

2-19-2013

Telford v. Nye Augmentation Record Dckt. 39497

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In the Supreme Court of the State of Idaho

HOLLI LUNDAHL TELFORD,)	
)	ORDER GRANTING MOTION TO
Petitioner,)	SUPPLEMENT THE RECORD
)	
v.)	Supreme Court Docket No. 39497-2011
)	Oneida County District Court DC No.
HON. DAVID C. NYE,)	2003-3(b)
)	
Respondent.)	Ref. No. 13-97

A MOTION TO SUPPLEMENT THE RECORD with attachments was filed by counsel for Respondent on February 15, 2013. Thereafter, an OBJECTION TO AND CROSS-MOTION TO STRIKE JUDGE NYE'S "AMBUSHING AND UNTIMELY" MOTION TO SUPPLEMENT THE RECORD ON APPEAL WITH RECENTLY DOCTORED AND/OR ALTERED EVIDENCE AND FILED WITH THE IDAHO SUPREME COURT ON OR ABOUT FEBRUARY 15, 2013; ONE BUSINESS DAY BEFORE ORAL ARGUMENT IS SCHEDULED TO BE HEARD IN THIS APPEAL was filed by Appellant on February 19, 2013. The Court is fully advised; therefore, good cause appearing,

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

1. Verified Ex Parte Mandamus Writ for Order Directing prosecutor Dustin Smith and Sheriff Jeff Semrad to Return Computers, Paper Files, all Electronic Files and Devices, and all Other Properties Illegally seized from Hollie Telford's Abode in Order to Defend Against this Court's Administrative Rule 59 Order to Decree Respondent a Vexatious Litigant and Ex Parte Motion to Continue Compliance with the Within Contempt Proceedings Until 30 Days After the Return of Plaintiff's Properties and Notice of Partial Compliance with Respect to Rule 60(b) Independent Attack on Two Contempt Orders Which are Void Ab initio for the Reasons Stated in the Rule 60(b) Independent Petitions Filed Under Separate Cover, file-stamped October 13, 2011; and
2. Order Denying Response to Administrative Order Declaring Vexatious Litigant, file-stamped October 19, 2011.

ORDER GRANTING MOTION TO SUPPLEMENT THE RECORD - Docket No. 39497-2011

DATED this 19th day of February, 2013.

For the Supreme Court

Stephen W. Kenyon
 Stephen W. Kenyon, Clerk

cc: Hollie Telford, pro se appellant
 Counsel of Record

LAW CLERK

AUGMENTATION RECORD

375

ORDER GRANTING MOTION TO SUPPLEMENT THE RECORD - Docket No. 39497-2011

In the Supreme Court of the State of Idaho

HOLLI LUNDAHL TELFORD,)
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Petitioner,) ORDER GRANTING MOTION TO
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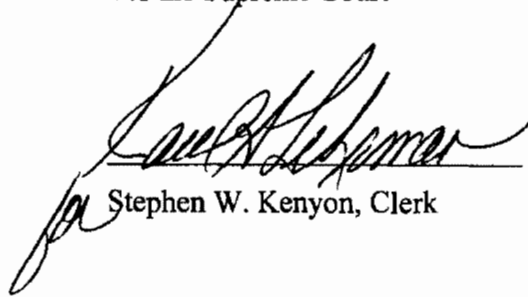
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DATED this 19th day of February, 2013.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Holli Telford, pro se appellant
Counsel of Record

LAWRENCE G. WASDEN
ATTORNEY GENERAL

STEVEN L. OLSEN
Chief of Civil Litigation

SHASTA KILMINSTER-HADLEY, ISB No. 7889
Deputy Attorneys General
954 W. Jefferson, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Facsimile: (208) 854-8073
shasta.k-hadley@ag.idaho.gov
Attorneys for Respondent

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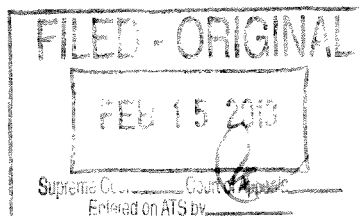
IN THE SUPREME COURT OF THE STATE OF IDAHO

HOLLI LUNDAHL TELFORD,)	
)	Supreme Court No. 39497-2011
Petitioner,)	
)	MOTION TO SUPPLEMENT THE
v.)	RECORD
)	
HON. DAVID C. NYE,)	
)	
Respondent.)	

Comes now the Hon. David C. Nye, Respondent, and respectfully moves in this Court pursuant to Idaho Appellate Rule 30, for an order augmenting the appellate record in the above-entitled appeal with:

A file stamped copy of the following documents, which are attached to this motion:

- Sixth Judicial District Court, State of Idaho, County of Oneida Order Re Holli Lundahl Telford, Administrative No. 2011-3, Verified Ex-Parte Mandamus Writ for Order Directing Prosecutor Dustin Smith and Sheriff Jeff Semrad to Return Computers, Paper Files, All Electronic Files and Devices, and All Other Properties Illegally Seized from Holli Telford's



ORIGINAL

Abode in Order to Defend Against this Court's Administrative Rule 59 Order to Decree Respondent a Vexatious Litigant and Ex Parte Motion to Continue Compliance with the Within Contempt Proceedings until 30 Days After the Return of Plaintiff's Properties and Notice of Partial Compliance with Respect to Rule 60(b) Independent Attack on Two Contempt Orders Which are Void Ab Initio for the Reasons Stated in the Rule 60(b) Independent Petitions Filed Under Separate Cover dated October 13, 2011.

2. Sixth Judicial District Court, State of Idaho, County of Oneida Order re: Holli Lundahl Telford, Denying Response to Administrative Order Declaring Vexatious Litigant dated October 19, 2011.

The specific grounds for this request are as follows: Counsel for the Respondent was made aware on February 15, 2013 of the existence of two documents which are germane to this proceeding and are not currently part of the Clerks Record on Appeal.

DATED this 15th day of February 2013.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

BY 

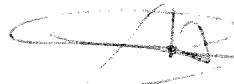
SHASTA KILMINSTER-HADLEY
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of February 2013, I caused to be served a true and correct copy of the foregoing by the following method to:

Holli Lundhahl Telford
10621 S. Old Hwy 191
Malad City, ID 83252

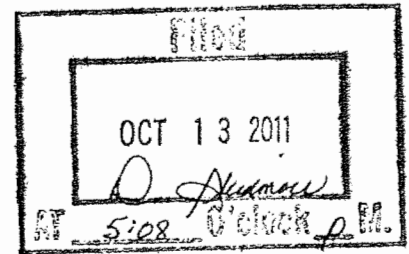
- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Email hollitelford@gmail.com



SHASTA KILMINSTER-HADLEY



HOLLI LUNDAHL TELFORD
10621 S. OLD HWY 191
MALAD CITY, IDAHO 83252
208 766-5559



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

ORDER RE: HOLLI LUNDAHL TELFORD

)
)
) ADMINISTRATIVE NO. 2011-3

) VERIFIED
) EX PARTE

) MANDAMUS WRIT FOR ORDER
) DIRECTING PROSECUTOR DUSTIN
) SMITH AND SHERIFF JEFF SEMRAD
) TO RETURN COMPUTERS, PAPER
) FILES, ALL ELECTRONIC FILES AND
) DEVICES, AND ALL OTHER PROPER-
) TIES ILLEGALLY SEIZED FROM
) HOLLI TELFORD'S ABODE IN ORDER
) TO DEFEND AGAINST THIS COURT'S
) ADMINISTRATIVE RULE 59 ORDER
) TO DECREE RESPONDENT A VEXA-
) TIOUS LITIGANT

) AND

) EX PARTE MOTION TO CONTINUE
) COMPLIANCE WITH THE WITHIN
) CONTEMPT PROCEEDINGS UNTIL
) 30 DAYS AFTER THE RETURN OF
) PLAINTIFF'S PROPERTIES

) AND

) NOTICE OF PARTIAL COMPLIANCE
) WITH RESPECT TO RULE 60 (b)
) INDEPENDENT ATTACK ON
) TWO CONTEMPT ORDERS WHICH
) ARE VOID AB INITIO FOR THE
) REASONS STATED IN THE RULE
) 60(b) INDEPENDENT PETITIONS
) FILED UNDER SEPARATE COVER
)
)
)

On October 12, 2011, respondent received by certified mail, and order to show cause why Administrative Judge Nye of the Sixth Judicial District court should not enter a vexatious litigant order against respondent Holli Lundahl Telford based upon references by district judges Naftz, Dunn and Brown and Magistrate judges Laggis and Evans. See exhibit "1" attached for OSC. The basis for the OSC is the respondent has been adjudicated a vexatious litigant by several federal and state courts. Rule 59 (d)(4) gives the administrative judge jurisdiction to adjudicate a person a vexatious litigant if ... the respondent "has been declared a vexatious litigant by any state or federal court of record in any action or proceeding." Therefore, for this court to enter a vexatious litigant order against respondent, this court must necessarily determine whether the vexatious litigant orders entered against Holli Lundahl Telford by other state or federal courts were void as a matter of law. Respondent has 14 days in which to respond to the court's OSC.

I. This Court Must Determine That The Prior Federal And State Orders Determining Respondent A Vexatious Litigant Were Valid And Not Prima Facially Void

The Idaho Supreme Court has decisioned in numerous cases that where a contempt order lacks substantial evidence to support the order, where respondent was unable to comply with a contempt order through some impediment, where contempt order exceeded the jurisdiction of the court issuing the order, or where the contempt order exceeded authorized limits of the law, the contempt order will be decreed as void and struck down. See Mathison v. Felton, 408 P.2d 457; 90 Idaho 87 (ID 1965) (lower court acted in excess of jurisdiction where no substantial evidence supported finding of contempt); Hay v. Hay, 40 Idaho 159, 232 P. 895 (1924) (lower court exceeded jurisdiction where it held person in contempt when he was unable to comply with order.); Marks v. Vehlow (Appellate courts will inquire whether a penalty exceeds authorized limits of the law)¹; Vollmer v. Vollmer, 46 Idaho 97, 266 P. 677 (1928); Amlin v.

