

3-15-2013

Hall v. State Clerk's Record Dckt. 40471

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Vol. / of /

SUPREME COURT OF THE STATE OF IDAHO

KENT HALL

Petitioner-Appellant

LAW CLERK

vs.

STATE OF IDAHO

Defendant-Respondent

SEE AUGMENTATION RECORD

Hon. Stephen S. Dunn District Judge

Appealed from the District Court of the Sixth
Judicial District of the State of Idaho, in and for

Bannock County.

Sara B. Thomas

Appellate Public Defender

Attorney For Appellant

Lawrence G. Wasden

Idaho Attorney General

Attorney For Respondent

Filed this **FILED - COPY** day of

2012

MAR 15 2013

Clerk

Deputy

Supreme Court Court of Appeals
Signed on ATS by

40441 40442

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

KENT HALL,)
)
Petitioner-Appellant,) Supreme Court No.40471 & 40472
)
v.)
)
STATE OF IDAHO,)
)
Defendant-Respondent,)
)
)
_____)

CLERK'S RECORD

Appeal from the District Court of the Sixth Judicial District of the State of
Idaho, in and for the County of Bannock.

Before **HONORABLE Stephen S. Dunn** District Judge.

For Appellant:

SARAH B. THOMAS
State Appellate Public Defender
P.O. Box 83720
Boise, Idaho 83720-0005

For Respondent:

LAWRENCE G. WASDEN
Idaho Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

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Kent Hall, Plaintiff vs State Of Idaho, Defendant

Date	Code	User		Judge
8/20/2012	LOCT	NOELIA	Clerk's	Stephen S Dunn
	NPCP	NOELIA	Petition and affidavit for post conviction relief;	Stephen S Dunn
		CAMILLE	Motion and affidavit in support for appointment of counsel ;	Stephen S Dunn
		CAMILLE	Motion and affidavit for permission to porceed on partial payment of court fees (prisoner) pro se	Stephen S Dunn
8/22/2012		NOELIA	Filing: H10 - Post-conviction act proceedings Paid by: Kent Hall Receipt number: 0029950 Dated: 8/22/2012 Amount: \$.00 (Cash) For:	Stephen S Dunn
9/5/2012	ANSW	KARLA	Answer (Graham for State)	Stephen S Dunn
	MOTN	KARLA	Motion for Summary Dismissal (Graham for State)	Stephen S Dunn
9/19/2012	NOTC	KARLA	Notice of Intent to Deny Counsel and Dismiss Petition for Post Conviction Relief; Petition has 20 days to respond; /s J Dunn 09/19/12	Stephen S Dunn
10/4/2012	MOTN	KARLA	Motion for Continuance (Pet ProSe)	Stephen S Dunn
10/18/2012	DEOP	KARLA	Memorandum Decision and Order Denying Petitioner's Motion for Continuance and Dismissing Petition for Post Conviction Relief; /s J Dunn 10/17/12	Stephen S Dunn
	CSTS	KARLA	Case Status Changed: closed	Stephen S Dunn
11/5/2012	APSC	DCANO	Appealed To The Supreme Court	Stephen S Dunn
		DCANO	NOTICE OF APPEAL Post Conviction: Kent E. Hall, pro se.	Stephen S Dunn
		DCANO	MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL	Stephen S Dunn
		DCANO	MOTION AND AFFIDAVIT FOR PERMISSION TO PROCEED ON PARTIAL PAYMENT OF COURT FEES. (Prisoner)	Stephen S Dunn
11/6/2012		DCANO	CLERK'S CERTIFICATE OF APPEAL; Signed and Mailed to Counsel and SC on 11-6-12	Stephen S Dunn
	MISC	DCANO	ORDER GRANTING MOTION FOR APPOINTMENT OF COUNSEL; Stephen Larsen appointed.(Sent copies to SC and Counsel on 11-6-12)	Stephen S Dunn
11/16/2012	JDMT	KARLA	Judgment: Mailed Cert. Copy to SC and Counsel on 12-13-12.	Stephen S Dunn
12/4/2012	MISC	DCANO	IDAHO SUPREME COURT; Entered Order Remanding to Dist. Court for Final Judgment. Received Clerk's Cert. of Appeal on 11-8-12. Please carefully examine the Title and Cert. and advise the Dist. Clerk of any corrections. The Title in the Cert. must appear on all documents filed in SC.	Stephen S Dunn

Kent Hall, Plaintiff vs State Of Idaho, Defendant

Date	Code	User	Judge
12/4/2012	MISC	DCANO	IDAHO SUPREME COURT; Order Remanding to District Court: This appeal is from the Dist. Courts Memorandum Decision and Order Denying Petitioner's Motion for Continuance and Dismissing Petition for Post Conviction Relief filed 10-18-11. It appears that a final judgment set forth on a separate document is required and has yet to be entered. It hereby is ordered that this matter be Remanded to the Dist. Court and proceedings in this appeal shall be suspended to allow for the entry of a final judgment. Stephen S Dunn
12/20/2012		DCANO	ORDER APPOINTING STATE APPELLANT PUBLIC DEFENDER'S OFFICE: s/ Judge Stephen S. Dunn on 12-19-12. (E-mailed and faxed copies to Counsel and SC on 12-20-12) Stephen S Dunn
12/28/2012	MISC	DCANO	IDAHO SUPREME COURT; Order to Consolidate Appeals. Docket # 40472-2012(CV-2012-3578-PC) shall be consolidated under Supreme Court Docket 40471-2012 (CV-2012-3577-PC) Due in Supreme Court 9 weeks after December 20th.(Feb 21, 2013) (5 weeks prior 1-17-13) Stephen S Dunn
2/11/2013	MISC	DCANO	CLERK'S RECORD received in Court Records on 2-11-13. Stephen S Dunn
	MISC	DCANO	Provided a copy of Clerk's Record to Bannock County Prosecuting Attorney's Office Jeanne Hobson on 2-11-13. Stephen S Dunn
	MISC	DCANO	CLERK'S RECORD mailed to Counsel on 2-11-13. Sarah B. Thomas and Lawrence G. Wasden on 2-11-13. Due in Supreme Court on 3-12-13. Stephen S Dunn

