may - but is not required to – put on evidence in the defense of the defendant. When the defense concludes the production of evidence in its case in chief – if the defendant elects to put on any proof – the State will then have the opportunity of presenting rebuttal evidence if it so desires. If the State does present rebuttal evidence, the defense may present surrebuttal evidence, if it so desires.

When all the evidence is in – that is when the parties advise me that they have no further evidence to present – I will then instruct you on the law that applies to this case. A written copy of the instructions will be furnished to each of you when you retire to deliberate this case.

After I read the instructions to the jury, the parties – through their counsel – will present their final arguments or summations to the jury. The State will proceed first with the final arguments. The defense lawyer will then present the defendant's summation or argument. The State will then be given the opportunity to its rebuttal argument. The reason that the State opens and closes the final arguments – that is, why the State gets to present two arguments to the jury at the close of the evidence, while the defendant gets one argument – is that the State has the burden of proving the defendant's guilt beyond a reasonable doubt.

At the conclusion of the final arguments the clerk will swear a bailiff and you will retire to the jury room to deliberate and to render your verdict. The instructions I give you at the conclusion of the evidence will contain more complete information and instructions about the law that applies to this case and the procedure you should follow after retiring to the jury room to deliberate and render your verdict.

000031

INSTRUCTION NO. 2

Ladies and gentlemen of the jury, you are instructed that the State of Idaho has filed a criminal information against the Defendant, VERNA L. LOMBARD, charging her with one count of Burglary and one count of Grand Theft. The information describes the charges; it is not evidence. The State alleges that said crimes were committed as follows:

COUNT I

That the Defendant, VERNA L. LOMBARD, on or between the 1st day of June, 2004 and the 9th day of September, 2007 both dates being approximate and inclusive, in the County of Clearwater, State of Idaho, did enter into a certain store, to wit: Mary Ann's Grocery, the property of Don and Cammie Ebert located at 116 N. Main, Weippe, Idaho with the intent to commit the crime of theft. All of which is contrary to I.C. § 18-1401 and against the peace and dignity of the State of Idaho..

COUNT II

That the Defendant, VERNA L. LOMBARD, on or between the 1st day of June, 2004 and the 9th day of September, 2007, in the County of Clearwater, State of Idaho, did wrongfully take and/or withhold and/or embezzle certain funds or property from Don and Cammie Ebert, with the intent to permanently deprive the same thereof, and/or to appropriate said funds or property to herself, to wit: That said Defendant did commit one or more thefts with an individual or aggregate value in excess of \$1,000.00 or did commit three (3) or more incidents of theft during a

series of unlawful acts committed over a period of up to three (3) days, with an aggregate value of in excess of fifty dollars (\$50.00). All of which is contrary to Idaho Code Section 18-2403(1), 18-2407(1)(b), and the peace and dignity of the State of Idaho.

To which charges, the Defendant, Verna Lombard, has entered her plea of not guilty.

INSTRUCTION NO. 3

A defendant in a criminal action is presumed to be innocent. This presumption places upon the State the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant's guilty, you must return a verdict of not guilty.

Reasonable doubt is defined as follows: It is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider my instructions on the law as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any agreed or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to help me make the right decision and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, then the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell

you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

INSTRUCTION NO. 5

Do not allow the subject of the penalty or punishment to affect your verdict.

If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

INSTRUCTION NO. 6

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes on your seats in the jury box.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you are not permitted to assign to one person the duty of taking notes for all of you.

I also allow jurors to ask the witnesses questions. After the lawyers have concluded their questions, you may write on a piece of paper from your pad any questions you would like asked. I will review those questions with the lawyers, and if the questions are proper, I will ask them. After I have asked your questions, the lawyers will be permitted to follow-up with any questions they have.

INSTRUCTION NO. 7

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

First, do not talk about this case either among yourselves or with anyone else during the course of the trial. You should keep an open mind throughout the trial and not form or express an opinion about the case. You should only reach your decision after you have heard all the evidence, after you have heard my final instruction and after the final arguments. You may discuss this case with the other members of the jury only after it is submitted to you for your decision. All such discussion should take place in the jury room.

Second, do not let any person talk about this case in your presence. If anyone does talk about it, tell them you are a juror on the case. If they won't stop talking, report that to the bailiff as soon as you are able to do so. You should not tell any of your fellow jurors about what has happened.

Third, during this trial do not talk with any of the parties, their lawyers or any witnesses. By this, I mean not only do not talk about the case, but do not talk at all, even to pass the time of day. In no other way can all parties be assured of the fairness they are entitled to expect from you as jurors.

Fourth, during this trial do not make any investigation of this case or inquiry outside of the courtroom on your own. Do not go any place mentioned in the testimony without an explicit order from me to do so. You must not consult any

books, dictionaries, encyclopedias or any other source of information unless I specifically authorize you to do so.

Fifth, do not read about the case in the newspapers. Do not listen to radio or television broadcasts about the trial. You must base your verdict solely on what is presented in court and not upon any newspaper, radio, television or other account of what may have happened.

I will remind you about this instruction at the beginning of each recess and at the end of each day, not because I don't trust your memories, but because of the importance of the instruction.

INSTRUCTION NO. 8

If during the trial I may say or do anything, which suggests to you that I am inclined to favor the claims or position of any party, please do not be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion about which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I have failed. My sole role in this trial is to insure that both parties receive a fair trial, nothing more, nothing less.

INSTRUCTION NO. 9

You have just heard all the evidence in the case. It is now my duty to instruct you as to the law.

You must follow all the rules of law as I explain them. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from those I tell you, it is my instructions that you must follow.

INSTRUCTION NO. 10

In order for the defendant to be guilty of Burglary, the state must prove each of the following:

1. On or between June 1, 2004 and September 9, 2007
2. in the state of Idaho
3. the defendant Verna Lombard entered Mary Ann's Grocery, and
4. at the time entry was made, the defendant had the specific intent to commit theft.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 11

To prove that the defendant intended to commit a theft inside Mary Ann's Grocery, the state is not required to prove that there was anything of value inside, nor must it prove that the defendant knew there was anything of value inside. Likewise, the state is not required to prove that the defendant actually stole or attempted to steal anything. The state need only prove that when the defendant entered Mary Ann's Grocery the defendant intended to steal anything inside that the defendant might desire to take.

INSTRUCTION NO. 12

The manner or method of entry is not an essential element of the crime of burglary. An entry can occur without the use of force or the breaking of anything.

The intent to commit the crime of theft must have existed at the time of entry.

INSTRUCTION NO. 13

In order for the defendant to be guilty of Theft, the state must prove each of the following:

1. On or between June 1, 2004 and September 9, 2007
2. in the state of Idaho
3. the defendant Verna Lombard wrongfully took or withheld funds.
4. from an owner, and
5. the defendant took or withheld the funds with the intent to deprive an owner of the property or to appropriate them.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty of Theft. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty of Theft.

INSTRUCTION NO. 14

Theft is classified into two degrees: Grand Theft and Petit Theft. If you find the defendant guilty of Theft, then you must determine whether the crime was Grand Theft or Petit Theft. The state has the burden of proving beyond a reasonable doubt that the theft is Grand Theft. You must state the degree in your verdict.

The theft of property which exceeds one thousand dollars (\$1000) in value is Grand Theft, or; the theft of property stolen during three or more incidents is Grand Theft if:

- (a) the aggregate value of the property is over \$50.00 and
- (b) the property was stolen during a series of unlawful acts committed over a period of up to three days.

Any theft that is not Grand Theft is Petit Theft.

INSTRUCTION NO. 15

If the evidence shows that Verna Lombard took, obtained, or withheld property by theft at various times from the same person; and that the value of the property taken in each theft was one thousand dollars (\$1000) or less; and that the property was taken, obtained, or withheld pursuant to one overall intent or plan to commit a series of thefts; then you are to add together the values of all the property taken, obtained, or withheld pursuant to that overall intent or plan. If the total value of such property is more than one thousand dollars (\$1000), then the crime is Grand Theft. The state has the burden of proving beyond a reasonable doubt that a theft is grand theft. If a theft is not grand theft, then it is petit theft.

INSTRUCTION NO. 16

The phrase "intent to deprive" means:

a. The intent to withhold property or cause it to be withheld from an owner permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to such owner; or

b. The intent to dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

The phrase "intent to appropriate" means:

a. The intent to exercise control over property, or to aid someone other than the owner to exercise control over it, permanently or for so extended a period of time or under such circumstances as to acquire the major portion of its economic value or benefit; or

b. The intent to dispose of the property for the benefit of oneself or someone other than the owner.

INSTRUCTION NO. 17

An "owner" of property is any person who has a right to possession of such property superior to that of the defendant.

INSTRUCTION NO. 18

"Person" means an individual, corporation, association, public or private corporation, city or other municipality, county, state agency or the state of Idaho.

INSTRUCTION NO. 19

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on either or both of the offenses charged.

INSTRUCTION NO. 20

It is alleged that the crime charged was committed "on or between" certain dates. If you find the crime was committed, the proof must show that the defendant entered into Mary Ann's Grocery on at least one day with the intent to commit theft, but need not specify the precise date or time.

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INSTRUCTION NO. 21

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 22

In every crime or public offense there must exist a union or joint operation of
act and intent.

INSTRUCTION NO. 23

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. anything you may have seen or heard when the court was not in session.

INSTRUCTION NO. 24

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instruction will apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

INSTRUCTION NO. 25

In this case you will return a special verdict, consisting of a series of questions. Although the explanations on the special verdict form are self-explanatory, they are part of my instructions to you. I will now read the special verdict form to you. It states:

"We, the Jury, duly impaneled and sworn to try the above entitled action, for our verdict, unanimously answer the question(s) submitted to us as follows:

QUESTION NO. 1: Is defendant Verna Lombard not guilty or guilty of Burglary?

Not Guilty ___ Guilty _____

QUESTION NO. 2: Is defendant Verna Lombard not guilty or guilty of Theft?

Not Guilty ___ Guilty _____

If you unanimously answered Question No. 2 "**Guilty**", then you must answer Question No. 3. If you unanimously answered Question No. 2 "**Not Guilty**", then simply sign the verdict form and return with it to court.

QUESTION NO. 3: Did Verna Lombard commit Grand Theft by committing one or more thefts with an individual or aggregate value in excess of one thousand dollars (\$1,000.00)?

Yes ___ No _____

If you unanimously answered Question No. 3 "**No**", then you must answer Question No. 4. If you unanimously answered Question No. 3 "**Yes**", then simply sign the verdict form and return with it to court.

QUESTION NO. 4: Did Verna Lombard commit Grand Theft by committing three (3) or more incidents of theft over a period of up to three days with an aggregate value in excess of fifty dollars (\$50.00)?

Yes ____ No _____

INSTRUCTION NO. 26

The exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way. Each of you will have a copy of the instructions. They are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

INSTRUCTION NO. 27

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence

the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

INSTRUCTION NO. 28

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding officer will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

Case No. CR08-175
 Filed 1/14/09
 at 4:00 o'clock P M
Carrie Lind
 Clerk
 Deputy

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR2008-175
vs.)	
)	
VERNA LOMBARD,	)	COURT MINUTES
)	
Defendant.)	

John Bradbury, District Judge Presiding
 Clayne Tyler, Attorney for Plaintiff
 John Mitchell, Attorney for Defendant.
 Keith Evans, Court Reporter
 Date: 1/12/09 Tape: CD325-1 Time: 8:40 a.m.
 Subject of Proceeding: Jury Trial

=====

MINUTE ENTRY:

- 8:40 Court convenes. Court gives welcome to the jurors.
- 8:41 Mr. Tyler advises the Court that he is ready to proceed.
- 8:41 Mr. Mitchell advises the Court that he ready to proceed.
- 8:41 Court continues with the introductions.
- 8:42 Mr. Tyler passes the panel for cause.
- 8:42 Mr. Mitchell passes the panel for cause.
- 8:42 Court continues script.
- 8:42 Mr. Tyler waives roll.