1. Idaho Appellate courts have determined that a judgment exceeds the limits of the law in the following instances: following Idaho Harper v. Harper, 835 P.2d 1346; 122 Idaho 535 (ID.App. 1992) (A judgment is void and will be overturned when there is some

Hamilton, 108 Idaho 320, 698 P.2d 838 (Ct.App.1985). The Idaho Supreme Court has also adopted California Supreme Court's holding In Re Berry, 68 Cal.2d 137, 65 Cal.Rptr. 273, 280, 436 P.2d 273, 280 (1968) ("any acts which exceed the defined power of a court in any instance, whether that power be defined by constitutional provision, express statutory declaration, or rules developed by the courts, will be nullified) and the US Supreme Court's holding in Walker v. City of Birmingham, 388 U.S. at 315, 87 S.Ct. at 1829 (A contempt order will be reversed. . . in the case where the order was "transparently invalid).²

In Reeves v. Honorable Jerry Reynolds, 733 P.2d 795; 112 Idaho 574 (ID.App 1987), the Idaho Appellate Court affirmed that it was incumbent upon the alleged contemnor to bring any defect in a contempt order to the attention of the deciding court before raising the defect on appeal. Respondent seeks to do so in this proceeding, but is unable to fairly and fully comply because her records to attack the validity of this court's prospective contempt order and the supporting federal and state contempt orders, are not

jurisdictional defect in the court's authority to enter the judgment, either because the court lacks personal jurisdiction or because it lacks jurisdiction over the subject matter of the suit.). Puphal v. Puphal, 105 Idaho 302, 669 P.2d 191 (1983); Dufur v. Nampa & Meridian Irr. Dist., 128 Idaho 319, 324, 912 P.2d 687, 692 (ID.App. 1996). Accord Cockerham v. Zikratch, 619 P.2d 739, 743 (Ariz. 1980); Bradford v. Nagle, 763 P.2d 791, 795 (Utah 1988). A judgment is also void and will be struck down where it is entered in violation of due process because the party was not given notice and an opportunity to be heard. Prather v. Loyd, 86 Idaho 45, 382 P.2d 910 (1963) (judgment void where trial court entered judgment against makers of note without giving makers an opportunity to present evidence regarding their affirmative defense of lack of consideration); Rudd v. Rudd, 105 Idaho 112, 115, 666 P.2d 639, 642 (1983) (The right to procedural due process guaranteed under both the Idaho and United States Constitutions requires that a person involved in the judicial process be given meaningful notice and a meaningful opportunity to be heard.). See also, Wright v. Wright, 130 Idaho 918, 950 P.2d 1257 (1998) (default judgment void where parties whose attorney had withdrawn did not serve upon them a copy of the order which contained notice that judgment by default could be entered if they did not appear in action within twenty-one days). Additionally, a judgment is void when a "court's action amounts to a plain usurpation of power constituting a violation of due process." Hoult v. Hoult, 57 F.3d 1, 6 (1st Cir. 1995); accord Dike v. Dike, 448 P.2d 490, 494 (Wash. 1968); 11 CHARLES A. WRIGHT ET AL., WRIGHT MILLER & KANE, FEDERAL PRACTICE & PROCEDURE § 2862, at 326-29 (2d ed. 1995).

2. Relief from a void judgment is mandatory. See **Dragotolu v. Dragotolu, 133 Idaho 644, 991 P.2d 369 (Idaho App. 12/30/1998)** (Relief from a void judgment pursuant to I. R. C. P. 60(b)(4) is non-discretionary. Knight Ins., Inc., v. Knight, 109 Idaho 56, 59, 704 P.2d 960, 963 (Ct.App. 1985). Thus, we exercise free review on appeal.

in her possession but are in the possession of Prosecutor Dustin Smith and Sheriff Jeff Semrad by usurpation of the power of their offices.³

2. Respondent Is Entitled To Petition This Court Under IRCP Rule 60(b)'s Independent Action Rule And Under This Court's Writ Authority For A Mandamus Writ Or Order In Equity Directing Prosecutor Dustin Smith And Sheriff Jeff Semrad To Return Respondent's Electronic And Paper Records Which Allow Respondent To Fully And Fairly Answer This Court's Order To Show Cause

In *Compton v. Compton*, 101 Idaho 328, 612 P.2d 1175, 1181 (1980), the Supreme Court recognized that I.R.C.P. 60(b) required courts to entertain independent actions where the judicial process has been horribly abused to deprive a person of their day in court.⁴ For example, in *State v. Heyrend*, 129 Idaho 568, 929 P.2d 744 (Idaho App. 1996), the Idaho Appellate Court struck down a district court's order granting Heyrend probation after finding that the district court usurped the constitutional duties of the executive branch of government when it removed Heyrend from the custody of the

3. Moreover with respect to time limitations on attacking an order that is void for judicial usurpation of power lending to a jurisdictional defect, the Idaho Supreme Court affirmed in *State v. Heyrend*, 129 Idaho 568, 929 P.2d 744 (Idaho App. 1996) that the issue of whether a court has exceeded its jurisdictional authority **is never waived**, are void and subject to collateral attack at any time and any place. *Sierra Life Insurance Co. v. Granata*, 99 Idaho 624, 626, 586 P.2d 1068, 1070 (1978); See *Andre v. Morrow*, 106 Idaho 455, 459, 680 P.2d 1355, 1359 (1984).

4. In *Hovey v. Elliott*, 167 U.S. 409, 17 S.Ct. 841, 42 L.Ed. 215 (1897), the Supreme Court held: "the supreme court of the District of Columbia did not possess the power **to disregard an answer** which was in all respects sufficient, and had been regularly filed, and to **ignore the proof taken in its support** . . .," and that a judgment based on such an assumed power is void for want of jurisdiction. *Id.* At 444, 17 S.Ct. At 854. In so holding the Court stated: "[The] fundamental conception of a court of Justice is condemnation only after a full and fair hearing in which the person being condemned is permitted to present evidence to avoid condemnation. To say that courts have inherent power to deny all right to defend an action, and to render decrees without a full and fair hearing is, in the very nature of things, to convert the court exercising such an authority into an instrument of wrong and oppression, and hence to strip it of that attribute of Justice upon which the exercise of judicial power necessarily depends." *Id.* at 414, 17 S.Ct. at 843. "The fundamental guaranty of due process is absolute. . . A Court does not have the right to deny a party the right to defend as a mere punishment.

Department of Corrections and granted him probation. The court further held that the independent action rule was particularly applicable because of the serious ramifications and consequences which could follow from an official usurping its authority. Moreover where those "usurped" actions derive from foreign jurisdiction, this court is not prevented from invoking jurisdiction to correct the harmful and injurious actions.⁵

Here, Prosecutor Dusting Smith and Sheriff Jeff Semrad have made it impossible to fairly and fully comply with this court's order, excepting two contempt orders which plaintiff attacked in re Telford v. Kirkpatrick's Auto World, Sixth Judicial District Court case no. 2011-CV-189 before the foregoing officials conducted an illegal search and seizure on respondent's abode, and consequently these records were available to respondent from the clerk's office. However, respondent's other records to show the invalidity of the other contempt orders raised in this court's order are in the illegal custody of the Oneida County Sheriff's office and the Prosecutor Dustin Smith and therefore until these records are returned, respondent will unfairly and unconstitutionally be prejudiced from competently showing how the remainder orders are void as a matter of law.

- A. Respondent Has Repeatedly Petitioned Magistrate Laggis To Rule On Holli's Petition For Return Of Her Properties To No Avail. Accordingly, Respondent Moves This Court For A Mandamus Order Directing These Officials To Return Her "Legal" Properties So That Respondent Can Competently Respond To This Court's OSC Re A Contempt Order.

This Court has cited to Oneida County case no. 2011-CV-44 as a basis

5. In *Calder et al v. Jones*, 104 S. Ct. 1482, 465 U.S. 783 (1984), the Supreme Court held that a court in a foreign jurisdiction has authority over a live case where a litigant suffers injury from the imposed action. The US Supreme Court held: "the fact that the actions causing the effects in California were performed outside the State did not prevent the State from asserting jurisdiction over a cause of action arising out of those effects. . . the brunt of the harm was suffered or is being suffered in the forum state, . . . thereby invoking jurisdiction in the forum where the "effects" of the out of state conduct is felt." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-298 (1980); *Restatement (Second) of Conflict of Laws § 37* (1971). *SHAFFER ET AL. v. HEITNER*, 97 S. Ct. 2569, 433 U.S. 186 (U.S. 06/24/1977) (The Full Faith and Credit Clause, makes obligations incurred in one state by actions taken in another, enforceable in all States where the debtor abides.)

for entering its contempt order against respondent. Respondent timely sued Oneida County revenue officials and prosecutor Dustin Smith under 63-4011 (4) of the TAXPAYERS' BILL OF RIGHTS for statutory violations under the statute as committed by numerous Oneida County revenue officials including the prosecutor Dustin Smith. To obstruct that action, the prosecutor arranged for respondent's false imprisonment in jail on the day of hearing respondent's challenge to judge Naftz sitting on that case. Judge Naftz in an ex parte fashion, entered an order dismissing Holli's TAXPAYERS' BILL OF RIGHTS case for lack of subject matter jurisdiction because Holli failed to employ the administrative process. However, the statute does not require a plaintiff to undergo any administrative process when suing revenue officials under this statute.

