

11-18-2010

State v. Salazar Clerk's Record v. 1 Dckt. 37832

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IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO,

**Plaintiff-
Respondent,**

-vs-

LAZARUS SALAZAR,

**Defendant-
Appellant.**

Appealed from the District of the Third Judicial District
for the State of Idaho, in and for Canyon County

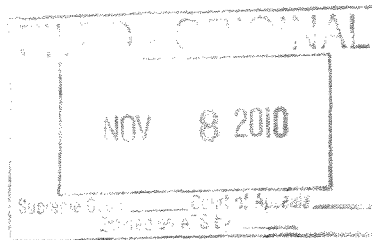
Honorable BRADLY S. FORD, District Judge

Molly Huskey
State Appellate Public Defender
3647 Lake Harbor Lane
Boise, Idaho 83703

Attorney for Appellant

Lawrence G. Wasden
Attorney General
Statehouse
Boise, Idaho 83720

Attorney for Respondent



ORIGINAL

37832

IN THE SUPREME COURT OF THE
STATE OF IDAHO

STATE OF IDAHO,)
)
 Plaintiff-)
 Respondent,)
)
 -vs-)
)
 LAZARUS SALAZAR,)
)
 Defendant-)
 Appellant.)

Supreme Court No. 37832

37832

Appeal from the Third Judicial District, Canyon County, Idaho.

HONORABLE BRADLY S. FORD, Presiding

Molly Huskey, State Appellate Public Defender, 3647 Lake Harbor Lane,
Boise, Idaho 83703

Attorney for Appellant

Lawrence G. Wasden, Attorney General, Statehouse, Boise, Idaho 83720

Attorney for Respondent

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State of Idaho vs. Lazarus Salazar

Felony

Date		Judge
10/30/2009	New Case Filed-Felony	Robert M. Taisey
	Hearing Held - PC	Gary D. DeMeyer
	Criminal Complaint	Gary D. DeMeyer
	Petition for Appointment of Special Prosecutor	Robert M. Taisey
	Order of Appointment of Special Prosecutor	Renae J. Hoff
	Warrant Issued - Arrest Bond amount: 200000.00 Defendant: Salazar, Lazarus	Gary D. DeMeyer
	Case Status Changed: Inactive	Robert M. Taisey
11/4/2009	Hearing Scheduled (Arrestment (In Custody) 11/04/2009 01:30 PM)	Robert M. Taisey
	Warrant Returned Defendant: Salazar, Lazarus	Robert M. Taisey
	Case Status Changed: Pending	Robert M. Taisey
	Hearing result for Arrestment (In Custody) held on 11/04/2009 01:30 PM: Arrestment / First Appearance	Robert M. Taisey
	Hearing result for Arrestment (In Custody) held on 11/04/2009 01:30 PM: Constitutional Rights Warning	Robert M. Taisey
	Hearing result for Arrestment (In Custody) held on 11/04/2009 01:30 PM: Order Appointing Public Defender	Robert M. Taisey
	Hearing result for Arrestment (In Custody) held on 11/04/2009 01:30 PM: No Contact Order	Robert M. Taisey
	Change Assigned Judge	Dan C Grober
	Hearing Scheduled (Preliminary Hearing 11/17/2009 08:30 AM)	Dan C Grober
11/17/2009	Hearing result for Preliminary Hearing held on 11/17/2009 08:30 AM: Preliminary Hearing Held	Dan C Grober
	Hearing result for Preliminary Hearing held on 11/17/2009 08:30 AM: Bound Over (after Prelim)	Dan C Grober
	Hearing result for Preliminary Hearing held on 11/17/2009 08:30 AM: Order Binding Defendant Over to District Court	Dan C Grober
	Hearing Scheduled (Arrn. - District Court 11/25/2009 09:00 AM)	Renae J. Hoff
11/23/2009	Motion bond reduce/NOHR	Bradly S Ford
11/24/2009	Information	Bradly S Ford
11/25/2009	Hearing result for Arrn. - District Court held on 11/25/2009 09:00 AM: District Court Hearing Held Court Reporter: Carole Bull Number of Transcript Pages for this hearing estimated: less than 100 pages Bond reduce	Renae J. Hoff
	Hearing result for Arrn. - District Court held on 11/25/2009 09:00 AM: Continued Bond reduce	Renae J. Hoff
	Hearing Scheduled (Arrn. - District Court 12/04/2009 09:00 AM)	Gregory M Culet
12/2/2009	Amended Information	Bradly S Ford

000001

State of Idaho vs. Lazarus Salazar

Felony

Date		Judge
12/4/2009	Hearing result for Arrn. - District Court held on 12/04/2009 09:00 AM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages FORD - PT Feb 8 @ 130pm JT Feb 23-25 @ 9am	Gregory M Culet
	Hearing result for Arrn. - District Court held on 12/04/2009 09:00 AM: Arraignment / First Appearance FORD - PT Feb 8 @ 130pm JT Feb 23-25 @ 9am	Gregory M Culet
	Hearing result for Arrn. - District Court held on 12/04/2009 09:00 AM: Appear & Plead Not Guilty FORD - PT Feb 8 @ 130pm JT Feb 23-25 @ 9am	Gregory M Culet
	Hearing Scheduled (Pre Trial 02/08/2010 01:30 PM)	Bradly S Ford
	Hearing Scheduled (Jury Trial 02/23/2010 09:00 AM) stnw	Bradly S Ford
	Second Amended Information	Gregory M Culet
12/7/2009	Notice Of Hearing	Gregory M Culet
12/15/2009	Motion for Bond Reduction or release on own recognizance and notice of hearing	Bradly S Ford
	Hearing Scheduled (Motion Hearing 12/18/2009 09:00 AM) Motion for Bond Reduction	Thomas J Ryan
12/17/2009	Objection to bond reduction	Bradly S Ford
12/18/2009	Hearing result for Motion Hearing held on 12/18/2009 09:00 AM: Continued Motion for Bond Reduction	Thomas J Ryan
	Hearing Scheduled (Motion Hearing 12/23/2009 09:00 AM) bnd redu	Renae J. Hoff
	District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: less than 100	Thomas J Ryan
12/23/2009	Hearing result for Motion Hearing held on 12/23/2009 09:00 AM: Motion Denied bnd redu	Renae J. Hoff
	Hearing result for Motion Hearing held on 12/23/2009 09:00 AM: District Court Hearing Held Court Reporter: Carole Bull Number of Transcript Pages for this hearing estimated: less than 100 pages	Renae J. Hoff
1/4/2010	Request For Discovery	Bradly S Ford
	Response For Request For Discovery	Bradly S Ford
2/8/2010	Hearing result for Pre Trial held on 02/08/2010 01:30 PM: Interim Hearing Held	Bradly S Ford
	Pre-trial Memorandum	Bradly S Ford
	District Court Hearing Held Court Reporter: Yvonne Hyde Gier Number of Transcript Pages for this hearing estimated: less than 100 pages	Bradly S Ford
	Hearing Scheduled (Conference - Status 02/22/2010 01:00 PM)	Bradly S Ford
	State's List of Potential Trial Witnesses	Bradly S Ford
2/22/2010	Hearing Scheduled (Jury Trial 02/23/2010 08:30 AM) stnw	James C. Morfitt

000002

State of Idaho vs. Lazarus Salazar

Felony

Date		Judge
2/22/2010	Hearing result for Conference - Status held on 02/22/2010 01:00 PM: Interim Hearing Held	Bradly S Ford
	District Court Hearing Held Court Reporter: Yvonne Hyde Gier Number of Transcript Pages for this hearing estimated: less than 100 pages	Bradly S Ford
2/23/2010	Hearing result for Jury Trial held on 02/23/2010 08:30 AM: District Court Hearing Held Court Reporter: Kathy Klemetson Number of Transcript Pages for this hearing estimated: less than 100 pages	James C. Morfitt
	Hearing result for Jury Trial held on 02/23/2010 08:30 AM: Jury Trial Started Day 1	James C. Morfitt
2/24/2010	Found Guilty After Trial - Count I and Count II Miscellaneous - Verdict Form Miscellaneous - Jury Instructions Miscellaneous Questions #1, #2, response to #2 Hearing Held - 2nd day Trial District Court Hearing Held Court Reporter: Carole Bull Number of Transcript Pages for this hearing estimated: less than 500 pages	James C. Morfitt James C. Morfitt James C. Morfitt James C. Morfitt James C. Morfitt James C. Morfitt
2/25/2010	Hearing Held - 3rd Day trial Found Guilty After Trial Part II Miscellaneous - Special Verdict Form Part II Miscellaneous - Jury Instructions - Part II Miscellaneous - State's Proposed Jury Instructions Pre-Sentence Investigation Evaluation Ordered District Court Hearing Held Court Reporter: Kim Saunders Number of Transcript Pages for this hearing estimated: more than 100 pages	James C. Morfitt James C. Morfitt James C. Morfitt James C. Morfitt James C. Morfitt James C. Morfitt James C. Morfitt
	Hearing Scheduled (Sentencing 05/10/2010 03:00 PM) PSI Ordered	Bradly S Ford
5/5/2010	Motion to continue sentence hearing	Bradly S Ford
5/11/2010	Stipulation to continue sentence hearing Order to continue sentence hearing	Bradly S Ford Bradly S Ford
	Hearing result for Sentencing held on 05/10/2010 03:00 PM: Hearing Vacated PSI Ordered	Bradly S Ford
	Hearing Scheduled (Sentencing 06/09/2010 09:00 AM) PSI ordered	Bradly S Ford
6/9/2010	Hearing result for Sentencing held on 06/09/2010 09:00 AM: Hearing Held Block 1 hour Final Judgement, Order Or Decree Entered Sentenced To Incarceration Commitment - Held To Answer - Count I	Bradly S Ford Bradly S Ford Bradly S Ford

000003

State of Idaho vs. Lazarus Salazar

Felony

Date		Judge
6/9/2010	Commitment - Held To Answer - Count II	Bradly S Ford
	Notice to Defendant Upon Sentencing	Bradly S Ford
	Order for DNA Sample and Right Thumbprint Impression	Bradly S Ford
	Case Status Changed: closed pending clerk action	Bradly S Ford
	District Court Hearing Held	Bradly S Ford
	Court Reporter: Yvonne Hyde Gier	
	Number of Transcript Pages for this hearing estimated: less than 100 pages	
6/14/2010	Judgment and Commitment	Bradly S Ford
6/24/2010	Appealed To The Supreme Court	Bradly S Ford
	Notice of Appeal	Bradly S Ford
	Motion To reconsider Sentencing Pursuant Rule 35	Bradly S Ford
6/29/2010	Motion to reconsider Sentence Pursuant to Idaho Criminal Rule 35	Bradly S Ford
	Notice of appeal (Amended)	Bradly S Ford
6/30/2010	Case Status Changed (batch process)	
7/7/2010	Motion for Restitution and Judgement	Bradly S Ford
7/14/2010	Objection To Defendants Motion for Reduction of Sentence	Bradly S Ford
7/15/2010	Amended Notice of Appeal	Bradly S Ford
7/16/2010	Motion for Appointment of State Appellate Public Defender	Bradly S Ford
7/20/2010	Order for Appointment of State Appellate Public Defender	Bradly S Ford
	Defendant: Salazar, Lazarus Order Appointing Public Defender Public defender State Public Defender	Bradly S Ford
7/30/2010	Order of Transport/Reduction of Sentence	Bradly S Ford
	Notice Of Hearing/Reduction of Sentence	Bradly S Ford
	Hearing Scheduled (Motion Hearing 08/23/2010 10:00 AM) Reduction of Sentence	Bradly S Ford
8/6/2010	Notice Of Hearing/Restitution	Bradly S Ford
8/23/2010	Hearing result for Motion Hearing held on 08/23/2010 10:00 AM: Motion Held Reduction of Sentence (UNDER ADVISEMENT)	Bradly S Ford
	District Court Hearing Held	Bradly S Ford
	Court Reporter: Yvonne Hyde Gier	
	Number of Transcript Pages for this hearing estimated: less than 100 pages	
	Restitution Order	Bradly S Ford
8/25/2010	Case Status Changed (batch process)	
8/30/2010	Restitution Ordered 300.00 victim # 1	Bradly S Ford
	Case Status Changed: Pending	Bradly S Ford
	Restitution Ordered 7689.65 victim # 2	Bradly S Ford
	Restitution Ordered 1454.00 victim # 3	Bradly S Ford
	Restitution Ordered 23899.89 victim # 4	Bradly S Ford

000004

Date: 10/12/2010

Third Judicial District Court - Canyon County

User: RANDALL

Time: 04:20 PM

ROA Report

Page 5 of 5

Case: CR-2009-0036064-C Current Judge: Bradly S Ford

Defendant: Salazar, Lazarus

State of Idaho vs. Lazarus Salazar

Felony

Date		Judge
8/30/2010	Restitution Ordered 20.30 victim # 5	Bradly S Ford
	Restitution Ordered 2511.81 victim # 6	Bradly S Ford
	Restitution Ordered 11381.92 victim # 7	Bradly S Ford
9/8/2010	Order for copy of PSI	Bradly S Ford

000005

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
PROBABLE CAUSE

THE STATE OF IDAHO, Plaintiff,
-vs-
Lazarus Salazar

aka _____

Defendant.

Case No. CR- 09-36064 °C
Date 10/30/09
Judge DeMeyer
Tape MAG-2 (1107-1118)
Time 11:07 Am

APPEARANCES:

Prosecuting Attorney Chris Atwood, Special Prosecutor
 Witness _____ Sworn: Yes No
 Initiating Agency _____

PROCEEDINGS:

Cause Found: Yes No For Setting of Bail Previously Found Electronically
Complaint Signed: Yes No
Warrant Issued: Yes No Summons Issued: Yes No

BAIL:

Bond Recommended: \$ 200,000 Bond Set: \$ 200,000
In Custody: Yes No
Comments: _____

CHARGES:

1. (F) (M) Aggravated Battery
2. (F) (M) Aggravated Battery
3. (F) (M) Commission of a felony crime with Intent to Promote Gang
4. (F) (M) Use of a deadly Weapon During the Commission of a crime
5. (F) (M) _____
6. (F) (M) _____

Deh Stupfler Deputy Clerk

F I L E D
11:30 A.M. P.M.

OCT 30 2009 ✓

CANYON COUNTY CLERK
M BECK, DEPUTY

GREG H. BOWER
Special Canyon County Prosecuting Attorney

Chris Atwood
Special Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LAZARUS SALAZAR,)
)
Defendant.)
_____)

Case No. CR 09-36064-C

COMPLAINT

Salazar's
Salazar's



PERSONALLY APPEARED Before me this 30 day of October 2009, Chris Atwood, Special Deputy Prosecuting Attorney, in and for the County of Canyon, State of Idaho, who, being first duly sworn, complains and says: that LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did commit the crime of I. AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a),(b), II. AGGRAVATED BATTERY, FELONY, §18-903(a), 907(a),(b), III. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §8502, 8503, and IV. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520 as follows:

COUNT I

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the abdomen.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in Alfonso Olmos's abdomen.

COUNT II

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the back.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in John Rodriguez's back.

COUNT III

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did knowingly used such force and/or violence alleged in Count I and/or Count II for the benefit of, at the direction of, or in

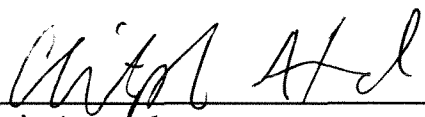
association with a criminal gang or gang member with the specific intent to promote, facilitate, or assist the activities of a criminal gang.

COUNT IV

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did use a deadly weapon, to-wit: a knife or other sharp instrument in the commission of the crime alleged in Counts I and II.

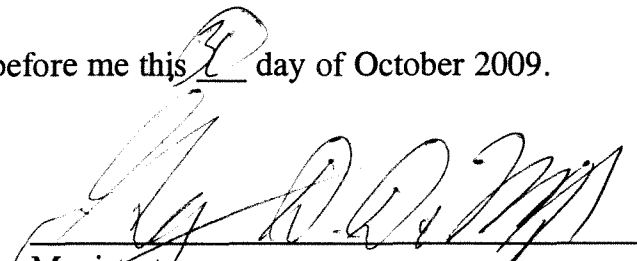
All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

GREG H. BOWER
Special Canyon County Prosecutor



Chris Atwood
Special Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 9 day of October 2009.



Magistrate

dm

JOHN T. BUJAK
CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany
Caldwell, Idaho 83605
Telephone: (208) 454-7391

F I L E D
11:30 A.M. P.M.

