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## Abbott v. State Appellant's Brief Dckt. 40249

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Inmate name Dennis E. Abbott  
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Boise, Idaho 83707

Appellant

IN THE SUPREME COURT OF THE STATE OF IDAHO

DENNIS E. ABBOTT, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
STATE OF IDAHO, )  
 )  
 Respondent. )

Case No. 40249  
**APPELLANT'S BRIEF**

Appeal from the District Court of the FIFTH Judicial District  
for TWIN FALLS County.  
The Honorable Richard Bevan, District Judge presiding.

To open this Brief on Appeal, appellant is a mentally ill person who has been repeated diagnosed for the past 40 years. In 1986, appellant was charged with 3 crimes of lewd conduct. To this day appellant asserts that he is completely innocent of such crimes, but for he is a defendant who was stricken by poverty, he has not been able to hire the necessary counsel to defend either in the initial trial and all appealate attempts since then.

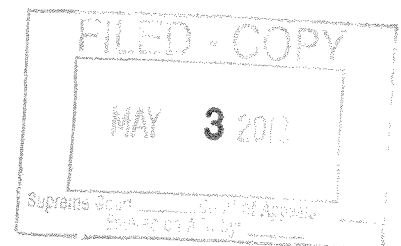


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## STATEMENT OF THE CASE

### A. Introduction

### B. Statement of Facts and Course of Proceedings

On May 17, 2012, appellant filed his Petition and affidavit for Post Conviction Relief. On July 3, 2012 the court filed a summary judgment in this case. Then on July 31, 2012, appellant filed his notice of Appeal. However appellant's attorney filed for a Motion for Leave to Withdraw and suspend the Briefing schedule, on March 6, 2013, Appellant now submits his Brief on Appeal as Pro Se.

Appellant has repeatedly attempted to appeal his charge, but has been largely ineffective based on his mental illness and while he slips in and out of psychosis.

This has been already proven in court that Appellant suffers from a serious mental illness, and that he was not competent at the time of trial, the record will show this in 1999 in Judge Meehls court.

## ISSUES PRESENTED ON APPEAL

### **ACTUAL INNOCENCE (manifest injustice)**

This is a miscarriage of justice insomuch as appelliant has suffered neary 30 years incarceration on an alledged crime he never commited. THE fact of the matter is that there never was any evidence collected before the trial; that there were no witnesses, no medical testing at all, and nobody to testify against him. Absolutly no due process was used for this illgotten prosecution.

## ARGUMENT

### A. Introduction

**COMES NOW** Dennis E. Abbott, appellant pro se.

### B. Argument

First and foremost the district court failed to address a manifest injustice solely because the court asserted that it had been over 10 years since and action in the case.; that the District Court claimed an exorbitant statute of limitations had past.

However, a manifest injustice should not have a statute of limitations and be duly heard in evidentiary. The court should always have a door to correct the injustice.

**Scuhlp v. Delo**, 513 U.S. 298 (1995), Due Process.

But for if appellant of not being of sound mind could not have been an effectiveness standing as his own lawyer; that his lifelong mental illness has no timelines.


There was never any evidence recorded and could not have established a guilt beyond a reasonable doubt. **Jackson v. Virginia**, 443 U.S. 307 (1979).

CONCLUSION

Therefore, appellant respectfully requests that this court [what court should do].

Remand this post conviction back to the District Court  
by giving both sides a fair chance to present their case.

Respectfully submitted this 21 day of May, 2013.


  
Appellant



**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 21 day of May, 2013, I mailed a true and correct copy of the APPELLANT'S BRIEF via prison mail system for processing to the United States mail system, postage prepaid, addressed to:

Deputy Attorney General  
Criminal Division  
P.O. Box 83720  
Boise, ID 83720-0010

  
Appellant