Kent Hall, Plaintiff vs State Of Idaho, Defendant

Date	Code	User		Judge
8/20/2012		CAMILLE	Motion and affidavit for permission to proceed on partial payment of court fees (prisoner)	Stephen S Dunn
		CAMILLE	Motion and affidavit in support for appointment of counsel	Stephen S Dunn
	LOCT	NOELIA	Clerk's	Stephen S Dunn
	NCPD	NOELIA	Petition and Affidavit for Post Conviction relief;	Stephen S Dunn
		NOELIA	Filing: H10 - Post-conviction act proceedings Paid by: Kent Hall Receipt number: 0029951 Dated: 8/22/2012 Amount: \$.00 (Cash) For:	Stephen S Dunn
9/5/2012	ANSW	KARLA	Answer (Graham for State)	Stephen S Dunn
	MOTN	KARLA	Motion for Summary Dismissal (Graham for State)	Stephen S Dunn
9/19/2012	NOTC	KARLA	Notice of Intent to Deny Counsel and Dismiss Petition for Post-Conviction Relief; Petitioner 20 days to respond; /s J Dunn 09/19/12	Stephen S Dunn
10/18/2012	DEOP	KARLA	Memorandum Decision and Order Denying Petition Motion for Continuance and Dismissing Petition for Post Conviction Relief; /s J Dunn 10/18/20	Stephen S Dunn
	CSTS	KARLA	Case Status Changed: closed	Stephen S Dunn
11/5/2012	APSC	DCANO	Appealed To The Supreme Court	Stephen S Dunn
		DCANO	NOTICE OF APPEAL Post Conviction: Kent E. Hall, pro se.	Stephen S Dunn
		DCANO	MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL.	Stephen S Dunn
		DCANO	MOTION AND AFFIDAVIT FOR PERMISSION TO PROCEED ON PARTIAL PAYMENT OF COURT FEES. (Prisoner)	Stephen S Dunn
11/6/2012		DCANO	CLERK'S CERTIFICATE OF APPEAL; Signed and Mailed to Counsel and Sc on 11-6-12.	Stephen S Dunn
11/7/2012		DCANO	ORDER GRANTING MOTION FOR APPOINTMENT OF COUNSEL; Stephen Larsen appointed.(Sent copies to SC and Counsel on 11-6-12)	Stephen S Dunn
11/16/2012	JDMT	KARLA	Judgment: Mailed Cert. Copy to SC and Counsel on 12-13-12.	Stephen S Dunn
12/4/2012		DCANO	IDAHO SUPREME COURT; Order Remanding to District Court: This appeal is from the Dist. Courts Memorandum Decision and Order Denying Petitioner's Motion for Continuance and Dismissing Petition for Post Conviction Relief filed 10-18-11. It appears that a final judgment set forth on a separate document is required and has yet to be entered. It hereby is ordered that this matter be Remanded to the Dist. Court and proceedings in this appeal shall be suspended to allow for the entry of a final judgment.	Stephen S Dunn

Kent Hall, Plaintiff vs State Of Idaho, Defendant

Date	Code	User		Judge
12/19/2012		DCANO	ORDER APPOINTING STATE APPELLANT PUBLIC DEFENDER'S OFFICE: s/ Judge Stephen S. Dunn on 12-19-12. (E-mailed and faxed copies to Counsel and SC on 12-20-12)	Stephen S Dunn
12/28/2012		DCANO	IDAHO SUPREME COURT; Order to Consolidate Appeals. Docket # 40472-2012(CV-2012-3578-PC) shall be consolidated under Supreme Court Docket 40471-2012 (CV-2012-3577-PC) Due in Supreme Court 9 weeks after December 20th.(Feb 21, 2013) (5 weeks prior 1-17-13)	Stephen S Dunn
2/11/2013	MISC	DCANO	Clerk's Record received in Court Records on 2-11-13.	Stephen S Dunn
	MISC	DCANO	Provided a copy of Clerk's Record to Bannock County Prosecuting Attorney's Office Jeanne Hobson on 2-11-13.	Stephen S Dunn
	MISC	DCANO	CLERK'S RECORD mailed to Counsel on 2-11-13. Sarah B. Thomas and Lawrence G. Wasden on 2-11-13. Due in Supreme Court on 3-12-13.	Stephen S Dunn

ORIGINAL

Inmate Name KENT E HALL
IDOC No. 30134 Mat
Address P.O. Box 8509
Boise Id 83707

FILED
MAY 22 2011
CLERK OF DISTRICT COURT
BOISE, IDAHO
CW

STEPHEN S. DUNN

CV-2011-3577-PC

Petitioner

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

KENT E HALL)
)
Petitioner,)
)
vs.)
)
STATE of Idaho)
)
Respondent.)
_____)