In pursuit of obstruction of that action, the Prosecutor and the Sheriff colluded to unconstitutionally impair the deeding documents on the property in violation of the contracts clause by corruptly accusing Holli of forging the grantors names on the operative deed and the Irrevocable power of attorney. Attached hereto as exhibit "1" is the operative deed for 2010 and attached hereto as exhibit "2" is the operative Irrevocable Power of Attorney. In spite of the fact that the sheriff had previously verified through both James Keddington and Marie Marchant that the conveyance deed and the Irrevocable Power of Attorney were competent and valid documents conveying the property subject of that action to R.M. Telford, and in spite of the fact that the USDA official Lana Duke communicated to Sheriff Semrad in June of 2011 that R.M. Telford signed documents with that department in May of 2009 claiming ownership in the subject property, Sheriff Semrad in violation of the Irrevocable Power of Attorney made in favor of Respondent contacted the (now senile R.M. Telford), to procure denial of ownership in the property in order to avoid property tax exemptions constitutionally attaching to the subject real property.

On August 9, 2011, Sheriff Jeff Semrad submitted exhibit "3" attached, the probable cause affidavit, to Magistrate Evans court for purposes of conducting a search on respondent's property. At circled page 5 of exhibit "3" attached, it shows in the last paragraph that the Sheriff accused Holli of sending various emails to the Sheriff purporting to be by Ruth Telford, Marti Telford and James Keddington in response to his investigation of the competency of the deed. It also states that Sheriff Semrad contacted Google and reportedly obtained a record from Google that Holli's and Ruth's IP addresses were

identical and belonged to a person whom Holli has never met. Holli has accused Sheriff Semrad of fabricating the evidence in the IP address for an unknown citizen in Malad City Idaho in order to gain illegal access to Holli's abode and properties. Nevertheless, this was the sole ground for seizing all of Holli's computers (4 in all) and other electronic devices in order to ascertain the IP address of certain email communications. Remarkably, Sheriff Semrad had access to this IP address information all along by checking the header information on the emails Sheriff Semrad was sent by these individuals ; therefore there was no need to steal Holli's computers during the illegal search, other than for corrupt purposes.

Moreover the probable cause affidavit also notably does not authorize the seizure of any paper case files belonging to Holli, outside of the Oneida County property tax case. Nevertheless, the sheriff at the direction of the prosecutor, seized all of Holli's tax files wherein Holli earns a meager income and all of Hollis paper "Case files" dating back some 21 years in litigation which Holli had been embattled with Eli Lilly and which are relevant to responding competently to this court's OSC re a vexatious litigant order.

In Addition, on the day of the search Holli was served with the search warrant only and not the probable cause affidavit. (Holli did not receive a copy of the probable cause affidavit until 7 weeks after the search was conducted.). Attached hereto as exhibit "4" is the search warrant. Attached hereto as exhibit "5" is 9th circuit authority holding a search illegal without service of the incorporated probable cause affidavit. Ascan be seen by the search warrant, it is prima facially void because ti was not served with a probable cause affidavit listing particularized items to be seized and for what purpose, it does not list a target of the target of the search, it does not list a crime, it was authorized by prosecutor Dustin Smith, a defendant in Holli's Taxpayer Bill of Rights Action, it authorizes the officers to seize everything in plaintiff's home, and it was signed by a judge historically prohibited from sitting on any action naming Holli as a party.

When the search warrant was served, Holli complained about the general nature of the search warrant and expressed her desire to videotape the illegal search and seizure . The sheriff ordered Holli be bilaterally handcuffed to a chair so that Holli could not tape any thing the officers were doing. Then to cover up this false imprisonment of Holli, the sherrif and the prosecutor colluded to arrest Holli for obstruction of the search and the next day fabricated a false police report alleging forciably taking Holli down during

the search. See exhibit "6" attached for this false report. No person ever took Holi into a forcible take down because Holli is physically disabled and would not have been able to walk if she had been forcibly seized.

Immediately upon Holli's release from Jail, Holli filed a detailed writ petition before Magistrate Laggis assigned to her obstruction case and requested an order for the immediate return of her properties. This petition was filed on August 22, 2011. Prosecutor Dustin Smith has never opposed Holli's motions or writ applications thereby conceding to their merits. Numerous times thereafter, Holli has repeatedly contacted Magistrate Laggis clerks and demanded a hearing date on her motion to return her property or that Magistrate Laggis hear her petition to return her property "on paper", given Prosecutor Dustin Smith has conceded to this motion. Holli tape recorded at least 10 phone contacts with Magistrate Laggis' clerks regarding this matter. Magistrate Laggis had refused to schedule any hearing to order the proper return of her property.

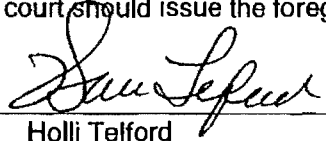
In *Hay v. Hay*, 40 Idaho 159, 232 P. 895 (1924), the Idaho Supreme held that impossibility of performance is an absolute affirmative defense to a contempt proceeding. Respondent is in need of her electronic and paper records to provide an adequate response to this court's OSC regarding the remainder vexatious litigant orders this court has raised in it's OSC dating back to 1997.

Accordingly, since the prosecutor and Sheriff have no lawful right to plaintiff's electronic or paper records, plaintiff requests that this court issue a writ directing the Prosecutor and Sheriff to immediately return all of Holli's properties to her forth with, and further, plaintiff requests that this court grant an extension of 30 days in which respondent may respond to this court's OSC, AFTER HOLLI HAS RECEIVED HER PROPERTIES BACK FROM ONEIDA COUNTY PROSECUTING AUTHORITIES and been given the fair opportunity to prepare her defense.

CONCLUSION

For all of the foregoing reasons, this court should issue the foregoing orders.

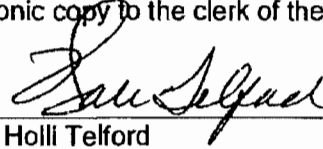
Dated: October 13, 2011



Holli Telford

Certificate of Service

The undersigned certifies that she has faxed served the foregoing pleading on Judge Nye, the clerks' office and emailed an electronic copy to the clerk of the court.



Hollie Telford

Hollie Telford

1

146801

7 April 2011
9:15
Dola Bott P
1300
Hollie Lundahl

When recorded return to:
R. M. Telford
10621 S. Old Hwy 191
Malad City, ID 83252

WARRANTY DEED

For good consideration, we JAMES KEDDINGTON, MARIE MARCHANT, and HOLLI LUNDAHL of ONEIDA County, State of IDAHO, hereby bargain, deed and convey to: R. M. TELFORD of ADA County, State of IDAHO, the following described land in ONEIDA county, with WARRANTY COVENANTS, on April 9, 2010, to wit:

LEGAL DESCRIPTION:

Property ID # T-003779

A PARCEL OF LAND LOCATED IN SECTION 14, T 16 S, RANGE 36 EAST, BOISE MERIDIAN, ONEIDA COUNTY, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY OF I-15 AS SHOWN ON THE PLANS OF PROJECT I-15-1 (68)0 AND A PROJECTION OF THE EAST RIGHT-OF-WAY FENCE OF THE COUNTY ROAD, (SAID POINT OF BEGINNING IS BY RECORD NORTH NWERLY 690 FEET FROM THE SE CORNER OF SAID SECTION 14) AND IS ALSO S 8°14'46" WEST 2137.70 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 14; THENCE ALONG THE SAID EAST RIGHT-OF-WAY FENCE; NORTH 29°16'43" WEST 499.41 FEET; NORTH 28°35'39" WEST 565.41 FEET; NORTH 34°53'40" WEST 325.44 FEET TO THE S LINE OF THE GEORGE ELLIS HARRIS PROPERTY AS SHOWN ON A RECORD OF SURVEY PREPARED BY A.A. HUDSON AND DATED JUNE 1987; THENCE NORTH 70°13'15" EAST 256.28 FEET ALONG SAID S LINE TO A 5/8" REBAR WITH CAP LABELLED LS 4735 SET ON THE WEST RIGHT-OF-WAY LINE OF SAID I-15; THENCE SERLY ALONG SAID RIGHT-OF-WAY LINE; S 35°33'57" EAST 78.57 FEET TO A STATE OF IDAHO RIGHT-OF-WAY MONUMENT AT STA.128+73.04 OF RAMP A-D OF SAID I-15; THENCE S 22°56'59" EAST 635.22 FEET ALONG SAID RIGHT-OF-WAY TO A STATE OF IDAHO RIGHT-OF-WAY MONUMENT; THENCE S 14°38'56" EAST 658.25 FEET TO THE POINT OF BEGINNING.

Grantor, for themselves and their heirs, hereby covenant with Grantee, its heirs, and assigns, that Grantors are lawfully seized in fee simple of the above-described premises; that they have good rights to convey; that the premises are free from all encumbrances; that Grantor and its heirs, and all persons acquiring any interest in the property granted, through or for Grantors, will, on demand of Grantee, or its heirs or

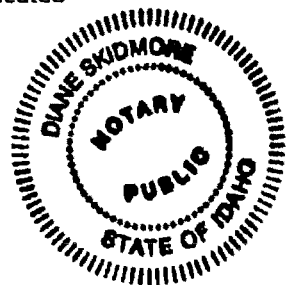
assigns, and at the expense of Grantee, its heirs or assigns, execute an instrument necessary for further assurance of the title to the premises that may be reasonably required; and that Grantors and their heirs will forever warrant and defend all of the same or any part thereof. *Note: This is the second executed original warranty deed as the first executed original Warranty Deed dated April 9, 2010 was lost or destroyed by the Onelda County, Idaho Assessor Dixie Hubbard.

