

3-25-2015

Baker v. State Appellant's Reply Brief Dckt. 41614

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

Recommended Citation

"Baker v. State Appellant's Reply Brief Dckt. 41614" (2015). *Not Reported*. 1729.
https://digitalcommons.law.uidaho.edu/not_reported/1729

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ UIdaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ UIdaho Law. For more information, please contact annablaine@uidaho.edu.

In The Supreme Court, STATE OF Idaho

Donald V. Baker, }
Petitioner, }
V. }
State of Idaho, }
Respondent }

Docket No. 41614

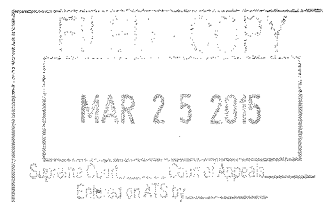
Response To
Attorney General's
Brief / Final
Argument

Comes now, Donald Victor Baker, Petitioner on Appeal from Post Conviction relief, Ada Co. Case No. CV-2012-6457, and makes his final response for the Supreme Courts review of this Post Conviction Relief Appeal. RE: CR-FE-2010-0019696.

This petitioner is untrained in the Law and has submitted documented mental Health diagnosis issues in his attempt to obtain Council ordered by either The District Court, or The Idaho Supreme Court.

(Please see page 59 of the certified Court record to review disability determination deeming BAKER Mentally disabled by Dr James Read and Qualifying BAKER for Social Security, and SSI disability Benefits.)

1 OF 12



Baker has been denied Council Numerous times throughout the course of these proceedings.

All Discovery has been denied by Both courts and as a result BAKER requested council to "Delegate The sensitive Nature of Discovery" and to protect his substantial Rights.

Again, All Discovery. And Council Denied, thereby violating BAKERS substantial Rights and Prejudicing this case entirely in favor of The state of Idaho. (Denying Due Process.)

Baker has Demonstrated in his second Amended petition for post conviction Relief that the state of Idaho (Idaho state Police) used an Informant to Coerce and threaten BAKER to commit a crime. The informant was BAKERS Drug Dealer whom Baker owed money to. The informant extorted Baker with threats of physical violence. The Informant Coerced Baker to go to a known Drug house and purchase meth while this informant and a police Net

waited 4 Blocks away To Sting Baker, after sending him To the Drug house. The Idaho State Police entrapped Baker And manufactured this crime by engineering criminal Design From start to finish. They sent Baker To commit the crime, Then waited Around the corner To record It.

During the recording of the entrapment And After Baker drove away, the informant's roommate quickly drove up, exited his pick-up And approached the informant's Drivers side car door. The roommate spoke to the informant, They Bumped Knuckles And parted company. The roommate (Jason Whitaker) left the scene without being approached or searched by The Idaho State Police.

This action caused "third party contamination" of a controlled Buy, Tainting evidence by the contact of an uncontrolled person entering

and exiting the scene. This action caused "Loss of Control" And this criminal design could no longer be considered a "Controlled Buy". It Became Failed.

This Demonstration could of Been discovered by Bakers Attorney, BUT he failed to investigate or research Bakers case - Ineffective Assistance of Council.

Paul Riggins' investigation uncovered the failed controlled Buy and explained the illegal Entrapment to BAKER Because BAKERS council failed to do so.

The District Court Erred by not Allowing a Post Conviction Relief hearing to put Jason Whitaker And Paul Riggins on the stand At an Evidentiary hearing.

Due To Riggins' investigation, it Became Apparent that whitaker's presence was removed (edited) from the Compact Disk recordings To Alter the evidentiary

recordings, in order to hide the loss of control of the scene, causing a Failed Controlled Buy. This is not only unethical but also illegal. The prosecutor admits to redacting the Compact Discs. The District Court should have scheduled an evidentiary hearing on the basis of this Brady violation. It erred. Baker had a right to due process to hear Jason Whitaker's presence and involvement. This prosecutor denied Baker's due process when manufacturing this deliberate Brady violation.

Next, Baker contends that a testing of any substance he may have delivered be rendered invalid because the police do not know if Baker or Whitaker delivered the substance to the informant. The police and prosecutor already know this, hence the washing of the CD's removing Whitaker from recordings, before recordings are shown to Baker.

Baker has submitted proof of Riggins' investigation and Whitakers presence.

Since the police couldn't swear under oath at a preliminary hearing that this was a "controlled Buy", charges were not brought up against Baker.

Baker was being charged in an unrelated matter by prosecutor Heather Reilly. Reilly reviewed the Failed case, altered the recordings and submitted the washed CDs to the Grand Jury in an application for an indictment. She provided a copy to my council and the District Court. When the Idaho State Police couldn't submit the case for prosecution, Reilly doctored it up in her zeal to ensure the crime continue to be manufactured against Baker. The Idaho State Bar investigated Reilly's unethical behavior in this matter but eventually dismissed it because the District Court denied

6 of 12

All Discovery To BAKER, which he was required to produce to the Idaho State Bar, in his complaint Against Reilly.