Sue K. Summerton – Deputy Clerk
 COURT MINUTES – 1

STATE V. VERNA LOMBARD
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- 8:42 Mr. Mitchell waives roll.
- 8:43 Court continues script.
- 8:50 Jay Lee addresses the Court and advises why he needs to be excused.
- 8:50 Court does not excuse Mr. Lee.
- 8:50 Christine Anderson addresses the Court regarding her conflict to serve.
- 8:50 Court excuses Christine Anderson for cause.
- 8:51 Clerk calls Walter Lineberry to fill #15 seat. Clerk calls Lucas Tilley to fill #22 seat.
- 8:52 Clerk swears in the jury.
- 8:53 Court continues script.
- 8:53 Court conducts voir dire of the jurors.
- 8:55 Court advises a 15 minute break in order for the Prosecutor to be sworn in as an elected official.
- 8:55 Court in recess.
- 9:10 Court reconvenes.
- 9:11 Court explains illness of juror #13 Mistie Lee and excuses her.
- 9:11 Clerk calls Deborah Salisbury to fill #13 seat.
- 9:11 Court continues voir dire of the jurors.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 2

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- 9:12 Court gives introductions of Mitchell Jared; Keith Evans; Sue Summerton and Skip Gabriel.
- 9:13 Travis Jared addresses Court regarding his conflict to serve as juror.
- 9:13 Court excuses Mr. Jared for cause.
- 9:14 Clerk calls Frank Woodworth.
- 9:14 Polly Henderson addresses conflict to serve as juror.
- 9:15 Court does not excuse Ms. Henderson.
- 9:15 Melody Kerr addresses conflict to serve as juror.
- 9:16 Court does not excuse Ms. Kerr.
- 9:17 Ms. Lefferts advises the Court of her conflict to serve as juror.
- 9:17 Court excuses Kathy Lefferts as juror.
- 9:17 Clerk calls Jonathan McPherson.
- 9:17 Karen Cole advises the conflict to serve as juror.
- 9:18 Court excuses Karen Cole for cause.
- 9:18 Audrey Wentz addresses Court regarding her conflict to serve as juror.
- 9:19 Court excuses Audrey Wentz for cause.
- 9:19 Walter Lineberry addresses Court regarding conflict to serve as juror.
- 9:20 Court does not excuse the Mr. Lineberry.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 3

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- 9:20 Mark Lee addresses Court regarding his conflict to serve as juror.
- 9:21 Court excuses Mark Lee for cause.
- 9:21 Clerk calls Morgan Renner.
- 9:21 Richard McIntosh addresses the Court regarding his conflict to serve as juror.
- 9:21 Court excuses Richard McIntosh for cause.
- 9:21 Court continues voir dire.
- 9:37 Court advises questions the jurors about sensitive questions.
- 9:37 Court in recess.
- 9:40 Court reconvenes in the juryroom to hear sensitive issues to serve as a juror.
Parties present: Judge Bradbury, Clayne Tyler, Mitchell Jared, John Mitchell,
Verna Lombard, Keith Evans, and Sue Summerton.
- Walter Lineberry addresses Court regarding his conflict to serve as juror.
Court excuses Walter Lineberry.
Mr. Tyler calls Frank Woodworth.
Colloquy regarding Frank Woodworth.
Court explains to Mr. Woodworth why he was called into the juryroom.
Mr. Woodworth responds.
Mr. Tyler questions Mr. Woodworth.
Mr. Woodworth responds.
Court does not excuse Mr. Woodworth.
- 9:45 Court reconvenes in Courtroom 1.
- 9:45 Clerk calls Robyn Bonner to fill #15 seat.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 4

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- 9:45 Court continues voir dire of the jury.
- 9:53 Mr. Tyler gives voir dire of the jury.
- 9:56 Diana Poulton addresses the Court regarding her conflict to serve as juror.
- 9:56 Court excuses Diana Poulton for cause.
- 9:57 Clerk calls Michael Carrico.
- 9:57 Robert Williams addresses the Court regarding his conflict to serve as juror.
- 9:57 Court excuses Robert Williams for cause.
- 9:57 Mr. Tyler continues voir dire.
- 10:08 Mr. Mitchell conducts voir dire.
- 10:09 Court advises the jury of the peremptory process.
- 10:10 Court in recess.
- 10:11 Court reconvenes in jury room to conduct peremptories. Parties present: Judge Bradbury; Clayne Tyler, Mitchell Jared, John Mitchell, Verna Lombard, Keith Evans, Renee Robins and Sue Summerton.
- Court questions the attorneys regarding an alternate juror.
Mr. Mitchell moves to know who the alternate will be instead of at random.
Mr. Tyler moves to know who the alternate is now.
Court advises the parties that the 13th juror will be the alternate juror. Court explains to the attorneys the peremptory process.
- State's 1st peremptory: Frank Woodworth; Defendant's 1st peremptory: Deborah Salisbury; State's 2nd peremptory: Dorothy Martress; Defendant's 2nd peremptory: Jane Greene; State's 3rd peremptory: Polly Henderson; Defendant's

Sue K. Summerton – Deputy Clerk
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3rd peremptory: Robyn Bonner; State's 4th peremptory: Melody Kerr; Defendant's 4th peremptory: George Reel; State's 5th peremptory: Kathleen Reinhardt; Defendant's 5th peremptory: Karen Wirgau; State's 6th peremptory: Edith Shapiro; Defendant's 6th peremptory: pass; State's 7th peremptory: pass

Court announces the jury panel to the attorneys.
Mr. Mitchell agrees.
Mr. Tyler agrees.

10:31 Court in recess. Court reconvenes in Courtroom 1.

10:31 Court advises the panel: 1. Lucas Tilley; 2. Tammy L. Schwartz; 3. Lauri M. Stafanick; 4. Cody D. Stanton; 5. Michael Carrico; 6. Lloyd Sims; 7. William Conner; 8. Scott Morgan; 9. Ann L. Lozar; 10. Tammi Bird; 11. Vernon Morris; 12. Morgan Renner; 13. William Hall.

1:036 Clerk swears in the jury.

10:36 Court gives admonition to jury and excuses them to the juryroom.

10:38 Court in recess.

10:38 Court addresses the juror Alena McCory.

10:39 Juror addresses court.

10:39 Court advises juror that if she doesn't obey the jury process she will serve 3 days in jail.

10:38 Court in recess.

11:03 Court reconvenes.

11:04 Court orders the bailiff to return the jury.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 6

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STATE V. VERNA LOMBARD
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- 11:04 Court advises attorneys review of instructions at 8:00 a.m. tomorrow.
- 11:06 Court welcomes the jury. Court gives preliminary instructions.
- 11:10 Clerk reads the Information.
- 11:12 Court continues advising jury the preliminary instructions.
- 11:24 Mr. Tyler gives opening statement.
- 11:42 Mr. Mitchell gives opening statement.
- 11:43 Mr. Tyler calls Lance Newton, sworn, testifies.
- 11:51 Mr. Mitchell cross-examines the witness.
- 11:53 Court advises that this is the jury's opportunity to ask questions of the witness.
- 11:53 Court hearing none, excuses the witness.
- 11:53 Mr. Tyler calls Don Ebert, sworn, testifies.
- 12:13 Mr. Tyler identifies State's Exhibit 1, summary of time sheets for Verna Lombard.
- 12:14 Mr. Mitchell objects to State's Exhibit for lack of foundation.
- 12:14 Mr. Tyler continues identification of State's Exhibit 1.
- 12:15 Court admits State's Exhibit 1.
- 12:16 Mr. Tyler continues direct examination.
- 12:18 Mr. Tyler identifies State's Exhibit 2, cash register tape.
- 12:20 Mr. Tyler moves to admit State's Exhibit 2.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 7

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12:20 Mr. Mitchell has no objection.

12:20 Court admits State's Exhibit 2.

12:20 Mr. Tyler continues direct examination.

12:28 Mr. Tyler identifies State's Exhibit 3, video tape.

12:29 Mr. Tyler moves for admission of State's Exhibit 3.

12:29 Mr. Mitchell has no objection.

12:29 Court admits State's Exhibit 3.

12:29 Court gives admonition to the jury and excuses them.

12:30 Court in recess.

12:44 Court reconvenes. Jury not present.

12:44 Court reads note from and marks it as Exhibit 1. Mr. Ebert advises he will recues himself from his indigent hearings. Court orders bailiff to call in the jury.

12:47 Jury present in courtroom.

12:48 Court explains to the jury about Lauri Stifanick's indigent hearing before the commissioners.

12:48 Mr. Tyler continues direct examination and plays the video recording.

1:30 Court gives admonition to the jury and excuses them.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 8

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1:35 Court orders attorneys to be here at 8:00 a.m. tomorrow.

1:36 Court in recess.

January 13, 2009

7:58 Court reconvenes. Jury and Defendant not present. Mr. Tyler and Mr. Mitchell present. Court works through the jury instructions.

8:00 Mr. Mitchell argues against Jury Instruction #10.

8:00 Mr. Tyler argues.

8:01 Court will review this Instruction and will render a decision later.

8:02 Mr. Tyler agrees with Instructions 11 through the verdict form.

8:02 Mr. Mitchell agrees with Instructions 11 through the verdict form.

8:03 Colloquy regarding "on or between" language.

8:04 Court in recess.

8:28 Court reconvenes. Mr. Tyler and Mr. Mitchell present. Defendant and Jury not present. Court remarks regarding altering Instruction #20.

8:29 Mr. Tyler agrees with Instruction #20.

8:29 Mr. Mitchell agrees with Instruction #20.

8:29 Court in recess.

8:31 Court reconvenes. Mr. Tyler and Mitchell Jared, Mr. Mitchell and the defendant present. Court orders the bailiff to bring in the jury.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 9

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- 8:33 Jury is now present.
- 8:34 Mr. Tyler calls Don Ebert and the Court advises the defendant he is still under oath.
- 8:38 Mr. Tyler identifies State's Exhibit #5, till tape and moves for admission.
- 8:40 Mr. Mitchell has no objection.
- 8:40 Mr. Tyler continues direct examination of the witness.
- 8:42 Mr. Tyler identifies State's Exhibit #6, CD and moves for admission.
- 8:42 Mr. Mitchell has no objection to State's Exhibit #6.
- 8:42 Court admits State's Exhibit #6.
- 8:43 Mr. Tyler continues direct examination of the witness.
- 8:43 Court in recess.
- 8:51 Court reconvenes. Jury present in court.
- 8:52 Mr. Tyler continues direct examination of the witness.
- 9:01 Mr. Tyler identifies State's Exhibit #4, credit card receipts and moves for admission.
- 9:02 Mr. Mitchell has no objection to State's Exhibit #4.
- 9:02 Court admits State's Exhibit #4.
- 9:02 Mr. Tyler continues direct examination of the witness.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 10

000074

STATE V. VERNA LOMBARD
CASE NO. CR2008-175

- 9:19 Mr. Tyler identifies State's Exhibit #8, till tape and moves for admission.
- 9:20 Mr. Mitchell has no objection to State's Exhibit #8.
- 9:20 Court admits State's Exhibit #8.
- 9:20 Mr. Tyler identifies State's Exhibit #9, DVD and moves for admission.
- 9:21 Mr. Mitchell has no objection to State's Exhibit #9.
- 9:21 Court admits State's Exhibit #9.
- 9:21 Mr. Tyler continues direct examination.
- 9:49 Mr. Tyler identifies State's Exhibit #10, till tapes and State's Exhibit #11, till tapes and moves for admission.
- 9:49 Mr. Mitchell has no objections to State's Exhibit #10 and State's Exhibit #11.
- 9:50 Court admits State's Exhibit #10 and State's Exhibit #11.
- 9:50 Mr. Tyler identifies State's Exhibit #12, DVD and moves for admission.
- 9:51 Mr. Mitchell has no objection to State's Exhibit #12.
- 9:51 Court admits State's Exhibit #12.
- 9:52 Court gives admonition to the jury and excuses them.
- 9:53 Court in recess.
- 10:14 Court reconvenes. Parties present: Mr. Tyler, Mitch Jared, Mr. Mitchell and Verna Lombard. Jury not present. Court orders the bailiff to bring in the jury.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 11

000075

STATE V. VERNA LOMBARD
CASE NO. CR2008-175

10:16 Jury is present.

10:16 Mr. Tyler continues direct examination.

10:51 Mr. Tyler identifies State's Exhibit #13, till tapes.

10:53 Court in recess. 10:53 Court reconvenes. All parties present.

10:53 Mr. Tyler continues direct examination. Mr. Tyler moves for admission of State's Exhibit #13.

10:53 Mr. Mitchell has no objection to State's Exhibit #13.

10:55 Court admits State's Exhibit #13.

10:55 Mr. Tyler continues direct examination.

11:16 Mr. Tyler identifies State's Exhibit #14, till tape and moves for the admission.

11:17 Mr. Mitchell has no objection to State's Exhibit #14.

11:18 Court admits State's Exhibit #14.

11:18 Mr. Tyler identifies State's Exhibit #15, DVD.

11:18 Mr. Tyler moves for admission of State's Exhibit 15.

11:18 Mr. Mitchell has no objection to State's Exhibit 15.

11:18 Court admits State's Exhibit 15.

11:19 Mr. Tyler continues direct examination.

