

4-1-2014

## Salinas v. State Appellant's Brief Dckt. 41049

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Cynthia Dawn Salinas #63422  
Full Name/Prisoner Name

c/o EBCWC  
2366 Old Penn Rd  
Boise, Idaho 83712  
Complete Mailing Address

Plaintiff / Defendant  
(circle one)

Third Judicial District  
Gem County District Court

Cynthia Dawn Salinas )  
Plaintiff/Petitioner, )  
(Full name and prisoner number. )

Docket # 41049-2013  
CASE NO. 2011-606

vs. )  
State of Idaho )

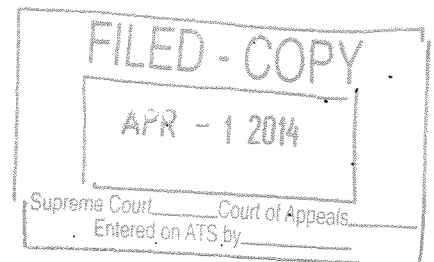
Appellant's Brief  
\_\_\_\_\_  
\_\_\_\_\_

Renee Hoff )  
Defendant/Respondent(s), )  
(Full name(s). Do not use et. al.) )

COMES NOW, Cynthia Salinas, Plaintiff/Defendant (circle one) in the above entitled

On March 4, 2007, I received a felony DUI charge  
in the third Judicial District Gem County Case No.  
CR-2007-632. I was appointed counsel Gem County  
Public Defender, Mark Mirrumba to represent me  
in this case, which proceeded to April 3, 2008.

Appellant's Brief - PB 1/4



I was sentenced to five year probation with Case No. H0501674 in Ada County. They were to run concurrent with the condition of a retained Jurisdiction of a Rider. In July 2008, I relapsed due to the death of my mother. I was then put into Drug Court. I was then accused of violating by drinking in August 2008. I was willing to take a polygraph Examination and was denied the opportunity. Instead I was put into treatment at The Uno Treatment Center on September 30, 2008. I was removed from the program due to a conflict with another patient. In December of the same year, I was ordered to go back before both judges; Judge Bail of Ada County, and Judge Hoff of Gem County. Following the order to go back in front of the Courts. Judge Renae Hoff sent me to Ada County to go before Judge Deborah Bail. On March 23, 2009 I was sentenced to probation and returned to Gem County. Upon returning to Gem County, Judge Renae Hoff sentenced me to 5 ind, 5 fixed with one year credited. As the Appeal and Post-Conviction

Appellant's Brief -PE 2/4

has been on Merit, I believe that Ms. Nancy Callahan, my attorney, failed to file Court paperwork in my favor, in a timely manner. Due to this error, the Appeal and Post-Conviction is now moot. I believe I had a genuine issue/concern to have an evidentiary hearing. The misrepresentation and result in prejudice. I was denied a Modification to be released and continue on probation as of December 13, 2010.

~~\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_~~

Respectfully submitted this 30 day of March 2014.

Cynthia Salinas  
 Plaintiff/Defendant (circle one)

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 30 day of March 2014, I  
 mailed a true and correct copy of the Appellant's Brief via  
 prison mail system for processing to the U.S. mail system to:

Idaho Supreme Court  
Fax 208-947-7590  
Idaho Courts of Appeal

Cynthia D. Salinas  
 Plaintiff/Defendant (circle one)

Appellant's Brief -pg. 4/4

**DONAHUE POLYGRAPH  
P. O BOX 1223  
CALDWELL, IDAHO 83606**

December 4, 2010

**SUBMITTED TO: MS. NANCY CALLAHAN  
101 Canal Street  
Emmett, Idaho 83617**

**SUBMITTED BY: THOMAS T. DONAHUE  
POLYGRAPH EXAMINER**

**REFERENCE: POLYGRAPH EXAMINATION 10010 PC 12-4-10  
CYNTHIA DAWN SALINAS**

The above-named individual voluntarily appeared for a polygraph examination at the Gem County Jail, Emmett, Idaho, on the date indicated above. Also indicated above is the file number which should be used when referring to this case. It was the understanding of the examiner that the primary purpose of this examination was to determine the truthfulness of Cynthia Salinas' statements regarding whether or not she had consumed any alcohol during the period while she was involved in drug court in 2008; and whether or not she had consumed any alcohol during the period between May 2009 and September 11, 2010,

The background information relating to this case was provided by Ms. Nancy Callahan. Before being examined on the polygraph, Cynthia Salinas read and signed a statement assuring all concerned that the examination was being taken voluntarily. The examination utilized equipment which indicated and record, on a moving chart; relative changes in blood pressure, rate and strength of blood pressure, Galvanic Skin Response, and breathing pattern.

The examination administered was a standard Backster Exploratory (multiple issue) Test. To reach a determination of truth or deception, each relevant question is scored separately. To reach a determination of truth, a total of +4 or greater is required on three charts. To reach a determination of deception, a total of -7 or greater is required on three charts.

The below-indicated pertinent questions were among those asked during the overall examination:

(43): While you were in drug court in 2008, did you consume any alcohol?

