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COPY

IN THE SUPREME COURT OF THE STATE OF IDAHO

TRACI HADDEN,	)	
	)	
Petitioner-Appellant,	)	NO. 39589
	)	
v.	)	
	)	
STATE OF IDAHO,	)	APPELLANT'S BRIEF
	)	
Respondent.	)	
	)	

BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

HONORABLE JOHN K. BUTLER
District Judge

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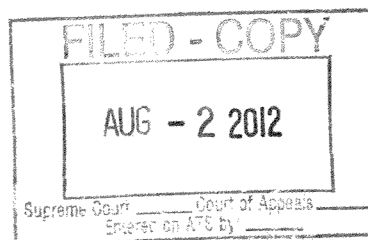

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STATEMENT OF THE CASE

Nature of the Case

Traci Hadden appeals from the district court's judgment summarily dismissing her petition for post-conviction relief. She asserts that the district court erred when it summarily dismissed three claims set forth in her verified amended petition for post-conviction relief.

Statement of the Facts and Course of Proceedings

Ms. Hadden filed a timely petition for post-conviction relief raising issues arising out of two criminal cases. (R., pp.20-32.) The first case involved a jury trial on a charge of grand theft (*hereinafter,* the grand theft case), following which Ms. Hadden was found guilty, receiving a unified sentence of fourteen years, with seven years fixed. The second case involved Ms. Hadden pleading guilty to one count of aiding and abetting attempted first degree murder and one count of grand theft by possession (*hereinafter,* the attempted murder case), for which she received concurrent unified sentences of fifteen years, with ten years fixed, on the aiding and abetting attempted first degree murder charge, and fourteen years, with four years fixed, on the grand theft by possession charge. The sentences in the attempted murder case were ordered to run concurrently with each other but consecutively to the sentence in the grand theft case. (R., pp.88-89.)

In the attempted murder case, Ms. Hadden was charged with aiding and abetting attempted first degree murder for her purported involvement in an attempt to kill her former father-in-law, Craig Hadden, an attempt that was perpetrated by her son, Blue

Hadden, and his friend Michael Cannon, grand theft for stealing all-terrain vehicles belonging to Craig Hadden, and solicitation of first degree murder of a police officer. (4/1/10 Presentence Investigation Report (*hereinafter,* PSI), pp.2-3, 12-13; Affidavit of Probable Cause in Support of Criminal Complaint/Citation, appended to 4/1/10 PSI, p.1.) The parties reached a binding Rule 11 plea agreement under the terms of which Ms. Hadden agreed to plead guilty to the charges of aiding and abetting attempted first degree murder and grand theft, in exchange for which the State agreed to dismiss the solicitation charge, along with an agreement with respect to the length of the fixed portions of the sentences to be imposed. Under the terms of the agreement, the district court was bound to impose concurrent sentences of ten years fixed on each count, with the parties free to argue as to the indeterminate portions of the sentences and whether the sentences should run concurrently or consecutively to the sentence in the grand theft case. (R., pp.54-55.)

Following her sentencing in both cases, Ms. Hadden filed a verified *pro se* petition for post-conviction relief timely as to both underlying criminal cases.[1] (R., p.20.)

---

[1] The claims discussed in this brief are taken from the verified Amended Petition for Post-Conviction Relief (R., pp.87-101), which was filed with permission of the district court following a stipulation by the parties. (R., pp.79-82.) After Ms. Hadden filed her original *pro se* verified petition for post-conviction relief, the district court issued a Notice of Intent to Dismiss (R., p.35), followed by an order dismissing all but one of her claims but granting her earlier motion for the appointment of counsel. (R., pp.67-76.) In its order of dismissal, the district court noted, "the partial dismissal of the petition for reasons set forth above is an interlocutory order subject to reconsideration pursuant to I.R.C.P. Rule 11(a)(2)." (R., p.75.) Because the district court's original order dismissing all but one claim was not final and the district court allowed the filing of an amended verified petition, Ms. Hadden will not separately address the dismissal of the claims contained in her verified *pro se* petition.