11:27 Mr. Tyler moves for a break.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 12

000076

STATE V. VERNA LOMBARD
CASE NO. CR2008-175

- 11:27 Court gives admonition and excuses the jury.
- 11:28 Court questions the attorneys regarding their witnesses.
- 11:32 Court in recess.
- 11:47 Court reconvenes. Parties present: Mr. Tyler, Mitch Jared, Mr. Mitchell and Verna Lombard. Jury not present. Court orders the bailiff to bring in the jury.
- 11:49 Jury is present. Court remarks to the jurors regarding the trial schedule.
- 11:51 Mr. Tyler continues direct examination. Mr. Tyler identifies State's Exhibit #16, till tapes and moves for admission.
- 11:53 Mr. Mitchell has no objection to State's Exhibit #16.
- 11:53 Court admits State's Exhibit #16.
- 11:53 Mr. Tyler continues direct examination.
- 12:23 Mr. Tyler identifies State's Exhibit #17, credit card receipts.
- 12:24 Mr. Mitchell objections to State's Exhibit #17.
- 12:24 Court overrules the objection and admits the State's Exhibit #17.
- 12:25 Mr. Tyler continues direct examination.
- 12:27 Mr. Tyler identifies State's Exhibit #18, and moves for admission.
- 12:28 Mr. Mitchell objects to State's Exhibit #18.
- 12:28 Court overrules the objection and admits State's Exhibit #18.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 13

000077

STATE V. VERNA LOMBARD
CASE NO. CR2008-175

12:28 Mr. Tyler continues direct examination.

12:31 Mr. Tyler identifies State's Exhibit #19.

12:33 Court gives admonition to the jury and excuses them.

12:33 Court in recess.

12:44 Court reconvenes. Court orders the bailiff to bring in the jury.

12:45 Jury is present.

12:46 Mr. Mitchell gives cross examination of the witness.

1:20 Mr. Tyler gives redirect examination.

1:29 Mr. Mitchell gives re-cross examination.

1:31 Mr. Tyler continues redirect examination.

1:32 Court asks the jurors if they have any questions for the witness.

1:33 Court marks question of juror as Court Exhibit #2. Court asks the witness the question.

1:34 Mr. Tyler questions the witness in light of the juror question.

1:34 Court marks questions Court Exhibit #3, #4, & #5.

1:34 Court reads juror questions.

1:37 Witness responds.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 14

000078

STATE V. VERNA LOMBARD
CASE NO. CR2008-175

- 1:39 Mr. Tyler questions the witness in light of the juror question.
- 1:39 Court reads juror question.
- 1:40 Witness responds.
- 1:41 Court reads juror question.
- 1:41 Witness responds.
- 1:42 Mr. Tyler questions the witness in light of juror questions. Mr. Tyler identifies State's Exhibit #19 & #20, till tapes.
- 1:45 Mr. Mitchell has no objection to State's Exhibits #19 and #20.
- 1:45 Court admits State's Exhibit 19 and 20.
- 1:46 Court gives admonition to the jury and excuses them.
- 1:47 Court in recess.

January 14, 2009

- 8:33 Court reconvenes. Parties present: Mr. Tyler, Mitch Jared, Mr. Mitchell and Verna Lombard. Jury not present. Court orders the bailiff to bring in the jury.
- 8:35 Jury present.
- 8:35 Mr. Tyler calls Mitchell Boyd Jared, sworn, testifies.
- 8:43 Mr. Tyler identifies State's Exhibit #19-A, photograph and moves for admission.
- 8:44 Mr. Mitchell has no objection to State's Exhibit #19-A.
- 8:45 Court admits State's Exhibit #19-A.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 15

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STATE V. VERNA LOMBARD
CASE NO. CR2008-175

- 8:45 Mr. Tyler continues direct examination.
- 8:48 Mr. Tyler identifies State's Exhibit #20-A, summary report, and moves for admission.
- 8:49 Mr. Mitchell has no objection to State's Exhibit #20-A.
- 8:49 Court admits State's Exhibit #20-A.
- 8:50 Mr. Tyler continues direct examination.
- 8:51 Mr. Tyler identifies State's Exhibit #21, CD and moves for admission.
- 8:52 Mr. Mitchell has no objection to State's Exhibit #21.
- 8:52 Court admits State's Exhibit #21.
- 8:52 Mr. Tyler waives the reporting of the CD when played.
- 8:53 Mr. Mitchell waives the reporting.
- 8:53 Mr. Tyler plays the CD.
- 9:22 Mr. Tyler continues direct examination.
- 9:23 Mr. Mitchell cross examines the witness.
- 9:26 Mr. Tyler gives redirect examination.
- 9:38 Court asks the jury if they have questions for the jury, after hearing none the Court excuses the witness.
- 9:28 Mr. Tyler advises that State rests.

STATE V. VERNA LOMBARD
CASE NO. CR2008-175

- 9:28 Mr. Mitchell moves to argue motion outside of the presence of the jury.
- 9:28 Court gives admonition and excuses the jury.
- 9:29 Mr. Mitchell argues motion for acquittal.
- 9:32 Mr. Tyler argues.
- 9:34 Court finds grand theft threshold has been met and denies motion for acquittal.
- 9:38 Jury now present.
- 9:38 Mr. Mitchell advises the defense rests.
- 9:39 Court remarks to the jury about the defense not testifying. Court remarks to the jury about the schedule for the rest of the day. Court gives the jury admonition and excuses them.
- 9:40 Court in recess.
- 9:51 Court reconvenes. Court orders the bailiff to call in the jury.
- 9:53 Jury is now present.
- 9:53 Court reads the Instructions to the jury.
- 10:10 Mr. Tyler gives closing argument.
- 10:35 Mr. Mitchell gives closing argument.
- 10:36 Mr. Tyler gives rebuttal argument.
- 10:37 Court remarks to the alternate juror and excuses him.
- 10:40 Clerk swears in the bailiff.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 17

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STATE V. VERNA LOMBARD
CASE NO. CR2008-175

10:40 Court excuses the jury to deliberate.

10:43 Court in recess.

11:37 Court reconvenes.

11:37 Bailiff advises a verdict has been reached.

11:37 Court orders the bailiff to bring in the jury.

11:38 Jury present. Court question jury if they have reached a verdict.

11:38 Clerk reads the verdict.

11:40 Court questions the attorney whether they want the jury polled.

11:40 Mr. Tyler advises no.

11:40 Mr. Mitchell advises no.

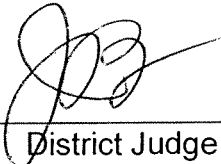
11:40 Court remarks to the jury and excuses them Court orders a presentence report to be due by 3/12/09 and sets sentencing for 3/16/09 at 3:30 p.m.

11:44 Mr. Mitchell questions the Court regarding the presentence packet.

11:44 Court advises clerk will provide packet.

11:44 Court in recess.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 18

Approved: 
District Judge

000082

Case No. CR08-175
Filed 1/14/09
at 4:00 o'clock P. M
CARRIE BIRD
Clerk
By Stc Deputy

CRIMINAL CASE JURY SELECTION

OPENING COURT

The matter of **STATE OF IDAHO v. VERNA L. LOMBARD**, Clearwater

County Case Number CR 2008-175 is now before the court for jury trial in
Clearwater County."

Note presence of defendant and counsel.

Ask if parties are ready to proceed.

Good morning ladies and gentlemen. My name is John Bradbury. I am the
Clearwater County District Judge who will be presiding over this trial of a criminal
case entitled State of Idaho v. Verna L. Lombard. Prosecutor Clayne Tyler
represents the State. John Mitchell represents Ms. Lombard.

This matter has come to trial because the State has filed a Criminal
Information charging Ms. Lombard with having committed the offenses of Burglary
and Grand Theft. Ms. Lombard has entered a plea of not guilty to the charges set
forth in that criminal Information. Later on in these proceedings, the clerk of the
Court will read the Criminal Information to the jury selected to try this matter and
will again state the defendant's plea.

Challenges to the panel:

Are there any challenges to the panel? If so, they must be taken before any
jurors is sworn.

PRELIMINARY COMMENTS

You have been summoned here today as prospective jurors. The first step in this trial will therefore be the selection of the jury. The clerk has had you sign in as prospective jurors. Is there anyone who has not signed in? Are the parties willing to waive a roll call?

The clerk has selected 27 names by lot and those who were selected were given a number and have taken a seat that corresponds to the number.

I am about to make some comments regarding jury service. The comments are directed to all of you, whether or not you are now seated in the jury box. Please pay careful attention to these comments.

The right to have a trial by jury is a fundamental right in our democratic system of government. So much so it is explicitly written into the United States Constitution.

Instead of placing the power for resolving disputes with a few, the jury system allows for the composite wisdom, memory, and experience of a group of persons – a jury – to sift through the evidence presented before arriving at a verdict.

Through the jury system the people share in judicial power, for the jury – as a cross section of the community – represents the conscience of the community. I am proud to serve as a member of the judiciary because, of our three branches of government, it is truly the most democratic. Unlike the executive and legislative branches, the crucial decisions submitted to the judiciary are made by the members of the public directly when they serve as jurors.

This right is not without its price, however. Jury duty can interrupt our everyday lives, our businesses, and our homes. On the other hand, it is important to recognize that the right to trial by jury, like other privileges and freedoms, requires the conscientious and diligent support of all.

Each and every individual who desires a trial by jury must be afforded that right if the freedoms we cherish are to continue to be safeguarded. The exercise of that right to trial by jury will often result in some degree of hardship or inconvenience to others – those citizens who are called upon to exercise their duty and privilege to serve as jurors. It is only when we faithfully and willingly contribute our time and best efforts that we continue to safeguard our own right and - indeed – justice for all.

The demand upon your time for this call for jury service is expected to be _____ days. I will make every effort to see that your time is not wasted.

Trial will start promptly at 8:30 a.m. each morning and will continue until 1:30 p.m. in the afternoon with two 15 minute breaks and a half hour lunch break.

I realize that your service on a jury panel is not always convenient and that there are instances where service would be much more than a mere inconvenience and would constitute an undue hardship on you and your family. Under our laws a juror may, in my discretion, be excused because of undue hardship or extreme inconvenience or because of public necessity. If you believe that you have a legitimate reason for seeking to be excused from jury duty I will consider them. Before seeking an excuse from jury duty please give thoughtful consideration to my earlier comments regarding the importance of jury service.

If there is any person here who believes that he or she has a legitimate reason for being excused from jury service because of undue hardship, extreme inconvenience, public necessity, please raise your hand at this time.

(Court hears excuses.)

BRIEF STATEMENT OF CASE

This is a criminal action instituted by the State of Idaho. I am going to briefly describe the case so you will have an idea of why we are asking the question we do while selecting the jury.

The State alleges that between June 2004 and September 2007, Verna Lombard did enter into Mary Ann's Grocery, the property of Don and Cammie Ebert, with the intent to commit the crime of theft, and wrongfully took, withheld, or embezzled funds or property from the Eberts. Ms. Lombard has denied the charge.

SWEARING OF THE PROSPECTIVE JURORS

An essential part of the process of selecting a jury is the swearing of all persons who have been summoned for jury duty. All persons in the courtroom who have been summoned for jury duty – whether or not now seated in the jury box – will please rise and each will raise his or her right hand and be sworn by the clerk.

The clerk will now administer the Oath.

(Clerk administers the following oath:)

CLERK: Do you solemnly swear or affirm that you will true answers make to all questions propounded to you by Court and counsel touching upon your qualifications to sit as a trial juror in this case, under penalty of perjury?

VOIR DIRE EXAMINATION

A. By Court

I am about to ask all the prospective jurors – those presently seated in the jury box and those seated in the back of the courtroom – a number of questions. Any juror who would answer yes or probably to any of the questions addressed generally to all of you will please raise your hand.

VOIR DIRE QUESTIONS GIVEN BY THE COURT

1. Are any of you under 18 years of age?
2. Are any of you not a citizen of the U.S.?
3. Are any of you not a resident of Clearwater County, Idaho?
4. Please raise your hand if you are not able to read and understand the English language.
5. Do any of you have any physical concerns that you would like to have considered in determining your ability to serve as a juror? Hearing, back problems, etc.
6. Have any of you heard of this case before, other than what I have told you about it this morning?
7. Do any of you know Ms. Lombard?
8. Are any of you acquainted with any member of Ms. Lombard's family?
9. Have any of you ever been involved in any dealings with the defendant?
10. Do any of you have a bias or prejudice for or against the Defendant based on the nature of the charges or for any other reason?
11. Have any of you formed or expressed an unqualified opinion or belief that the defendant is guilty or not guilty of the offense charged?

12. Do you have a state of mind with reference to the charges against this Defendant, which would in any way prevent you from acting impartially?
13. The alleged victims in this matter are Don and Cammie Ebert. Are any of you related to either of them by blood or marriage, or do you know her from any business or social relationship?
14. I will now read to you the names of other people who may possibly testify in this case. I will read their names slowly and I ask that if you know any of them in any capacity that you raise your hand.

• ~~Amanda Barlow~~

- Cammie Ebert
- Don Ebert
- Mitch Jared
- Verna Lombard

• X

• X

• X

15. I have introduced you to the lawyers representing the parties. Are any of you related to any of them by blood or marriage?
16. Have any of you had any professional, business, or social relationship with any of the lawyers?
17. Are any of you related to a lawyer, judge, or person connected in any way with the courts or the administration of justice?