ANSWER: No.

(44): Did you consume any alcohol between May 2009 and September 11<sup>th</sup> this year?

ANSWER: No.

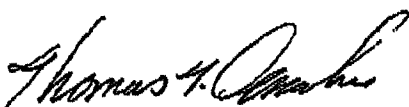
Cynthia Salinas' charts were manually scored by the examiner as follows:

Question (43): three charts, +6 (No Deception Indicated)

Question (44): three charts, +5 (No Deception Indicated)

In the opinion of the examiner, Cynthia Salinas' charts showed no strong or consistent unresolved responses to the above-listed pertinent questions. In the opinion of the examiner, after careful analysis of all of Cynthia Salinas' polygraph charts, it is felt that she was not attempting deception when she gave the above-indicated answers to the pertinent questions listed.

Submitted by,



Thomas T. Donahue  
Polygraph Examiner

Cynthia D. Salinas  
 Full Name/Prisoner Name  
 IDOC No. 63422  
SBWCC  
13200 Pleasant Valley Road  
Kuna, Idaho 83634  
 Complete Mailing Address

Cynthia D. Salinas )  
 )  
 Plaintiff/Petitioner, )  
 )  
 vs. )  
 )  
State of Idaho )  
 )  
 Defendant/Respondent. )

Case No. CV-11-606

AFFIDAVIT OF

Cynthia D. Salinas

STATE OF IDAHO )  
 )  
 County of Ada ) ss  
Gren )

Cynthia D. Salinas after first being duly sworn upon his/her oath, deposes  
 and says as follows:

Continued on next page

AFFIDAVIT OF Cynthia D. Salinas - pg. 1  
 Revised 10/24/05



On Sept 21, 2010. I had gone to Ms. Callahan Law Office to discuss my probation violation. That I did on Sept 11, 2010. I told Ms. Callahan that I was not getting any help from the Public Defenders: Mark Mirrumba, nor K.C. Swensen. I was not getting help from my Probation Officers Paul Gibbison and Chad Brumpton. I also tried Richard Linville The Prosecuting Attorney for help and got no where.

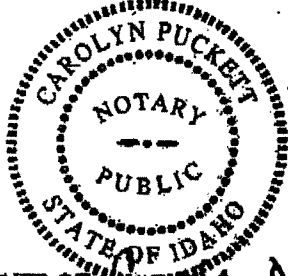
I began explaining to Ms. Callahan that on July 6, 2010

Further your affiant sayeth naught.

DATED This 12 day of July, 2012

Cynthia Salinas  
Signature

SUBSCRIBED AND SWORN To before me this 12<sup>th</sup> day of July, 2012



[Signature]  
Notary Public for Idaho  
Commission expires: 2017-15

"Continued AFFIDAVIT"

I was denied to re-enter The Unio Treatment Center. I told Ms. Callahan that I was Court Ordered on May 9, 2010 to Re-Enter Unio Treatment and to blow twice Daily. I told Ms. Callahan from May 9, 2010 til July 6, 2010 that I had attempted to Re-Enter The Unio Treatment Center, and that I was put on the waiting List then that B.P.A. had Stopped all my funding. I told Ms. Callahan that my Baby Sister Dora Thrasher where trying to find away to pay for my treatment. I also told Paul Gibbson my Probation Officer that we where trying and that Ms. Thrasher my sister was speaking to Dixie in person and by phone every chance she could for me at the Unio Treatment Office. That I would like my sister DORA Thrasher to Testify in my behalf on how treatment goes.

Then I told her that I tried in Aug, 2010 to stop blowing twice daily. Because I got behind in C.O.S. Cost of Supervision. So I went to the Public Defenders Office and spoke with Kim Morrow, I asked her to please talk to Mr. Mirrumba or KC Swensen about me blowing once daily. Then I called the Public Defender Office in Aug, 2010 was told by Kim Morrow that the Prosecuting Attorney Richard Linville denied me so I kept blowing.

I told Ms. Callahan that that I would tell Paul Gibson every month at my visits. that I was trying to Re-Enter Unio Treatment Center because B.P.A. was not funding that I needed to find away to enter but that my sister Dora Thrasher and I where in contact with the Treatment Center we where working on it.

Then on July 6, 2010 I was sent a letter from the Unio Treatment Center. I was denied to Re-Enter

back into the Unio Treatment Program. Due to the bad situation of my behavior, I spoke to my new Probation Officer [had Brumpton told him that I was denied so he mention to me that I need a modification as Paul Gibson told me too or that I would be violated and send me to prison this was the term of 5 + 5 for a total of 10 yrs.