Case No. CR-2011-08147-FE
CR-2011-08364 FE
**PETITION AND AFFIDAVIT
FOR POST CONVICTION
RELIEF**

The Petitioner alleges:

SICI

1. Place of detention if in custody: Idaho Dept of Corrections
2. Name and location of the Court which imposed judgement/sentence: _____
Judicial District Court, Bannock, Co
3. The case number and the offense or offenses for which sentence was imposed:
 - (a) Case Number: CR-2011-08147-FE
CR-2011-08364-FE
 - (b) Offense Convicted: Possession of Controlled Subst
4. The date upon which sentence was imposed and the terms of sentence:
 - a. Date of Sentence: Dec 12, 2011
 - b. Terms of Sentence: 5 years Fixed 7 years indeterminate

W

3.

5. Check whether a finding of guilty was made after a plea:

Of guilty [] Of not guilty

6. Did you appeal from the judgment of conviction or the imposition of sentence?

[] Yes No

If so, what was the Docket Number of the Appeal? _____

7. State concisely all the grounds on which you base your application for post conviction relief: (Use additional sheets if necessary.)

(a) Ineffective Assistance of Counsel

(b) Petitioners Plea was not Knowingly or Voluntarily entered because it was induced by unkept promises.

(c) The conviction and sentence is in violation of the U.S. and Idaho State Constitution.

8. Prior to this petition, have you filed with respect to this conviction:

a. Petitions in State or Federal Court for habeas corpus? NO

b. Any other petitions, motions, or applications in any other court? yes

c. If you answered yes to a or b above, state the name and court in which each petition, motion or application was filed:

Rule 35 motion, Sixth Judicial District Court, Bannock County.

9. If your application is based upon the failure of counsel to adequately represent you, state concisely *and in detail* what counsel failed to do in representing your interests:

(a) obtain and present obvious Brady/Giblio materials to the court.

(b) used promises to obtain a coerced guilty plea from me.

(c) Failed to file appropriate motions to withdraw my guilty plea and to dismiss my charges due to tainted evidence/lab tests at ISP labs.

10. Are you seeking leave to proceed in forma pauperis, that is, requesting the proceeding be at county expense? (If your answer is "yes", you must fill out a

Motion to Proceed in Forma Pauperis and supporting affidavit.)

Yes [] No

11. Are you requesting the appointment of counsel to represent you in this case? (If your answer is "yes", you must fill out a Motion for the Appointment of Counsel and supporting affidavit, as well as a Motion to Proceed In Forma Pauperis and supporting affidavit.)

Yes [] No

12. State specifically the relief you seek:

1) allow me to withdraw my guilty pleas
2) Vacate my sentence and conviction
3) Order a hearing to dismiss my charges WITH PREJUDICE due to tainted evidence, and corruption at the ISP Forensic lab

13. This Petition may be accompanied by affidavits in support of the petition. (Forms for this are available.)

DATED this 16 day of August, 2012.

Kent E Hall
Petitioner

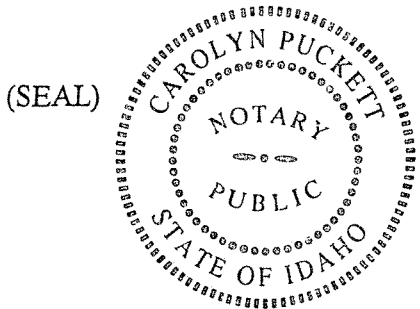
STATE OF IDAHO)
) ss
County of Ada)

Kent E Hall, being sworn, deposes and says that the party is the Petitioner in the above-entitled appeal and that all statements in this PETITION FOR POST CONVICTION RELIEF are true and correct to the best of his or her knowledge and belief.

Kent E Hall
Petitioner

SUBSCRIBED AND SWORN and AFFIRMED to before me this 16th day of

August, 2012



[Signature]
Notary Public for Idaho
Commission expires: 2-17-15

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 16 day of August, 2012, I mailed a copy of this PETITION FOR POST CONVICTION RELIEF for the purposes of filing with the court and of mailing a true and correct copy via prison mail system to the U.S. mail system to:

BANNOCK County Prosecuting Attorney
624 E. Center
Pocatello Id. 83201

[Signature]
Petitioner

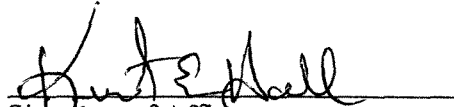
AFFIDAVIT OF FACTS IN SUPPORT OF POST-CONVICTION PETITION

STATE OF IDAHO)
COUNTY OF ADA) ss
)

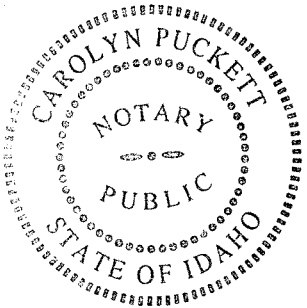
Kent E. Hall, being first duly sworn on oath, deposes and says:


- 1) To induce my to enter a guilty plea in my cases, I was PROMISED I would receive DRUG COURT and subsequent probation, NO PRISON TERM.
- 2) ISP Forensic labs corrupted the alleged drug samples submitted in my case (see attached letters from ISP Major Kendrick Wills, Forensic services commander) and thus violated my rights to due process.
- 3) my counsel REFUSED to file a motion to allow me to withdraw my guilty plea upon learning of the Facts stated above.
- 4) my counsel REFUSED to file a motion to DISMISS my charges when I asked him to after learning about the tainted ISP Forensic labs tests, etc.
- 5) I was under the influence of narcotics and NOT COMPETENT to waive my right to a preliminary hearing in my cases and did not understand the consequences of doing so.

