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## Bartell v. State Appellant's Reply Brief Dckt. 44124

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IN THE SUPREME COURT OF THE STATE OF IDAHO

JAMES LOGAN BARTELL,	)	
	)	
Petitioner/Appellant,	)	Supreme Court No. 44124
	)	
vs.	)	Bingham County District Court
	)	Case No. CV-2015-870
STATE OF IDAHO,	)	
	)	
Respondent.	)	
_____	)	

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REPLY BRIEF OF APPELLANT

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APPEAL FROM THE DISTRICT COURT OF THE  
SEVENTH JUDICIAL DISTRICT OF THE STATE OF  
IDAHO, IN AND FOR THE COUNTY OF BINGHAM

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HONORABLE DARREN B. SIMPSON  
District Judge

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## I. ARGUMENT IN REPLY

### *The District Court Erred in Summarily Dismissing Mr. Bartell's Petition for Post-Conviction Relief*

Mr. Bartell has fully set out the errors in the order of summary dismissal in his Opening Brief. He relies on his arguments there for the most part, because nothing in the state's arguments merits reply.

This brief will only address the arguments regarding the summary dismissal of the claim of ineffective assistance of appellate counsel. In the district court, the state made only this argument for dismissal of that claim:

Claims against Appellate Counsel Spencer J. Hahn are not properly before this Court, as this Court has no jurisdiction over the appeal process.

R 132.

In this appeal, the state argues that somehow this argument encompassed an argument that Mr. Bartell's claims against Mr. Hahn were conclusory, unsubstantiated by fact, and inadequate to entitle him to an evidentiary hearing. Relying upon this conclusion, the state argues that the district court's dismissal of the claim of ineffective assistance of appellate counsel was dismissed at least in part on grounds set out by the state. Respondent's Brief p. 12-13.

The state's conclusion that it actually gave Mr. Bartell proper notice precluding a need for independent notice by the court is simply not supported by the record. Therefore, this Court should reverse the grant of summary dismissal of this claim.

## II. CONCLUSION

For the reasons set out in the Opening Brief and above, Mr. Bartell asks that this Court reverse the order of summary dismissal and remand for an evidentiary hearing on the merits.

Respectfully submitted this 20<sup>th</sup> day of January, 2017.

/s/Deborah Whipple

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## CERTIFICATE OF COMPLIANCE AND SERVICE

The undersigned does hereby certify that the electronic brief submitted is in compliance with all of the requirements set out in I.A.R. 34.1, and that an electronic copy was served on each party at the following email address(es):

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Dated and certified this 20<sup>th</sup> day of January, 2017.

/s/Deborah Whipple

Deborah Whipple