

5-13-2008

## State v. Hoak Clerk's Record v. 2 Dckt. 34906

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IN THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO

STATE OF IDAHO,  
PLAINTIFF-RESPONDENT,

VS.

LARRY MATTHEWS HOAK,  
DEFENDANT-APPELLANT.

*Appealed from the District Court of the Fourth Judicial  
District of the State of Idaho, in and for ADA County*

*Hon CHERI C. COPSEY, District Judge*

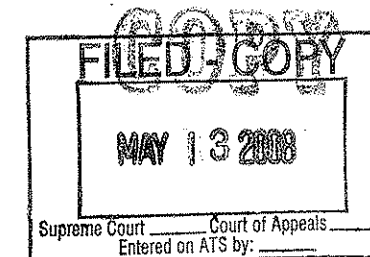
MOLLY HUSKEY  
State Appellate Public Defender

*Attorney for Appellant*

LAWRENCE G. WASDEN  
Attorney General

*Attorney for Respondent*

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Session Date: 2007/09/21  
Judge: Copsey, Cheri C.  
Reporter: Madsen, Kim

Division: DC  
Session Time: 07:59

Courtroom: CR503

Clerk(s):  
Weatherby, John

State Attorneys:  
Haws, Gabriel

Public Defender(s):  
Lojek, Michael

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0001

Case Number: H0700180  
Plaintiff:  
Plaintiff Attorney:  
Defendant: HOAK, LARRY  
Additional audio and annotations can be found in case: 0002.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Haws, Gabriel  
Public Defender: Lojek, Michael

2007/09/21

08:53:13 - Operator  
Recording:  
08:53:13 - New case  
HOAK, LARRY  
08:53:22 - Judge: Copsey, Cheri C.  
case called for Day 4 of Jury Trial; def present in custody  
with counsel  
08:53:37 - Judge: Copsey, Cheri C.  
inquiry to def re med; feels fine  
08:53:48 - Judge: Copsey, Cheri C.  
inquiry re: testimony  
08:54:35 - Judge: Copsey, Cheri C.

notes corrections to jury instructions  
08:55:43 - Operator  
Stop recording:

---

Case ID: 0002

Case Number: H0700180  
Plaintiff:  
Plaintiff Attorney:  
Defendant: HOAK, LARRY  
Previous audio and annotations can be found in case: 0001.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Haws, Gabriel  
Public Defender: Lojek, Michael

08:56:22 - Operator  
Recording:  
08:56:22 - Recall  
HOAK, LARRY  
08:56:34 - General:  
Jury Enters  
08:56:46 - Judge: Copsey, Cheri C.  
parties ready to proceed  
08:56:55 - Public Defender: Lojek, Michael  
calls def to testify  
08:57:15 - Defendant: HOAK, LARRY  
Sworn.  
08:57:22 - Public Defender: Lojek, Michael  
Direct examination of witness.  
08:58:07 - Defendant: HOAK, LARRY  
describes meeting Kathy Hendricks; hired to paint house  
09:01:29 - Defendant: HOAK, LARRY  
describes discovery that victim had been molested at child  
09:02:24 - Defendant: HOAK, LARRY  
up to her to spend time with her family  
09:02:59 - Defendant: HOAK, LARRY  
describes molestation incident  
09:03:19 - Defendant: HOAK, LARRY  
told over the phone; phone calls with family  
09:04:16 - Defendant: HOAK, LARRY  
Hendricks would talk to her mother  
09:04:29 - Defendant: HOAK, LARRY  
went to lunch with girlfriend; drunk  
09:04:59 - State Attorney: Haws, Gabriel

obj  
09:05:03 - Judge: Copsey, Cheri C.  
sustained  
09:05:07 - Public Defender: Lojek, Michael  
concerned for Ms Hendricks health  
09:05:57 - Public Defender: Lojek, Michael  
1/18/05  
09:06:31 - Public Defender: Lojek, Michael  
felt that you trying to sep her from your friends and family  
09:06:48 - Public Defender: Lojek, Michael  
threats at that time  
09:06:54 - Defendant: HOAK, LARRY  
story different than how she told it  
09:07:07 - Defendant: HOAK, LARRY  
we were arguing;  
09:07:51 - Defendant: HOAK, LARRY  
describes incident in garage; cut foot in garage  
09:08:12 - State Attorney: Haws, Gabriel  
simply narrative  
09:08:19 - Judge: Copsey, Cheri C.  
sust  
09:08:22 - Defendant: HOAK, LARRY  
hopped back into car  
09:08:31 - Public Defender: Lojek, Michael  
Direct examination of witness.  
09:09:15 - Public Defender: Lojek, Michael  
any physical contact with victim at that point  
09:09:29 - Defendant: HOAK, LARRY  
bumped into table trying to keep up with me  
09:09:48 - Defendant: HOAK, LARRY  
"hope karma takes your leg off bitch"  
09:10:02 - Defendant: HOAK, LARRY  
I'm a Christian Buddhist; explains karma  
09:10:18 - Public Defender: Lojek, Michael  
did your comment about karma have anything to do about her f  
amily; aggressive  
09:10:43 - Public Defender: Lojek, Michael  
gesture  
09:10:47 - Defendant: HOAK, LARRY  
I have a big mouth; she didn't really respond  
09:11:44 - State Attorney: Haws, Gabriel  
unrespond; hearsay  
09:11:56 - Judge: Copsey, Cheri C.  
sust on hearsay  
09:12:01 - Public Defender: Lojek, Michael  
how did you end up in custody  
09:12:12 - Defendant: HOAK, LARRY  
09:12:29 - Public Defender: Lojek, Michael

did you go into the house  
09:12:38 - Defendant: HOAK, LARRY  
went to sleep when I got home  
09:12:47 - Public Defender: Lojek, Michael  
telephone or write Ms Hendricks when in jail  
09:13:21 - Defendant: HOAK, LARRY  
I wrote to her; she wrote to me in jail; we both used third  
parties for  
09:13:38 - Defendant: HOAK, LARRY  
contact  
09:13:40 - Defendant: HOAK, LARRY  
Deb Anderson  
09:14:15 - Public Defender: Lojek, Michael  
deposit money to your acct  
09:14:24 - Public Defender: Lojek, Michael  
March 2005 release  
09:14:32 - Defendant: HOAK, LARRY  
went to brother's; given money from brother  
09:15:07 - Defendant: HOAK, LARRY  
first night out I spent night at Kathy's; went to sleep in o  
wn room; I snore  
09:15:41 - Judge: Copsey, Cheri C.  
court reporter reads last comment  
09:15:46 - Public Defender: Lojek, Michael  
after release in March 2005; additional business relationshi  
p; co-sign  
09:16:54 - Defendant: HOAK, LARRY  
response re: day of loan  
09:17:10 - Public Defender: Lojek, Michael  
threaten her to get her to co-sign  
09:17:20 - Defendant: HOAK, LARRY  
no threats at all at this time  
09:17:28 - Public Defender: Lojek, Michael  
additional part of answer  
09:17:41 - Defendant: HOAK, LARRY  
cont re: time at bank  
09:17:59 - Defendant: HOAK, LARRY  
describes loan  
09:18:05 - State Attorney: Haws, Gabriel  
narrative  
09:18:10 - Judge: Copsey, Cheri C.  
strike from record; last narrative  
09:18:21 - Public Defender: Lojek, Michael  
June 2005  
09:18:35 - Public Defender: Lojek, Michael  
police saw your truck; wrong place at wrong time  
09:18:52 - Defendant: HOAK, LARRY  
at her house; sleeping; took me to jail

09:19:08 - Public Defender: Lojek, Michael  
any physical contact at that time

09:19:19 - Defendant: HOAK, LARRY  
calls from jail

09:19:27 - Defendant: HOAK, LARRY  
car loan

09:20:15 - Public Defender: Lojek, Michael  
third person messages

09:20:22 - Defendant: HOAK, LARRY  
messages through Penny Stein between both of us

09:21:32 - Defendant: HOAK, LARRY  
release from custody 2005

09:22:01 - Defendant: HOAK, LARRY  
Kathy smuggled me into the back of her house

09:22:16 - Public Defender: Lojek, Michael  
motel?

09:22:21 - Defendant: HOAK, LARRY  
night at hotel

09:23:15 - Defendant: HOAK, LARRY  
afraid she had police waiting for me

09:23:29 - Public Defender: Lojek, Michael  
physical contact at this time

09:23:39 - Public Defender: Lojek, Michael  
more residence

09:24:14 - Public Defender: Lojek, Michael  
paid for rental car not to be detected by police

09:24:29 - Defendant: HOAK, LARRY  
12/31/05

09:24:38 - Public Defender: Lojek, Michael  
letters after that arrest

09:24:47 - Defendant: HOAK, LARRY  
sent me a card and money order; tried to call her

09:25:22 - Defendant: HOAK, LARRY  
describes attempt to call victim via phone

09:25:58 - Defendant: HOAK, LARRY  
moved to CCU

09:26:19 - Defendant: HOAK, LARRY  
tried to tell people what was going on; worried about my truck

09:26:41 - Public Defender: Lojek, Michael  
prior to arrest in 2005; ever tell her you wanted to cut off her head

09:26:57 - Defendant: HOAK, LARRY  
never said anything like that

09:27:06 - Public Defender: Lojek, Michael  
reviews tape

09:27:21 - Defendant: HOAK, LARRY

09:27:31 - Public Defender: Lojek, Michael



how could you have said that  
09:27:41 - Defendant: HOAK, LARRY  
arraigned they said I said that  
09:27:53 - State Attorney: Haws, Gabriel  
obj; hearsay  
09:27:56 - Judge: Copsey, Cheri C.  
sustained  
09:28:00 - Public Defender: Lojek, Michael  
any physical threats at all  
09:28:07 - Public Defender: Lojek, Michael  
May 2006-Nov 2006  
09:28:30 - Defendant: HOAK, LARRY  
09:28:38 - Public Defender: Lojek, Michael  
tried to send message through third party  
09:28:57 - Defendant: HOAK, LARRY  
cont narrative  
09:29:24 - Public Defender: Lojek, Michael  
focus on that question  
09:29:32 - Public Defender: Lojek, Michael  
within those dates  
09:29:38 - Defendant: HOAK, LARRY  
I don't think so; trying to think of who I did call  
09:30:01 - Defendant: HOAK, LARRY  
wants to provide whole story  
09:30:11 - State Attorney: Haws, Gabriel  
asks to be stricken  
09:30:17 - Judge: Copsey, Cheri C.  
overruled  
09:30:20 - Public Defender: Lojek, Michael  
just want answer to this question; we can go back  
09:30:46 - Public Defender: Lojek, Michael  
May-Nov 2006  
09:30:54 - Defendant: HOAK, LARRY  
admits to trying to get messages through to Kathy via family  
members; trying  
09:31:13 - Defendant: HOAK, LARRY  
to locate my stuff; yard sale  
09:31:37 - Defendant: HOAK, LARRY  
found about yard sale through Shannon; thought would have in-  
volved me stuff  
09:31:59 - Defendant: HOAK, LARRY  
called PD office  
09:32:16 - Defendant: HOAK, LARRY  
contacted Shannon, Penny  
09:32:28 - Public Defender: Lojek, Michael  
any purpose besides trying to protect your stuff  
09:32:44 - Defendant: HOAK, LARRY  
no threats; didn't say anything bad about her

09:32:59 - Public Defender: Lojek, Michael  
May-Nov 2006, write letters

09:33:10 - Defendant: HOAK, LARRY  
admits to letters; describes letters

09:33:31 - State Attorney: Haws, Gabriel  
narrative

09:33:35 - Judge: Copsey, Cheri C.  
overruled

09:33:41 - Public Defender: Lojek, Michael  
why did you write those letters

09:33:51 - Defendant: HOAK, LARRY  
person at law office started talking about Kathy

09:34:37 - Public Defender: Lojek, Michael  
why did

09:34:41 - Defendant: HOAK, LARRY  
obvious what was going on; told horrible things about what w  
as going on;

09:34:58 - Defendant: HOAK, LARRY  
loved Kathy; told her that in the letters

09:35:07 - Public Defender: Lojek, Michael  
other reason for letters

09:35:20 - Defendant: HOAK, LARRY  
blaming myself

09:35:32 - Public Defender: Lojek, Michael  
"sorry that bastard cut his wife's head off"

09:35:45 - Defendant: HOAK, LARRY  
response; three strokes

09:35:57 - Public Defender: Lojek, Michael  
phrase in letter

09:36:05 - Defendant: HOAK, LARRY  
told that I had made that threat; sick burned out

09:36:56 - Defendant: HOAK, LARRY  
wasn't trying to threaten her with that phrase

09:37:32 - Public Defender: Lojek, Michael  
May - Nov 2006; trying to accomplish

09:37:55 - Defendant: HOAK, LARRY  
we had no relationship; talked to Jared Marten

09:38:14 - Defendant: HOAK, LARRY  
hearing that it was over; didn't want relationship; didn't wa  
nt to get back at

09:38:32 - Defendant: HOAK, LARRY  
her; "pay" in letter not a threat

09:39:01 - Public Defender: Lojek, Michael  
reviews testimony

09:39:09 - State Attorney: Haws, Gabriel  
obj

09:39:13 - Public Defender: Lojek, Michael  
anything to correct for jury

09:39:29 - Judge: Copsey, Cheri C.  
need to pose question

09:39:42 - Judge: Copsey, Cheri C.  
take up matter out of jury presence

09:40:24 - General:  
Jury Exits

09:40:27 - Judge: Copsey, Cheri C.  
speaks to defense counsel; need specific question

09:40:59 - Judge: Copsey, Cheri C.  
given some of the answers; opened the door on battery conviction

09:41:30 - Judge: Copsey, Cheri C.  
addresses def; listen to your atty

09:41:47 - Judge: Copsey, Cheri C.  
comments during narrative; not being offered for truth

09:42:25 - Judge: Copsey, Cheri C.  
nonresponsive

09:42:44 - Judge: Copsey, Cheri C.  
offers defense counsel a few minutes to talk to def

09:43:20 - Operator  
Stop recording: (On Recess)

10:07:33 - Operator  
Recording:

10:07:33 - Record  
HOAK, LARRY

10:07:36 - Judge: Copsey, Cheri C.  
def to retake stand; still under oath

10:08:47 - General:  
Jury Enters

10:09:16 - Judge: Copsey, Cheri C.  
cont dx

10:09:21 - Public Defender: Lojek, Michael  
Cont direct examination of witness.

10:09:34 - Public Defender: Lojek, Michael  
describe reasons trying to get hold of Ms Hendricks; May - Jan 2005

10:10:30 - Defendant: HOAK, LARRY  
financial reason for contacting victim; painting

10:11:07 - Defendant: HOAK, LARRY  
brother in charge of belongings

10:12:26 - Defendant: HOAK, LARRY  
contact with Judy; get painting back to repay Hendricks

10:14:42 - Public Defender: Lojek, Michael  
asked bonding agents to stop letters

10:14:52 - Defendant: HOAK, LARRY  
response; what I heard from Jared Marten; still loved her

10:15:37 - Defendant: HOAK, LARRY  
hand't heard anything; freaked out

10:15:51 - Public Defender: Lojek, Michael  
no other questions

10:15:57 - State Attorney: Haws, Gabriel  
Cross-examination of the witness.

10:17:18 - State Attorney: Haws, Gabriel  
2004 relationship with victim

10:17:33 - Defendant: HOAK, LARRY  
molestation

10:17:42 - Defendant: HOAK, LARRY  
hurt me because I was molested too

10:18:19 - State Attorney: Haws, Gabriel  
forced sex on her

10:18:27 - Defendant: HOAK, LARRY  
no; weren't screaming

10:18:38 - State Attorney: Haws, Gabriel  
yell at her ever

10:18:44 - State Attorney: Haws, Gabriel  
yell at her 12/04?