Further your affiant sayeth not.


Signature of Affiant

SUBSCRIBED AND SWORN AND AFFIRMED TO before me this 16 day of
August, 2012




Notary Public for Idaho
My Commission Expires: 2-17-15

MAY-03-2011 TUE 09:39 AM ISP

FAX NO. [REDACTED]

P. 01/03



Colonel G. Jerry Russell
Director

Idaho State Police

Service Since 1939



C.L. "Butch" Otter
Governor

TO: IDAHO COUNTY PROSECUTING ATTORNEYS
AND IDAHO MUNICIPAL ATTORNEYS

RE: POSSIBLE *BRADY/GIGLIO* MATERIAL
Idaho State Police, Forensics Lab Manager Skyler Anderson

DATE: MAY 3, 2011

The purpose of this letter is to advise you of potential *Brady/Giglio* material that has recently been identified concerning an ISP Forensic Laboratory scientist. The situation is as follows.

On February 24, 2011, ISP Capt. Clark Rollins received an Idaho State Police Administrative Incident Report from ISP Lab Improvement Manager Matthew Gamette regarding Skyler Anderson. Gamette alleged that Mr. Anderson maintained an ongoing unauthorized quantity of controlled narcotics for display purposes, outside the practices of the Forensics Quality Manual and without proper documentation, tracking and auditing. During yearly audits of the Region 5 lab facility, Mr. Anderson and others intentionally hid the unauthorized "display drugs" from auditors to avoid detection of this practice. Mr. Anderson personally hid the drugs from auditors on at least four occasions.

ISP Det. Julie Donahue investigated this individual. Her written reports are available at your request. Please feel free to contact me if you have any questions at 208-884-7207.

Sincerely,

Major Kedrick Wills
Forensic Services Commander
Idaho State Police

MAY-03-2011 TUE 09:39 AM ISP

FAX NO. ~~XXXXXXXXXX~~

P. 02/03



Colonel G. Jerry Russell
Director

Idaho State Police

Service Since 1939



C.L. "Butch" Otter
Governor

TO: IDAHO COUNTY PROSECUTING ATTORNEYS
AND IDAHO MUNICIPAL ATTORNEYS

RE: POSSIBLE *BRADY/GIGLIO* MATERIAL
Idaho State Police, Forensic Scientist Lamora Lewis

DATE: MAY 3, 2011

The purpose of this letter is to advise you of potential *Brady/Giglio* material that has recently been identified concerning an ISP Forensic Laboratory scientist. The situation is as follows.

On February 23, 2011, at approximately 4:45 p.m., ISP Headquarters Lab Manager Skyler Anderson and Region 5 Lab Manager Shannon Larson had a telephone conversation. Mr. Anderson told Ms. Larson that there was a box of drugs in the Region 5 Lab that was used for "tours" and "show and tell." He also told Ms. Larson that the drugs in the box were not tracked and were untraceable. He told her the box of drugs might be in the vault, but since there was an audit coming up, it might be somewhere else. Mr. Anderson told Ms. Larson that Lamora Lewis would know where the box was. When Ms. Larson asked Ms. Lewis about the box of drugs that was used for "tours," Ms. Lewis climbed up on the drug bench, lifted the ceiling tiles, and pulled out a box of drugs. When interviewed, she explained how she became involved in this intentional deception. She stated that she knew that intentionally hiding the box from auditors was wrong and stated "because if you are hiding it obviously something is wrong, but I know I should have said something."

ISP Det. Julie Donahue investigated this individual. Her written reports are available at your request. Please feel free to call me if you have any questions at 208-884-7207.

Sincerely,

Major Kedrick Wills
Forensic Services Commander
Idaho State Police



Idaho State Police

Service Since 1939



Colonel G. Jerry Russell
Director

C.L. "Butch" Otter
Governor

TO: IDAHO COUNTY PROSECUTING ATTORNEYS
AND IDAHO MUNICIPAL ATTORNEYS

RE: POSSIBLE *BRADY/GIGLIO* MATERIAL
Idaho State Police, Forensic Lab Scientist Susan Williamson

DATE: MAY 3, 2011

The purpose of this letter is to advise you of potential *Brady/Giglio* material that has recently been identified concerning an ISP Forensic Laboratory scientist. The situation is as follows.

In 2003, ISP Scientist Susan Williamson ordered Gamma-hydroxybutyric Acid (GHB) with verbal approval from her then immediate supervisor. She submitted the proper DEA forms, but did not check the ISP Forensic Quality Manual's authorized amounts and ordered more than the manual allowed. Ms. Williamson deliberately kept the GHB secreted within the lab on the top shelf of her evidence vault, on the very back of the shelf, and most recently kept it in a secure area in a friction lid can. When asked why she put it there, she said that she put it there because she knew no one would find it there. All the documentation was kept with it and the unused amount was completely accounted for. When asked if she had ever hidden anything else from inspectors or auditors, she said "No, this is my only skeleton in my closet."

ISP Det. Julie Donahue investigated this individual. Her written reports are available at your request. If you have any questions, please feel free to call me at (208) 884-7207.