OCT 30 2009 ✓

CANYON COUNTY CLERK
M BECK, DEPUTY

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

THE STATE OF IDAHO)	
	)	CASE NO. <u>CR 09-36064-C</u>
Plaintiff,)	
	)	PETITION FOR APPOINTMENT
vs.	)	OF SPECIAL PROSECUTOR
)	
LAZARUS SALAZAR,)	
)	
Defendant.)	
_____)	

COMES NOW, JOHN T. BUJAK, Canyon County Prosecuting Attorney, and hereby petitions this Court pursuant to **Idaho Code** Section 31-2603 for the appointment of a Special Prosecutor in the case of the State of Idaho v. LAZARUS SALAZAR, and upon being duly sworn, hereby deposes and says:

1. That your affiant is the duly elected Prosecuting Attorney of Canyon County.

2. That your affiant has the duty to prosecute LAZARUS SALAZAR pursuant to **Idaho Code** Section 31-2604.

3. That this case is multijurisdictional and Ada County is already prosecuting this Defendant on related charges.

4. That your affiant petitions this Court to appoint Greg Bower, Ada County Prosecuting Attorney, or any duly appointed and sworn Deputy Prosecuting Attorney acting in his behalf, members of the Idaho State Bar and experienced attorneys in criminal prosecution, as the Special Prosecutor, in that they are suitable persons to perform the duties required of your affiant in prosecuting LAZARUS SALAZAR.

5. That your affiant petitions this Court to appoint Greg Bower, Ada County Prosecuting Attorney or any duly appointed and sworn Deputy Prosecuting Attorney acting in his behalf, as Special Prosecutor throughout the duration of all further proceedings in this case.

6. That your affiant has contacted Greg Bower, and he has agreed to be appointed as Special Prosecutor in these proceedings.

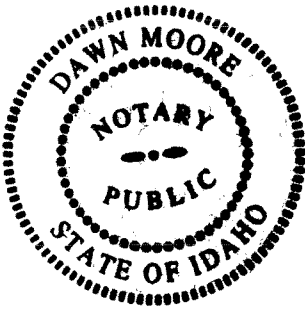
DATED This 9 day of October, 2009.



JOHN T. BUJAK
Canyon County Prosecuting Attorney

STATE OF IDAHO)
 ss.
County of Canyon)

On this 9 day of October, 2009, before me, a Notary Public for Idaho, appeared JOHN T. BUJAK, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Dawn Moore
Notary Public for Idaho
Residing at Canyon County, Idaho
My Commission Expires: 11.11.11

FILED
11:30 A.M. P.M.

OCT 30 2009 ✓

CANYON COUNTY CLERK
M BECK, DEPUTY

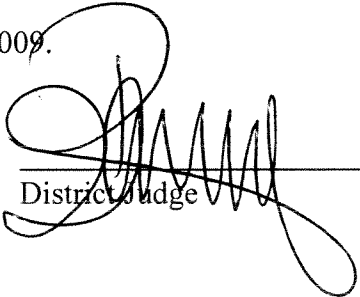
dm

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

THE STATE OF IDAHO)	
	)	CASE NO. <u>CR09-36064-C</u>
Plaintiff,)	
	)	ORDER OF APPOINTMENT OF
vs.	)	SPECIAL PROSECUTOR
)	
LAZARUS SALAZAR,)	
)	
Defendant.)	
_____)	

IT IS HEREBY ORDERED, AND THIS DOES ORDER, That Greg Bower, Ada County Prosecuting Attorney, or any duly appointed and sworn Deputy of the Prosecuting Attorney, acting in his behalf, is appointed as Special Prosecutor in the case of the State of Idaho v. LAZARUS SALAZAR, in that they are suitable persons to perform the duties required in prosecuting said case and that there is a conflict of interest in the Canyon County Prosecuting Attorney's continued prosecution of LAZARUS SALAZAR pursuant to **Idaho Code** Section 31-2604.

DATED this 9th day of October, 2009.



District Judge

ORDER OF APPOINTMENT OF
SPECIAL PROSECUTOR
H:\Dawn work\Special PA\Salazar ORD.wpd

FILED
A.M. P.M.

NOV 04 2009

CANYON COUNTY CLERK
M BUSH, DEPUTY

NAMPA DR # 09-07864
OFFICER: KANE
AGENCY: NPD

GREG H. BOWER
Special Canyon County Prosecuting Attorney

Chris Atwood
Special Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LAZARUS SALAZAR,)
)
Defendant.)
_____)

Case No. CR 09-36064-C
ARREST WARRANT

Address: 1518 W TAMARACK DRIVE NAMPA ID 83651



Sex: Male Race: Hispanic Height: 5'6" Weight: 160
Hair/Eyes: Blk/Haz

TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE
STATE OF IDAHO:

DOCKETED

ARREST WARRANT (SALAZAR), Page 1

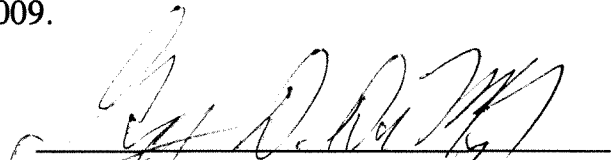
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0050 ub

A COMPLAINT UPON OATH having been this day laid before me by Chris Atwood, Special Deputy Prosecuting Attorney, stating that the crime(s) of: I. AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a),(b), II. AGGRAVATED BATTERY, FELONY, §18-903(a), 907(a),(b), III. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §8502, 8503, and IV. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520 has/have been committed, and accusing LAZARUS SALAZAR thereof;

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above at any time during the day or night, and to bring him/her before me at my office in the County of Canyon, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Canyon County.

DATED This 30 day of October, 2009.


Magistrate for the District Court
of the Third Judicial District,
Magistrate Division

Bond \$ 200,000

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing _____ into Court this ___ day of _____, 2009.

(Deputy Sheriff) (State Policeman)
(City Policeman)

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, having been brought before me under this Warrant, is committed for examination to the Sheriff of Canyon County, State of Idaho, and is admitted to bail in the sum of \$_____, surety, cash or by undertaking of two sufficient sureties, and is committed to the custody of the Sheriff of Canyon County until such bail is given. This Cause is continued for further appearance until _____ day of _____, 2009.

Magistrate for the District Court
of the Third Judicial District,
Magistrate Division

ORDER OF RELEASE

TO THE SHERIFF OF CANYON COUNTY, IDAHO:

YOU ARE HEREBY ORDERED to release the Defendant from your custody.

DATED: _____

Magistrate for the District Court
of the Third Judicial District,
Magistrate Division

NCIC ENTRY: (Additional Levels Inclusive)

North West Shuttle (ID, WA, OR)

Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO, AZ, NV)

Nationwide


BY: _____

DATED: _____

A COMPLAINT UPON OATH having been this day laid before me by Chris Atwood, Special Deputy Prosecuting Attorney, stating that the crime(s) of: I. AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a),(b), II. AGGRAVATED BATTERY, FELONY, §18-903(a), 907(a),(b), III. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §8502, 8503, and IV. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520 has/have been committed, and accusing LAZARUS SALAZAR thereof;

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above at any time during the day or night, and to bring him/her before me at my office in the County of Canyon, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Canyon County.

DATED This 30 day of October, 2009.


Magistrate for the District Court
of the Third Judicial District,
Magistrate Division

Bond \$ 200,000

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing Lazarus Salazar into Court this 3 day of November 2009.

A. Williams CE 111-5252
(Deputy Sheriff) (State Policeman)
(City Policeman)

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON

ARRAIGNMENT **IN-CUSTODY** **SENTENCING / CHANGE OF PLEA**

STATE OF IDAHO,	)	Case No. CR-2009-36064-C
	) Plaintiff	Date: November 4, 2009
-vs-	)	Judge: Robert M. Taisey
LAZARUS SALAZAR	) Defendant.	Recording: Mag 7 (153-158)
<input type="checkbox"/> True Name)	
Corrected Name:)	

APPEARANCES:

<input checked="" type="checkbox"/> Defendant	<input type="checkbox"/> Prosecutor
<input type="checkbox"/> Defendant's Attorney <input type="checkbox"/>	<input type="checkbox"/> Interpreter

FAILURE TO APPEAR: Defendant failed to appear. It is Ordered:

<input type="checkbox"/> bench warrant issued	<input type="checkbox"/> bail on warrant \$
<input type="checkbox"/> bail forfeited	<input type="checkbox"/> referred to PA

ADVISEMENT OF RIGHTS: Defendant

<input checked="" type="checkbox"/> was informed of the charges against him/her and all legal rights, including the right to be represented by counsel.	
<input checked="" type="checkbox"/> requested court appointed counsel.	<input type="checkbox"/> waived right to counsel.
<input checked="" type="checkbox"/> Indigency hearing held.	
<input checked="" type="checkbox"/> Court appointed public defender.	<input type="checkbox"/> Court denied court-appointed counsel.
<input type="checkbox"/> Arraignment continued to	before Judge
<input type="checkbox"/> to consult / retain counsel,	<input type="checkbox"/> other

PRELIMINARY HEARING: Statutory time waived: Yes No Preliminary Hearing Waived

Preliminary Hearing set **NOVEMBER 17, 2009 @ 8:30 A.M.** before Judge **GROBER**

District Court Arraignment: before Judge

ENTRY OF GUILTY PLEA: Defendant

was advised of effect of guilty plea and possible consequences.

entered plea freely and voluntarily with knowledge of consequences.

Plea of guilty accepted by the court.

Defendant ordered to obtain alcohol/drug domestic battery anger misdemeanor PSI evaluation prior to sentencing date.

Sentencing continued to before Judge:

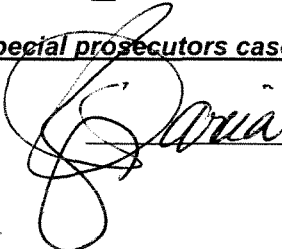
State to notify victim.

ENTRY OF NOT GUILTY PLEA: Case to be set for court trial. pre-trial and jury trial.

BAIL: State recommends

<input type="checkbox"/> Released on written citation promise to appear	<input type="checkbox"/> Released on bond previously posted.
<input type="checkbox"/> Released on own recognizance (O.R.)	<input checked="" type="checkbox"/> Continued remanded to the custody of the sheriff.
<input type="checkbox"/> Released to pre-trial release officer.	<input checked="" type="checkbox"/> Bail as set at \$200,000.00
<input checked="" type="checkbox"/> No Contact Order Issued <input checked="" type="checkbox"/> entered	<input type="checkbox"/> Consolidated with _____
<input type="checkbox"/> Address Verified	<input type="checkbox"/> Corrected Address _____

OTHER: The Court did note this case was a special prosecutors case from Ada County.

 _____, Deputy Clerk

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 11/4/09 AT 2:00 P.M.
CLERK OF THE DISTRICT COURT
BY [Signature], Deputy

THE STATE OF IDAHO/or

[Signature: Lagunas Salazar]

Case No. CR09-36064

ORDER APPOINTING PUBLIC
DEFENDER

The Court being fully advised as to the application of the above-named applicant and it appearing to be a proper case,

IT IS HEREBY ORDERED that the Canyon County Public Defender be, and hereby is, appointed for

THE MATTER IS SET FOR Pretrial Hrn
11-17-09 @ 8:30 am before Judge [Signature]

THE MATTER SHALL BE SET FOR _____
before Judge _____

Dated: 11/4/09

Signed: [Signature]
Judge

In Custody -- Bond \$ 200,000.00 as set
 Released: O.R.
 on bond previously posted
 to PreTrial Release

Juvenile: In Custody
 Released to _____

No Contact Order entered.

- Cases consolidated.
- Discovery provided by State.
- Interpreter required.
- Additional charge of FTA.

Original--Court File

Yellow--Public Defender

Special
Ada County
Pink--Prosecuting Attorney

ORDER APPOINTING PUBLIC
DEFENDER

THE STATE OF IDAHO,

-vs-

Plaintiff,

Lazarus Salazar
Defendant.

Citation / Case No. CR09-36064

Arresting Agency _____

NO CONTACT ORDER - Detention

Defendant has been charged with violating Idaho Code section(s):

- 18-918 Domestic Assault or Domestic Battery
- 18-7905 Stalking (Felony)
- 18-903 Battery
- Other _____
- 39-6312 Violation of a Protection Order
- 18-7906 Stalking (Misdemeanor)
- 18-905 Aggravated Assault
- 18-907 Aggravated Battery X-2

Alleged Victim's Name

Alfonso Olmas, John Rodriguez

YOU, THE DEFENDANT, ARE HEREBY ORDERED TO HAVE NO CONTACT DIRECTLY OR INDIRECTLY WITH THE ALLEGED VICTIM. You shall not harass, follow, contact, attempt to contact, communicate with in any form, or knowingly remain within 300 feet of the alleged victim or his/her property, residence, work, or school.

You are further ordered to vacate the premises where the alleged victim resides. You must contact a law enforcement officer who will make arrangements to accompany you to the residence to remove items and tools necessary for employment and personal belongings. The officer will determine what constitutes necessary personal belongings.

VIOLATION OF THIS ORDER IS A SEPARATE CRIME under Idaho Code section 18-920 for which no bail will be set until you appear before a judge and is subject to a penalty of up to one (1) year in jail and up to a one thousand dollar (\$1,000) fine. Any person who pleads guilty to or is found guilty of a violation of this section who previously has pled guilty to or been found guilty of two (2) violations of this section, or of any substantially conforming foreign criminal violation or any combination thereof, notwithstanding the form of the judgment or withheld judgment, within five (5) years of the first conviction, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed five (5) years or by a fine not to exceed five thousand dollars (\$5,000), or by both fine and imprisonment.

THIS ORDER CAN BE MODIFIED ONLY BY A JUDGE AND WILL REMAIN IN EFFECT UNTIL 11:59 P.M. ON 11/4/2010 OR DISMISSAL OF THIS CASE.

When more than one (1) DOMESTIC VIOLENCE PROTECTION ORDER IS IN PLACE PURSUANT TO IDAHO'S DOMESTIC VIOLENCE CRIME PREVENTION ACT (Title 39, Chapter 63 of the Idaho Code), the most restrictive provision will control any conflicting terms of any other civil or criminal protection order; however, entry or dismissal of a civil protection order shall not result in dismissal of this Order.

The Clerk of the Court shall give written notification to the Sheriff's Department in the county in which this Order is issued immediately and **THE INFORMATION ON THIS ORDER SHALL BE ENTERED INTO THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM.**

Dated: 11/4/09

Signed: _____

Judge

Copy handed to Defendant by Jania

Deputy Clerk on 11/4/09

COPY SERVED ON DEFENDANT BY _____ DEPUTY SHERIFF(_____) on date _____ at _____ am/pm

Badge #

- White Court
- Yellow Dispatch
- Pink Defendant
- Green Jail
- Orange PA (Nampa, Caldwell, County)

TRANSMISSION VERIFICATION REPORT

TIME : 11/04/2009 16:04

DATE, TIME	11/04 16:03
FAX NO./NAME	NO CONTACTS
DURATION	00:01:08
PAGE(S)	02
RESULT	OK
MODE	STANDARD
	ECM

000021

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
PRELIMINARY HEARING

STATE OF IDAHO)
) Plaintiff) Case No. CR09-36064-C
-vs-) Date: November 17, 2009
LAZARUS SALAZAR)
) Defendant.) Judge: Grober
 True Name)
Corrected Name:) Recording: Mag6(848-908)(924-935)(944-959)

APPEARANCES:

- Defendant Defendant's Attorney Scott James
 Prosecutor Chris Atwood Interpreter

FAILURE TO APPEAR: Defendant failed to appear. It is Ordered

- bench warrant issued--bail \$ bond forfeited.
 Other _____.

PROCEEDINGS:

- Preliminary hearing waived; Defendant bound over to District Court.
 Preliminary hearing continued to _____ at _____ m. before Judge _____.
 State moved to dismiss on the grounds _____.
 Court dismissed Complaint.
 Prospective witnesses excluded.
 State's recommendations

STATE'S WITNESSES SWORN:

1. John Weirum 2. Scott Samuelson
3. Jason Cantrell 4. _____ 5. _____

DEFENDANT'S WITNESSES SWORN:

1. _____ 2. _____
3. _____ 4. _____ 5. _____
 Defendant had no testimony or evidence to present.

EXHIBITS: As set forth on attached list.

COURT'S RULING:

- No probable cause; Complaint dismissed; Defendant discharged.
 Bond exonerated. Probable cause found for offense set forth in Complaint.
 Charges amended to: _____.
 Probable cause found for amended charge.
 Defendant held to answer to the District Court. District Court arraignment set for November 25, 2009 at 9:00 a.m. before Judge Hoff.
 Misdemeanor case(s) continued consolidated with felony case for further proceedings.
 Motion for bond reduction continued until the time of District Court Arraignment.

BAIL: The Defendant was

- Released on own recognizance (O.R.). Released to pre-trial release officer.
 Remanded to custody of the sheriff. Released on bond previously posted.
 Bail set \$200,000.00 continued.

OTHER: _____.

_____, Deputy Clerk

Third Judicial District Court, State of Idaho
In and For the County of Canyon
1115 Albany Street
Caldwell, Idaho 83605

Filed: 11/17/09 at 8:48 AM

Clerk of the District Court

By N Hernandez, Deputy

Case No: CR09-36064C

ORDER BINDING DEFENDANT OVER TO DISTRICT COURT

STATE OF IDAHO
Plaintiff,
vs.

