

2-7-2011

State v. Moore Clerk's Record Dckt. 38285

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IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO,
PLAINTIFF-RESPONDENT,

vs.

ALBERT RAY MOORE,
DEFENDANT-APPELLANT.

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

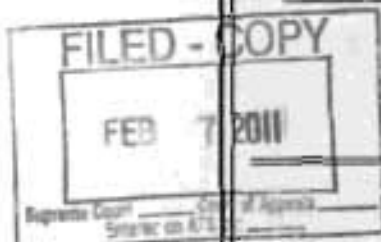
Hon MICHAEL MCLAUGHLIN, District Judge

MOLLY HUSKEY
State Appellate Public Defender

Attorney for Appellant

LAWRENCE G. WASDEN
Attorney General

Attorney for Respondent



LIMITED
COPY

38285

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

ALBERT RAY MOORE,

Defendant-Appellant.

Supreme Court Case No. 38285

LIMITED CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE MICHAEL MCLAUGHLIN

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

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ROA Report

Case: CR-FE-2008-0000373 Current Judge: Michael McLaughlin

Defendant: Moore, Albert Ray

State of Idaho vs. Albert Ray Moore

Date	Code	User	Judge
3/20/2008	NEWC	ME	Case Created - Bind Over M0611756
	COMM	ME	Charge number 1: Commitment and Papers
		ME	Charge number 1: Defendant Transferred In - M0611756 D.01
		ME	Charge number 1: Count Bound From - M0611756 D.01 C.001
		ME	Charge number 1: Bond Transferred From - M0611756 D.01 C.001
		ME	Charge number 2: Count Bound From - M0611756 D.01 C.002
		ME	Finger Print Card# Added
	HRSC	ME	Event Scheduled - 0900 - 03/26/2008
	BVEX		Charge number 1: Exoneration of Bond - LG5-452925 - 03/20/2008
3/24/2008	INFO	SM	Information and Papers Filed
3/26/2008	ARRN	KB	Arraignment
	CONT	KB	Continued For Plea
4/4/2008	PROS	PRSMITTJ	Prosecutor assigned Jan Bennetts
4/9/2008	DCAR	CCBROWKM	Hearing result for Arraignment held on 04/09/2008 09:00 AM: District Court Arraignment- Court Reporter: Hohenleitner Number of Pages: less than 50
	HRSC	CCBROWKM	Hearing Scheduled (Pretrial Conference 06/25/2008 10:00 AM)
	HRSC	CCBROWKM	Hearing Scheduled (Jury Trial 07/14/2008 09:00 AM)
	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 05/14/2008 11:00 AM)
4/11/2008	SCHE	CCBROWKM	Scheduling Order
5/14/2008	HRVC	CCBROWKM	Hearing result for Hearing Scheduled held on 05/14/2008 11:00 AM: Hearing Vacated
5/16/2008	MISC	TCBUCKAD	Brief in Support of Defend's Motion to Dismiss
5/23/2008	NOTC	TCURQUAM	Notice of Intent to Use IRE 404(b) & ICR 16
6/2/2008	MISC	TCBUCKAD	State's Response to Defend's Motion to Dismiss
6/10/2008	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 06/12/2008 10:00 AM)
6/11/2008	RSDS	TCURQUAM	State/City Response to Discovery/Addendum
6/12/2008	DCHH	CCBROWKM	Hearing result for Hearing Scheduled held on 06/12/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
	CONT	CCBROWKM	Continued (Pretrial Conference 07/09/2008 10:00 AM)

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ROA Report

Case: CR-FE-2008-0000373 Current Judge: Michael McLaughlin

Defendant: Moore, Albert Ray

State of Idaho vs. Albert Ray Moore

Date	Code	User	Judge
6/30/2008	MISC	TCBUCKAD	State's Supplemental Memo in Response to Defend's Motion to Dismiss
7/9/2008	DCHH	CCBROWKM	Hearing result for Pretrial Conference held on 07/09/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
	HRVC	CCBROWKM	Hearing result for Jury Trial held on 07/14/2008 09:00 AM: Hearing Vacated
	HRSC	CCBROWKM	Hearing Scheduled (Jury Trial 08/25/2008 09:00 AM)
	HRSC	CCBROWKM	Hearing Scheduled (Pretrial Conference 08/13/2008 10:00 AM)
	MISC	TCURQUAM	Defend Supplemental Memo in Support of Motion to Dismiss
7/10/2008	SCHE	CCBROWKM	Scheduling Order
7/11/2008	ORDR	DCJOHNSI	Memorandum Decision and Order Denying Motion to Dismiss
7/18/2008	MOTN	TCURQUAM	Motion for Permission to Appeal from Interlocutory order
7/22/2008	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 08/06/2008 11:00 AM)
8/1/2008	MISC	TCURQUAM	Objection to Motion for Permission to Appeal from Interlocutory Order
8/6/2008	DCHH	CCBROWKM	Hearing result for Hearing Scheduled held on 08/06/2008 11:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
8/13/2008	DCHH	CCBROWKM	Hearing result for Pretrial Conference held on 08/13/2008 10:00 AM: District Court Hearing Held Court Reporter: Jayleen Tillman Number of Transcript Pages for this hearing estimated: less than 50
	HRVC	CCBROWKM	Hearing result for Jury Trial held on 08/25/2008 09:00 AM: Hearing Vacated
	HRSC	CCBROWKM	Hearing Scheduled (Jury Trial 08/25/2008 08:30 AM)
	MISC	CCBROWKM	State's List of Potential Trial Witnesses
	ORDR	DCABBOSM	Order Denying Defendant's Motion for permissive Appeal
8/18/2008	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 08/20/2008 10:00 AM)
	MOTN	TCURQUAM	Motion for Mental Eval
8/19/2008	AFFD	TCBUCKAD	Affidavit in Support of Motion for 18-211 Eval

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ROA Report

Case: CR-FE-2008-0000373 Current Judge: Michael McLaughlin

Defendant: Moore, Albert Ray

State of Idaho vs. Albert Ray Moore

Date	Code	User	Judge
8/20/2008	DCHH	CCBROWKM	Hearing result for Hearing Scheduled held on 08/20/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
	HRVC	CCBROWKM	Hearing result for Jury Trial held on 08/25/2008 08:30 AM: Hearing Vacated
	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 09/10/2008 11:00 AM)
8/21/2008	ORDR	CCBROWKM	Order for 18-211 Mental Evaluation Access & Funds
	INTP	CCBROWKM	Order to Pay from the Interlock Device Fund
8/25/2008	CONT	CCBROWKM	Continued (Hearing Scheduled 09/26/2008 09:00 AM)
9/25/2008	ORDR	CCBROWKM	Order to Transport
9/26/2008	DCHH	CCBROWKM	Hearing result for Hearing Scheduled held on 09/26/2008 09:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
	HRSC	CCBROWKM	Hearing Scheduled (Jury Trial 12/08/2008 09:00 PM)
	HRSC	CCBROWKM	Hearing Scheduled (Pretrial Conference 11/19/2008 10:00 AM)
	SCHE	CCBROWKM	Scheduling Order - Amended
9/29/2008	ORDR	CCBROWKM	Order TO TRANSPORT
10/7/2008	RSDS	TCURQUAM	State/City Response to Discovery/Addendum
10/14/2008		TCHAWKKL	Miscellaneous Payment: Copy Money Paid by: Moore, Albert Ray Receipt number: 2205356 Dated: 10/14/2008 Amount: \$3.00 (Money order)
	RSDS	TCURQUAM	State/City Response to Discovery/3rd Addendum
10/21/2008	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 10/22/2008 10:00 AM)
	ORDR	CCBROWKM	Order to Transport
10/22/2008	DCHH	CCBROWKM	Hearing result for Hearing Scheduled held on 10/22/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
11/10/2008	RSDD	TCURQUAM	Defendant's Response to Discovery
11/19/2008	DCHH	CCBROWKM	Hearing result for Pretrial Conference held on 11/19/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50
11/20/2008	CONT	CCBROWKM	Continued (Jury Trial 12/08/2008 08:30 AM)

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State of Idaho vs. Albert Ray Moore

Date	Code	User		Judge
11/20/2008	HRSC	CCBROWKM	Hearing Scheduled (Pretrial Conference 12/01/2008 03:00 PM)	Michael McLaughlin
	ORDR	CCBROWKM	Order TO TRANSPORT 12/1/08	Michael McLaughlin
11/24/2008	CONT	CCBROWKM	Continued (Pretrial Conference 12/01/2008 02:00 PM)	Michael McLaughlin
12/1/2008	HRVC	CCBROWKM	Hearing result for Jury Trial held on 12/08/2008 08:30 AM: Hearing Vacated	Michael McLaughlin
	DCHH	CCBROWKM	Hearing result for Pretrial Conference held on 12/01/2008 02:00 PM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
	HRSC	CCBROWKM	Hearing Scheduled (Sentencing 01/14/2009 02:00 PM)	Michael McLaughlin
	PLEA	CCBROWKM	A Plea is entered for charge: - GT (I18-8004(1)(A) {F} Driving Under The Influence)	Michael McLaughlin
	GPFM	CCBROWKM	Guilty plea form	Michael McLaughlin
	ORDR	CCBROWKM	Order to Transport 12/31/08	Michael McLaughlin
	CONT	CCBROWKM	Continued (Sentencing 12/31/2008 10:00 AM)	Michael McLaughlin
12/31/2008	DCHH	CCBROWKM	Hearing result for Sentencing held on 12/31/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
	FIGT	CCBROWKM	Finding of Guilty (I18-8004(1)(A) {F} Driving Under The Influence)	Michael McLaughlin
	JAIL	CCBROWKM	Sentenced to Jail or Detention (I18-8004(1)(A) {F} Driving Under The Influence) Confinement terms: Credited time: 848 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 5 years.	Michael McLaughlin
	DSBC	CCBROWKM	Dismissed by the Court (I18-8001 Driving Without Privileges)	Michael McLaughlin
	STAT	CCBROWKM	STATUS CHANGED: closed pending clerk action	Michael McLaughlin
	AMJD	TCHOCA	Amended Judgment Sentence modified on 10/7/2010. (I18-8004(1)(A) {F} Driving Under The Influence)	Michael McLaughlin
	JAIL	TCHOCA	Sentenced to Jail or Detention (I18-8004(1)(A) {F} Driving Under The Influence) Confinement terms: Credited time: 477 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 5 years.	Michael McLaughlin
1/5/2009	JDMT	DCABBOSM	Judgment of Conviction	Michael McLaughlin
1/7/2009	APSC	TCKELLHL	Appealed To The Supreme Court	Michael McLaughlin
1/8/2009	ORDR	CCBROWKM	Order Appointing SAPD on Appeal	Michael McLaughlin
2/20/2009	NOTA	CCTHIEBJ	Amended Notice of Appeal	Michael McLaughlin

ROA Report

Case: CR-FE-2008-0000373 Current Judge: Michael McLaughlin

Defendant: Moore, Albert Ray

State of Idaho vs. Albert Ray Moore

Date	Code	User	Judge
4/24/2009	STAT	TCNELSRA	STATUS CHANGED (batch process)
4/16/2010	MISC	CCTHIEBJ	Opinion - Supreme Court Docket No. 36033 Michael McLaughlin
5/6/2010	MDIS	TCPETEJS	Motion To Dismiss Michael McLaughlin
	MOTN	TCPETEJS	Motion for Release From Custody Michael McLaughlin
5/11/2010	HRSC	TCHOCA	Hearing Scheduled (Status 05/19/2010 01:00 PM) Michael McLaughlin
	STAT	TCHOCA	STATUS CHANGED: Closed pending clerk action Michael McLaughlin
5/13/2010	NOTC	DCJOHNSI	Notice of Status Conf Michael McLaughlin
5/17/2010	MOTN	TCRAMISA	Motion for Dismissal Arguments Michael McLaughlin
5/19/2010	DCHH	TCHOCA	Hearing result for Status held on 05/19/2010 01:00 PM: District Court Hearing Held Court Reporter: Jeanne Hirmer Number of Transcript Pages for this hearing estimated: 50 Michael McLaughlin
	HRSC	TCHOCA	Hearing Scheduled (Status 06/09/2010 11:00 AM) Michael McLaughlin
	STAT	TCHOCA	STATUS CHANGED: Closed pending clerk action Michael McLaughlin
5/20/2010	STAT	CCTOMPPMA	STATUS CHANGED (batch process)
5/26/2010	MOTN	TCPETEJS	Motion of Recusal Michael McLaughlin
5/28/2010	MINE	TCHOCA	Letters copied to AC/PD Michael McLaughlin
6/8/2010	ORDR	TCHOCA	Order for Transport for 6/09/10 Michael McLaughlin
	NOAP	TCRAMISA	Notice Of Appearance/Davis Michael McLaughlin
6/9/2010	DCHH	TCHOCA	Hearing result for Status held on 06/09/2010 11:00 AM: District Court Hearing Held Court Reporter: Kasey Redlich Number of Transcript Pages for this hearing estimated: 50 Michael McLaughlin
	ORDR	TCHOCA	Amended Judgment as of Today/Impose original Sentence 1yr+4yr = 5yrs Michael McLaughlin
6/11/2010	JDMT	DCABBOSM	Amended Judgment of Conviction Michael McLaughlin
6/11/2010	STAT	CCTOMPPMA	STATUS CHANGED (batch process)
6/25/2010	REMT	CCTHIEBJ	Remittitur-Remanded Supreme Court Docket No. 36033 Michael McLaughlin
8/11/2010	MOTN	TCBELLHL	Motion for Documents or Petition Michael McLaughlin
8/25/2010	PROS	PRHEBELE	Prosecutor assigned R. Scott Bandy Michael McLaughlin
9/10/2010	MISC	TCRAMISA	State's Motion to Correct Judgment of Conviction and to Clarify Credit for Time Served Michael McLaughlin
9/20/2010	HRSC	TCHOCA	Hearing Scheduled (Motion 10/07/2010 01:00 PM) To Correct Judgment Michael McLaughlin
	STAT	TCHOCA	STATUS CHANGED: Closed pending clerk action Michael McLaughlin

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Date: 12/28/2010

Fourth Judicial District Court - Ada County

User: CCTHIEBJ

Time: 02:56 PM

ROA Report

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Case: CR-FE-2008-0000373 Current Judge: Michael McLaughlin

Defendant: Moore, Albert Ray

State of Idaho vs. Albert Ray Moore

Date	Code	User		Judge
9/21/2010	ORDR	TCHOCA	Order Transport for 10/07/10	Michael McLaughlin
10/7/2010	DCHH	TCHOCA	Hearing result for Motion held on 10/07/2010 01:00 PM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: To Correct Judgment/50	Michael McLaughlin
	MOTN	TCHOCA	Motion Granted	Michael McLaughlin
10/14/2010	JDMT	DCABBOSM	Second Amended Judgment of Conviction	Michael McLaughlin
10/14/2010	STAT	CCTOMPMMA	STATUS CHANGED (batch process)	
11/8/2010	MOTN	TCBELLHL	Motion for Correction or Reduction of Sentence, ICR 35	Michael McLaughlin
	MOTN	TCBELLHL	Motion for Hearing	Michael McLaughlin
	MOTN	TCBELLHL	Motion and Affidavit for Permission to Proceed on Partial Payment of Court Fees (Prisoner)	Michael McLaughlin
11/15/2010	DEOP	DCABBOSM	Memorandum Decision Re: Rule 35	Michael McLaughlin
11/17/2010	MOTN	TCBROXLV	Motion and Affidavit to Appoint State Appellate PD	Michael McLaughlin
	APSC	TCBROXLV	Appealed To The Supreme Court	Michael McLaughlin
11/19/2010	APSC	TCBROXLV	Appealed To The Supreme Court	Michael McLaughlin
	MOAF	CCLUNDMJ	Motion & Affidavit For Permission To Proceed On Partial Payment Of Court Fees	Michael McLaughlin
	MOAF	CCTHIEBJ	Motion & Affidavit In Support For Appointment Of Counsel	Michael McLaughlin
	ORDR	CCTHIEBJ	Order Appointing State Appellate Public Defender On Direct Appeal	Michael McLaughlin

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Albert R. Moore des. pro. Se
SICI M.C. 4-8
Box 8509

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

MAY 06 2010

Boise Id. 83707

J. DAVID NAVARRO, Clerk
By JANAE PETERSON
DEPUTY

In The Dist. Ct. of The 4th Judicial Dist.
of The State of Id. in and For County of Ada
State of Id.) Case# Ho 800 373
Plaintiff - Respondent) Mo 611 756
vs.) Dkt. 35486

Albert R. Moore) Motion For Dismissal with
defendant prose.) extreme prejudice

Comes now Albert R. Moore defendant. Asking
for relief on the following grounds.

1. Plea Agreement in Transcript pg. 77, 78, & 79
2. Plea was Made & Accepted under N.D. Law
Physical control not being a D.V.I. as per
Appellate Findings. Opinion #25
3. prosecutorial vindictiveness. postponing Ct. date
because of Jury Trial waiver. No need The Ct. Room was
Assigned & The Judge was assigned. Also using another
Judgement from another State which was duplicative.
reference ps. 24, 25, 26, yr gone by ps. 28 Sat on officers
Schedule. The only plea was 2/5rd plea. Ineffect, ve
Council, No contact Charles Davis. Could confirm I
was in Ct. Jan. 25 2008. refused to get 25advised.
Appellate brief pg. 10 The Timing of Moore's Assertion
Declaration of Independence. Second para.

We hold those truths to be self-evident that
all men are created equal, that they are endowed
by their Creator with certain unalienable
rights. That among those are, life, liberty, and

00010

cc: AC/Pd
5/8/10
JP

The pursuit of happiness.