WITNESS the hands and seal of said Grantors:

Comes before me Holli Lundahl and duly acknowledges that she executed the foregoing Warranty Deed.

Holli Lundahl
Holli Lundahl

Diane Skidmore
Notary Public



Comes before me Marie Marchant and duly acknowledges that she executed the foregoing Warranty Deed. 6/7/2010

Marie Marchant
Marie Marchant

Rachela Hunsaker
Notary Public



Comes before me James Keddington and duly acknowledges that he executed the foregoing Warranty Deed. 6/5/2010

James Keddington
James Keddington

Kamille Lopez
Notary Public





2

ADDENDUM TO WARRANTY DEED

Pursuant to the additional instrument provision in the June 2009 Warranty Deed, James Keddington, Marie Marchant and Holli Lundahl hereby execute this Addendum to the Warranty Deed clarifying the full scope of the consideration tendered by R.M. Telford to effect the conveyance of title interest in the subject real property for a period of one day over 3 years before the real property is deeded over to the Irrevocable Telford - Lundahl Trust.

As part of her due consideration for beneficial title interest in the subject real property, R.M. Telford has agreed to execute an agreement with the USDA pursuant to 7 CFR 3550.114 which provides for USDA funds to help correct health and safety hazards with the subject real property. R.M. Telford also understands that the subject real property after the period of three years and one day will be transferred into the res of the Telford - Lundahl Trust in which R.M. Telford and all descendants and heirs of R.M. Telford hold beneficial interests. R. M. Telford also understands that Holli Telford Lundahl is the sole Trustee and presently holds the Irrevocable Power Of Attorney in said Trust. Finally R.M. Telford agrees to execute the following Irrevocable Power Of Attorney to Holli Telford upon transfer of title in the subject real property to R.M. Telford - as additional consideration for this conveyance. This Addendum and the below Irrevocable Power Of Attorney shall be strictly enforced in conjunction with the terms of the USDA agreement that R.M. Telford may enter into.

- IRREVOCABLE POWER OF ATTORNEY - GRANTED BY RUTH MARLENE TELFORD AKA R.M. TELFORD AKA MARLENE LUNDAHL

I, R. M. Telford, do hereby grant to Holli Telford having address of 10621 S. Old Hwy 191, Malad, Idaho 83252 and phone number 208-473-5800, an irrevocable power of attorney and attorney in fact to act for me and as me with respect to all matters concerning the properties subject of this Addendum and the real property bearing situs address 10621 S. Old Highway 191, Malad City, ID 83252, immediately upon my execution of the USDA agreement intended to commit beneficial improvements to the subject real property bearing situs address 10621 S. Old Hwy 191, Malad City, Idaho 83252, as authorized under Idaho's Uniform Power Of Attorney Act, chapter 12, title 15, Idaho Code and as modified contractually herein.

1. To enter into real estate transactions of all types concerning the subject real property bearing situs address 10621 S. Old Hwy 191, Malad City, Idaho 83252, including maintenance agreements, borrow money and incur expenses, execute notes, mortgages, deeds of trust, other security and credit agreements, and transfer, convey and assign and deliver bills of sale, deeds and other instruments of title to real estate ;

2. To endorse Grantor's name on any checks, accounts, notes, drafts, payments, securities, Documents, affidavits, declarations, certifications, petitions, invoices, bills of lading relating to any Collateral, schedules, Chattel Paper, Assignments, security accounts, and other public records and instruments. Grantor waives presentment and protest of all instruments and notice thereof, notice of default and dishonor and all other notices to

which Grantor may otherwise be entitled;

3. To initiate, defend and settle legal claims and lawsuits and to give releases and indemnities from liability;

4. To apply for any government benefits, to receive personal and confidential information, to file tax returns and papers and represent me in all tax matters with any tax agencies;

5. To engage in any insurance transactions of any type, and;

6. Do all things necessary to carry out the beneficial interests of the Telford—Lundahl Trust and “[t]o exercise or perform any act, power, duty, right or obligation whatsoever” on the grantor’s behalf.

DURATION OF AUTHORITY

This is an irrevocable power of attorney and authority to act as attorney in fact as it applies to the properties relevant to this Addendum. Idaho law authorizes this comprehensive power attorney. See *Banner Life Ins. v. Mark Wallace Dixson Irrevocable Trust*, 2009 Ida. LEXIS 55,*;147 Idaho 117; 206 P.3d 481

THIS IRREVOCABLE POWER OF ATTORNEY MAKES HOLLI TELFORD AN EFFECTIVE OWNER OF THE SUBJECT PROPERTIES IN ACCORDANCE WITH SUPREME COURT LAW

See *The Jenny*, 72 U.S. 183, 18 L.Ed. 693, 5 Wall. 183 (1866) (An irrevocable power of attorney was made to one Jacob Rosenfeld, of Houston, in Texas, giving him absolute control over the management and disposition of the schooner. The power of attorney was executed by one John P. Molony, who, in a declaration represented himself as having authority to sell on behalf of the corporate owner. The irrevocable power of attorney to Rosenfeld, vested in him all the powers of owner, and made him owner in effect.)

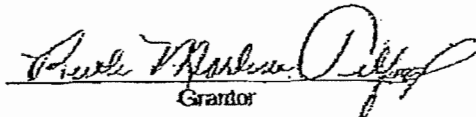
EFFECTIVE DATE

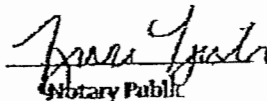
This power of attorney is effective immediately upon the grantor Ruth Marlene Telford signing of a USDA agreement concerning the real property bearing situs address 10621 S. Old Hwy 191, Malad City, ID 83252 and upon the owners James Keddington, Marie Marchant and Holli Lundahl conveying title of the subject real property to R. M. Telford.

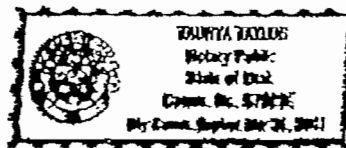
RELIANCE ON THIS POWER OF ATTORNEY

Any person may rely upon this irrevocable power attorney or a copy of it.

On this 18th day of May, in the year of 2009, before me personally appeared Ruth Marlene Telford, and proved to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same by directing the undersigned notary to affix my signature thereto.


Grantor


Notary Public



3

COPY

DUSTIN W. SMITH
Oneida County Prosecuting Attorney
30 North 100 West
Malad City, Idaho 83252
Telephone: (208) 766-2201
Facsimile: (208) 766-2202

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

MAGISTRATE DIVISION

IN THE MATTER OF THE)
)
APPLICATION FOR A) CASE NO. _____
)
SEARCH WARRANT.) AFFIDAVIT FOR
) SEARCH WARRANT
_____)

STATE OF IDAHO)
) ss:
COUNTY OF ONEIDA)

Sheriff J.P. Semrad of the Oneida County Sheriff's Department, being first duly sworn,
deposes and says:

1. That he is a duly certified, qualified, and acting peace officer within the County of Oneida, State of Idaho, and that he is the duly elected Sheriff of Oneida County, Idaho.
2. That he has conducted an investigation, and based on that investigation, hereby requests a Sixth District Judge to issue a search warrant.
3. That he has reason to believe that certain items, property and/or evidence

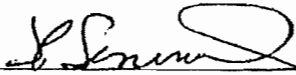
consisting of information, data, communications, correspondence, electronic images or data, digital images or data, text messages, e-mails, electronic or other messages or communications or information or data, computers, laptop computers, computer hardware, computer software, computer drives, hard drives, storage devices, disks, CD-ROMS, thumb drives, jump drives, or similar instruments used or associated with electronic or digital information or data, routers, modems, and network equipment used to connect computers to the internet, items or instrumentalities evidencing who used, owned, or controlled any of the aforementioned items together with anything evidencing who created, edited, or deleted such items such as logs, registry entries, saved usernames and passwords, documents, browsing history, user profiles, records of use of routers, modems, computers and network equipment used to connect to the internet, records or information pertaining to internet protocol addresses, records of internet activity including firewall logs, caches, browser history and cookies, together with any similar record or information in whatever form and by whatever means created, together with any items, instrumentalities, memory, or drives associated with the same, together with any item, instrumentality, document, writing, drawing, painting, printing, file, or representation or reproduction thereof, and any mechanism or item used to print or type or create or alter or be used in conjunction with creating, generating, altering, forging, reproducing, publishing or conveying any written or electronic items or instruments, which may exist in, on, upon, or within a residence or home, white siding and blue roof, and outbuildings, sheds, garages, and storage areas appurtenant thereto, located at

10621 South Old Highway 191, Malad City, Oneida County, Idaho, the property of Holli Telford, Holli Lundahl, R.M. Telford, Ruth Marlene Telford, James Keddington, and/or Marie Marchant, together with any instrumentalities, and/or any indicia, evidence, item, information, material or instrumentality which indicates use, possession, ownership, dominion, control, connection with, or distribution of any of the above mentioned property or items.

4. That the basis for this request for a search warrant is the information set forth in a incident report which is designated as Exhibit "A," attached hereto and incorporated hereby. He further deposes and says that he has read Exhibit "A" and all the contents are true to the best of his knowledge, and that he is the author, or he personally knows the author of said report, and the author(s) is/are law enforcement officer(s) who is credible and reliable.