All of Aug 2010 and Sept 11, 2010 I would call Mark Mirrums' Office leave messages or walk-in talk to Kim Morrow the secretary asking her to let him know I needed this modification as soon as possible. I let Ms. Callahan know I was staying on top of the Public Defenders Office. Once a week or more since July 6, 2010 to Sept 11, 2010. Everytime Kim Morrow would tell me she gave Mr. Mirrums the messages. Then one day in late Aug 2010 or first of Sept I ran into K.C. Swensen in the Public Defenders Office when I was leaving


Mark Miruma another message I offered K.C. Swensen two hundred Dollars to please help me with the Modification in front of Kim Morrow. Not once did he mention Mountain State for help. I don't even know what Mountain State is. Then the final draw I went to the Prosecuting Attorney Richard Cuville on Sept 11, 2010 in the Courthouse of the Stairs in Emmett. He told me "He had no time for me." Then after that I went straight to the Public Defenders Office told Kim Morrow what happen.

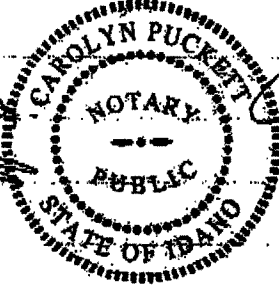
I told Ms. Callahan I ~~felt~~ felt that no one would listen or that they even care me needing help. I asked Ms. Callahan to please talk with Judge Renea Hoff and say on my behalf what was happening to me. On Sept 21, 2010 I told her that I had been clean 21 month. I said to her "I don't know why I can't get

any help when I asked everyone for it, is it who I am or was it my past or is it Both!

The chances of the information given on the outcome would have been I would have done a very successful program if given the chance. I would have done an intensive out-patient Treatment program with Emmett Family Services, I could have gotten married to my fiancé, blow once a day but I FEEL I have been stripped of this and the Misrepresentation of Ms. Callahan of this case. Probation is a place to go for help (Good or Bad) seek wise Council.

I believe my Framing Business Company would still be Successful and I would be up on my Cost of Supervision and fines.

SUBSCRIBED AND SWORN (or affirmed)  
before me this 10th day of July, 2012  
  
Notary Public for Idaho  
My Commission Expires 2-7-15



*Cyndy Salinas*

**FILED**

12/21/10 at a.m./p.m.  
SHELLY GANNON, CLERK  
Deputy

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

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CYNTHIA DAWN SALINAS, )  
 )  
 DOB 11/17/1963 )  
 )  
 Defendant. )  
 )  
 )  
 )

CASE NO. CR-2007-0000632  
ORDER REVOKING PROBATION  
AND IMPOSING SENTENCE

On this 13th day of December, 2010 personally appeared Richard K. Linville, Prosecuting Attorney for the County of Gem, State of Idaho, and the defendant, Cynthia Dawn Salinas, and the defendant's attorney, Nancy L. Callahan.

The Court having found that the defendant was in willful violation of her probation upon her own admission to the allegations of probation violation set forth in the Petition for Probation Violation filed October 15, 2010.

IT IS HEREBY ORDERED, AND THIS DOES ORDER that the Order of Probation on Suspended Execution of Judgment made and entered by this Court on the May 11, 2009 be, and the same hereby is, revoked.

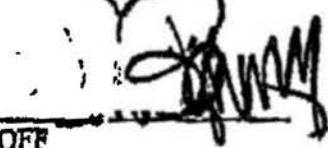
IT IS FURTHER ORDERED, AND THIS DOES ORDER, that the Judgment previously suspended be reinstated and that the defendant be sentenced to the custody of the Idaho State Board of Corrections at the Idaho State Penitentiary for a minimum determinate period of five (5) years and a subsequent indeterminate period not to exceed five (5) years, for a total aggregate term of ten (10) years, and the defendant to be given credit for an additional 55 days for a total of 195 days, pursuant to Idaho Code §18-309 plus any time served on the retained jurisdiction program previously served on the charge of DRIVING UNDER THE INFLUENCE, a violation of Idaho Code § 18-8004(c), committed on or about the 4th day of March, 2007, in this action.

IT IS FURTHER ORDERED that the defendant be, and she hereby is, committed to the custody of the Sheriff of Gem County, Idaho, for delivery forthwith to the custody of the Idaho State Board of Corrections for the purpose of serving the sentence now imposed upon the defendant by this Court.

IT IS FURTHER ORDERED. that the clerk deliver a certified copy of this ORDER REVOKING PROBATION AND IMPOSING SENTENCE to the said Sheriff, which shall serve as the commitment of the defendant.

DATED \_\_\_\_\_

DEC 21 2010



RENAE HOFF  
District Judge

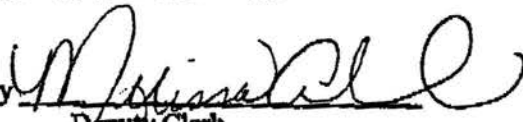
CERTIFICATION OF SERVICE

The undersigned certifies that on Dec 22 2010, service of a true and conformed copy of the original of the foregoing ORDER REVOKING PROBATION AND IMPOSING SENTENCE was made upon the following:

- Prosecutor's Office
- Defendant's Attorney
- Idaho State Board of Corrections
- Probation Officer
- Gem County Sheriff

by first class mail or by hand delivery.

SHELLY GANNON  
Clerk of the District Court

by   
Deputy Clerk