18. Are any of you reluctant to apply the law as I instruct you in the jury instructions even if you disagree with the law or do not think what I say is the law?
19. Do any of you have a religious or moral position that would make it difficult for you to render judgment?
20. Is there anything about the nature of this case that would cause you to begin this trial with any bias or prejudice for or against the State? For or against the defendant?
21. [Ask the following question, and take up the responses in chambers.]
Have any of you or a family member or a close friend been charged with or convicted of a felony offense involving a property crime?
22. Have you ever had an experience with a law enforcement officer that might affect your service as a juror in this case?
23. Would any of you be more inclined to believe a police officer just because he or she is an officer? Would any of you be less inclined?
24. Are any of you interested or consider yourself to have a stake in the outcome of this lawsuit or the principal question involved in it?
25. Have any of you previously served on a jury?
26. Ms. Lombard has been charged with an offense by the State and has entered a plea of not guilty. In our judicial system, everyone is presumed innocent until the contrary is proven. Do any of you believe that because and only because Ms. Lombard has been charged with this offense, she is guilty?

27. In our system of justice, a high burden of proof is placed upon the State so that they must prove a defendant's guilt beyond a reasonable doubt before a conviction may be entered. Would any of you have any problem or difficulty in holding the State to this burden to prove the Defendant's guilty beyond a reasonable doubt?
28. Are there any of you, if selected as a juror in this case, who are unwilling or unable to render a fair and impartial verdict based upon the evidence presented in this courtroom and the law as instructed by the Court?
29. Do any of you have any other reason that we have not already discussed that might affect your ability to be impartial in this case?

B. By Counsel:

In order that the case be tried before an impartial jury, the lawyers will now ask you questions, not to embarrass or to pry into your private affairs, but rather to select an unbiased jury and without preconceived ideas which might affect the case. They are not permitted to ask questions I have already asked, but they may ask follow-up questions.

Peremptory Challenges:

Each party is entitled in this case to six (6) peremptory challenges plus one (1) for the two alternates. Peremptory challenges will be made on the record in the jury room. Preempted jurors will be replaced by remaining jurors in the order of their numbers, starting with No. 13.

ACCEPTANCE OF JURY

Ask if parties accept jury as selected.

EXCUSING JURORS NOT SELECTED FOR SERVICE:

All jurors summoned here today who have not been selected as trial jurors – that is, those of you who are not now seated in the jury box – are about to be excused until further notice. To those of you who are about to be excused, I say that your presence here has not been a waste of time, by any means. Your presence was necessary to assure that an impartial jury consisting of a cross-section of the community – of persons from every walk of life – could be seated to try this matter. Thus, your being here during the process of the selection of a trial jury has been an essential part of our system of justice – that part which guarantees the parties in a civil action the right to a trial by an impartial jury of their peers. Thank you for coming to this court and do take pride in the fact that you have played an essential role in our American system of justice.

SWEARING OF TRIAL JURY

The jurors now seated in the jury box will please stand and be sworn to try this cause. Raise your right hands and give close attention to the oath.

(Clerk administers the following oath: "Do you solemnly swear or affirm that you, and each of you as trial jurors, will well and truly try the matter at issue and a true verdict render according to the evidence, under penalty of perjury?")

CR08-175
 1/14/09
 4:05 o'clock P.M.
 Carrie Bird
 Clerk
 SLS
 Deputy

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 VERNA L. LOMBARD,)
)
 Defendant.)

CASE NO. CR2008-175

JURY CHART

JUDGE: JOHN BRADBURY

DATE: JANUARY 12, 2009

Twenty-seven names drawn:

Jurors sworn to try case:

1. Karen S. Wirgau
2. Tammy L. Schwartz
3. Lauri M. Stafanick
4. Cody D. Stanton
5. George R. Reel
6. Travis C. Jared
7. Polly S. Henderson
8. Kathleen I. Reinhardt
9. Ann L. Lozar
10. Tammi J. Bird
11. Jane I. Greene
12. Dorothy J. Martress
13. Mistie A. Lee
14. Lloyd J. Sims
15. Walter Lineberry
16. Vernon L. Morris
17. William P. Connor
18. Melody L. Kerr
19. Jay Lee
20. Diana L. Poulton
21. Edith C. Shapiro

1. Lucas Tilley
2. Tammy L. Schwartz
3. Lauri M. Stafanick
4. Cody D. Stanton
5. Michael Carrico
6. Lloyd Sims
7. William Conner
8. Scott Morgan
9. Ann L. Lozar
10. Tammi J. Bird
11. Vernon Morris
12. Morgan Renner
13. William Hall

JURY CHART - 1

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22. Christine Anderson
23. Scott D. Morgan
24. William E. Hall
25. Tyler S. Sherill
26. Courteney L. Ellis
27. Kathy J. Lefferts

Plaintiff's Peremptory
Challenges

First: Frank Woodworth
Second: Dorothy Martress
Third: Polly Henderson
Fourth: Melody Kerr
Fifth: Kathleen Reinhardt
Sixth: Edith Shapiro
Seventh: Pass

Defendant's Peremptory
Challenges

First: Deborah Salisbury
Second: Jane Greene
Third: Robyn Bonner
Fourth: George Reel
Fifth: Karen Wirgau
Sixth: Pass
Seventh:

Excused By Court for Cause:

Christine Anderson
Travis Jared
Karen Cole
Kathy Lefferts
Audrey Wentz
Richard McIntosh
Robert Williams
Dianna Poulton
Mistie Lee
Mark Lee

Case No. CR2008-175
 Filed 1/14/09
 at 4:00 o'clock P
 By Carrie Bird Clerk
 Deputy

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
)
)
 VERA L. LOMBARD,)
)
)
)
 Defendant.)

CASE NO. CR2008-175

 WITNESS LIST

JUDGE: JOHN BRADBURY DATE: JANUARY 12, 2009

E. CLAYNE TYLER Attorney for Plaintiff
JOHN MITCHELL Attorney for Defendant

Witnesses called by Plaintiff
 Lance Newton
 Don Ebert
 Mitchell Jared

Witnesses called by Defendant

WITNESS LIST

Case No. CR208-175
 Filed 1/14/09
 at 4:00 o'clock P M
Carrie Lind
 Clerk
 Deputy

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

STATE OF IDAHO,	)	CASE NO. CR2008-175
)	
Plaintiff,)	
	)	EXHIBIT LIST
vs.)	
)	
VERNA LOMBARD,)	
)	
Defendant.)	

PLAINTIFF'S EXHIBITS

		Admit Denied Withdrawn
#1	Summary Time Sheet of Verna Lombard	Admit
#2	Cash Register Tapes	Admit
#3	DVD	Admit
#4	Credit Card Receipts	Admit
#5	Cash Register Tapes	Admit
#6	DVD	Admit
#8	Cash Register Tapes	Admit
#9	DVD	Admit
#10	Cash Register Tapes	Admit
#11	Cash Register Tapes	Admit
#12	DVD	Admit
#13	Cash Register Tapes	Admit
#14	Cash Register Tapes	Admit
#15	DVD	Admit
#16	Cash Register Tapes	Admit
#17	Credit Card Receipts	Admit
#18	No Sales and Graph	Admit
#19	Cash Register Tapes	Admit
#19-A	Photographs	Admit

EXHIBIT LIST - 1

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#20	Cash Register Tapes	Admit
#20-A	Summary Report	Admit
#21	DVD	Admit

DEFENDANT'S EXHIBITS	Admit
	Denied
	<u>Withdrawn</u>

NONE

COURT'S EXHIBITS	Admit
	Denied
	<u>Withdrawn</u>

#1	Question from juror	Admit
#2	Question from juror	Admit
#3	Question from juror	Admit
#4	Question from juror	Admit
#5	Question from juror	Admit

CARRIE BIRD
CLERK-DISTRICT COURT
CLEARWATER COUNTY
ORONHO, IDAHO

2009 FEB 10 P 1:39

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, AND FOR THE COUNTY OF CLEARWATER CR08-175

STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 VERNA LOMBARD,)
)
 Defendant.)

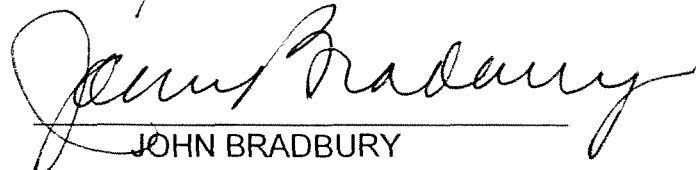
CASE NO. CR2008-175 BY SIS DEPT.)
)
 ORDER FOR SUBSTANCE ABUSE)
 ASSESSMENT AND MENTAL HEALTH)
 EXAMINATION, PER I.C. 19-2524)

The Defendant having been found guilty of Count I, Burglary and Count II, Grand Theft. THE COURT HEREBY ORDERS, pursuant to Idaho Code 19-2524, that the Defendant undergo substance abuse assessment and a mental health examination prior to the sentencing hearing set for March 16, 2009 at 3:30 p.m. The substance abuse assessment shall indicate whether the defendant is a drug addict or alcoholic and, if so, shall include a plan of treatment. The report of the mental health examination shall address the criteria detailed in Idaho Code 19-2524(3)(a).

FURTHER, if it is determined that the defendant needs treatment, that treatment will be provided.

DATED this 10 day of February, 2009, ~~nunc pro tunc~~ to _____,

~~2009~~


JOHN BRADBURY
District Judge

ORDER FOR SUBSTANCE ABUSE
ASSESSMENT AND MENTAL HEALTH
EXAMINATION, PER I.C. 19-2524 - 1

000097

CERTIFICATE OF MAILING

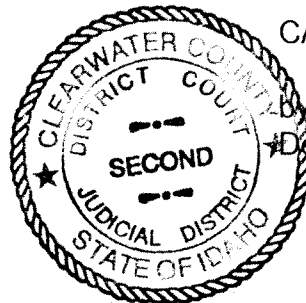
I hereby certify that a true copy of the foregoing ORDER FOR SUBSTANCE ABUSE ASSESSMENT AND MENTAL HEALTH EXAMINATION was mailed, postage prepaid, this 10th day of February, 2008, to the following:

John Mitchell
Attorney at Law
P.O. Drawer 285
Lewiston, ID 83501

E. Clayne Tyler
Clearwater County Prosecuting Attorney
Courthouse Mail
Orofino, ID 83544

Idaho Department of Health & Welfare
Attn: Joyce Lyons
FAX: 208-476-3636

Idaho Department of Probation and Parole
Attn: Gary Kiss
FAX: 208-799-8556



CARRIE BIRD, Clerk

by: See K. Summerton
Deputy

ORDER FOR SUBSTANCE ABUSE
ASSESSMENT AND MENTAL HEALTH
EXAMINATION, PER I.C. 19-2524 - 3

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1 JOHN CHARLES MITCHELL
2 Idaho State Bar Number 7159
3 CLARK and FEENEY
4 Attorneys for Defendant
5 The Train Station, Suite 201
6 13th and Main Streets
7 P. O. Drawer 285
8 Lewiston, Idaho 83501
9 Telephone: (208) 743-9516

Case No. CR08-175
Filed 3/22/09
at 2:32 o'clock P M
CHARIE DAVID
By [Signature] Clerk
Deputy

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

7 STATE OF IDAHO,)
8)
9 Plaintiff,) Case No. CR 08-175
10 vs.) **RULE 11 PLEA AGREEMENT**
11 VERNA L. LOMBARD,)
12)
13 Defendant.)

14 COMES NOW the State of Idaho, Plaintiff, by and through its undersigned attorney of record, and
15 Defendant, by and through her undersigned attorney of record, and enters into the following written plea
16 agreement pursuant to Rule 11(d)(1)(C) of the Idaho Criminal Rules:

17 1. The Defendant is presently charged with Burglary, in violation of Idaho Code Section 18-
18 1401 and Grand Theft, in violation of Idaho Code Sections 18-2403(1), 2407(1)(b).

19 2. That in exchange for the defendant's plea of guilty to Count II of the Criminal Complaint -
20 Grand Theft, a felony; the State will dismiss Count I of the Criminal Complaint - Burglary , and the court
21 will impose the following sentence:

22 a. The Defendant shall be entitled to ask for the court for a withheld judgment;

23 b. Any incarceration shall be served at the Clearwater County Jail and said time shall not
24 exceed 6 months. Each party is free to argue the amount of said time they deem appropriate.

25 c. Defendant shall pay costs and fines as set by the discretion of the court;

26 **RULE 11 PLEA AGREEMENT -1-**

d. The length and terms of probations shall be set by the court;

e. Defendant will be required to make restitution. Restitution will be in the total amount of \$20,000.00, with \$5,000.00 of the total amount being paid to Western Community Insurance Company and the other \$15,000.00 being paid to Don Ebert and Cami Ebert. The first \$10,000.00 of the total restitution amount will be paid within six months of the date of sentencing and the other \$10,000 will be paid in a manner as set forth by the court.

3. This plea agreement is made pursuant to Rule 11(d)(1)(C) of the Idaho Criminal Rules, and is entered into upon the express condition that the provisions set forth above shall constitute the Defendant's entire sentence as a result of the charges currently pending against her. The parties have entered into lengthy discussions regarding the disposition of the foregoing case and are of the joint opinion that the terms and conditions set forth above are in the interests of justice.