Sincerely,

A handwritten signature in black ink, appearing to read "Kedrick Wills".

Major Kedrick Wills
Forensic Services Commander
Idaho State Police

ALLI SEE FOR SHANNON LARSON IS A SPEEDING TICKET AND A DIVORCE IN 2009

1-----

Shannon Ann Larson vs. Gary Robert Larson
Case: CV-DR-2009-19826 Magistrate Filed: 10/19/2009 Subtype: Domestic Relations Judge: David E. Day Status: Closed 12/10/2009
Defendants: Larson, Gary Robert
Plaintiffs: Larson, Shannon Ann

1 Cases Found.

State of Idaho vs. Shannon A Larson
No hearings scheduled
Case: CR-IN-2008-0046700 Magistrate Judge: Magistrate Court Clerk Amount due: \$0.00 Closed
Charges: Violation Date Charge Citation Disposition
10/17/2008 I49-654 Speeding Basic Rule- No Speed Listed 1316627 Finding: Guilty
Officer: Christensen, Kyle, BO Disposition date: 11/12/2008
Fines/fees: \$75.00

Register of actions: Date
10/22/2008 New Case Filed - Infraction
11/12/2008 Ada Default Letter- Overdue - Step 1, Failure to Appear - Charge # 1, Speeding Basic Rule- No Speed Listed Appearance date: 11/12/2008
11/12/2008 STATUS CHANGED: Closed pending clerk action
12/02/2008 Notice of Nonpayment Infraction- Overdue - Step 1, Failure to Pay Fines and Fees - Charge # 1, Speeding Basic Rule- No Speed Listed
02/12/2009 STATUS CHANGED: closed

2-----

1 Cases Found.

State of Idaho vs. Shannon A Larson
No hearings scheduled
Case: CR-IN-2008-0046700 Magistrate Judge: Magistrate Court Clerk Amount due: \$0.00 Closed
Charges: Violation Date Charge Citation Disposition
10/17/2008 I49-654 Speeding Basic Rule- No Speed Listed 1316627 Finding: Guilty
Officer: Christensen, Kyle, BO Disposition date: 11/12/2008
Fines/fees: \$75.00

Register of actions: Date
10/22/2008 New Case Filed - Infraction
11/12/2008 Ada Default Letter- Overdue - Step 1, Failure to Appear - Charge # 1, Speeding Basic Rule- No Speed Listed Appearance date: 11/12/2008
11/12/2008 STATUS CHANGED: Closed pending clerk action
12/02/2008 Notice of Nonpayment Infraction- Overdue - Step 1, Failure to Pay Fines and Fees - Charge # 1, Speeding Basic Rule- No Speed Listed
02/12/2009 STATUS CHANGED: closed

State of Idaho vs. Natasha D Wheatley
No hearings scheduled
Case: CR-2000-0112263-IN

Bingham

1 Cases Found.

State of Idaho vs. Natasha D. Wheatley
No hearings scheduled
Case: CR-2002-0006260 Magistrate Judge: Magistrate Court Clerks Amount due: \$0.00 Closed
Charges: Violation Date Charge Citation Disposition
06/17/2002 I49-654(2) Speed-exceed Maximum Speed Limit 38523 Finding: Guilty
Officer: Myler, Todd, 2000 Disposition date: 07/05/2002
Fines/fees: \$53.00

APP 3/12/12
R35 5/29/12

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

Register #CR-2011-08147-FE

STATE OF IDAHO,

Plaintiff,

-vs-

KENT EMMITT HALL,

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

MINUTE ENTRY, JUDGMENT
OF CONVICTION & COMMITMENT
ORDER

On December 12, 2011, the Defendant entered a plea of GUILTY to the charge of **POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A);**

On January 30, 2012, the Defendant appeared with his counsel, Ian Johnson, for sentencing. Cleve Colson, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheila Fish performed as Court Reporter for this proceeding.

A pre-sentence investigation report was received and reviewed by the Court. The Court received corrections and objections to the report from the Defendant's counsel. The Court heard comments and recommendations from respective counsel, and a statement from the Defendant.

Register No. CR-2011-08147-FE

Minute Entry, Judgment of Conviction & Commitment Order

Page 1

Being fully advised in the premises,

IT IS HEREBY ORDERED that the Defendant be and is herewith sentenced to the custody of the Idaho Department of Correction pursuant to Idaho Code 19-2513, for a **UNIFIED TERM OF 12 YEARS OF WHICH FIVE YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SEVEN YEARS**. During the fixed term of confinement, said Defendant shall not be eligible for parole or discharge, credit or reduction of sentence for good conduct, except as provided by Idaho Code Section 20-1-1(d). Said sentence shall run concurrently to the sentence imposed in Bannock County case number CR-2011-08364-FE.

IT IS FURTHER ORDERED that the Defendant receive credit for time served in this matter. The Defendant was arrested in this matter on May 20, 2011 and remained in custody until being released on August 10, 2011, 83 days. The Defendant's release was revoked on December 25, 2011 and the Defendant remained in custody until the date of sentencing, January 30, 2012, 37 days. Therefore, the Defendant shall receive credit for a total of 120 days served in the Bannock County Jail in this matter.

IT IS FURTHER ORDERED the Defendant shall pay the following upon his release:

\$265.50	Court Costs
\$750.00	District Court Fund

The Defendant shall pay the sum of \$750.00 to the County for costs of defense, pursuant to Idaho Code 19-854. The sum so paid shall be remitted to the County Auditor who shall deposit

said amount directly into the District Court Fund in and for Bannock County.