With respect to the attempted murder case, Ms. Hadden raised a number of claims of ineffective assistance of counsel, only two of which are relevant on appeal: (1) her attorney was ineffective for failing to move for a continuance of her sentencing hearing upon learning, just before that hearing, that she was under the influence of the prescription drug Effexor, causing her to feel "drugged," and preventing her from meaningfully participating in her sentencing hearing; and (2) her attorney was ineffective in failing to correct a statement incorrectly attributed to her in a psychological evaluation used at her sentencing hearing. (R., pp.91-92.)

With respect to the grand theft case, Ms. Hadden raised a number of claims of ineffective assistance of counsel, only one of which is relevant on appeal, namely that her attorney failed to request a continuance following the receipt of a plea offer the day before trial, preventing her from having an adequate opportunity to consider the offer, which she would have accepted had she been given the chance to consider it. (R., pp.90-91.)

The district court then issued a Notice of Intent to Dismiss Amended Petition for Post-Conviction Relief, in which it provided notice of why it intended to dismiss all but the claim that her attorney in the attempted murder case was ineffective for failing to file a notice of appeal.[2] (R., pp.102-18.) Following Ms. Hadden's voluntary dismissal of her sole surviving claim, the district court issued a judgment of dismissal of all claims contained in her amended petition. (R., pp.277-78.) Ms. Hadden filed a Notice of Appeal timely from the Judgment of Dismissal. (R., p.280.)

[2] This claim, the only claim not summarily dismissed, is not addressed on appeal because Ms. Hadden voluntarily dismissed it at the evidentiary hearing. (R., p.277.)

ISSUE

Did the district court err when it summarily dismissed Ms. Hadden's post-conviction claims?

ARGUMENT

The District Court Erred When It Summarily Dismissed Ms. Hadden's Post-Conviction Claims

A. Introduction

Ms. Hadden asserts that the district court erred when it summarily dismissed three post-conviction claims raised in her verified Amended Petition for Post-Conviction Relief alleging, in the attempted murder case, that her attorney was ineffective for failing to request a continuance when she told him, prior to the sentencing hearing, that she was under the influence of a psychotropic medication that was causing her to feel "drugged" and "very lethargic and foggy in [her] thinking," and by failing to correct a statement incorrectly attributed to her in a psychological evaluation, and, in the grand theft case, by failing to request a continuance to allow her time to consider a last-minute plea offer, which she would have accepted.

B. Standards Of Review

1. Summary Dismissal

An application for post-conviction relief is civil in nature. *Gilpin-Grubb v. State*, 138 Idaho 76, 79-80 (2002). An application for post-conviction relief must be verified with respect to facts within the personal knowledge of the applicant. I.C. § 19-4903. The application must include affidavits, records, or other evidence supporting its allegations, or must state why such supporting evidence is not included. *Id.*

The court may summarily dismiss a petition for post-conviction relief when the court is satisfied the applicant is not entitled to relief and no purpose would be served by further proceedings. I.C. § 19-4906(b). In considering summary dismissal in a case

where evidentiary facts are not disputed, summary dismissal may be appropriate, despite the possibility of conflicting inferences, because the court alone will be responsible for resolving the conflict between the inferences. *See State v. Yakovac*, 145 Idaho 437, 444 (2008) (addressing case where State did not file a response to petition). However, where the facts are disputed, a court is required to accept the petitioner's unrebutted factual allegations as true, but it need not accept the petitioner's conclusions. *Charboneau v. State*, 144 Idaho 900, 903 (2007).

Summary disposition on the pleadings and record is not proper if a material issue of fact exists. I.C. § 19-4906. When genuine issues of material fact exist that, if resolved in the applicant's favor, would entitle the applicant to relief, summary disposition is improper and an evidentiary hearing must be held. *Baldwin v. State*, 145 Idaho 148, 153 (2008). At the summary dismissal stage the petitioner need only present *prima facie* evidence of both prongs. *McKay v. State*, 148 Idaho 567, 571 (2010).

When reviewing a district court's order of summary dismissal in a post-conviction relief proceeding, the reviewing court applies the same standard as that applied by the district court. *Ridgley v. State*, 148 Idaho 671, 675 (2010). Therefore, on review of a dismissal of a post-conviction relief application without an evidentiary hearing, this Court determines whether a genuine issue of fact exists based on the pleadings, depositions and admissions together with any affidavits on file and liberally construes the facts and reasonable inferences in favor of the non-moving party. *Charboneau*, 144 Idaho at 903 (citation omitted). The lower court's legal conclusions are reviewed *de novo*. *Owen v. State*, 130 Idaho 715, 716 (1997).

