

3-23-2009

State v. Ortiz Order Dckt. 35278

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In the Supreme Court of the State of Idaho

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) ORDER GRANTING MOTION TO
) AUGMENT THE RECORD
 v.)
) Supreme Court Docket No. 35278-2008
 HUMBERTO PASQUINAL ORTIZ,) Twin Falls County District Court No.
) 07-977
 Defendant-Appellant.)

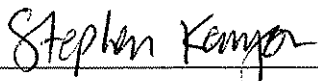
A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on March 18, 2009. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the documents listed below, file stamped copies of which accompanied this Motion:

1. Order Upon 180-Day Review Hearing, filed September 16, 2008.

DATED this 23rd day of March 2009.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record

AUGMENTATION RECORD

In the Supreme Court of the State of Idaho

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 HUBERTO PASQUINAL ORTIZ,)
)
 Defendant-Appellant.)

ORDER GRANTING MOTION TO
AUGMENT THE RECORD

Supreme Court Docket No. 35278-2008
Twin Falls County District Court No.
07-977


A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on July 9, 2009. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the documents listed below, copies of which accompanied this Motion:

1. State's Exhibit 3, admitted at trial; and
2. State's Exhibit 4, admitted at trial.

DATED this 20th day of July 2009.

For the Supreme Court

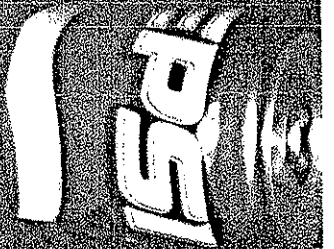


Stephen W. Kenyon, Clerk

cc: Counsel of Record



PENGAD - Bayonne, N.J.
STATES
EXHIBIT
ADMITTED
3



PENGAD - Bayonne, N. J.
STATE'S
EXHIBIT
AD778

In the Supreme Court of the State of Idaho

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	ORDER GRANTING MOTION TO
)	AUGMENT THE RECORD
v.)	
)	Supreme Court Docket No. 35278-2008
HUMBERTO PASQUINAL ORTIZ,)	Twin Falls County District Court No.
)	07-977
Defendant-Appellant.)	

A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on March 18, 2009. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the documents listed below, file stamped copies of which accompanied this Motion:

1. Order Upon 180-Day Review Hearing, filed September 16, 2008.

DATED this 23rd day of March 2009.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record

file

hmc

DISTRICT COURT
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP 15 2008

By _____ *11:00 AM*
Clerk
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

State of Idaho,
Plaintiff,

vs.

Hunverto Pasquinal Ortiz
SSN [REDACTED]
DOB [REDACTED]

Defendant.

Case No. CR-07-977



RECEIVED

OCT 03 2008

STATE APPELLATE
PUBLIC DEFENDER

ORDER UPON 180-DAY REVIEW HEARING, I.C. §19-2601(4),

I. INTRODUCTION.

1. The date of the disposition hearing following the completion of the 180-Day Retained Jurisdiction program was 09/15/08, (hereinafter called disposition date).
2. The State of Idaho was represented by counsel, Stan Holloway, of the Twin Falls County Prosecutor's office.
3. The defendant, Hunverto Pasquinal Ortiz, appeared personally. I.C. § 19-2503.
4. The defendant was represented by counsel, Tim Williams.
5. Randy J. Stoker, District Judge, presiding.

II. BRIEF PROCEDURAL BACKGROUND.

1. In Case No. CR-07-977 an Information was filed against the defendant on 05/18/07, charging Possession of a Controlled Substance, to-wit: Methamphetamine and Second Offense of Uniform Controlled Substance Act.

2. On 01/30/08, the defendant was found guilty by jury verdict of Possession of a Controlled Substance, to-wit: Methamphetamine
3. On 03/31/08, the defendant was committed to the custody of the Idaho State Board of Correction, Boise, Idaho for a unified sentence (I.C. § 19-2513) of **10 years**; which is comprised of a mandatory minimum period of commitment of **2 years**, followed by an indeterminate period of custody of **8 years**, with the precise time of the indeterminate portion to be set by said Board according to law, with the total sentence not to exceed 10 years (the original sentence).

However, pursuant to I.C. § 19-2601(4), the Court suspended the execution of the judgment during the first one hundred and eighty (180) days of the sentence to the custody of the Idaho State Board of Correction, during which time the Court **retained jurisdiction** over the defendant.

4. Thereafter, the Court received and lodged an Addendum to the Presentence Investigation, dated 08/01/08 (hereinafter called "PSI Addendum"), from the Department of Corrections, North Idaho Correctional Institution NICI, a copy of which is in the Court file and is by this reference incorporated herein.
5. The PSI Addendum recommends the sentencing court impose probation at this time.