4. The parties understand and agree that the Court may accept or reject this plea bargain agreement pursuant to Rule 11(d)(3) and (4) of the Idaho Criminal Rules. Should the Court reject the plea agreement, the Defendant shall have the right to withdraw from the plea agreement, withdraw her plea of guilty, and proceed to trial on all counts presently charged in the Information.

5. The Defendant states that she is aware of her absolute right to plead not guilty and persist in that plea; that she has a right to be tried by a jury, and at that trial has a right to the assistance of counsel; that at trial, she has the right to require the government to prove the entire case against her beyond a reasonable doubt; that she has a right not to testify against herself or not to be compelled to incriminate herself. Further, at trial, she would have the right to confront and cross examine witnesses on her own behalf.

6. Defendant understands that by pleading guilty, she waives the right to a trial by jury and those rights identified in paragraph 5 above; that no trial will, in fact, occur; and that the only thing remaining to be done in this case is the hearing at the time and date set for sentencing, at which only matters concerning

RULE 11 PLEA AGREEMENT -2-

CARNE BDD
CLERK-DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

2009 MAR 16 A 9:46
CR 08-175

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

BY *SJS* DEPUTY

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
VERNA LOMBARD,)
)
Defendant.)

Case No. CR 08-00175
**ORDER CONTINUING
SENTENCING**

Based upon the Stipulation of the parties on file in this matter and good cause appearing therefor,
IT IS HEREBY ORDERED that the sentencing presently scheduled for March 16, 2009, be
continued and rescheduled for **March 23, 2009 at 1:30 p.m.**, at the Clearwater County Courthouse, Orofino,
Idaho.

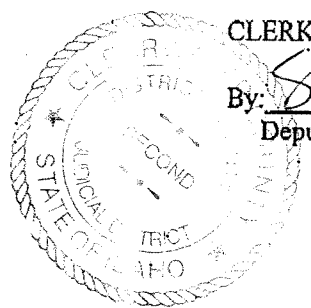
DATED this *16th* day of March, 2009.

John Padbury
JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ___ day of March, 2009, I caused to be served a true and correct
copy of the foregoing document by the method indicated below, and addressed to the following:

E. Clayne Tyler 152 S. A Street PO Box 2040 Orofino, ID 83544	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile(208) 476-9710
John Charles Mitchell Clark and Feeney 1229 Main Street, Ste 201 Lewiston, ID 83501	<input type="checkbox"/> US Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Facsimile (208) 746-9160



CLERK OF THE COURT
By: *Sue K. Summer ton*
Deputy

LAW OFFICES OF
CLARK AND FEENEY
LEWISTON, IDAHO 83501

No. CR2008-175
 Date 3/23/09
 at 2:32 o'clock P M
 by Cherie Bond Clerk
 Deputy

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR2008-175
vs.)	
)	
VERNA LOMBARD,	)	COURT MINUTES
)	
Defendant.)	

John Bradbury, District Judge Presiding
 Clayne Tyler, Attorney for Plaintiff
 John Mitchell, Attorney for Defendant.
 Keith Evans, Court Reporter
 Date: 3/23/09 Tape: CD351-1 Time: 1:34 p.m.
 Subject of Proceeding: Sentencing

=====

MINUTE ENTRY:

- 1:34 Court gives introductions. Defendant present in court. Court advises the process of the sentencing and the standards to consider before imposing sentence.
- 1:36 Defendant understands the procedure.
- 1:37 Mr. Mitchell advises no corrections to the presentence report.
- 1:38 Mr. Tyler calls Don Ebert, sworn, testifies. Mr. Tyler advises that there is a stipulation with Mr. Mitchell regarding a separate restitution hearing.
- 1:39 Court grants a separate date for the restitution hearing.
- 1:39 Mr. Tyler gives direct examination.
- 1:56 Mr. Tyler calls Cammie Ebert, sworn, testifies.
- 2:04 Mr. Mitchell questions the Court regarding the process of this hearing.

CASE NO. CR08-175
STATE OF IDAHO v. VERNA LOMBARD

- 2:04 Court responds.
- 2:04 Mr. Tyler argues sentencing.
- 2:12 Mr. Mitchell argues sentencing.
- 2:18 Defendant address Court regarding sentencing.
- 2:18 Mr. Tyler continues argument.
- 2:19 Court remarks to the parties. Court orders that restitution will be determined at a restitution hearing at a later date. Court sentences the defendant to the Idaho State Board of Correction for a determinate period of incarceration of 2 ½ followed by a subsequent indeterminate period of 5 ½ years. Court suspends the sentence and retains jurisdiction for a period of 180 days. Court imposed court costs \$201.00. Report to Sheriff's office the day before the bus leave to Boise.
- 2:31 Mr. Mitchell questions the Court regarding the defendant being transported and not being available for restitution hearing.
- 2:32 Court stays the commitment pending the restitution hearing.
- 2:32 Court in recess.

Deputy Clerk - Sue K. Summerton
COURT MINUTES - Page 2 of 2

Approved: 
District Judge

000104

SCANNED

4.13.09

CARRIE BIRD
CLERK-DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

2009 APR -7 P 1:28

CASE NO. CR2008-175

BY SJS DEPUTY

1 E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
4 Chief Deputy: Lori M. Gilmore ISBN:5877

6
7 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

8 STATE OF IDAHO,) CASE NO. CR2008-175
9 Plaintiff,)
10 v.)
11 VERNA LOMBARD,) JUDGMENT OF CONVICTION
12) RETAINED JURISDICTION
13 Defendant.)

14 On the 23rd day of March, 2009, personally appeared E. Clayne Tyler, Prosecuting Attorney for
15 the County of Clearwater, State of Idaho, and the defendant, Verna Lombard, and the defendant's attorney
16 John Mitchell. The Court having reviewed the Presentence Investigation and having inquired of the
17 defendant if there were any changes or corrections to be made in the Presentence Investigation and any
18 statements made in aggravation or mitigation, the Court inquired if the defendant understood the charges
19 filed against him and if there were any legal cause to show why judgment should not be pronounced
20 against him. The Court hearing no reason not to proceed, rendered judgment as follows:

21 The defendant having pled guilty to the felony crimes of Burglary, a violation of I.C. §18-1401
22 and Grand Theft, a violation of I.C. §18-2403(1), and 18-2407(1)(b). The Court having accepted the
23 Defendant's guilty plea; and the Court being fully advised of the premises.

24 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

25 1. In Clearwater County Case CR2008-175, the defendant is found guilty of the felony crimes of
26 Burglary, a violation of I.C. §18-1401 and Grand Theft, a violation of I.C. §18-2403(1), and 18-
27 2407(1)(b).

28 JUDGMENT OF CONVICTION - 1

- 1 2. The Defendant is hereby SENTENCED to the custody of the Idaho State Board of Corrections on
2 each felony count for a period of not less than two and one half (2½) years nor more than eight
3 (8) years, consisting of a determinate period of two and one half (2½) years, during which time
4 the defendant shall not be eligible for parole, discharge, credit, or reduction of sentence for good
5 conduct (except as provided by Section 20-101D, Idaho Code) and a subsequent indeterminate
6 period of time not exceeding five and one half (5 ½) years. Sentences are to be served
7 concurrently.
- 8 3. The Court suspends the sentence and jurisdiction is retained in this matter for a period of one
9 hundred eighty (180) days.
- 10 4. The Court orders the Defendant to pay court costs of \$177.50, imposed as a matter of law.
- 11 5. The Court orders a restitution hearing be scheduled for April 20, 2009 at 2:00 p.m.
- 12 6. The Court orders the defendant to report to the Sheriff's Office the day before the bus transport
13 leaves for Boise.

14 NOTICE OR RIGHT TO APPEAL

15 You are hereby notified that you have a right to appeal this order. Any notice of appeal must be filed
16 within forty-two (42) days of the entry of the written order in this matter.

17 You are also notified that motions pursuant to Idaho Criminal Rule 35 to correct an illegal sentence or to
18 reduce a sentence must be filed within one hundred twenty (120) days of entry of the judgment imposing
19 the sentence or of the filing of an order relinquishing retained judgment. You may also move to reduce
20 a sentence within fourteen (14) days of the filing of an order revoking your probation.

21 DATED this 7 day of April Nunc Pro Tunc for the 24th day of February, 2009.

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23
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DISTRICT JUDGE

1 CERTIFICATE OF MAILING

2 The undersigned hereby certifies that a true and correct copy of the foregoing was mailed or hand
3 delivered to the following on this 7th day of April, 2009.

4 E. Clayne Tyler, Prosecuting Attorney, Courthouse Mail

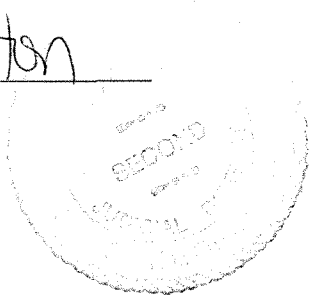
5 John Mitchell, Atty at Law US Mail
6 1229 Main Street Suite 201
7 Lewiston, ID 83501

8 Clearwater County Sheriff's Office, Courthouse Mail

9 Probation and Parole, Courthouse Mail

10
11 CARRIE BIRD
12 Clerk of District Court

13 BY: Sue K. Summerton
14 Deputy



CARRI...
CLERK-DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

2009 APR 20 A 10:36
CASE NO. CR08-175

BY JS

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
4 Deputy: Lori M. Gilmore ISBN:5877

6
7 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

8 STATE OF IDAHO,) CASE NO. CR2008-175
9 Plaintiff,)
10 v.) AFFIDAVIT FOR RESTITUTION
11 VERNA L. LOMBARD)
12 Defendant.)

13 STATE OF IDAHO)
14) ss.
15 County of Clearwater)

16 COMES NOW, E. Clayne Tyler, upon oath, declares, and says:

- 17 1. That your affiant is the Prosecuting Attorney for the Clearwater County Prosecutor's
18 Office.
19 2. That restitution is requested in the above case of \$100,000.00 to be paid to Mary
20 Ann's Grocery, in care of Don and Cammie Ebert, PO Box 52, Weippe, Idaho,
21 83553.
22 3. Attached as Exhibit "A" is a letter and documents from Don and Cammie Ebert.
23 4. That restitution is requested in the above case of \$5,000.00 to be paid to Western
24 Community Insurance Company, in care of Steve Schlottman, Claim Representative,
25 PO Box 4848, Pocatello, Idaho, 83205-4848.
26 3. Attached as Exhibit "B" is a letter from the Western Community Insurance
Company.

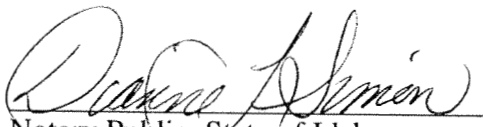
27 AFFIDAVIT

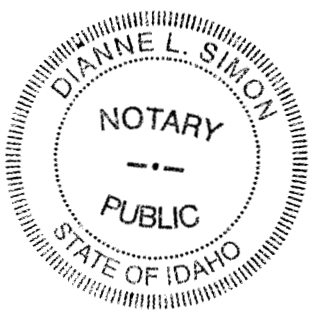
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DATED this 20 day of APRIL, 2009.


E. CLAYNE TYLER
Prosecuting Attorney

SUBSCRIBED and SWORN to before me this 20 day of APRIL, 2009.


Notary Public, State of Idaho,
residing at Orofino, therein.
My commission expires 6/20/2012



AFFIDAVIT

000109

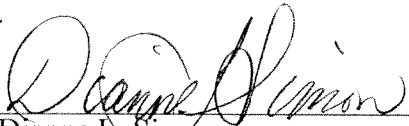
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CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the AFFIDAVIT OF RESTITUTION was delivered by courthouse mail, or mailed to the following on the 20 day of April, 2009.

John Charles Mitchell
Attorney at Law
Clark and Feeney
PO Drawer 285
Lewiston, ID 83501

FAX



Dianne L. Simon

AFFIDAVIT

Honorable Judge Bradbury;

In the matter of Verna Lombard v. State of Idaho

While Verna Lombard worked for Mary Ann's Groceries we believe she stole from us at least \$100,000. We would ask the court to order restitution of at least this amount with some kind of mechanism to insure that at least part of it actually be repaid.