1 TO STATE ONE MUST ASSERT THEIR RIGHTS IS IN VIOLATION Declaration of Independence.

2 Article 6 Section 2 U.S. CONSTITUTION

3 AMENDMENT 4 - 5 - 6 - 8 - 9 - 13 - 14

STATE DECLARATION OF RIGHTS. SECTION 1, 6, 8, 13, 17, 18,

I have read The STATE + U.S. CONSTITUTION + IN NEITHER DO I FIND THAT ONE MUST ASSERT THEIR RIGHTS ON THE CONTRARY THEY STATE THEY ARE ENDOWED

4 REFER CHAPTER 35

All these things I swear to be correct
Albert Moore

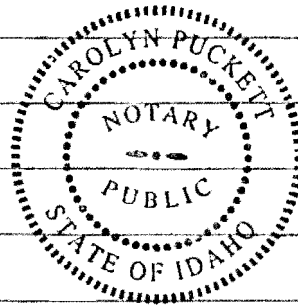
SUBSCRIBED AND SWORN (or affirmed)

before me this 4th day of May 2010



Notary Public for Idaho

My Commission Expires 2-27-15



(109)

00011

Compiler's notes. A former section, which comprised Cr. Prac. 1864, § 664; R.S., R.C., & C.L., § 8207; C.S., § 9174; I.C.A., § 19-3302 was repealed by S.L. 1971, ch. 143, § 5, effective January 1, 1972, and the present section was added by S.L. 1972, ch. 336, § 10 effective April 1, 1972, in the same words as the section prior to its repeal.

Section 9 of S. L. 1972, ch. 336 is compiled as § 19-2601.

Section 11 of S. L. 1972, ch. 336 read: "Any laws of Idaho, other than this Code; that is Title 18 and the amended additional Sections to Title 19, remaining in force after the effective date of this act, which refer to certain provisions of law repealed under this act, shall be deemed to refer to those provisions of this act which are in substance the same or substantially the same as such repealed provisions."

Section 12 of S. L. 1972, ch. 336 read: "This act shall not impair or affect any act done, offense committed or right accruing, accrued,

or acquired or liability, penalty, forfeiture or punishment incurred prior to time this act takes effect, but the same may be enjoyed, asserted and enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed."

Section 13 of S. L. 1972, ch. 336 read: "If any chapter, section, subsection, subdivision, paragraph, sentence, part or provision of this act shall be found to be invalid or ineffective by any court, it shall be conclusively presumed that this act would have been passed by the legislature without such invalid chapter, section, subsection, subdivision, paragraph, sentence, part or provision, and this act as a whole shall not be declared invalid by reason of the fact that one or more chapters, sections, subsections, subdivisions, paragraphs, sentences, parts or provisions may be so found invalid."

Section 14 of S. L. 1972, ch. 336 declared an emergency and provided that the act should take effect on and after April 1, 1972.

CHAPTER 35

DISMISSAL OF ACTION

SECTION.

- 19-3501. When action may be dismissed.
- 19-3502. Continuance for cause.
- 19-3503. Defendant to be discharged.
- 19-3504. Dismissal on motion of court or prosecuting attorney.

SECTION.

- 19-3505. Nolle prosequi abolished.
- 19-3506. Effect of dismissal as bar.

19-3501. When action may be dismissed. — The court, unless good cause to the contrary is shown, must order the prosecution or indictment to be dismissed, in the following cases:

(1) When a person has been held to answer for a public offense, if an indictment or information is not found against him and filed with the court within six (6) months from the date of his arrest.

(2) If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the information is filed with the court.

(3) If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant was arraigned before the court in which the indictment is found.

(4) If a defendant, charged with a misdemeanor offense, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant enters a plea of not guilty with the court.

(5) If a defendant, charged with both a felony or multiple felonies and a misdemeanor or multiple misdemeanors together in the same action or charging document, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the information is filed with the court.

(6) If a defendant, charged with both a felony or multiple felonies and a misdemeanor or multiple misdemeanors together in the same action or charging document, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant was arraigned before the court in which the indictment is found. [Cr. Prac. 1864, §§ 580, 581; R.S., R.C., & C.L., § 8212; C.S., § 9176; I.C.A., § 19-3401; am. 1980, ch. 102, § 1, p. 226; am. 1984, ch. 51, § 1, p. 91; am. 2001, ch. 23, § 1, p. 28; am. 2004, ch. 305, § 1, p. 854.]

Compiler's notes. This section was made a rule of procedure and practice for the courts of Idaho by order of the Supreme Court promulgated March 19, 1951 which order was rescinded by order of the Supreme Court promulgated October 24, 1974, effective January 1, 1975.

Section 2 of S.L. 1984, ch. 51 provided that the act should take effect July 1, 1984 and should apply only to those misdemeanor complaints filed on and after July 1, 1984.

Cross ref. Dismissal by the court, I.C.R. 48.

Pleadings and motions before trial, I.C.R. 12.

Cited in: *In re Moragne*, 6 Idaho 82, 53 P.3 (1898); *State v. Poynter*, 34 Idaho 504, 205 P. 561, 208 P. 871 (1921); *State v. Kleier*, 69 Idaho 278, 206 P.2d 513 (1949); *In re Carpenter*, 88 Idaho 567, 401 P.2d 800 (1965); *Clark v. State*, 92 Idaho 827, 452 P.2d 54 (1969); *State v. Lindsay*, 96 Idaho 474, 531 P.2d 236 (1975); *State ex rel. Kohler v. Rasmussen*, 98 Idaho 829, 573 P.2d 148 (1977); *State v. Stuart*, 110 Idaho 163, 715 P.2d 833 (1985); *State v. Knauff*, 115 Idaho 74, 764 P.2d 441 (Ct. App. 1988); *State v. McNew*, 131 Idaho 268, 954 P.2d 686 (Ct. App. 1998); *McKeeth v. State*, — Idaho —, 84 P.3d 575 (Ct. App. 2004).

ANALYSIS

Application.

—Time after indictment or information.

Burden on state.

Constitutionality.

Constitutional rights.

Continuance to next term.

Defendant awaiting retrial.

Demand, necessity.

Discharge of defendant.

Discretion of court.

Dismissal and refiling of charge.

Disposal of case.

Good cause.

Information.

Loss of papers.

Misdemeanors.

New trial.

Prejudicial effect of delay.

Reasonable delays.

Speedy trial.

Waiver of right.

Application.

—Time After Indictment or Information.

This section addresses only the length of time elapsing after an indictment or information is filed; it does not refer to any period following a remittitur from an appeal after a trial once has been held. *State v. Scroggie*, 114 Idaho 188, 755 P.2d 485 (Ct. App. 1988).

Burden on State.

When a criminal defendant makes a prima facie showing that his right to a speedy trial is violated under this section, the burden is on the state to show "good cause" for the delay, just as the primary responsibility for bringing a case to trial is upon the state. *State v. Hobson*, 99 Idaho 200, 579 P.2d 697 (1978).

Constitutionality.

The right to a speedy trial has been enhanced, not diminished, by subdivision (3) of this section; therefore, this subdivision is constitutionally sound without retroactive application to cases pending on its effective date. *State v. Brooks*, 109 Idaho 726, 710 P.2d 636 (Ct. App. 1985).

Constitutional Rights.

Defendant's constitutional right to a speedy trial is a trial as soon as reasonably possible. *Ex parte Raah*, 64 Idaho 521, 134 P.2d 420 (1943).

The term "speedy trial" means that one accused of crime should be tried not later than the next term of court subsequent to being held to answer, unless the trial is delayed on defendant's application, or postponed with his consent or other lawful valid reason. *Ellenwood v. Cramer*, 75 Idaho 338, 272 P.2d 702 (1954).

Under constitutional provisions providing for a speedy trial, "speedy trial," being of indeterminate meaning, is subject to construction by the legislature which must be read in connection with the constitutional provision and be given effect as a legislative definition of what constitutes a "speedy trial." *Schrom v. Cramer*, 76 Idaho 1, 275 P.2d 979 (1954).

Any delay caused by the defendant's resistance to extradition is tolled for the purposes of a speedy trial. *Balla v. State*, 97 Idaho 378, 544 P.2d 1148 (1976).

Unlike the tee, which me of filing the constitutional when either defendant is *State v. Hern* 742 (Ct. App.

Continuance

When arrai to allow accu days to prepa to continuing where accus State v. Athe (1922).

Accused, th on habeas cor trial at the t information, standing the and jurors ow *Rash*, 64 Idab

Where defe pone a preli was sworn up rights of the d the jury had attorney pres which was t ground that t trial in the t ment, there minds of the State v. Shav (1949).

Where defe ing spring ter until Novemb of case was co on request of the right to *Cramer*, 75 Id

Where defi charge of gra lowing his a against him dant moved f at the opening that he had l trial judge p the state had which the mo the defendan Idaho 1, 275.

In statute j cution or ind indicted at th is held to ans at the next te ment is triab cludes the te means the r

Albert R. Moore Des. pro. Sec.
SICI M.D. 4-8
Box 8589

NO. _____ FILED _____
A.M. _____ P.M. _____

MAY 06 2010

Boise Id. 83707

J. DAVID NAVARRO, Clerk
By JANA E PETERSON
DEPUTY

In the Dist. Ct. of The 4th Judicial Dist.
of The State of Id. In and For The County of Ada
State of Idaho) criminal # Ho 800 373
Plaintiff Respondent,)
Mo 611 756

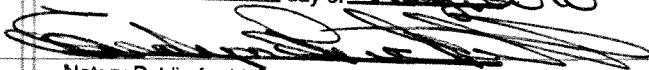
vs.) DRT. 35486

- Albert R. Moore) Motion. Release From custody
- 1- Comes now Albert R. Moore moving to be removed from Illegal custody. Have been held 1350 days for a misdemeanor.
 - 2- Moving for appt. of effective counsel.
 - 3- Moving for recognition of right of passage with property, Motorized or none motorized passage is guaranteed By Constitution United States Constitution.

Albert Moore

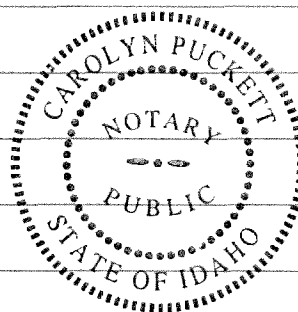
SUBSCRIBED AND SWORN (or affirmed)

before me this 4th day of May 2010



Notary Public for Idaho

My Commission Expires 6-17-15



cc: AC/rd
5/20/10

00014

Albert R. Moore def. pro. se.

SAC ID. 4-8

Box 8509

FILED
A.M. 9 P.M.

MAY 17 2010

Boise, Id. 83707

J. DAVID NAVARRO, Clerk

State of Id.

Case # H080037, No. 67175, Dkt. 35486

Plaintiff - Respondent Motion For dismissal Judgment
vs.

Albert R. Moore

def. pro. se.

U.S. V. Transfiguration, 442 F.3d 1222, 1229-30 (9th Cir. 2006)

(Although plea agreements are generally analyzed under contract law, contract law principle of mutual mistake can not be asserted to invalidate agreement because, unlike commercial exchanges, plea bargains implicate liberty);

U.S. V. Pielzgo, 135 F.3d 703, 709 (11th Cir. 1998) (Although plea agreements are generally analyzed under contract law, written agreements should not be read to contradict parties' oral understandings.)

U.S. V. Williams, 444 F.3d 1286, 1305 (11th Cir. 2006) (When ambiguity resolved in def.'s favor, written plea agreements omission of orally agreed-to terms did not preclude def. from benefiting from those terms.)

U.S. V. King, 257 F.3d 1013 (9th Cir. 2001) Any errors in a guilty plea hearing are reversible unless shown to be harmless.

U.S. V. Atkins, 243 F.3d 1199 (9th Cir. 2001) Because a guilty plea serves as a conv. and relieves the state of its burden of proof in a criminal case, ensuring the validity of the plea is of vital importance.

W. A. P. 5/24/10

00015

U.S. V. Quetz, 302 F3d 1096 (9th Cir. 2002) The Court of Appeals construes ambiguities in a plea agreement in favor of the defendant.

Trossell v. Bowersox, 477 F3d 588 (8th Cir. 2006) A breach of a plea agreement violates defendant's due process rights. "I'm dealing with this as a misdemeanor and this was raised and it's any time subsequent to Feb. 5th of 2007, the misdemeanor charge would be dismissed and there could be no further prosecution." Honorable Michael R. McLaughlin CRFE-08-373 (331 Transcript 6-12-2008)

It is now a misdemeanor

Immediate Release should be ordered in all fairness for all concerned -

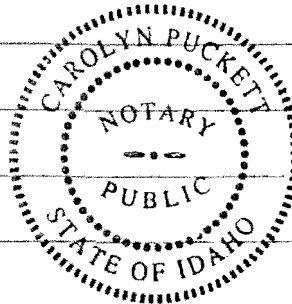
allent R. more

SUBSCRIBED AND SWORN (or affirmed)

before me this 13 day of May 2010

Notary Public for Idaho

My Commission Expires 6-1-15



00016

Session: McLaughlin051910
Session Date: 2010/05/19
Judge: McLaughlin, Michael R.
Reporter: Hirmer, Jeanne

Division: DC
Session Time: 08:19

Courtroom: CR507

Clerk(s):
Ho, Cindy

State Attorney(s):
Atwood, Chris
Bandy, R. Scott
Bennetts, Jan
BOURNE, JAN BENNETTS/ROGER
Haws, Joshua
Sheehan, Karen

Public Defender(s):
Bailey, Ransom
Odessey, Edward
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0034

Case number: FE-08-00373
Plaintiff:
Plaintiff Attorney:
Defendant: Moore, Albert
Co-Defendant(s):
Pers. Attorney:
State Attorney: Bennetts, Jan
Public Defender: Odessey, Edward

2010/05/19

13:44:37 - Operator
Recording:
13:44:37 - New case
Moore, Albert
13:45:10 - Defendant: Moore, Albert
Present In-Custody with Atty for Status Hearing
13:46:20 - State Attorney: Bennetts, Jan
Argue
13:47:55 - Public Defender: Odessey, Edward

00017

Response

13:49:08 - Judge: McLaughlin, Michael R.

Reset for 6/09/10 @ 11am

13:49:45 - Judge: McLaughlin, Michael R.

Deny Defense Request for Release

13:49:57 - Judge: McLaughlin, Michael R.

Bail Remains

13:50:29 - Operator

Stop recording: (Off Record)

14:02:39 - Operator

Recording:

14:02:39 - Record

Moore, Albert

14:02:45 - Operator

Stop recording:

In The District Court of The 4th Judicial District of The
State of Idaho and For The County of Ada

MAY 26 2010

State of Idaho Plaintiff) Case # CRF-2008-373

DAVID NAVARRO, Clerk
By SCARLETT RAMIREZ
DEPUTY

vs.

) Docket # 36033

Albert R. Moore 90125) Motion of Recusal

SICR MCN B-28)

Bx 8509)

Boise, Id. 83707)

Come> now Albert Moore Moving For Recusal
In 1974 a number of revisions were made to § 455, which
fall under the two subsections (a) & (b). Basically, § 455(2) reads
"Any Justice, Judge, or Magistrate of The U.S. shall disqualify
himself in any proceeding in which his impartiality might
reasonably be questioned." Subsection (b) which reads "He shall
also disqualify himself in the following circumstances: it is
in detail the "interest" and "relationship" grounds of Recusal
(disqualification) that had been previously been covered by
§ 455, but also included "bias and prejudice" elements. Two
other important changes include (1) making § 455 applicable to
all Justices, Judges, and Magistrates (and not just district
Judges) and (2) placing the obligation to identify the existence
of those grounds upon the Judge himself, rather than
requiring recusal only in response to a party's disqualification.

U.S. v. Bristner 779 F.2d 1191 (7th Cir. 1985): "where a Judge
denies a motion to disqualify himself under 28 U.S.C. §
455(2) the moving party's sole recourse is to apply to this
court immediately for a writ of mandamus."

In this case it would be the 9th Cir.

CC: ACP
5/20/10

00019

Reference To Supreme Ct. # 36033-2009

CASE # CRF-08-373 App-21 TRANSCRIPT

Honorable Michael R. McLaughlin District Judge -

Pg. 5+6 Note I have never been Judges chambers ever
Pg. 31 Quot The Ct. "I'm dealing with this as a misdemeanor
and this was raised and its Any Time Subsequent to Feb 5
of 2007 The misdemeanor charge would be dismissed and
There could be no Further pros. "Quot unquot." Chapter 3500
States Multiple Misdemeanors + Felony Together Within 6
Months.

By Ct. Not Following Id. Statutes Shows "Prejudice"
Pg. 48, 50, 51+52, Attempted to rule out any evidence I might
have "Prejudice"!

Pg. 53 The Ct. "its a direct contempt. It will run at the
end of any sentence imposed in this case." The Ct's
Statement "extreme prejudice." "imposing Time on top
of a sentence of Guilt yet to be found" "Shows extreme
Prejudice"

Pg. 73+74 forcing or interfering ATT Client Business. Shows
extreme prejudice

Pg. 77, 78, 79, 80, 81, +82 I pled to N.D. Code of Physical
Control which is not a d.o.I. (The pled agreement was
breached by The Ct.

U.S. V. Jarrett, 447 F3d 520 (7th Cir 2006) a Trial Judge
does not sit as a Jury member to evaluate the credibility
of a witness. Pg. 51 Prejudice.

Ambiguity of language in a pled agreement is construed
in favor of the def. and against The Government.

Margalli-Olivera vs INS, 43 F.3d 345 (8th Cir 1994)

00020

Judges i ~~in~~ proper participation in plea negotiations violated Fed. R. Crim. P. 11(e)(1) and raised questions of impartiality and coerciveness, U.S. v. Bruce, 976 F.2d 552 (9th cir 1992)

Judge's participation in plea negotiations process could be construed as coercive, U.S. v. Cassillas, 59 F.3d 1173 (11th cir 1995)

I believe that I have established a genuine issue of material fact. Refer BLACKS LAW dictionary
This issue could be resolved simply by going by the plea bargain and stating the law as you did on pg 31 only this time by Chapter 3500

All these things I swear to be true to the best of my knowledge

Signed.