10:19:07 - State Attorney: Haws, Gabriel  
yelled at her charged your cell phone

10:19:33 - Defendant: HOAK, LARRY  
thought she might have checked my phone and numbers

10:20:13 - Defendant: HOAK, LARRY  
never yelled; go on offensive when upset

10:20:35 - State Attorney: Haws, Gabriel  
interview Dect Strolberg

10:20:44 - State Attorney: Haws, Gabriel  
DV at Kathy's residence

10:21:17 - Defendant: HOAK, LARRY  
didn' grab her

10:21:23 - State Attorney: Haws, Gabriel  
remember telling Det S you grabbed, pushed her on the bed

10:21:48 - State Attorney: Haws, Gabriel  
arrested for that charge

10:22:07 - State Attorney: Haws, Gabriel  
convicted of DV in 7/05; due to incident

10:22:31 - State Attorney: Haws, Gabriel  
telling jury no dv between you two

10:22:47 - Defendant: HOAK, LARRY  
yes there was

10:23:27 - Defendant: HOAK, LARRY  
admitted that I caused the bruising

10:24:13 - State Attorney: Haws, Gabriel  
phone call from Kathy re DV

10:25:17 - State Attorney: Haws, Gabriel  
Jan 2005

10:25:24 - Defendant: HOAK, LARRY  
I think I appologized for everything

10:26:39 - State Attorney: Haws, Gabriel  
knew about NCO with Kathy

10:26:48 - State Attorney: Haws, Gabriel  
wrote letters anyway

10:26:59 - State Attorney: Haws, Gabriel  
Jan 2005 letters

10:27:18 - Defendant: HOAK, LARRY  
wrote back and forth

10:27:34 - State Attorney: Haws, Gabriel  
shows SE to defense; witness

10:29:23 - Defendant: HOAK, LARRY  
reviews documents

10:30:09 - State Attorney: Haws, Gabriel  
recall letters

10:31:01 - State Attorney: Haws, Gabriel  
reads from letter

10:31:15 - State Attorney: Haws, Gabriel  
bedroom scene with apple

10:31:57 - State Attorney: Haws, Gabriel  
Jan 2005 incident; called Kathy

10:32:29 - Defendant: HOAK, LARRY  
went back to live with victim; not allowed by NCO

10:33:49 - Defendant: HOAK, LARRY  
bruising second time out of jail

10:34:41 - State Attorney: Haws, Gabriel  
charged with DV at later time

10:35:06 - State Attorney: Haws, Gabriel  
7/5 charged with DV

10:35:20 - Defendant: HOAK, LARRY  
bruising on arm was second; pushed on bed first

10:35:40 - State Attorney: Haws, Gabriel  
asked in front of judge about second battery

10:36:00 - Defendant: HOAK, LARRY  
don't think I admitted it; not sure if violating NCO or charged with battery

10:36:27 - State Attorney: Haws, Gabriel  
shows SE23 to witness

10:37:18 - Defendant: HOAK, LARRY  
reads JOC; pleaded guilty to battery, NCO Violation dismissed

10:37:48 - State Attorney: Haws, Gabriel  
moves to admit SE23

10:37:57 - Judge: Copsey, Cheri C.  
no obj; admitted

10:40:05 - State Attorney: Haws, Gabriel  
publishes SE23

10:40:37 - State Attorney: Haws, Gabriel  
in custody until Oct 2005

10:41:37 - State Attorney: Haws, Gabriel  
12/16/05

10:42:50 - State Attorney: Haws, Gabriel  
nervous about going to Kathy's house

10:43:06 - Defendant: HOAK, LARRY  
not afraid about going to house;

10:43:17 - State Attorney: Haws, Gabriel  
left in subdivision by victim

10:43:26 - Defendant: HOAK, LARRY  
called cell phone;

10:43:39 - Defendant: HOAK, LARRY  
did not leave messages at that time

10:44:00 - Defendant: HOAK, LARRY  
admits to messages in Dec 2005

10:44:14 - State Attorney: Haws, Gabriel  
plan

10:44:52 - State Attorney: Haws, Gabriel  
professional to take care of her

10:45:03 - Defendant: HOAK, LARRY  
no

10:45:16 - State Attorney: Haws, Gabriel  
threatened her

10:45:22 - Defendant: HOAK, LARRY  
no

10:45:47 - State Attorney: Haws, Gabriel  
12/31/05 arrest

10:45:56 - Defendant: HOAK, LARRY  
arrested for jumping out of my truck and violating NCO

10:46:21 - State Attorney: Haws, Gabriel  
when you jumped out that was when police were trying to arre  
st you

10:46:37 - Defendant: HOAK, LARRY  
caught right away

10:47:01 - State Attorney: Haws, Gabriel  
NCO still in place; Jan 06-Nov 06 victim did not accept sing  
le call

10:47:39 - State Attorney: Haws, Gabriel  
did not speak to victim during that time

10:47:48 - Defendant: HOAK, LARRY  
no, put in hole; phone priv taken away

10:48:10 - State Attorney: Haws, Gabriel  
rec'd one card from her in Jan, but otherwise never returned  
single letter

10:48:54 - State Attorney: Haws, Gabriel  
SE10-14 shown to def

10:49:33 - Defendant: HOAK, LARRY  
wrote the letters; sent to Penny's res to give to Kathy

10:49:50 - State Attorney: Haws, Gabriel

used Deb Anderson previous year  
10:49:59 - Defendant: HOAK, LARRY  
correct  
10:50:31 - State Attorney: Haws, Gabriel  
interviewed about letters; knew confiscation  
10:50:46 - State Attorney: Haws, Gabriel  
conf in 4/06  
10:50:56 - Defendant: HOAK, LARRY  
asks to see again  
10:51:27 - Defendant: HOAK, LARRY  
no idea when they were sent  
10:52:05 - State Attorney: Haws, Gabriel  
shows letter to def  
10:53:00 - Defendant: HOAK, LARRY  
writing that portion to Kathy  
10:53:29 - State Attorney: Haws, Gabriel  
SE14 date  
10:54:01 - State Attorney: Haws, Gabriel  
interview with Det Strolberg  
10:54:30 - Defendant: HOAK, LARRY  
some were brought back  
10:54:48 - State Attorney: Haws, Gabriel  
knew officers were monitoring mail as of March 2006  
10:55:09 - State Attorney: Haws, Gabriel  
May 2006  
10:55:22 - State Attorney: Haws, Gabriel  
garage sale  
10:56:51 - Defendant: HOAK, LARRY  
other motives to call Kathy at time of garage sale  
10:57:10 - State Attorney: Haws, Gabriel  
wanted to know status of rel  
10:58:19 - State Attorney: Haws, Gabriel  
shows letter to def  
10:59:34 - Defendant: HOAK, LARRY  
sent letter to Penny; not sure of motives  
11:00:00 - Defendant: HOAK, LARRY  
sent in order to give to Kathy  
11:02:00 - Defendant: HOAK, LARRY  
cut your head off phrase  
11:02:20 - State Attorney: Haws, Gabriel  
believed you felt she would be afraid with that line  
11:02:47 - Defendant: HOAK, LARRY  
no  
11:03:55 - Defendant: HOAK, LARRY  
cont re: phrase  
11:04:21 - State Attorney: Haws, Gabriel  
SE5  
11:07:06 - State Attorney: Haws, Gabriel

SE6

11:07:13 - State Attorney: Haws, Gabriel  
Judy Nelson letter

11:08:59 - State Attorney: Haws, Gabriel  
re: garage sale

11:09:28 - State Attorney: Haws, Gabriel  
call to Shannon Brownani

11:11:49 - State Attorney: Haws, Gabriel  
tell Kathy you would not abuse Kathy

11:12:43 - State Attorney: Haws, Gabriel  
call to Penny Stein 8/31/07

11:13:28 - State Attorney: Haws, Gabriel  
wanted to make it clear that you would not terrorize victim

11:13:48 - Defendant: HOAK, LARRY  
wanted to make it clear that she shouldn't be afraid; hadn't  
spoken to her

11:14:30 - State Attorney: Haws, Gabriel  
Oct/06 call to Penny

11:16:01 - State Attorney: Haws, Gabriel  
shows SE22 to counsel; witness

11:16:52 - Defendant: HOAK, LARRY  
recognizes document

11:17:07 - State Attorney: Haws, Gabriel  
SE22 JOC for NCO violation

11:17:42 - State Attorney: Haws, Gabriel  
moves to admit SE22

11:17:56 - Public Defender: Lojek, Michael  
asks to see again

11:18:43 - Judge: Copsey, Cheri C.  
no obj; SE22 admitted

11:18:58 - State Attorney: Haws, Gabriel  
publishes SE22

11:19:53 - Defendant: HOAK, LARRY  
new no contact without exceptions

11:20:04 - State Attorney: Haws, Gabriel  
4/14/06 NCO in place; no exceptions

11:21:57 - Public Defender: Lojek, Michael  
No Redirect examination.

11:22:09 - Public Defender: Lojek, Michael  
Rests

11:22:19 - Judge: Copsey, Cheri C.  
recess

11:22:40 - General:  
Jury Exits

11:22:55 - Judge: Copsey, Cheri C.  
both parties will have rested; jury instructions

11:23:31 - Judge: Copsey, Cheri C.  
given fact of prior convictions have come it; any reason to



bifurcate

- 11:23:53 - Public Defender: Lojek, Michael  
asks to bifurcate
- 11:24:01 - Judge: Copsey, Cheri C.  
re: jury instructions 9, 10, 11, 12 no objection
- 11:24:22 - Judge: Copsey, Cheri C.  
no obj to 13, 14,
- 11:24:50 - State Attorney: Haws, Gabriel  
do we need const protected activity instruct since doesn't a  
pply
- 11:25:11 - Public Defender: Lojek, Michael  
complete def from statute
- 11:25:26 - Judge: Copsey, Cheri C.  
argument to const protect activity
- 11:25:34 - Judge: Copsey, Cheri C.  
will leave in
- 11:25:40 - Judge: Copsey, Cheri C.  
no obj 15, 16, 17, 18,
- 11:26:14 - Judge: Copsey, Cheri C.  
reads inst 19
- 11:27:08 - Public Defender: Lojek, Michael  
no obj to 18, 19
- 11:27:16 - Judge: Copsey, Cheri C.  
no obj 20, 21, 22, 23, 24, 25, verdict form
- 11:28:23 - Judge: Copsey, Cheri C.  
no obj to 26, 27, 28, 29, verdict form
- 11:29:37 - Judge: Copsey, Cheri C.  
no obj 30, 31,
- 11:30:01 - State Attorney: Haws, Gabriel  
notes count 2 in 31
- 11:30:26 - Public Defender: Lojek, Michael  
no obj
- 11:30:30 - Judge: Copsey, Cheri C.  
no obj 32, 33, 34, verdict form
- 11:32:06 - Judge: Copsey, Cheri C.  
recess; jury instructions and closing
- 11:32:28 - Operator  
Stop recording:
- 12:01:17 - Operator  
Recording:
- 12:01:17 - Record  
HOAK, LARRY
- 12:01:19 - General:  
Jury Enters
- 12:01:45 - Judge: Copsey, Cheri C.  
speaks to jury; both parties rested
- 12:02:13 - Judge: Copsey, Cheri C.  
reads the jury instructions.

12:11:34 - State Attorney: Haws, Gabriel  
closing  
12:49:12 - Public Defender: Lojek, Michael  
closing  
13:22:49 - State Attorney: Haws, Gabriel  
rebuttal  
13:37:59 - Judge: Copsey, Cheri C.  
alternate selected  
13:38:23 - Judge: Copsey, Cheri C.  
bailiff sworn  
13:39:28 - General:  
Jury exits for deliberation  
13:40:09 - Judge: Copsey, Cheri C.  
speaks to alternate  
13:44:34 - General:  
alternate exits  
13:44:46 - Judge: Copsey, Cheri C.  
speaks to parties  
13:45:16 - Operator  
Stop recording:  
15:26:31 - Operator  
Recording:  
15:26:31 - Record  
HOAK, LARRY  
15:26:33 - Judge: Copsey, Cheri C.  
def present in custody with counsel  
15:27:52 - General:  
Jury Enters After Deliberation  
15:28:14 - Judge: Copsey, Cheri C.  
jury has reached a verdict  
15:29:16 - General:  
Verdict Guilty -- Jury Polled  
15:29:45 - Judge: Copsey, Cheri C.  
reads to jury  
15:30:35 - State Attorney: Haws, Gabriel  
opening for Stalking in the First Degree  
15:31:07 - Public Defender: Lojek, Michael  
waive opening  
15:31:36 - Judge: Copsey, Cheri C.  
recess  
15:31:45 - Operator  
Stop recording: (On Recess)  
15:32:06 - Operator  
Recording:  
15:32:06 - Record  
HOAK, LARRY  
15:32:09 - Operator  
Stop recording: (On Recess)

15:36:25 - Operator  
Recording:  
15:36:25 - Record  
HOAK, LARRY  
15:36:26 - General:  
Jury Enters after Recess  
15:36:52 - State Attorney: Haws, Gabriel  
calls Kathy Hendricks  
15:37:24 - State Attorney: Haws, Gabriel  
Direct examination of witness.  
15:37:31 - Other: Hendricks, Kathy  
Sworn.  
15:40:16 - State Attorney: Haws, Gabriel  
shows document to witness  
15:42:16 - Other: Hendricks, Kathy  
victim of domestic battery from Larry Hoak  
15:42:37 - State Attorney: Haws, Gabriel  
shows SE23 to witness  
15:42:56 - Other: Hendricks, Kathy  
reads case number  
15:43:15 - State Attorney: Haws, Gabriel  
shows SE22 to witness  
15:43:42 - Public Defender: Lojek, Michael  
reviews SE22  
15:44:08 - Public Defender: Lojek, Michael  
shows SE22 to witness  
15:44:27 - Other: Hendricks, Kathy  
4/14/06  
15:44:37 - State Attorney: Haws, Gabriel  
no Redirect examination.  
15:44:44 - Public Defender: Lojek, Michael  
rests  
15:44:51 - Judge: Copsey, Cheri C.  
reads the jury instructions.  
15:46:50 - State Attorney: Haws, Gabriel  
closing  
15:47:44 - State Attorney: Haws, Gabriel  
shows SE22  
15:49:03 - State Attorney: Haws, Gabriel  
shows SE23  
15:51:18 - Public Defender: Lojek, Michael  
reviews SE22 and SE23  
15:51:36 - Public Defender: Lojek, Michael  
no argument  
15:52:22 - General:  
Bailiff Sworn  
15:52:35 - General:  
Jury Exits for deliberation

15:52:51 - Judge: Copsey, Cheri C.  
recess

15:52:56 - Operator  
Stop recording: (On Recess)

16:05:16 - Operator  
Recording:

16:05:16 - Record  
HOAK, LARRY

16:05:18 - General:  
Jury Enters after Deliberation on First Degree

16:05:38 - Judge: Copsey, Cheri C.  
jury present; def present in custody with counsel

16:06:04 - Judge: Copsey, Cheri C.  
verdict read; jury finds def guilty of stalking in the first  
degree

16:06:57 - Judge: Copsey, Cheri C.  
reads instructions re persistant violator; Information Part  
2

16:10:00 - State Attorney: Haws, Gabriel  
opening statment for part 2

16:10:36 - Public Defender: Lojek, Michael  
waive opening

16:10:41 - State Attorney: Haws, Gabriel  
submits SE24

16:12:05 - Public Defender: Lojek, Michael  
no ojb

16:12:08 - Judge: Copsey, Cheri C.  
SE 24 admitted

16:12:24 - Judge: Copsey, Cheri C.  
reads the jury instructions.

16:15:34 - State Attorney: Haws, Gabriel  
closing

16:16:23 - State Attorney: Haws, Gabriel  
reviews SE24

16:16:38 - State Attorney: Haws, Gabriel  
compares SSN and DOB of def with records in SE24

16:24:16 - State Attorney: Haws, Gabriel  
description of prior convictions in record packet

16:26:06 - Public Defender: Lojek, Michael  
no argument

16:26:13 - Judge: Copsey, Cheri C.  
each count of Info Part 2 is one felony conviction

16:26:50 - General:  
Bailiff sworn

16:27:28 - General:  
Jury Exits for Deliberation

16:27:51 - Judge: Copsey, Cheri C.  
comments re: final instruction

16:28:47 - Operator  
Stop recording: (On Recess)

16:42:24 - Operator  
Recording:

16:42:24 - Record  
HOAK, LARRY

16:42:25 - General:  
Jury Enters after Deliberation on Part 2

16:42:43 - Judge: Copsey, Cheri C.  
jury has reached another verdict; jurors present in proper place; def present

16:43:07 - General:  
Verdict Read

16:43:38 - Judge: Copsey, Cheri C.  
neither side req poll of jury

16:43:46 - Judge: Copsey, Cheri C.  
discharges jury

16:44:31 - Judge: Copsey, Cheri C.  
comments to jury

16:44:59 - Judge: Copsey, Cheri C.

16:46:11 - Judge: Copsey, Cheri C.  
SH 11/21 at 9 AM; NCO still in place; orders PSI

16:48:45 - Judge: Copsey, Cheri C.  
previous DV eval ordered in prior case

16:49:36 - Judge: Copsey, Cheri C.  
remarks to jury panel

16:52:36 - General:  
Jury Released from Service

16:53:03 - Judge: Copsey, Cheri C.

16:53:08 - State Attorney: Haws, Gabriel  
clarify SH

16:53:13 - Judge: Copsey, Cheri C.  
11/21 at 9

16:53:31 - Operator  
Stop recording:

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SEP 21 2007

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO, By DAVID NAVARRO, Clerk  
By J. WEATHERBY  
DEPUTY

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

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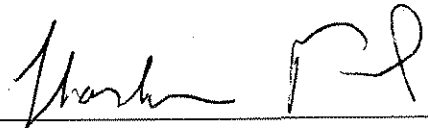
STATE OF IDAHO )  
)  
Plaintiff, )  
vs. )  
)  
LARRY MATTHEWS HOAK, )  
)  
Defendant, )

Case No. H0700180  
VERDICT FORM  
STALKING

WE THE JURY in the above-entitled case unanimously find the defendant; (please check only one choice).