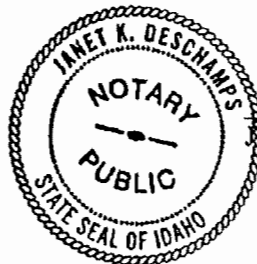
THEREFORE, your affiant has probable cause and is positive that said property described herein is concealed within the above-described property, items, and/or evidence, and therefore prays that a Search Warrant be issued.

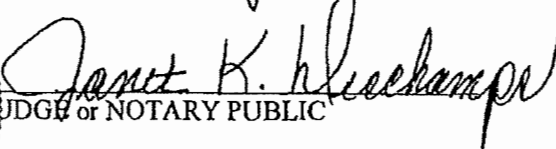
DATED this 9th day of August, 2011.



J.P. SEMRAD, Sheriff
Oneida County Sheriff's Office

SUBSCRIBED AND SWORN to before me this 9th day of August, 2011.





JUDGE or NOTARY PUBLIC

EXHIBIT "A"



Oneida County Sheriff's Office

Deputy Report for Incident 11-0328.

Nature: SEARCH WARRANT	Address: 10621 SOUTH OLD HWY 191
Location:	MALAD CITY ID 83252

Offense Codes: WRSR		
Received By: DAVIS D	How Received: T	Agency: OCSO
Responding Officers: SEMRAD J P		
Responsible Officer: SEMRAD J P	Disposition: ACT 08/08/11	
When Reported: 14:07:02 08/08/11 Occurred Between: 14:07:02 08/08/11 and 14:07:02 08/08/11		
Assigned To:	Detail:	Date Assigned: **/**/**
Status:	Status Date: **/**/**	Due Date: **/**/**

Complainant:

Last:	First:	Mid:
DOB: **/**/**	Dr Lic:	Address:
Race:	Sex:	Phone:
		City:

Offense Codes

Reported:	Observed: WRSR WARRANT, Search Warrant
Additional Offense: WRSR WARRANT, Search Warrant	

Circumstances

Responding Officers:	Unit :
SEMRAD J P	O381
Responsible Officer: SEMRAD J P	Agency: OCSO
Received By: DAVIS D	Last Radio Log: **/**/** **/**/**
How Received: T Telephone	Clearance:
When Reported: 14:07:02 08/08/11	Disposition: ACT Date: 08/08/11
Judicial Status:	Occurred between: 14:07:02 08/08/11
Misc Entry:	and: 14:07:02 08/08/11

Modus Operandi:	Description :	Method :
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Involvements

Date	Type	Description
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08/08/11

④

Deputy Report for Incident 11-0328

Page 3 of 4

During this conversation I also asked Marlene if she had emailed me the night before in response to an email I had sent to ruth.m.telford@gmail.com. Marlene denied emailing me and stated that she didn't know how to get on the computer and access her email.

On July 13 I had emailed that address and inquired about the Power of Attorney and I did receive a response allegedly from Marlene. However, from my conversation with Marlene she never emailed me.

On July 13 I had the Hurricane City Police in Hurricane Utah contacted one of the signers on a warranty deed that Holli had filed with the county. Police made contact with James K Keddington who acknowledged that he had signed the deed in question and that he knows Holli Telford. The officer gave Keddington my phone number and asked him to call me. Keddington did not give a response as to whether he would call or not.

I sent Keddington an email and thanked him for talking to police and that I looked forward to him calling me. I received a response from allegedly Keddington stating that he told the officer that he would communicate through email. This is untrue and indicates that Holli is most likely receiving these emails and answering them.

James K Keddington and Maria Marchant are two names listed on a deed for the property in Malad. The notaries that allegedly notarized Marchant and Keddington's signatures have no knowledge of either of these people or of notarizing their signatures.

The Prosecutor sent two subpoena's to Google for the g-mail accounts for hollilundahl@gmail.com and the other for ruth.m.telford@gmail.com to ascertain the IP address of the computer and the address of the computer's location of where the emails were sent from.

A response from Google was received on August 2, 2011. The information from Google shows that the emails of hollilundahl@gmail.com and ruth.m.telford@gmail.com as well as a third email martitelford64@gmail.com all have the same IP address. The IP address is 216.180.178.230 for all three e-mail addresses, and is through ATC in Malad.

I had emailed Marti Telford who is a sister to Holli and who also lives with Marlene in Provo Utah. I received a response allegedly from Marti but it would have come from Holli at this same IP address.

A subpoena was sent to ATC requesting the user of this IP address, which is Billy and Susie Christiansen at 1745 N 2400 W in Malad, Idaho. I talked to Susie on August 8th and she stated that she does not know Holli Telford, and had no idea about this situation. Susie did say that they have a router in their home for the Internet but it is password protected. However, somehow Holli has obtained this number and used it as her own.

I am requesting a search warrant for the home Holli is residing in for any computer or computer components that could be used to communicate via email. I am also requesting to search for any identification belonging to Marlene Telford including but not limited to photocopies of driver's license, social security card, Medicare card and any documents bearing Marlene's signatures. Also, any documents bearing the signatures of notaries and notary stamps. Also, any identification bearing the names of Marti Telford, Marie Marchant and James K Keddington.

08/08/11

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Deputy Report for Incident 11-0328

Page 4 of 4

[Handwritten Signature]

Responsible LEO:

[Handwritten Signature]

Approved by:

8/8/11

Date

Aug. 8. 2011 2:26PM

PT IN W SMITH ATTY

No. 358217211P. 5. Com: Audrey Kim

Google Inc.
1600 Amphitheatre Parkway
Mountain View, California 94043



Tel: 650.253.3425
Fax: 650.249.3429
www.google.com

CERTIFICATE OF AUTHENTICITY

I hereby certify:

1. I am employed by Google Inc. ("Google"), located in Mountain View, California. I am authorized to submit this affidavit on behalf of Google. I have personal knowledge of the following facts, except as noted, and could testify competently thereto if called as a witness.
2. Google provides Internet-based services to its subscribers, including Gmail, its free email service. Google does not verify any personal information that is submitted by a user at the time of a Gmail account creation.
3. Attached is a true and correct copy of 1 page of data pertaining to the Google account-holder identified as RUTH.M.TELFORD@GMAIL.COM with Internal Ref. No. 63115-146814 ("Document").
4. The Document attached hereto is a record made and retained by Google. Google servers record this data automatically at the time, or reasonably soon after, it is entered or transmitted by the user, and this data is kept in the course of this regularly conducted activity and was made by regularly conducted activity as a regular practice of Google.
5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


Caitlin
Sterling

(Signature of Records Custodian)

Date: July 28, 2011

Caitlin Sterling
(Name of Records Custodian)

7

* Google Confidential and Proprietary *

GOOGLE SUBSCRIBER INFORMATION

Name: Marlene Telford
e-Mail: ruthmtelford@gmail.com
Status: Enabled
Services: Docs, Gmail, Personalized homepage, Search history, Talk, Transliteration, Voice, Youtube
Secondary e-Mail: martitelford64@gmail.com
Created on: 2009/05/16-21:16:55-UTC
IP: 216.180.178.230, on 2009/05/16-21:16:55-UTC
Language Code: en
Other Usernames: ruth.m.telford@gmail.com

* Google Confidential and Proprietary *

8

Aug. 8. 2011 2:27PM

N W SMITH ATTY

No. 3582; Fri, 8:08 AM
From: Kate Mullin

Google Inc.
1600 Amphitheatre Parkway
Mountain View, California 94043



Tel: 650.253.3425
Fax: 650.249.3429
www.google.com

July 27, 2011

Via Facsimile Only
(208)766-2202

Prosecuting Attorney Dustin W. Smith
Oneida County Prosecutor Attorney's Office
30 North 100 West
Malad City, ID 83252

Re: Subpoena dated 07-14-2011 (Internal Ref. No. 63115-146325)

Dear Prosecuting Attorney Smith:

Pursuant to the Subpoena issued in the above-referenced matter, we have conducted a diligent search for documents and information accessible on Google's systems that are responsive to your request. Our response is made in accordance with state and federal law, including the Electronic Communications Privacy Act. See 18 U.S.C. § 2701 et seq.

We understand that you have requested customer information regarding the user account specified in the Subpoena, which includes the following: Subscriber information for the Gmail account, HOLLICUNDAHL@GMAIL.COM. After a diligent search and reasonable inquiry, we have found no IP log information for the dates as requested in the Subpoena.

To the extent any document provided herein contains information exceeding the scope of your request, protected from disclosure or otherwise not subject to production, if at all, we have redacted such information or removed such data fields.

Finally, in accordance with Section 2706 of the Electronic Communications Privacy Act, Google requests reimbursement in the amount of \$25 for reasonable costs incurred in processing your request. Please forward your payment to Google Custodian of Records, at the address above and please write the Internal Reference Number (63115-146325) on your check. The federal tax ID number for Google is 77-0493581.

Very truly yours,

Kenneth
Villa

Google Legal Investigations Support

(9)

Jeff Semrad

From: Marlene Telford [ruth.m.telford@gmail.com]
Sent: Wednesday, July 13, 2011 7:57 PM
To: Jeff Semrad
Subject: Re: Power of Attorney

Dear Sheriff Semrad: I am somewhat upset with you. When you came down here last week, you indicated that I was purported to have signed a document out of Preston Idaho in 2009. I told you that I had not and that Holli must have forged my signature to the Preston Idaho document. After your visit, Holli called me enraged about my signing an affidavit claiming Holli had forged my signature to the contract out of Preston Idaho. Holli indicated that she was subpoenaing the Preston Idaho document in order to provide evidence of a false report to the Idaho Attorney General and Governor. Holli then corrected your representation to me by informing me that the Preston Idaho document you referred to - was the contract I signed with the Preston Idaho US Farming agency while at the Idaho residence in Malad. I told you that I did not appear in Preston Idaho to sign any document. I do recall signing a document with a lady at the Idaho residence in 2009 that was supposed to pay for water to the residence which was in serious disrepair. At the same time I signed this document, there were people doing excavation on the place and a female kept coming in and disrupting Holli and my meeting with the US farming agent. This person was supposedly awaiting confirmation that the farming contract would be signed in order to do more work on the property. Therefore, I am retracting any statement I made about Holli forging my signature to the Preston Idaho farming contract. I do not want the attorney general prosecuting me for making a false statement which can be easily discredited by those construction people who witnessed this meeting.