Robert C. Moore

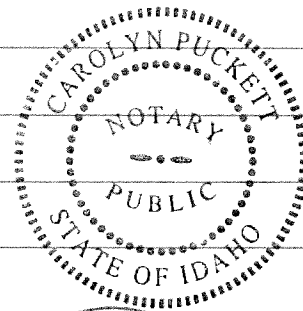
Add on my understanding
is the N.D. issue turned
this case would.
I option Dismiss
This mess.

SUBSCRIBED AND SWORN (or affirmed)

before me this 24 day of May 2010

Notary Public for Idaho

My Commission Expires 2-17-15



142

ORIGINAL

NO. _____
A.M. _____ P.M. 4

JUN 08 2010

J. DAVID NAVARRO, Clerk
By SCARLETT RAMIREZ
DEPUTY

Layne Davis
DAVIS & WALKER
200 North 4th Street, Suite 302
Boise, ID 83702
Telephone: (208) 429-1200
Facsimile: (208) 429-1100
Idaho State Bar No. 4640

Conflict Counsel for Defendant

**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,)	
	)	Case No. CR FE 2008-0373
Plaintiff,)	
	)	NOTICE OF APPEARANCE
vs.)	
)	
ALBERT R. MOORE,)	
)	
Defendant.)	
_____)	

TO: THE CLERK OF THE ABOVE-ENTITLED COURT AND ALL PARTIES:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that Layne Davis, of Davis & Walker, pursuant to M.C.R. 6(d), hereby appears as conflict counsel for the Ada County Public Defender, as attorney of record for Albert R. Moore, Defendant in the above-entitled matter. All further pleadings and correspondence should be sent to the address indicated above.

DATED this 7th day of June, 2010.

DAVIS & WALKER

By Layne Davis
Layne Davis
Conflict Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of June, 2010, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

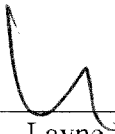
Ada County Prosecutor
200 W. Front St., Rm. 3191
Boise, ID 83702

☐ U.S. MAIL
☒ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

Ada County Public Defender
200 W. Front St., Rm. 1107
Boise, ID 83702

☐ U.S. MAIL
☒ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

DAVIS & WALKER

By 
Layne Davis
Conflict Counsel for Defendant

Session: McLaughlin060910
Session Date: 2010/06/09
Judge: McLaughlin, Michael R.
Reporter: Redlich, Kasey

Division: DC
Session Time: 07:59

Courtroom: CR507

Clerk(s):
Ho, Cindy

State Attorney(s):
Atwood, Chris
Bandy, R. Scott
Guzman, Cathy
Haws, Joshua

Public Defender(s):
Bailey, Ransom
Odessey, Edward
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0024

Case number: FE-08-00373
Plaintiff:
Plaintiff Attorney:
Defendant: Moore, Albert
Co-Defendant(s):
Pers. Attorney: Davis, J. Layne
State Attorney: Bandy, R. Scott
Public Defender:

2010/06/09

11:17:16 - Operator
Recording:
11:17:16 - New case
Moore, Albert
11:17:43 - Defendant: Moore, Albert
Present In-Custody with Atty for Status Hearing
11:21:16 - Pers. Attorney: Davis, J. Layne
Disagree with Court
11:21:35 - State Attorney: Bandy, R. Scott
Agree with Court
11:22:17 - Judge: McLaughlin, Michael R.

00024

CT review Appeal Ruling

11:24:20 - Pers. Attorney: Davis, J. Layne

Makes Record of Review of North Dakota Conviction

11:25:35 - Judge: McLaughlin, Michael R.

Notes Objection

11:25:50 - Judge: McLaughlin, Michael R.

Review of Conditional Plea

11:26:09 - Judge: McLaughlin, Michael R.

Marks Ex#1 North Dakota Judgment of Conviction of DUI Charge

11:26:53 - Judge: McLaughlin, Michael R.

Impose Original Sentence

11:27:55 - Judge: McLaughlin, Michael R.

Amended Judgment (Imposed 1+ 4 = 5yrs *Sentence*)

11:28:24 - Judge: McLaughlin, Michael R.

Appeal Rights

11:28:43 - Operator

Stop recording:

JUN 11 2010

J. DAVID NAVARRO, Clerk
By: [Signature]

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.

ALBERT R. MOORE,

Defendant.

DOB: [REDACTED]

SSN: [REDACTED]

Case No. CRFE-2008-373

AMENDED
JUDGMENT OF CONVICTION

This being the time fixed by the Court for pronouncing sentence upon the defendant, ALBERT R. MOORE, the Court noted the presence of the Prosecuting Attorney, or his deputy, the defendant, and J. Layne Davis, counsel for the defendant, in court.

The defendant was duly informed of the Information filed against him, and the defendant entered an *Alford* plea of guilty to the crime of COUNT I: OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL (TWO OR MORE WITHIN TEN YEARS), a felony under I.C. §18-8004, 8005(5) committed on or about September 3, 2006.

The defendant, and his counsel, were then asked if they had any legal cause or

1 reason to offer why judgment and sentence should not be pronounced against the
2 defendant, and if the defendant, or his counsel, wished to make a statement on behalf
3 of the defendant, or to present any information to the Court in mitigation of punishment;
4 and the Court, having accepted such statement, and having found no legal cause or
5 reason why judgment and sentence should not be pronounced against the defendant
6 at this time; does render its judgment of conviction as follows, to-wit:

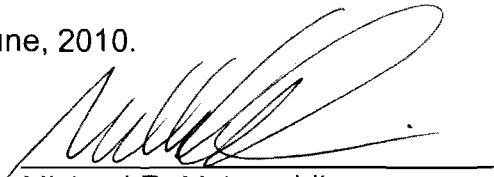
7 That, whereas, the defendant having pled guilty in this Court to the crime of
8 COUNT I: OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF
9 ALCOHOL (TWO OR MORE WITHIN TEN YEARS), a felony under I.C. §18-8004,
10 8005(5).

11 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
12 defendant, ALBERT R. MOORE, is guilty of the crime of COUNT I: OPERATING A
13 MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL (TWO OR MORE
14 WITHIN TEN YEARS), a felony under I.C. §18-8004, 8005(5), and that he be
15 sentenced to the Idaho State Board of Correction, under the Unified Sentence Law of
16 the State of Idaho, for an aggregate term of five (5) years, to be served as follows: a
17 minimum period of confinement of one (1) year, followed by a subsequent
18 indeterminate period of custody not to exceed four (4) years, with said term to run
19 concurrently with Ada County Case No. CRFE-2008-374 and said term to commence
20 immediately. The defendant shall receive eight hundred forty-eight (848) days credit
21 for time served as of December 31, 2008.
22
23
24
25
26

1 IT IS FURTHER ORDERED that the defendant's driver's license shall be
2 absolutely suspended for five (5) years, commencing upon the date of the defendant's
3 release from incarceration.

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

7 Sentenced and dated this 9th day of June, 2010.

8 
9
10 Michael R. McLaughlin
District Judge

CERTIFICATE OF MAILING

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 11th day of June, 2010, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO STATE 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:

ADA COUNTY PROSECUTING ATTORNEY'S OFFICE
VIA EMAIL

J. Layne Davis
DAVIS & WALKER
200 N 4th St, Ste 302
Boise, ID 83702

ADA COUNTY JAIL
VIA EMAIL

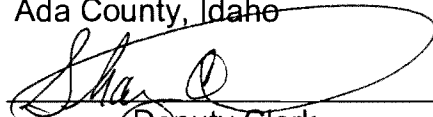
PSI DEPARTMENT/P&P
VIA EMAIL

DEPARTMENT OF CORRECTION
VIA EMAIL

DEPARTMENT OF TRANSPORTATION
VIA EMAIL

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

By


Deputy Clerk

IN The DISTRICT CT. of The 4th JUDICIAL DISTRICT
The STATE of Id. in and For The county of Ada
State of Idaho) MOTIONS For documents
COUNTY of Ada plaintiffs)
VS)
J. DAVID NAVARRO, Clerk
By SARLETT RAMIREZ, DEPUTY

CAS. # MO 611 756
HO. ~~800~~ 373

Albert R. Moore 90125) Docket # 35486

Sicil M.D. 1-17 Box 8705) # MO 705639

Boise, Id. 83707)

Comes now defendant Albert R. Moore pro. se. For
Proprius Requesting documents necessary for my
defense, also Transcripts.

Case # 611756 Final Judgement or Decree Dated 9/19/2006
or The Dismissal Document, Case # HO 800373
or Docket # 35486 CFFE-2008-373 Transcripts
of hearing Dated June 2, 2010 + June 9, 2010
also involving Case # MO 705639 Final
Judgement or decree Dated 5/18/2007 or Dismissal
Document of said Judgement. Underlined this
for your convenience. Paid for already.

case law ESKridge v. Washington State Prison Board, 357 U.S.
2 LE. 2d 1269, 78 S. Ct. 1061 (1958) Relying on their
previous decision in Griffin, The Supreme Court held
that indigent prisoners must be afforded the same
opportunity for appellate review as persons who
can afford to buy their transcripts.
Evitts v. Lucy, 469 U.S. 387, 83 L. Ed. 2d 821, 105 S. Ct.
830 (1985) "the due process clause of the Fourteenth
Amendment guarantees a criminal def. The effective
assistance of counsel on a first appeal as of right
Def. Counsel failed to file a statement of appeal

(1) or (2)

00030

That is required by The State rules of Appellate
procedure, which resulted in denial of Appeal.
Def. claimed That Counsel's Failure to File The
Statement denied him his CONSTITUTIONAL right
to effective assistance of counsel of appeal
- "Complete Failure of Communication seems
ineffectiveness." AND so I pursue pro.
SE.

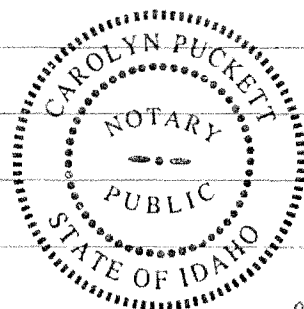
Signed to by
Albert Moore

SUBSCRIBED AND SWORN (or affirmed)

before me this 9th day of August, 2010

Notary Public for Idaho

My Commission Expires 6-17-15



Mr. Moore -
you may want
to file a Petition
for Post Conviction
Relief and seek
to have counsel
to assist you.
request in this letter
is denied.
8/16/2010
[Signature]

ADA COUNTY

Register of Actions

Case# M0705639



05/18/2007	003	Defendant Found Guilty	RB
05/18/2007	003	Defendant Found Guilty	RB
05/18/2007	003	Final Judgment, Order or Decree	RB
05/18/2007	003	Final Judgment, Order or Decree	RB
05/18/2007	003	Sentenced to Fine & Costs \$250.00	RB
05/18/2007	003	Sentenced to Fine & Costs \$250.00	RB
05/18/2007		D/L Suspended- BAC Refusal	RB
05/18/2007		D/L Suspended- BAC Refusal	RB
06/01/2007		Motion for Bond Reduction	AK
06/01/2007		Motion for Bond Reduction	AK
07/06/2007		Motion Hearing	KM
07/06/2007		Motion Hearing <i>gr</i>	KM
07/13/2007		Set JT	KE
07/13/2007		Set JT	KE
07/13/2007		Case unresolved	KE
07/13/2007		Case unresolved	KE
07/13/2007		Jury Trial Set 08/01/2007	KE
07/13/2007		Jury Trial Set 08/01/2007	KE
07/18/2007	001	Charge Amended From S 18-8005-4 M DUI 2N	SM
07/18/2007	001	Charge Amended From S 18-8005-4 M DUI 2N	SM
07/18/2007	001	To S 18-8004 800 F DUI	SM
07/18/2007	001	To S 18-8004 800 F DUI	SM
07/18/2007	001	Charge Filed Cause Found	SH
07/18/2007	001	Charge Filed Cause Found	SH
07/18/2007	002	Charge Filed Cause Found	SH
07/18/2007	002	Charge Filed Cause Found	SH
07/18/2007		Warrant Created M0705639.01-01	SH
07/18/2007		Warrant Created M0705639.01-01	SH
07/18/2007		Warrant Issued M0705639.01-01 07/18/2007	SH
07/18/2007		Warrant Issued M0705639.01-01 07/18/2007	SH
08/01/2007		Event Scheduled Preliminary Hearing 08/15/2007	KM
08/01/2007		Event Scheduled Preliminary Hearing 08/15/2007	KM
08/02/2007		Warrant Return Filed	SM
08/02/2007		Warrant Return Filed	SM
08/13/2007		Event Scheduled Preliminary Hearing 08/15/2007	RB
08/13/2007		Event Scheduled Preliminary Hearing 08/15/2007	RB
08/15/2007	001	Order for Dismissal	PG
08/15/2007	001	Order for Dismissal	PG
08/15/2007	002	Order for Dismissal	PG
08/15/2007	002	Order for Dismissal	PG
03/17/2008		Finger Print Card# Sent to BCI 0100097181	
03/17/2008		Finger Print Card# Sent to BCI 0100097181	
03/17/2008		Finger Print Card# Sent to BCI 0100100882	
03/17/2008		Finger Print Card# Sent to BCI 0100100882	

27 June

15 Days 34

Rule

00032

ADA COUNTY

No. 80373
Register of Actions

Case# M0611756

Mr. R. L. R.

208-287-7400



09/05/2006	001	Bond Reduced or Amended to \$5000.00	MO
09/05/2006	001	Not Guilty Plea	MO
09/05/2006	001	Not Guilty Plea	MO
09/05/2006	001	Not Guilty Plea	MO
09/05/2006	002	Not Guilty Plea	MO
09/05/2006	002	Not Guilty Plea	MO
09/05/2006	002	Not Guilty Plea	MO
09/05/2006		Jury Trial Set 02/21/2007	GS
09/05/2006		Jury Trial Set 02/21/2007	GS
09/05/2006		Jury Trial Set 02/21/2007	GS
09/05/2006		Event Scheduled Pre-Trial Conference 01/23/2007	GS
09/05/2006		Event Scheduled Pre-Trial Conference 01/23/2007	GS
09/05/2006		Event Scheduled Pre-Trial Conference 01/23/2007	GS
09/07/2006		Affidavit of Refusal	CH
09/07/2006		Affidavit of Refusal	CH
09/07/2006		Affidavit of Refusal	CH
		...on BAC	
		...on BAC	
		...on BAC	
09/07/2006		Event Scheduled File Review 09/13/2006	CH
09/07/2006		Event Scheduled File Review 09/13/2006	CH
09/07/2006		Event Scheduled File Review 09/13/2006	CH
09/11/2006		State/City Request for Discovery	SG
09/11/2006		State/City Request for Discovery	SG
09/11/2006		State/City Request for Discovery	SG
09/11/2006		State/City Response to Disc. Req.	SG
09/11/2006		State/City Response to Disc. Req.	SG
09/11/2006		State/City Response to Disc. Req.	SG
09/13/2006		Defendant Request For Discovery	CS
09/13/2006		Defendant Request For Discovery	CS
09/13/2006		Defendant Request For Discovery	CS
09/18/2006		D/L Suspended- BAC Refusal	RB
09/18/2006		D/L Suspended- BAC Refusal	RB
09/18/2006		D/L Suspended- BAC Refusal	RB
09/19/2006	003	Defendant Found Guilty	RB
09/19/2006	003	Defendant Found Guilty	RB
09/19/2006	003	Defendant Found Guilty	RB
09/19/2006	003	Final Judgment, Order or Decree	RB
09/19/2006	003	Final Judgment, Order or Decree	RB
09/19/2006	003	Final Judgment, Order or Decree	RB
09/19/2006	003	Sentenced to Fine & Costs \$250.00	RB
09/19/2006	003	Sentenced to Fine & Costs \$250.00	RB
09/19/2006	003	Sentenced to Fine & Costs \$250.00	RB
10/03/2006		Motion for Bond Reduction	CS
10/03/2006		Motion for Bond Reduction	CS
10/03/2006		Motion for Bond Reduction	CS
10/03/2006		Motion for Bond Reduction	SR
10/03/2006		Motion for Bond Reduction	SR
10/03/2006		Motion for Bond Reduction	SR
10/12/2006		BOND REDUC DENIED	ML
10/12/2006		BOND REDUC DENIED	ML
10/12/2006		BOND REDUC DENIED	ML
10/17/2006		Motion for Bond Reduction	CS
10/17/2006		Motion for Bond Reduction	CS
10/17/2006		Motion for Bond Reduction	CS
10/18/2006		BOND REDUC DENIED	ML
10/18/2006		BOND REDUC DENIED	ML
10/18/2006		BOND REDUC DENIED	ML

00033

NO. _____ FILED _____
A.M. 9:30 P.M.
SEP 10 2010
J. DAVID NAVARRO, Clerk
By JANA E PETERSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

R. Scott Bandy
Deputy Prosecuting Attorney
200 West Idaho, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700
Facsimile: (208) 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,	)	Case No. CR FE 2008 0000373
vs.)	
	)	STATE'S MOTION TO
ALBERT R. MOORE,	)	CORRECT JUDGMENT OF
	)	CONVICTION AND TO
Defendant.	)	CLARIFY CREDIT FOR
	)	TIME SERVED
_____)	

COMES NOW, R. Scott Bandy, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and moves this Court to amend the judgment of conviction in the above entitled case to correct an apparent clerical mistake. The court, upon remand from the Idaho Supreme Court, entered an amended judgment, which affirmed the original judgment. This followed a review of the original judgments of conviction showing the requisite prior

convictions for Driving Under the Influence for the instant Felony Driving Under the Influence conviction. The Amended Judgment entered by the court on June 9th, 2010, pronounced the sentence to be: a minimum period of confinement of one (1) year, followed by a subsequent indeterminate period of custody not to exceed four (4) years. This is in error and misstates the original sentence that was reaffirmed by the court on that date. Attached is copy of the original Judgment of Conviction entered on December 31st, 2008, pronouncing the judgment to be: a minimum period of confinement of one (1) year, followed by a subsequent indeterminate period of custody not to exceed five (5) years for a total aggregate term of 6 years. (Attachment "A"). The state respectfully requests that the amended judgment be corrected to reflect the original sentence.