Sincerely,



Don & Cammie Ebert

If:

- 1 The first day she stole was Oct 2004 (documented \$49.99)
- 2 She stole an average of \$16.00 each event

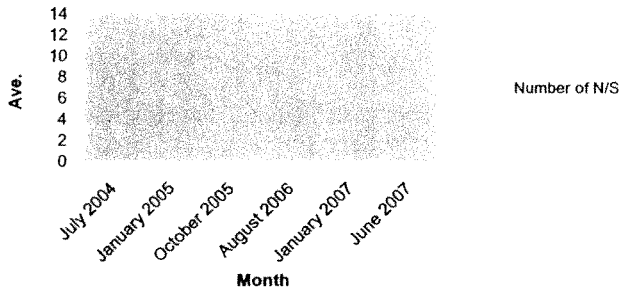
Then:

There is a 95% chance that she stole between \$72,000 and \$98,000 (Average \$84,000)

	Not Work N/S	Work N/S	Difference
July 2004	11.04	18.5	7.46
January 2005	8.06	16.23	8.17
October 2005	10.5	21.8	11.3
August 2006	11.76	22	10.24
January 2007	8.35	19.71	11.36
June 2007	6.4	18.66	12.26

Standard Deviation	1.92
Confidence Level	0.95
Count	6.00
Range for Confidence Level	1.54
Average N/S per day	10.13
Upper Limit N/S per day	11.67
Lower Limit N/S per day	8.60
Daily Take (what she had on her)	\$160.00
Average Take	\$16.00
Days worked between 7-2004 & 8-2007	523
High Estimate	\$97,626.76
Average	\$84,781.79
Low Estimate	\$71,936.81

N/S Graph



If:

- 1 She stole from the beginning of employment
- 2 She stole \$26.00 average for each event (she had \$260 on her divided by 10 events)

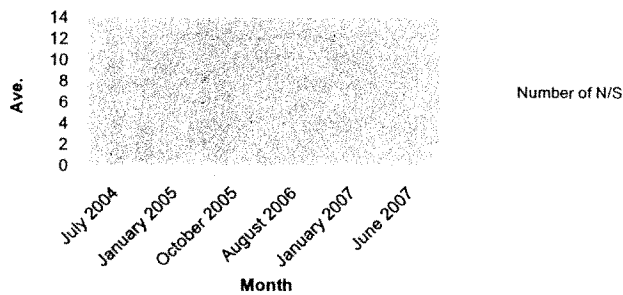
Then:

There is a 95% chance that she stole between \$150,000 and \$204,000 (Average \$177,000)

	Not Work N/S	Work N/S	Difference
July 2004	11.04	18.5	7.46
January 2005	8.06	16.23	8.17
October 2005	10.5	21.8	11.3
August 2006	11.76	22	10.24
January 2007	8.35	19.71	11.36
June 2007	6.4	18.66	12.26

Standard Deviation	1.92
Confidence Level	0.95
Count	6.00
Range for Confidence Level	1.54
Average N/S per day	10.13
Upper Limit N/S per day	11.67
Lower Limit N/S per day	8.60
Daily Take (what she had on her)	\$260.00
Average Take	\$26.00
Days worked between 7-2004 & 8-2007	674

N/S Graph



High Estimate	\$204,446.86
Average	\$177,547.33
Low Estimate	\$150,647.79

OCT 22 2007

P.O. Box 4848 • Pocatello, Idaho • 83205-4848

Fax: (800) 574-5066

October 17, 2007

Clayne Tyler
Clearwater County Prosecutor's Office
P.O. Box 267
Orofino, ID. 83544

RE: Our Insured: Donald and Camille Ebert
Business: Mary Ann's Grocery
Claim #: 0810660802
Date of Claim: September 5, 2007
Defendant: Verna Lombard

Dear Mr. Tyler:

Western Community Insurance had the grocery store insured. There was coverage for "Employee Dishonesty" with a limit of \$5,000.00 Western Community paid this limit to our insured.

Western Community requests that your office submit our subrogation interest of \$5,000.00 to the court for reimbursement by the defendant. Our subrogation documents are included.

If I can be of further assistance, please contact me.

Sincerely,



Steve Schlottman
Claim Representative



Western Community Insurance Company
P.O. Box 4848 • Pocatello, Idaho • 83205-4848

Steve Schlottman
Claims Representative II

Lewiston: (208) 743-5533 - Mon., Wed. & Fri.

Orofino: (208) 476-4722 - Tues.

Grangeville: (208) 983-2401 - Thurs.

Fax: (800) 574-5066 Cell: (208) 790-3041

e-mail: sschlottman@idfbins.com

000114
EXHIBIT "B"

Western Community Insurance Company CLAIM NO. 08106608022007090501 No. 706281

P.O. Box 4848 • Pocatello, Idaho 83205-4848 • Phone: (800) 259-1932 **WEST CENTER OFFICE BOX 1700 POCATELLO, IDAHO 83201** DATE 9-19 2007 92-155 1241

PAY Five thousand and 00/100 DOLLARS \$ 5,000.00 CHECK AMOUNT

TO Donald Ebert AUTHORIZED SIGNATURE Steve Schmittman

THE PO Box 52 VOID IF MORE THAN \$15,000

ORDER Weypp, ID 83553

OF

⑈ 706281 ⑆ ⑆ 24101555 ⑆ ⑆ 22001252024 ⑆

DETACH LOWER STUB BEFORE DEPOSITING

Western Community Insurance Company
P.O. Box 4848 • Pocatello, Idaho 83205-4848 • Phone: (800) 259-1932

No. 706281

INSURED <u>D. Ebert</u>	PAYMENT DATE <u>9-19-07</u>	TYPE <u>Employee Dishonesty</u>	DATE OF ACCIDENT <u>9-5-07</u>	Policy Number <u>0810660802</u>
COVERAGE UNDER <input checked="" type="checkbox"/> SECTION I <input type="checkbox"/> SECTION II <input type="checkbox"/> SECTION III <input type="checkbox"/> SECTION IV			OTHER PLEASE EXPLAIN	
IN PAYMENT OF: <u>Policy limit for stolen cash by suspected employee</u>			PAYMENT IS <input type="checkbox"/> PARTIAL <input checked="" type="checkbox"/> FINAL	
<u>Waived deductible</u>			AMOUNT \$ <u>5,000.00</u>	
			DEDUCTIBLE (-) <u>DW</u>	
2H-C1			CHECK AMOUNT <u>5,000.00</u>	

Paid by Vicki 09/21/2007

Jessica Smith

09/21/2007 10:14 AM P9336 11096

000115

24

Case No. CR08-175
 Date 4/20/09
 Time 2:57 o'clock P M
Carrie Bond Clerk
S.K. Deputy

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR2008-175
vs.)	
)	
VERNA LOMBARD,	)	COURT MINUTES
)	
Defendant.)	

John Bradbury, District Judge Presiding
 Clayne Tyler, Attorney for Plaintiff
 John Mitchell, Attorney for Defendant
 Date: 4/20/09 Tape: CD355-1 Time: 2:04 p.m.
 Subject of Proceeding: Restitution Hearing

=====

MINUTE ENTRY:

- 2:04 Court gives introductions. Defendant present in Court. Court advises the attorneys that there is no court reporter today.
- 2:04 Mr. Tyler waives having a court reporter today.
- 2:04 Mr. Mitchell waives having a court reporter today.
- 2:04 Mr. Tyler argues motion for restitution.
- 2:12 Mr. Mitchell objects and argues.
- 2:13 Mr. Tyler continues argument.

Sue K. Summerton – Deputy Clerk
 COURT MINUTES – 1

STATE OF IDAHO V. VERNA LOMBARD
CASE NO. CR2008-175

- 2:14 Mr. Tyler calls Don Ebert, sworn, testifies.
- 2:15 Court in recess.
- 2:17 Court reconvenes.
- 2:17 Mr. Tyler gives direct examination.
- 2:18 Mr. Mitchell objects to Mr. Ebert's testimony as an expert witness.
- 2:18 Court orders foundation for expert witness.
- 2:18 Mr. Tyler gives foundation for Mr. Ebert as an expert witness. Mr. Tyler continues direct examination.
- 2:21 Mr. Mitchell objects to testimony.
- 2:21 Court overrules the objection.
- 2:22 Mr. Tyler continues direct examination.
- 2:25 Mr. Mitchell cross-examines the witness.
- 2:29 Court questions the witness.
- 2:32 Mr. Tyler gives closing argument.
- 2:35 Mr. Mitchell gives closing argument.
- 2:39 Mr. Tyler gives rebuttal argument.
- 2:40 Court remarks to the defendant. Court orders restitution to Don and Cammie Ebert in the amount of \$80,000.00 and to Western Community Insurance Company in the amount of \$5,000.00. Court orders the State to prepare an Order of Restitution and file this with the assessor to become a lien against the defendant's home.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 2

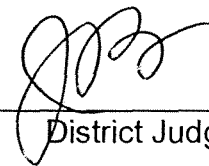
000117

STATE OF IDAHO V. VERNA LOMBARD
CASE NO. CR2008-175

- 2:45 Tyler moves, pursuant to Title 19, for the statutory rate of interest on the judgment.
- 2:45 Court orders payments to be determined by the probation officer once defendant's return from her rider program.
- 2:45 Mr. Tyler questions the Court regarding the start date for the defendant's rider.
- 2:46 Mr. Mitchell remarks regarding the commitment.
- 2:46 Court orders the defendant to turn her self into the jail on the next bus available.
- 2:57 Court in recess.

Sue K. Summerton – Deputy Clerk
COURT MINUTES – 3

Approved: _____



District Judge

000118

2009 APR 20 P 2:53

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
 Verna Lombard)
 DOB: 4/14/57)
 SSN: 000-00-0707)
 Defendant.)

BY SJS DEPUTY)
)
 CASE NO. CR2008-175)
)
 COMMITMENT TO THE CUSTODY)
 OF THE IDAHO STATE BOARD)
 OF CORRECTION)
 on the next Bus)
 available)

TO THE SHERIFF OF CLEARWATER COUNTY, STATE OF IDAHO:

The above-named defendant, appearing before this Court this day being duly convicted of Burglary & Grand Theft, committed on or about _____, in said County, and having been duly arraigned before the Court and having been duly found to be guilty and having stated that no legal cause existed why judgment should not be pronounced against him/her and no sufficient cause appearing to the Court.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant is guilty of said crime and that he/she be punished as follows:

Imprisonment with the Idaho State Board of Correction for a period of 8 days/years with a determinate period of 2 1/2 days/years followed by a subsequent indeterminate period of 5 1/2 days/years.

X Jurisdiction is retained for 180 ~~days~~ years.

 Court does not retain jurisdiction.

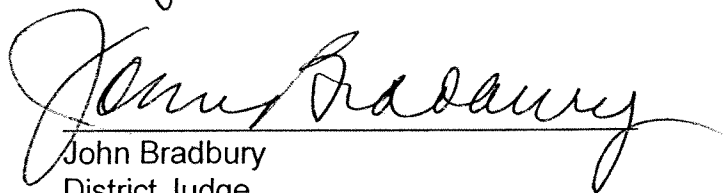
 Recommend the Therapeutic Community.

Credit for time served as a matter of law.

The above named defendant is HEREBY ORDERED by the Court remanded to the custody of the Clearwater County Sheriff's Office immediately for transport to the Idaho Department of Correction facility.

NOW, THEREFORE, YOU, THE SAID SHERIFF OF CLEARWATER COUNTY, STATE OF IDAHO, are hereby commanded to receive the said defendant above-named and detain him/her in the County Jail of Clearwater County, Idaho until transport to the Idaho Department of Correction facility.

DONE IN OPEN COURT this 20th day of April, 2009.


John Bradbury
District Judge

COPIES TO:

- X Clearwater County Sheriff
- Defendant
- X Prosecuting Attorney
- X Defendant's Attorney
- X Probation and Parole
- X Idaho Department of Correction – Faxed to Central Records/Inmate Transport
208-327-7444

COMMITMENT - IDAHO DEPT. OF CORRECTION - 2

000120

SCANNED

5-6-09

CLERK-DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

2009 APR 20 P 12:37

CASE NO. CR08-175

BY SJS DFTU

1 E. CLAYNE TYLER ISBN: 5277

2 Prosecuting Attorney

3 Clearwater County

4 Post Office Box 2627

5 Orofino, Idaho 83544-2627

6 Telephone: (208) 476-5611

7 Chief Deputy: Lori M. Gilmore ISBN:5877

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

10 STATE OF IDAHO,)

CASE NO. CR2008-175

11 Plaintiff,)

12 v.)

AMENDED
JUDGMENT OF CONVICTION
RETAINED JURISDICTION

13 VERNA LOMBARD,)

14 Defendant.)

15 On the 23rd day of March, 2009, personally appeared E. Clayne Tyler, Prosecuting Attorney for
16 the County of Clearwater, State of Idaho, and the defendant, Verna Lombard, and the defendant's attorney
17 John Mitchell. The Court having reviewed the Presentence Investigation and having inquired of the
18 defendant if there were any changes or corrections to be made in the Presentence Investigation and any
19 statements made in aggravation or mitigation, the Court inquired if the defendant understood the charges
20 filed against her and if there were any legal cause to show why judgment should not be pronounced
21 against her. The Court hearing no reason not to proceed, rendered judgment as follows:

22 The defendant having been found guilty of the felony crimes of Burglary, a violation of I.C. §18-
23 1401 and Grand Theft, a violation of I.C. §18-2403(1), and 18-2407(1)(b), by jury on the 14th day of
24 January 2009.