2. Ineffective Assistance Of Counsel

The Sixth Amendment to the United States Constitution guarantees a defendant in a criminal case the right to counsel, which includes the effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 685-86 (1984). Further, the Constitution guarantees a fair trial through its Due Process Clauses, but it defines the basic elements of a fair trial largely through the several provisions of the Sixth Amendment, including the Counsel Clause. *Id.* at 685.

"When a convicted defendant complains of the ineffectiveness of counsel's assistance, the defendant must show that counsel's representation fell below an objective standard of reasonableness." *Id.* at 688. The Sixth Amendment "relies . . . on the legal profession's maintenance of standards sufficient to justify the law's presumption that counsel will fulfill the role in the adversary process that the Amendment envisions." *Id.* The "proper measure of attorney performance remains simply reasonableness under prevailing professional norms." *Id.* In light of the Sixth Amendment's reliance upon the legal profession's standards, the Idaho Supreme Court has stated that the starting point of evaluating criminal defense counsel's conduct is the American Bar Association's Standards For Criminal Justice, The Defense Function. *Mitchell v. State*, 132 Idaho 274, 279 (1998).

In addition to proving deficient performance, in most instances a defendant also must prove that he was prejudiced. "The defendant must show that there is a *reasonable probability* that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland*, 466 U.S. at 694 (emphasis added). "A reasonable probability is a probability sufficient to undermine confidence in the

outcome." *Id.* However, a "defendant need not show that counsel's deficient conduct more likely than not altered the outcome in the case." *Id.* at 693. As was recognized by Justice O'Conner, the author of the *Strickland* opinion, in her concurring opinion in *Williams v. Taylor*, 529 U.S. 362 (2000),

> If a state court were to reject a prisoner's claim of ineffective assistance of counsel on the grounds that the prisoner had not established by a preponderance of the evidence that the result of his criminal proceeding would have been different, that decision would be "diametrically different," "opposite in character or nature," and "mutually opposed" to our clearly established precedent because we held in *Strickland* that the prisoner need only demonstrate a "reasonable probability that . . . the result of the proceeding would have been different."

Id. at 405-06 (O'Connor, J. concurring) (quoting *Strickland*, 466 U.S. at 696).

C. <u>The District Court Erred When It Summarily Dismissed Ms. Hadden's Post-Conviction Claims</u>

1. <u>The Effexor Claim</u>

In summarily dismissing Ms. Hadden's claim that her attorney in the attempted murder case was ineffective for failing to move for a continuance of her sentencing hearing upon learning, just before the hearing, that she was under the influence of the prescription drug Effexor, which caused her to feel "drugged" and unable to participate meaningfully in her sentencing hearing, the district court explained,

> The petitioner has not supported her petition with any medical records or proof that she was in fact prescribed Effexor or the effects of such medication. The transcript of the sentencing hearing does not indicate that her ability to participate was in any way affected by her alleged medication . . . She has not attached any medical reports or prescriptions no[r] has she demonstrated how she has been prejudiced and has not shown that the court would have granted a continuance of the sentencing. She has not shown how the effect of her medication prevented her from participating in her own sentencing or that she was prejudiced.

(R., pp.267-68.)

Ms. Hadden presented uncontroverted evidence that she was under the influence of a medication prescribed to her following "a mental breakdown" at the time of her sentencing hearing which left her feeling "very lethargic and foggy in [her] thinking," that she informed her attorney of this fact before the sentencing hearing, and that he told her "not to worry about it" because "this was a sentencing hearing and it didn't make any difference." (R., p.247.) Ms. Hadden asserts that, at the summary dismissal stage, the district court was required to accept the factual assertions, contained in her affidavit and verified amended petition, that she was under the influence of prescription medication at the time of her sentencing hearing, that she told her attorney about it, and that it impaired her ability to participate meaningfully in her sentencing hearing.