Additionally, the state requests that the defendant's credit for time served be corrected to reflect the actual number of days served pre-judgment. In support of this request the state offers the following for consideration. The court as indicated above, entered the original judgment of conviction on December 31st, 2008. At that time, the defendant's credit for pre-judgment credit was calculated by the court to be eight hundred and forty eight (848) days. The original information on file in this case alleges the date of incident for the crime was September 3rd, 2006. The defendant pled guilty as charged. While there were eight hundred and forty eight (848) day between the date of incident and the date of sentencing, much of that time was not spent in custody. During one extended period of release, the defendant committed his subsequent Felony DUI. Giving the defendant the benefit of the doubt and crediting every day spent in custody toward both

cases, the defendant spent a sum total of four hundred and seventy seven (477) days in custody.

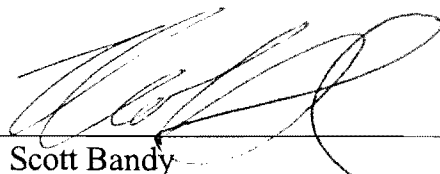
By way of procedural history and incarceration history, the state offers this summary. Should an evidentiary hearing be required, the state would offer witnesses to corroborate this sequence as shown by the arrest history print-out (Attachment "B") and the following:

	<u>In Custody</u>	<u>Release</u>	<u>Days</u>
INITIAL DUI ARREST in CRFE2008-0000373 -	09/03/2006	11/25/2006	84
INITIAL DUI ARREST in CRFE2008-0000374 -	04/28/2007	07/06/2007	70
Re-arrest in CRFE2008-0000373 -	08/01/2007	08/10/2007	10
Re-arrest in CRFE2008-0000373 and 374 -	02/23/2008	12/31/2008	<u>313</u>
	<u>TOTAL DAYS:</u>		477

Based upon the above dates of incarceration with calculated number of days, ends inclusive, the state requests that the judgment be amended to correct this clerical error in credited time served.

DATED this 9th day of September, 2010.

GREG H. BOWER
Ada County Prosecuting Attorney



R. Scott Bandy
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing Motion to Correct Judgment of Conviction and to Clarify Credit for Time Served to Layne Davis, 200 N. 4th Street, Suite 302, Boise, Idaho 83702 by depositing the same in the interdepartmental/United State's mail, postage prepaid, this 9th day of September 2010.

Yvonne Hilbert

JAN 07 2009

NO. _____ FILED 1:57
A.M. P.M.

PROSECUTING ATTORNEY'S OFFICE

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT JAN - 5 2009

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA J. DAVID NAVARRO Clerk
DEPUTY

THE STATE OF IDAHO,

Plaintiff,

Case No. H0800373

vs.

JUDGMENT OF CONVICTION

ALBERT R. MOORE,

Defendant.

DOB: [REDACTED]

SSN: [REDACTED]

This being the time fixed by the Court for pronouncing sentence upon the defendant, ALBERT R. MOORE, the Court noted the presence of the Prosecuting Attorney, or his deputy, the defendant, and Jessica Bublitz, counsel for the defendant, in court.

The defendant was duly informed of the Information filed against him, and the defendant entered an *Alford* plea of guilty on December 1, 2008 to the crime of COUNT I: OPERATING A MOTOR VEHICLE (TWO OR MORE WITHIN TEN YEARS), a felony under I.C. §18-8004, 8005(5) committed on or about September 3, 2006. Count II was dismissed pursuant to plea negotiations.

The defendant, and his 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 his 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 statement, and having found no legal cause or reason why judgment and sentence should not be pronounced against the defendant

00038

1 at this time; does render its judgment of conviction as follows, to-wit:

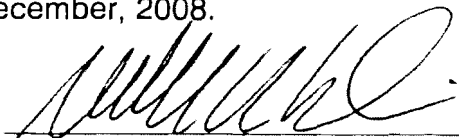
2 That, whereas, the defendant having pled guilty in this Court to the crime of
3 COUNT I: OPERATING A MOTOR VEHICLE (TWO OR MORE WITHIN TEN YEARS),
4 a felony under I.C. §18-8004, 8005(5).

5 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
6 defendant, ALBERT R. MOORE, is guilty of the crime of COUNT I: OPERATING A
7 MOTOR VEHICLE (TWO OR MORE WITHIN TEN YEARS), a felony under I.C. §18-
8 8004, 8005(5) and that he be sentenced to the Idaho State Board of Correction, under
9 the Unified Sentence Law of the State of Idaho, for an aggregate term of six (6) years,
10 to be served as follows: a minimum period of confinement of one (1) year, followed by
11 a subsequent indeterminate period of custody not to exceed five (5) years, with said
12 term to run concurrently with Ada County Case No. CRFE-2008-374 and said term to
13 commence immediately. The defendant shall receive eight hundred forty-eight (848)
14 days credit for time served prior to the entry of this Judgment.
15

16 IT IS FURTHER ORDERED that the defendant's driver's license shall be
17 absolutely suspended for five (5) years commencing on the date of the defendant's
18 release from incarceration.

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

23 Sentenced and dated this 31st day of December, 2008.

24 
25 Michael R. McLaughlin
26 District Judge

CERTIFICATE OF MAILING

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 5th day of January, 2009, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO STATE 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:

ADA COUNTY PROSECUTING ATTORNEY
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER
INTERDEPARTMENTAL MAIL

DEPARTMENT OF CORRECTIONS
CENTRAL RECORDS
1299 N ORCHARD SUITE 110
BOISE ID 83706

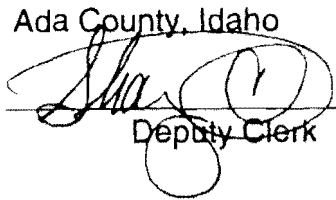
ADA COUNTY JAIL
VIA MARSHAL'S OFFICE

PSI DEPARTMENT
INTERDEPARTMENTAL MAIL

DEPARTMENT OF TRANSPORTATION
DRIVERS SERVICES
PO BOX 7129
BOISE ID 83731

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

By


Deputy Clerk



Ada County Sheriff's Office

000041

Page 1 of 1
Printed - 09/08/2010 02:58PM

Printed by PRBANDR

Arrest History

Name
MOORE ALBERT RAY
3095 TEN MILE RD
MERIDIAN, ID 83642
MOORE BUD

LE #:
667399

Soc Sec #

D O B

Age
66

***** ALIAS *****
BUD

***** INCIDENTS *****

Case #	Def	Cnt	Arrest	Release	Description	DR #
CRFE20080000373	01	000	12/31/2008		STATE OF IDAHO {F} IDOC - JOC	ADA 00-000000
CRFE20080000373	01	000	06/09/2010		STATE OF IDAHO {F} IDOC - JOC	ADA 00-000000
CRFE20080000374	01	000	07/08/2008	09/04/2008	STATE OF IDAHO {F} IDOC - JOC	ADA 00-000000
ZBONNER	00	000	05/11/2006	05/22/2006	FAILURE TO APPEAR FOR MISDEMEANOR CITATION	00-063062
H0800373	01	002	09/03/2006	11/25/2006	DRIVING WITHOUT PRIVILEGES	00-065975
H0800373	01	001	09/03/2006	11/25/2006	DRIVING UNDER THE INFLUENCE	00-065975
CRMD20080000214	01	000	02/23/2008	12/31/2008	Arrest: {F} DRIVING UNDER INFLUENCE	OTH 00-019677
CRFE20080000374	01	000	05/27/2010	06/10/2010	Return to Custody on CRFE20080000374 Def 1	OTH 00-019677
M0705639	01	001	04/28/2007	07/06/2007	DRIVING UNDER THE INFLUENCE	00-005488
M0705639	01	002	04/28/2007	07/06/2007	DRIVING WITHOUT PRIVILEGES	00-005488
ZADA	00	000	08/01/2007	08/10/2007	DRIVING UNDER THE INFLUENCE	00-010204
ZADA	00	000	02/23/2008	12/31/2008	Arrest: {M} DRIVING WHILE SUSPENDED	ADA 00-019677
CRMD20060011756	01	000	02/23/2008	12/31/2008	Arrest: {F} DRIVING UNDER INFLUENCE	OTH 00-019677

ATTACHMENT "B"

Session: McLaughlin100710
Session Date: 2010/10/07
Judge: McLaughlin, Michael R.
Reporter: Gambee, Susan

Division: DC
Session Time: 09:19

Courtroom: CR507

Clerk(s):
Ho, Cindy

State Attorney(s):
Atwood, Chris
Bandy, R. Scott
Haws, Joshua

Public Defender(s):
Bailey, Ransom
Odessey, Edward
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0005

Case number: FE-08-00373
Plaintiff:
Plaintiff Attorney:
Defendant: Moore, Albert
Co-Defendant(s):
Pers. Attorney: Davis, J. Layne
State Attorney: Atwood, Chris
Public Defender:

2010/10/07

13:52:50 - Operator
Recording:
13:52:50 - New case
Moore, Albert
13:53:11 - Defendant: Moore, Albert
Present In-Custody with Atty for Motion to Reduce Credit for Time Served
13:56:10 - Pers. Attorney: Davis, J. Layne
Response
14:00:45 - State Attorney: Atwood, Chris
Response
14:02:47 - Judge: McLaughlin, Michael R.
Governing Rule #36

00042

14:03:44 - Judge: McLaughlin, Michael R.

Correct Judgment to 1yr fixed + 5yr indeterminate = 6 years

14:05:24 - Judge: McLaughlin, Michael R.

Correct #477days Credit on this case

14:07:13 - Operator

Stop recording:

NO. 9:07 FILED
A.M. P.M.

OCT 14 2010

J. DAVID NAVARRO, Clerk

By Sha 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.

Case No. CRFE-2008-373

SECOND AMENDED
JUDGMENT OF CONVICTION

ALBERT R. MOORE,

Defendant.

DOB: [REDACTED]

SSN: [REDACTED]

This being the time fixed by the Court for pronouncing sentence upon the defendant, ALBERT R. MOORE, the Court noted the presence of the Prosecuting Attorney, or his deputy, the defendant, and J. Layne Davis, counsel for the defendant, in court.

The defendant was duly informed of the Information filed against him, and the defendant entered an *Alford* plea of guilty to the crime of COUNT I: OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL (TWO OR MORE WITHIN TEN YEARS), a felony under I.C. §18-8004, 8005(5) committed on or about September 3, 2006.

The defendant, and his counsel, were then asked if they had any legal cause or

1 reason to offer why judgment and sentence should not be pronounced against the
2 defendant, and if the defendant, or his counsel, wished to make a statement on behalf
3 of the defendant, or to present any information to the Court in mitigation of punishment;
4 and the Court, having accepted such statement, and having found no legal cause or
5 reason why judgment and sentence should not be pronounced against the defendant
6 at this time; does render its judgment of conviction as follows, to-wit:

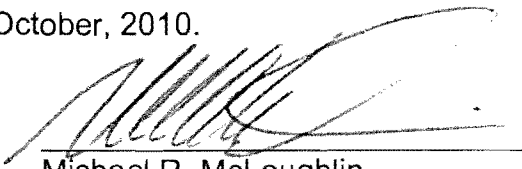
7 That, whereas, the defendant having pled guilty in this Court to the crime of
8 COUNT I: OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF
9 ALCOHOL (TWO OR MORE WITHIN TEN YEARS), a felony under I.C. §18-8004,
10 8005(5).

11 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
12 defendant, ALBERT R. MOORE, is guilty of the crime of COUNT I: OPERATING A
13 MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL (TWO OR MORE
14 WITHIN TEN YEARS), a felony under I.C. §18-8004, 8005(5), and that he be
15 sentenced to the Idaho State Board of Correction, under the Unified Sentence Law of
16 the State of Idaho, for an aggregate term of six (6) years, to be served as follows: a
17 minimum period of confinement of one (1) year, followed by a subsequent
18 indeterminate period of custody not to exceed five (5) years, with said term to run
19 concurrently with Ada County Case No. CRFE-2008-374 and said term to commence
20 immediately. The defendant shall receive four hundred seventy-seven (477) days
21 credit for time served as of October 7, 2010.
22
23
24
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26

1 IT IS FURTHER ORDERED that the defendant's driver's license shall be
2 absolutely suspended for five (5) years, commencing upon the date of the defendant's
3 release from incarceration.

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

7 Sentenced and dated this 7th day of October, 2010.

8
9 
10 Michael R. McLaughlin
11 District Judge
12
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CERTIFICATE OF MAILING

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 14th day of October, 2010, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO STATE 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:

ADA COUNTY PROSECUTING ATTORNEY'S OFFICE
VIA EMAIL

J. Layne Davis
DAVIS & WALKER
200 N 4th St, Ste 302
Boise, ID 83702

ADA COUNTY JAIL
VIA EMAIL

PSI DEPARTMENT/P&P
VIA EMAIL

DEPARTMENT OF CORRECTION
VIA EMAIL

DEPARTMENT OF TRANSPORTATION
VIA EMAIL

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

By


Deputy Clerk

NOV 08 2010

J. DAVID NAVARRO, Clerk
By SCARLETT RAMIREZ
DEPUTYInmate name Albert R. MooreIDOC No. 90125-54WCSubpoena 125 N. 8th W.St. Anthony, FL 83445

Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

Albert Moore,

Defendant.

Case No. CRFE 2008-373
Mo 800373**MOTION FOR
CORRECTION OR
REDUCTION OF
SENTENCE, ICR 35**COMES NOW, Albert Moore, Defendant in the instant action, and pursuant
to Idaho Criminal Rule 35, moves this Honorable Court for its Order:☒ Correcting the Defendant's illegal sentence, or☒ Reducing Defendant's sentence for the reasons stated on page two of this motion:1. The Defendant was convicted of Physical Control
before the Honorable
Judge McLoughlin and sentenced to a term of imprisonment in
the custody of the Idaho Department of Correction for:☒ a unified term of 6 years including 5 years fixed followed by 1 years
indeterminate,☐ a fixed term of _____ years.2. The Defendant has been incarcerated since Sept. 2004 and has served
5 yrs. (months/years) of the sentence.

MOTION FOR REDUCTION OR CORRECTION OF SENTENCE, ICR 35 - 1

Revised: 10/06/05

00048

3. The Defendant believes:

☒ The Court should reconsider its earlier sentence and reduce the same on the following grounds, or,

☒ The sentence is illegal and should be changed on the following grounds:

(State the reasons why you believe your sentence should be reduced. You may add extra pages if necessary. Any additional documentation must be attached hereto.)

I was sentenced to 1+5 yrs. in Dec 2008
case remanded April 2010. Resentenced to
1+4 yrs given 848 days credit in 2008
and June 2010. on Oct. 7 2010 Vindictive
prosecution. Stated time credited was
Type error on ICR 35 Filing which was never
filed. Stating that time belonged on
another sentence when sentences were
to run concurrent. No objection Dec 30
2008, No objection June 11, 2010. Rule 35
governed by 18 U.S.C.A § 3742 court may
correct clear errors within 7 days sentences
may only be change by gov^{ment} motion to reduce
sentence, § 3742 (3) (1)(2) (3) (b) (3) 2009 Amendment
extended to 14 days Rule 45(2) making the
~~October 7th~~ sentencing unconstitutional.

2
Defendant additionally submits the following documentation for consideration:

Amended Judgement of CONVO Note 1+4 and 848 days
Credit. Judgement of CONVO Note 1+5
Making 6 and 848 days Credit. + Statement sworn

WHEREFORE, the Defendant, Albert R. Moore, respectfully prays

this Honorable Court to reduce or correct the sentence as follows:

That any and all Time Remaining be
abolished according to CONSTITUTIONAL Law.
~~\$500,000~~ ^{as} For CONSTITUTIONAL Violations or grant such
other and further relief, as the Court deems appropriate.

Respectfully submitted this _____ day of _____, 20__.

Albert Moore
Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the _____ day of _____, 20__, I
delivered to prison authorities for the purpose of mailing a true and correct copy of the MOTION
FOR REDUCTION OF CORRECTION OF SENTENCE, ICR 35 via prison mail system for
processing to the U.S. mail system to:

#12 County Prosecuting Attorney
200 W Front Street
Boise ID 83702

Albert Moore
Defendant

NOV 08 2010

J. DAVID NAVARRO, Clerk
By SCARLETT RAMIREZ
DEPUTY

Inmate name Albert R. Moore
IDOC No. 90125 SAWC
SAW 125 N. 8th W.
ST Anthony Pl. 83445

Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

Albert Moore,

Defendant.

Case No. CRFE 2008-373

MOTION FOR HEARING

COMES NOW, Albert Moore, Defendant, in the above
entitled matter and moves this Honorable Court to grant Defendant's Motion for Hearing so that
information and oral argument can be presented in support of the Idaho Criminal Rule 35 motion
for a reduction of sentence.

WHEREFORE, Defendant respectfully prays that this Honorable Court issue it's Order
granting Defendant's Motion for Hearing.

DATED this 11 day of October, 2010.

Albert Moore

Defendant

MOTION FOR HEARING - I

Revised: 10/05/05

00051

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 25 day of October, 2018, I
delivered to prison authorities for the purpose of mailing a true and correct copy of the MOTION
FOR HEARING via prison mail system for process to the U.S. mail system to:

A62 County Prosecuting Attorney
200 W. Front Street
Boise ID 83702

Robert Moe
Defendant

NO.

A.M.

FILED
P.M.

NOV 08 2010

J. DAVID NAVARRO, Clerk
By SCARLETT RAMIREZ
DEPUTY

Albert R. Moore 90125

Full Name of Party Filing This Document

SAWC D. 125 N. 8th W.

Mailing Address (Street or Post Office Box)

St. Anthony Id. 83445

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 AdzSTATE OF ID. County of Adz

Plaintiff,

vs.

Albert Moore

Defendant.

Case No.: CRFE 2008-373MOTION AND AFFIDAVIT FOR
PERMISSION TO PROCEED ON PARTIAL
PAYMENT OF COURT FEES (PRISONER)

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

STATE OF IDAHO)
County of Adz) ss.