I do recall Holli driving down here and arriving at about 6:00 A.M. sometime in the middle of May, 2009 to transport me to the Idaho residence for a meeting with the Farming agency. We left from Provo at about 6:30 a.m. On the way back to the Idaho residence, we stopped off at Holli's bank in Ogden Utah where Holli had me sign a document that was supposed to put Holli in charge of everything on the Idaho residence. The bank was familiar with who Holli was. A girl notarized my signature on the document I signed. It was all very informal. The girl did not charge Holli for the notary nor did she record it. I do not remember the name of the bank but it was one of the big ones. I hope this answers your question. Again retract my statement regarding the farming agency contract as I do not want to be prosecuted by the Idaho attorney general's office for making a false statement.

On Wed, Jul 13, 2011 at 3:13 PM, Jeff Semrad <sheriff@atcnet.net> wrote:
Ms. Telford,

I am in possession of an alleged Power of Attorney that you have allegedly signed giving your daughter Holli power of attorney over all your interests reference the property at 10621 S. Old Hwy 191 in Malad. Do you remember signing this documents and can you tell me specifically where your signature was notarized i.e. Law Office, court house or address.

Thank you,

Sheriff Semrad

Oneida County Sheriff's Office
10 Court Street
Malad, ID 83252

Phone: 208-766-2251
Fax: 208-766-2881

08/08/2011

⑩

Jeff Semrad

From: Marti Telford [martitelford84@gmail.com]
Sent: Friday, July 22, 2011 7:18 PM
To: Jeff Semrad
Subject: Re: Documents

Dear Sheriff:

The 2010 warranty deed not bear my signature. It bore the signatures of the then owners Jim Keddington, Marie Marchant and Holli Lundahl. If you claim that I signed a warranty deed on the Idaho property, please scan the deed and send it to me via email. I cannot deed property never officially put in my name as a co-trustee. If you ask how I know the property was never put in my name, my response would be the March 29, 2011 letter issued by the Tax Collector Dianne Pett addressed to Holly Telford and claiming back taxes dating back to 2008. In addition, Dianne Pett attached to her letter a "Tax Due Inquiry" dated March 29, 2011 which represented the tax assessment notice for 2011 and indicated that the owners of the property were still James Keddington et al (sending notice c/o of me which was done while Holli was in jail from 2006 to April 9, 2009.) You may get a copy of this record from Dianne Pett showing that the ownership of the property never changed in 2010. Finally, I am sure you are well aware that Holli controls everything on that property in favor of a family trust. If you have any questions you should really contact her.

On Thu, Jul 14, 2011 at 3:27 PM, Jeff Semrad <sheriff@atcnet.net> wrote:

Marti,

You may remember me from when I came to your home a few weeks ago and talked to you mother. I am the Sheriff in Malad Idaho and I am investigating fraudulent documents being filed with our county in reference to property at 10621 S Old Hwy 191.

As I was going through some documents from 2010 I found a warranty deed and the attached form with you name and alleged signature. It shows you as the owner of record for this property.

Can you confirm if this is your signature or if you have any knowledge of these transactions taking place in your name.

Thank you,

Sheriff JP Semrad

Oneida County Sheriff's Office
10 Court Street
Malad, ID 83252

Phone: 208-766-2251

Fax: 208-766-2891

(11)



4

COPY

DUSTIN W. SMITH
Oneida County Prosecuting Attorney
30 North 100 West
Malad City, Idaho 83252
Telephone: (208) 766-2201
Facsimile: (208) 766-2202

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

MAGISTRATE DIVISION

IN THE MATTER OF THE)
)
APPLICATION FOR A) CASE NO. _____
)
SEARCH WARRANT.) **SEARCH WARRANT**
)
)
_____)

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

PROOF, by Affidavit having been this day made before me by Sheriff J.P. Semrad of the Oneida County Sheriff's Department, that there is probable cause to believe that certain property and/or evidence consisting of information, data, communications, correspondence, electronic images or data, digital images or data, text messages, e-mails, electronic or other messages or communications or information or data, computers, laptop computers, computer hardware, computer software, computer drives, hard drives, storage devices, disks, CD-ROMS, thumb drives, jump drives, or similar instruments used or associated with electronic or digital information or data, routers, modems, and network equipment used to connect computers to the

"if"

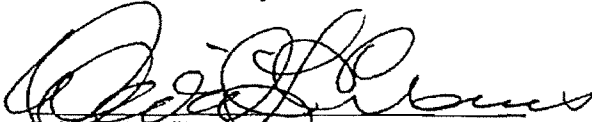
internet, items or instrumentalities evidencing who used, owned, or controlled any of the
aforementioned items together with anything evidencing who created, edited, or deleted such
items such as logs, registry entries, saved usernames and passwords, documents, browsing
history, user profiles, records of use of routers, modems, computers and network equipment used
to connect to the internet, records or information pertaining to internet protocol addresses,
records of internet activity including firewall logs, caches, browser history and cookies, together
with any similar record or information in whatever form and by whatever means created,
together with any items, instrumentalities, memory, or drives associated with the same, together
with any item, instrumentality, document, writing, drawing, painting, printing, file, or
representation or reproduction thereof, and any mechanism or item used to print or type or create
or alter or be used in conjunction with creating, generating, altering, forging, reproducing,
publishing or conveying any written or electronic items or instruments, which may exist in, on,
upon, or within a residence or home, white siding and blue roof, and outbuildings, sheds,
garages, and storage areas appurtenant thereto, located at 10621 South Old Highway 191, Malad
City, Oneida County, Idaho, the property of Holli Telford, Holli Lundahl, R.M. Telford, Ruth
Marlene Telford, James Keddington, and/or Marie Marchant, together with any
instrumentalities, and/or any indicia, evidence, item, information, material or instrumentality
which indicates use, possession, ownership, dominion, control, connection with, or distribution
of any of the above mentioned property or items, and the Court having specifically hereby
determined that adequate grounds exist for authorizing the search to be made at any hour of the
daytime and/or nighttime justified by the fact that the information and material sought by this
warrant is easily concealed and/or destroyed in a very short period of time.

YOU ARE THEREFORE COMMANDED, at any time of the day and/or night to make

immediate search of the above-described item for the items or evidence described above, and if you find the same or any part thereof, to bring it forthwith before me at the Oneida County Courthouse in the City of Malad, Oneida County, Idaho.

RETURN of this Warrant is to be made to the above-entitled Court within ten (10) days from the date hereof.

GIVEN UNDER MY HAND and DATED this 9th day of August, 2011.


DAVID L. EVANS, Judge
Magistrate Division

5

When issue raised is one of first impression, we may look to numerous federal decisions for guidance. Our Supreme Court held that "[a] statute which is adopted from another jurisdiction will be presumed to be adopted with the prior construction placed upon it by the courts of such other jurisdiction." *Nixon v. Tribier*, 100 Idaho 198, 200, 595 P.2d 1093, 1095 (1979). Accordingly, the court has a duty to apply Idaho's Rule 41 suppression requirement as the 9th circuit has interpreted that rule when the probable cause affidavit is not served with the warrant. See *Seminole* authority on this issue, *United States v. McGrew*, 122 F.3d 847 (9th Cir. 09/12/ 1997) *infra*.

United States v. McGrew, 122 F.3d 847 (9th Cir. 09/12/ 1997)

[1] UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[2] No. 96-10342

[3] 122 F.3d 847, 1997 .C09.1507 <<http://www.versuslaw.com>>

[4] 09/12/97

[5] UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE,

v.

**CHONG HYON MCGREW AKA CHONG HYON PARK, DEFENDANT-
APPELLANT.**

[6] Appeal from the United States District Court for the District of Guam D.C. No. CR-96-00014-JSU John S. Unpingo, District Judge, Presiding

[7] Before: Betty B. Fletcher, Robert Boochever, and Stephen Reinhardt, Circuit Judges.

[8] COUNSEL

Curtis C. Van de Veld, The Vandeveld Law Offices, Agana, Guam, for the defendant-appellant.

Karon V. Johnson, Assistant United States Attorney, Agana, Guam, for the plaintiff-appellee.

[9] REINHARDT, Circuit Judge

[10] Argued and Submitted August 8, 1997

[11] San Francisco, California

[12] Filed September 12, 1997

[13] Opinion by Judge Reinhardt

[14] OPINION

[15] Defendant-Appellant Chong Hyon McGrew was convicted in the District Court of Guam on a number of methamphetamine felonies. She appeals her conviction, contending, inter alia, that the district court erred in declining to suppress evidence the government obtained in its search of her residence. We conclude that the search was invalid and, therefore, reverse McGrew's conviction. *fn]

[16] I. Background

[17] On the strength of an affidavit by DEA agent Jonathan Y. Andersen stating that he believed McGrew was involved in drug trafficking, a magistrate approved a warrant to search McGrew's residence. The warrant failed to specify any type of criminal activity suspected or any type of evidence sought. In the space provided for that information, the warrant referred the reader to the "attached affidavit which is incorporated herein."