Lasarus Salazar
Defendant,

Preliminary hearing having been waived held in this case on the 17th day of November, 20 09 and the Court being fully satisfied that a public offense has been

committed and that there is probable or sufficient cause to believe the Defendant guilty thereof,

IT IS HEREBY ORDERED that the Defendant herein be held to answer in the District Court of the Third Judicial District of The State of Idaho, in and for the County of Canyon, to the charge of Count I Aggravate Battery 18-903(a); Count II Aggravated Battery 18-903(a) Count III commis of a felony crime with the intent to promote gang activity 8502, 85x Count IV Use of a deadly weapon during the commission of a crime 19-2520 a felony, committed in Canyon County, Idaho on or about the 6th day of March, 20 09.

IT IS FURTHER ORDERED that the Defendant herein shall be arraigned before the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, on the 25th day of November, 20 09 at 900 a.m.

- Defendant is continued released on the bond posted.
- Defendant's personal recognizance release is continued ordered.
- Defendant's release to Pre-Trial Release Officer is continued ordered.

YOU, THE SHERIFF OF CANYON COUNTY, IDAHO, are commanded to receive into your custody and detain the Defendant until legally discharged. Defendant is to be admitted to bail in the sum of \$ 200,000.00 cont'd

Dated: 11/17/09

Signed [Signature]
Magistrate



ORIGINAL



F I L E D
A.M. *2:30* P.M.

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
LANCE FUISTING
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 7791

NOV 23 2009

CANYON COUNTY CLERK
B RAYNE, DEPUTY

Attorneys for Defendant

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

Case No. CR-2009-36064-C

STATE OF IDAHO,
Plaintiff,
vs.
LAZARUS SALAZAR,
Defendant.

MOTION FOR BOND REDUCTION
OR RELEASE ON OWN
RECOGNIZANCE AND NOTICE OF
HEARING

COMES NOW, the Defendant, by and through his attorneys of record the Canyon County Public Defender's Office and hereby moves this Honorable Court for entry of its Order releasing the defendant on defendant's own recognizance or reducing bail.

THIS MOTION is made on the grounds that the offense with which defendant is charged is a bail able offense; that the bail now set is excessive; and that bail is unnecessary and that the defendant can be safely released on defendant's own recognizance.

THIS MOTION is based on the pleadings, papers, records and files in the above entitled action.

**MOTION FOR BOND REDUCTION OR RELEASE ON
OWN RECOGNIZANCE AND NOTICE OF HEARING**

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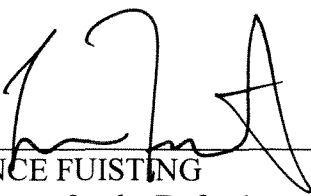
NOTICE OF HEARING: NOTICE IS HEREBY GIVEN that attorney for Defendant will bring on for hearing the above Motion at the Canyon County Courthouse, 1115 Albany, Caldwell, Idaho, on the 25th day of November, 2009 at the hour of 9:00 o'clock a.m., before the Honorable Judge Renae J. Hoff, or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE:

I hereby certify that on the 23rd day of September, 2009, I served a true and correct copy of the within Motion for Bond Reduction or Release on Own Recognizance and Notice of Hearing upon the individual(s) names below in the manner noted:

By hand delivering copies of the same to the office(s) indicated below.

Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605



LANCE FUISTING
Attorney for the Defendant

**MOTION FOR BOND REDUCTION OR RELEASE ON
OWN RECOGNIZANCE AND NOTICE OF HEARING**

000025

FILED
A.M. P.M.

NOV 24 2009

CANYON COUNTY CLERK
C ATKINSON, DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR 09-36064-C
)	
vs.	)	INFORMATION
)	
LAZARUS SALAZAR,	)	Salazar's [REDACTED] 02/08/1986
	)	Salazar's [REDACTED] 518-17-8225
Defendant.)	
_____)	

GREG H. BOWER, Special Prosecuting Attorney, in and for the County of Canyon, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Canyon, and states that LAZARUS SALAZAR is/are accused by this Information of the crime(s) of: I. AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a),(b), II. AGGRAVATED BATTERY, FELONY, §18-903(a), 907(a),(b), and III. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §8502, 8503 and IV: USE OF A DEADLY WEAPON



DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520, which crime(s) was/were committed as follows:

COUNT I

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the abdomen.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in Alfonso Olmos's abdomen.

COUNT II

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the back.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in John Rodriguez's back.

COUNT III


That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the county of Canyon, State of Idaho, did knowingly use such force and/or violence alleged in Count I and/or Count II for the benefit of, at the direction of, or in

association with a criminal gang or gang member with the specific intent to promote, facilitate, or assist the activities of a criminal gang.

COUNT IV

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March 2009, in the County of Canyon, State of Idaho, did use a deadly weapon, to-wit: a knife or other sharp instrument in the commission of the crime alleged in Counts I and II.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
PRESIDING: **RENAE J. HOFF** DATE: **NOVEMBER 25, 2009**

THE STATE OF IDAHO,	)	COURT MINUTE
)	
Plaintiff,	)	CASE NO: CR2009-36064*C
)	
vs.	)	TIME: 9:00 A.M.
)	
LAZARUS SALAZAR,	)	REPORTED BY: Carole Bull
)	
Defendant.	)	DCRT3 924-926
<hr/>		

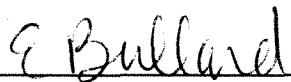
This having been the time heretofore set for **arraignment** in the above entitled matter, the State was represented by Ms. Tessie Buttram, Special Prosecuting Attorney for Canyon County, and the defendant was personally present with counsel, Mr. Lance Fuisting.

The Court called the case and determined the defendant's true name is charged. The Court advised the defendant that charges had been filed in this matter, however the Court had been advised the State would be filing an Amended Information and therefore this matter would be continued.

In answer to the Court's inquiry, Mr. Fuisting indicated the defendant had no objection.

The Court continued the District Court Arraignment until December 4, 2009 at 9:00 a.m. before Judge Culet.

The defendant was remanded to the custody of the Canyon County Sheriff pending further proceedings or the posting of bond.



Deputy Clerk

F I L E D
A.M. P.M.

DEC 02 2009

**CANYON COUNTY CLERK
B RAYNE, DEPUTY**

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR 09-36064-C
)	
vs.	)	A M E N D E D
	)	I N F O R M A T I O N
LAZARUS SALAZAR,)	
	)	Salazar's [REDACTED] 02/08/1986
Defendant.	)	Salazar's [REDACTED] 518-17-8225
)	

GREG H. BOWER, Special Prosecuting Attorney, in and for the County of Canyon, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Canyon, and states that LAZARUS SALAZAR is/are accused by this Information of the crime(s) of: COUNT I. PART I. AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a),(b), PART II. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §8502, 8503, and PART III. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520, AMENDED INFORMATION (SALAZAR-CR 09-36064-C), Page 1

and COUNT II. PART I. AGGRAVATED BATTERY, FELONY, §18-903(a), 907(a),(b), PART II. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §8502, 8503, and PART III. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520, which crime(s) was/were committed as follows:

COUNT I

PART I

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the abdomen.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in Alfonso Olmos's abdomen.

PART II

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the county of Canyon, State of Idaho, did knowingly use such force and/or violence alleged for the benefit of, at the direction of, or in association with a criminal gang or gang member with the specific intent to promote, facilitate, or assist the activities of a criminal gang.

PART III

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March 2009, in the County of Canyon, State of Idaho, did use a deadly weapon, to-wit: a knife or other sharp instrument in the commission of the crime.

COUNT II**PART I**

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the back.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in John Rodriguez's back.

PART II

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the county of Canyon, State of Idaho, did knowingly use such force and/or violence for the benefit of, at the direction of, or in association with a criminal gang or gang member with the specific intent to promote, facilitate, or assist the activities of a criminal gang.

PART III

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March 2009, in the County of Canyon, State of Idaho, did use a deadly weapon, to-wit: a knife or other sharp instrument in the commission of the crime.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER

Ada County Prosecuting Attorney
Special Prosecutor for Canyon County

DEC 04 2009

CANYON COUNTY CLERK
C TRAVER, DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR 09-36064-C
)	
vs.	)	A M E N D E D
	)	I N F O R M A T I O N
LAZARUS SALAZAR,)	
	)	Salazar's [REDACTED] 02/08/1986
Defendant.	)	Salazar's [REDACTED] 518-17-8225
)	

GREG H. BOWER, Special Prosecuting Attorney, in and for the County of Canyon, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Canyon, and states that LAZARUS SALAZAR is/are accused by this Information of the crime(s) of: COUNT I. PART I. AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a),(b), PART II. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §18-8502, 8503, and PART III. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520,

and COUNT II. PART I. AGGRAVATED BATTERY, FELONY, §18-903(a), 907(a),(b), PART II. COMMISSION OF A FELONY CRIME WITH THE INTENT TO PROMOTE GANG ACTIVITY, FELONY, I.C. §18-8502, 8503, and PART III. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520, which crime(s) was/were committed as follows:

COUNT I

PART I

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the abdomen.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Alfonso Olmos causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in Alfonso Olmos's abdomen.

PART II

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the county of Canyon, State of Idaho, did knowingly use such force and/or violence alleged for the benefit of, at the direction of, or in association with a criminal gang or gang member with the specific intent to promote, facilitate, or assist the activities of a criminal gang.

PART III

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March 2009, in the County of Canyon, State of Idaho, did use a deadly weapon, to-wit: a knife or other sharp instrument in the commission of the crime.

COUNT II

PART I

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez by means of a deadly weapon, to-wit: by stabbing him with a sharp instrument in the back.

OR IN THE ALTERNATIVE

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the County of Canyon, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of John Rodriguez causing great bodily harm, permanent disability, or permanent disfigurement, to-wit: by causing a puncture wound in John Rodriguez's back.

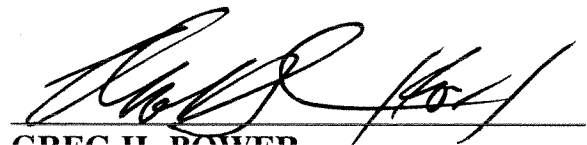
PART II

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March, 2009, in the county of Canyon, State of Idaho, did knowingly use such force and/or violence for the benefit of, at the direction of, or in association with a criminal gang or gang member with the specific intent to promote, facilitate, or assist the activities of a criminal gang.

PART III

That the Defendant, LAZARUS SALAZAR, on or about the 6th day of March 2009, in the County of Canyon, State of Idaho, did use a deadly weapon, to-wit: a knife or other sharp instrument in the commission of the crime.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER

Ada County Prosecuting Attorney
Special Prosecutor for Canyon County

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON
District Court Arraignment

STATE OF IDAHO)
) Plaintiff) Case No. **CR-2009-36064**
-vs-)) Date: **December 4, 2009 / 9:00 A.M.**
Lazarus Salazar))
) Defendant.) Judge: **Gregory M. Culet**
 True Name))
Corrected Name: _____)) Recording: **DCRT1 (9:37 - 9:42)**
))
) Reported By: **Laura Whiting**

APPEARANCES:

Defendant Prosecutor **Christopher Atwood, Special Prosecuting Attorney**
 Defendant's Attorney **Randall Grove** Interpreter _____

FAILURE TO APPEAR: Defendant failed to appear. It is Ordered:

bench warrant issued bail \$ _____
 bail forfeited

ADVISEMENT OF RIGHTS: Defendant

was advised of the Information filed, charging the offense(s) of: **Aggravated Battery in Counts I and II, Part I**, each carrying the following penalties: fifteen (15) years imprisonment and a \$50,000.00 fine. The Court advised the defendant that Part II of the Information charged him with the enhancement of Commission of a Felony Crime with the Intent to Promote Gang Activity which would increase the penalty by two (2) years, and Part III of the Information charged him with the enhancement of Use of a Deadly Weapon During the Commission of a Crime which would increase the penalty by fifteen (15) years. The Court further advised the defendant that the possible penalties could run consecutive.

The Court determined the Defendant understood the maximum possible penalties provided by law upon conviction.

Formal reading of the Information was waived not waived by Defendant Defense counsel.

ENTRY OF PLEA:

Upon the request of _____, the Court continued this matter for entry of plea on _____ before Judge _____.

In answer to the Court's inquiry, the Defendant
 entered a plea of GUILTY NOT GUILTY to the charge of Aggravated Battery, two (2) counts

stood silent and the Court entered a plea of NOT GUILTY on the defendant's behalf.

The right to a speedy trial was waived not waived.

The Court scheduled this matter for **PRETRIAL CONFERENCE** February 8, 2010 at 1:30 p.m. before Judge Ford and **A THREE (3) DAY JURY TRIAL TO COMMENCE** February 23, 2010 at 9:00 a.m. before Judge Ford.

Defendant was reminded that the **No Contact Order** previously issued remained in effect.

BAIL: The Defendant was

- remanded to the custody of the sheriff on the bond as previously set.
 released on bond previously posted. on own recognizance. to pre-trial release officer.

OTHER: Mr. Atwood advised the Court that the State would file a second Amended Information, further providing a copy of said Information to the Court and the defense.

CUTRABE, Deputy Clerk

Courthouse



ORIGINAL



F I L BUD
A.M. P.M.

DEC 15 2009

CANYON COUNTY CLERK
M BUSH, DEPUTY

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
WILLIAM J. SCHWARTZ
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 288-0744
Facsimile: (208) 575-6217
Idaho State Bar No. 3649

Attorneys for Defendant

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

Case No. CR-2009-0036064-C

STATE OF IDAHO,

Plaintiff,

vs.

LAZARUS SALAZAR,

Defendant.

MOTION FOR BOND REDUCTION
OR RELEASE ON OWN
RECOGNIZANCE AND NOTICE OF
HEARING

COMES NOW, the Defendant, by and through his attorneys of record the Canyon County Public Defender's Office and hereby moves this Honorable Court for entry of its Order releasing the defendant on defendant's own recognizance or reducing bail.

THIS MOTION is made on the grounds that the offense with which defendant is charged is a bail able offense; that the bail now set is excessive; and that bail is unnecessary and that the defendant can be safely released on defendant's own recognizance.

THIS MOTION is based on the pleadings, papers, records and files in the above entitled action.

**MOTION FOR BOND REDUCTION OR RELEASE ON
OWN RECOGNIZANCE AND NOTICE OF HEARING**

000039


NOTICE OF HEARING: NOTICE IS HEREBY GIVEN that attorney for Defendant will bring on for hearing the above Motion at the Canyon County Courthouse, 1115 Albany Street, Caldwell, Idaho, on the 18th day of December, 2009 at the hour of 9:00 o'clock a.m., before the Honorable Judge Thomas J. Ryan , or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE:

I hereby certify that on the 15th day of December, 2009, I served a true and correct copy of the within Motion for Bond Reduction or Release on Own Recognizance and Notice of Hearing upon the individual(s) names below in the manner noted:

- By hand delivering copies of the same to the office(s) indicated below.

Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605

 (For)

WILLIAM J. SCHWARTZ
Attorney for the Defendant

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

PRESIDING: **THOMAS J. RYAN** DATE: **DECEMBER 18, 2009**

THE STATE OF IDAHO,	)	COURT MINUTE
)	
Plaintiff,	)	CASE NO: CR2009-36064-C
)	
vs.	)	TIME: 9:00 A.M.
)	
LAZARUS SALAZAR,	)	DCRT4 (1006-1010)
)	
Defendant.	)	REPORTED BY: Kim Saunders
<hr/>		

This having been the time heretofore set for **motion hearing** in the above entitled matter, the State was represented by Mr. Chris Atwood, Special Prosecuting Attorney for Canyon County, Idaho, who was not present; and the defendant was present in court and represented by Mr. Randall Grove.

The Court re-arraigned the defendant and advised him of his rights.

Mr. Grove advised the Court this matter was set for hearing on a motion for bond reduction.

The Court agreed and indicated the Special Prosecutor had filed an objection as the hearing was not filed at least seven (7) days prior to the hearing.

The Court instructed defense counsel to contact Judge Ford's secretary to obtain a date for the motion hearing.

The defendant was remanded into the custody of the Canyon County Sheriff pending further proceedings or posting of the bond.

*****Later this date: The Court continued this matter for a hearing on the motion for bond reduction until the 23rd day of December, 2009 at 9:00 a.m. before Judge Hoff. This clerk personally talked to Mr. Atwood and advised him of this hearing date.**



Deputy Clerk

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

PRESIDING: **RENAE J. HOFF** DATE: December 23, 2009

THE STATE OF IDAHO,	)	COURT MINUTES
)	
Plaintiff,	)	CASE NO: CR2009-36064*C
)	
vs.	)	TIME: 9:00 A.M.
)	
LAZARUS SALAZAR,	)	REPORTED BY: Carole Bull
)	
Defendant.	)	DCRT3 (9:46-9:47)(9:57-10:03)
_____)		

This having been the time heretofore set for **motion for bond reduction** in the above entitled matter, the State was represented by Mr. Christopher S. Atwood, Special Prosecuting Attorney for Canyon County, and the defendant appeared in court with counsel, Mr. Lary Sisson.

The Court reviewed prior proceedings and noted the motion to reduce bond filed by the defense.

Mr. Sisson requested the Court pass this matter so he could review the Pretrial Interview Record.

The Court recessed at 9:47 a.m.

The Court reconvened at 9:57 a.m.

Mr. Sisson presented argument to the Court in support of the motion and requested the Court release the defendant on GPS monitoring or that bond be reduced.

Mr. Atwood responded with argument in opposition to the motion.