Not Guilty  
 Guilty

Dated this 21 day of September 2007.

  
\_\_\_\_\_  
PRESIDING JUROR

SEP 21 2007

J. DAVID NAVARRO, Clerk  
By J. WEATHERBY  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

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STATE OF IDAHO )  
)  
Plaintiff, )  
vs. )  
LARRY MATTHEWS HOAK, )  
)  
Defendant, )

Case No. H0700180  
  
VERDICT FORM  
STALKING IN THE FIRST  
DEGREE

WE THE JURY in the above-entitled case unanimously find the defendant; (please check only one choice).

Not Guilty  
 Guilty

Dated this 21 day of September 2007.

  
\_\_\_\_\_  
PRESIDING JUROR

SEP 21 2007

J. DAVID NAVARRO, Clerk  
By J. WEATHERBY  
DEPUTY

1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
2 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA  
3

4  
5 STATE OF IDAHO )  
6 )  
7 Plaintiff, )  
8 vs. )  
9 LARRY MATTHEWS HOAK, )  
10 Defendant, )  
11 )

Case No. H0700180

VERDICT FORM  
PERSISTENT VIOLATOR

12 We, the Jury in the above entitled case, find that the Defendant LARRY MATTHEWS HOAK

13  
14  is a Persistent Violator of the law as charged in Part II of the Information

15  is not a Persistent Violator of the law as charged in Part II of the Information  
16

17 (MARK ONE)

18 DATED This 21 day of September 2007  
19

20  
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22 \_\_\_\_\_  
PRESIDING JUROR



C JUDGE CHERI COPSEY

NO. 9 FILED  
A.M. P.M.

OCT 24 2007

J. DAVID NAVARRO, Clerk  
By R. CALLAHAN  
DEPUTY

LARRY M. HOAK  
Full Name of Party Filing This Document  
7210 BARRESTER DR.  
Mailing Address (Street or Post Office Box)  
BOISE, ID. 83483704  
City, State and Zip Code  
\_\_\_\_\_  
Telephone Number

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LARRY M. HOAK  
Plaintiff,  
vs.  
STATE OF IDAHO  
Defendant.

Case No. H0700180

MOTION: JNOV. REQUESTING JUDGE  
Title of Document COPSEY TO OVER RULE  
THE GUILTY PLEA.

AT THIS TIME THE PLAINTIFF IS ASKING THE HONORABLE JUDGE CHERI  
COPSEY TO OVER RULE THE VERDICT OF GUILTY FOR THE FOLLOWING  
REASONS. ACCORDING TO THE SIXTH AMENDMENT (JURY TRIALS FOR  
CRIMES PROCEDURAL RIGHTS. I'M MOTIONING THE HONORABLE JUDGE  
CHERI COPSEY TO OVER RULE THE GUILTY PLEA BY THE JURY, THE  
REASONING BEING: UNDER THE SIXTH AMENDMENT, "JUDGEMENT NOT  
WITH STANDING THE VERDICT) OR JUDGEMENT NON OR STANTE  
VEREDICTO.

MOTION: SIXTH AMENDMENT RIGHT

JNOV

sign: Larry M Hoak

Dated: 10-14-07

(1)

RC

00219

Judge Copsey

NO. 9- FILED P.M.

OCT 24 2007

J. DAVID NAVARRO, Clerk  
By R. CALLAHAN  
DEPUTY

LARRY M. HOAK  
Full Name of Party Filing This Document  
7210, BARRESTER DR  
Mailing Address (Street or Post Office Box)  
BOISE ID 83704  
City, State and Zip Code  
\_\_\_\_\_  
Telephone Number

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LARRY M. HOAK  
Plaintiff,  
vs.  
STATE OF IDAHO  
Defendant.

Case No. H0700180

MOTION: AFFIDAVIT SUPPORTING  
Title of Document MOTION INOV

AT THIS TIME THE PLAINTIFF IS ASKING THE HONORABLE JUDGE  
CHERI COPSEY TO GRANT THE "JUDGEMENT NOT WITHSTANDING  
THE VERDICT." OR JUDGEMENT NON OBSTANTE VEREDICTO. THE WAS  
CHAGED WITH STOCKING KATHIE HENDRICKS. BUT FEELS HE WAS FOUND  
QUITTY BECAUSE OF A PHONE MESSAGE THEY SAY I LEFT ON THE VICTIMS  
PHONE. "I'LL CUT YOUR HEAD OFF IF I GO TO PRISON OVER YOUR CRAP."  
MIKE LOJACK THE PLAINTIFFS ATTORNEY FAILED TO OBJECT THERE FOR  
BY LETTING THIS INTO THE RECORDS AND IN THE MINDS OF THE JURY  
WITH NO PROVE, NO CASSETTE OR CD. THERE WERE NUMEROUS LIES  
TOLD BY THE VICTIM AND MIKE LOJACK NEVER OBJECT<sup>ED</sup> OR CROSS EXAMINED  
THE VICTIM, FOR INSTANTS THE VICTIM SAID SHE CAME OVER PICKED  
ME UP AND ON WRE WAY TO HER HOUSE WE STOPPED AT 7-11 AND  
I TOOK HER KEYS I GOT OUT RAN AROUND TO HER WINDOW AND YELLED  
I'LL CUT YOUR HEAD OFF EFFEND UP IN PRISON DVER YOUR CRAP.  
THE STATEMENTS OF THE VICTIM OR THE POLICE REPORT. DON'T SAY THIS

Sign: Larry M. Hoak

Date: 10-14-07

MOTION: AFFIDAVIT SUPPORTING

JNOV.

ll

JUDGE CHERI COPSEY

NO. 9 FILED  
A.M. P.M.

OCT 24 2007

J. DAVID NAVARRO, Clerk  
By R. CALLAHAN  
DEPUTY

LARRY M. HOAK  
Full Name of Party Filing This Document  
770 BARRESTER DR.  
Mailing Address (Street or Post Office Box)  
BOISE ID. 83704  
City, State and Zip Code  
\_\_\_\_\_  
Telephone Number

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LARRY M. HOAK  
Plaintiff,  
vs.  
STATE OF IDAHO  
Defendant.

Case No. HO700180

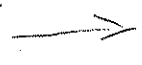
MOTION: JUDY, REQUESTING JUDGE  
Title of Document CHERI COPSEY

I PICK THIS ARTICLE ON LYING UNDER OATH. KATHIE HENDRICK LIED  
CONSISTANTLY. MIKE LOJACK DIDNT EVEN BOTHER TO CROSS EXAMINE HER.  
WHAT REALLY BROKE MY HEART WAS WHEN I LOOKED OVER AT YOU  
YOU WERE SMILEING AND I THOUGHT SHE'S BEAUTIFUL AND THEN I REALIZED  
YOU WERE SMILEING AT KATHIE. I WAS LOOKING AT MIKES LETTER TO ME  
ON WHY HE WOULDNT SUBPOENA HER MOTHER. I NEVER GOT WAS GIVEN  
THE CHANCE TO DEFEND MYSELF. I'VE DONE THREE YEARS I'VE LOST  
EVERYTHING. I WAS NICE ENOUGH TO LET MY ATTORNEYS PARALEGAL  
SITANNON BROWN TAKE OVER PAYMENTS ON MY NEW TRUCK SHE  
RE PAID ME BY STEALING EIGHT HUNDRED DOLLARS OUT OF MY BANK  
ACCOUNT WHEN SHE TOOK OUT THE RETAINER FOR JARED. STOPPED  
PAYING ON THE TRUCK THATS WHY I CALLED HER. I REPORTED THE ~~FACT~~  
800 DOLLARS TO A DETECTIVE. SHE TURNED KATHIE AND MY EXWIFE  
AGAINST ME. SHE LAUGHED AT ME LEAVEING THE COURT ROOM TO GO TO. I  
FEEL YOU GOT THE WRONG PERSON TO PUNISHED MIKE ITS MORE WORRIED  
PROTECTING KATHIE AND HER FAI~~WAS~~ FAMILY. WHAT ABOUT THE TRUTH?  
THE TRUTH WILL WORK IT'S WAY OUT LIKE A SLIVER OVER TIME. I  
HAVE NO DESIRE TO BE WITH KATHIE. I GOT JUDYS NELSEN ADDRESS OUT

RL

①

00221



JUDGE CHERI COPSEY

Full Name of Party Filing This Document

Mailing Address (Street or Post Office Box)

City, State and Zip Code

Telephone Number

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

LARRY M. HOAK Plaintiff, vs. STATE OF IDAHO Defendant.

Case No. H0700180

MOTION: J NOV, REQUESTING JUDGE Title of Document CHERI COPSEY.

OF MY DISCOVERY, AND KATHIE'S NEW PHONE NUMBER THE PROSECUTOR GAVE ME. I WAS ONLY TRYING TO LOCATE MY STUFF BY THE WAY THE 16 TRYS TO CALL KATHIE WERE FROM THE BEGINNING OF THE WINE AND A HALF MONTHS IN THE HOLE. I ASKED MIKE LOJACK TO CALL DEPUTY SCOTT HE GAVE ME PROMISSON AFTER HE CHECKED MY PHONE CONTACT ORDER OUT. I'LL STOP HERE.

RESPECTFULLY Sign: Larry M. Hoak

JUDGE CHERI COPSEY.

NO. 9 FILED  
A.M. 9 P.M.

001 24 2007

J. DAVID NAVARRO, Clerk  
By R. CALLAHAN  
DEPUTY

LARRY M. HOAK  
Full Name of Party Filing This Document  
7200 BARRISTER DR.  
Mailing Address (Street or Post Office Box)  
BOISE, ID. 83705  
City, State and Zip Code  
  
Telephone Number

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

LARRY M. HOAK  
Plaintiff,  
vs.  
STATE OF IDAHO  
Defendant.

Case No. H0700180

MOTION: DISQUALIFICATION OF  
Title of Document COUNSEL.

LARRY M. HOAK  
COMES NOW BEFORE THE HONORABLE COURT, REQUESTING THE  
COURT TO APPOINT PRIVATE COUNSEL THERE IS CONFLICT BETWEEN  
MIKE LOJACK AND ALEN TRIMMING OF THE PUBLIC DEFENDERS  
OFFICE, AND THE PLAINTIFF THAT CAN NOT BE RESOLVED.  
THE PLAINTIFF REQUESTED OVER THE PHONE FOR MIKE LOJACK  
TO PUT A MOTION IN FOR A MISTRIAL. HE DIDNT.  
MIKE LOJACK FAILED TO CROSS EXAMINE THE VICTIM AT  
TRIAL, ON THE NUMERDUS WIES SHE TOLD AT TRIAL.  
MIKE LOJACK FAILED TO OBJECT WHEN DAMAGING STATEMENTS  
WERE BEING MADE UNDER OATH, WITH NO PROVE, THE STATEMENTS  
WERE ENTERED INTO THE RECORD NO OBJECTION.

MOTION: DISQUALIFICATION  
OF COUNSEL (1) Larry M Hoak  
Date: 10-11-07

00223

ll

# The truth, the whole truth, about lying in court

**Justice system** | Firm figures are hard to come by, but lawyers say perjury is a regular occurrence

By **EDWARD WALSH**  
THE OREGONIAN

It was a rare and startling moment in any courtroom. The judge was sentencing a defendant, but directed some of his harshest comments at three witnesses who had helped prosecutors obtain the conviction.

One of the witnesses "flat-out lied. He should be charged with perjury," said Multnomah County Circuit Judge Michael McShane.

The judge's outburst was unusual, but it also raised a fundamental question about the justice system: How much lying occurs in courtrooms by people who have sworn to tell the truth?

There are no reliable statistics on the subject, but prosecutors and criminal defense lawyers say it certainly happens more often than the number of perjury charges filed would suggest.

"It is something we regularly see, but something that's difficult to prosecute," McShane said in an interview. In some cases, he said, "it's just almost an expectation."

But not in all cases. "It's a little more surprising when it's three allegedly respectable people," said McShane, a former public defender who has been a Multnomah County Circuit judge since 2001. "That's not expected."

McShane made his comments during the sentencing of Vladimir Golovan, who was convicted by a jury on charges of forgery and identity theft in connection with a scheme to exploit the city's new public campaign financing system during the 2006 Portland City Council elections. Three would-be candidates, Bruce Broussard, Emilie Boyles and Lucinda Tate testified about Golovan's efforts to help them get up to \$145,000 each in public funds by collecting \$5 contributions and signatures from 1,000 people.

McShane directed the "flat-out lied" charge at Broussard, but made clear that he also questioned the

ing independently.

The Gaffney, successful professionals from close families, decided to push the limits of what was thought possible.

make progress in the pool with promises of breakfast out or a trip to Baskin-Robbins.

The bribes are history.

Gaffney swims an hour or

## Lying: Charges can be difficult to prove

Continued from Page B1

credibility of the other two witnesses. The three were not in the courtroom during the sentencing proceeding.

It will be up to Multnomah County District Attorney Michael D. Schrunk to decide whether to pursue the perjury allegation. According to lawyers, courtroom proceedings rarely result in subsequent perjury charges, in part, because they are difficult to prove.

John B. Lamborn, a criminal defense lawyer in Burns, said he can't recall the last time there was a perjury prosecution in the eastern Oregon counties where he practices.

"It's a kind of a hard charge to prove," he said. "You have to show an intent to deceive. A person can simply be mistaken."

Lamborn and others noted that prosecutors have little incentive to pursue perjury charges against a defendant who has been convicted of another crime at the trial. Charging a defendant who has been acquitted risked the appearance of "sour grapes."

Moreover, according to a legal standard with roots in English common law, perjury cannot be established simply on the basis of contradictory testimony from only one other witness. There has to be other corroboration.

Criminal defendants who testify at their trials may be most often suspected of committing perjury, but according to John Henry Hingson III, a veteran Oregon City defense lawyer and former president of the National Association of Criminal Defense Lawyers, criminal court is not where lying under oath most often occurs.

"If you wanted to mine the

most fertile field for perjury in Multnomah County, punch 3 on the courthouse elevator and go to divorce court," he said. "I think there is less perjury in criminal cases than in civil cases. The grand-slam, home-run winner is in domestic relations court. People in divorce cases act crazy."

Hingson said prosecutors may be reluctant to pursue perjury cases because they "don't need to clog things up and waste resources" on what can be a difficult charge to prove.

"You ... better be able to prove it," he said. "As a practical matter, people are frequently nervous (in court) and say things that are not true without ever having the intention to deceive. ... Sometimes people are just mistaken."

McShane, who sentenced Golovan to up to nine months in prison, said he did not assail the three witnesses "to invite a perjury charge" against Broussard or the others, but to reflect the skepticism of their testimony that jurors had expressed to him and to explain why he was not imposing a tougher sentence on Golovan.

The prosecutor in the case was Erik Wasmann, head of the District Attorney Assistance Section in the state Department of Justice. His office was asked to investigate the case by the Portland Police Bureau. Schrunk, the Multnomah County prosecutor, said he will soon confer with Wasmann about what to do next.

"We will take a look at what went on and make a decision based on what the evidence is, what we can prove, whether we can go forward or not," Schrunk said.

Whatever happens, Hingson said McShane should be praised for his comments about what went on in his courtroom.

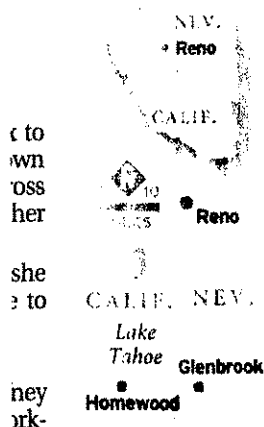
"It's so fundamental," he said. "You can't have a functioning justice system where people are allowed to lie."

Edward Walsh: 503-294-4153;  
edwardwalsh@  
news.oregonian.com

00224

FREDRICK D. JOE/THE OREGONIAN  
outs to Lake Tahoe.

# NGE



advocacy organization.  
25, weather permitting.  
Find information on  
he swim at www.ka-  
ndation.com or call  
( ). The National Down  
ngress Web site:  
ter.org.