III. ORDER GRANTING PROBATION.

The Court, having considered the PSI Addendum recommendations from the Board of Corrections, and having heard recommendations of counsel, and having reviewed the files and records in the above entitled matter, and being fully advised in the premises, now enters the following order:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the sentence ordered on 03/31/08, in the above entitled matter is suspended and the defendant is placed on probation for a period of **3 years** beginning on 09/15/08 to and under the control of the Idaho State Board of Correction, (I.C. § 19-2601(5), I.C. § 20-219, and I.C.R. 33(d)), subject to the following terms:

- A. Court Costs, Fines, and Restitution: The defendant shall pay any of the remaining balance of court costs, fines, and restitution from the original sentence, including \$1500 for the services of the Public Defenders office. However, the fine imposed in the original case is suspended.
- B. Credit for time served: The defendant is given credit for time previously served locally and with the Idaho Department of Corrections in connection with this case. I.C. § 18-309.
- C. Supervision Level: Pursuant to I.C. § 20-219, I.D.O.C. is charged with the duty of supervising all persons convicted of a felony and placed on probation. As such, the level of supervision is left to the discretion of I.D.O.C.

- D. **General and Specific Conditions:** Abide by the Court Ordered General Conditions of Probation previously signed and attached hereto as Exhibit 1 and the Court Ordered Specific Conditions of Probation previously signed and attached hereto as Exhibit 2, which exhibits are by this reference incorporated herein.

- E. **Special Terms and Conditions:** In addition, the Court orders the following special conditions.
 - a. **Time allowed for payment of court costs, fines and restitution:** The defendant must pay all court costs, fines and restitution. To that end, and beginning on the date of 11/01/08, and continuing on the 1st day of each calendar month thereafter, the defendant shall make monthly payments to the clerk of the court in the sum of at least \$100, until all court costs, fines and restitution are paid in full. _____

 - b. **Alcohol/ Substance Abuse Treatment:** The defendant shall complete the Celebrate Recovery Program. _____

 - c. **Community service drug case:** The defendant shall perform 100 hours of community service within 6 months, at the direction of the defendant's probation officer. I.C. § 37-2738. _____

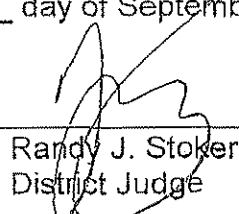
IV. **RIGHT TO APPEAL/LEAVE TO APPEAL IN FORMA PAUPERIS.**

The Right: The Court advised the defendant, of the right to appeal this judgment within forty two (42) days of the date it is file stamped by the clerk of the court. I.C.R. 33(a)(3). I.A.R. 14 (a).

In forma Pauperis: The Court further advised the defendant of the right of a person who is unable to pay the costs of an appeal to apply for leave to appeal in forma pauperis, meaning the right as an indigent to proceed without liability for court costs and fees and the right to be represented by a court appointed attorney at no cost to the defendant. I.C.R. 33(a)(3), I.C. § 19-852(a)(1) and (b)(2).

IT IS SO ORDERED.

Dated this 16 day of September 2008.



 Randy J. Stoker
 District Judge

ACCEPTANCE OF PROBATION

State of Idaho,)
) ss.
County of Twin Falls)

I, Hunverto Pasquinal Ortiz, being first duly sworn on oath, deposes and states that I reviewed Exhibit 1, General Conditions of Probation, and Exhibit 2, Specific Conditions of Probation. That I have received a copy of this **ORDER UPON 180-DAY REVIEW HEARING, I.C. §19-2601(4)**, that I understand the terms of that probation, and I agree to abide by the conditions outlined in this order. I further certify that I have read and understand each term of probation.

Hunverto Pasquinal Ortiz

Witnessing Probation Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 16 day of September 2008, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

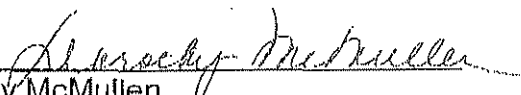
Stan Holloway	() U.S. Mail
Twin Falls County Prosecuting Attorney	() Hand delivered
P.O. Box 126	() Faxed
Twin Falls, ID 83303	(<input checked="" type="checkbox"/>) Court Folder

Tim Williams	() U.S. Mail
Williams Law Office	() Hand delivered
P.O. Box 282	() Faxed
Twin Falls, ID 83303-0282	(<input checked="" type="checkbox"/>) Court Folder

Idaho Department of Corrections	(<input checked="" type="checkbox"/>) U.S. Mail
Central Records	() Hand delivered
1299 N. Orchard Ste 110	() Faxed
Boise, Idaho 83706	

Twin Falls County Jail	(<input checked="" type="checkbox"/>) Court Folder
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Idaho Department of Probation	(<input checked="" type="checkbox"/>) Court Folder
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 Dorothy McMullen
 Deputy Clerk