The Court expressed opinions and **denied the motion.**

The defendant was remanded into the custody of the Canyon County Sheriff pending further proceedings, or the posting of bond.

V. Maund
Deputy Clerk

FEB 08 2010

CANYON COUNTY CLERK
S FENNELL, DEPUTY

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

THE STATE OF IDAHO,
Plaintiff,

-vs-

Lazarus Salazar
Defendant.

Case No. CR09-36064-C

PRETRIAL MEMORANDUM

DCR 5 (332-337)

Reporter: Yvonne Heidi Gier

Appearances:

Prosecuting Attorney Chris Atwood

Attorney for Defendant Bill Schwartz

- Counsel revealed to each other prior to pretrial at pretrial the evidence to be offered at trial.
- Intoximeter (or other breath test) reading _____
- Video
- Physical evidence: on police report other _____
- Tape recording
- Oral statements: on police report other _____
- Plaintiffs' witnesses and addresses:

↳ Attached witness list

- Defendants' witnesses and addresses:

State's witnesses

Counsel shall reveal to each other and the Court, in writing, any additional witnesses or exhibits to the above list of the preceding evidence by _____, 20__ at _____.m.

Plea negotiations:

Both counsel certify that the case is ready for trial on the date set.

Proposed jury instructions shall be submitted to the Court and opposing counsel not less than five days prior to trial.

Jury trial reset for _____, 20__ at _____ a.m.

Jury trial waived and case reset for court trial on _____, 20__ at _____ a.m.

Pretrial motions shall be filed.

within _____ days of this Order.

no less than _____ days prior to trial.

no later than _____, 20__.

Pretrial motions, timely filed, are set for hearing on _____, 20__ at _____ m.

Copies of Pretrial Memorandum given to both counsel.

Parties to reappear for a status conference on February 27th, 2010 at 1:00 PM. The Defendant must be personally present.

Other: _____

Cheryl Hill
Deputy Prosecuting Attorney

[Signature]
Defense Attorney

Dated: 2/18/10

Signed: [Signature]
~~Magistrate Judge~~
District Judge

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

PRESIDING: **JAMES C. MORFITT** DATE: **FEBRUARY 23, 2010**

THE STATE OF IDAHO,	)	COURT MINUTE
)	
Plaintiff,	)	CASE NO: CR2009-36064*C
)	
vs.	)	TIME: 8:30 A.M.
)	
LAZARUS SALAZAR,	)	REPORTED BY: Kathy Klemetson
)	
Defendant.	)	DCRT 2 (906 - 423)
_____)	

This having been the time heretofore set for **trial to a jury** in the above entitled matter, the State was represented by counsel, Mr. Chris Atwood, Special Deputy Prosecuting Attorney for Canyon County and the defendant appeared in court with counsel, Mr. William Schwartz.

Outside the presence of the jury panel, the Court noted the matter, verified the defendant's name and noted that it would address preliminary matters.

The Court noted that it had provided each of counsel proposed preliminary instructions and the state's witness list.

In response to the Court's inquiry, Mr. Atwood concurred with the Court of the witnesses stricken and advised the Court that he may strike additional witness.

In response to the Court's inquiry, Mr. Atwood advised the Court of the additional witnesses to be stricken.

In response to the Court's inquiry, Mr. Schwartz advised that there were no additional witnesses to be called other than the state's witness.

The Court reviewed with each of counsel how the trial would be run, how jury selection would proceed and provided seating charts.

The Court noted that it had provided preliminary jury instructions to each of counsel and determined that they reviewed the same.

The Court determined that each of counsel had no objection to preliminary instructions.

In response to the Court's inquiry, each of counsel informed the Court that there were no additional instructions.

The Court noted that the preliminary instructions were settled.

The Court informed each of counsel that the bailiff would handle all exhibits and witnesses and it would not accept talking objections.

In answer to the Court's inquiry, Mr. Atwood and Mr. Schwartz motioned the Court to excuse witnesses from the courtroom.

The Court so ordered with the exception of the two (2) named victims per Idaho law.

The Court admonished counsel as to the conduct of the witnesses and themselves during trial. The Court further instructed the State that their witnesses are not to volunteer any information about the defendant, nor to volunteer any information about the defendant nor to volunteer any acts, crimes or misconduct not charged in this

particular case, except specifically allowed by the Court after hearing outside the presence of the jury, that includes characterization of acts, as being felonies or misdemeanors and includes information regarding crimes not charged in this case.

The Court noted that as indicated yesterday, the Aggravated Battery charge would be tried first, the jury would return a verdict and then the Part II Gang Enhancement allegation would be tried. Further unless it specifically authorizes after a hearing, no witnesses would be allowed to make any reference to gang activity, gang involvement in the Aggravated Battery charges.

The Court instructed Mr. Schwartz not to refer to matters as being felony's or misdemeanors in any arguments

Mr. Atwood noted that they had discussed in chambers that regarding the Gang Enhancement, the Court had ruled that there was not to be any evidence of the defendant's gang membership to come into evidence and that would be a bifurcated process.

Mr. Atwood renewed his motion as stated yesterday and felt he had put the Court and counsel on notice that he was understanding the Gang portion was to be bifurcated and renewed his notice for 404b notice.

The Court presented statements.

Mr. Atwood presented offer of proof.

The Court noted that there was no 404b had been filed and could address the matter if it was brought up outside the presence of the jury.

Mr. Atwood inquired if he could inquire of the victim's gang membership.

The Court noted that gang membership was highly prejudicial.

Mr. Atwood presented further argument in support of his request.

The Court noted that it would allow Mr. Atwood to inquire only if the defense opened the door and it would address the same outside the presence of the jury.

Mr. Schwartz presented a motion and an underlying issue regarding under R and S that the prosecution had listed Israel Salazar and Joshua Salazar as potential witnesses, brothers of the defendant and presented argument in opposition and requested that the witnesses be made aware of their rights.

The Court noted that it would address the issue if the witnesses were called by the state.

The Court noted that the rules required the Court to read the Information, in both Count I and Count II the State alleged that the act was committed in the alternative, Aggravated Battery, in each one the first alternative was by means of a deadly weapon; the second alternative was by causing great bodily harm; in Part III they were alleging that the Aggravated Battery was committed with a knife. Further, the Court thought that the way it was charged in the alternative, use of a deadly weapon, was potentially an essential element of the crime and would need an interrogatory verdict since they were charging it in the alternative, they would need to make a determination as to whether or not as to each count if the defendant was guilty or not guilty and after each verdict would need to have two (2) questions and would need unanimity on the verdict. The

Court noted that since it was an essential element they way the crime was charged, did not feel there was a need for a separate finding for that.

Mr. Atwood clarified the Court's findings.

The Court advised Mr. Atwood that it did not see the need for a separate verdict question for the use of a weapon.

Mr. Atwood clarified that it was for Part III and concurred with the Court.

Mr. Schwartz concurred.

The Court advised counsel that it would read Count I and Count II and would strike Part III.

Mr. Atwood clarified that the Court would not read Part II and concurred with the Court.

Mr. Schwartz concurred.

In answer to the Court's inquiry, each of counsel indicated there were no further preliminary matters to be addressed by the Court.

The Court recessed at 9:44 a.m.

The Court reconvened at 10:00 a.m. with all parties present.

Outside the presence of the jury panel, the Court noted that it had met with each of counsel and advised them that there were quite a few no shows for jury duty so there was not enough to start the trial.

The Court further noted that the state had indicated that one (1) his witnesses must testify today and counsel were in agreement to continue this matter until 1:00 p.m.

Each of counsel concurred with the Court.

In response to Mr. Atwood's inquiry, the Court advised Mr. Atwood that the information regarding the prospective juror's should be available before 1:00 p.m.

The Court recessed at 10:03 a.m.

The Court reconvened at 1:12 p.m. with all parties present and the jury panel in charge of the bailiff.

The Court introduced court staff, Mr. Chris Atwood, Mr. William Schwartz and the defendant to the prospective jurors.

The Court advised the prospective jury panel of the matter being tried in this case and process involved in picking a jury.

In response to the Court's inquiry, each of counsel informed the Court that they were ready to proceed.

The Court advised the defendant of his right to challenge the jury for cause.

The Court instructed the clerk to call the roll of the prospective jury panel.

All jurors were sworn voir dire at 1:21p.m.

The Court gave opening instructions to the prospective jury.

The clerk drew twenty seven (27) juror numbers, one at a time, and the following prospective jurors were seated:

#109	#629	#230	#612	#614
#84	#628	#624	#199	#192
#83	#227	#610	#194	#13
#225	#223	#229	#596	
#110	#620	#482	#314	
#625	#18	#622	#605	

The Court explained the examination process to the prospective jurors and examined the prospective jury as a whole.

The Court direct examined juror #612, Mr. Atwood direct examined the juror, Mr. Schwartz direct examined the juror.

The Court continued to examine the prospective jury panel as a whole, direct examined juror #230, there being no objection, the Court excused juror #230 for cause, the clerk called juror #221.

The Court direct examined juror #221 and continued examination of the prospective jury panel as a whole.

The Court direct examined juror #229 and excused for cause, the clerk called juror #648, direct examined by the Court and excused for cause. The clerk called juror #174, direct examined by the Court and continued examination as a whole of the prospective jury panel.

Mr. Atwood examined the prospective juror's voir dire as a whole.

Mr. Schwartz examined the prospective juror's voir dire as a whole.

The Court admonished and excused the jury panel at 2:14 p.m.

The Court recessed at 2:15 p.m.

The Court reconvened at 2:32 p.m. with all parties present and the jury panel in charge of the bailiff.

The Court noted that all jurors were present and in their appropriate seats.

Mr. Atwood examined the seated jurors individually voir dire and passed for cause.

Mr. Schwartz examined the seated jurors individually voir dire and passed for cause.

In response to the Court's inquiry, each of counsel passed the jury panel for cause.

The Court admonished and excused the prospective jury panel at 2:51 p.m. to allow each of counsel to exercise their preemptory challenges.

Outside the presence of the jury panel, the Court instructed each of counsel as to how the parties were to exercise their preemptory challenges, the state having a red pen and defense having a green pen.

The Court recessed at 2:53 p.m.

The Court reconvened at 3:11p.m. with all parties present and the jury panel in charge of the bailiff.

The Court called the jurors selected and instructed those jurors to take the appropriate seats in the jury box, thanked and excused the remaining jurors, instructing them to report to the Jury Commissioner.

In answer to the Court's inquiry, each of counsel accepted the Jury as seated.

The following jurors were sworn by the clerk to well and truly try the matter at issue at 3:14 p.m.: **#84, #225, #110, #625, #628, #223, #620, #221, #610, #482, #194, #605 and #614.**

The Court admonished and excused the Jury at 3:16 p.m.

The Court recessed at 3:17 p.m.

The Court reconvened 3:36 p.m. with all parties present and the jury panel in charge of the bailiff.

The Court read the charging Information for the Jury.

The Court instructed the bailiff to hand out the preliminary jury instruction to the jury panel and read the same to the jury panel.

Mr. Atwood presented opening statements.

Mr. Schwartz presented opening statements.

The Court instructed Mr. Atwood to call his first witness, which may be out of order.

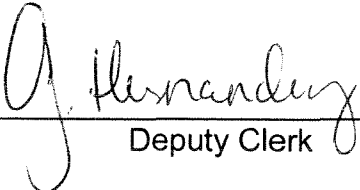
RICHARD OTTMAN, State's first witness was called, sworn by the clerk, direct examined, presented previously marked Exhibit #1 and #2, Exhibit #1 was identified as a frontal picture of the victim, Exhibit #2 was identified as a picture of the victim's back, direct examination continued, moved for admission, there being no objection, the Court admitted State's Exhibit's #1 and #2. Mr. Atwood requested that the Exhibit's be published to the jury. There being no objection, the Court ordered Exhibits #1 and #2 be published.

Mr. Schwartz cross examined the witness, re-direct examined, their being no objection, the Court excused the witness.

The Court admonished and excused the jury panel at 4:23 p.m. with the instruction to be back tomorrow morning at 9:00 a.m.

The Court instructed all the parties to be present at 8:30 a.m.

The Court recessed at 4:23 p.m.


Deputy Clerk

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

PRESIDING: **JAMES C. MORFITT** DATE: **FEBRUARY 24, 2010**

THE STATE OF IDAHO,	)	COURT MINUTE
)	
Plaintiff,	)	CASE NO: CR2009-36064*C
)	
vs.	)	TIME: 8:30 A.M.
)	
LAZARUS SALAZAR,	)	REPORTED BY: Carole Bull
)	
Defendant.	)	DCRT 2 (841 - 650)
_____)		

This having been the time heretofore set for **second day of trial to a jury** in the above entitled matter, the State was represented by counsel, Mr. Chris Atwood, Special Deputy Prosecuting Attorney for Canyon County and the defendant appeared in court with counsel, Mr. William Schwartz.

(Audio difficulties 8:41 a.m. to 8:44 a.m.)

Outside the presence of the jury panel, the Court noted the matter and that one (1) of the attorney's wanted to take something up outside the presence of the jury.

Mr. Atwood concurred and advised the Court that the victim's may or may not testify so they should not be brought up.

The Court concurred would not allow hearsay with the exception if the door was opened.

Mr. Atwood presented a statement for cause, source was admissible but not fault.

The Court inquired if either counsel would request a lesser included.

In response to the Court's inquiry, Mr. Atwood advised the Court that he would not request any lesser included.

In response to the Court's inquiry, Mr. Schwartz advised the Court that not at this time and advised the Court that it would be dependant on how the evidence went.

The Court advised each of counsel that if there was a lesser included an instruction must be drafted prior.

Mr. Atwood advised the Court, that subject to proper foundation, the State intended on playing a video recording from a surveillance system at Winco that captured the event.

In response to the Court's inquiry, Mr. Atwood concurred with the Court that the video had no audio.

Mr. Atwood advised the Court that he intended on calling a detective who had contact with the defendant in June 2009 just three (3) months apart from that incident and would examine him of personal contact with the defendant, or that he had met the defendant, and advised the Court of what he expected the detective would testify to and presented argument in support of his request.

Mr. Schwartz presented argument in opposition to the motion and argument in opposition to the June photograph.

The Court noted that it would rule when the issues arise.

Mr. Atwood presented further argument in support of request.

The Court advised counsel that it would review the case and be prepared to rule at

the appropriate time.

In response to the Court's inquiry, Mr. Schwartz advised the Court that he had nothing further.

Mr. Atwood suggested that there be a curative instruction as well and could prepare the same.

In response to the Court's inquiry, Mr. Atwood advised the Court of the witnesses that were going to be called, may finish today and possibly rest at the end of the day.

The Court recessed at 8:59 a.m.

The Court reconvened at 9:15 a.m. with all parties present and the jury panel in charge of the Bailiff.

In response to the Court's inquiry, each of counsel waived roll call of jury panel.

The Court noted that it had a new court reporter, Ms. Carole Bull, and advised the jury panel of the duty of the alternate juror.

The Court instructed Mr. Atwood to call his next witness.

CHRIS DAVENPORT, State's second witness was called, sworn by the clerk, direct examined. Mr. Schwartz advised the Court that he had no questions. The Court excused the witness.

JOHN WEIRUM, State's third witness was called, sworn by the clerk, direct examined, presented previously marked Exhibit #3 and #4, Exhibit #3 was identified as a photo of wound of the abdomen, Exhibit #4 was identified as a photo of second victim, moved for admission, there being no objection, the Court admitted State's Exhibit's #3 and

#4. Direct examination continued, presented previously marked Exhibit **#5**, identified as a clothing of the victim from the Emergency Room with the abdomen wound, moved for admission, there being no objection, the Court admitted State's Exhibit's **#5**. Direct examination continued, presented previously marked Exhibit **#6**, identified as a clothing from the male with the abdominal wound, moved for admission, there being no objection, the Court admitted State's Exhibit's **#6**. Direct examination continued, presented previously marked Exhibit **#7**, identified as a clothing from the male victim with the wound on his back, moved for admission, there being no objection, the Court admitted State's Exhibit's **#7**. Cross examined. The Court excused the witness.

SCOTT SAMUELSON, State's fourth witness was called, sworn by clerk, direct examined, presented previously marked Exhibit **#8**, identified as a copy of video provided to the police department, direct examination continued, moved for admission, Mr. Schwartz presented objection and requested voir dire in aid of objection.

Mr. Schwartz examined the witness, presented objection as to authentication and chain of custody.

The Court overruled the objection and admitted Exhibit **#8**.

Mr. Atwood continued direct examination, presented previously marked state's Exhibits **#9**, **#10**, **#11**, **#12** and **#13**, identified as still photos that he printed from the video in Exhibit **#8**, moved for admission. Mr. Schwartz presented objection on the grounds of relevancy and renewed his objection to Exhibit **#8**.

The Court noted it would take a matter up outside the presence of the jury.

The Court excused the jury panel at 9:48 a.m. in charge of the Bailiff.

Outside presence of jury panel, the Court inquired if Mr. Schwartz had anything further on his objection.

Mr. Schwartz presented further argument in support of objection.

Mr. Atwood presented argument in opposition to the objection.