[] Plaintiff [X] Defendant asks to start or defend this case on partial payment of court fees, and swears under oath

1. This is an action for (type of case) Criminal.
believe I'm entitled to get what I am asking for.

MOTION AND AFFIDAVIT FOR PERMISSION TO
PROCEED ON PARTIAL PAYMENT OF COURT FEES
(PRISONER)
CAO 1-10C 2/25/2005

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0005320

2. ☒ I have not previously brought this claim against the same party or a claim based on the same operative facts in any state or federal court. ☐ I have filed this claim against the same party or a claim based on the same operative facts in a state or federal court.

3. I am unable to pay all the court costs now. 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.

4. I understand I will be required to pay an initial partial filing fee in the amount of 20% of the greater of: (a) the average monthly deposits to my inmate account or (b) the average monthly balance in my inmate account for the last six (6) months. I also understand that I must pay the remainder of the filing fee by making monthly payments of 20% of the preceding month's income in my inmate account until the fee is paid in full.

5. I verify that the statements made in this affidavit are true. I understand that a false statement in this affidavit is perjury and I could be sent to prison for an additional fourteen (14) years.

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: Albert Moore Other name(s) I have used: _____

Address: 125 N 8TH W ST, ANTHONY, ID. 83445

How long at that address? 3 months Phone: _____

Date and place of birth: Langdon N. Pr [REDACTED] [REDACTED]

DEPENDENTS:

I am ☒ single ☐ married. If married, you must provide the following information:

Name of spouse: _____

My other dependents (including minor children) are: N.A.

INCOME:

Amount of my income: \$ 20.00 per [] week ☒ month

Other than my inmate account I have outside money from: N.A.

My spouse's income: \$ _____ per [] week [] month.

ASSETS:

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

Your Address	City	State	Legal Description	Value	Equity
-----------------	------	-------	----------------------	-------	--------

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

Description (provide description for each item)	Value
Cash	<u>\$20.00</u>
Notes and Receivables	<u>N.A.</u>
Vehicles: <u>1973 Pickup 1988 Merc</u>	<u>300.00</u>
Bank/Credit Union/Savings/Checking Accounts	<u>N.A.</u>
Stocks/Bonds/Investments/Certificates of Deposit	<u>N.A.</u>
Trust Funds	<u>N.A.</u>
Retirement Accounts/IRAs/401(k)s	<u>N.A.</u>
Cash Value Insurance	<u>N.A.</u>
Motorcycles/Boats/RVs/Snowmobiles:	<u>N.A.</u>
Furniture/Appliances	<u>N.A.</u>
Jewelry/Antiques/Collectibles	<u>N.A.</u>

Description (provide description for each item)

Value

TVs/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

Vehicle Payment(s)

N/A

Credit Cards: (list each account number)

N/A

Loans: (name of lender and reason for loan)

N/A

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

Expense	Average Monthly Payment
Auto Insurance	NA
Life Insurance	NA
Medical Insurance	NA
Medical Expense	NA
Other	NA

MISCELLANEOUS:

How much can you borrow? \$ 0.00 From whom? _____

When did you file your last income tax return? unknown Amount of refund: \$ 00

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

Name	Address	Phone	Years Known
<u>Margaret Williams</u>	<u>HC B&A</u>		<u>5</u>

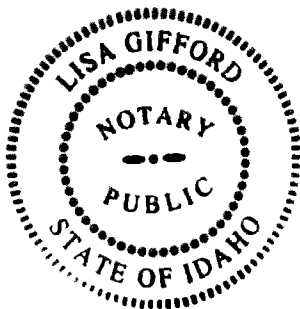
Albert Moore

Signature

Albert Moore

Typed or Printed Name

20 10 SUBSCRIBED AND SWORN TO before me this 28 day of October.



Notary Public for Idaho
Residing at Bonneville County
My Commission expires 8/31/2015

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

	Beginning Balance 70.79	Total Charges 906.79	Total Payments 863.80	Current Balance 27.80	
===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
10/22/2009	SI0476199-439	099-COMM SPL		11.03DB	59.76
10/26/2009	HQ0476596-011	061-CK INMATE	82117	1.00DB	58.76
10/26/2009	HQ0476596-014	061-CK INMATE	82118	1.50DB	57.26
10/28/2009	II0476785-027	072-METER MAIL	78461	0.61DB	56.65
11/02/2009	SI0477384-415	099-COMM SPL		13.91DB	42.74
11/02/2009	SI0477384-416	099-COMM SPL		26.04DB	16.70
11/02/2009	HQ0477431-018	061-CK INMATE	82145	0.50DB	16.20
11/04/2009	II0477698-019	072-METER MAIL	81904	2.27DB	13.93
11/05/2009	SI0477894-450	099-COMM SPL		13.62DB	0.31
11/05/2009	SI0477952-004	070-PHOTO COPY	81870	0.10DB	0.21
11/05/2009	HQ0478107-001	026-JAIL INCOM	OCT PAY	50.40	50.61
11/05/2009	HQ0478108-001	062-CHILD SUPP	157849	25.20DB	25.41
11/12/2009	SI0478807-547	099-COMM SPL		13.73DB	11.68
11/12/2009	SI0478807-548	099-COMM SPL		11.18DB	0.50
11/13/2009	HQ0478974-010	970-484047 VOIDED	1	-30.00DB	30.50
11/18/2009	II0479460-035	072-METER MAIL	81974	4.95DB	25.55
11/19/2009	SI0479544-495	099-COMM SPL		14.58DB	10.97
11/30/2009	HQ0480362-016	061-CK INMATE	82906	0.50DB	10.47
12/01/2009	HQ0480598-010	011-RCPT MO/CC	RCPT MO	50.00	60.47
12/02/2009	II0480716-044	072-METER MAIL	82828	1.39DB	59.08
12/03/2009	SI0480903-472	099-COMM SPL		10.20DB	48.88
12/03/2009	SI0480903-473	099-COMM SPL		36.05DB	12.83
12/07/2009	HQ0481372-010	026-JAIL INCOM	NOV PAY	36.00	48.83
12/07/2009	HQ0481373-001	062-CHILD SUPP	157849	18.00DB	30.83
12/09/2009	SI0481921-003	070-PHOTO COPY	78395	1.80DB	29.03
12/10/2009	SI0482044-607	099-COMM SPL		21.04DB	7.99
12/15/2009	SI0482518-002	070-PHOTO COPY	82831	2.15DB	5.84
12/15/2009	SI0482518-026	070-PHOTO COPY	82786	0.40DB	5.44
12/15/2009	SI0482525-001	070-PHOTO COPY	81986	0.10DB	5.34
12/15/2009	SI0482525-019	070-PHOTO COPY	81975	9.45DB	4.11DB
12/15/2009	SI0482525-028	070-PHOTO COPY	81918	1.10DB	5.21DB
12/15/2009	SI0482547-004	070-PHOTO COPY	81962	0.30DB	5.51DB
12/15/2009	SI0482547-026	070-PHOTO COPY	82857	0.20DB	5.71DB
12/24/2009	SI0483797-004	070-PHOTO COPY	83324	0.50DB	6.21DB
12/24/2009	HQ0483799-017	011-RCPT MO/CC	RCPT MO	50.00	43.79
12/30/2009	SI0484225-508	099-COMM SPL		11.89DB	31.90
12/30/2009	SI0484225-509	099-COMM SPL		31.38DB	0.52
01/04/2010	SI0484546-004	070-PHOTO COPY	83372	0.40DB	0.12
01/04/2010	SI0484546-006	070-PHOTO COPY	83354	0.30DB	0.18DB

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= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance		Total Charges	Total Payments	Current Balance	
70.79		906.79	863.80	27.80	
===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance

01/07/2010	II0485188-027	072-`ETER MAIL	83388	1.56DB	1.74DB
01/07/2010	HQ0485273-018	026-JAIL INCOM	DEC PAY	45.60	43.86
01/07/2010	HQ0485274-002	062-CHILD SUPP	157849	22.80DB	21.06
01/11/2010	SI0485550-002	070-PHOTO COPY	83378	0.10DB	20.96
01/11/2010	SI0485550-007	070-PHOTO COPY	83387	3.25DB	17.71
01/12/2010	HQ0485737-003	011-RCPT MO/CC	RCPT MO	50.00	67.71
01/14/2010	II0485981-029	072-METER MAIL	83597	1.22DB	66.49
01/14/2010	SI0485993-535	099-COMM SPL		47.39DB	19.10
01/14/2010	SI0485993-536	099-COMM SPL		10.20DB	8.90
01/19/2010	SI0486337-003	070-PHOTO COPY	83578	1.30DB	7.60
01/19/2010	SI0486337-012	070-PHOTO COPY	83614	0.60DB	7.00
01/25/2010	SI0486948-003	070-PHOTO COPY	83595	3.05DB	3.95
01/25/2010	SI0486948-013	070-PHOTO COPY	83621	2.10DB	1.85
02/01/2010	SI0487824-003	070-PHOTO COPY	83567	0.10DB	1.75
02/01/2010	SI0487824-015	070-PHOTO COPY	83670	0.10DB	1.65
02/04/2010	II0488201-038	072-METER MAIL	83683	1.39DB	0.26
02/04/2010	HQ0488204-010	011-RCPT MO/CC	RCPT/MO	50.00	50.26
02/09/2010	SI0488819-012	070-PHOTO COPY	83684	1.90DB	48.36
02/11/2010	SI0489200-574	099-COMM SPL		13.60DB	34.76
02/11/2010	SI0489200-575	099-COMM SPL		34.44DB	0.32
02/11/2010	HQ0489318-011	026-JAIL INCOM	JAN PAY	26.40	26.72
02/11/2010	HQ0489319-001	062-CHILD SUPP	157849	13.20DB	13.52
02/16/2010	SI0489570-003	070-PHOTO COPY	83705	1.50DB	12.02
02/18/2010	SI0489827-515	099-COMM SPL		11.91DB	0.11
02/22/2010	SI0490138-010	070-PHOTO COPY	83895	0.20DB	0.09DB
03/01/2010	SI0490924-001	070-PHOTO COPY	84261	0.60DB	0.69DB
03/01/2010	SI0490924-012	070-PHOTO COPY	83945	1.90DB	2.59DB
03/05/2010	HQ0491511-025	011-RCPT MO/CC	RCPT MO	50.00	47.41
03/08/2010	HQ0491797-002	026-JAIL INCOM	FEB PAY	2.40	49.81
03/09/2010	SI0491869-004	070-PHOTO COPY	84263	0.30DB	49.51
03/11/2010	SI0492216-591	099-COMM SPL		10.20DB	39.31
03/11/2010	SI0492216-592	099-COMM SPL		17.49DB	21.82
03/12/2010	SI0492350-011	070-PHOTO COPY	84448	0.30DB	21.52
03/18/2010	SI0492930-498	099-COMM SPL		11.24DB	10.28
03/18/2010	SI0492930-499	099-COMM SPL		10.20DB	0.08
03/22/2010	SI0493239-013	070-PHOTO COPY	84513	0.40DB	0.32DB
03/22/2010	SI0493239-016	070-PHOTO COPY	83951	0.20DB	0.52DB
03/31/2010	II0494143-025	072-METER MAIL	84575	4.14DB	4.66DB
04/05/2010	SI0494702-004	070-PHOTO COPY	84546	0.50DB	5.16DB

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= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance 70.79	Total Charges 906.79	Total Payments 863.80	Current Balance 27.80
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===== TRANSACTIONS =====

Date	Batch	Description	Ref Doc	Amount	Balance
04/05/2010	SI0494702-011	070-PHOTO COPY	84396	0.70DB	5.86DB
04/05/2010	SI0494702-014	070-PHOTO COPY	84574	7.45DB	13.31DB
04/08/2010	HQ0495319-010	026-JAIL INCOM	MARCH PAY	16.80	3.49
04/12/2010	SI0495590-002	070-PHOTO COPY	84262	0.30DB	3.19
04/14/2010	II0495912-005	072-METER MAIL	85086	2.24DB	0.95
04/30/2010	HQ0497547-011	011-RCPT MO/CC	RCPT MO	10.20	11.15
05/05/2010	II0498294-076	072-METER MAIL	85630	1.93DB	9.22
05/06/2010	SI0498516-463	099-COMM SPL		2.49DB	6.73
05/06/2010	II0498611-002	223-ADMIN JANITOR	APR PAYROL	52.80	59.53
05/06/2010	HQ0498612-003	062-CHILD SUPP	157849	26.40DB	33.13
05/20/2010	SI0500450-469	099-COMM SPL		26.29DB	6.84
05/20/2010	SI0500450-470	099-COMM SPL		6.20DB	0.64
05/24/2010	SI0500733-015	070-PHOTO COPY	85658	0.50DB	0.14
05/24/2010	SI0500733-028	070-PHOTO COPY	85085	0.45DB	0.31DB
05/24/2010	SI0500733-054	070-PHOTO COPY	85193	0.30DB	0.61DB
05/24/2010	SI0500733-060	070-PHOTO COPY	84587	0.60DB	1.21DB
05/24/2010	SI0500733-063	070-PHOTO COPY	85629	2.00DB	3.21DB
05/24/2010	SI0500733-076	070-PHOTO COPY	84594	0.40DB	3.61DB
05/25/2010	II0500880-042	072-METER MAIL	85704	1.22DB	4.83DB
06/03/2010	SI0501873-002	215-MAINTENANC	MAY PAY	49.20	44.37
06/03/2010	HQ0501874-003	062-CHILD SUPP	157849	24.60DB	19.77
06/04/2010	II0502067-001	072-METER MAIL	84656	0.17DB	19.60
06/09/2010	SI0502853-003	070-PHOTO COPY	85705	3.75DB	15.85
06/10/2010	SI0502998-615	099-COMM SPL		14.95DB	0.90
06/11/2010	HQ0503198-010	011-RCPT MO/CC	RTCP MO	10.20	11.10
06/16/2010	II0503635-007	072-METER MAIL	85785	7.09DB	4.01
06/16/2010	II0503635-010	072-METER MAIL	85797	0.44DB	3.57
06/18/2010	II0503959-032	072-METER MAIL	86408	2.27DB	1.30
06/21/2010	SI0504181-005	070-PHOTO COPY	85721	1.20DB	0.10
06/21/2010	SI0504181-029	070-PHOTO COPY	85786	11.10DB	11.00DB
06/21/2010	SI0504181-030	070-PHOTO COPY	85798	0.10DB	11.10DB
06/28/2010	SI0504852-006	070-PHOTO COPY	86401	4.30DB	15.40DB
06/29/2010	II0505018-027	072-METER MAIL	85455	1.05DB	16.45DB
06/29/2010	II0505018-028	072-METER MAIL	86431	2.00DB	18.45DB
06/29/2010	HQ0505074-016	011-RCPT MO/CC	RCPT MO	125.00	106.55
07/01/2010	SI0505252-420	099-COMM SPL		6.80DB	99.75
07/01/2010	SI0505252-421	099-COMM SPL		13.46DB	86.29
07/02/2010	II0505427-023	072-METER MAIL	85442	1.32DB	84.97
07/07/2010	II0505986-026	072-METER MAIL	86450	1.32DB	83.65

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= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

	Beginning Balance 70.79	Total Charges 906.79	Total Payments 863.80	Current Balance 27.80	
===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
07/08/2010	SI0506206-520	099-COMM SPL		6.80DB	76.85
07/08/2010	SI0506206-521	099-COMM SPL		49.44DB	27.41
07/09/2010	SI0506431-001	218-NAMPA FISH HAT	6/27-7/03	4.00	31.41
07/09/2010	SI0506434-005	218-CASCADE F.S	6/21-25	25.00	56.41
07/09/2010	HQ0506435-007	062-CHILD SUPP	157849	12.50DB	43.91
07/12/2010	HQ0506579-005	061-CK INMATE	85456	12.00DB	31.91
07/12/2010	SI0506580-010	070-PHOTO COPY	85443	0.80DB	31.11
07/12/2010	SI0506580-012	070-PHOTO COPY	86434	1.70DB	29.41
07/12/2010	SI0506580-014	070-PHOTO COPY	85454	1.85DB	27.56
07/15/2010	SI0507154-007	217-RC 4	6/27-7/03	4.50	32.06
07/19/2010	SI0507563-004	070-PHOTO COPY	86448	1.40DB	30.66
07/22/2010	SI0507982-455	099-COMM SPL		13.91DB	16.75
07/22/2010	SI0507982-456	099-COMM SPL		16.22DB	0.53
07/26/2010	SI0508264-006	070-PHOTO COPY	86511	0.50DB	0.03
07/26/2010	SI0508264-017	070-PHOTO COPY	86480	0.30DB	0.27DB
07/26/2010	SI0508264-019	070-PHOTO COPY	86471	0.30DB	0.57DB
07/28/2010	II0508611-022	072-METER MAIL	86538	1.66DB	2.23DB
08/03/2010	SI0509256-011	070-PHOTO COPY	86539	1.80DB	4.03DB
08/06/2010	II0509962-031	072-METER MAIL	86555	3.32DB	7.35DB
08/06/2010	HQ0509985-009	011-RCPT MO/CC	RTCP MO	50.00	42.65
08/06/2010	SI0510022-005	217-ROAD CREW 3	7/4-7/10	5.00	47.65
08/06/2010	SI0510062-023	217-GOWEN ROAD	7/18-7/24	8.00	55.65
08/06/2010	SI0510064-012	217-GOWEN FIELD	7/24-7/31	16.00	71.65
08/10/2010	II0510321-024	072-METER MAIL	86560	2.10DB	69.55
08/11/2010	II0510553-033	072-METER MAIL	86565	1.39DB	68.16
08/12/2010	SI0510697-629	099-COMM SPL		10.20DB	57.96
08/12/2010	SI0510697-630	099-COMM SPL		47.44DB	10.52
08/16/2010	SI0511020-003	070-PHOTO COPY	86558	2.60DB	7.92
08/16/2010	SI0511020-006	070-PHOTO COPY	86556	4.10DB	3.82
08/23/2010	SI0511856-013	070-PHOTO COPY	86566	0.25DB	3.57
08/23/2010	SI0511856-019	070-PHOTO COPY	86583	0.20DB	3.37
09/07/2010	SI0513624-001	217-ROAD CREW GOWE	8/1-8/7	16.00	19.37
09/07/2010	SI0513639-018	217-ROAD CREW GOWE	8/15-8/21	4.00	23.37
09/07/2010	SI0513739-008	217-ROAD CREW 5	8/8-8/14	5.00	28.37
09/07/2010	SA0513750-004	215- ILD WORKERS	AUG PAY	0.20	28.57
09/10/2010	SA0514314-004	072-METER MAIL	46615	0.17DB	28.40
09/10/2010	SA0514321-008	070-PHOTO COPY	46610	1.20DB	27.20
09/13/2010	SA0514502-277	099-COMM SPL		23.43DB	3.77
09/20/2010	SA0515274-002	070-PHOTO COPY	46872	0.20DB	3.57

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= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance	Total Charges	Total Payments	Current Balance
70.79	906.79	863.80	27.80

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
09/27/2010	SA0516092-009	070-PHOTO COPY	46813	1.00DB	2.57
09/27/2010	SA0516092-010	070-PHOTO COPY	46847	0.20DB	2.37
09/27/2010	SA0516103-003	072-METER MAIL	46825	0.17DB	2.20
10/07/2010	SA0517560-007	215-ILD WORKERS	SEPT PAY	0.10	2.30
10/07/2010	SA0517585-024	211-FOOD SVC	SEPT PAY	51.00	53.30
10/07/2010	HQ0517586-009	062-CHILD SUPP	157849	25.50DB	27.80

STATE OF IDAHO

Idaho Department of Correction

I hereby certify that the foregoing is a full, true, and
correct copy of an instrument as the same now remains
on file and of record in my office.