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

- 26 1. In Clearwater County Case CR2008-175, the defendant is found guilty of the felony crimes of
27 Burglary, a violation of I.C. §18-1401 and Grand Theft, a violation of I.C. §18-2403(1), and 18-
28 2407(1)(b).

AMENDED JUDGMENT OF CONVICTION - 1

000121

- 1 2. The Defendant is hereby SENTENCED to the custody of the Idaho State Board of Corrections on
2 each felony count for a period of not less than two and one half (2½) years nor more than eight
3 (8) years, consisting of a determinate period of two and one half (2½) years, during which time
4 the defendant shall not be eligible for parole, discharge, credit, or reduction of sentence for good
5 3. The Court suspends the sentence and jurisdiction is retained in this matter for a period of one
6 hundred eighty (180) days.
7 4. The Court orders the Defendant to pay court costs of \$177.50, imposed as a matter of law.
8 5. The Court orders a restitution hearing be scheduled for April 20, 2009 at 2:00 p.m.
9 6. The Court orders the defendant to report to the Sheriff's Office the day before the bus transport
10 leaves for Boise.

11 NOTICE OR RIGHT TO APPEAL

12 You are hereby notified that you have a right to appeal this order. Any notice of appeal must be filed
13 within forty-two (42) days of the entry of the written order in this matter.

14 You are also notified that motions pursuant to Idaho Criminal Rule 35 to correct an illegal sentence or to
15 reduce a sentence must be filed within one hundred twenty (120) days of entry of the judgment imposing
16 the sentence or of the filing of an order relinquishing retained judgment. You may also move to reduce
17 a sentence within fourteen (14) days of the filing of an order revoking your probation.

18 DATED this 30 day of April Nunc Pro Tunc for the 23rd day of March, 2009.

19 
20 DISTRICT JUDGE

1 CERTIFICATE OF MAILING

2 The undersigned hereby certifies that a true and correct copy of the foregoing was mailed or hand
3 delivered to the following on this 25th day of April, 2009.

4 E. Clayne Tyler, Prosecuting Attorney, Courthouse Mail

5 John Mitchell, Atty at Law US Mail
6 1229 Main Street Suite 201
7 Lewiston, ID 83501

8 Clearwater County Sheriff's Office, Courthouse Mail

9 Probation and Parole, Courthouse Mail

10
11 CARRIE BIRD
12 Clerk of District Court

13 BY: Sue K. Summerton
14 Deputy



1 of Conviction Retained Jurisdiction and Order for Restitution previously entered in this matter by
2 the Court.

3 One prosecuting an appeal in good faith where bail is allowable ought not, as a general rule,
4 be compelled to imprisonment while the appeal is pending. *See State v. Iverson*, 76 Idaho 117, 120
5 (1955). The allowing of bail to one convicted of a felony is initially discretionary with the trial court.
6 *Id.* at 120. Nonetheless, judicial discretion must be exercised in a judicial manner and bail cannot
7 be denied without “some sufficient reason” being articulated by the trial court. *State v. Kerrigan*,
8 98 Idaho 701, 705 (1977).

9
10 Idaho Criminal Rule 46(b) provides that a defendant may be admitted to bail or released upon
11 defendant’s own recognizance by the court in which defendant was convicted pending an appeal
12 upon consideration of the factors set forth in subsection (a) of this rule above unless it appears that
13 the appeal is frivolous or taken for delay. *See Kerrigan*, 98 Idaho at 706 (Once the trial court has
14 assured itself that the appeal is “not clearly and palpably frivolous and vexatious.”)

15
16 With regards to the factors set forth in Idaho Criminal Rule 46(a), the Defendant respectfully
17 submits to the Court the following for consideration:

- 18 • Defendant lives in Wierpe, Idaho with her husband.
19 • Defendant’s husband is disabled in that he has an artificial leg.
20 • Defendant has strong ties to the community.
21 • Defendant is active in her local church.
22 • Defendant has no prior criminal record.
23 • Defendant has cooperated fully in this matter and appeared at every scheduled court
24
25

26 **Motion for Bail and Stay of Execution** - 2 -

000125

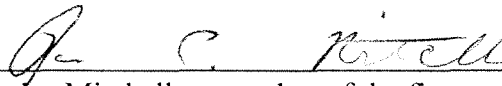
1 appearance.

2 • Defendant was released on her own recognizance throughout this matter prior to conviction.
3 The Defendant respectfully contends that while there may be a disagreement about the
4 validity of the Defendant's appeal, such appeal is not clearly and palpably frivolous and vexatious
5 and is pursued in good faith. Based on the Defendant's family relationship, ties to the community,
6 the Defendant's lack of a prior criminal record, and her cooperation and appearances in this matter,
7 the Defendant respectfully requests that the Court release her on her own recognizance or admit the
8 Defendant to bail and stay the execution of the Amended Judgment of Conviction Retained
9 Jurisdiction and Order of Restitution pending the outcome of the appeal filed in the above entitled
10 action.
11

12 This motion is further based upon such argument and/or evidence to be presented upon
13 hearing of this motion.
14

15 DATED this 23 day of April, 2009.
16

17 CLARK AND FEENEY

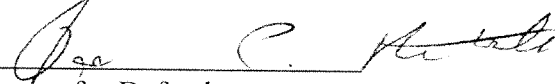
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19 By 
20 John Charles Mitchell, a member of the firm.
21 Attorney for Defendant
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I hereby certify on the 23
day of April, 2009, a true copy
of the foregoing instrument
was: Mailed
 Faxed
 Hand delivered
 Overnight mail to:

E. Clayne Tyler
Prosecuting Attorney
County of Clearwater
PO Box 2627
Orofino, ID 83544-5611

CLARK and FEENEY

By 
Attorneys for Defendant

2009 APR 23 P 4: 05

CASE NO. CR08-175

BY SJS DEPT

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JOHN CHARLES MITCHELL
Idaho State Bar No. 7159
CLARK and FEENEY
Attorneys for Defendant
The Train Station, Suite 201
13th and Main Streets
P. O. Drawer 285
Lewiston, Idaho 83501
Telephone: (208) 743-9516

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

STATE OF IDAHO,)	
)	
Plaintiff/Respondent,	)	Case No. CR 08-00175
)	
vs.	)	NOTICE OF APPEAL
)	
VERNA L. LOMBARD,)	
)	
Defendant/Appellant)	

TO: THE STATE OF IDAHO, the above-named Respondent, and to E. Clayne Tyler,
Prosecuting Attorney for Clearwater County, and to the clerk of the above-entitled court:

NOTICE IS HEREBY GIVEN that:

1. The above named Appellant, Verna L. Lombard, appeals against the above named Respondent to the Idaho Supreme Court from that certain Amended Judgment of Conviction Retained Jurisdiction entered in the above entitled action on the 20th day of April, 2009, Nunc Pro Tunc for the 23rd day of March, 2009, the Honorable John Bradbury presiding.

1 The above named Appellant, Verna L. Lombard, further appeals against the above named
2 Respondent to the Idaho Supreme Court from that certain Order for Restitution entered in the above
3 entitled action on the 20th day of April, 2009, the Honorable John Bradbury presiding. As of the date
4 of this Notice of Appeal, the Appellant has not received a written Order for Restitution.

5 2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or
6 orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c), I.A.R.

7 3. A preliminary statement of the issues on appeal which the Appellant then intends to
8 assert in the appeal; provided, any such list of issues on appeal shall not prevent the Appellant from
9 asserting other issues on appeal.
10

11 A) Whether or not the court abused its discretion in refusing to accept the parties Rule
12 11 plea agreement because the restitution amount in the Rule 11 differed from the amount the
13 Appellant would admit to as a factual basis for grand theft.
14

15 B) Whether or not the court abused its discretion in sentencing the Appellant by
16 considering facts not supported by substantial evidence in the record.

17 C) Whether or not the court abused its discretion by not properly considering all the
18 factors of I.C. 19-2521 when sentencing the Appellant.
19

20 D) Whether or not the court abused its discretion in ordering a restitution amount that
21 was not supported by substantial evidence in the record.

22 4. No order has been entered sealing all or any portion of the record.

23 5. That Appellant requests the preparation of the standard reporter's transcript as defined
24 in Rule 25(c), I.A.R.
25

26 Notice of Appeal - 2 -

000129

1 I hereby certify on the 23
2 day of April, 2009, a true copy
3 of the foregoing instrument

4 was: Mailed
5 Faxed
6 Hand delivered
7 Overnight mail to:

8 E. Clayne Tyler
9 Prosecuting Attorney
10 County of Clearwater
11 PO Box 2627
12 Orofino, ID 83544-5611

13 CLARK and FEENEY

14 By *E. C. Tyler*
15 Attorneys for Defendant
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CLERK-DISTRICT COURT
CLEARWATER COUNTY
ORRINO, IDAHO

2009 APR 27 P 4:33

CASE NO. CR2008-175

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR2008-175
vs.)	
)	
VERNA LOMBARD,	)	COURT MINUTES
)	
Defendant.)	


John Bradbury, District Judge Presiding
 Clayne Tyler, Attorney for Plaintiff
 John Mitchell, Attorney for Defendant
 Keith Evans, Court reporter
 Date: 4/27/09 Tape: CD355-1 Time: 4:21 p.m.
 Subject of Proceeding: Motion to Stay

=====

MINUTE ENTRY:

- 4:21 Court gives introductions. Defendant not present in court. Court advises review of the pleadings.
- 4:22 Mr. Mitchell argues motion to stay.
- 4:24 Mr. Tyler argues in opposition to motion to stay.
- 4:25 Court remarks. Court denies the motion.
- 4:27 Court in recess.

Sue K. Summerton – Deputy Clerk
 COURT MINUTES

Approved: 
 District Judge

2009 APR 23 P 4: 05

CASE NO. CR 08-175

BY SLB DTR

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JOHN CHARLES MITCHELL
Idaho State Bar No. 7159
CLARK and FEENEY
Attorneys for Defendant
The Train Station, Suite 201
13th and Main Streets
P. O. Drawer 285
Lewiston, Idaho 83501
Telephone: (208) 743-9516

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

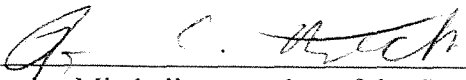
STATE OF IDAHO,)	
)	
Plaintiff/Respondent,	)	Case No. CR 08-00175
)	
vs.	)	MOTION TO STAY COMMITMENT
	)	PENDING HEARING ON MOTION
VERNA L. LOMBARD,	)	FOR BAIL AND STAY OF
	)	EXECUTION OF AMENDED
Defendant/Appellant	)	JUDGMENT OF CONVICTION
	)	RETAINED JURISDICTION

COMES NOW, the Defendant, by and through her undersigned counsel of record and respectfully moves that this Court stay the commitment entered in this matter until the Motion for Bail and Stay of Execution of Amended Judgment of Conviction Retained Jurisdiction is heard. Said Motion is scheduled to be heard on April 28, 2009 at 10:30 a.m. Defendant is appealing the Amended Judgment of Conviction Retained Jurisdiction and Order of Restitution entered in this

1 matter and will be requesting that she be released on her own recognizance or admitted to bail and
2 that the Amended Judgment of Conviction Retained Jurisdiction be stayed pending the outcome of
3 said appeal.

4 DATED this 23 day of April, 2009.

5
6
7 CLARK AND FEENEY

8 By 
9 John Charles Mitchell, a member of the firm.
10 Attorney for Defendant
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1 I hereby certify on the 23
2 day of April, 2009, a true copy
3 of the foregoing instrument
4 was: Mailed
5 Faxed
6 Hand delivered
7 Overnight mail to:

8 E. Clayne Tyler
9 Prosecuting Attorney
10 County of Clearwater
11 PO Box 2627
12 Orofino, ID 83544-5611

13 CLARK and FEENEY

14 By *J. C. Mitchell*
15 Attorneys for Defendant
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SCANNED

5-6-09

CARRIE J. B.
CLERK DISTRICT COURT
CLEARWATER COUNTY
OROFINO, IDAHO

2009 APR 27 P 1:32

CASE NO. CR08-175

BY: SJS REF

E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Fax: (208) 476-9710

Deputy: Lori M. Gilmore

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

STATE OF IDAHO,	)	CASE NO. CR2008-00175
)	
Plaintiff,)	
	)	ORDER FOR RESTITUTION
v.)	
)	
VERNA LOMBARD)	
DOB: 04/14/1957)	
)	
Defendant.)	