The Court noted it had previously overruled Mr. Schwartz objection to Exhibit #8, made statements, and with respect to the photos, made statements and overruled the objection.

Mr. Schwartz requested a clarification, the state would be allowed to publish photos but not until the incident could be tied in to Winco.

The Court disagreed with Mr. Schwartz, made statements and noted that if they were not tied in they would be stricken.

Mr. Schwartz presented further argument in opposition.

Mr. Atwood advised the Court that he would publish and requested a moment to verify the computer was working.

In response to the Court's inquiry, Mr. Atwood advised the Court that he had previously provided copies of the tracks to Mr. Schwartz on two (2) separate occasions.

In response to the Court's inquiry, Mr. Schwartz concurred that he did have copies of the tracks and continued to present further argument in objection.

The Court instructed the bailiff to return the jury panel to the Courtroom

The Bailiff returned the jury panel to the Courtroom at 9:59 a.m.

The Court advised the jury panel it had taken up a legal issue and they were ready to proceed.

The Court instructed Mr. Atwood to proceed.

Mr. Atwood moved the Court to publish state's Exhibit #8, the Court so ordered.

Mr. Atwood continued direct examination, cross examined, re-direct examined, re-cross examined, re-direct examined, there being no objection, the Court excused the witness.

Mr. Atwood requested that Exhibits #9, #10, #11, #12 and #13 be published to the jury along with Exhibit's #3, #4, #5, #6 and #7.

The Court inquired if they had been admitted.

Mr. Atwood moved the Court for the admission of Exhibit's #9, #10, #11, #12 and #13, Mr. Schwartz continued his objection due to relevance, the Court admitted Exhibit's **#9, #10, #11, #12 and #13.**

The Court excused the jury panel at 10:28 a.m. in charge of the Bailiff.

Outside the presence of the jury, the Court inquired if the next issue would arise with the next witness.

Mr. Atwood concurred and advised the Court that he would be calling Detective Cantrill regarding the photo and the identification of the defendant in the video.

Mr. Schwartz renewed his objection.

The Court recessed at 10:29 a.m.

The Court reconvened at 10:43 a.m. with all parties present.

Outside the presence of the jury panel, the Court noted it would take up the legal issue.

In response to the Court's inquiry, Mr. Atwood advised the Court that the issue would be with Detective Cantrill and Detective Weeks testimony and advised the Court of the examination of Detective Cantrill presented a photograph that had not yet submitted and continued to advise the Court of the examination or could show the detective state's Exhibit # 9.

Mr. Schwartz presented argument in opposition.

Mr. Atwood presented further argument in support of testimony and had prepared an instruction.

In response to the Court's inquiry, Mr. Atwood informed the Court that he had not provided a copy of the instruction to Mr. Schwartz and did not have a copy for the Court, inquired if he could read it since it was just scribbled on a paper.

The Court advised Mr. Atwood that if it was something the Court had to give fairly quickly would need the instruction.

Mr. Atwood advised the Court that if it approved it he could have the instruction typed up fairly quickly, read the proposed instruction and presented argument in support of testimony.

The Court noted that it had reviewed the Barnes decision and made statements.

In response to the Court's inquiry, Mr. Atwood advised the Court that if allowed the officer could he could testify who was contained in state's Exhibit #11 and in state's Exhibit #9 the officer could testify who the individual with that hat on was as well as the bald headed person and could testify that he seen those to person's at the same time the time that the photograph was taken on June 20th, 2009.

In response to the Court's inquiry, Mr. Atwood advised the Court that the two (2) individuals were together on state's Exhibit #9 and when Detective Cantrill met the defendant on June 20th, the same individual was right next to him, so it made it more likely that it was him. But if the Court found it not so, then they could use state's Exhibit #9.

The Court presented statements, the detective could testify that he had contact with the defendant in June and his appearance today was different and could specify how that was different. Further, it would not allow him to identify the individual's on the video but overruled the objection, allowed him to give an opinion as to the individual depicted in state's Exhibit #9.

In response to the Court's inquiry, Mr. Atwood informed the Court that he intended to introduce the other photograph taken in June and felt that it did not fall under Barnes but would require a 403 balancing.

The Court ruled that with respect to the testimony, made statements and ruled that Detective Cantrill could testify, assuming proper foundation was made and with respect to balancing test it was prejudicial but felt it was relevant and felt that probative value out

weighted the prejudice.

In response to the Court's inquiry, Mr. Schwartz presented argument in opposition to the June photograph.

The Court noted that it would not allow the photograph but would allow the testimony.

In response to Mr. Atwood's inquiry, the Court advised Mr. Atwood that it had no objection to marking the photograph as an exhibit for purposes of preserving the record.

Mr. Atwood presented argument in support of the exhibit and clarified the Court's ruling as to Detective Cantrill testifying as to Exhibit #9.

The Court noted that it would allow him to testify as to his observations on that date and to identify based upon established familiarity to Exhibit #9.

Mr. Atwood clarified the Court's ruling and inquired if he was able to identify the other individual in Exhibit #9 and advised the Court of the relevancy.

Mr. Schwartz presented argument in opposition.

The Court noted that it was inclined to agree that expanding it beyond it beyond its ruling to identify other people and made statements.

Mr. Atwood presented further argument in support of testimony.

Mr. Schwartz presented further argument in opposition.

The Court ruled that it would stick with its original ruling and advised Mr. Atwood that he could mark the June photograph as an exhibit.

Mr. Atwood advised the Court that Detective Weeks testimony would also fall within Barnes and inquired if could present an offer.

The Court so granted.

Mr. Atwood presented an offer.

The Court ruled that it would not allow.

Mr. Atwood advised the Court that he had the instruction and inquired if the Court would like the written instruction typed or emailed to the clerk.

The Court advised counsel that the instruction should be given prior to hearing testimony and instructed Mr. Atwood to make a small change.

In response to the Court's inquiry, Mr. Schwartz informed the Court that he had no objection but would need a lay opinion instruction and would prepare an IDGI instruction.

The Court instructed Mr. Atwood to provide his instruction to the Court and it would have it added.

In response to the Court's inquiry, Mr. Schwartz advised the Court that he had no objection to the instruction being given.

The Court recessed at 11:34 a.m.

The Court reconvened at 11:44 a.m. with all parties present.

Outside the presence of the jury, the Court provided each of counsel the curative instruction #10.

Each of counsel informed the Court that they had no objection to the instruction.

The Court advised each of counsel that it would provide the instruction to the jury

panel upon their returning to the courtroom.

Mr. Schwartz advised the Court that he would not be preparing a lay witness instruction.

The jury panel was returned to the Courtroom at 11:45 a.m. in charge of the Bailiff.

The Court advised the jury panel it had taken up a matter outside of their presence and instructed Mr. Atwood to call his next witness.

JASON CANTRELL, the state's fifth witness was called, sworn by clerk, direct examined, cross examined, the Court excused the witness.

In response to the Court's inquiry, Mr. Atwood informed the Court that his next witness would be available after the break.

The Court admonished and excused the jury panel at 11:55 a.m.

Outside the presence of the jury panel, the Court noted that there would be a gap in the instructions.

The Court recessed at 11:56 a.m.

The Court reconvened at 1:06 p.m. with all parties present.

Outside the presence of the jury, the Court noted that prior to the recess, it had noted that it labeled the instruction as #10 and corrected the same to reflect #9.

Each of counsel informed the Court that they had no objection.

In response to the Court's inquiry, Mr. Atwood informed the Court that his next witness should be here and advised the Court of his continued objection as to hearsay statements through the doctor's testimony.

In response to the Court's inquiry, Mr. Schwartz advised the Court that it needed to be within the rules or the state would object.

Mr. Atwood informed the Court that he was making that objection now.

The Court noted rule 803-4 and the ruling on the second person behind the defendant, the defense made an issue of identity, then if evidence showed that the 2nd person showed to be the defendant's brother then it met rule 401 and 403 and would allow defense to address the same.

The Court inquired if it allowed the testimony how it would prejudice the defendant.

Mr. Schwartz presented statements regarding the audio and how it would prejudice the defendant.

The Court presented statements and found that it was relevant.

Mr. Atwood presented statements.

The Court ruled it was relevant since identity was at issue, would allow testimony if proper foundation was laid.

Mr. Schwartz presented further argument in support of objection to the audio.

The Court presented further statements.

Mr. Atwood advised the Court that he would locate his next witness.

The Court recessed at 1:27 p.m.

The Court reconvened at 1:32 p.m. with all parties present and the jury panel in charge of the bailiff.

The Court noted that the jury panel were properly seated and instructed Mr. Atwood

to call his next witness.

MARK CHOWN, state's sixth witness was called, sworn by clerk, direct examined, there being no objection the Court excused the witness.

The Court instructed Mr. Atwood to call his next witness.

The Court excused the jury panel at 1:40 p.m.

Outside the presence of the jury panel, the Court instructed Mr. Atwood to call his next witness.

JOSHUA SALAZAR, state's seventh witness was called, sworn by the clerk.

The Court advised the witness of his right to compulsory self incrimination, he could assert this right at any time and if he testified he would be subject to cross examination and determined that the defendant understood.

The Court instructed the witness to step down and noted that the witness was represented by counsel Mr. Greg Ferney.

The Court recessed at 1:48 p.m.

The Court reconvened at 1:49 p.m. with all parties and jury panel in charge of the bailiff.

The Court instructed the state to call his next witness.

JOSHUA SALAZAR, state's seventh witness was called, sworn by the clerk, direct examined, cross examined, there being no objection the Court excused the witness.

The Court instructed the state to call his next witness.

Mr. Atwood informed the Court that the state rests.

The Court instructed the Mr. Schwartz to call his next witness.

Mr. Schwartz advised the Court that he was ready to present his case but would like to present a motion outside the presence of the jury.

The Court excused the jury panel at 1:58 p.m. in charge of bailiff.

Outside the presence of the jury, the Court inquired of Mr. Schwartz motion.

Mr. Schwartz presented argument in support of Rule 29 a motion for judgment of acquittal.

Mr. Atwood presented argument in opposition to the motion.

Mr. Schwartz presented further argument in support of motion.

The Court presented statements and denied the motion.

Mr. Schwartz advised the Court that he would not be presenting a case and would close on state's case.

The Court noted that the instructions were almost complete.

In response to the Court's inquiry, each of counsel informed the Court that neither would be requesting a lesser included.

Mr. Atwood requested that the Court advise the defendant of his constitutional right against self incrimination.

The Court advised the defendant of his constitutional right against compulsory self incrimination, if testified he would be subject to cross examination within the scope of questions asked in direct examination of counsel, further, if he didn't testify that could not be held against him and determined that the defendant understood.

The Court noted that it would finalize the instructions.

The Court recessed at 2:13 p.m.

The Court reconvened at 2:33 p.m. with all parties present.

Outside the presence of the jury panel, the Court noted that it had previously provided a copy of the proposed instructions and the verdict form.

Each of counsel informed the Court that they had reviewed.

The Court reviewed the instructions with each of counsel and determined that neither of them had any objections to the final instructions and no objection to the verdict form.

In response to Mr. Atwood's inquiry, the Court advised Mr. Atwood the additional instruction had been added to the instructions and had been read to the jury.

Mr. Schwartz presented a motion for Rule 29.

The Court denied the motion.

In response to the Court's inquiry, Mr. Atwood informed the Court that the audio could be played on any computer with windows.

The bailiff stated that if allowed he could help the jurors run the program for the audio.

Each of counsel concurred.

The Court recessed at 2:42 p.m.

The Court reconvened at 2:55 p.m. with all parties present and jury panel in charge of the bailiff.

The Court instructed Mr. Schwartz to call his first witness.

The defense rests.

The Court advised the jury panel that the evidence was now closed.

The Court instructed the Bailiff to hand out copies of the final instructions to the jury.

The Court read the final Jury Instructions.

The Court instructed Mr. Atwood to proceed with his closing argument.

Mr. Atwood presented opening closing argument.

Mr. Schwartz presented closing argument.

Mr. Atwood presented final closing argument.

At the direction of the Court, the clerk drew the following juror number #221, as the alternate juror.

Each of counsel stipulated to release juror #221.

The Court thanked and excused the juror with the instruction not to discuss this matter until a verdict was reached.

Oath to the Bailiff was administered by the clerk at 3:50 p.m. and the jury retired to deliberate its verdict in the charge of the bailiff.

In response to the Court's inquiry, each of counsel informed the Court that they had no objection to allowing the bailiff to help/show the jury how to work the video equipment.

The Court released the jury for deliberation at 3:52 p.m.

The Court recessed at 3:53 p.m.

The Court reconvened at 4:44 p.m. with all parties present and outside the presence

of the jury.

The Court provided each of counsel a copy of the jury questions #1 and #2.

Question #1: Juror #620, "Can the jury have a magnifying glass? The Court instructed the clerk to file the same.

The Court noted that it had available a magnifying glass that was on Judge Kerrick's bench.

In response to the Court's inquiry, Mr. Atwood informed the Court that he had no objection.

Mr. Schwartz presented argument in opposition and informed the Court that he had no case law to present.

Mr. Atwood informed the Court that he had no case law and presented additional statements.

The Court reviewed case law, noted that it failed to see any prejudice and granted the jury's request, inclined to grant the request and would allow counsel to review the magnifying glass.

In response to the Court's inquiry, each of counsel informed the Court that they had no objection to having the bailiff hand the magnifying glass to the jury.

The Court instructed the clerk to mark the question as "Question #1" and there was no response a magnifying glass was just provided to the jury.

The Court addressed Question #2, Juror 620 "The jury would like a photograph of the defendant" and advised each of counsel that the appropriate answer to that would be

that the jury had to decide the case based solely on the evidence presented at trial.

Each of counsel concurred.

The Court further noted that it proposed that it could respond by "the law requires that their decision be based solely on the evidence presented in Court".

Each of counsel concurred with the Court and informed the Court that they did not need to look at the Court's response if it was worded as it stated in Court.

In response to the Court's inquiry, each of counsel informed the Court that they had no objection to having the bailiff providing the response to the jury.

Mr. Atwood requested that the response be made part of the record.

The Court concurred.

The Court recessed at 5:00 p.m.

The Court reconvened at 6:42 p.m. with all parties present and the jury in charge of the bailiff.

In response to the Court's inquiry, the presiding juror indicated that the jury had reached a verdict in this matter and the Verdict Form was presented to the Court.

The following verdict was delivered to the Court by the Bailiff and read by the clerk:

State of Idaho v. Lazarus Salazar

Case No. CR2009-36064*C

SPECIAL VERDICT FORM

"We, the Jury, duly impaneled and sworn to try the above-entitled action, for our verdict, unanimously answer the questions submitted to us as follows:

QUESTION NO. 1: Is defendant Lazarus Salazar not guilty or guilty of Aggravated Battery as charged in Count I?

NOT GUILTY _____ **GUILTY** X

If you answer Question No. 1, "Guilty" you must answer both Question No. 1A and Question No. 1B. If you answer Question No. 1 "Not Guilty," proceed to Question No. 2.

QUESTION NO. 1A: Do you find beyond a reasonable doubt that the defendant, Lazarus Salazar, committed Aggravated Battery in Count I with a deadly weapon.

YES X **NO** _____

QUESTION NO. 1B: Do you find beyond a reasonable doubt that the defendant, Lazarus Salazar, committed Aggravated Battery in Count I by causing great bodily harm, permanent disability, or permanent disfigurement?

YES X **NO** _____

QUESTION NO. 2: Is defendant Lazarus Salazar not guilty or guilty of Aggravated Battery as charged in Count II?

NOT GUILTY _____ **GUILTY** X

If you answer Question No. 2, "Guilty" you must answer both Question No. 2A and Question No. 2B.

QUESTION NO. 2A: Do you find beyond a reasonable doubt that the defendant, Lazarus Salazar, committed Aggravated Battery in Count II with a deadly weapon.

YES X **NO** _____

QUESTION NO. 1B: Do you find beyond a reasonable doubt that the defendant,

Lazarus Salazar, committed Aggravated Battery in Count II by causing great bodily harm, permanent disability, or permanent disfigurement?

YES X NO

Dated this 24th day of February, 2010.

Presiding Juror
Juror No.

The clerk advised the Court that there was no juror number on the verdict form.

The Court determined that the presiding juror was #620.

The Court inquired of the members of the jury if this was their true and correct verdict, and the members of the jury unanimously replied "Yes."

In response to the Court's inquiry, Mr. Atwood informed the Court that they did not request the jury panel be polled.

Mr. Schwartz requested that the jury panel be polled.

The Court polled the jury panel and each juror advised the Court that this was their true verdict

The Court ordered the verdict received and filed.

The Court advised the jury panel that due to the verdict there was another matter to add regarding the Part II.

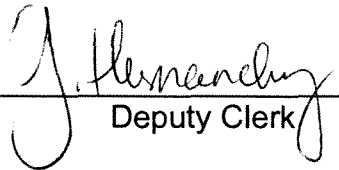
The Court advised the jury panel that the Part II would proceed to trial and could continue the matter until tomorrow morning.

The jury panel concurred with the Court.

The Court instructed the attorney's and the defendant to be present in Court at 8:30 a.m.

The Court admonished and excused the jury panel at 6:49 p.m.