RESTITUTION ORDER

IT IS HEREBY ORDERED that the above named Defendant shall pay the following;

\$200.00	Restitution to the victim: Forensic Services 700 South Stratford Dr Meridian, ID 83642-6202
\$ 50.00	Restitution to the victim; 6 th District Narcotic Enforcement Units Pocatello Police Department PO Box 2877 Pocatello, ID 83206-2877

IT IS FURTHER ORDERED that the said Defendant be and he is hereby **REMANDED** to the custody of the Bannock County Sheriff to be by him delivered to the proper officer or officers and to be by said officer or officers conveyed to said site.

Defendant was advised of his right to appeal, and that said appeal must be filed with the Idaho Supreme Court no later than 42 days from the date the sentence is imposed. Defendant was further advised that a person who is unable to pay the costs of an appeal has the right to apply for leave to appeal *in forma pauperis*.

COMMITMENT ORDER

Now, on this 30th day of January, 2012, the Bannock County Prosecuting Attorney with the Defendant and his counsel, Ian Johnson, came into Court. The Defendant was duly informed by the

Court of the nature of the Information filed against him for the crime of **POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A)**, committed on or about the 20th day of May, 2011, of his arraignment and plea of **GUILTY** as charged in the Information on the 12th day of December, 2011.

The Defendant was asked by the Court if he had any legal cause to show why judgment should not be pronounced against him to which he replied that he had none. And no sufficient cause being shown or appearing to the Court;

NOW, THEREFORE, the said Defendant having been convicted of the crime of **POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A)**, it is hereby ordered, considered and adjudged that the said Defendant, **KENT EMMITT HALL**, be imprisoned and kept at a site designated by the Idaho State Board of Correction for a **UNIFIED TERM OF 12 YEARS OF WHICH FIVE YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SEVEN YEARS**, commencing from the date of his sentence.

DATED February 1, 2012

_____/s/
STEPHEN S. DUNN
District Judge

NAME: KENT EMMITT HALL
DATE OF OFFENSE: MAY 20, 2011

DOB: [REDACTED]

SS#: [REDACTED]

STATE OF IDAHO)
)
COUNTY OF BANNOCK)

I, Dale Hatch, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock, do hereby certify the foregoing to be a full, true and correct copy of the Judgment duly made and entered on the Minutes of the said District Court in the above entitled action, and that I have compared the same with the original and the same is a correct transcript therefrom and/or the whole thereof.

ATTEST my hand and the seal of said District Court on the 31st day of January, 2012.

DALE HATCH, Clerk

By _____ /s/ _____
Deputy Clerk

ian
APP 3/12/12
R35 5/29/12

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

Register #CR-2011-08364-FE

STATE OF IDAHO,)

Plaintiff,)

-vs-)

KENT EMMITT HALL,)

DOB: [REDACTED])

SSN: [REDACTED])

Defendant.)

MINUTE ENTRY, JUDGMENT
OF CONVICTION & COMMITMENT
ORDER

On December 12, 2011, the Defendant entered a plea of GUILTY to the charge of **DELIVERY OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A);**

On January 30, 2012, the Defendant appeared with his counsel, Ian Johnson, for sentencing. Cleve Colson, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheila Fish performed as Court Reporter for this proceeding.

A pre-sentence investigation report was received and reviewed by the Court. The Court received corrections and objections to the report from the Defendant's counsel. The Court heard comments and recommendations from respective counsel, and a statement from the Defendant.

Being fully advised in the premises,

IT IS HEREBY ORDERED that the Defendant be and is herewith sentenced to the custody of the Idaho Department of Correction pursuant to Idaho Code 19-2513, for a **UNIFIED TERM OF 12 YEARS OF WHICH FIVE YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SEVEN YEARS**. During the fixed term of confinement, said Defendant shall not be eligible for parole or discharge, credit or reduction of sentence for good conduct, except as provided by Idaho Code Section 20-1-1(d). Said sentence shall run concurrently to the sentence imposed in Bannock County case number CR-2011-08147-FE.

IT IS FURTHER ORDERED that the Defendant receive credit for time served in this matter. The Defendant was arrested in this matter on May 20, 2011 and remained in custody until being released on August 10, 2011, 83 days. The Defendant's release was revoked on December 25, 2011 and the Defendant remained in custody until the date of sentencing, January 30, 2012, 37 days. Therefore, the Defendant shall receive credit for a total of 120 days served in the Bannock County Jail in this matter.

IT IS FURTHER ORDERED the Defendant shall pay the following upon his release:

\$265.50	Court Costs
\$750.00	District Court Fund

The Defendant shall pay the sum of \$750.00 to the County for costs of defense, pursuant to Idaho Code 19-854. The sum so paid shall be remitted to the County Auditor who shall deposit

said amount directly into the District Court Fund in and for Bannock County.

RESTITUTION ORDER

IT IS HEREBY ORDERED that the above named Defendant shall pay the following;

\$600.00	Restitution to the victim: Forensic Services 700 South Stratford Dr Meridian, ID 83642-6202
\$365.00	Restitution to the victim; 6 th District Narcotic Enforcement Units Pocatello Police Department PO Box 2877 Pocatello, ID 83206-2877

IT IS FURTHER ORDERED that the said Defendant be and he is hereby **REMANDED** to the custody of the Bannock County Sheriff to be by him delivered to the proper officer or officers and to be by said officer or officers conveyed to said site.