**Case Annotations:**

Session: copsey103107  
Session Date: 2007/10/31  
Judge: Copsey, Cheri C.  
Reporter: Madsen, Kim

Division: DC  
Session Time: 08:07

Courtroom: CR503

Clerk(s):  
Weatherby, John

State Attorney(s):  
Berecz, Lamont  
Dinger, John  
Fisher, Jean  
Haws, Gabriel  
Longhurst, Jill

Public Defender:  
Hessing, Mandy  
Lojek, Michael  
Rolfsen, Eric  
Smith, Larry

Prob. Officer(s):

Court Interpreter(s):  
Barrios, Sandra

Case ID: 0041

Case Number: H0700180  
Plaintiff:  
Plaintiff Attorney:  
Defendant: HOAK, LARRY  
Co-Defendant:  
Pers. Attorney:  
State Attorney: Haws, Gabriel  
Public Defender: Lojek, Michael

2007/10/31  
00:00:00 16:28:19 - Operator  
Recording:

00:00:00 16:28:19 - New case  
HOAK, LARRY

00:00:17 16:28:35 - Judge: Copsey, Cheri C.  
case called; dft present in custody with counsel

00:00:31 16:28:49 - Judge: Copsey, Cheri C.  
reviews motions by dft; motion to disqualify counsel

00:00:49 16:29:08 - Defendant: HOAK, LARRY  
makes statement; witnesses never called at trial

00:01:47 16:30:06 - Judge: Copsey, Cheri C.  
are you waiving atty-client privelage?

00:02:03 16:30:22 - Judge: Copsey, Cheri C.  
not appropriate for me to read this letter from your atty

00:02:40 16:30:59 - Judge: Copsey, Cheri C.  
what are the problems with this case

00:02:49 16:31:08 - Defendant: HOAK, LARRY  
ex-girlfriend molested; alcohol/drugs have been problem for me; mother

00:03:26 16:31:45 - Defendant: HOAK, LARRY  
confessed to me about molestation of ex-

00:04:07 16:32:26 - Judge: Copsey, Cheri C.  
focus, know you're upset about what happened to victim in this case

00:04:27 16:32:46 - Defendant: HOAK, LARRY  
atty protecting child-molesters and their victims

00:04:46 16:33:05 - Judge: Copsey, Cheri C.  
what was wrong with his rep of you

00:05:11 16:33:30 - Defendant: HOAK, LARRY  
he protected the mother; didn't object one time to "cutting off her head"

00:05:43 16:34:02 - Defendant: HOAK, LARRY  
I didn't say that

00:06:10 16:34:29 - Defendant: HOAK, LARRY  
there was no tape

00:06:18 16:34:37 - Judge: Copsey, Cheri C.  
we did hear it at the trial

00:06:28 16:34:47 - Defendant: HOAK, LARRY  
not one cd said that

00:07:00 16:35:19 - Judge: Copsey, Cheri C.  
what other reason to dq at this point

00:07:19 16:35:37 - Defendant: HOAK, LARRY  
called him after trial, he thinks it's funny; they're protecting child

00:07:39 16:35:58 - Defendant: HOAK, LARRY  
molesters; get him away from me

00:07:47 16:36:06 - Judge: Copsey, Cheri C.  
if you want to represent yourself, then I'll do that

00:08:24 16:36:43 - Judge: Copsey, Cheri C.  
you have a right to an atty; but you don't want him to rep you

00:08:43 16:37:01 - Defendant: HOAK, LARRY  
understand



00:09:04 16:37:22 - Judge: Copsey, Cheri C.  
advantages of having atty at sentencing

00:13:10 16:41:29 - Judge: Copsey, Cheri C.  
medication

00:14:33 16:42:52 - Defendant: HOAK, LARRY  
I want to represent myself

00:14:40 16:42:58 - Judge: Copsey, Cheri C.  
Mr Lojek, appear at sentencing to standby; PSI can be provided for dft, can't

00:15:03 16:43:21 - Judge: Copsey, Cheri C.  
take PSI to cell

00:16:06 16:44:25 - Defendant: HOAK, LARRY  
don't want atty at sentencing

00:16:14 16:44:33 - Judge: Copsey, Cheri C.  
motion to overrule guilty verdict

00:16:22 16:44:41 - Defendant: HOAK, LARRY  
don't want to argue today; want to argue by myself

00:16:45 16:45:04 - Judge: Copsey, Cheri C.  
I'll have Mr Lojek stay

00:16:56 16:45:14 - Judge: Copsey, Cheri C.  
should we reset to argue motion

00:17:18 16:45:37 - Judge: Copsey, Cheri C.  
s/o to 11/7 at 1:00; 10 minutes to argue

00:17:43 16:46:01 - Judge: Copsey, Cheri C.  
Mr Lojek as standby counsel; advice as to procedure only

00:18:18 16:46:37 - Judge: Copsey, Cheri C.  
Mr Haws, file short response, provide to Mr Hoak at jail

00:18:33 16:46:52 - Judge: Copsey, Cheri C.  
advise against rep yourself

00:18:43 16:47:02 - Defendant: HOAK, LARRY  
question re: juror during trial

00:19:43 16:48:02 - Judge: Copsey, Cheri C.  
issue of jurors knowing you was addressed at trial; each juror asked if they

00:20:10 16:48:29 - Judge: Copsey, Cheri C.  
knew you, no evidence that they knew you

00:20:34 16:48:53 - Operator  
Stop recording:

NOV 01 2007

J. DAVID NAVARRO, CLERK  
By A URQUIDI  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Gabriel M. Haws**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. H0700180</b>
vs.	)	
	)	<b>STATE'S OBJECTION TO</b>
LARRY MATHEWS HOAK,	)	<b>DEFENDANT'S MOTION</b>
	)	<b>FOR JNOV (JUDGMENT OF</b>
Defendant.	)	<b>ACQUITTAL)</b>
	)	
_____	)	

COMES NOW, Gabriel M. Haws, Deputy Prosecuting Attorney, in and for Ada County, State of Idaho, and lodges an objection to defendant's Motion to Overrule a Guilty Plea and/or Motion for Judgment Notwithstanding the Verdict filed in the above named matter.

The Defendant's motion is more fairly characterized as a Motion for Acquittal under Idaho Criminal Rule 29 (c) because of the remedy he requests. State v. Clifford, 130 Idaho

259, 939 P.2d 578 (Ct. App.1997). Under Idaho Criminal Rule 29 (c) if a jury returns a verdict of guilty a defendant may make a motion for judgment of acquittal within fourteen (14) days of when the jury is discharged or further time as directed by the court. There is a test a trial court should follow in deciding a motion for judgment of acquittal. State v. Huggins, 103 Idaho 422, 426, 648 P.2d 1135, 1139 (Ct. App. 1982) modified on other grounds, 105 Idaho 43, 665 P.2d 1053 (1983). The Court should review the evidence in a light most favorable to the state and decide if there is insufficient evidence to support a conviction. State v. Mathews, 124 Idaho 806, 814, 864 P.2d 644, 654 (Ct. App. 1993). If there is enough evidence that a reasonable trier of fact could conclude that the defendant's guilt as to each material element of the crime charged has been proven beyond a reasonable doubt. Id. A court must also give full consideration to the right of the jury to determine credibility of witnesses, weight to be afforded evidence, as well as the right to draw all justifiable inferences from the evidence. Huggins, at 427, 648 P.2d at 1140.

The Defendant in his affidavit asserts the jury found him guilty because of a phone message which was left on Kathy Hendrick's phone. The Defendant claims there was no proof that he left this message. Additionally, he claims that Kathy Hendricks lied about the Defendant threatening to cut Kathy's head off while at the 7-11 convenience store. Apparently, these are the reasons this court should enter a judgment of acquittal.

First, the State objects to the Defendant's motion because it is untimely. The jury was dismissed in this case on September 21, 2007. The Defendant's motion was filed October 24, 2007, which is well outside the prescribed fourteen (14) day time period. Additionally, this Court did not allow an extension of the time period of filing the motion. Thus, the Defendant's motion should be denied as untimely.

Second, assuming the tardiness of the motion could be ignored, the Defendant's motion should be denied on its merits.<sup>1</sup> In viewing the evidence in a light most favorable to

---

<sup>1</sup> The State asks this Court, having listened and viewed all the evidence submitted at trial, to freely recall any and all pieces of evidence that it finds relevant in deciding this motion.

the State, there was sufficient evidence on each material element that a reasonable trier of fact could find the guilty.

Regarding the date of offense, the Defendant as well as all of the State's witnesses testified that the letters and phone calls that constituted the alleged course of conduct fell within the May 2006 through November 2006 time frame.

Regarding the venue where the offense occurred, the Defendant testified that the letter and calls which constituted the course of conduct were generated in Ada County — while he was in jail— and sent or placed to Kathy Hendricks, who still lived here in Ada County.

Regarding the identification of the perpetrator, the Defendant admitted he tried to place the phone calls and sent the letters, which constituted the course of conduct in this case. The Defendant's testimony was corroborated by each of the State's witnesses.

Regarding the Defendant's intent, the Defendant admitted on cross examination that he sent the letters and placed the calls knowing there was a no contact order in effect. He stated he needed to hear from Kathy that she was through with him. He stated that Kathy, since January of 2006, never reciprocated or consented to his calls or messages. Additionally, the Defendant in both the letters he admitted writing to Kathy Hendricks he referenced the *Time* beheading when discussing his and Kathy's relationship. Although not exhaustive of the evidence produced, it is clear that this evidence shows the Defendant wrote the letters and placed the calls to Kathy knowingly and maliciously.

Regarding the course of conduct, it is clear from the Defendant's admissions and Kathy's testimony that he by writing and trying to call Kathy Hendricks he repeatedly engaged in nonconsensual acts involving Kathy Hendricks. Both the Defendant and Kathy testified that Kathy never agreed or consented to the Defendant's course of conduct.

From Kathy's testimony, it is clear that Kathy clearly felt alarmed, annoyed, or harassed by the Defendant's behavior. Also from the testimony by Kathy, it was clear that a reasonable person in having suffered the physical and psychological abuse that Kathy

suffered at the hands of the Defendant would have felt substantially emotionally distressed when he threatened to cut off her head and then later referenced a beheading in his letters.


Third, even though he denied leaving a message on Kathy's phone referencing a threat to cut her head off, such a statement contradicts Kathy's testimony and contradicts the Defendant's own tape recorded phone conversation with Don Cadotte, where the Defendant admitted he threatened to cut Kathy's head off. Also, regarding the 7-11 incident, he provides no other evidence or proof besides his own statement that that incident did not occur. Neither one of the allegations mentioned by the Defendant in his affidavit in support of his motion's cast such a significant shadow over the evidence presented as to warrant a reversal of the jury's guilty verdict. Rather, the evidence he points out is only impeachment evidence. Consequently, when viewed in a light most favorable to the State, there exists sufficient evidence to sustain the Defendant's conviction in this case.

#### CONCLUSION

Therefore, the State respectfully requests the Court to deny the Defendant's motion for Judgment of Acquittal.

RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of November 2007.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

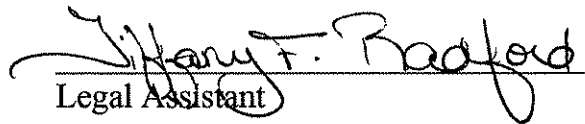
  
\_\_\_\_\_  
Gabriel M. Haws  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1<sup>st</sup> day of November 2007, I caused to be served, a true and correct copy of the foregoing **STATE'S OBJECTION TO DEFENDANT'S MOTION FOR JNOV (JUDGMENT OF ACQUITTAL)** upon the individual(s) named below in the manner noted:

Name and address: Larry Mathews Hoak, Ada County Jail,

- By depositing copies of the same in the United States mail, postage prepaid, first class.

  
Legal Assistant

Session: copsey110707  
Session Date: 2007/11/07  
Judge: Copsey, Cheri C.  
Reporter: Madsen, Kim

Division: DC  
Session Time: 08:22

Courtroom: CR504

Clerk(s):  
Weatherby, John

State Attorneys:  
Berecz, Lamont  
Dinger, John  
Haws, Gabriel  
Longhurst, Jill

Public Defender(s):  
Hessing, Mandy  
Lojek, Michael  
Rolfsen, Eric

Prob. Officer(s):

Court interpreter(s):  
Barrios, Sandra

Case ID: 0009

Case Number: H0700180  
Plaintiff:  
Plaintiff Attorney:  
Defendant: HOAK, LARRY  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Haws, Gabriel  
Public Defender: Lojek, Michael

2007/11/07

13:03:49 - Operator  
Recording:  
13:03:49 - New case  
HOAK, LARRY  
13:04:01 - Judge: Copsey, Cheri C.  
case called; dft present in custody -- pro se  
13:04:04 - Judge: Copsey, Cheri C.  
Mr Lojek present as standby; reminds dft of right to counsel  
, not to choose  
13:04:22 - Judge: Copsey, Cheri C.  
counsel; can appoint Mr Lojek, knowledge of law  
13:05:35 - Judge: Copsey, Cheri C.  
lawyer able to call witnesses; research for sentencing  
13:05:50 - Defendant: HOAK, LARRY  
understands  
13:06:33 - Defendant: HOAK, LARRY  
represented myself in traffic court; understands this is dif

ferent  
13:06:51 - Judge: Copsey, Cheri C.  
court cannot help with law, etc  
13:07:16 - Judge: Copsey, Cheri C.  
motion filed for judgment of acquittal; new trial  
13:07:34 - Judge: Copsey, Cheri C.  
court will order 19-2524 mental health eval  
13:08:18 - Defendant: HOAK, LARRY  
argument  
13:09:28 - Defendant: HOAK, LARRY  
submits copy of motions; misc paperwork  
13:11:21 - Judge: Copsey, Cheri C.  
notes items in packet from dft: correspondence from def coun  
sel  
13:11:49 - Judge: Copsey, Cheri C.  
insist on filing these documents; letters from Lojek; waive  
confidentiality  
13:12:18 - Judge: Copsey, Cheri C.  
this is not good idea to file these; court will not accept a  
ny of this  
13:12:35 - Judge: Copsey, Cheri C.  
documents returned to dft  
13:12:57 - Judge: Copsey, Cheri C.  
new evidence in this case will not be accepted; case can be  
appealed  
13:13:58 - Defendant: HOAK, LARRY  
argument  
13:15:40 - Judge: Copsey, Cheri C.  
post-conviction relief; court will not rule on ineffective c  
ounsel  
13:18:06 - Judge: Copsey, Cheri C.  
doesn't see relevance; motion for judgment of acquittal ICR 2  
9;  
13:20:02 - Judge: Copsey, Cheri C.  
court finds evidence of guilt presented to jury; no reasonab  
le doubt  
13:20:26 - Judge: Copsey, Cheri C.  
that motion denied  
13:20:33 - Judge: Copsey, Cheri C.  
motion for new trial: ICR 19-2406; cannot grant on any other  
ground  
13:21:41 - Judge: Copsey, Cheri C.  
argument goes to credibility, jury decision; evidence to sup  
port verdict;  
13:22:13 - Judge: Copsey, Cheri C.  
motion denied  
13:22:17 - Judge: Copsey, Cheri C.  
reminds that Mr Lojek can be re-appointed at any time; court  
will not accept  
13:22:36 - Judge: Copsey, Cheri C.  
p/w filed today  
13:22:41 - Judge: Copsey, Cheri C.  
court needs mental health eval for sentencing  
13:23:05 - Judge: Copsey, Cheri C.  
reset sentencing 12/19 at 9  
13:23:58 - Public Defender: Lojek, Michael  
will standby at that date  
13:24:06 - State Attorney: Haws, Gabriel



did not get motion for new trial  
13:24:19 - Judge: Copsey, Cheri C.  
decided to cover whole thing; motions denied  
13:25:14 - Judge: Copsey, Cheri C.  
court will issue order  
13:25:24 - Operator  
Stop recording:

---

NOV 07 2007

By *Michael Anderson*  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,  
Plaintiff,  
  
vs.  
  
LARRY M. HOAK  
Defendant.

Case No. H0700180

ORDER PURSUANT TO  
IDAHO CODE § 19-2524

The above named defendant, having been found guilty of a felony offense and/or having admitted to or having been found to have committed a violation of a condition of probation, and for good cause appearing;

THIS DOES ORDER AND IT IS HEREBY ORDERED that the defendant undergo a mental health examination. The report of the mental health examination shall include:

1. A description of the nature of the examination;
2. A diagnosis, evaluation or prognosis of the mental condition of the defendant;
3. An analysis of the degree of the defendant's illness or defect and level of functional impairment;
4. A consideration of whether treatment is available for the defendant's mental condition;
5. An analysis of the relative risks and benefits of treatment or non-treatment;
6. A consideration of the risk of danger which the defendant may create for the public if at large; and
7. A plan of treatment if the mental health examination indicates that:
  - (a) The defendant suffers from a severe and reliably diagnosable mental illness or defect;
  - (b) Without treatment, the immediate prognosis is for major distress resulting in serious mental or physical deterioration of the defendant;
  - (c) Treatment is available for such illness or defect; and
  - (d) The relative risks and benefits of treatment or non-treatment are such that a reasonable person would consent to treatment.

1 The expenses of the mental health examination/assessment shall be borne by the State of  
2 Idaho.

3 The Clerk of the Court shall serve a copy hereof upon the Dept. of Health & Welfare, the Trial  
4 Court Administrator, the Ada County Prosecutor, Gabriel Haws, stand-by defense counsel, Mike  
5 Lojek, Larry Hoak, *pro se*, and the Ada County Sheriff forthwith.