Further supporting Ms. Hadden's contention that she was unable to participate meaningfully in her sentencing hearing is a portion of her affidavit addressing another claim that she made concerning the psychological evaluation conducted in her case.[3] With respect to that claim, Ms. Hadden wrote,

> That [defense counsel] did not attend the psychological evaluation I did with Dr. Richard Worst. That during the course of that evaluation, I told Dr. Worst, in response to a question from him, that I had no feelings regarding whether Mr. Hadden lived or died. That is to say, I did not feel strongly about it one way or the other. This statement by me was somehow misinterpreted by Dr. Worst and placed into his report as me saying Mr. Hadden's death would not have displeased me. I told [defense counsel] that this was not correct and I did not say that to Dr. Worst. That [defense counsel] did not object to that statement during the sentencing hearing.

---

[3] This claim is discussed separately *infra*.

(R., p.247.) At sentencing, the district court focused on the statement attributed to Ms. Hadden by Dr. Worst several times without interruption, clarification, or interjection by Ms. Hadden or her attorney. Specifically, the district court stated,

> And, clearly, I think that just because of the relationship that you had with Mr. Hadden, that was no justification whatsoever to want or, as you indicated in your evaluation and *your statements to Dr. Worst, that while you denied having plotted or being involved in the killing, that certainly his death would not have displeased you.*
>
> Now, it seems to me that *if at the time you're talking to Dr. Worst and you're telling him that the death of Mr. Hadden would not have displeased you, to apologize today in many respects rings hollow for the Court because, clearly, I think you wanted Mr. Hadden dead for whatever reason.*
>
> . . .
>
> Again, I go back to the comment that you denied to Dr. Worst knowingly having conspired to kill Craig Hadden, but at the same time *you admitted that his death would not have displeased you.*
>
> . . .
>
> The think that I find is the most aggravating, and I go back to this again, is the fact that irrespective of whether you had a leadership role in this matter, and I think you did based on the information that the Court has been provided because there's really no motive for either Mr. [Blue] Hadden or Mr. Cannon to want your ex-father-in-law dead. Clearly, you had a great deal of animosity towards your father-in-law for whatever reason. You don't like your father-in-law, and *I think the comment to Dr. Worst that his death would not have displeased you tells me that of all three, you were the one who had the motive, for whatever reason, to want Mr. Hadden dead.*

(Sent.Tr.,[4] p.32, L.4 – p.37, L.22 (emphases added).)

Given Ms. Hadden's uncontroverted sworn statement denying having told Dr. Worst that the victim's death would not have displeased her and that she told her

attorney of this before the sentencing hearing, along with the district court's repeated references to the statement without objection from either Ms. Hadden or defense counsel, it is reasonable to infer that Ms. Hadden was not able to participate meaningfully in her sentencing hearing due to her being under the influence of a recently-prescribed psychotropic medication because she otherwise would have objected to the district court's repeated references to this incorrect statement.

As for the district court's conclusion that Ms. Hadden failed to show that the court would have granted a continuance of her sentencing hearing if her attorney *had* informed the court of her condition, she cites to Idaho Code § 18-210, which provides, "No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted, *sentenced* or punished for the commission of an offense so long as such incapacity endures." I.C. § 18-210 (emphasis added); *see also State v. Lovelace*, 140 Idaho 53, 62 (2003) ("The failure to observe procedures adequate to protect a defendant's right not to be tried or convicted while incompetent to stand trial deprives him of his due process right to a fair trial.").

Because, taking all reasonable inferences in Ms. Hadden's favor, there is a genuine issue of material fact as to whether Ms. Hadden was under the influence of a psychotropic medication that affected her ability to understand and meaningfully participate in the proceedings at the time of her sentencing hearing, a fact that her

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[4] The sentencing transcript for the attempted murder case was judicially-noticed by the district court (R., p.106), but was not included in the appellate record. A file-stamped copy of the transcript was attached to a Motion to Augment filed on July 20, 2012.

attorney knew of before the hearing, she is entitled to an evidentiary hearing on this claim.