Baker met Both prongs of the Strickland Criteria, First in his second Amended petition for post conviction relief, And second in his objection And Response to courts notice of Intent to Dismiss pgs 214 through 228 of the certified Court Record Thus meeting requirements in respect to claims of Ineffective Assistance of Council. The District Court erred, when not scheduling an evidentiary hearing to hear these matters further.

Next, BAKER demonstrates graphically the Brady violations in this case in Both his second amended petition for post conviction relief And in his objection And Response to courts notice of Intent to Dismiss. (Both enclosed in the certified Court Record)

An informant must agree to sign and initial a specific contract in order to act as Agent for the Idaho State Police. He must agree to be both sober and law abiding during the course of his work to ensure a conviction against the accused.

This informant committed several new felony crimes surrounding his consumption and dealing of drugs. This action deemed his contract with the Idaho State Police void and non-useable. The informant became non-credible.

Baker's Attorney of Record failed to research or discover that his contract as a CI was worthless and he was non-credible. The prosecutor failed to disclose it. Riggins investigation uncovered it - post conviction.

This information and Whitaker's presence, separately, or together, would have caused Baker to plead not guilty and proceed to trial (Strickland prong - Brady violations.) This prosecutor had the informant placed in an encased glass holding cell across from Baker during each court hearing and repeatedly told Baker and Attorney she had a viable-credible witness, ready to testify.

The invalid informant Contract and criminal records of informants New crimes were discovered by Paul Riggins post conviction. My attorney should of researched and discovered this information in an Attempt to defend me. Ineffective assistance of Council. Had Baker known the informant's contract was void And he was non credible, he would of went to Jury Trial and prevailed because the state didnt have a credible witness. The prosecutor had a Duty to disclose all evidence including information favorable to the Accused and impeachment evidence.

The actions of the Idaho state police and the prosecutor (the government) Are a blatant 1983 civil rights violation. These offices entwined to engineer and manufacture criminal Activity, then prosecute IT.

The District Court has chosen a path diametrically opposite of the United States constitution and erred when striking and sealing, then shutting down with protection orders, all Discovery related to Baker proving his case. The District Court manifested injustice to ensure the governments unethical and illegal behavior isnt exposed, by Court ordering the removal of transcripts From

Bakers possession while Baker was incarcerated at South Idaho Correctional Institute. (Please see certified Court Record pgs 196 - 201) Also see Motion To Augment Record pg 2 #E DATED 12-18-14. (*Note that this court order was issued under original underlying criminal Case # Ada County cr-fe-2010-0019696.)

Baker renews his request for discovery. As outlined in Both his motion To Appeal Post Conviction relief, and Motion To Augment Record, even if this Discovery must be kept confidential and viewed privately by the Idaho Supreme Court, this court must view said discovery, to properly interpret all Aspects of Bakers Case And ensure the protection of Bakers substantial Rights and Due process, outlined in the Civil rights Act And the United States Constitution (See certified Record for requesting In-Cameras)

Baker renews his Final request for private council not Affiliated with the government, to protect And present the delicate and sensitive nature of these discoveries and defend BAKER Appropriately in these further proceedings.

Baker is respectfully requesting that Idaho Supreme court order council to delegate sensitive Discovery and represent BAKERS substantial rights. Baker further requests this case be remanded to district Court for future proceedings in front of a new judge who has not demonstrated blatant prejudice by offering securities to protect the state of Idaho's unethical and illegal behavior.

In the Alternative this court should consider overturning Bakers conviction completely.

DATED this 23rd Day of March 2015.
I swear under penalty of Perjury all inclusive information is True And Factual.

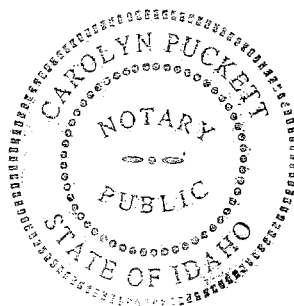
SUBSCRIBED AND SWORN (or affirmed)

before me this 23 day of March 2015

Donald V Baker
Petitioner

Notary Public for Idaho

My Commission Expires 6/1/15



Certificate of Service

I Donald Victor Baker certify that on this 23rd day of March 2015, I have mailed a True and Correct Copy of the Foregoing "Response to Attorney Generals Brief/Final Argument" To Both of the following.

Clerk of the Court
Idaho Supreme Court
P.O. Box 83720
Boise Id 83720

Office of Attorney General
P.O. Box 83720
Boise Id.
83720

By placing the same in the U.S. mail Depository in the S.I.C.I. Legal Resource Center, located in Boise Idaho,

Dated this 23rd day of March 2015.

Donald V. Baker

Petitioner/Appellant