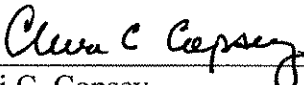
6 Upon completion, said evaluation shall be filed in triplicate with the clerk of the court and the  
7 clerk shall provide copies of the evaluation to the prosecutor and defense counsel.

8 The Ada County Sheriff shall allow entry of Health & Welfare staff into the Ada County Jail  
9 for a mental health evaluation of the defendant at any and all reasonable times, and shall provide a  
10 private area for said evaluation and all reasonable facilities to said staff to complete the evaluation of  
11 the defendant.

12 This Order is made pursuant to Idaho Code § 19-2524.

13 **IT IS SO ORDERED.**

14 Dated this 7<sup>th</sup> day of November 2007.

15   
16 Cheri C. Copsey  
17 District Judge

CERTIFICATE OF SERVICE

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 7<sup>th</sup> day of November 2007 one copy of the foregoing as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as follows:

PROSECUTING ATTORNEY  
INTERDEPT MAIL  
GABRIEL HAWS

ADA COUNTY PUBLIC DEFENDER'S OFFICE  
MICHAEL LOJEK

LARRY HOAK, *PRO SE*

TRIAL COURT ADMINISTRATOR'S OFFICE  
INTERDEPT MAIL

REGION IV MENTAL HEALTH SERVICES  
DEPT. OF HEALTH & WELFARE  
FAX- 334-0828

ADA COUNTY SHERIFF  
FAX- 377-7316

J. DAVID NAVARRO  
Clerk of the District Court  
Ada County, Idaho

By



~~John Weatherby~~  
Deputy Clerk

Session: copsey121907  
Session Date: 2007/12/19  
Judge: Copsey, Cheri C.  
Reporter: Madsen, Kim

Division: DC  
Session Time: 08:24

Courtroom: CR503

Clerk(s):  
Weatherby, John

State Attorneys:  
Alidjani, Fafa  
Berecz, Lamont  
Dinger, John  
Haws, Gabe

Public Defender(s):  
Hessing, Mandy  
Lojek, Michael  
Rolfson, Eric

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0011

Case Number: H0700180  
Plaintiff:  
Plaintiff Attorney:  
Defendant: HOAK, LARRY  
Additional audio and annotations can be found in case: 0035.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Haws, Gabe  
Public Defender: Lojek, Michael

2007/12/19

11:44:35 - Operator  
Recording:  
11:44:35 - New case  
HOAK, LARRY  
11:44:49 - Judge: Copsey, Cheri C.  
case called; dft present in custody -- pro se; counsel as ad  
visor  
11:45:06 - Public Defender: Lojek, Michael  
present as stand-by counsel  
11:45:18 - Judge: Copsey, Cheri C.  
informed of right to counsel; advised not to rep self  
11:46:00 - Defendant: HOAK, LARRY  
asks for Mr Lojek to represent  
11:46:16 - Public Defender: Lojek, Michael  
read PSI, needs to discuss with dft; rec s/o  
11:46:53 - State Attorney: Berecz, Lamont  
victim and mother here today for sentencing

11:47:12 - State Attorney: Haws, Gabe  
present  
11:47:16 - Judge: Copsey, Cheri C.  
wants PSI retrieved immediately from jail  
11:47:31 - Defendant: HOAK, LARRY  
gave to the deputies  
11:47:45 - Public Defender: Lojek, Michael  
tried to work that out with jail  
11:48:09 - Judge: Copsey, Cheri C.  
would like to proceed with sentencing today; can take 1/2 hr  
recess  
11:48:27 - Public Defender: Lojek, Michael  
notes refer to certain page numbers  
11:48:40 - State Attorney: Haws, Gabe  
can make PSI avail to counsel  
11:48:52 - Public Defender: Lojek, Michael  
acceptable  
11:49:14 - Judge: Copsey, Cheri C.  
s/o to end of calendar today; 4:30 today  
11:49:36 - State Attorney: Haws, Gabe  
speaks to victim  
11:49:55 - State Attorney: Haws, Gabe  
4:30 ok  
11:49:59 - Judge: Copsey, Cheri C.  
s/o to end of calendar  
11:50:07 - Operator  
Stop recording:

---

Case ID: 0035

Case Number: H0700180  
Plaintiff:  
Plaintiff Attorney:  
Defendant: HOAK, LARRY  
Previous audio and annotations can be found in case: 0011.  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Haws, Gabe  
Public Defender: Lojek, Michael

16:35:36 - Operator  
Recording:  
16:35:36 - Recall  
HOAK, LARRY  
16:35:43 - Judge: Copsey, Cheri C.  
case called; dft present in custody with counsel  
16:36:31 - Judge: Copsey, Cheri C.  
no plea agreement; dft found guilty by jury of stalking and  
info 2  
16:36:57 - Judge: Copsey, Cheri C.  
no legal cause not to proceed; parties read PSI;  
16:37:24 - Public Defender: Lojek, Michael  
errors in report; jail topic report of different inmate  
16:38:05 - Public Defender: Lojek, Michael  
asks to add ABC diploma while in custody

16:38:43 - Public Defender: Lojek, Michael  
two SSN; top number is correct; objection to Oct 30 2007 letter

16:39:06 - Judge: Copsey, Cheri C.  
victim statement: cannot be edited; can argue with letter but not change

16:39:28 - Judge: Copsey, Cheri C.  
no additional investigation

16:39:36 - State Attorney: Haws, Gabe  
no restitution

16:39:42 - State Attorney: Haws, Gabe  
no victim statement

16:39:50 - State Attorney: Haws, Gabe  
cassette tapes rec'd by court

16:40:12 - Judge: Copsey, Cheri C.  
will be made part of PSI

16:40:20 - Public Defender: Lojek, Michael  
no objection

16:40:27 - State Attorney: Haws, Gabe  
already provided in discovery

16:40:34 - State Attorney: Haws, Gabe  
argument

16:41:16 - State Attorney: Haws, Gabe  
15-16 arrests for violent crimes; stalking convictions

16:44:33 - State Attorney: Haws, Gabe  
manipulative tendencies

16:52:15 - State Attorney: Haws, Gabe  
violations while incarcerated; danger to community

16:53:44 - State Attorney: Haws, Gabe  
Tom Wilson report

16:55:45 - State Attorney: Haws, Gabe  
rec 30=10+20

16:57:35 - Public Defender: Lojek, Michael  
response

16:58:19 - Public Defender: Lojek, Michael  
notes objections to letter by victim

17:03:24 - Public Defender: Lojek, Michael

17:03:37 - Judge: Copsey, Cheri C.  
does not take victim statements as anything other than how they feel

17:04:04 - Public Defender: Lojek, Michael  
statements will follow Mr Hoak in the PSI; other courts might view differently

17:04:42 - Judge: Copsey, Cheri C.  
questions Ms Hendricks if she wrote the letter; answer yes

17:05:25 - Public Defender: Lojek, Michael  
cont

17:07:17 - Public Defender: Lojek, Michael  
medical issues

17:09:51 - Public Defender: Lojek, Michael  
Mr Hoak requests probation; significant time as incentive to do well

17:11:24 - Public Defender: Lojek, Michael  
asks for 10=2+8

17:11:34 - Judge: Copsey, Cheri C.  
denies motion to strike

17:12:38 - Judge: Copsey, Cheri C.  
reviews case law; nothing to prevent victim from using total

ity of  
17:12:59 - Judge: Copsey, Cheri C.  
relationship  
17:13:18 - Defendant: HOAK, LARRY  
makes statement  
17:21:23 - Judge: Copsey, Cheri C.  
finds guilty of crime; finds guilty of persistent violator;  
considerations in  
17:21:48 - Judge: Copsey, Cheri C.  
sentencing; observations at trial, testimony at trial  
17:22:45 - Judge: Copsey, Cheri C.  
notes letters written to court; continues to be obsessed with  
victim  
17:23:32 - Judge: Copsey, Cheri C.  
criminal history beginning in 1970; reviews history  
17:34:34 - Judge: Copsey, Cheri C.  
since 1980 three years is longest time being out of IDOC custody;  
17:35:01 - Judge: Copsey, Cheri C.  
10 felony convictions; 40 misd convictions; 5 marriages all  
ending in  
17:35:29 - Judge: Copsey, Cheri C.  
allegations of violence and NCO; during current incarceration  
violates NCO  
17:36:58 - Judge: Copsey, Cheri C.  
security status raised in jail  
17:37:22 - Judge: Copsey, Cheri C.  
mental health report: bi-polar disorder, Axis 2 anti-social;  
doesn't respond  
17:37:51 - Judge: Copsey, Cheri C.  
to treatment; past mental evals in 2000, earlier  
17:38:53 - Judge: Copsey, Cheri C.  
needs close supervision  
17:39:28 - Judge: Copsey, Cheri C.  
behavior inappropriate; threats to escape, commit suicide  
17:39:58 - Judge: Copsey, Cheri C.  
Wilson eval  
17:43:00 - Judge: Copsey, Cheri C.  
clear that Wilson assessment in correct as well as mental eval;  
observations  
17:43:23 - Judge: Copsey, Cheri C.  
of court during testimony and pretrial hearings  
17:43:55 - Judge: Copsey, Cheri C.  
objective to protect society  
17:44:53 - Judge: Copsey, Cheri C.  
IDOC enhance as persistent violator LIFE=10+LIFE  
17:45:36 - Judge: Copsey, Cheri C.  
331d CTS; life indet for supervision for rest of life  
17:45:54 - Judge: Copsey, Cheri C.  
behavior is reason for persistent violator law  
17:46:21 - Judge: Copsey, Cheri C.  
DNA sample; no costs, no fines  
17:46:38 - Judge: Copsey, Cheri C.  
appeal rights  
17:47:06 - Public Defender: Lojek, Michael  
PSI recovered from jail  
17:47:13 - Judge: Copsey, Cheri C.  
entering NCO for duration of case w/ Ms Hendricks



17:47:42 - Operator  
Stop recording:

---

DEC 20 2007

*C. Melamed Anderson*

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

Case No. H0700180

vs.

JUDGMENT OF CONVICTION

LARRY MATTHEWS HOAK,

DOB [REDACTED]

SSN: [REDACTED]

Defendant.

WHEREAS, on December 17, 2007, the above named defendant, the Prosecuting Attorney, or his deputy, the defendant, and Michael Lojek, counsel for the Defendant appeared before this court for sentencing; and

The Defendant was duly informed of the Information, Information Part II, and Amended Information Part II filed. On September 21, 2007, the Defendant was found guilty of the crime(s) of STALKING, FELONY, I.C. 18-7905, committed on or between May, 2006, and November 2006 and of being a persistent violator of the law.

The Defendant, and Defendant's counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the Defendant, and if the defendant, or defendant's counsel, wished to make a statement on behalf of the defendant, or to present any information to the court in mitigation of punishment; and the court, having accepted such statements, and having found no legal cause or reason why judgment and sentence should not

1 be pronounced against the defendant at this time; does render its judgment of conviction as follows,  
2 to-wit:

3 That, whereas, the Defendant having been found guilty in this court to the crime(s) of  
4 STALKING, FELONY, I.C. 18-7905 and of being a persistent violator of the law;

5 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Defendant, is  
6 guilty of the crime(s) of STALKING, FELONY, I.C. 18-7905 and of being a persistent violator of  
7 the law; and that the Defendant be sentenced to the Idaho State Board of Correction, under the  
8 Unified Sentence Law of the State of Idaho, enhanced as a persistent violator of the law as charged  
9 in the Amended Information Part II for an aggregate term LIFE, to be served as follows: a  
10 minimum period of confinement of ten (10) year(s), followed by a subsequent indeterminate period  
11 of custody not to exceed LIFE, said terms to commence immediately; and the defendant is to  
12 receive credit for three hundred thirty-one (331) days spent in the Ada County Jail prior to entry of  
13 the judgment of conviction in this matter.  
14

15 IT IS FURTHER ORDERED that pursuant to I.C. 19-5501 the defendant shall provide a  
16 DNA sample and right thumbprint to the Department of Corrections.  
17

18 Pursuant to I.C. § 67-3004(6), as a condition of this sentence, if the Defendant has not been  
19 previously fingerprinted in conjunction with this crime, the Defendant shall be fingerprinted by the  
20 Ada County Sheriff's Department even if he/she is placed on probation within five (5) days of this  
21 sentence.

22 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment and  
23 Commitment to the said Sheriff, which shall serve as the commitment of the defendant.  
24  
25


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**NOTICE OF RIGHT TO APPEAL**

**YOU, LARRY MATTHEWS HOAK, ARE HEREBY NOTIFIED** that you have the right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days of the entry of the written order in this matter.

**YOU ARE FURTHER NOTIFIED** that if you are unable to pay the costs of an appeal, you have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of counsel at public expense. If you have questions concerning your right to appeal, you should consult your present lawyer.

Dated this 19th day of December, 2007.

  
\_\_\_\_\_  
Cheri C. Copey, District Judge

1 I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by  
2 United States Mail, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO  
3 STATE as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in  
4 envelopes addressed as follows:

5  
6 ADA COUNTY PROSECUTING ATTORNEY  
7 INTER DEPT MAIL

8  
9 ADA COUNTY PUBLIC DEFENDER  
10 INTER DEPT MAIL

11 DEPARTMENT OF CORRECTIONS  
12 CENTRAL RECORDS  
13 1299 N ORCHARD SUITE 110  
14 BOISE, ID 83706

15 ADA COUNTY JAIL  
16 INTER DEPT MAIL

17  
18 DEPARTMENT OF PROBATION & PAROLE  
19 INTER DEPT MAIL

20 J. DAVID NAVARRO  
21 Clerk of the District Court  
22 Ada County, Idaho

23 Date: Dec 20, 2007

24 By Melanie Anderson  
25 Deputy Clerk

NO. \_\_\_\_\_  
FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JAN 12 2009

J. DAVID NAVARRO, Clerk  
By AMY MCKENZIE  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
LARRY M. HOAK,  
  
Defendant.

Case No. H0700180

MOTION FOR RECONSIDERATION OF  
SENTENCE

COMES NOW, Larry M. Hoak, the defendant above-named, by and through counsel Michael W. Lojek, Ada County Public Defender's Office, and moves this Honorable Court pursuant to ICR 35 for its reconsideration of sentence upon the grounds and for the reason that the defendant requests leniency.

The defendant shall supplement this motion with supporting documentation at a later date.

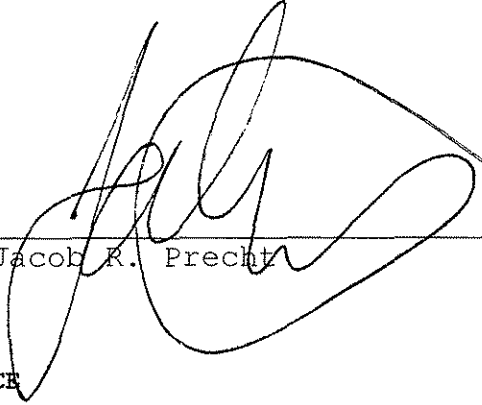
DATED, this 2 day of January 2008.



\_\_\_\_\_  
MICHAEL W. LOJEK  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 2 day of January 2008,  
I mailed a true and correct copy of the foregoing to the Ada  
County Prosecuting Attorney's Office by placing said same in the  
Interdepartmental Mail.



\_\_\_\_\_  
Jacob R. Precht

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

NO. \_\_\_\_\_  
FILED 350  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JAN 07 2008

J. DAVID NAVARRO, Clerk  
By AMY MCKENZIE  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO )  
)  
Plaintiff-Respondent, )  
)  
vs. ) Criminal No. H0700180  
)  
) NOTICE OF APPEAL  
)  
LARRY MATTHEWS HOAK, )  
)  
Defendant-Appellant. )  
\_\_\_\_\_ )

TO: THE ABOVE NAMED RESPONDENT, GREG BOWER, ADA COUNTY  
PROSECUTOR, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above named Defendant, appeals against the State of Idaho to the Idaho Supreme Court from the final Decision and Order entered against him in the above-entitled action on the 19th day of December, 2007, the Honorable Cheri C. Copsey, District Judge, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the Judgment described in paragraph one (1) above is appealable pursuant to I.A.R. 11(c)(1).
3. That the Defendant requests the entire reporter's standard transcript as defined in Rule 25(a), I.A.R.

lc

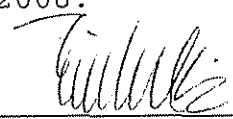


4. The Defendant also requests the preparation of the following additional portions of the reporter's transcript:

Sentencing December 19, 2007.