WITNESS my hand hereto affixed this 21st

day of October A.D., 2010

By Katherine Royer

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NOV 15 2010

J. DAVID NAVARRO, Clerk
[Signature]

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.

ALBERT RAY MOORE,

Defendant.

Case No. H0800373

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

PROCEEDINGS

This matter came on before the Court based upon a proposed Order from Albert Moore for a Rule 35 hearing. The Court had entered a Second Amended Judgment of Conviction on October 14, 2010. The defendant has been sentenced to the State Penitentiary for a fixed term of one (1) year and indeterminate term of five (5) years for a total of six (6) years.

PROCEDURAL HISTORY

The Court had earlier granted the defendant credit for time served in the Ada County Jail for eight hundred forty-eight (848) days. The Court, upon review of the actual detention time served on this case, determined that the correct number of days of credit would be four hundred seventy-seven (477) days for time served as of October

1 7, 2010.

2 The defendant has asked that his sentence be corrected or changed
3 primarily based upon the Court's calculation of credit for time served. However, in
4 addition, the defendant asks that his sentence be reduced to one (1) year fixed
5 plus four (4) years indeterminate, with eight hundred forty-eight (848) days of
6 credit.

7 **ANALYSIS**

8 Rule 35 provides:

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

13 Defendant requests his sentence be reduced for the reasons set forth above.
14 The determination to grant or deny the relief requested by Defendant is a matter
15 committed to the Court's discretion. See *State v. Gardner*, 127 Idaho 156, 164, 989
16 P.2d 615 (Ct. App. 1995) Appellate courts employ the same standard of review on a
17 court's determination of whether to grant a motion for reduction of sentence as the
18 court's original imposition of sentence. See *State v. Ricks*, 120 Idaho 875 (Ct. App.
19 1991) The Court has engaged in the analysis set forth in *State v. Toohil*, 103 Idaho
20 565, 650 P.2d 707 (Ct. App. 1982).

21 The Court will decline to grant the defendant's request for a reduction of
22 sentence. The defendant is a life-long alcoholic who has, on multiple occasions,
23 chosen to become intoxicated and drive motor vehicles. He has more than one felony
24 conviction for driving under the influence of alcohol. The defendant has not been
25
26

1 amenable to community based treatment and/or has not practiced the community
2 based treatment that he has been provided with.

3 For these reasons, the Court DENIES Defendant's Motion for Reduction of
4 Sentence pursuant to I.C.R. 35.

5 DATED this 12 day of November 2010.

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8 Michael McLaughlin, District Judge
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CERTIFICATE OF MAILING

I hereby certify that on this 15th day of November 2010 I mailed (served) a true
and correct copy of the within instrument to:

ADA COUNTY PROSECUTORS OFFICE
INTERDEPARTMENTAL MAIL

Albert Moore, #90125
SWAC 125 N. 8th W.
St. Anthony, ID 83445

J. DAVID NAVARRO
Clerk of the District Court

By: 
Deputy Court Clerk



ORIGINAL

Layne Davis
DAVIS & WALKER
200 North 4th Street, Suite 302
Boise, Idaho 83702
Telephone: (208) 429-1200
Facsimile: (208) 429-1100
Idaho State Bar No. 4640

NO. _____
A.M. _____ P.M. 4:05

NOV 17 2010

J. DAVID NAVARRO, Clerk
By LANI BROXSON
DEPUTY

Conflict Counsel for Defendant/Appellant


**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,)	
	)	Case No. CR FE 2008-373
Plaintiff/Respondent,)	
	)	MOTION AND AFFIDAVIT TO
vs.	)	APPOINT STATE APPELLATE
	)	PUBLIC DEFENDER
ALBERT R. MOORE,)	
)	
Defendant/Appellant.)	
_____)	

COMES NOW the Defendant/Appellant, Albert R. Moore, by and through his attorney of record, Layne Davis, of the firm DAVIS & WALKER, conflict counsel for the Ada County Public Defender's Office, and hereby moves this Honorable Court to appoint the State Appellate Public Defender's Office to represent the above-named Defendant/Appellant in the above-entitled matter for the reasons set forth in this Affidavit attached hereto.

DATED this 16th day of November, 2010.

DAVIS & WALKER

By 
Layne Davis
Conflict Counsel for Defendant/Appellant

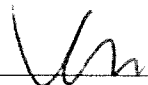
STATE OF IDAHO)
)ss
County of Ada)

LAYNE DAVIS, first being duly sworn upon oath, deposes and states as follows:

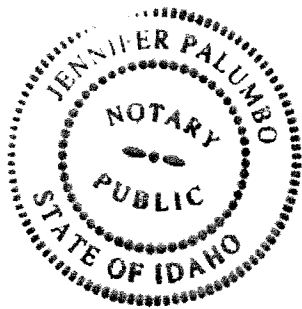
1. I am an attorney with Davis & Walker, conflict counsel for the Ada County Public Defender's Office, in this case.
2. Counsel for the above-named Defendant/Appellant filed a Notice of Appeal from the Judgment of Conviction, entered in the above-entitled action on October 14, 2010.
3. The general practice in the Ada County Public Defender's Office, as well as in our office as conflict counsel for the Public Defender, is to submit a Motion and Order appointing State Appellate Public Defender concurrently with filing the Notice of Appeal on appeals filed after September 15, 1998.
4. Ada County is participating fully in the State Appellate Public Defender program.
5. Defendant/Appellant is entitled to counsel on appeal and is entitled to the services of the State Appellate Public Defender.

DATED this 16th day of November, 2010.

DAVIS & WALKER

By 
Layne Davis
Conflict Counsel for Defendant/Appellant

SUBSCRIBED AND SWORN TO before me on this 16th day of November, 2010.



NOTARY PUBLIC for IDAHO

Residing at:

My Commission Expires:


Palumbo
Ada County
2/1/2014

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 16th day of November, 2010, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office	<input type="checkbox"/>	U.S. MAIL
200 W. Front St., Rm. 3191	<input checked="" type="checkbox"/>	HAND DELIVERED
Boise, ID 83702	<input type="checkbox"/>	FACSIMILE
	<input type="checkbox"/>	OVERNIGHT MAIL
 Tammy Hohenleitner	<input checked="" type="checkbox"/>	U.S. MAIL
Court Reporter	<input type="checkbox"/>	HAND DELIVERED
200 W. Front St.	<input type="checkbox"/>	FACSIMILE
Boise, ID 83702	<input type="checkbox"/>	OVERNIGHT MAIL
 Jayleen Tillman	<input checked="" type="checkbox"/>	U.S. MAIL
Court Reporter	<input type="checkbox"/>	HAND DELIVERED
200 W. Front St.	<input type="checkbox"/>	FACSIMILE
Boise, ID 83702	<input type="checkbox"/>	OVERNIGHT MAIL
 Jeanne Hirmer	<input checked="" type="checkbox"/>	U.S. MAIL
Court Reporter	<input type="checkbox"/>	HAND DELIVERED
200 W. Front St.	<input type="checkbox"/>	FACSIMILE
Boise, ID 83702	<input type="checkbox"/>	OVERNIGHT MAIL
 Susan Gambiae	<input checked="" type="checkbox"/>	U.S. MAIL
Court Reporter	<input type="checkbox"/>	HAND DELIVERED
200 W. Front St.	<input type="checkbox"/>	FACSIMILE
Boise, ID 83702	<input type="checkbox"/>	OVERNIGHT MAIL
 Kasey Redcliff	<input checked="" type="checkbox"/>	U.S. MAIL
Court Reporter	<input type="checkbox"/>	HAND DELIVERED
200 W. Front St.	<input type="checkbox"/>	FACSIMILE
Boise, ID 83702	<input type="checkbox"/>	OVERNIGHT MAIL
 Attorney General's Office	<input checked="" type="checkbox"/>	U.S. MAIL
Statehouse, Room 210	<input type="checkbox"/>	HAND DELIVERED
P.O. Box 83720	<input type="checkbox"/>	FACSIMILE
Boise, ID 83720-0010	<input type="checkbox"/>	OVERNIGHT MAIL
 State of Idaho	<input checked="" type="checkbox"/>	U.S. MAIL
Office of State Appellant Public Defender	<input type="checkbox"/>	HAND DELIVERED
3647 Lake Harbor Ln.	<input type="checkbox"/>	FACSIMILE
Boise, ID 83703	<input type="checkbox"/>	OVERNIGHT MAIL

DAVIS & WALKER

By  _____
Layne Davis
Conflict Counsel for Petitioner



NO. _____
A.M. _____ FILED P.M. 4:05

Layne Davis
DAVIS & WALKER
200 North 4th Street, Suite 302
Boise, Idaho 83702
Telephone: (208) 429-1200
Facsimile: (208) 429-1100
Idaho State Bar No. 4640

NOV 17 2010

J. DAVID NAVARRO, Clerk
By LANI BROXSON
DEPUTY

Conflict Counsel for Defendant/Appellant

**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,)	
	)	Case No. CR FE 2008-373
Plaintiff/Respondent,)	
	)	NOTICE OF APPEAL
vs.)	
)	
ALBERT R. MOORE,)	
)	
Defendant/Appellant.)	
_____)	

**TO: ALL PARTIES, THEIR ATTORNEYS OF RECORD, AND THE CLERK OF THE
ABOVE ENTITLED COURT:**

NOTICE IS HEREBY GIVEN THAT:

1. The above named Defendant/Appellant, Albert R. Moore, appeals against the above named Plaintiff/Respondent to the Idaho Supreme Court from District Court in the Second Judgment of Conviction, entered in the above-entitled action on the 14th day of October, 2010, the Honorable Judge Michael R. McLaughlin 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 11(c)(1).

3. The preliminary statement of issues on appeal are as follows:

- a. Whether the sentence imposed by the District Court constitutes cruel and unusual punishment in violation of the State of Idaho and United States Constitutions.
- b. Whether the Appellant's fundamental right of due process was violated by the sentence imposed by the District Court.

The above issues are not intended to be exhaustive of the issues the Appellant intends to assert on appeal.

4. No Order has been entered sealing any portion of the record.

5. A reporter's standard transcript is requested.

6. The Appellant, Albert R. Moore, requests the preparation of the following portions of the reporter's transcript: The entire standard transcript as defined in Idaho Appellant Rules 25(c).

7. The Appellant requests the following documents to be included in the Clerk's record in addition to those automatically included under Idaho Appellant Rule 28:

1. The Clerk's standard record is requested.

8. I certify:

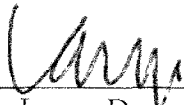
- a. That a copy of this Notice of Appeal has been served on each reporter of whom a transcript has been requested as named below at the address set out below:

1. Tammy Hohenleitner, 200 W. Front St., Boise, Idaho 83702.
2. Jayleen Tillman, 200 W. Front St., Boise, Idaho 83702.
3. Jeanne Hirmer, 200 W. Front St., Boise, Idaho 83702.
4. Susan Gambiae, 200 W. Front St., Boise, Idaho 83702.
5. Kasey Redlich, 200 W. Front St., Boise, Idaho 83702.

- b. That the Appellant, Albert R. Moore, is exempt from paying the estimated transcript fee because he is an indigent person.
- c. That Appellant, Albert R. Moore, is exempt from paying the estimated fee for preparation of the record because he is an indigent person.
- d. That service has been made upon all parties required to be served pursuant to Idaho Appellant Rules Rule 20.

DATED this 16th day of November, 2010.

DAVIS & WALKER

By 
Layne Davis
Conflict Counsel for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of November, 2010, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Ada County Prosecutor's Office
200 W. Front St., Rm. 3191
Boise, ID 83702

☐ U.S. MAIL
☒ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

Tammy Hohenleitner
Court Reporter
200 W. Front St.
Boise, ID 83702

☒ U.S. MAIL
☐ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

Jayleen Tillman
Court Reporter
200 W. Front St.
Boise, ID 83702

☒ U.S. MAIL
☐ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

Jeanne Hirmer
Court Reporter
200 W. Front St.
Boise, ID 83702

☒ U.S. MAIL
☐ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

Susan Gамbee
Court Reporter
200 W. Front St.
Boise, ID 83702

☒ U.S. MAIL
☐ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

Kasey Redlich
Court Reporter
200 W. Front St.
Boise, ID 83702

☒ U.S. MAIL
☐ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

Attorney General's Office
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720-0010

☒ U.S. MAIL
☐ HAND DELIVERED
☐ FACSIMILE
☐ OVERNIGHT MAIL

DAVIS & WALKER

By 

Layne Davis
Conflict Counsel for Appellant

NO. _____
A.M. _____ P.M. _____
NOV 19 2010

J. DAVID NAVARRO, Clerk
By SCARLETT RAMIREZ
DEPUTY

Inmate name Albert R. Moore
IDOC No. 90125
Address State 125 North W,
ST. Anthony, ID 83445

Defendant/Appellant

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

Albert R. Moore,)
Appellant,)
vs. Greg H. Bower +)
Associated Michele R)
McDouglin Layne Davis)
Respondent.)

Case No. CRSE 200800373
Mc 611756
NOTICE OF APPEAL

TO: THE ABOVE RESPONDENTS, Any & All who prosecuted above case
AND THE PARTY'S ATTORNEYS, Layne Davis Appointed Att.
to be fined & fined AND THE CLERK OF THE ABOVE ENTITLED
COURT:

NOTICE IS HEREBY GIVEN THAT

1. The above named Appellant(s) Albert R. Moore
appeal(s) against the above named respondent(s) to the Idaho Supreme Court from (the final
judgment or order, (describe it) Removing 365 days credit
Awarded in 2008. Adding 1yr to sentence June 9, 2010
on Oct 7, 2010
entered in the above-entitled action (proceeding) on the 7 day of October,
2010, Honorable Judge McDouglin presiding.

NOTICE OF APPEAL - 1
Revised: 10/14/05

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Albert R. Moore 125

SAWC 125 N. 8TH.

St. Anthony, ID. 83445

In the District Court of the Fourth Judicial District
of the State of Idaho in and for the County of Ada

Albert R. Moore

) Case No. CISE200800373

Appellant v.s

)

MO 611756

Gregg H. Bowley + all associated

) insert to Appeal to

prosecutors in this case.

) 4 (b) 2 pages.

Michel McLaughlin Judge

)

Wayne Davis ATT.

)

Comes now Albert R. Moore Appellant pro. S.E. Form
papers and states.

ON 9/19/2006 Final Judgement or Decree was
issued. Letter from clerk of court copy enclosed
states that Judgement was dropped so Felony
charges could be brought. double Jeopardy +
Due Process Violated By Prosecution + The
court. I have order transcripts on 4 to 5 different
occasions. Can not file briefs until all transcripts
are made available.