2. Failure To Object To Dr. Worst's Report

In summarily dismissing Ms. Hadden's claim that her attorney in the attempted murder case was ineffective for failing to object to a statement wrongly-attributed to her in a psychological report written by Dr. Worst that the victim's death "would not have displeased her" when she actually said she had "no feelings regarding whether Mr. Hadden lived or died" and "did not feel strongly about it one way or the other," the district court reasoned,

> She asserts that she informed her attorney of the mischaracterization of her statement by Dr. Worst and he failed to object. The petitioner certainly had every opportunity herself to correct or clarify any statements that she made and failed to do so. She could have done that at the time the court reviewed the PSI with the petitioner when she said she had no changes[,] corrections or objections to the content of the report. (Tr. pg. 5, L.8-13)[,] and at the time of her allocution (Tr. pg. 26, L. 12 – pg. 27, L. 9). In the view of this court whether his death would not have displeased her or whether she had no feeling whether [the victim] lived or died is a distinction without a difference. There is no showing that counsel was deficient in failing to object to the statements made to Dr. Worst. Therefore this claim must be dismissed.

(R., pp.268-69.) The district court's decision summarily dismissing this claim appears to rest on the district court's erroneous conclusion that Ms. Hadden showed neither deficient performance because she could have objected to the information nor prejudice because the district court doesn't view the wrongly-attributed statement as being different from the correct statement.

As relevant to the deficient performance prong, Ms. Hadden's affidavit included her claim that she was under the influence of a recently-prescribed psychotropic

medication at the time of her sentencing hearing, which left her feeling "drugged" and prevented her from meaningfully participating in her sentencing hearing.[5] (R., pp.91-92.) As such, taking all reasonable inferences from the available record in favor of Ms. Hadden, as the district court was required to do at the summary judgment stage, there is a genuine issue of material fact as to whether Ms. Hadden was in a position to object, in her attorney's stead, to the wrongly-attributed statements relied upon by the district court at sentencing.[6] This demonstrates that Ms. Hadden's claim raises a genuine issue of material fact with respect to the deficient performance prong.

As relevant to the prejudice prong, the district court made numerous references to the comment, specifically,

> And, clearly, I think that just because of the relationship that you had with Mr. Hadden, that was no justification whatsoever to want or, as you indicated in your evaluation and *your statements to Dr. Worst, that while you denied having plotted or being involved in the killing, that certainly his death would not have displeased you.*
>
> Now, it seems to me that *if at the time you're talking to Dr. Worst and you're telling him that the death of Mr. Hadden would not have displeased you, to apologize today in many respects rings hollow for the Court because, clearly, I think you wanted Mr. Hadden dead for whatever reason.*
>
> . . .
>
> Again, I go back to the comment that you denied to Dr. Worst knowingly having conspired to kill Craig Hadden, but at the same time *you admitted that his death would not have displeased you.*
>
> . . .

[5] This claim was discussed *supra*.

[6] This, of course, assumes *arguendo* that an attorney's duty to make the district court aware of erroneous information contained in pre-sentencing materials is generally not considered deficient performance because a defendant could object on her own.

> The think that I find is the most aggravating, and I go back to this again, is the fact that irrespective of whether you had a leadership role in this matter, and I think you did based on the information that the Court has been provided because there's really no motive for either Mr. [Blue] Hadden or Mr. Cannon to want your ex-father-in-law dead. Clearly, you had a great deal of animosity towards your father-in-law for whatever reason. You don't like your father-in-law, and *I think the comment to Dr. Worst that his death would not have displeased you tells me that of all three, you were the one who had the motive, for whatever reason, to want Mr. Hadden dead.*

(Sent.Tr., p.32, L.4 – p.37, L.22 (emphases added).)

Furthermore, while the district court claims that it considers the disputed version of the statement and Ms. Hadden's corrected version of the statement to be essentially the same (presumably meaning that it would not have changed the district court's sentencing decision had the statement been accurately presented), that is not the standard to be employed when analyzing the prejudice prong in post-conviction. *See Strickland*, 466 U.S. at 700 (a trial judge's testimony as to what he or she would have done absent the deficient performance "is irrelevant to the prejudice inquiry").

The clear implication of the statement erroneously attributed to Ms. Hadden by Dr. Worst was that Ms. Hadden would have been pleased to have learned that the victim died. The version of the statement that she asserts she made is far less damning, and indicates that she had no feelings on the subject whatsoever. Additionally, the meaning ascribed to the statement by the district court at the sentencing hearing shows that it was taken to mean something more than mere indifference; rather, it was used as an aggravating factor in the district court's decision to make the sentences in the attempted murder case consecutive to the sentence in the grand theft case, specifically as evidence that Ms. Hadden was the only one of the three participants in the crime with a motive to want the victim dead. Ms. Hadden asserts that

she has at least demonstrated that there is a genuine issue of material fact with respect to the prejudice prong.