[18] The day the warrant was issued, the agents, including agent Andersen, executed it and seized several incriminating items from McGrew's residence, including a glass tube with drug residue, notepads, cash, jewelry, plastic bags, and an apartment lease. Nothing in the record suggests whether the agents brought a copy of the affidavit to the search. What the record clearly shows, however, is that McGrew was present during the search, but neither then nor at any time thereafter did the government show her the affidavit supporting the search. In its brief to the district court "the government freely concedes its agents did not serve a copy of the affidavit on defendant January 10, 1996. It has never done so, it is not required to do so, and for the safety of its cooperating witnesses would never do so."

[19] Prior to trial, McGrew filed a motion to suppress the evidence obtained in the search, arguing that without the affidavit the warrant lacked the particularity required by the Fourth Amendment. The district court denied the motion, stating that the affidavit was sufficiently particular and that no legal authority required executing officers to affix the affidavit to the general warrant. Therefore, the court held, the search and seizure were valid. The government introduced at trial the evidence gathered in the search, and DEA special agents testified extensively based on the seized items.

[20] II. Analysis

[21] The district court's denial of McGrew's motion to suppress contradicts a long line of this circuit's clearly established Fourth Amendment precedent. The district court erred in failing to suppress the evidence that the government agents obtained in the search of McGrew's residence.

- [22] [1] The Fourth Amendment dictates that a search warrant must be sufficiently particular and not overbroad. See, e.g., *Andresen v. Maryland*, 427 U.S. 463, 480 (1976); *United States v. Spilotro*, 800 F.2d 959, 963 (9th Cir. 1986). The particularity requirement safeguards the right to be free from unbounded, general searches. *United States v. Hillyard*, 677 F.2d 1336, 1339 (9th Cir. 1982). Thus, to pass constitutional muster, a warrant "must be specific enough to enable the person conducting the search reasonably to identify the things authorized to be seized." *Spilotro*, 800 F.2d at 963.
- [23] [2] Here, the search warrant contained absolutely no description of the types of items sought, or even of the types of crimes for which it sought evidence. ^{*fn2} The warrant only referred to an "attached affidavit which is incorporated herein." The government, however, has offered no evidence that the affidavit or any copies were ever attached to the warrant or were present at the time of the search of McGrew's home, even though agent Andersen, the affiant, was present at the search.
- [24] Moreover, while the affidavit was expressly "incorporated" into the search warrant, the government openly admits that its agents never served a copy of the affidavit on McGrew. The government argues that so long as its agents are aware of the contents of the affidavit listing the items they may seize, the Fourth Amendment's particularity requirement is satisfied. Even assuming that the agents were aware of the contents of the affidavit -- which is highly questionable ^{*fn3} --this argument is incorrect.
- [25] [3] The well settled law of this circuit states that a "search warrant may be construed with reference to the affidavit for purposes of satisfying the particularity requirement if (1) the affidavit accompanies the warrant, and (2) the warrant uses suitable words of reference which incorporate the affidavit therein." *Hillyard*, 677 F.2d at 1340; see also *United States v. Van Damme*, 48 F.3d 461, 466 (9th Cir. 1995) (invalidating warrant on these grounds); *United States v. Towne*, 997 F.2d 537, 544-47 (9th Cir. 1993) (reaffirming rule and discussing other cases doing same); *Spilotro*, 800 F.2d at 967 (holding that affidavit could not cure overbroad search warrant because it was not attached to it).
- [26] [4] The rule requiring affidavits to accompany warrants lacking particularity serves not one, but two aims:"The purpose of the accompanying affidavit clarifying a warrant is both to limit the officer's discretion and to inform the person subject to the search what items the officers executing the warrant can seize." *United States v. Hayes*, 794 F.2d 1348, 1355 (9th Cir. 1986) (emphasis added), cert. denied, 479 U.S. 1086 (1987); accord *Center Art Galleries -- Hawaii, Inc. v. United States*, 875 F.2d 747, 750 (9th Cir. 1989) (attached affidavit "assures that the person being searched has notice of the specific items the officer is entitled to seize " (internal quotation omitted)). ^{*fn4} Because the agents never served a copy of the affidavit on McGrew, the second goal was entirely unsatisfied here. Neither, in all likelihood, was the first; this court has held expressly that "neither purpose is served" when the affidavit fails to accompany the warrant. *Hayes*, 794 F.2d at 1355; see also *infra* note 4.
- [27] [5] Next, we reject the suggestion the government made in the district court that, in order to protect witnesses, it may simply refuse to produce an affidavit that it contends renders an otherwise general warrant lawful. If the government wishes to keep an affidavit under

seal, it must list the items it seeks with particularity in the warrant itself. It is the government's duty to serve the search warrant on the suspect, and the warrant must contain, either on its face or by attachment, a sufficiently particular description of what is to be seized. Because the government failed to satisfy these requirements, we hold that the search warrant was invalid: it lacked the requisite --indeed, any -- particularity.

- [28] Furthermore, the "good faith" exception to the exclusionary rule is not available in this instance. In order to avoid the effect of the exclusionary rule, there must be an "objective reasonable basis for the mistaken belief that the warrant was valid." *United States v. Michaelian*, 803 F.2d 1042, 1047 (9th Cir. 1986). If the "incorporated" affidavit does not accompany the warrant, agents cannot claim good faith reliance on the affidavit's contents. *United States v. Kow*, 58 F.3d 423, 428-30 (9th Cir. 1995); *United States v. Stubbs*, 873 F.2d 210, 212 (9th Cir. 1989). *fn5
- [29] Finally, the government does not assert that the introduction of the seized evidence was harmless error, and we thus do not consider that question here. Accordingly, we reverse McGrew's conviction.
- [30] REVERSED AND REMANDED.
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Opinion Footnotes

- [31] *fn1 Because we vacate her conviction on the ground of the erroneously admitted evidence, we do not reach McGrew's claims of jury misconduct, improper admission of evidence, and sentencing errors.
- [32] *fn2 This court has "criticized repeatedly the failure to describe in a warrant the specific criminal activity suspected," *United States v. Kow*, 58 F.3d 423, 427 (9th Cir. 1995) (collecting cases); we do so again here.
- [33] *fn3 Evidence at trial suggested that at least one officer was unaware of the contents of the affidavit. Sergeant Rivo, who officially confiscated the items from McGrew's residence, testified that he temporarily set aside the cash and jewelry because he was not sure whether the officers had probable cause to seize them. The affidavit expressly stated, however, that the officers were authorized to seize jewelry and cash.
- [34] *fn4 Other courts also have recognized the importance of the second aim of the particularity requirement. The Supreme Court stated in *United States v. Chadwick*, 433 U.S. 1, 9 (1977), abrogated on other grounds, *California v. Acevedo*, 500 U.S. 565 (1991), that "a warrant assures the individual whose property is searched or seized of the lawful authority of the executing officer, his need to search, and the limits of his power to search." Moreover, the Seventh Circuit quoted *United States v. Van Damme*, 48 F.3d 461,

466 (9th Cir. 1995), for the proposition that when the particularized application is attached to the warrant, and the officers have it with them during the search, "the officers can read the list of things to be seized while they are searching, and show the list to the person from whom seizures are made." *United States v. Jones*, 54 F.3d 1285, 1290 n.1 (7th Cir.), cert. denied, 116 S. Ct. 263 (1995).

- [35] *fn5 Although dicta in *Towne*, supra, suggested that the good faith exception might be available when the agent who drafted the affidavit is present at the search or when the agents confine their search to the scope of the affidavit, *Kow* subsequently squarely held that such facts, even if true, cannot establish good faith. See *Kow*, 58 F.3d at 428-30. The agents must either serve the affidavit with the warrant or list with particularity its relevant directives on the warrant itself. Otherwise, the good faith exception is not available because (1) the requirement of attaching affidavits to general warrants has been the clear law of this circuit for over a decade, foreclosing any "reasonable belief" to the contrary; and (2) no matter how aware the officers are of the limits of their search, the person being searched (the second aim of the rule) is still completely unaided when agents fail to produce a document explaining the parameters of the search.

6



Oneida County Sheriff's Office

Deputy Report for Incident 11-O330

Nature: CODE BNFORCE
Location:

Address: '10621 S OLD HWY 191
MALAD ID

Offense Codes: OBST
 Received By: BLAISDELL S How Received: T Agency: OCSO
 Responding Officers: WILLIAMS D
 Responsible Officer: WILLIAMS D Disposition: ACT 08/10/11
 When Reported: 14:26:31 08/10/11 Occurred Between: 14:26:31 08/10/11 and 14:26:31 08/10/11

Assigned To: Detail: Date Assigned: **/**/**
 Status: Status Date: **/**/** Due Date: **/**/**

Complainant: 225629
 Last: ONEIDA First: Mid:
 COUNTY
 SHERIFF
 DOB: **/**/** Dr Lic: Address: 10 Court STREET
 Race: Sex: Phone: () - City: Malad City, ID 83252

Offense Codes

Reported: Observed: OBST Obst/Resist/Interfere w/police
 Additional Offense: OBST Obst/Resist/Interfere w/police

Circumstances

Responding Officers: Unit :
 WILLIAMS D O390

Responsible Officer: WILLIAMS D Agency: OCSO
 Received By: BLAISDELL S Last Radio Log: **:**:** **/**/**
 How Received: T Telephone Clearance:
 When Reported: 14:26:31 08/10/11 Disposition: ACT Date: 08/10/11
 Judicial Status: Occurred between: 14:26:31 08/10/11
 Misc Entry: and: 14:26:31 08/10/11

Modus Operandi: Description : Method :

Involvements

Date	Type	Description
------	------	-------------

08/11/11

"6"

Narrative

Sgt. Doug Williams / 390

On August 10, 2011 a search warrant was served at the Holli Telford Lundahl residence located at 10621 S. Old Hwy 191. Lundahl was agitated shouting out vulgarities and refused to let the search warrant take place. Sheriff Semrad advised Lundahl that she was delaying and obstructing officers by her actions and she would be arrested for those charges if she did not comply. Lundahl continued her vulgar and aggressive behavior, and was advised she was under arrest for delay and obstruct.