Sworn to by Albert Moore

Albert R. Moore

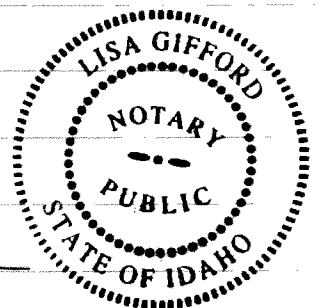
Subscribed and sworn (affirmed)

before me on 10 day of November, 2010

Notary Public for Idaho

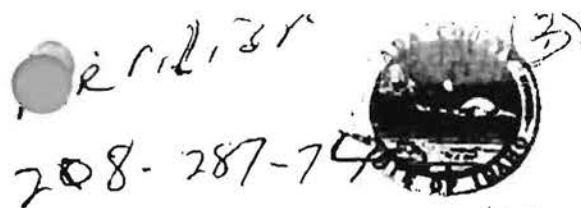
My commission expires 8/31/2015

pages numbered upper corner



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ADA COUNTY
#080373
Register of Actions
Case# M0611756



09/05/2006	001	Bond Reduced or Amended to \$5000.00	MO
09/05/2006	001	Not Guilty Plea	MO
09/05/2006	001	Not Guilty Plea	MO
09/05/2006	001	Not Guilty Plea	MO
09/05/2006	002	Not Guilty Plea	MO
09/05/2006	002	Not Guilty Plea	MO
09/05/2006	002	Not Guilty Plea	MO
09/05/2006		Jury Trial Set 02/21/2007	GS
09/05/2006		Jury Trial Set 02/21/2007	GS
09/05/2006		Jury Trial Set 02/21/2007	GS
09/05/2006		Event Scheduled Pre-Trial Conference 01/23/2007	GS
09/05/2006		Event Scheduled Pre-Trial Conference 01/23/2007	GS
09/05/2006		Event Scheduled Pre-Trial Conference 01/23/2007	GS
09/07/2006		Affidavit of Refusal	CH
09/07/2006		Affidavit of Refusal	CH
09/07/2006		Affidavit of Refusal	CH
		...on BAC	
		...on BAC	
		...on BAC	
09/07/2006		Event Scheduled File Review 09/13/2006	CH
09/07/2006		Event Scheduled File Review 09/13/2006	CH
09/07/2006		Event Scheduled File Review 09/13/2006	CH
09/11/2006		State/City Request for Discovery	SG
09/11/2006		State/City Request for Discovery	SG
09/11/2006		State/City Request for Discovery	SG
09/11/2006		State/City Response to Disc. Req.	SG
09/11/2006		State/City Response to Disc. Req.	SG
09/11/2006		State/City Response to Disc. Req.	SG
09/13/2006		Defendant Request For Discovery	CS
09/13/2006		Defendant Request For Discovery	CS
09/13/2006		Defendant Request For Discovery	CS
09/18/2006		D/L Suspended- BAC Refusal	RB
09/18/2006		D/L Suspended- BAC Refusal	RB
09/18/2006		D/L Suspended- BAC Refusal	RB
09/19/2006	003	Defendant Found Guilty	RB
09/19/2006	003	Defendant Found Guilty	RB
09/19/2006	003	Defendant Found Guilty	RB
09/19/2006	003	Final Judgment, Order or Decree	RB
09/19/2006	003	Final Judgment, Order or Decree	RB
09/19/2006	003	Final Judgment, Order or Decree	RB
09/19/2006	003	Sentenced to Fine & Costs \$250.00	RB
09/19/2006	003	Sentenced to Fine & Costs \$250.00	RB
09/19/2006	003	Sentenced to Fine & Costs \$250.00	RB
10/03/2006		Motion for Bond Reduction	CS
10/03/2006		Motion for Bond Reduction	CS
10/03/2006		Motion for Bond Reduction	CS
10/03/2006		Motion for Bond Reduction	SR
10/03/2006		Motion for Bond Reduction	SR
10/03/2006		Motion for Bond Reduction	SR
10/12/2006		BOND REDUC DENIED	ML
10/12/2006		BOND REDUC DENIED	ML
10/12/2006		BOND REDUC DENIED	ML
10/17/2006		Motion for Bond Reduction	CS
10/17/2006		Motion for Bond Reduction	CS
10/17/2006		Motion for Bond Reduction	CS
10/18/2006		BOND REDUC DENIED	ML
10/18/2006		BOND REDUC DENIED	ML
10/18/2006		BOND REDUC DENIED	ML

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2. That the party has a right to appeal to the Idaho Supreme Court, and the judgment or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 35 18-U.S.C. A § 3742 [e.g. (11(c)(1)), or (12(a))]] 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.

Illegal Sentence Dec. 31, 2008, Ct. Breached plea agreement. Breached law of the case, Breached ATT. Client Relations. June 5, Same as above sentence 1+5 = 6 June 5, 1+4=5 when agreement was in N.D. was not D.U.I. This would not be either. Fed rule 35(2)(b)(i) Rule 35 correction or reduction of sentence (2)(b) See 28 U.S.C.A. § 3551 See U.S. v. Housepegn, 359 F.3d 1144, 1153-1154 (9th Cir. 2004) U.S. v. Liza, 344 F.3d 150 (2nd Cir. 2003) Guilty plea withdrawn due to Breach of plea agreement made or coerced by court. Double Jeopardy, Due process, Speedy trial.

4.(a) Is a reporter's transcript requested? yes

(b) The appellant requests the preparation of the following portions of the reporter's transcript: "June 9, 2010", "June 2, 2010", "Oct 7, 2010"
Transcript case CRFE 2008 02373 - 52mer MO61756
9-19-2006 Final Judgment or Decree
☒ The entire reporter's standard transcript as defined in Rule 25(a), I.A.R.

☒ The entire reporter's transcript supplemented by the following:

- ☐ Voir Dire examination of jury
- ☐ Closing arguments of counsel
- ☐ The following reporter's partial transcript: _____
- ☐ The testimony of witness(es) _____
- ☐ Conferences on requested instructions
- ☒ Instructions verbally given by court

5. The appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R.

- ☐ All requested and given jury instructions
- ☒ The deposition of: PROS. NAMES ANY + ALL
involving THIS CASE
- ☐ Plaintiff's motion for continuance of trial

6. I certify:

(a) ☒ That a copy of this notice of appeal has been served on the reporter.

(b)(1) ☐ That the clerk of the district court or administrative agency has been paid the estimated fee for preparation of the reporter's transcript.

(2) ☒ That the appellant is exempt from paying the estimated transcript fee because

Form 2 Pauper's

(c)(1) ☐ That the estimated fee for preparation of the clerk or agency's record has been paid.

(2) ☒ That the appellant is exempt from paying the estimated fee for the preparation of the record because Formd pauper

(d)(1) ☐ That the appellate filing fee has been paid.

(2) ☒ That appellate is exempt from paying the appellate filing fee because Formd pauper

(e) That service has been made upon all parties required to be served pursuant to Rule 20, and the attorney general of Idaho pursuant to Section 67-1401(1), Idaho Code.

DATED THIS 10 day of November, 2010.

Albert Moore
Appellant

STATE OF IDAHO)
) ss
County of Adz)

Albert Moore, being sworn, deposes and says:

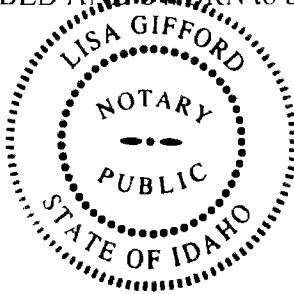
(7)

That the party is the appellant in the above-entitled appeal and that all statements in this notice of appeal are true and correct to the best of his or her knowledge and belief.

Albert R. Moore
Appellant

SUBSCRIBED AND SWORN to before me this 10 day of November,
20 10.

(SEAL)



[Signature]
Notary Public for Idaho

Commission expires: 8/31/2015

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 10 day of November, 2010, I
mailed a true and correct copy of the NOTICE OF APPEAL via prison mail system for
processing to the U.S. mail system to:

**OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION, APPELLATE UNIT
PO Box ~~87320~~ 83720
Boise, ID 83720-0010**

AL2 County Prosecuting Attorney

Albert R. Moore
Appellant

Albert R. Moore 905
S Ave 125 N. 8th W.
St. Anthony, Id. 83445

RECEIVED
NOV 19 2010
NO. _____ FILED 3:13
A.M. P.M.

ADA COUNTY CLERK J. DAVID NAVARRO, Clerk
By MARGARET LUNDQUIST DEPUTY

In The district court of The Fourth Judicial District
of The State of Idaho in and For The county of Ada
State of Id. County of Ada Case No. 2008-373 Statement
Plaintiff V.S.)

Albert Moore)
Defendant)

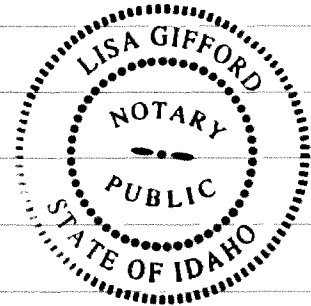
Comes now Albert Moore defendant pro. SE.
Formal papers and states.

Motion and Affidavit for permission to proceed
on partial payment of courts fees. (prisoner) was
filed with Rule 35 28th day of October was
filed on said date.

Sworn to by Albert Moore
Signature Albert Moore

Subscribed and sworn (affirmed)
before me this 10th day of November, 2010
[Signature]
Notary Public for Idaho

My commission expires 8/31/2015



me

RECEIVED

NOV 19 2010

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

ADA COLLECT

Doc No: 90125 Name: MOORE, ALBERT R
 Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
 TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance 70.79	Total Charges 906.79	Total Payments 863.80	Current Balance 27.80
-------------------------------	----------------------------	-----------------------------	-----------------------------

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
10/22/2009	SI0476199-439	099-COMM SPL		11.03DB	59.76
10/26/2009	HQ0476596-011	061-CK INMATE	82117	1.00DB	58.76
10/26/2009	HQ0476596-014	061-CK INMATE	82118	1.50DB	57.26
10/28/2009	II0476785-027	072-METER MAIL	78461	0.61DB	56.65
11/02/2009	SI0477384-415	099-COMM SPL		13.91DB	42.74
11/02/2009	SI0477384-416	099-COMM SPL		26.04DB	16.70
11/02/2009	HQ0477431-018	061-CK INMATE	82145	0.50DB	16.20
11/04/2009	II0477698-019	072-METER MAIL	81904	2.27DB	13.93
11/05/2009	SI0477894-450	099-COMM SPL		13.62DB	0.31
11/05/2009	SI0477952-004	070-PHOTO COPY	81870	0.10DB	0.21
11/05/2009	HQ0478107-001	026-JAIL INCOM	OCT PAY	50.40	50.61
11/05/2009	HQ0478108-001	062-CHILD SUPP	157849	25.20DB	25.41
11/12/2009	SI0478807-547	099-COMM SPL		13.73DB	11.68
11/12/2009	SI0478807-548	099-COMM SPL		11.18DB	0.50
11/13/2009	HQ0478974-010	970-484047 VOIDED	1	-30.00DB	30.50
11/18/2009	II0479460-035	072-METER MAIL	81974	4.95DB	25.55
11/19/2009	SI0479544-495	099-COMM SPL		14.58DB	10.97
11/30/2009	HQ0480362-016	061-CK INMATE	82906	0.50DB	10.47
12/01/2009	HQ0480598-010	011-RCPT MO/CC	RCPT MO	50.00	60.47
12/02/2009	II0480716-044	072-METER MAIL	82828	1.39DB	59.08
12/03/2009	SI0480903-472	099-COMM SPL		10.20DB	48.88
12/03/2009	SI0480903-473	099-COMM SPL		36.05DB	12.83
12/07/2009	HQ0481372-010	026-JAIL INCOM	NOV PAY	36.00	48.83
12/07/2009	HQ0481373-001	062-CHILD SUPP	157849	18.00DB	30.83
12/09/2009	SI0481921-003	070-PHOTO COPY	78395	1.80DB	29.03
12/10/2009	SI0482044-607	099-COMM SPL		21.04DB	7.99
12/15/2009	SI0482518-002	070-PHOTO COPY	82831	2.15DB	5.84
12/15/2009	SI0482518-026	070-PHOTO COPY	82786	0.40DB	5.44
12/15/2009	SI0482525-001	070-PHOTO COPY	81986	0.10DB	5.34
12/15/2009	SI0482525-019	070-PHOTO COPY	81975	9.45DB	4.11DB
12/15/2009	SI0482525-028	070-PHOTO COPY	81918	1.10DB	5.21DB
12/15/2009	SI0482547-004	070-PHOTO COPY	81962	0.30DB	5.51DB
12/15/2009	SI0482547-026	070-PHOTO COPY	82857	0.20DB	5.71DB
12/24/2009	SI0483797-004	070-PHOTO COPY	83324	0.50DB	6.21DB
12/24/2009	HQ0483799-017	011-RCPT MO/CC	RCPT MO	50.00	43.79
12/30/2009	SI0484225-508	099-COMM SPL		11.89DB	31.90
12/30/2009	SI0484225-509	099-COMM SPL		31.38DB	0.52
01/04/2010	SI0484546-004	070-PHOTO COPY	83372	0.40DB	0.12
01/04/2010	SI0484546-006	070-PHOTO COPY	83354	0.30DB	0.18DB

00084

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance 70.79	Total Charges 906.79	Total Payments 863.80	Current Balance 27.80
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===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
01/07/2010	II0485188-027	072-METER MAIL	83388	1.56DB	1.74DB
01/07/2010	HQ0485273-018	026-JAIL INCOM	DEC PAY	45.60	43.86
01/07/2010	HQ0485274-002	062-CHILD SUPP	157849	22.80DB	21.06
01/11/2010	SI0485550-002	070-PHOTO COPY	83378	0.10DB	20.96
01/11/2010	SI0485550-007	070-PHOTO COPY	83387	3.25DB	17.71
01/12/2010	HQ0485737-003	011-RCPT MO/CC	RCPT MO	50.00	67.71
01/14/2010	II0485981-029	072-METER MAIL	83597	1.22DB	66.49
01/14/2010	SI0485993-535	099-COMM SPL		47.39DB	19.10
01/14/2010	SI0485993-536	099-COMM SPL		10.20DB	8.90
01/19/2010	SI0486337-003	070-PHOTO COPY	83578	1.30DB	7.60
01/19/2010	SI0486337-012	070-PHOTO COPY	83614	0.60DB	7.00
01/25/2010	SI0486948-003	070-PHOTO COPY	83595	3.05DB	3.95
01/25/2010	SI0486948-013	070-PHOTO COPY	83621	2.10DB	1.85
02/01/2010	SI0487824-003	070-PHOTO COPY	83567	0.10DB	1.75
02/01/2010	SI0487824-015	070-PHOTO COPY	83670	0.10DB	1.65
02/04/2010	II0488201-038	072-METER MAIL	83683	1.39DB	0.26
02/04/2010	HQ0488204-010	011-RCPT MO/CC	RCPT/MO	50.00	50.26
02/09/2010	SI0488819-012	070-PHOTO COPY	83684	1.90DB	48.36
02/11/2010	SI0489200-574	099-COMM SPL		13.60DB	34.76
02/11/2010	SI0489200-575	099-COMM SPL		34.44DB	0.32
02/11/2010	HQ0489318-011	026-JAIL INCOM	JAN PAY	26.40	26.72
02/11/2010	HQ0489319-001	062-CHILD SUPP	157849	13.20DB	13.52
02/16/2010	SI0489570-003	070-PHOTO COPY	83705	1.50DB	12.02
02/18/2010	SI0489827-515	099-COMM SPL		11.91DB	0.11
02/22/2010	SI0490138-010	070-PHOTO COPY	83895	0.20DB	0.09DB
03/01/2010	SI0490924-001	070-PHOTO COPY	84261	0.60DB	0.69DB
03/01/2010	SI0490924-012	070-PHOTO COPY	83945	1.90DB	2.59DB
03/05/2010	HQ0491511-025	011-RCPT MO/CC	RCPT MO	50.00	47.41
03/08/2010	HQ0491797-002	026-JAIL INCOM	FEB PAY	2.40	49.81
03/09/2010	SI0491869-004	070-PHOTO COPY	84263	0.30DB	49.51
03/11/2010	SI0492216-591	099-COMM SPL		10.20DB	39.31
03/11/2010	SI0492216-592	099-COMM SPL		17.49DB	21.82
03/12/2010	SI0492350-011	070-PHOTO COPY	84448	0.30DB	21.52
03/18/2010	SI0492930-498	099-COMM SPL		11.24DB	10.28
03/18/2010	SI0492930-499	099-COMM SPL		10.20DB	0.08
03/22/2010	SI0493239-013	070-PHOTO COPY	84513	0.40DB	0.32DB
03/22/2010	SI0493239-016	070-PHOTO COPY	83951	0.20DB	0.52DB
03/31/2010	II0494143-025	072-METER MAIL	84575	4.14DB	4.66DB
04/05/2010	SI0494702-004	070-PHOTO COPY	84546	0.50DB	5.16DB

00085

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance 70.79	Total Charges 906.79	Total Payments 863.80	Current Balance 27.80
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===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
04/05/2010	SI0494702-011	070-PHOTO COPY	84396	0.70DB	5.86DB
04/05/2010	SI0494702-014	070-PHOTO COPY	84574	7.45DB	13.31DB
04/08/2010	HQ0495319-010	026-JAIL INCOM	MARCH PAY	16.80	3.49
04/12/2010	SI0495590-002	070-PHOTO COPY	84262	0.30DB	3.19
04/14/2010	II0495912-005	072-METER MAIL	85086	2.24DB	0.95
04/30/2010	HQ0497547-011	011-RCPT MO/CC	RCPT MO	10.20	11.15
05/05/2010	II0498294-076	072-METER MAIL	85630	1.93DB	9.22
05/06/2010	SI0498516-463	099-COMM SPL		2.49DB	6.73
05/06/2010	II0498611-002	223-ADMIN JANITOR	APR PAYROL	52.80	59.53
05/06/2010	HQ0498612-003	062-CHILD SUPP	157849	26.40DB	33.13
05/20/2010	SI0500450-469	099-COMM SPL		26.29DB	6.84
05/20/2010	SI0500450-470	099-COMM SPL		6.20DB	0.64
05/24/2010	SI0500733-015	070-PHOTO COPY	85658	0.50DB	0.14
05/24/2010	SI0500733-028	070-PHOTO COPY	85085	0.45DB	0.31DB
05/24/2010	SI0500733-054	070-PHOTO COPY	85193	0.30DB	0.61DB
05/24/2010	SI0500733-060	070-PHOTO COPY	84587	0.60DB	1.21DB
05/24/2010	SI0500733-063	070-PHOTO COPY	85629	2.00DB	3.21DB
05/24/2010	SI0500733-076	070-PHOTO COPY	84594	0.40DB	3.61DB
05/25/2010	II0500880-042	072-METER MAIL	85704	1.22DB	4.83DB
06/03/2010	SI0501873-002	215-MAINTENANC	MAY PAY	49.20	44.37
06/03/2010	HQ0501874-003	062-CHILD SUPP	157849	24.60DB	19.77
06/04/2010	II0502067-001	072-METER MAIL	84656	0.17DB	19.60
06/09/2010	SI0502853-003	070-PHOTO COPY	85705	3.75DB	15.85
06/10/2010	SI0502998-615	099-COMM SPL		14.95DB	0.90
06/11/2010	HQ0503198-010	011-RCPT MO/CC	RTCP MO	10.20	11.10
06/16/2010	II0503635-007	072-METER MAIL	85785	7.09DB	4.01
06/16/2010	II0503635-010	072-METER MAIL	85797	0.44DB	3.57
06/18/2010	II0503959-032	072-METER MAIL	86408	2.27DB	1.30
06/21/2010	SI0504181-005	070-PHOTO COPY	85721	1.20DB	0.10
06/21/2010	SI0504181-029	070-PHOTO COPY	85786	11.10DB	11.00DB
06/21/2010	SI0504181-030	070-PHOTO COPY	85798	0.10DB	11.10DB
06/28/2010	SI0504852-006	070-PHOTO COPY	86401	4.30DB	15.40DB
06/29/2010	II0505018-027	072-METER MAIL	85455	1.05DB	16.45DB
06/29/2010	II0505018-028	072-METER MAIL	86431	2.00DB	18.45DB
06/29/2010	HQ0505074-016	011-RCPT MO/CC	RCPT MO	125.00	106.55
07/01/2010	SI0505252-420	099-COMM SPL		6.80DB	99.75
07/01/2010	SI0505252-421	099-COMM SPL		13.46DB	86.29
07/02/2010	II0505427-023	072-METER MAIL	85442	1.32DB	84.97
07/07/2010	II0505986-026	072-METER MAIL	86450	1.32DB	83.65