The Court recessed at 6:50 p.m.


Deputy Clerk

FILED
A.M. 1075 P.M.

FEB 24 2010

CANYON COUNTY CLERK
G HERNANDEZ, DEPUTY

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

_____)
STATE OF IDAHO)
)
Plaintiff,)
)
-vs-)
LAZARUS SALAZAR,)
)
Defendant.)
_____)

CR-2009-36064-C

**SPECIAL
VERDICT FORM**

We, the Jury, duly impaneled and sworn to try the above-entitled action, for our verdict, unanimously answer the questions submitted to us as follows:

QUESTION NO. 1: Is defendant Lazarus Salazar not guilty or guilty of
Aggravated Battery as charged in Count I?

Not Guilty _____

Guilty X

ORIGINAL

If you answer Question No. 1, "Guilty" you must answer both Question No. 1A and Question No. 1B. If you answer Question No. 1 "Not Guilty," proceed to Question No. 2.

QUESTION 1A: Do you find beyond a reasonable doubt that the defendant, Lazarus Salazar, committed Aggravated Battery in Count I with a deadly weapon?

YES X NO _____

QUESTION 1B: Do you find beyond a reasonable doubt that the defendant, Lazarus Salazar, committed Aggravated Battery in Count I by causing great bodily harm, permanent disability, or permanent disfigurement?

YES X NO _____

QUESTION NO. 2: Is defendant Lazarus Salazar not guilty or guilty of Aggravated Battery as charged in Count II?

Not Guilty _____ Guilty X

If you answer Question No. 2, "Guilty" you must answer both Question No. 2A and Question No. 2B.

QUESTION 2A: Do you find beyond a reasonable doubt that the defendant, Lazarus Salazar, committed Aggravated Battery in Count II with a deadly weapon?

YES X NO _____

QUESTION 2B: Do you find beyond a reasonable doubt that the defendant, Lazarus Salazar, committed Aggravated Battery in Count II by causing great bodily harm, permanent disability, or permanent disfigurement?

YES X NO _____

You are done. The presiding juror must sign the verdict form and inform the bailiff.

Dated this 24th day of February, 2010.

Katy Khun
Presiding Juror

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

PRESIDING: **JAMES C. MORFITT** DATE: **FEBRUARY 25, 2010**

THE STATE OF IDAHO,	)	COURT MINUTE
)	
Plaintiff,	)	CASE NO: CR2009-36064*C
)	
vs.	)	TIME: 8:30 A.M.
)	
LAZARUS SALAZAR,	)	REPORTED BY: Kim Saunders
)	
Defendant.	)	DCRT 1 (849 - 315)
_____)	

This having been the time heretofore set for **third day of trial to a jury** in the above entitled matter, the State was represented by counsel, Mr. Chris Atwood, Special Deputy Prosecuting Attorney for Canyon County and the defendant appeared in court with counsel, Mr. William Schwartz.

Outside the presence of the jury panel, the Court noted the matter and noted that he had provided each of counsel a copy of the proposed instructions.

In response to the Court's inquiry, Mr. Atwood advised the Court that he had no objection to instruction #26 or #27.

Mr. Schwartz concurred and had no objection to the instructions.

Mr. Atwood informed the Court that he had submitted proposed instructions and had a copy of the California statute.

The Court advised Mr. Atwood that it had a copy of the same.

Mr. Atwood inquired if he would be allowed to instruct the defendant to remove his short to show his tattoos.

The Court advised Mr. Atwood that it was not inclined to do that and noted that it could be done by photographs.

Mr. Schwartz concurred.

In response to the Court's inquiry, Mr. Atwood informed the Court that he would be calling three (3) witnesses and would take no more than a couple of hours.

Mr. Schwartz advised the Court that he would be calling one (1) witness.

The Court recessed at 8:55 a.m.

The Court reconvened at 9:13 a.m. with all parties present and the jury panel in charge of the Bailiff.

The Court noted that the jury panel and were present and properly seated.

In response to the Court's inquiry, each of counsel waived roll call of jury panel.

The Court advised the jury panel of the additional matter and of the additional preliminary instructions.

The Court read the Part II Information to the Jury.

The Court read the preliminary instructions.

Mr. Atwood presented opening statements.

Mr. Schwartz advised the Court that they would reserve their opening statement.

The Court instructed Mr. Atwood to call his first witness.

JOHN RODRIGUEZ, State's first witness was called and sworn by the clerk.

The Court advised the defendant of his constitutional right against self incrimination.

Mr. Atwood direct examined the witness, cross examined, re-direct examined, re-cross examined, there being no objection, the Court excused the witness.

TIMOTHY HIGGINS, State's second witness was called, sworn by the clerk, direct examined, presented previously marked state's Exhibit #15 identified as a Security Threat Questionnaire used by IDOC, moved for admission, Mr. Schwartz objected since the witness was not the preparer of the document, the Court overruled the objection and admitted state's Exhibit #15, direct examination continued, presented previously marked state's Exhibit #16 identified as a Pen Packet from the IDOC, moved for admission, Mr. Schwartz objected due to probative value, the Court overruled the objection and admitted state's Exhibit #16 and #15, direct examined continued, cross examined, there being no objection, the Court excused the witness.

The Court recessed at 10:19 a.m.

The Court reconvened at 10:34 a.m. with all parties present and the jury panel in charge of the bailiff.

The Court noted the jury panel was present and properly seated and instructed the state to call his next witness.

JASON CANTRILL, State's fifth witness was recalled. The Court advised the witness that he was sworn in yesterday and remained under oath.

Mr. Atwood direct examined the witness, presented state's previously marked Exhibits #17, #18 and #19, direct examined, Exhibit #17 identified as Lazarus Salazar's

photo of right arm with a tattoo, #18 identified as photo of Lazarus Salazar's left arm, #19 identified as photo of Lazarus Salazar's left arm with witnesses hand, direct examination continued, cross examined, there being no objection, the Court excused the witness.

The Court instructed Mr. Atwood to call his next witness.

The state rests.

The Court instructed Mr. Schwartz to present his opening statement.

Mr. Schwartz presented opening statement.

The Court instructed Mr. Schwartz to call his first witness.

JOSHUA SALAZAR, defendant's first witness was called, affirmed by the Court, direct examined, cross examined, there being no objection, and the Court excused the witness.

The Court instructed Mr. Schwartz to call his next witness.

The defense rests.

The Court advised the jury that the evidence was now closed and would need to finalize the instructions.

The Court excused the jury panel in charge of the bailiff at 11:03 a.m.

Outside the presence of the jury, the Court reviewed the instructions with each of counsel and determined that neither of them had any objections to the final instructions.

The Court noted that the special verdict form had been provided to each of counsel and would amend it to reflect Part II.

In response to the Court's inquiry, each of counsel informed the Court that they had

no objection to the verdict form.

In response to the Court's inquiry, Mr. Atwood concurred with the Court that he had wanted a unanimity instruction but felt he no longer needed it.

The Court recessed to finalize the instructions.

The Court recessed at 11:10 a.m.

The Court reconvened at 11:31 a.m. with all parties present and the jury panel in charge of the bailiff.

The Court advised the jury panel that they were almost done with the jury instructions but would excuse them for the lunch hour.

The Court admonished and excused the jury panel at 11:32 a.m. in charge of the bailiff for the lunch hour.

The Court recessed at 11:33 a.m.

The Court reconvened at 11:55 a.m. with all parties present.

Outside the presence of the jury, the Court provided each of counsel a copy of the final instructions and special verdict form and included instruction #30.

In response to the Court's inquiry, each of counsel informed the Court that they had no objection to the instruction #30 or the special verdict form for Part II.

The Court noted that the state had submitted an instruction and advised Mr. Atwood that the instruction had been covered.

The Court recessed at 11:58 a.m.

The Court reconvened at 12:58 p.m. with all parties present and the jury panel in

charge of the bailiff.

The Court instructed the Bailiff to hand out copies of the final instructions to the jury.

The Court read the final Jury Instructions.

The Court instructed Mr. Atwood to proceed with his closing argument.

Mr. Atwood presented opening closing argument.

Mr. Schwartz presented closing argument.

Mr. Atwood presented final closing argument.

Oath to the Bailiff was administered by the clerk at 1:32 p.m. and the jury retired to deliberate its verdict in the charge of the bailiff.

The Court released the jury for deliberation at 1:32 p.m.

The Court advised each of counsel that all the exhibits and instructions would be provided to the jury.

The Court recessed at 1:34 p.m.

The Court reconvened at 3:04 p.m. with all parties present and outside the presence of the jury.

In response to the Court's inquiry, the presiding juror indicated that the jury had reached a verdict in Part II of this matter and the Verdict Form was presented to the Court.

The following verdict was delivered to the Court by the Bailiff and read by the clerk:

State of Idaho v. Lazarus Salazar

Case No. CR2009-36064*C

SPECIAL VERDICT FORM PART II

"We, the Jury, duly impaneled and sworn to try the above-entitled action, for our verdict, unanimously answer the questions submitted to us as follows:

COUNT I – PART II

QUESTION NO. 1: Did the defendant Lazarus Salazar commit the offense of Aggravated Battery upon Alfonso Olmos knowing for the benefit or at the direction of, or in association with, a criminal gang or criminal gang member?

YES X NO _____

If you unanimously answered Question No. 1, "Yes" then proceed to answer Question No. 2. If you unanimously answered Question No. 1 "No", then proceed to Count II – Part II.

QUESTION NO. 2: Did defendant Lazarus Salazar commit the offense of Aggravated Battery upon Alfonso Olmos with the specific intent to promote, further, or assist the activities of a criminal gang?

YES X NO _____

COUNT II – PART II

QUESTION NO. 1: Did the defendant Lazarus Salazar commit the offense of Aggravated Battery upon John Rodriguez knowing for the benefit or at the direction of, or in association with, a criminal gang or criminal gang member?

YES X NO _____

If you unanimously answered Question No. 2, "Yes" then proceed to answer Question No. 2. If you unanimously answered Question No. 1 "No", then you should simply

sign the verdict form and advise the bailiff.

QUESTION NO. 2: Did defendant Lazarus Salazar commit the offense of Aggravated Battery upon John Rodriguez with the specific intent to promote, further, or assist the activities of a criminal gang?

YES X NO

You are done. The presiding juror must sign the verdict form and inform the bailiff.

Dated this 25th day of February, 2010.

620 /s/
Presiding Juror
Juror No.

The Court inquired of the members of the jury if this was their true and correct verdict, and the members of the jury unanimously replied "Yes."

In response to the Court's inquiry, Mr. Atwood informed the Court that they did not request the jury panel be polled.

Mr. Schwartz requested that the jury panel be polled.

The Court polled the jury panel and each juror advised the Court that this was their true verdict

The Court ordered the verdict received and filed.

The Court read the final instruction and the jury was excused from the proceedings at 3:11 p.m.

Outside the presence of the jury, the Court advised the defendant that based upon the verdict of the jury and being found guilty of two (2) counts of Aggravated Battery as

charged in Part I of the Information, the Gang Enhancements in Part II of the Information and the Use of Deadly Weapon in Part III of the Information, the Court advised the defendant that it would need to set the matter for sentencing and pronouncement of judgment.

In response to the Court's inquiry, Mr. Schwartz advised the Court that a Presentence Investigation Report was needed and there was no need for evaluations.

Mr. Atwood concurred.

The Court advised the defendant that it would order a Presentence Investigation Report and advised the defendant of his constitutional right against self incrimination and was entitled to be assisted by his attorney if he so desired for the Presentence Investigation Report but could did not have the right to have the attorney present but if any issues that arise he could discuss them with his attorney.

The defendant informed the Court that he understood.

The Court ordered a **Presentence Investigation Report** and set the matter for **sentencing on May 10, 2010 at 3:00 p.m. before Judge Ford.**

The defendant was remanded into the custody of the Canyon County Sheriff pending further proceedings or the posting of bond with the instruction to keep in touch with his attorney and the Presentence Investigator.


Deputy Clerk

FILED
A.M. P.M.

FEB 25 2010

CANYON COUNTY CLERK
G HERNANDEZ, DEPUTY

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

_____)
STATE OF IDAHO)
)
Plaintiff,)
)
-vs-)
)
LAZARUS SALAZAR,)
)
Defendant.)
_____)

CR-2009-36064-C

**SPECIAL
VERDICT FORM
PART II**

We, the Jury, duly impaneled and sworn to try the above-entitled action, for our verdict, unanimously answer the questions submitted to us as follows:

COUNT I – Part II

Question No. 1: Did defendant Lazarus Salazar commit the offense of Aggravated Battery upon Alfonso Olmos knowingly for the benefit or at the direction of, or in association with, a criminal gang or criminal gang member?

YES NO _____

If you unanimously answered Question No. 1 "Yes," then proceed to answer Question No. 2. If you unanimously answered Question No. 1 "No," then proceed to Count II – Part II.

Question No. 2: Did defendant Lazarus Salazar commit the offense of Aggravated Battery upon Alfonso Olmos with the specific intent to promote, further, or assist the activities of a criminal gang?

YES NO _____

COUNT II – Part II

Question No. 1: Did defendant Lazarus Salazar commit the offense of Aggravated Battery upon John Rodriguez knowingly for the benefit or at the direction of, or in association with, a criminal gang or criminal gang member?

YES NO _____

If you unanimously answered Question No. 1 "Yes," then proceed to answer Question No. 2. If you unanimously answered Question No. 1 "No," then you should simply sign the verdict form and advise the bailiff.

Question No. 2: Did defendant Lazarus Salazar commit the offense of Aggravated Battery upon John Rodriguez with the specific intent to promote, further, or assist the activities of a criminal gang?

YES X NO _____

You are done. The presiding juror must sign the verdict form and inform the bailiff.

Dated this 25 day of February, 2010.

Katy Khun _____

Presiding Juror

Juror No. 620

FILED
A.M. P.M.

MAY 05 2010

CANYON COUNTY CLERK
B RAYNE, DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LAZARUS SALAZAR,)
)
Defendant.)
_____)

Case No. CR 09-36064-C
**MOTION TO CONTINUE
SENTENCE HEARING**

COMES NOW, Christopher Atwood, Deputy Prosecuting Attorney, in and for the
~~County of Canyon, State of Idaho, and moves this Court to continue the sentence hearing in the~~
above entitled matter. and moves this Court to continue the sentence hearing in the
follows:

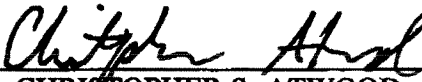
1. Counsel for the State of Idaho has suffered a death in the family and is going to be out of
the state for a funeral on the date currently set for sentencing;

2. It is important that counsel be personally present for sentencing because the defendant was convicted after trial in this matter. The evidence presented at trial included the defendant's gang membership as well as the criminal activities of that gang. Counsel intends to present at least one witness at sentencing regarding the defendant's criminal gang membership for the Court to consider as an aggravating factor;
3. The defendant was already found guilty at trial, so continuing the sentencing does not implicate the defendant's right to a speedy trial.
4. The prejudice to defendant would be minimal, if any, because the defendant is also being held in-custody on a separate case currently set for trial on June 21, 2010, in Ada County Case no. CRFE2009-0023216.

The State therefore requests the sentence hearing currently set for May 10, 2010 be continued and reset to a new date suitable for Court and counsel.

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County

By


CHRISTOPHER S. ATWOOD
Deputy Prosecuting Attorney

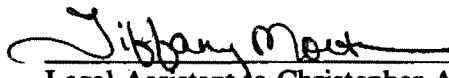
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of May 2010, I caused to be served a true and correct copy of the foregoing document to:

William Schwartz
Public Defender
510 Arthur Street
Caldwell, ID 83706

by the method indicated below:

- INTERDEPARTMENTAL MAIL
- U.S. MAIL (Postage Prepaid)
- FAX TRANSMISSION
- HAND DELIVERY



 Legal Assistant to Christopher Atwood

F I L E D
A.M. 4 P.M.

MAY 11 2010

CANYON COUNTY CLERK
B RAYNE, DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
Special Prosecutor for Canyon County
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LAZARUS SALAZAR,)
)
Defendant.)
_____)

Case No. CR 09-36064-C
**ORDER TO CONTINUE
SENTENCE HEARING**

The above entitled matter having come before this Court and good cause appearing;
IT IS HEREBY ORDERED that the Sentence hearing set for May 10, 2010 be
reset to the 9th day of June, 2010, at the hour of 9:00^{am} o'clock of said
day.

DATED this 0 day of May, 2010.

Judge

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
PRESIDING: **BRADLY S. FORD** DATE: JUNE 09, 2010

THE STATE OF IDAHO,)	
	)	COURT MINUTES
Plaintiff,)	
	)	CASE NO. CR-2009-36064-C
vs)	
	)	TIME: 9:00 A.M.
LAZARUS SALAZAR,)	
	)	REPORTED BY: Yvonne Hyde-Gier
Defendant.)	
_____	)	DCRT 5 (912-1030)

This having been the time heretofore set for **sentencing** in the above entitled matter, the State was represented by Mr. Chris Atwood, Special Deputy Prosecuting Attorney for Canyon County, and the defendant was present in court with counsel, Mr. William Schwartz.