5. The Defendant requests that the clerk's record contain only those documents automatically included as set out in I.A.R. 28(b)(2), including the Grand Jury Transcript if Indicted, any Jury Instructions requested and given, and Pre-Sentence Investigation Report.
6. I certify:
- a) That a copy of this Notice of Appeal has been served on the reporter.
  - b) That the Defendant is exempt from paying the estimated transcript fee because he is an indigent person and is unable to pay said fee.
  - c) That the Defendant is exempt from paying the estimated fee for preparation of the record because he is an indigent person and is unable to pay said fee.
  - d) That the Defendant is exempt from paying the appellate filing fee because he is indigent and is unable to pay said fee.
  - e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.
7. That the Defendant anticipates raising issues including, but not limited to:
- a) Did the trial court abuse its discretion by sentencing in the defendant to life in prison with ten years fixed?

DATED This 4th day of January, 2008.

  
\_\_\_\_\_  
MICHAEL W. LOJEK  
Attorney for Defendant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, That on the 4th day of January, 2008, I mailed a true and correct copies of the foregoing, **NOTICE OF APPEAL** to:

**LAWRENCE G. WASDEN, ATTORNEY GENERAL, and**

**HONORABLE JUDGE CHERI C. COPSEY'S COURT REPORTER**

by depositing the same in the Interdepartmental Mail.

  
Stephanie Martinez

JAN 09 2008

DAVID NAVARRO, Clerk  
By A URQUIDI  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Gabriel M. Haws**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
LARRY M. HOAK, )  
)  
Defendant, )  
)  
)  
\_\_\_\_\_ )

Case No. H0700180  
**OBJECTION TO DEFENDANT'S  
MOTION FOR RECONSIDERATION  
OF SENTENCE**

COMES NOW, Gabriel M. Haws, Deputy Ada County Prosecuting Attorney and objects to DEFENDANT'S MOTION FOR RECONSIDERATION OF SENTENCE upon the following grounds:

The Defendant's Motion fails to adequately apprise the State of the legal basis for reducing the sentence.

The Motion states that an affidavit in support will be filed at a "later" date. This bifurcation of motion and support of said motion is not allowed by Rule 8 of the Local Rules.


Yet, even if this could be excused, the Defendant has not submitted supporting affidavits or documents as of January 7, 2008.

Therefore, since Defendant has not complied with Local Rule 8 and has not provided any reason why his sentence should be reduced, the State moves the Court to deny the Defendant's Motion for Reduction of Sentence.

Regarding the merits of the Defendant's Rule 35 Motion, the State, having previously outlined its argument to the court and submitted its recommendation to the Court at the Defendant's sentencing on December 19, 2007, has nothing else to add for the purposes of this motion. Nothing has changed in the case since the Defendant's sentence was handed down. The State believes the Court's sentence falls within the Court's discretion and was not unduly harsh given the nature of the crime, the Defendant's prior history, and the substantial threat the Defendant poses to the safety of the community.

**RESPECTFULLY SUBMITTED** This ~~7<sup>th</sup>~~<sup>4<sup>th</sup></sup> day of January, 2008.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
By: Gabriel M. Haws  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 7 day of ~~December~~ <sup>January 2008</sup>, 2006, I served a true and correct copy of the foregoing **OBJECTION TO MOTION FOR CORRECTION OR REDUCTION OF SENTENCE, I.C.R. 35** to the following person(s) by mail:

Kel Jensen

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 12:28

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front St., Ste. 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

JAN 10 2008

J. DAVID NAVARRO, Clerk  
By Matthew Hoak  
DEPUTY

RECEIVED

JAN 07 2008

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO	)	
	)	
Plaintiff-Respondent,	)	Criminal No. H0700180
	)	
vs.	)	
	)	
LARRY MATTHEWS HOAK,	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER
Defendant-Appellant.	)	ON DIRECT APPEAL
	)	

The above-named Defendant, LARRY MATTHEWS HOAK, being indigent and having heretofore been represented by the Ada County Public Defender's Office in the District Court, and said Defendant having elected to pursue a direct appeal in the above entitled matter;

IT IS HEREBY ORDERED, AND THIS DOES ORDER, That the Idaho State Appellate Public Defender is appointed to represent the above named Defendant, LARRY MATTHEWS HOAK, in all matters pertaining to the direct appeal.

DATED This 10<sup>th</sup> day of January, 2008.

Cheri Copsey  
CHERI C. COPSEY  
District Judge

ORDER APPOINTING STATE APPELLATE  
PUBLIC DEFENDER ON DIRECT APPEAL

LMH

NO. 920 FILED  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JAN 14 2008

J. DAVID NAVARRO, Clerk  
By AMY MCKENZIE  
DEPUTY

Inmate Name LARRY M. HOAK  
IDOC No. 17439  
Address I.S.C.I. P.O.  
Box 14, Boise, ID 83702

Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY

LARRY M. HOAK,  
Petitioner-Appellant,

v.

STATE OF IDAHO,  
Respondent.

CASE NO. 40700180

S.C. DOCKET NO. \_\_\_\_\_

**NOTICE OF APPEAL**  
Post Conviction

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, STATE OF IDAHO, PROSECUTING ATTORNEY AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the entered in the above-entitled action on the 12-12-07 (DATE), the Honorable JUDGE CHERI COUSEY (NAME OF JUDGE) presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c)(1-10), I.A.R.
3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court err in dismissing the appellant's Petition for Post Conviction Relief?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(a). The appellant also requests the preparation of the following portions of the reporter's transcript:

(a) The Status Hearing held on 6.6.07 (DATE OF HEARING); and ~~SENT~~

(b) The Evidentiary Hearing held on 6.6.07 (DATE OF HEARING).

6. The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2).

The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

(a) Any briefs or memorandums, filed or lodged, by the state, the appellate, or the court in support of, or in opposition to, the dismissal of the Post Conviction Petition;

(b) Any motions or responses, including all attachments, affidavits or copies of transcripts, filed or lodged by the state, appellant or the court in support of, or in opposition to, the dismissal of the Post Conviction Petition; and

(c) (ANY ITEMS FROM THE UNDERLYING CRIMINAL CASE OF WHICH THE COURT TAKES JUDICIAL NOTICE NOTE: UNLESS SPECIFICALLY ASKED FOR, THE PORTIONS OF THE UNDERLYING RECORD WHICH THE DISTRICT COURT TOOK JUDICIAL NOTICE OF WON'T BE INCLUDED IN THE RECORD.)

*5. Schmidt kind - A*  
*Remember*  
*PRIM IN FRONT OF Judge COPSEY. ALL HEARINGS*  
*THESE DATES WERE CHANGED. PART TWO, AND 401-B HEARING IN FRONT OF Judge Copsey*



Case # 0700180  
Status conference - 5/30/07  
Pre trial 6/6/07  
July trial is 11/1/07 these. None of these dates are current.  
- I'd like the preliminary hearing in front of Judge Schmit  
All hearings in front of Judge Copsay, Preliminary hearing  
Part II and 404(B) hearing. this stuff was around Sep, Oct  
the trial. December 19, 2007, I'd also like the presentence investigation  
the first arraignment around December 31, at Jan 7, 2008.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the reporter;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with N/A (NAME OF COUNTY) County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 9 day of 1, 2008

Larry M. Lead  
Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 9 day of 1, 2008, I mailed a true and correct copy of the attached NOTICE OF APPEAL 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

\_\_\_\_\_ County Prosecuting Attorney

\_\_\_\_\_  
\_\_\_\_\_

Larry M. Doat  
Signature

JAN 14 2008

J. DAVID NAVARRO, Clerk  
By AMY MCKENZIE  
DEPUTY

Inmate name LARRY M. HOAK  
IDOC No. 17439  
Address I.S.C.I. P.O. BOX  
14. BOISE, ID. 83702

Defendant-Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

LARRY M. HOAK )  
 )  
 Petitioner-Appellant, )  
 )  
 vs. )  
 )  
 STATE OF IDAHO, )  
 )  
 Respondent )

Case No. H0700180

**MOTION AND AFFIDAVIT IN  
SUPPORT FOR  
APPOINTMENT OF  
COUNSEL**

COMES NOW, LARRY MATTHEWS HOAK, Petitioner-Appellant in the  
above entitled matter and moves this Honorable Court to grant Defendant-Appellant's Motion  
for Appointment of Counsel for the reasons more fully set forth herein and in the Affidavit in  
Support of Motion for Appointment of Counsel.

1. Petitioner-Appellant is currently incarcerated within the Idaho Department of  
Corrections under the direct care, custody and control of Warden HARDISON  
of the IDOC

2. The issues to be presented in this case may become to complex for the Petitioner-  
Appellant to properly pursue. Petitioner-Appellant lacks the knowledge and skill needed to  
represent him/herself.

3. Petitioner-Appellant required assistance completing these pleadings, as he/she was unable to do it him/herself.

4. Other: NOT SCHOoled IN LAW.

DATED this 2 day of 1, 2008.

Larry M. Hoak  
Petitioner-Appellant

**AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL**

STATE OF IDAHO            )  
  ) ss  
County of ADA            )

WARRY M. HOAK, after first being duly sworn upon his/her oath, deposes and says as follows:

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the I.S.C.I. P.O. Box 14. Boise, ID. 83703 under the care, custody and control of Warden \_\_\_\_\_;
3. I am indigent and do not have any funds to hire private counsel;
4. I am without bank accounts, stocks, bonds, real estate or any other form of real property;
5. I am unable to provide any other form of security;
6. I am untrained in the law;

7. If I am forced to proceed without counsel being appointed I will be unfairly handicapped in competing with trained and competent counsel of the State;

Further your affiant sayeth naught.

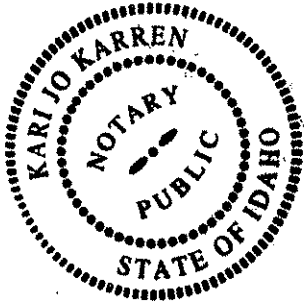
WHEREFORE, Petitioner-Appellant respectfully prays that this Honorable Court issue it's Order granting Petitioner-Appellant's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Petitioner-Appellant is entitled to.

DATED This 2 day of 1, 2008.

Larry M. Hook  
Petitioner-Appellant

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 9<sup>th</sup> day  
of January, 2008.

(SEAL)



Kari Jo Karren  
Notary Public for Idaho  
Commission expires: 10/4/2013

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 2 day of 1, 2008, I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

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

\_\_\_\_\_ County Prosecuting Attorney  
\_\_\_\_\_  
\_\_\_\_\_

*Larry M. Hoch*  
\_\_\_\_\_  
Petitioner-Appellant

Inmate name LARRY M. HOAK  
IDOC No. 17439-15-B-36-1A  
Address F.S.C. P.O. BOX 14  
BOISE, ID. 83702

JAN 14 2008

J. DAVID NAVARRO, Clerk  
By AMY MCKENZIE  
DEPUTY

Defendant-Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LARRY M. HOAK )  
 )  
Petitioner-Appellant, )  
 )  
vs. )  
 )  
STATE OF IDAHO, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Case No. HO700180

**MOTION AND AFFIDAVIT  
FOR FEE WAIVER (PRISONER)**

**IMPORTANT NOTICE:** Idaho Code § 31-3220A(2)(c) requires that you serve upon counsel for the county sheriff or the department of correction, whichever may apply, a copy of this motion and affidavit and any other documents filed in connection with your request for waiver of fees. You must file proof of such service with the court when you file this affidavit.

STATE OF IDAHO )  
 )  
 ) ss  
County of ADA )

Petitioner-Appellant [ ] Respondent asks to start or defend this case without paying fees, and swears under oath:

1. This is an action for (type of case) CRIMINAL APPEAL OF CONVICTION.
2. I am unable to pay the court costs. I verify that the statements made in this affidavit are true and correct. I understand that a false statement in this affidavit is perjury and I could

(10) To (LIFE)  
be sent to prison for one (1) to fourteen (14) years. The waiver of payment does not prevent the court from later ordering me to pay costs and fees.

3. I have attached to this affidavit a current statement of my inmate account, certified by a custodian of inmate accounts, that reflects the activity of the account over my period of incarceration or for the last twelve (12) months, whichever is less. I understand that I am not an indigent prisoner, and will be required to pay all or part of the court fees, if I have had any funds in my inmate account during the last twelve (1) months or the period of my incarceration, whichever is less.

**Do not leave any items blank.** If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.

**IDENTIFICATION AND RESIDENCE:**

Name: LARRY M. HOAK 15-B-364 Other Names I have used: N/A

Address: I. S. C. I. P.O. BOX 14, BOISE, ID. 83702

How long at that Address; 20 DAYS Phone: NA

Date and place of birth: 7-4-55

Education completed (years:): 11

Marital Status:  Single  Married  Divorced  Widowed  Separated

**ASSETS:**

List all real property (land and buildings) owned or being purchased by you.

Address	City	State	Legal Description	Value	Your Equity
<u>NA</u>					
<u>NA</u>					

MOTION AND AFFIDAVIT FOR FEE WAIVER (PRISONER)

PAGE 2

Revised: 10/17/05

00266



List all other property owned by you and state its value.

**Description** (provide description for each item) **Value**

Cash:   N/A  

Notes and Receivables:   N/A  

Vehicles:   N/A  

Bank/Credit Union/Savings/Checking Accounts:   N/A  

Stocks/Bonds/Investments/Certificates of Deposit:   N/A  

Trust Funds:   N/A  

Retirement Accounts/IRAs/401(k)'s:   N/A  

Cash Value Insurance:   N/A  

Motorcycles/Boats/RV's/Snowmobiles:   N/A  

Furniture/Appliances:   N/A  

Jewelry/antiques/Collectibles:   N/A  

TV's/Stereos/Computers/Electronics:   N/A  

Tools/Equipment:   N/A  

Sporting Goods/Guns:   N/A  

Horses/Livestock/Tack:   N/A  

Other (describe)   N/A  

**EXPENSES:** List all of your monthly expenses.

**Expense**

**Average  
Monthly Payment**

Rent/House Payment:   N/A  

MOTION AND AFFIDAVIT FOR FEE WAIVER (PRISONER)

PAGE 3

Revised: 10/17/05

00267

Vehicle Payment(s): N/A

Credit Cards: (list each account number) CAPITAL ONE, HOME DEPOT, CIRCUIT CITY.

Loans: (name of lender and reason for loan)

MAURICK FINANCE COMPANY.

Electricity/Natural Gas: N/A

Water/Sewer/Trash N/A

Phone: N/A

Groceries: N/A

Clothing: N/A

Auto Fuel: N/A

Auto Maintenance: N/A

Cosmetics/Haircuts/Salons: N/A

Entertainment/Books/Magazines: N/A

Home Insurance: N/A

Auto Insurance: N/A

Life Insurance: N/A

Medical Insurance: N/A

Medical Expense: N/A

Other: N/A

**MISCELLANEOUS:**

How much can you borrow? 0 From Whom? 0

When did you file your last income tax return? N/A Amount of Refund? N/A

**PERSONAL REFERENCES** (These persons must be able to verify information provided):

Name	Address	Phone	Years Known
------	---------	-------	-------------

--	--	--	--

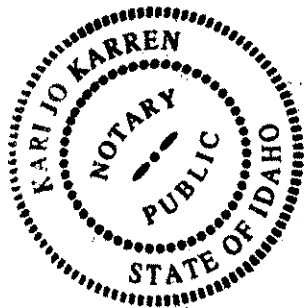
1-2-08  
Date

Larry M. Hoak  
Signature

LARRY M. HOAK  
Typed/Printed Name

SUBSCRIBED AND SWORN or AFFIRMED TO before me this 9<sup>th</sup> day of January, 2008.

[Signature]  
Notary Public for Idaho  
My Commission Expires: 10/4/2013



NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4:10  
JAN 23 2008  
DAVID NAVARRO, Clerk  
By J. WEATHERBY

1  
2 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
3 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA  
4

5  
6 STATE OF IDAHO

7 Plaintiff,

8 vs.

9 LARRY HOAK,

10 Defendant.  
11  
12  
13

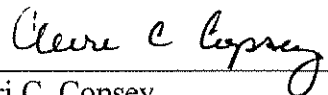
CASE NO. H0700180

**RULE 35 SCHEDULING ORDER**

14  
15 On January 2, 2008, the Defendant moved for an order reconsidering his sentence under  
16 I.C.R. 35. The Motion indicated that papers would follow. Any supporting papers must be filed  
17 with the Court no later than February 4, 2008. If no further paper work is filed, the Court will  
18 treat the Motion as making no recommendation and unsupported.

19 **IT IS SO ORDERED.**

20 Dated this 23<sup>rd</sup> day of January 2008.

21  
22   
23 Cheri C. Copsey  
24 District Judge  
25  
26  
27  
28  
29  
30

CERTIFICATE OF MAILING

I hereby certify that on this 23 day of January 2008, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTING ATTORNEY  
INTER DEPT MAIL

ADA COUNTY PUBLIC DEFENDER  
INTER DEPT MAIL

J. DAVID NAVARRO  
Clerk of the District Court

  
John Weatherby, Deputy Clerk

JAN 24 2008  
J. DAVID WEAVER, Clerk  
By [Signature] DEPUTY

1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
2 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

3 THE STATE OF IDAHO,

4 Plaintiff,

Case No. H0700180

6 vs.