The above-named defendant, having on the 20th day of April 2009, been brought before the above-entitled court for a restitution hearing and being present in person and represented by John Mitchell, Attorney at Law and the State having been represented by E. Clayne Tyler, Prosecuting Attorney of Clearwater County, Idaho, and the court having heard testimony and being fully informed in the premises,

NOW THEREFORE,

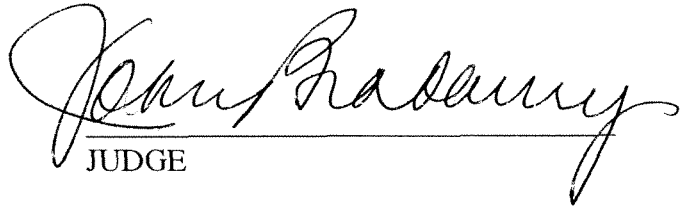
IT IS HEREBY ORDERED that the defendant shall make restitution to Mary Ann's Grocery in care of Don and Cammie Ebert, PO Box 52, Weippe, Idaho, 83553, in the sum of \$85,000.00, to be paid with interest at the statutory rate. Defendant shall make restitution to Western Community Insurance

Company, in care of Steve Schlottman, Claim Representative, PO Box 4848, Pocatello, Idaho, 83205-4848, in the sum of \$5,000.00, to be paid with interest at the statutory rate. Said restitution to be paid in monthly installments with amount to be determined by her probation officer. The order of restitution is to be recorded against Verna Lombard's property.

The Court orders the defendant to report to the Sheriff's Office and be on the next bus transport to the rider program as previously ordered.

That all restitution payments for victims, as set forth herein above, must be paid in the form of a CASHIERS CHECK or MONEY ORDER, made payable to CLEARWATER COUNTY COURT, and mailed to the CLEARWATER COUNTY CLERK'S OFFICE, PO Box 586, Orofino, Idaho 83544. There will be NO exceptions to the above requirements.

DATED this 21 day of , nunc pro tunc for the 20th day of April 2009.


JUDGE

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed or hand delivered to the following on this 27th day of April, 2009.

E. Clayne Tyler, Prosecuting Attorney, Courthouse Mail

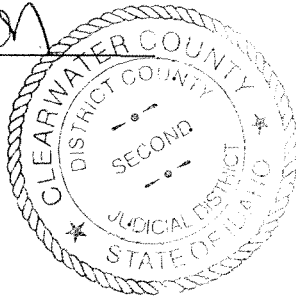
John Mitchell, Atty at Law US Mail
1229 Main Street Suite 201
Lewiston, ID 83501

Clearwater County Sheriff's Office, Courthouse Mail

Probation and Parole, Courthouse Mail

CARRIE BIRD
Clerk of District Court

BY: Sue K. Summerton
Deputy



CLERK-DISTRICT COURT
CLEARWATER COUNTY
IDaho

2009 MAY 26 12:17

CASE NO. CR08-175

BY SPS

1
2 JOHN CHARLES MITCHELL
3 Idaho State Bar No. 7159
4 CLARK and FEENEY
5 Attorneys for Defendant
6 The Train Station, Suite 201
7 13th and Main Streets
8 P. O. Drawer 285
9 Lewiston, Idaho 83501
10 Telephone: (208) 743-9516

11
12 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
13 STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

14 STATE OF IDAHO,)
15) Supreme Court Docket No. 36454-2009
16 Plaintiff/Respondent,)
17) Clearwater County Docket No.
18 vs.) 2008-175
19)
20 VERNA L. LOMBARD,) **AMENDED NOTICE OF APPEAL**
21)
22 Defendant/Appellant)

23 TO: THE STATE OF IDAHO, the above-named Respondent, and to E. Clayne Tyler,
24 Prosecuting Attorney for Clearwater County, and to the clerk of the above-entitled court:

25 NOTICE IS HEREBY GIVEN that:

26 1. The above named Appellant, Verna L. Lombard, appeals against the above named
Respondent to the Idaho Supreme Court from that certain Amended Judgment of Conviction
Retained Jurisdiction entered in the above entitled action on the 20th day of April, 2009, Nunc Pro
Tunc for the 23rd day of March, 2009, the Honorable John Bradbury presiding.

1 ~~The above named Appellant, Verna L. Lombard, further appeals against the above named~~
2 ~~Respondent to the Idaho Supreme Court from that certain Order for Restitution entered in the above~~
3 ~~entitled action on the 20th day of April, 2009, the Honorable John Bradbury presiding. As of the date~~
4 ~~of this Notice of Appeal, the Appellant has not received a written Order for Restitution.~~

5
6 The above named Appellant, Verna L. Lombard, further appeals against the above named
7 Respondent to the Idaho Supreme Court from that certain Order for Restitution entered in the above
8 entitled action on the 27th day of April, 2009, Nunc Pro Tunc for the 20th day of April, 2009, the
9 Honorable John Bradbury presiding.

10 2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or
11 orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c), I.A.R.

12
13 3. A preliminary statement of the issues on appeal which the Appellant then intends to
14 assert in the appeal; provided, any such list of issues on appeal shall not prevent the Appellant from
15 asserting other issues on appeal.

16 A) Whether or not the court abused its discretion in refusing to accept the parties Rule
17 11 plea agreement because the restitution amount in the Rule 11 differed from the amount the
18 Appellant would admit to as a factual basis for grand theft.

19
20 B) Whether or not the court abused its discretion in sentencing the Appellant by
21 considering facts not supported by substantial evidence in the record.

22 C) Whether or not the court abused its discretion by not properly considering all the
23 factors of I.C. 19-2521 when sentencing the Appellant.

24 D) Whether or not the court abused its discretion in ordering a restitution amount that
25

26 Amended Notice of Appeal - 2 -

1 was not supported by substantial evidence in the record.

2 4. No order has been entered sealing all or any portion of the record.

3 5. That Appellant requests the preparation of the standard reporter's transcript as defined
4 in Rule 25(c), I.A.R. for the jury trial beginning January 12th, 2009, supplemented by the transcript
5 of the change of plea hearing held on December 1st, 2008, and the transcript of the restitution hearing
6 held on April 20th, 2009, be included.

7
8 6. That Appellant requests the standard clerk's record be prepared as provided for under Rule
9 28(b)(2), I.A.R.

10 7. I certify:

11 (a) That a copy of the Amended Notice of Appeal has been served on each reporter of
12 whom a transcript has been requested as named below at the address set out below:
13

14 Keith Evans
15 Court Reporter
16 320 W. Main
17 Grangeville, ID 83530
18 fax #: (208) 983-2376

19 (b) That the Clerk of the District Court has been paid the estimated fee for preparation
20 of the reporter's transcript.

21 (c) That the estimated fee for preparation of the clerk's record has been paid to the Clerk
22 of the District Court.

23 (d) That the appellate filing fee has been paid. That appellant is exempt from paying the
24 appellate filing fee because the above entitled matter is a criminal matter and thus there is no
25 appellate filing fee pursuant to I.A.R. 23(a)(8).

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(e) That service had been made upon all parties required to be served pursuant to I.A.R.,
Rule 20.

DATED this 26 day of May, 2009.

CLARK AND FEENEY

By John Charles Mitchell
John Charles Mitchell, a member of the firm.
Attorney for Defendant

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I hereby certify on the 26
day of May, 2009, a true copy
of the foregoing instrument
was: Mailed
 Faxed
 Hand delivered
 Overnight mail to:

E. Clayne Tyler
Prosecuting Attorney
County of Clearwater
PO Box 2627
Orofino, ID 83544-5611
fax #: (208) 476-9710

Keith Evans
Court Reporter
320 W. Main
Grangeville, ID 83530
fax #: (208) 983-2376

CLARK and FEENEY

By *[Signature]*
Attorneys for Defendant

RECEIVED
8/4/09

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IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO,)	
Plaintiff,)	
)	
vs.)	DC NO. CR2008-175
	)	DOCKET NO. 36454-2009
VERNA L. LOMBARD,)	
Defendant.)	
_____)	

NOTICE OF LODGING

Notice is hereby given that the above-entitled appeal was filed with the District Court Clerk of Clearwater County on August 4th, 2009, consisting of 308 pages.

Dated this 3rd day of August, 2009.



Keith M. Evans, RPR, CSR NO. 655

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

STATE OF IDAHO,	)	CASE NO. CR2008-175
)	
Plaintiff/Respondent,	)	DOCKET NO. #36454-2009
)	
	)	CLERK'S
	)	CERTIFICATE OF EXHIBITS
Vs.)	
)	
VERNA L. LOMBARD,)	
)	
Defendant/Appellant,)	
)	

I, Sue K. Summerton, Deputy Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for the County of Clearwater, do hereby certify:

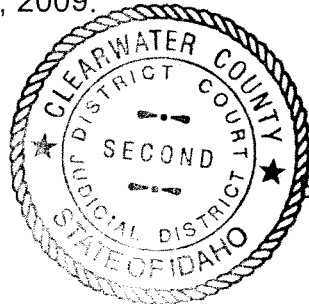
That the following is a list of lodged document which are being forwarded to the Supreme Court as Exhibits in this cause:

EXHIBITS: See Attached Exhibit List

CONFIDENTIAL EXHIBIT: Presentence Report

LODGED DOCUMENTS: None

5th IN WITNESS WHEREOF, I have hereunto set my hand and official seal this
day of August, 2009.



CARRIE BIRD,
Clerk of the District Court

BY: Sue K. Summerton
Deputy

CLERK'S CERTIFICATE OF EXHIBITS

000141

Case No. CR08-175
 Filed 1/14/09
 at 4:00 o'clock PM
CARRIE BOND
 Clerk
 Deputy

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 VERNA LOMBARD,)
)
 Defendant.)

CASE NO. CR2008-175

EXHIBIT LIST

PLAINTIFF'S EXHIBITS

	Admit	Denied	Withdrawn
#1 Summary Time Sheet of Verna Lombard	Admit		
#2 Cash Register Tapes	Admit		
#3 DVD	Admit		- Retained
#4 Credit Card Receipts	Admit		
#5 Cash Register Tapes	Admit		
#6 DVD	Admit		- Retained
#8 Cash Register Tapes	Admit		
#9 DVD	Admit		- Retained
#10 Cash Register Tapes	Admit		
#11 Cash Register Tapes	Admit		
#12 DVD	Admit		- Retained
#13 Cash Register Tapes	Admit		
#14 Cash Register Tapes	Admit		
#15 DVD	Admit		- Retained
#16 Cash Register Tapes	Admit		
#17 Credit Card Receipts	Admit		
#18 No Sales and Graph	Admit		
#19 Cash Register Tapes	Admit		
#19-A Photographs	Admit		

EXHIBIT LIST - 1

#20 Cash Register Tapes
#20-A Summary Report
#21 DVD

Admit
Admit
Admit - Retained

DEFENDANT'S EXHIBITS

Admit
Denied
Withdrawn

NONE

COURT'S EXHIBITS

Admit
Denied
Withdrawn

#1 Question from juror
#2 Question from juror
#3 Question from juror
#4 Question from juror
#5 Question from juror

Admit
Admit
Admit
Admit
Admit

} Retained

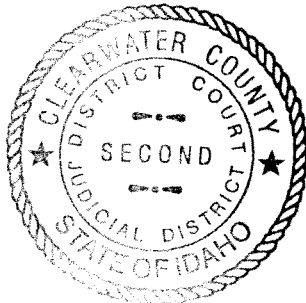
IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)
) CASE NO. CR2008-175
)
) Plaintiff/Respondent,) DOCKET NO. #36454-2009
)
) CLERK'S CERTIFICATE
)
)
 Vs.)
)
)
) VERNA L. LOMBARD,)
)
)
) Defendant/Appellant,)
)
)

I, Sue K. Summerton, Deputy Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for the County of Clearwater, 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 pleading and documents under Rule 28 of the Idaho Appellate Rules.

I further certify that all documents lodged, including briefs, in the above entitled cause will be duly lodged as Exhibits with the Clerk of the Supreme Court, along with the Court Reporter's Transcript, if requested, and Clerk's Record.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Orofino, Idaho this 5th day of August, 2009.



CARRIE BIRD,
Clerk of the District Court

By: Sue K. Summerton
Deputy

CLERK'S CERTIFICATE

000144

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

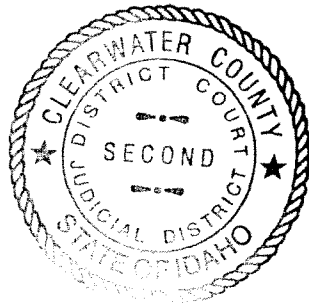
STATE OF IDAHO,)
) CASE NO. CR2008-175
)
) Plaintiff/Respondent,) DOCKET NO. #36454-2009
)
)
) Vs.) CLERK'S CERTIFICATE
) OF SERVICE
)
)
) VERNA L. LOMBARD,)
)
) Defendant/Appellant,)
)
)

I, Sue K. Summerton, Deputy Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for the County of Clearwater, do hereby certify that I have personally served or mailed, by United States mail, postage prepaid, a copy of the Clerk's Record and Reporter's Transcript, if a transcript was requested, to each of the parties or their Attorney of Record as follows:

John C. Mitchell
Clark and Feeney
P.O. Drawer 285
Lewiston, ID 83501

Lawrence G. Wasden
Attorney General
1299 N. Orchard St., Suite 110
Boise, ID 83706

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal of the said Court this 5th day of August, 2009.



CARRIE BIRD,
Clerk of the District Court

By: Sue K. Summerton
Deputy Clerk

CERTIFICATE OF SERVICE

000145