The Court reviewed relevant procedural history, and noted the defendant was found guilty by a jury in this matter.

Mr. Atwood noted his understanding was the defendant was found guilty of two (2) counts Aggravated Battery, two (2) weapon enhancements and two (2) gang enhancements. Mr. Atwood advised the Court he would address that issue further during argument.

The Court determined all parties had received / reviewed a copy of the Presentence Investigation Report. Mr. Schwartz listed factual corrections for the record.

Timothy Higgins was called as the State's first witness, sworn by the clerk, direct examined and cross examined.

In answer to the Court's inquiry, Mr. Schwartz indicated the defendant had no testimony to present in aggravation or mitigation.

In answer to the Court's inquiry, Mr. Atwood indicated there were no victim impact statements.

Mr. Atwood made statements regarding the defendant, cited case law in regard to sentencing enhancements, and recommended the Court sentence on only one (1) weapon enhancement. The State recommended the Court impose five (5) years fixed, ten (10) years indeterminate on each Aggravated Battery, two (2) years fixed in each Gang Enhancement, and six (6) years fixed, five (5) years indeterminate for a Weapon Enhancement; all sentences to run consecutively. The State recommended a total sentence of twenty (20) years fixed, twenty-five (25) years indeterminate, for a unified term of forty-five (45) years (as broken down above).

Mr. Schwartz made on behalf of the defendant and requested the Court impose five (5) years fixed (on each count), with a long indeterminate portion, and that the sentences run concurrently.

The defendant waived his right to elocution.

There being no legal cause why judgment should not be pronounced, the Court found the defendant guilty of the offense of **Aggravated Battery / Commission of a Felony Crime with the Intent to Promote Gang Activity (count I)**, upon a finding of guilty by jury, and sentenced the defendant to the custody of the Idaho Department of Correction for a minimum period of confinement of five (5) years, followed by a subsequent indeterminate period of confinement not to exceed eight (8) years, for a total unified term of thirteen (13) years; with credit for two hundred nineteen (219) days previously served.

There being no legal cause why judgment should not be pronounced, the Court found the defendant guilty of the offense of **Aggravated Battery / Commission of a Felony Crime with the Intent to Promote Gang Activity / Use of a Deadly Weapon in the Commission of a Crime (count II)**, upon a finding of guilty by jury, and sentenced the defendant to the custody of the Idaho Department of Correction for a minimum period of confinement of ten (10) years, followed by a subsequent indeterminate period of confinement not to exceed fourteen (14) years, for a total unified term of twenty-four (24) years. This sentence shall run consecutive to count I.

The Court waived fines and costs, reserved restitution and Ordered the defendant to submit a DNA sample and right thumbprint impression to the Idaho State Police or its agent.

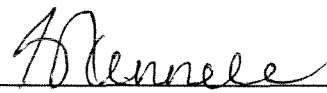
Mr. Schwartz advised the Court he would be filing a Motion for Reduction of Sentence pursuant to I.C.R. 35.

The Court advised the defendant that he had the right to appeal the final judgment of this Court to the Idaho Supreme Court within forty-two (42) days from the date sentence is imposed, the right to file one (1) motion for sentence modification within one hundred twenty (120) days from date sentence is imposed (within fourteen (14) days from date sentence on a probation violation); and the right to file post-conviction relief proceedings within one (1) year from the expiration of the time for appeal, or determination of an appeal, whichever is later. The Court further advised the defendant he had the right to an attorney in all these proceedings, and the right to court appointed counsel if found to be indigent.

The defendant was provided with a Notice to Defendant Upon Sentencing, and upon the direction of the Court, reviewed and signed the same.

Each of counsel returned their copy of the Presentence Investigation Report to the court clerk.

The defendant was remanded to the custody of the Canyon County Sheriff pending transport to the Idaho Department of Correction.


Deputy Clerk

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 06/09/10 AT 10:22 A.M.
CLERK OF THE DISTRICT COURT
BY Mennell, Deputy

THE STATE OF IDAHO, or

Plaintiff,

-vs-

Lazarus Salazar
Defendant.
DOB: 02/08/1986

Case No. CR09-36064C - Count Two

COMMITMENT

Charge: Aggravated Battery /
Mang Enhancement /
Use of a Deadly Weapon

IT IS HEREBY ORDERED that the above-named Defendant, having been found guilty as charged, be committed to the custody of the Sheriff of Canyon County, Idaho and that this Order of Commitment shall serve as authority for continued custody.

IT IS FURTHER ORDERED that the above-named Defendant shall serve:

- _____ day(s). _____ month(s). _____ year(s).
- as previously Ordered on the Judgment dated _____.
- credit for _____ day(s) served.
- determinate 10 year. indeterminate 14 year. retained jurisdiction.
- work search/work-out privileges granted from _____ to _____.

- upon written verification. as authorized by the Sheriff of Canyon County.

Sheriff's Work Detail: _____ days in lieu of _____ days jail to be completed by _____.

If the Defendant fails to report to the jail as ordered or at a time agreed upon with the jail, or fails to satisfactorily perform the Defendant's obligations with the Sheriff Inmate Labor Detail, then the Sheriff is ordered and directed to place the Defendant in custody to serve the Defendant's jail time that has not been suspended.

Other: Consecutive to count one

IT IS FURTHER ORDERED that the above-named Defendant shall report to the Canyon County Sheriff on or before immediately

Dated: 06/09/10

Signed: [Signature]
Judge

- Jail Defendant

COMMITMENT

000100

3/02

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 06/09/10 AT 10:22a .M.
CLERK OF THE DISTRICT COURT
BY McConnell, Deputy

THE STATE OF IDAHO, or

Plaintiff,

-vs-

Lazarus Salazar

Defendant.

DOB: 02/08/1986

Case No. CR09-36064C- Count one

COMMITMENT

Charge: Aggravated Battery /
Jury Enhancement

IT IS HEREBY ORDERED that the above-named Defendant, having been found guilty as charged, be committed to the custody of the Sheriff of Canyon County, Idaho and that this Order of Commitment shall serve as authority for continued custody.

IT IS FURTHER ORDERED that the above-named Defendant shall serve:

_____ day(s). _____ month(s). _____ year(s).

as previously Ordered on the Judgment dated _____.

credit for 219 day(s) served.

determinate 5 years. indeterminate 8 years. retained jurisdiction.

work search/work-out privileges granted from _____ to _____.

upon written verification. as authorized by the Sheriff of Canyon County.

Sheriff's Work Detail: _____ days in lieu of _____ days jail to be completed by _____.

If the Defendant fails to report to the jail as ordered or at a time agreed upon with the jail, or fails to satisfactorily perform the Defendant's obligations with the Sheriff Inmate Labor Detail, then the Sheriff is ordered and directed to place the Defendant in custody to serve the Defendant's jail time that has not been suspended.

Other: _____

IT IS FURTHER ORDERED that the above-named Defendant shall report to the Canyon County Sheriff on or before immediately

Dated: 06/09/10

Signed: _____
Judge

Jail Defendant

F I L E D
A.M. P.M.

JUN 09 2010

CANYON COUNTY CLERK
S FENNELL, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF

STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,
Plaintiff,

vs.

LAZARUS SALAZAR,

02/08/1986

518-17-8225

Defendant.

CASE NO. CR-09-36064

ORDER FOR DNA SAMPLE
AND RIGHT THUMBPRINT

THIS IS A CRIMINAL MATTER. The defendant is guilty of felony Aggravated Battery. Accordingly, THE IDAHO DNA DATABASE ACT of 1996 (Idaho Code § 19-5501, et seq.) requires defendant to provide a deoxyribonucleic acid (DNA) sample and right thumbprint impression to the Idaho state police.

THEREFORE, THIS ORDERS THAT:

1. The defendant shall report to the Canyon County Sheriff's office within ten (10) days of the date of this order to provide a DNA sample and right thumbprint impression. In the event that the defendant is transported to another facility before the DNA sample and right thumbprint impression can be obtained by the Canyon County Sheriff's office, a copy of this order shall be forwarded to the receiving facility.

2. The defendant is on notice that a failure to provide the DNA sample and thumbprint ordered above is a separate felony offense and can result in a violation of probation or parole, regardless of whether a new charge is filed based upon a violation of the Act.

ORDER FOR DNA SAMPLE AND RIGHT THUMBPRINT – Page 1

000102

3. Duly authorized law enforcement and correction personnel shall employ reasonable force to collect the DNA sample and/or right thumbprint should the defendant be incarcerated and refuse or resist providing the same.

DATED this 9th day of May, 2010.



BRADLY S. FORD, District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that on ___ day of May, 2010 s/he served a true and correct copy of the original of the forgoing **ORDER FOR DNA SAMPLE AND RIGHT THUMBPRINT** on the following individuals in the manner described:

- upon the Canyon County Prosecutor,
- and upon the defendant
- and upon defendant's attorney,

when she caused copies of the same to be hand-delivered in open court

- and upon the Canyon County Sheriff
- and upon Idaho State Police, Forensic Services, 700 South Stratford Drive, Ste. 125, Meridian, Idaho 83642

when s/he placed the same into the latter's "pick up" box at the Canyon County Clerk's office, Canyon County Courthouse, Caldwell, Idaho,

WILLIAM H. HURST, Clerk of the Court

By: _____
Deputy Clerk of the Court

FILED
A.M. P.M.

JUN 14 2010

CANYON COUNTY CLERK
S FENNEL, DEPUTY

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

THE STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
 LAZARUS SALAZAR,)
)
 [REDACTED] 518-17-8225)
 D.O.B: 02-08-1986)
)
 Defendant.)
 _____)

JUDGMENT AND COMMITMENT
CASE # CR-2009-36064-C

On this 9th day of June 2010, personally appeared Chris Atwood, Special Deputy Prosecuting Attorney for the County of Canyon, State of Idaho, the defendant Lazarus Salazar, and the defendant's attorney William Schwartz, this being the time heretofore fixed for pronouncing judgment.

IT IS ADJUDGED that the defendant has been convicted upon a Jury verdict finding him guilty of the offense of **Aggravated Battery**, a felony, as charged in Count I, Part I, of the Amended Information, in violation of I.C. §18-903(a); 18-907(a); 18-907(b). The defendant has been convicted upon a Jury Verdict finding him guilty of the sentencing enhancement of **Commission of a Felony Crime with the Intent to Promote Gang Activity**, as charged in Count I, Part II, of the Amended Information in violation of I.C. §18-8502; 18-8503. The defendant has been convicted upon a Jury verdict finding him guilty of the offense of **Aggravated Battery**, a felony, as charged in Count II, Part I, of the Amended Information, in violation of I.C. §18-903(a); 18-907(a); 18-907(b). The defendant has been convicted upon a Jury Verdict finding him guilty of the sentencing enhancement of **Commission of a Felony Crime with the Intent to Promote Gang Activity**, as charged in Count II, Part II, of the Amended Information in violation of I.C. §18-8502; 18-8503. The defendant has been convicted upon a Jury verdict finding him guilty of the sentencing enhancement of **Use of a Deadly Weapon During the Commission of a Crime**, a charged in Count II, Part III, of the Amended

JUDGMENT AND COMMITMENT

Copies sent 06/14/10 JB

000104

Information in violation of I.C. §19-2520, each, being committed on or about the 6th day of March 2009; and the Court having asked the defendant whether there was any legal cause to show why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant be sentenced on **Count I, Part I, Part II** to the custody of the Idaho State Board of Correction for a minimum period of confinement of five (5) years, followed by a subsequent indeterminate period of confinement not to exceed eight (8) years, for a total unified term of thirteen (13) years. That the defendant be sentenced on **Count II, Part I, Part II, and Part III**, to the custody of the Idaho State Board of Correction for a minimum period of confinement of ten (10) years, followed by a subsequent indeterminate period of confinement not to exceed fourteen (14) years, for a total unified term of twenty-four (24) years. **These sentences shall run consecutively.**

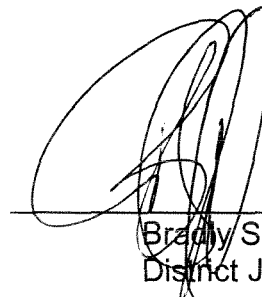
IT IS ORDERED that the defendant be given credit for two hundred nineteen (219) days of incarceration prior to the entry of judgment for this offense (or included offense) pursuant to I.C. §18-309.

IT IS FURTHER ORDERED that the defendant pursuant to I.C. §19-5506, provide to the Idaho State Police or its agent, a DNA sample and a right thumbprint impression.

IT IS ADJUDGED that the defendant be committed to the custody of the Sheriff of Canyon County, Idaho, for delivery forthwith to the Director of the Idaho State Board of Correction at the Idaho State Penitentiary or other facility within the State designated by the State Board of Correction.

IT IS FINALLY ORDERED that the clerk deliver a certified copy of this Judgment and Commitment to the Director of the Idaho State Board of Correction or other qualified officer and that the copy serve as the commitment of the defendant.

DATED this 11th day of June 2010.



Brady S. Ford
District Judge

Courthouse Debra Kriedler

ORIGINAL

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
WILLIAM J. SCHWARTZ
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 3649

FILED
A.M. 9 / P.M.

JUN 24 2010

CANYON COUNTY CLERK
C ATKINSON, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

LASARUS SALAZAR.,

Defendant/Appellant.

Case No. CR-2009-36064-C

NOTICE OF APPEAL

TO: THE CLERK OF THE ABOVE-ENTITLED COURT AND THE STATE OF IDAHO, PLEASE TAKE NOTICE THAT

1. This matter was heard in the Third Judicial District, in and for the County of Canyon by District Court Judge Gregory M. Culet.
2. LAZARUS SALAZAR by and through his attorney(s) of record, William J. Schwartz, the Canyon County Public Defender, hereby appeals the Judgment of Conviction and Commitment that has yet to be finally entered in this matter.
3. The issues on appeal include, but are not limited to:
 - A. Did the Trial Court violate the Defendant's right to a Trial open to the public by excluding spectators during Voir Dire?

B. Did the Trial Court error in allowing into evidence a video tape without sufficient foundation?

C. Did the Trial Court improperly allow testimony of a Police Officer regarding the identity of the suspect as Defendant in the video based upon limited prior contact?

D. Whether there was sufficient evidence for a Jury Trial find guilty on two counts of Aggravated Battery given the lack of clarity in the video evidence?

E. Was sufficient evidence submitted for a Jury to determine that the defendant was acting in a manner to promote gang activity involving enhanced penalties?

F. Was the sentencing excessive?

4. Appellant has the right to appeal all final judgments of convictions in criminal proceedings pursuant to Rule 11(c)(1) of the Idaho Appellate Rules.

5. Appellant requests a transcript of the following hearings in this matter:

A. Pre-Trial/Change of Plea Hearing held on February 23 & 24, 2010;

B. Sentencing Hearing held on May 10, 2010.


6. Appellant requests a copy of the Pre-Sentence Investigation Report, any documents attached to the Pre-Sentence Investigation report, and any documents presented at the Sentencing Hearing be included in clerk's record.

7. Because Appellant is in the custody of the Idaho Department of Corrections, Appellant requests that:

A. Appellant be exempt from paying all required fees because he is indigent; and

B. The State Appellant Public Defender be appointed to represent Appellant in this appeal.

DATED this 24 day of June, 2010,



WILLIAM J. SCHWARTZ
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of June, 2010, I served a true and correct copy of the within and foregoing *Notice of Appeal* upon the individual(s) named below in the manner noted:


- By depositing copies of the same in the United States Mail, postage prepaid, first class, or
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

John T. Bujak
Canyon County Prosecuting Attorney
1115 Albany Street
Caldwell, ID 83605

Lawrence Wasden
Idaho Attorney General
700 W. State Street
P.O. Box 83720
Boise, ID 83720-0010

Debora Kriedler
Court Reporter
c/o Canyon County Courthouse
1115 Albany Street
Caldwell, ID 83605

State Appellate Public Defender
3647 Lake Harbor Lane
Boise, ID 83703



WILLIAM J. SCHWARTZ
Attorney for Defendant

LOWHOUSE

ORIGINAL



MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
WILLIAM J. SCHWARTZ
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 3649

F I L E D
A.M. P.M.

JUN 24 2010

CANYON COUNTY CLERK
C ATKINSON, DEPUTY

Attorneys for Defendant

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

Case No. CR-2009-36064-C

STATE OF IDAHO,

Plaintiff,

vs.

LAZARUS SALAZAR,

Defendant.

MOTION TO RECONSIDER
SENTENCE PURSUANT TO IDAHO
CRIMINAL RULE 35

COMES NOW, the above-named Defendant, Lazarus Salazar by and through his Attorney of Record, the Canyon County Public Defender's Office, William J. Schwartz, handling attorney, and hereby moves this Honorable Court, pursuant to Idaho Criminal Rule (I.C.R.) 35, for reconsideration of sentence entered on May 10, 2010.

Defendant was sentenced to a fixed term of 15 years in the Idaho State Penitentiary with another 22 years indeterminate. Mr. Lazarus Salazar was given credit for having served 219 days of that term. Mr. Lazarus Salazar, respectfully requests, upon a hearing or upon this motion, that this Honorable Court further consider the information provided at Sentencing and contained in the Pre Sentence Investigation to reconsider the

MOTION TO RECONSIDER
SENTENCE PURSUANT TO IDAHO
CRIMINAL RULE 35

sentence originally imposed. In addition, Mr. Lazarus Salazar, respectfully requests this Honorable Court to reconsider the calculation of credit for time served and consider that Defendant has been incarcerated since February of 2010.