Defendant was advised of his right to appeal, and that said appeal must be filed with the Idaho Supreme Court no later than 42 days from the date the sentence is imposed. Defendant was further advised that a person who is unable to pay the costs of an appeal has the right to apply for leave to appeal *in forma pauperis*.

COMMITMENT ORDER

Now, on this 30th day of January, 2012, the Bannock County Prosecuting Attorney with the Defendant and his counsel, Ian Johnson, came into Court. The Defendant was duly informed by the

FILED
BANNOCK COUNTY
CLERK OF DISTRICT COURT

2012 AUG 20 AM 11:22

BY [Signature]
DEPUTY CLERK

Inmate name Kent E. Hall
IDOC No. 30134 main dorm
Address PO Box 8509
BOISE ID 83707

Petitioner

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

KENT E HALL,)
)
Petitioner,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)

Case No. CR-2011-08147-FE
CR-2011-08364-FE

**MOTION AND AFFIDAVIT IN
SUPPORT FOR
APPOINTMENT OF
COUNSEL**

COMES NOW, Kent E. Hall, Petitioner in the above
entitled matter and moves this Honorable Court to grant Petitioner's Motion for Appointment of
Counsel for the reasons more fully set forth herein and in the Affidavit in Support of Motion for
Appointment of Counsel.

1. Petitioner is currently incarcerated within the Idaho Department of Corrections
under the direct care, custody and control of Warden Kirkham,
of the Southern Idaho Corr. Inst.

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

3. Petitioner/Respondent required assistance completing these pleadings, as he/she
was unable to do it him/herself.

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 1

Revised: 10/13/05

4. Other: _____

DATED this 16 day of August, 2012.

Kente Hall
Petitioner

AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL

STATE OF IDAHO)
) ss
County of ADA)

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

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the Southern Idaho Corr. Inst. under the care, custody and control of Warden Kirkhaa;
3. I am indigent and do not have any funds to hire private counsel;
4. I am without bank accounts, stocks, bonds, real estate or any other form of real property;
5. I am unable to provide any other form of security;
6. I am untrained in the law;
7. If I am forced to proceed without counsel being appointed I will be unfairly handicapped in competing with trained and competent counsel of the State;

Further your affiant sayeth naught.

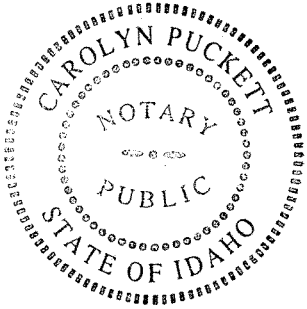
WHEREFORE, Petitioner respectfully prays that this Honorable Court issue
it's Order granting Petitioner's Motion for Appointment of Counsel to represent his/her interest,
or in the alternative grant any such relief to which it may appear the Petitioner is entitled to.

DATED This 16 day of August, 2012.

Kurt Hall
Petitioner

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 16th day
of August, 2012

(SEAL)



[Signature]
Notary Public for Idaho
Commission expires: 2-17-15

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 16 day of August, 2012. I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

BANNOCK County Prosecuting Attorney
624 E. Center
Pocatello Id. 83201

Kent E. Hall
Petitioner

FILED
BANNOCK COUNTY

2012 AUG 20 AM 11:22

KENT E. HALL #30134

Full Name of Party Filing Document

P O Box 8509, main Dorm

Mailing Address (Street or Post Office Box)

Boise Idaho 83707

City, State and Zip Code

BY CW
DEPUTY CLERK

Telephone

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

KENT E HALL
Plaintiff,

vs.

STATE OF IDAHO
Defendant.

CR-2011-08147-FE
Case No. CR-2011-08364-FE

MOTION AND AFFIDAVIT FOR
PERMISSION TO PROCEED ON PARTIAL
PAYMENT OF COURT FEES (PRISONER)

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

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

1. This is an action for (type of case) post conviction relief. I believe I am entitled to get what I am asking for.

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

3. I am unable to pay all the court costs now. I have attached to this affidavit a current statement of my inmate account, certified by a custodian of inmate accounts, that reflects the activity of the account over my period of incarceration or for the last twelve (12) months, whichever is less.

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

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

(Do not leave any items blank. If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.)

IDENTIFICATION AND RESIDENCE:

Name: Kent E. Hall #30134 Other name(s) I have used: _____

Address: P O Box 8501, Boise Id 83707

How long at that address? 1 1/2 yrs Phone: _____

Year and place of birth: Pocatello Id 8/14/56

DEPENDENTS:

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

Name of spouse: _____

My other dependents including minor children (use only initials and age to identify children) are: _____

1 son.

INCOME:

Amount of my income: \$ 0 per week month

Other than my inmate account I have outside money from: _____

My spouse's income: \$ 4/A per week month.

ASSETS:

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

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

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

Description (provide description for each item)	Value
Cash _____	<u>21.44</u>
Notes and Receivables _____	_____
Vehicles _____	_____
Bank/Credit Union/Savings/Checking Accounts _____	_____
Stocks/Bonds/Investments/Certificates of Deposit _____	_____
Trust Funds _____	_____
Retirement Accounts/IRAs/401(k)s _____	_____
Cash Value Insurance _____	_____
Motorcycles/Boats/RVs/Snowmobiles _____	_____
Furniture/Appliances _____	_____
Jewelry/Antiques/Collectibles _____	_____
Description (provide description for each item)	
TVs/Stereos/Computers/Electronics _____	_____
Tools/Equipment _____	_____
Sporting Goods/Guns _____	_____
Horses/Livestock/Tack _____	_____

Other (describe) _____

EXPENSES: (List all of your monthly expenses.)