3. The Plea Offer Continuance Claim

In summarily dismissing Ms. Hadden's claim that her attorney was ineffective for failing to move for a continuance of trial following the receipt of a pre-trial offer the day before trial, the district court explained,

> If the petitioner wanted to consider plea negotiations she could have initiated them long prior to the commencement of the trial. The mere desire to consider a plea offer is not good cause to continue a jury trial and that petitioner had at least five days from the time the jury was selected before opening statements to decide whether t[o] accept the state's offer. The court would not have continued the trial on the grounds asserted by the petitioner and therefore any such motion would not have been granted.

(R., pp.261-62.)

The problem with the district court's conclusion is that it assumes a factual scenario that is unsupported by the record and relies on an apparent misunderstanding of the scope of its own discretion. First, it assumes that no plea negotiations were initiated by defense counsel prior to the receipt of the offer the day before trial. Second, it appears to conclude mistakenly that, as a matter of law, "the mere desire to consider a plea offer is not good cause to continue a jury trial . . . ." Finally, it assumes that the plea offer would have remained open following the start of trial. Additionally, the district court's conclusion that it would not have granted the motion had it been made relies on its own apparent misunderstanding of the law concerning continuances.[7]

---

[7] The only evidence as to what transpired with respect to the plea offer comes from Ms. Hadden's affidavit in support of her petition in which she explained that her attorney visited her in custody the day before trial was to begin, presented a plea offer, that she

"The decision to grant or deny a motion for a continuance rests within the sound discretion of the trial court." *State v. Ransom*, 124 Idaho 703, 706 (1993). In reviewing a discretionary decision on appeal, this Court considers: "(1) whether the lower court rightly perceived the issue as one of discretion; (2) whether the court acted within the outer boundaries of such discretion and consistently with any legal standards applicable to specific choices; and (3) whether the court reached its decision by an exercise of reason." *Id.*

The United States Supreme Court has found that a proper analysis of prejudice in post-conviction cases "should not depend on the idiosyncrasies of the particular decisionmaker, such as unusual propensities toward harshness or leniency." *Strickland*, 466 U.S. at 695. Thus, a trial judge's testimony regarding what he or she would specifically have done absent an attorney's deficient performance "is irrelevant to the prejudice inquiry." *Id.* at 700. Rather, a proper "assessment of prejudice should proceed on the assumption that the decisionmaker is reasonably, conscientiously, and impartially applying the standards that govern the decision." *Id.* at 695.

In this case, the district court appears to have believed that it would not have had the discretion to find good cause and grant a motion for a continuance based on Ms. Hadden's "mere desire" to consider the State's plea offer. By apparently failing to recognize that its decision was a discretionary one, the district court abused its discretion in concluding that it would not have granted a motion for a continuance if it

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"was given no more than thirty (30) minutes to discuss the plea offer with [counsel] and I did not fully understand the plea offer which had been made." She noted that she requested that her attorney request a continuance "[t]o allow me additional time in which to consider the plea offer before making a decision," a request that her attorney refused to make. (R., pp.241-42.)

had been made. Furthermore, the district court erred by relying on what it would have done had the motion been made, information that was irrelevant to the prejudice determination under *Strickland*.[8]

CONCLUSION

For the reasons set forth herein, Ms. Hadden respectfully requests that this Court vacate the district court's judgment of dismissal as to the three claims discussed above, and remand this matter to the district court for an evidentiary hearing on the claims.

DATED this 2nd day of August, 2012.

SPENCER J. HAHN
Deputy State Appellate Public Defender

[8] This case is more troubling than the after-the-fact testimony of the trial judge in *Strickland* because, at least in that case, the judge was a witness subject to cross-examination, rather than the judge summarily dismissing post-conviction relief.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 2nd day of August, 2012, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

TRACI N HADDEN
INMATE #50081
PWCC
1451 FORE ROAD
POCATELLO ID 83205

JOHN K BUTLER
DISTRICT COURT JUDGE
E-MAILED BRIEF

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