7 AMENDED JUDGMENT OF  
8 CONVICTION

9 LARRY MATTHEWS HOAK,  
10 DOB [REDACTED]  
11 SSN: [REDACTED]

12 Defendant.

13 WHEREAS, on December 17, 2007, the above named defendant, the Prosecuting Attorney,  
14 or his deputy, the defendant, and Michael Lojek, counsel for the Defendant appeared before this  
15 court for sentencing; and

16 The Defendant was duly informed of the Information, Information Part II, and Amended  
17 Information Part II filed. On September 21, 2007, the Defendant was found guilty of the crime(s) of  
18 STALKING, FELONY, I.C. 18-7905, committed on or between May, 2006, and November 2006 and  
19 of being a persistent violator of the law.

20 The Defendant, and Defendant's counsel, were then asked if they had any legal cause or  
21 reason to offer why judgment and sentence should not be pronounced against the Defendant, and if  
22 the defendant, or defendant's counsel, wished to make a statement on behalf of the defendant, or to  
23 present any information to the court in mitigation of punishment; and the court, having accepted  
24

[Handwritten initials]

1 such statements, and having found no legal cause or reason why judgment and sentence should not  
2 be pronounced against the defendant at this time; does render its judgment of conviction as follows,  
3 to-wit:

4 That, whereas, the Defendant having been found guilty in this court to the crime(s) of  
5 STALKING, FELONY, I.C. 18-7905 and of being a persistent violator of the law;

6 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Defendant, is  
7 guilty of the crime(s) of STALKING, FELONY, I.C. 18-7905 and of being a persistent violator of  
8 the law; and that the Defendant be sentenced to the Idaho State Board of Correction, under the  
9 Unified Sentence Law of the State of Idaho, enhanced as a persistent violator of the law as charged  
10 in the Amended Information Part II for an aggregate term LIFE, to be served as follows: a  
11 minimum period of confinement of ten (10) year(s), followed by a subsequent indeterminate period  
12 of custody not to exceed LIFE, said terms to commence immediately; and the defendant is to  
13 receive credit for three hundred thirty-one (331) days spent in the Ada County Jail prior to entry of  
14 the judgment of conviction in this matter.  
15

16 **IT IS FURTHER ORDERED that the Defendant shall have no contact, either directly**  
17 **or indirectly with the victim, Kathryn Hendricks until December 19<sup>th</sup>, 2070.**

18  
19 IT IS FURTHER ORDERED that pursuant to I.C. 19-5501 the defendant shall provide a  
20 DNA sample and right thumbprint to the Department of Corrections.

21 Pursuant to I.C. § 67-3004(6), as a condition of this sentence, if the Defendant has not been  
22 previously fingerprinted in conjunction with this crime, the Defendant shall be fingerprinted by the  
23 Ada County Sheriff's Department even if he/she is placed on probation within five (5) days of this  
24 sentence.  
25


1 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment and  
2 Commitment to the said Sheriff, which shall serve as the commitment of the defendant.

3 **NOTICE OF RIGHT TO APPEAL**

4 **YOU, LARRY MATTHEWS HOAK, ARE HEREBY NOTIFIED** that you have the right  
5 to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two  
6 (42) days of the entry of the written order in this matter.

7 **YOU ARE FURTHER NOTIFIED** that if you are unable to pay the costs of an appeal, you  
8 have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of  
9 counsel at public expense. If you have questions concerning your right to appeal, you should consult  
10 your present lawyer.  
11

12 Dated this 19th day of December, 2007, nunc pro tunc.

13   
14 \_\_\_\_\_  
Cheri C. Copsey, District Judge



1 I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by  
2 United States Mail, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO  
3 STATE as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in  
4 envelopes addressed as follows:

5  
6 ADA COUNTY PROSECUTING ATTORNEY  
7 INTER DEPT MAIL

8  
9 ADA COUNTY PUBLIC DEFENDER  
10 INTER DEPT MAIL

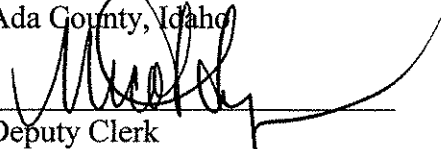
11 DEPARTMENT OF CORRECTIONS  
12 CENTRAL RECORDS  
13 1299 N ORCHARD SUITE 110  
14 BOISE, ID 83706

15 ADA COUNTY JAIL  
16 INTER DEPT MAIL

17  
18 DEPARTMENT OF PROBATION & PAROLE  
19 INTER DEPT MAIL

20 J. DAVID NAVARRO  
21 Clerk of the District Court  
22 Ada County, Idaho

23 Date: 1/24/08

24 By   
25 Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

FEB 04 2008

LARRY MATTHEWS HOAK  
PLAINTIFF

VS.

STATE OF IDAHO

J. DAVID NAVARRO, Clerk

CASE NO: H0700180 DEPUTY

MOTION: REPLY TO THE  
STATE OF IDAHO OBJECTION  
TO DEFENDANT'S MOTION  
FOR RECONSIDERATION  
OF SENTENCE

COMES NOW, LARRY MATTHEWS HOAK, RESPONDING TO STATE OBJECTION FOR RECONSIDERATION OF SENTENCE.

- I. Two PRISON GUARDS WERE LEFT ON MY JURY AFTER I ASKED THEY BE REMOVED.
- II I WAS NEVER CONVICTED OF BATTERY WITH MY EXWIFE SHEILA LUNDQUEST FOR SPITTING IN HER FACE.
- III I NEVER MENT THE LETTERS THAT MENTION THE GUY CUTTING HIS WIFES HEAD OFF TO SCARE KATHIE, I WILL TAKE A LIE DETECTOR TEST TO THAT. I REACTED ON THE INFORMATION JARE MARTIN TOLD ME. I WAS WORRIED ABOUT HER SAFETY ALWAYS.
- IV I WROTE KATHIES FRIEND JUDY ONLY TO FINED MY LOST PAPERS WORK.
- V KATHIES VICTIMS LETTER SAID NOTHING ABOUT THE THREE LETTERS JUST A LIE BLAMEING ME FOR SOMETHING I HAD NOTHING TO DO WITH.
- VI I WAS DOING FINE ON MY OWN BEFORE I MENT HER.
- VII I PROMISE TO GET MY LIFE BACK TOGETHER AND NEVER WAS SO MUCH AS LET HER ENTER MY MIND.

AN

00276

VIII THE DRUGS I WAS REFERRING TO IN THE LETTER COST ALOT THATS THE MONEY I WAS TALKING ABOUT. 60. DOLLARS FOR 90 NORCOS. MY PAIN MEDS FROM DOCTOR HOLBROOK.

VIII I WOULD LIKE THE OPPORTUNITY TO HIER AND ATTORNEY TO REPRESENT ME ON MY APPEAL.

X SHANNON BROWNNAI REASED MY 2003, DAKOTA DODGE AND DIDNT MAKE THE PAYMENT, I CALLED HER TWICE ABOUT THIS THE SECOND TIME SHE JUST HAPPENED TO BE COMING OUT OF KATHIE HENDRICKS HOUSE, I COULD CARE LESS ABOUT THERE RELATIONSHIP, SNEAKING AROUND LYING AND CHEATING IS NOT RIGHT EATHEIR WHEN I CALLED HER ON IT SHE LIED I KNEW AND I ASKED HER TO TAKE OUT TO THE SO I COULD SEE FOR MYSELF SHE LEFT ME STANDING ON THE SIDE OF THE ROAD.

XI SHANNON HAS TURNED KATHIE AND MY EXWIFE AGAINTS ME AND SHE KNOWS YOU AND OTHER JUDGES HERE IN BOISE.

XII I APOLOGIZED TO THEM BOTH JEAN AND KATHIE. BECAUE OF THE WAY I HANDIED THE SITUATION, I COULD HAVE CHANGED THE HOIE OUTCOME OF ARE RELATIONSHIP. ITS TO LATE NOW BUT MY NEXT RELATIONSHIP I'LL BEE MORE UNDERSTANDING QUIETER, SMARTER.

XIII I TALKED TO THE PSYCHIATRIST DOCTOR CLARK ABOUT MY PET PEEVES. GABRIAL HAWS SAID I WAS SO CONTROLLING WHEN I SET KATHIE DOWN AND TOLD HER MY BROTHER HAD SEX WITH CONNIE MY EXWIFE AND I ASKED HER TO AUDIO HIM AND I RATHER SHE DIDNT WORK AROUND A BUNCH OF MEN.

00277  
SHE AGREED TO THIS VERBAL CONTRACT IN COURT GABRIAL HAWS READ MY LETTER EXPLAINING MY PET PEEVES AND KATHIE

DIDNT JUMP UP AND SAY SHE DIDNT AGREE. MY DOCTOR SAID HER TAKING THE JOB AND THE AGREEMENT WE HAD OVER MY BROTHER THINGS COULD ONLY SLOWLY DETERIORATE AND THEY DID. HE SAID UNDER THE CIRCUMSTANCES DIDNT HAVE A CHANCE.

XIII THEY DIDNT HAVE A PHONE RECORDING OF ME SAYING I'D CUT HER HEAD OFF IF I ENDED UP IN PRISON OVER HER CRAP.

YOUR A JUDGE THAT ALONG WITH THE POLICE REPORT NOT MENTIONING US STOPPING AT A 7-11 AND SAYING THAT TO HER ON ARE WAY OUT TO HER HOUSE.

XV I TOLD YOU THE WIFE SHE'S REFERRING WHO MOVED BACK EAST TO GET AWAY FROM ME IS LISTED IN THE PHONE BOOK SHE LIVES IN NAMPKA, THE LAST TIME I SEEN SHELLIE SHELLEY WAS IN REDONDO BEACH CA. SHE WAS WANTING ME BACK AND THERE WAS NO WAY THAT WAS GOING TO HAPPEN SHE THE BLACK OUT ALCOHOLIC WHO WENT TO WORK AND SIX MONTHS LATTER YOU WOULD HEAR FROM HER.

JUDGE CHERI COPSEY I COULD GO ON. GABRIAL LIED AND HAD HER LIE SO ~~MANY~~ MUCH AND I CAN PROVE MY STORYS I'M GOING TO FILE A CIVIL RIGHTS COMPLAINT AS SOON AS I GET TO MY DESTINATION. I WISH I COULD BE PUT ON PROBATION AND YOU TO TRUST I'M DONE WITH KATHIE SITUATION COMPLETELY.

I CAN GET TRANSITION FUNDING SSI. WORK MY WAY BACK UP. I'VE BEEN LOCKED UP FOR TWO YEARS AND IF YOU LOOK AT THE SIX MONTHS I WAS SUPPOST TOBE GETTING TRIED FOR WITHOUT THE DRAMA. I REALLY DIDNT DO THAT MUCH TO GET ALL THIS.

00278

ONE CHANCE IS ALL I ASK. I HAVE A TWENTY YEAR OLD DAUGHTER WHO WENT ME FOR THE FIRST TIME IN THE ADA COUNTY JAIL I HAVE ALOT OF CATCHING UP. I WANTED YOU TO KNOW SHANNON BROWNING IS A LIER AND A THIEVE I SOLD, OR LEASED MY NEW TRUCK TO HER. IS WHY I CALLED HER, SHE WORKED FOR TWO ATTORNEYS I KNOW OF I CAN'T BELIEVE YOU DON'T KNOW HER.

I ALSO WOULD LIKE TO MENTION MY, JUDGEMENT NOT WITHSTANDING THE VERDICT, IS STILL OUT THERE, I WOULD LIKE A CONFLICT ATTORNEY TO REPRESENT ME ON THAT.

I BELIEVE THATS ALL AT THIS TIME I FEEL A NEW TRIAL AND SURDPRESSING THE CUT YOUR HEAD OFF COMMENT, THE VICTIM INPACT LETTER AND A JURY WITHOUT TWO PRISON GAURDS I KNEW ON THE JURY, ID PROBABLY HAVE A DIFFERANT OUT COME.

THANK YOU FOR YOUR TIME YOUR HONOR.

Sincerely.

Larry Matthew Hoak.

1-27-08

00279

FILED 3  
A.M. P.M.

FEB 04 2008

J. DAVID NAVARRO, Clerk  
By A URQUIDI  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

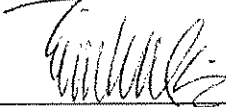
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. H0700180
Plaintiff,	)	
	)	ADDENDUM TO DEFENDANT'S
vs.	)	MOTION PURSUANT TO ICR 35
	)	
LARRY MATTHEWS HOAK,	)	
	)	
Defendant.	)	
	)	

COMES NOW, LARRY MATTHEWS HOAK, the defendant above-named, by and through counsel MICHAEL W. LOJEK, Ada County Public Defender's Office, and hereby submits the attached documentation in support of the defendant's previously filed ICR 35 motion for the Court's consideration.

DATED, this 4<sup>th</sup> day of February 2008.

  
MICHAEL W. LOJEK  
Attorney for Defendant

*rp*

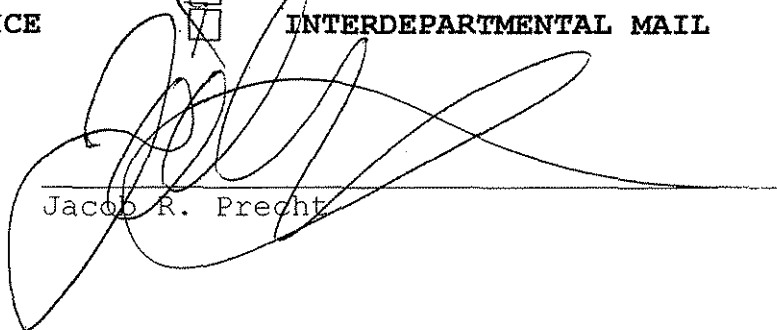
CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 4 day of February 2008,

I mailed a true and correct copy of the foregoing to:

GABRIEL M. HAWS  
DEPUTY PROSECUTOR  
ATTORNEY FOR PLAINTIFF  
ADA COUNTY PROSECUTOR'S OFFICE

U.S. MAIL  
 HAND DELIVERED  
 FACSIMILE  
 INTERDEPARTMENTAL MAIL



\_\_\_\_\_  
Jacob R. Precht

1  
RECEIVED

FEB 01 2008 - 29-08

ADA COUNTY  
PUBLIC DEFENDERS

Dear Mike Hojack

Mike I feel information Part II wasn't properly filed in the first place. I feel at the time it was filed it was filed immaturity and should be dismissed.

And the crime only carries five years max so it's a illegal sentence.

Mike before I met Kathie Hendricks I was doing grate I had my own business. 2001, to 2004, I don't have any bad habits, I can go back to exactly what I was doing before I met her. With No problems.

1. Don Carlotta is my cousin # 286-7265
2. Rod Vanclere is the president of the grape vine club A-A he will be my sponsor. # 371-4331
3. My Oldest brother I don't have anything to do with now and the rest of my family live in other part of the country I've never asked for help before and I wouldn't. I'm very Capable of recovering ~~my~~ getting my life back together. I've never had a problem of giving up on Kathie that's all be one sided point of view. I'm not guilty of anything.

Sandy M. Good

00282



FEB 06 2008

J. DAVID NAYLOR, Clerk  
By [Signature]  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LARRY MATTHEW HOAK

DOB: 07/04/1955

SSN: 573-21-4510

Defendant.

Case No. H0700180

**MEMORANDUM DECISION ON  
DEFENDANT'S MOTION FOR  
REDUCTION OF SENTENCE  
PURSUANT TO I.C.R. 35**

The Defendant **LARRY MATTHEW HOAK** came before this Court for sentencing on 19 December 2007 for the offense(s) of STALKING, FELONY, I.C. 18-7905, having been found guilty as a persistent violator of the law, committed on or between May 2006 and November 2006. The Court imposed a sentence of ten (10) year(s) fixed and life indeterminate for an aggregate term of life. The Court gave Hoak credit for time served of three hundred thirty-three (331) days.

Hoak's counsel, Mike Lojek, timely filed a Motion for Reconsideration of Sentence pursuant to Rule 35, I.C.R. on January 2, 2008, and indicated his supporting documentation would follow, and the Court ordered any such documentation be filed no later than February 4, 2008. Hoak requests leniency. Hoak filed no further memoranda or documentation.

The maximum penalty for the offense of STALKING, FELONY, I.C. 18-7905 enhanced as a persistent violator of the law is life.

**ANALYSIS**

Hoak requests leniency. The Court rejects his request. Rule 35, I.C.R., provides in pertinent part as follows:

*MS*

1 (M)otions to correct or modify sentences under this rule must be filed within 120 days  
2 of the entry of the judgment imposing sentence or order releasing retained jurisdiction  
3 and shall be considered and determined by the court without the admission of  
4 additional testimony and without oral argument, unless otherwise ordered by the  
5 Court in its discretion; . . .