00086

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance	Total Charges	Total Payments	Current Balance
70.79	906.79	863.80	27.80

===== TRANSACTIONS =====

Date	Batch	Description	Ref Doc	Amount	Balance
07/08/2010	SI0506206-520	099-COMM SPL		6.80DB	76.85
07/08/2010	SI0506206-521	099-COMM SPL		49.44DB	27.41
07/09/2010	SI0506431-001	218-NAMPA FISH HAT	6/27-7/03	4.00	31.41
07/09/2010	SI0506434-005	218-CASCADE F.S	6/21-25	25.00	56.41
07/09/2010	HQ0506435-007	062-CHILD SUPP	157849	12.50DB	43.91
07/12/2010	HQ0506579-005	061-CK INMATE	85456	12.00DB	31.91
07/12/2010	SI0506580-010	070-PHOTO COPY	85443	0.80DB	31.11
07/12/2010	SI0506580-012	070-PHOTO COPY	86434	1.70DB	29.41
07/12/2010	SI0506580-014	070-PHOTO COPY	85454	1.85DB	27.56
07/15/2010	SI0507154-007	217-RC 4	6/27-7/03	4.50	32.06
07/19/2010	SI0507563-004	070-PHOTO COPY	86448	1.40DB	30.66
07/22/2010	SI0507982-455	099-COMM SPL		13.91DB	16.75
07/22/2010	SI0507982-456	099-COMM SPL		16.22DB	0.53
07/26/2010	SI0508264-006	070-PHOTO COPY	86511	0.50DB	0.03
07/26/2010	SI0508264-017	070-PHOTO COPY	86480	0.30DB	0.27DB
07/26/2010	SI0508264-019	070-PHOTO COPY	86471	0.30DB	0.57DB
07/28/2010	II0508611-022	072-METER MAIL	86538	1.66DB	2.23DB
08/03/2010	SI0509256-011	070-PHOTO COPY	86539	1.80DB	4.03DB
08/06/2010	II0509962-031	072-METER MAIL	86555	3.32DB	7.35DB
08/06/2010	HQ0509985-009	011-RCPT MO/CC	RTCP MO	50.00	42.65
08/06/2010	SI0510022-005	217-ROAD CREW 3	7/4-7/10	5.00	47.65
08/06/2010	SI0510062-023	217-GOWEN ROAD	7/18-7/24	8.00	55.65
08/06/2010	SI0510064-012	217-GOWEN FIELD	7/24-7/31	16.00	71.65
08/10/2010	II0510321-024	072-METER MAIL	86560	2.10DB	69.55
08/11/2010	II0510553-033	072-METER MAIL	86565	1.39DB	68.16
08/12/2010	SI0510697-629	099-COMM SPL		10.20DB	57.96
08/12/2010	SI0510697-630	099-COMM SPL		47.44DB	10.52
08/16/2010	SI0511020-003	070-PHOTO COPY	86558	2.60DB	7.92
08/16/2010	SI0511020-006	070-PHOTO COPY	86556	4.10DB	3.82
08/23/2010	SI0511856-013	070-PHOTO COPY	86566	0.25DB	3.57
08/23/2010	SI0511856-019	070-PHOTO COPY	86583	0.20DB	3.37
09/07/2010	SI0513624-001	217-ROAD CREW GOWE	8/1-8/7	16.00	19.37
09/07/2010	SI0513639-018	217-ROAD CREW GOWE	8/15-8/21	4.00	23.37
09/07/2010	SI0513739-008	217-ROAD CREW 5	8/8-8/14	5.00	28.37
09/07/2010	SA0513750-004	215- ILD WORKERS	AUG PAY	0.20	28.57
09/10/2010	SA0514314-004	072-METER MAIL	46615	0.17DB	28.40
09/10/2010	SA0514321-008	070-PHOTO COPY	46610	1.20DB	27.20
09/13/2010	SA0514502-277	099-COMM SPL		23.43DB	3.77
09/20/2010	SA0515274-002	070-PHOTO COPY	46872	0.20DB	3.57

00087

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/21/2010 =

Doc No: 90125 Name: MOORE, ALBERT R
Account: CHK Status: ACTIVE

SAWC/GHSG PRES FACIL
TIER-F CELL-1

Transaction Dates: 10/21/2009-10/21/2010

Beginning Balance	Total Charges	Total Payments	Current Balance
70.79	906.79	863.80	27.80

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
09/27/2010	SA0516092-009	070-PHOTO COPY	46813	1.00DB	2.57
09/27/2010	SA0516092-010	070-PHOTO COPY	46847	0.20DB	2.37
09/27/2010	SA0516103-003	072-METER MAIL	46825	0.17DB	2.20
10/07/2010	SA0517560-007	215-ILD WORKERS	SEPT PAY	0.10	2.30
10/07/2010	SA0517585-024	211-FOOD SVC	SEPT PAY	51.00	53.30
10/07/2010	HQ0517586-009	062-CHILD SUPP	157849	25.50DB	27.80

STATE OF IDAHO

Idaho Department of Correction

I hereby certify that the foregoing is a full, true, and
correct copy of an instrument as the same now remains
on file and of record in my office.

WITNESS my hand hereto affixed this 21st

day of October A.D. 2010

By Lorraine Royer

00088

NO. _____ FILED
AM. _____ PM. 4:00

NOV 19 2010

J. DAVID HAYWARD, Clerk
By BRADLEY THIES
DEPUTY

Inmate name Albert R. Moore
IDOC No. 90125
Address SBWC 125 N. 8TH W.
St. Anthony, Id. 83445

Defendant-Appellant

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

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
vs.)
)
Albert R. Moore,)
)
Defendant-Appellant.)
)

Case No. CRFE 2004 00373
MO 611756
**MOTION AND AFFIDAVIT IN
SUPPORT FOR
APPOINTMENT OF
COUNSEL**

COMES NOW, Albert Moore, Defendant-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. Defendant-Appellant is currently incarcerated within the Idaho Department of
Corrections under the direct care, custody and control of Warden Little,
of the SBWC 125 N 8TH W. ST. Anthony.

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

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

4. Other: Det TO interference of Layne Davis Inces Sonowr Else

DATED this 10 day of November, 2010.

Albert Moore

Defendant-Appellant

AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL

STATE OF IDAHO)
County of Adz) ss

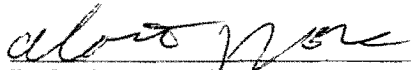
Albert Moore, after first being duly sworn upon his/her oath, deposes and says as follows:

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the 52w 125 N 8th. ST. Anthony under the care, custody and control of Warden Little;
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.

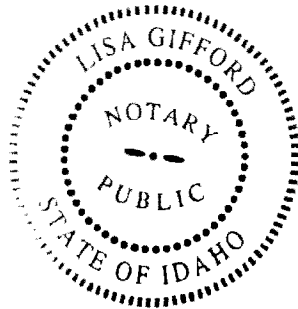
WHEREFORE, Defendant-Appellant respectfully prays that this Honorable Court issue it's Order granting Defendant-Appellant's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Defendant-Appellant is entitled to.

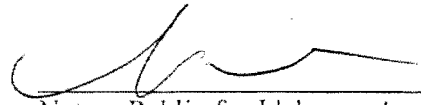
DATED This 10 day of November, 2010.


Defendant-Appellant

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 10 day
of November, 2010.

(SEAL)




Notary Public for Idaho
Commission expires: 8/31/2015

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 10 day of November, 2010, 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:

ALZ County Prosecuting Attorney

Albert Rose
Defendant-Appellant



ORIGINAL

Layne Davis
DAVIS & WALKER
200 North 4th Street, Suite 302
Boise, Idaho 83702
Telephone: (208) 429-1200
Facsimile: (208) 429-1100
Idaho State Bar No. 4640

RECEIVED
NOV 17 2010
ADA COUNTY CLERK

NO. _____ FILED _____
A.M. _____ P.M. *4:16*

NOV 19 2010

J. DAVID NAVARRO, Clerk
By C. HO
DEPUTY

Conflict Counsel for Defendant/Appellant

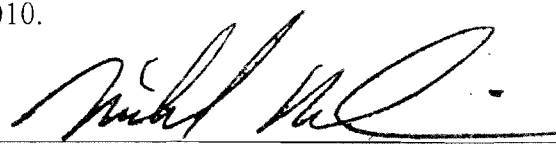
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR FE 2008-373
Petitioner,)	
	)	ORDER APPOINTING STATE
vs.	)	APPELLATE PUBLIC DEFENDER
	)	ON DIRECT APPEAL
ALBERT R. MOORE,)	
)	
Defendant/Appellant.)	
_____)	

The above-named Defendant/Appellant, Albert R. Moore, being indigent and having heretofore been represented by the Ada County Public Defender's Office in the District Court, and said Defendant/Appellant 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/Appellant, Albert R. Moore, in all matters pertaining to the direct appeal.

DATED this 19 day of November, 2010.

By 
The Honorable Michael R. McLaughlin

Handwritten notes and initials at bottom left

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.

ALBERT RAY MOORE,

Defendant-Appellant.

Supreme Court Case No. 38285

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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said
Court this 28th day of December, 2010.

J. DAVID NAVARRO
Clerk of the District Court

By BRADLEY J. THIES
Deputy Clerk

CERTIFICATE OF EXHIBITS

00094

EXHIBIT LIST

CASE NO. CR-FE-2008-0000373

MICHAEL MCLAUGHLIN / Cindy Ho
Judge Deputy Clerk

DATE: June 6th, 2010

STATE OF IDAHO ,
Plaintiff(s),

vs..

ALBERT RAY MOORE,
Defendant(s).

JAN BENNETTS
Counsel for Plaintiff

LAYNE DAVIS
Counsel for Defendant

BY	NO.	DESCRIPTION	STATUS
St	1.	Copy of Docs from ND	Admitted

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.

ALBERT RAY MOORE,

Defendant-Appellant.

Supreme Court Case No. 38285

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:

LIMITED CLERK'S RECORD

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

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

J. DAVID NAVARRO
Clerk of the District Court

Date of Service: DEC 29 2010

By BRADLEY J. THIES
Deputy Clerk

CERTIFICATE OF SERVICE

00096

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.

ALBERT RAY MOORE,

Defendant-Appellant.

Supreme Court Case No. 38285

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 17th day of November, 2010.

J. DAVID NAVARRO
Clerk of the District Court

By BRADLEY J. THIES
Deputy Clerk

CERTIFICATE TO RECORD

00097

NO.
A.M.

FILED
P.M.

4:31

JAN 21 2011

CHRISTOPHER D. RICH, Clerk
By MARGARET LUNDQUIST
DEPUTY

ORIGINAL

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

SARA B. THOMAS
Chief, Appellate Unit
I.S.B. # 5867
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83703
(208) 334-2712
(208) 334-2985 (fax)

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,

v.

ALBERT R. MOORE,

Defendant-Appellant.

CASE NO. H0800373
SUPREME. COURT NO. 38285

OBJECTION TO THE RECORD

TO: THE ABOVE-NAMED RESPONDENT, THE STATE OF IDAHO, AND
GREG BOWER, ADA COUNTY PROSECUTOR, 200 WEST FRONT STREET 3RD
FLOOR, BOISE, ID, 83702, AND THE CLERK OF THE ABOVE ENTITLED COURT:

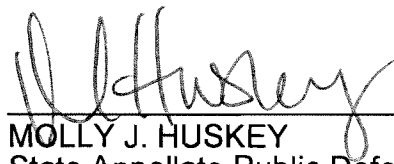
NOTICE IS HEREBY GIVEN that appellant in the above entitled proceeding
hereby objects to the record on appeal served on December 29, 2010, pursuant to
Idaho Appellate Rule (I.A.R.) 29. This objection is based upon the fact that the
appellant is requesting the item/s listed below. Accordingly, the appellant requests,
pursuant to I.A.R. 29(a), that the following be added:

- 1) Transcript of Motion Hearing held on October 7, 2010 (Court Reporter: Susan
Gambie, estimation of 50 pages); and
- 2) Copies of Letters copied to AC/PD on May 28, 2010.

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Idaho case law currently indicates that any missing portions of the record are presumed to support the trial court's ruling. *State v. Wolfe*, 99 Idaho 382, 390, 582 P.2d 728, 736 (1978); *State v. Williams*, 126 Idaho 39, 45, 878 P.2d 213, 219 (Ct. App.1994). The requested items are currently missing from the record. Unless made part of the record on appeal, the events and testimony of this hearing will be presumed to support the district court's trial rulings and his sentencing decisions, which are now on appeal. In order to overcome this legal presumption and to have his case considered on its facts and merits, Mr. Moorerequests that the above-mentioned item/s be made part of the record on appeal and filed with the Idaho Supreme Court.

DATED this 21st day of January, 2011.


MOLLY J. HUSKEY
State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 21st day of January, 2011, served a true and correct copy of the attached OBJECTION TO THE RECORD by the method indicated below:

GREG BOWER
ADA COUNTY PROSECUTOR
200 WEST FRONT STREET 3RD FLOOR
BOISE ID 83702
STATEHOUSE MAIL

LAYNE DAVIS
ATTORNEY AT LAW
200 NORTH 4TH STREET SUITE 302
BOISE IDAHO 83702

KASEY REDLICH
COURT REPORTER
10403 WEST BUCKTAIL
BOISE ID 83714

SUSAN GAMBEE
COURT REPORTER
200 W FRONT ST
BOISE ID 83702-7300

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


EVAN A. SMITH
Administrative Assistant

MJH/tmf/eas

FEB 01 2011

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

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

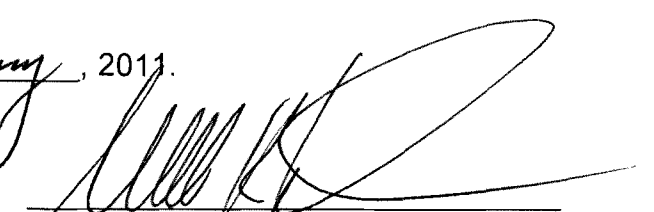
STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
v.	)	CASE NO. H0800373
	)	SUPREME COURT NO. 38285
ALBERT R. MOORE,)	
	)	ORDER
Defendant-Appellant.)	

Upon reviewing the attached (stipulation or objection) and finding good cause, IT IS HEREBY ORDERED the Record on Appeal in the above mentioned case shall include the following:

- 1) Transcript of Motion Hearing held on October 7, 2010 (Court Reporter: Susan Gambee, estimation of 50 pages); and
- 2) Copies of Letters copied to AC/PD on May 28, 2010.

The above items shall be prepared and lodged with the Clerk of the Idaho Supreme Court, and copies served on the State Appellate Public Defender's Office and the Idaho Attorney General's Office. The above items shall be prepared at county expense.

DATED this 25 day January, 2011.



MICHAEL R. MCLAUGHLIN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 2nd day of February, 2011, served a true and correct copy of the attached ORDER by placing a copy in the United States mail, postage prepaid, addressed to:

GREG BOWER
ADA COUNTY PROSECUTOR
200 WEST FRONT STREET 3RD FLOOR
BOISE ID 83702
STATEHOUSE MAIL

LAYNE DAVIS
ATTORNEY AT LAW
200 NORTH 4TH STREET SUITE 302
BOISE IDAHO 83702

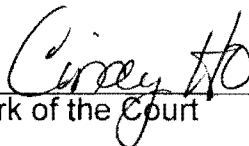
KASEY REDLICH
COURT REPORTER
10403 WEST BUCKTAIL
BOISE ID 83714

SUSAN GAMBEE
COURT REPORTER
200 W FRONT ST
BOISE ID 83702-7300

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

STEPHEN KENYON
CLERK OF THE SUPREME COURT
PO BOX 83720
BOISE ID 83720-0101
HAND DELIVER

MOLLY J HUSKEY
STATE APPELLATE PUBLIC DEFENDER
3050 N LAKE HARBOR LANE SUITE 100
BOISE ID 83703


Clerk of the Court

TO: Clerk of the Court
Idaho Supreme Court
451 West State Street
Boise, Idaho 83720
(208) 334-2616

NO. _____
AM 8:00 FILED PM

FEB 04 2011

CHRISTOPHER D. RICH, Clerk
By BRADLEY J. THIES
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO

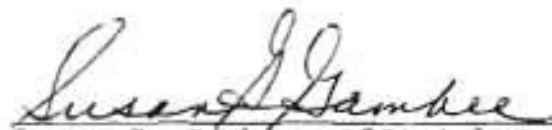
----- x Docket No. 38285
THE STATE OF IDAHO, :
Plaintiff-Respondent, :
vs. :
ALBERT R. MOOFE, :
Defendant-Appellant. :
----- x

NOTICE OF TRANSCRIPT OF 16 PAGES LODGED

Appealed from the District Court of the
Fourth Judicial District of the State of
Idaho, in and for the County of Ada,
Michael R. McLaughlin, District Court Judge.

This transcript contains hearing held on:
October 7, 2010

DATE: February 1, 2011


Susan G. Gambée, Official Court Reporter
Official Court Reporter,
Judge Deborah Bail
Ada County Courthouse
Idaho Certified Shorthand Reporter No. 18
Registered Merit Reporter

00103