Lt. Sherman and myself placed Lundahl in handcuffs, which I double locked and checked for tightness. Lundahl resisted and fought with us which resulted in her being taken to the floor in a prone position to be handcuffed. She had to be physically restrained in order to gain control of her. Lundahl stated she would at least like to be present during the service of the warrant. Lundahl was advised she could stay and be present as long as she discontinued her vulgar and aggressive behavior. Lundahl was allowed to be present and placed in a chair in the front living room of the residence.

As we continued the service of the warrant Lundahl continued to disrupt officers by continuing her same vulgar and aggressive behavior. Lundahl was warned on several occasions to stop. Lundahl's vulgar and aggressive behavior continued and she was transported to Bannock County Jail.

Holli Telford Lundahl was cited with Obstruct and Delay violation of I.C. 18-705. Lundahl was transported to the Bannock County Jail.

End of report.

D. Williams

Responsible LEO:

DS

Approved by:

8/11/11

Date

Name Involvements:

Suspect : 249709

Last: TELFORD

First: HOLLI

Mid:

DOB: [REDACTED]

Dr Lic:

Address: 10621 SOUTH OLD HWY 191

Race: W

Sex: F

Phone: () -

City: MALAD CITY, ID 83252

Complainant : 225629

Last: ONEIDA

First:

Mid:

COUNTY

SHERIFF

DOB: **/**/**

Dr Lic:

Address: 10 Court STREET

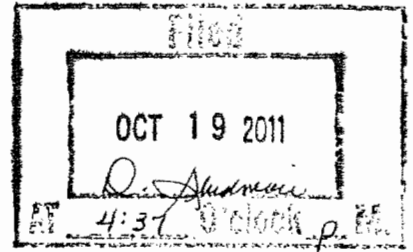
Race:

Sex:

Phone: () -

City: Malad City, ID 83252





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

ORDER RE: **HOLLI LUNDAHL TELFORD**) 2011-3(a)
)
) **ORDER DENYING RESPONSE**
) **TO ADMINISTRATIVE ORDER**
) **DECLARING VEXATIOUS**
) **LITIGANT**

The Administrative District Judge has received a Verified¹ Ex Parte Mandamus Writ for Order² ("Verified Motion") filed on October 13, 2011, by Holli Lundahl Telford. The Court has reviewed the document and all of its attachments. Under IRCP 7(b)(3)(D) the Court has discretion to decide this motion without a hearing and chooses to do so because the motion lacks merit.

¹ Although the Motion is entitled a verified motion, there is no verification language accompanying the motion.

² The complete title of the motion is "Verified Ex Parte Mandamus Writ for Order Directing Prosecutor Dustin Smith and Sheriff Jeff Semrad to Return Computers, Paper Files, all Electronic Files and Devices, and all other Properties Illegally Seized from Holli Telford's Abode in Order to Defend Against this Court's Administrative Rule 59 Order to Decree Respondent a Vexatious Litigant and Ex Parte Motion to Continue Compliance with the Within Contempt Proceedings until 30 Days after the Return of Plaintiff's Properties and Notice of Partial Compliance with Respect to Rule 60(b) Independent Attack on Two Contempt Orders which are Void Ab Initio for the Reasons Stated in the Rule 60(b) Independent Petitions Filed under Separate Cover".

On October 11, 2011, this Administrative District Judge signed and filed an Administrative Order Declaring Holli Lundahl Telford a Vexatious Litigant. That Order gave Telford 14 days from the date she was served with the Order to respond to the allegations in the Order. Telford admits that she received the Order on October 12, 2011. On October 13, 2011 Telford responded with her Motion for Mandamus. In her Motion, Telford raises two arguments: (1) This Court Must Determine that the Prior Federal and State Orders Determining Respondent a Vexatious Litigant were Valid and Not Prima Facially Void; and (2) Respondent is Entitled to Petition this Court Under IRCP Rule 60(b)'s Independent Action rule and Under this Court's Writ Authority for a Mandamus Writ or Order in Equity Directing Prosecutor Dustin Smith and Sheriff Jeff Semrad to Return Respondent's Electronic and Paper Records Which Allow Respondent to Fully and Fairly Answer this Court's Order to Show Cause. Each of these arguments will be addressed.

1. Prior Federal and State Orders. Telford argues that the Idaho Supreme Court has ruled that contempt orders must be decreed as void and struck down where the respondent is unable to comply through some impediment, where the order exceeds the jurisdiction of the court issuing the order, or where the order exceeded the authorized limits of the law. She further provides a string citation of Idaho cases she argues support this proposition. However, none of her cited cases involve IAR 59. Additionally, Telford has made no showing as to how the proposed Order declaring her a vexatious litigant is invalid. Instead, she argues that the cases relied upon by this court in deeming her a vexatious litigant are somehow void and improper. Her argument in this regard is extremely vague in that she simply states that the records she needs to attack the validity of the orders from other jurisdictions were seized by the prosecutor and sheriff.

Telford's first argument is misplaced. This is not a situation where some judgment creditor seeks to enforce a foreign judgment in Idaho. This is simply a situation where an Administrative District Judge, acting pursuant to IAR 59, has relied on multiple foreign judgments as one alternative basis for declaring Telford a vexatious litigant. This Court is allowed to give full faith and credit to those vexatious litigant declarations. If Telford believes every jurisdiction cited in the Court's prior Order has issued a void judgment her remedy is to litigate that issue in the jurisdiction that issued each judgment. Under the circumstances, this Court lacks authority to declare those foreign judgments void. If Telford is successful in challenging a foreign jurisdiction's judgment and presents evidence that the foreign jurisdiction has declared their own vexatious litigant declaration null and void, this Court will remove that jurisdiction's determination from the list in the prior order. However, this Court is not the proper forum to attack the Vexatious Litigant Declarations by other States and Federal Jurisdictions.

2. Whether Idaho's Independent Action Rule or this Court's Writ Authority allows Telford to Petition for a Writ of Mandamus to Return her Property. As discussed above, this Court lacks authority to declare Vexatious Litigant Declarations in other jurisdictions null and void. Therefore, this Court's authority under the Independent Action Rule does not authorize it to issue a Writ of Mandamus for the return of property allegedly needed to prove those Vexatious Litigant Declarations void.

As to this Court's general Writ Authority, Idaho Code Title 7, Chapter 3 sets forth a court's authority to issue writs of mandamus. Under these provisions, a writ cannot be issued to force a governmental authority to exercise its discretionary authority. For example, in *McCuskey v. Canyon County*, 123 Idaho 657, 851 P.2d 953 (1993), the Idaho Supreme Court held that "It is

a well-established rule that a writ of mandate will not issue to compel the performance of a discretionary act.”

The Oneida County Sheriff signed an Affidavit setting forth the facts he relied upon, exercising his discretion, to seek a search warrant. The Oneida County Prosecutor prepared a proposed search warrant and, in his discretion, submitted it to a magistrate judge. The magistrate judge, exercising his discretion, found probable cause for the issuance of the search warrant and signed that warrant. A writ of mandamus is not the proper tool for challenging the merits of the affidavit or warrant. The Idaho Criminal Rules set out the proper procedure for challenging a search and seizure performed in connection with a warrant. That procedure is not invoked by this vexatious litigant proceeding. Therefore, this Court will not issue a Writ of Mandamus on behalf of Holli Lundahl Telford.

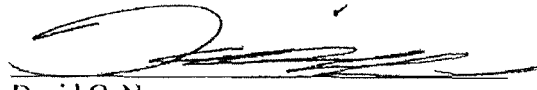
Additionally, Telford has given this Court no indication of what records are contained in her computers and paper files that she could use to attack the validity of the vexatious litigant declarations from other jurisdictions. Likewise, Telford has given this Court no indication of what records are contained in her computers and paper files that she could use to attack the validity of the three pro se litigations commenced in the last seven year period that have been finally determined adversely to her.

Based upon all of the above, the Court denies the “Ex Parte Mandamus Writ for Order Directing Prosecutor Dustin Smith and Sheriff Jeff Semrad to return Computers, Paper Files, all Electronic Files and Devices, and all other Properties Illegally seized from Holli Telford’s Abode in Order to Defend against this Court’s Administrative Rule 59 Order to Decree Respondent a Vexatious Litigant **and** Ex Part Motion to Continue Compliance with the within Contempt Proceedings until 30 Days after the Return of Plaintiff’s Properties **and** Notice of Partial

Compliance with Respect to Rule 60(b) Independent Attack on Two Contempt Orders which are Void Ab Initio for the Reasons Stated in the Rule 60(b) Independent Petitions Filed under Separate Cover". The motion is without merit and is frivolous.

Telford has until October 26, 2011, to file a written response to the proposed order. That written response must address the findings set forth in the October 11, 2011, order.

DATED October 19, 2011



David C. Nye
Administrative District Judge

CC: Holli Lundahl Telford
Patricia Tobias, Administrative Director of the Courts
All judges of the Sixth Judicial District
Clerks of the Sixth Judicial District
Sheriffs of the Sixth Judicial District
Deputy Clerks of the Sixth Judicial District