6 The determination of whether to grant the relief requested by Hoak is a matter committed to the  
7 Court's discretion and the Court's decision is governed by the same standard as the original sentence.  
8 *See State v. Gardner*, 127 Idaho 156, 164, 989 P.2d 615 (Ct.App. 1995); *State v. Ricks*, 120 Idaho  
9 875 (Ct.App. 1991). In this review, this Court has employed the standards set forth in *State v.*  
10 *Toohill*, 103 Idaho 565, 650 P.2d 707 (Ct.App. 1982).

11 The Court understood that this was a matter of discretion and considered several factors both  
12 in the original sentencing and in deciding this Motion For Reconsideration. A sentence has several  
13 objectives: (1) protection of society, (2) deterrence of the individual and the public generally, (3)  
14 possibility of rehabilitation, and (4) punishment for wrongdoing. The primary consideration is and  
15 should be "the good order and protection of society." *State v. Toohill*, 103 Idaho 565, 650 P.2d 707  
16 (Ct.App.1982).

17 In any sentencing, the primary focus begins with a concern for protection of the public. In  
18 this case, a jury found Hoak guilty as a persistent violator of the law of the felony crime of Stalking,  
19 I.C. § 18-7905. The maximum penalty for the offense of Stalking, Felony, I.C. 18-7905 as a  
20 persistent violator of the law is life. The fixed portion of a sentence imposed under the Unified  
21 Sentencing Act is treated as the term of confinement for sentence review purposes. *State v. Hayes*,  
22 123 Idaho 26, 27, 843 P.2d 675, 676 (Ct.App. 1992). The Court finds that a ten (10) fixed sentence  
23 for Stalking, Felony, I.C. 18-7905 when the Defendant was found guilty as a persistent violator of  
24 the law is lenient considering the facts of this crime and is well within the statutory sentence  
25 guidelines.

26 In arriving at this sentence, the Court considered the Hoak's character and any mitigating or  
aggravating factors. The Court, however, found there were several aggravating factors in this case –  
suggesting the need for this sentence.

1 This was his eleventh (11<sup>th</sup>) known<sup>1</sup> adult<sup>2</sup> felony conviction, including Aggravated D.U.I.  
2 (1978), D.U.I. (1979, 1983, 1984), Malicious Injury to Property (1985), Aggravated Assault (1985,  
3 1985, 1996<sup>3</sup>). Possession of a Controlled Substance (1989), Assault<sup>4</sup> (1993), and Stalking (2007).  
4 Hoak also had 43 misdemeanor convictions including Assault (1974,<sup>5</sup> 1977, 1979, 1985<sup>6</sup>), Escape  
5 (1980), Possession of Marijuana (1976, 1989), Battery (1978, 1978, 1981, 1985<sup>7</sup>), Resisting and  
6 Obstructing (1978, 1979), Disorderly Conduct (1979, 1979, 1981, 2005), Leaving the Scene of an  
7 Accident (1978), Driving Under the Influence (1976, 1978, 1989, 1990), Driving Without  
8 Privileges/Suspended/Invalid License (1977, 1990, 1992), Failure to Carry Registration (1988),  
9 Failure to Carry Insurance (1988, 1989), Disturbing the Peace (1982, 1989), Stalking (1995),  
10 Violation of No Contact Order (1995, 2005, 2005, 2005, 2005, 2006, 2006, 2006, 2007<sup>8</sup>), Domestic  
11 Assault/Battery (2005, 2005), False Imprisonment (2005) and numerous Contempts, Probation  
12 Violations and Failures to Appear.

13 He also had a number of dismissed charges, including, Driving Under the Influence  
14 (M)(1976, 1983, 1985, 1988, 1989, 1996), Possession of Drug Paraphernalia (1996), Failure to Carry  
15 Insurance (M)(1989), Carrying a Concealed Weapon (M)(1989) Disorderly Conduct (M)(1983),  
16 Battery (M)(1979), Possession of Burglary Tools (M)(1986), Violation of No Contact Order  
17 (M)(2005, 2006), Resisting and Obstructing (M)(2006), Aggravated Assault (F)(1976, 1985),  
18 Aggravated Battery (F)(1982), Possession of a Controlled Substance (F)(1976), Burglary (F)(1979),  
19 Aiding and Abetting Burglary (F)(1986), Grand Theft (F)(1986), and Fugitive from Justice  
20 (F)(1990). He had fourteen (14) D.U.I. charges. Most of his crimes were violent, involving numerous

21 <sup>1</sup> Hoak has several charges which the pre-sentence investigator was unable to determine the disposition, including charges  
22 for "Drunk" (1973), Assault and Battery (1973), Disturbing the Peace (1973), Possession of Marijuana (1974), Drunk in  
23 Motor Vehicle (1974), Resisting Arrest (1974), Transporting Open Bottle (1975), Disorder by Influence of Intoxicating  
24 Liquor (1977), Disorderly Conduct (1977), D.U.I. (1978, 1985), Destruction of Property (1979), Urinating in Public  
25 (1990), Interference with City Officer (1990).

<sup>2</sup> Hoak was charged with two felony Robbery cases as a 15 year old juvenile.

<sup>3</sup> Convicted as a Persistent Violator.

<sup>4</sup> Felony Assault in Arizona.

<sup>5</sup> Amended from Battery.

<sup>6</sup> Amended from Aggravated Assault

<sup>7</sup> Amended from Aggravated Assault.

<sup>8</sup> This violation occurred from the jail with the same victim while this Stalking case was pending.

1 victims or involved alcohol. Hoak is a serious risk to the community and especially to intimate  
2 partners.

3 For example, he admitted to the pre-sentence investigator he had been convicted of felony  
4 assault in Arizona when he "accidentally" cut his previous wife's stomach with a steak knife. He has  
5 been diagnosed with Antisocial Personality Disorder and Bipolar Disorder as recently as November  
6 2007 when the Court ordered a Mental Health report pursuant to I.C. § 19-2524. In that analysis, the  
7 writer opined that Hoak would continue to act inappropriately and continue to put others at risk. Th  
8 mental health interviewer further opined Hoak "poses a risk to people with whom he has close  
9 contact or an ongoing relationship. The patient poses an increasing risk to others due to his  
10 impulsivity, poor insight and judgment." Hoak has also been a significant disciplinary problem in  
11 jail, continuing to violate his no contact orders and threatening Department of Corrections'  
12 employees.

13 In the present case, Hoak threatened the victim numerous times, battered her, and would not  
14 refrain from contacting her in the face of no contact orders, even from jail. As Tom Wilson, the  
15 domestic battery evaluator opined in an earlier battery with the same victim:

16 There is evidence of a pervasive pattern of disregard for and violation of the rights of  
17 others occurring since age 15, . . . Hoak's profile reflects a high risk of re-offending.

18 Hoak has received the benefits of numerous mental health services and the programs available  
19 through retained jurisdiction. Judges previously had him evaluated several times, including for  
20 neurological disorders. His neurological evaluation was normal. Nothing has worked. He has  
21 wracked up a staggering number of victims. Some of the female victims describe similar scenes,  
22 including him threatening to kill them or their loved ones. Each pre-sentence investigator  
23 recommended incarceration in recent years. The time has come to act to protect the public. The  
24 Court considered probation but determined Hoak was a career criminal and he would continue to  
25 offend, creating more victims if he was not locked up for a lengthy time with lifetime supervision.

26 As one pre-sentence investigator wrote in 1996 with regard to one of his many victims:

The Defendant said he took a lot of classes before his release from prison in Arizona,  
and he feels he has changed a lot, is not the person he used to be, and alcohol was not  
important in his life. However, this Defendant is not, as he claims, simply a "41 year  
old baby who needs to grow up." He is a middle-aged man who never grew up and  
took responsibility for his problem, and the problems his alcoholism caused. He


1           rationalizes his actions, and minimizes the results. It appears the changes in his life  
2           have been the dates and locations of his offenses, and the names of his victims.

3 (Emphasis added.) This Court agrees with this pre-sentence investigator – all that continues to  
4 change is the place, date and name of his victims. It is sad that she wrote this in 1996 when Hoak  
5 had been convicted of Aggravated Assault as a Persistent Violator and had he been incarcerated for a  
6 lengthy time at that time, many more victims would not have been created. Enough is enough.  
7 Society deserves protection. The Court found that in order to deter future such crimes by Hoak, this  
8 sentence was necessary. There is a need to deter Hoak from such behavior and protect society from  
9 Hoak's choices.

10           The Court found that the magnitude of this crime outweighed Hoak's character and  
11 background. Therefore, the Court found that this sentence would promote rehabilitation; there is a  
12 need for some punishment that fits the crime before real rehabilitation will be effective. Finally, the  
13 Court finds that the crime itself simply deserves this punishment. It is a serious crime. The Court  
14 finds that this sentence fulfills the objectives of protecting society and achieves deterrence,  
15 rehabilitation and retribution and therefore denies Hoak's Motion for Reconsideration.

16           **IT IS SO ORDERED.**

17           DATED this 5<sup>th</sup> day of February 2008.

18  
19  
20  
21  
22  
23  
24  
25  
26  
  
Cheri C. Copsey  
District Judge

1 I, J. David Navarro, the undersigned authority, do hereby certify that on 6<sup>th</sup>, February  
2 2008, I mailed, by United States Mail, one copy of the: **MEMORANDUM DECISION ON**  
3 **DEFENDANT'S MOTION FOR REDUCTION OF SENTENCE PURSUANT TO I.C.R. 35** to  
4 each of the attorneys of record in this cause in envelopes addressed as follows:

5 ADA COUNTY PROSECUTING ATTORNEY  
6 INTER DEPT MAIL  
7 GABRIEL HAWS

8 ADA COUNTY PUBLIC DEFENDER  
9 INTER DEPT MAIL  
10 MIKE LOJEK

11 DEPARTMENT OF CORRECTIONS  
12 CENTRAL RECORDS  
13 1299 N ORCHARD SUITE 110  
14 BOISE, ID 83706

17 J. DAVID NAVARRO  
18 Clerk of the District Court  
19 Ada County, Idaho

20 Date: 2/6/08

By 

John Weatherby, Deputy Clerk

MOLLY J. HUSKEY  
State Appellate Public Defender  
State of Idaho  
I.S.B. # 4843

SARA B. THOMAS  
Chief, Appellate Unit  
I.S.B. # 5867  
3647 Lake Harbor Lane  
Boise, Idaho 83703  
(208) 334-2712

ORIGINAL

NO. \_\_\_\_\_  
FILED \_\_\_\_\_  
AM. \_\_\_\_\_ P.M. 4:00

FEB 28 2008

J. DAVID NAVARRO, Clerk  
By BRADLEY J. THIES  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

LARRY MATTHEW HOAK,

Defendant-Appellant.

CASE NO. H0700180

S.C. DOCKET NO. 34906

AMENDED  
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, GABRIEL HAWS, ADA COUNTY PROSECUTOR, 200 WEST FRONT STREET, BOISE, ID, 83702, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction entered in the above-entitled action on the 20<sup>th</sup> day of December, 2007, the Honorable Cheri C. Copsey, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, are:

- (a) Did the district court err in imposing an excessive sentence?
- (b) Did the district court err in denying the appellant's Idaho Criminal Rule 35 motion to reduce his sentence?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Presentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(a). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Hearing held on April 25, 2007;
- (b) Hearing held August 8, 2007;
- (c) Pre-trial Conference held September 13, 2007;
- (d) Motion Hearing held on October 31, 2007;
- (e) Hearing held November 7, 2007;
- (f) Jury Trial held September 17–21, 2007, to include the opening statements, closing arguments, jury instruction conferences and orally presented jury instructions; and
- (g) Sentencing Hearing held on December 17, 2007.

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to



be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):


- (a) Transcript Filed May 11, 2007;
- (b) Notice of Intent to Use I.R.E. 404(b) and I.C.R. 16 filed July 18, 2007;
- (d) Memorandum in Support lodged July 18, 2007;
- (e) Memorandum in Support of Admission of DV Expert Witness Testimony filed July 27, 2007;
- (f) Objection to State's Motion to Use 404(b) Expert Witness Testimony, Impeachment Evidence and to File Information Part II filed August 7, 2007;
- (g) Objection to State's 7th Addendum to Discovery filed September 12, 2007;
- (h) Objection to State's 6th Addendum to Discovery filed September 12, 2007;
- (i) Defendant's List of Potential Witnesses filed September 14, 2007;
- (j) All proposed and given jury instructions including, but not limited to the Jury Instructions filed September 21, 2007;
- (k) State's Objection to Defendant's Motion to JNOV (Judgment of Acquittal) filed November 1, 2007;
- (l) Objection to Defendant's Motion for Reconsideration of Sentence filed January 9, 2008; and

- (m) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing or the Rule 35 motion hearing.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the reporter;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 28<sup>th</sup> day of February, 2008.

  
MOLLY J. HUSKEY  
State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 28<sup>th</sup> day of February, 2008, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

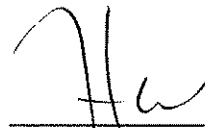
LARRY MATTHEW HOAK  
INMATE # 17439  
ISCI  
PO BOX 14  
BOISE ID 83707

MICHAEL W LOJEK  
ADA COUNTY PUBLIC DEFENDERS OFFICE  
200 WEST FRONT SUITE 1107  
BOISE ID 73702

KIM MADSEN  
COURT REPORTER  
ADA COUNTY DISTRICT COURT  
200 W FRONT STREET  
BOISE ID 83702

GABRIEL HAWS  
ADA COUNTY PROSECUTORS OFFICE  
200 WEST FRONT STREET  
BOISE ID 83702  
STATEHOUSE MAIL

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
PO BOX 83720  
BOISE ID 83720 0010  
Hand delivered to Attorney General's mailbox at Supreme Court



HEATHER R. CRAWFORD  
Administrative Assistant

MJH/TMF/hrc

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
  
LARRY MATTHEWS HOAK,  
  
Defendant-Appellant.

Supreme Court Case No. 34906

CERTIFICATE OF EXHIBITS

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Pre-Sentence Investigation Report.

I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Transcript Of Preliminary Hearing Held February 7, 2007, Boise, Idaho, filed May10, 2007.
2. Jury Instructions, filed September 21, 2007.
3. Jury Instructions, filed September 21, 2007.
4. Jury Instructions, filed September 21, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 10th day of April, 2008.

J. DAVID NAVARRO  
Clerk of the District Court

By BRADLEY J. THIES  
Deputy Clerk

CERTIFICATE OF EXHIBITS

00294

EXHIBIT LIST

Copsey / John  
 Judge Clerk

DATE 9/17/07 - 9/21/07 DISPOSITION Found Guilty

CASE NO. H0700180  
State of Idaho Gabriel Haws

Plaintiff Attorney(s)

vs. Larry Hoak Mike Lojek

Defendant Attorney(s)

BY	NO.	DESCRIPTION	STATUS
ST	1 A	photo	admitted
	1 B	photo	"
	1 C	photo	"
ST	2	letter	admitted
ST	3	letter	admitted
ST	4	letter	admitted
ST	5	letter	"
ST	6	letter	"
ST	7	letter	"
ST	8	letter	"
ST	9	letter	"
ST	17	cd	"
ST	16 SW	cd	"
ST	18	cd	"
ST	19	cd	"
ST	20	cd	"
ST	10	letter	"

00295

EXHIBIT LIST

Copsey  
Judge

John  
Clerk

Page 2 of 2 Pgs.

DATE 9/17 - 9/21

DISPOSITION Guilty Verdict

State of Idaho

CASE NO. H0700180

Gabriel Haws

Plaintiff

Attorney(s)

vs.

Larry Hook

Mike Lojek

Defendant

Attorney(s)

BY	NO.	DESCRIPTION	STATUS
ST	11	letter	admitted
ST	12	letter	h
ST	13	letter	h
ST	14	letter	h
ST	15 A	CD	h
	15 B	CD	h
ST	23	Judgment	admitted
ST	22	No Contact Order	admitted
ST	24	Control Record Report	h

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
LARRY MATTHEWS HOAK,  
  
Defendant-Appellant.

Supreme Court Case No. 34906

CERTIFICATE OF SERVICE

I, J. DAVID NAVARRO, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

LAWRENCE G. WASDEN

ATTORNEY FOR APPELLANT

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

BOISE, IDAHO

J. DAVID NAVARRO  
Clerk of the District Court

Date of Service: APR 11 2008

By BRADLEY J. THIES  
Deputy Clerk



CERTIFICATE OF SERVICE

00297

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
  
LARRY MATTHEWS HOAK,  
  
Defendant-Appellant.

Supreme Court Case No. 34906

CERTIFICATE TO RECORD

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, 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 and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsels.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 7th day of January, 2008.

J. DAVID NAVARRO  
Clerk of the District Court

By BRADLEY J. THIES  
Deputy Clerk



CERTIFICATE TO RECORD

00298