DATED, this 24 day of June, 2010,.



WILLIAM J. SCHWARTZ
Attorney for Defendant

CERTIFICATE OF SERVICE:

I hereby certify that on the 24 day of June, 2010, I served a true and correct copy of the within Motion to Reconsider Sentence Pursuant to Idaho Criminal Rule 35 and Notice of Hearing upon the individual(s) names below in the manner noted:

- By hand delivering copies of the same to the office(s) indicated below.

Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605



WILLIAM J. SCHWARTZ
Attorney for the Defendant

Canyon County Courthouse



ORIGINAL

FILED JUN 29 2010 A.M. P.M.

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
WILLIAM J. SCHWARTZ
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 3649

JUN 29 2010
CANYON COUNTY CLERK
J DRAKE, DEPUTY

Attorneys for Defendant

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

Case No. CR-2009-36064-C

STATE OF IDAHO,

Plaintiff,

vs.

LAZARUS SALAZAR,

Defendant.

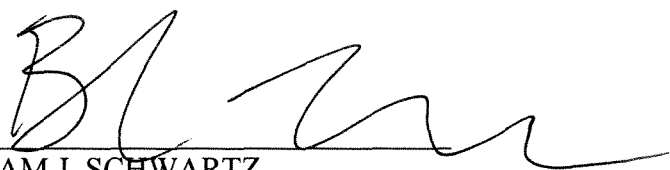
MOTION TO RECONSIDER
SENTENCE PURSUANT TO IDAHO
CRIMINAL RULE 35

COMES NOW, the above-named Defendant, Lazarus Salazar by and through his Attorney of Record, the Canyon County Public Defender's Office, William J. Schwartz, handling attorney, and hereby moves this Honorable Court, pursuant to Idaho Criminal Rule (I.C.R.) 35, for reconsideration of sentence entered on May 10, 2010.

Defendant was sentenced to a fixed term of 15 years in the Idaho State Penitentiary with another 22 years indeterminate. Mr. Lazarus Salazar was given credit for having served 219 days of that term. Mr. Lazarus Salazar, respectfully requests, upon a hearing or upon this motion, that this Honorable Court further consider the information provided at Sentencing and contained in the Pre Sentence Investigation to reconsider the sentence originally imposed. In addition, Mr. Lazarus Salazar, respectfully requests this

Honorable Court to reconsider the calculation of credit for time served and consider that Defendant has been incarcerated since February of 2010.

DATED, this 24 day of June, 2010,.

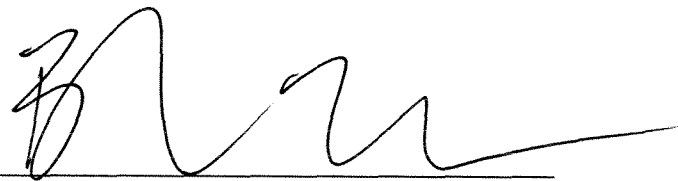

WILLIAM J. SCHWARTZ
Attorney for Defendant

CERTIFICATE OF SERVICE:

I hereby certify that on the 21 day of June, 2010, I served a true and correct copy of the within Motion to Reconsider Sentence Pursuant to Idaho Criminal Rule 35 and Notice of Hearing upon the individual(s) names below in the manner noted:

- By hand delivering copies of the same to the office(s) indicated below.

Ada County Prosecuting Attorney
200 W. Front Street
Boise, Idaho 83702


WILLIAM J. SCHWARTZ
Attorney for the Defendant

Canyon Courthouse



ORIGINAL

F I L L E D
A.M. 4:00 P.M.

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
WILLIAM J. SCHWARTZ
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 3649

JUN 29 2010

CANYON COUNTY CLERK
J DRAKE, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

LASARUS SALAZAR.,

Defendant/Appellant.

Case No. CR-2009-36064-C

NOTICE OF APPEAL

TO: THE CLERK OF THE ABOVE-ENTITLED COURT AND THE STATE OF IDAHO, PLEASE TAKE NOTICE THAT

1. This matter was heard in the Third Judicial District, in and for the County of Canyon by District Court Judge Bradley S. Ford.
2. LAZARUS SALAZAR by and through his attorney(s) of record, William J. Schwartz, the Canyon County Public Defender, hereby appeals the Judgment of Conviction and Commitment that has yet to be finally entered in this matter.
3. The issues on appeal include, but are not limited to:
 - A. Did the Trial Court violate the Defendant's right to a Trial open to the public by excluding spectators during Voir Dire?

B. Did the Trial Court error in allowing into evidence a video tape without sufficient foundation?

C. Did the Trial Court improperly allow testimony of a Police Officer regarding the identity of the suspect as Defendant in the video based upon limited prior contact?

D. Whether there was sufficient evidence for a Jury Trial find guilty on two counts of Aggravated Battery given the lack of clarity in the video evidence?

E. Was sufficient evidence submitted for a Jury to determine that the defendant was acting in a manner to promote gang activity involving enhanced penalties?

F. Was the sentencing excessive?

4. Appellant has the right to appeal all final judgments of convictions in criminal proceedings pursuant to Rule 11(c)(1) of the Idaho Appellate Rules.

5. Appellant requests a transcript of the following hearings in this matter:

A. Pre-Trial/Change of Plea Hearing held on February 23 & 24, 2010;

B. Sentencing Hearing held on May 10, 2010.

6. Appellant requests a copy of the Pre-Sentence Investigation Report, any documents attached to the Pre-Sentence Investigation report, and any documents presented at the Sentencing Hearing be included in clerk's record.

7. Because Appellant is in the custody of the Idaho Department of Corrections, Appellant requests that:

A. Appellant be exempt from paying all required fees because he is indigent; and

B. The State Appellant Public Defender be appointed to represent Appellant in this appeal.

DATED this 29 day of June, 2010,



WILLIAM J. SCHWARTZ
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of June, 2010, I served a true and correct copy of the within and foregoing *Notice of Appeal* upon the individual(s) named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class, or
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

Greg H. Bower
Ada County Prosecuting Attorney
200 W. Front Street
Boise, ID 83702

Lawrence Wasden
Idaho Attorney General
700 W. State Street
P.O. Box 83720
Boise, ID 83720-0010

Debora Kriedler
Court Reporter
C/o Canyon County Courthouse
1115 Albany Street
Caldwell, ID 83605

State Appellate Public Defender
3647 Lake Harbor Lane
Boise, ID 83703

Canyon County Public Defender
510 Arthur Street
Caldwell, Idaho 83605



WILLIAM J. SCHWARTZ
Attorney for Defendant

Courthouse
ORIGINAL

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
WILLIAM J. SCHWARTZ
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 3649

FILED
A.M. 4:15 P.M.

JUL 15 2010

CANYON COUNTY CLERK
S ROGERS, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

LAZARUS SALAZAR.,

Defendant/Appellant.

Case No. CR-2009-36064-C

**AMENDED
NOTICE OF APPEAL**

TO: THE CLERK OF THE ABOVE-ENTITLED COURT AND THE STATE OF IDAHO, PLEASE TAKE NOTICE THAT

1. This matter was heard in the Third Judicial District, in and for the County of Canyon by District Court Judge Bradley S. Ford.
2. LAZARUS SALAZAR by and through his attorney(s) of record, William J. Schwartz, the Canyon County Public Defender, hereby appeals the Judgment of Conviction and Commitment that was filed June 14, 2010.
3. The issues on appeal include, but are not limited to:
 - A. Did the Trial Court violate the Defendant's right to a Trial open to the public by excluding spectators during Voir Dire?

B. Did the Trial Court error in allowing into evidence a video tape without sufficient foundation?

C. Did the Trial Court improperly allow testimony of a Police Officer regarding the identity of the suspect as Defendant in the video based upon limited prior contact?

D. Whether there was sufficient evidence for a Jury Trial find guilty on two counts of Aggravated Battery given the lack of clarity in the video evidence?

E. Was sufficient evidence submitted for a Jury to determine that the defendant was acting in a manner to promote gang activity involving enhanced penalties?

F. Was the sentencing excessive?

4. Appellant has the right to appeal all final judgments of convictions in criminal proceedings pursuant to Rule 11(c) (1) of the Idaho Appellate Rules.

5. Appellant requests all transcripts of the following hearings in this matter:

A. Pre-Trial/Jury Trial/Change of Plea Hearing held on February 23 & 24 and 25, 2010;

B. Sentencing Hearing held on June 9, 2010.


6. Appellant requests a copy of the Pre-Sentence Investigation Report, any documents attached to the Pre-Sentence Investigation report, and any documents presented at the Sentencing Hearing be included in clerk's record.

7. Because Appellant is in the custody of the Idaho Department of Corrections, Appellant requests that:

A. Appellant be exempt from paying all required fees because he is indigent; and

B. The State Appellant Public Defender be appointed to represent Appellant in this appeal.

DATED this 12 day of July, 2010,



WILLIAM J. SCHWARTZ
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 12 day of July, 2010, I served a true and correct copy of the within and foregoing *Notice of Appeal* upon the individual(s) named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class, or
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

Greg H. Bower
Ada County Prosecuting Attorney
200 W. Front Street
Boise, ID 83702

Lawrence Wasden
Idaho Attorney General
700 W. State Street
P.O. Box 83720
Boise, ID 83720-0010

Kathy Klemeston
Court Reporter
C/o Canyon County Courthouse
1115 Albany Street
Caldwell, ID 83605

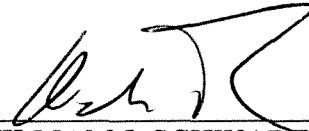
State Appellate Public Defender
3647 Lake Harbor Lane
Boise, ID 83703

Canyon County Public Defender
510 Arthur Street
Caldwell, Idaho 83605

Carole Bull
Court Reporter
C/o Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605

Kimberly Saunders
Court Reporter
C/o Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605

Yvonne Hyde-Gier
Court Reporter
C/o Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605



WILLIAM J. SCHWARTZ
Attorney for Defendant



MARK J. MIMURA
 CANYON COUNTY PUBLIC DEFENDER
 WILLIAM J. SCHWARTZ
 510 Arthur Street
 Caldwell, ID 83605
 Phone: (208) 639-4610
 Fax: (208) 639-4610
 Idaho State Bar No. 3649
Attorneys for the Petitioner

FILED
 A.M. 3:58 P.M.
JUL 16 2010
 CANYON COUNTY CLERK
 MAUGSBURGER, DEPUTY

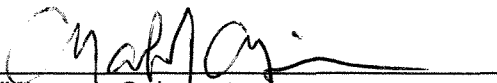
IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO,)	
	)	CASE NO. CR-2009-36064-C
Petitioner,)	
)	
v.	)	MOTION FOR APPOINTMENT
	)	OF STATE APPELLATE PUBLIC
LAZARUS SALAZAR.	)	DEFENDER
)	
Respondent.)	
_____)	

COMES NOW, LAZARUS SALAZAR., by and through the Canyon County Public Defender, hereby moves this Court for its order pursuant to Idaho Code § 19-867, for its order appointing the State Appellate Public Defender's Office to represent the appellant in all further appellate proceedings and allowing current counsel for the defendant to withdraw as counsel of record. This motion is brought on the grounds and for the reasons that the appellant is currently represented by the Canyon County Public Defender; the State Appellate Public Defender is authorized by statute to represent the defendant in all felony appellate proceedings; and it is in the interest of justice, for them

to do so in this case since the defendant is indigent, and any further proceedings on this case will be an appellate case.

DATED this day of 16th, July, 2010,

for 
William J. Schwartz
Deputy Public Defender

CERTIFICATE OF MAILING

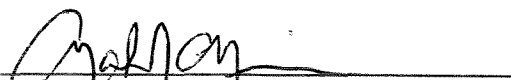
I HEREBY CERTIFY that on the day of 16th, July 2010, I served a true and correct copy of the MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER upon the parties below as follows:

Lazarus Salazar
Idaho Correction Center Unit F
PO Box 70010
Boise, ID 83707

Greg H. Bower
Ada County Prosecuting Attorney
200 W. Front Street
Boise, Idaho 83702

MOLLY J. HUSKEY
State Appellate Public Defender
3380 Americana Terrace, Suite 360
Boise, ID 83706

DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
P.O. BOX 83720
BOISE, ID 83720-0010

for 
William J. Schwartz
Deputy Public Defender

Cowhouse ORIGINAL

FILED 8/21 A.M. P.

JUL 20 2010

IN THE DISTRICT COURT OF THE * JUDICIAL DISTRICT OF CANYON COUNTY CLERK S ROGERS, DEPUTY THE STATE OF IDAHO, IN AND FOR THE COUNTY OF *

STATE OF IDAHO,)
Plaintiff-Respondent,)
v.)
LAZARUS SALAZAR,)
Defendant-Appellant.)
CASE NO. CR-2009-36064-C
ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER

THIS MATTER having come before the Court pursuant to Defendant-Appellant's Motion for Appointment of State Appellate Public Defender, the Court having reviewed the pleadings on file and the motion; the Court being fully apprised in the matter and good cause appearing;

IT IS HEREBY ORDERED that the Canyon County Public Defender, is withdrawn as counsel of record for the Defendant-Appellant and the State Appellate Public Defender is hereby appointed to represent the Defendant-Appellant, Lazarus Salazar, in the above entitled matters for appellate purposes.

The appointment of the State Appellate Public Defender is for purposes of the appeal only.

DATED this 19 day of July, 2008
DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 20 day of July, 2010, I served a true and correct copy of the ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER upon the parties below as follows:

Del. CANYON COUNTY PUBLIC DEFENDER
510 Arthur Street
Caldwell, Idaho 83605

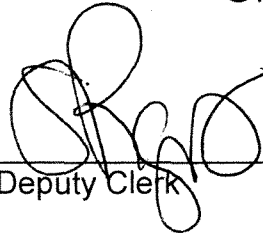
mail MOLLY J. HUSKEY
State Appellate Public Defender
3380 Americana Terrace, Suite 360
Boise, ID 83706

mail KENNETH K. JORGENSEN
Deputy Attorney General
P.O. BOX 83720
BOISE, ID 83720-0010

Def. Salazar
c/o
State Public
Defender

mail State P.D.
3647 Lake Harbor Lane
Boise ID 83703

mail Ada Co PA
Greg Bower
200 West Front St
Boise ID 83702



Deputy Clerk

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

STATE OF IDAHO,)	
)	
Plaintiff-)	
Respondent,	)	Case No. CR-09-36064*C
)	
-vs-)	
	)	CERTIFICATE OF EXHIBITS
LAZARUS SALAZAR,)	
)	
Defendant-)	
Appellant.)	

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify the following exhibits were used at the Jury Trial:

State's Exhibits:

1 - 4	Photographs	Admitted	Sent
5 - 7	Clothing from Victim	Admitted	Retained
8	CD of Winco Video	Admitted	Sent
9 - 13	Photos from Winco CD	Admitted	Sent
15	IDOC Questionnaire	Admitted	Sent
16	Pen Packet from IDOC	Admitted	Sent
17 - 19	Photographs	Admitted	Sent

CERTIFICATE OF EXHIBITS

The following is also being sent as an exhibit as requested in the Notice of Appeal:

Presentence Investigation Report

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
the said Court at Caldwell, Idaho this 19 day of October, 2010.

WILLIAM H. HURST, Clerk of the District
Court of the Third Judicial
District of the State of Idaho,
in and for the County of Canyon.

By: *J. Randall* Deputy

CERTIFICATE OF EXHIBITS

000125

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

STATE OF IDAHO,)	
)	
Plaintiff-	)	Case No. CR-09-36064*C
Respondent,)	
)	
-vs-	)	CERTIFICATE OF CLERK
)	
LAZARUS SALAZAR,)	
)	
Defendant-)	
Appellant.)	

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that the above and foregoing Record in the above entitled case was compiled and bound under my direction as, and is a true, full correct Record of the pleadings and documents under Rule 28 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 19 day of October, 2010.

WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon.

By: J. Randall Deputy

CERTIFICATE OF CLERK

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

STATE OF IDAHO,)
)
Plaintiff-) Supreme Court No. 37832
Respondent,)
) CERTIFICATE OF SERVICE
-vs-)
)
LAZARUS SALAZAR,)
)
Defendant-)
Appellant.)

I, WILLIAM H. HURST, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that I have personally served or had delivered by United State’s Mail, postage prepaid, one copy of the Clerk’s Record and one copy of the Reporter’s Transcript to the attorney of record to each party as follows:

Molly Huskey, State Appellate Public Defender’s Office,
3647 Lake Harbor Lane, Boise, Idaho 83703

Lawrence G. Wasden, Attorney General, Statehouse, Boise, Idaho 83720

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 19 day of October, 2010.

WILLIAM H. HURST, Clerk of the District
Court of the Third Judicial
District of the State of Idaho
in and for the County of Canyon.

By: *J. Randall* Deputy

CERTIFICATE OF SERVICE