Expense	Average Monthly Payment
Rent/House Payment _____	|
Vehicle Payment(s) _____	|
Credit Cards (List last four digits of each account number.)	|

Loans (name of lender and reason for loan)	|

Electricity/Natural Gas _____	|
Water/Sewer/Trash _____	|
Phone _____	|
Groceries _____	|
Clothing _____	|
Auto Fuel _____	|
Auto Maintenance _____	|
Cosmetics/Haircuts/Salons _____	|
Entertainment/Books/Magazines _____	|
Home Insurance _____	|

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

MISCELLANEOUS:

How much can you borrow? \$ 0 From whom? _____
 When did you file your last income tax return? _____ Amount of refund: \$ N/A

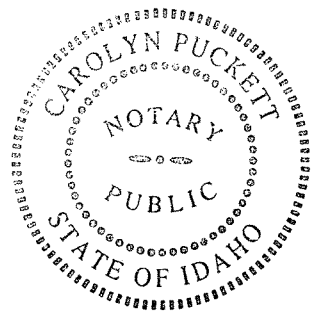
PERSONAL REFERENCES: (These persons must be able to verify information provided.)

Name	Address	Phone	Years Known
<u>Jan Simmons</u>	_____	<u>(208) 241-9427</u>	<u>56 yrs</u>
<u>Brent Adkins</u>	_____	<u>(208) 233-3024</u>	<u>56 yrs</u>
<u>Kent E Hall</u>	_____	<u>Kent E Hall</u>	_____

Typed/printed _____ Signature _____

STATE OF IDAHO)
 County of Ada) ss.

SUBSCRIBED AND SWORN before me on this 16th day of August, 2012.



[Signature]
 Notary Public for Idaho
 Residing at Boise
 Commission expires 6/7/15

: IDOC TRUST ===== OFFENDER BANK BALANCES ===== 08/16/2012 =

Doc No: 30134 Name: HALL, KENT EMMITT
 Account: CHK Status: ACTIVE

SICI/MAIN PRES FACIL
 TIER-3 CELL-1

Transaction Dates: 08/16/2011-08/16/2012

Beginning Balance	Total Charges	Total Payments	Current Balance
0.00	88.56	110.00	21.44

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
04/12/2012	HQ0581395-001	950-RREINCARCERATE	IBSUSPCHK	0.00	0.00
04/12/2012	HQ0581397-020	011-RCPT MO/CC	RTCP MO	25.00	25.00
04/19/2012	SI0582111-059	099-COMM SPL		21.50DB	3.50
04/27/2012	II0582765-002	072-METER MAIL	92693	2.15DB	1.35
04/30/2012	HQ0582957-015	011-RCPT MO/CC	RCPT MO	20.00	21.35
05/01/2012	SI0583285-004	070-PHOTO COPY	92690	1.50DB	19.85
05/03/2012	SI0583541-067	099-COMM SPL		13.25DB	6.60
05/03/2012	SI0583541-068	099-COMM SPL		6.09DB	0.51
05/10/2012	II0584427-002	072-METER MAIL	92751	0.40DB	0.11
06/05/2012	HQ0587757-015	011-RCPT MO/CC	RCPT MO	20.00	20.11
06/06/2012	SI0588011-002	070-PHOTO COPY	93295	4.55DB	15.56
06/07/2012	SI0588168-079	099-COMM SPL		8.68DB	6.88
06/07/2012	SI0588168-080	099-COMM SPL		4.35DB	2.53
06/15/2012	SI0589215-002	071-MED CO-PAY	518675	5.00DB	2.47DB
06/20/2012	SI0589628-017	071-MED CO-PAY	518898	5.00DB	7.47DB
07/05/2012	II0590893-014	072-METER MAIL	93391	0.65DB	8.12DB
07/10/2012	SI0591666-007	070-PHOTO COPY	93393	1.20DB	9.32DB
07/26/2012	HQ0593404-012	011-RCPT MO/CC	RCPT MO	20.00	10.68
07/27/2012	II0593577-013	072-METER MAIL	92893	0.65DB	10.03
08/09/2012	SI0595104-079	099-COMM SPL		8.59DB	1.44
08/10/2012	SI0595376-018	071-MED CO-PAY	519119	5.00DB	3.56DB
08/14/2012	HQ0595626-017	011-RCPT MO/CC	RCPT MO	25.00	21.44

[Faint, illegible text and a large signature scribble]

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY

2012 SEP -5 PM 2: 26

BY AKH
DEPUTY CLERK

ASHLEY GRAHAM, ISB #8496
Deputy Prosecuting Attorney

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

KENT HALL,
Petitioner,

vs.

STATE OF IDAHO,
Respondent.

CASE NO. CV-2012-3577-PC
Ref. Case No. CR-2011-8147-FE


MOTION FOR SUMMARY
DISMISSAL

COMES NOW State of Idaho, Respondent, by and through Ashley Graham, Deputy Prosecuting Attorney for Bannock County, and hereby moves the Court for Summary Dismissal dismissing Kent Hall Post Conviction Relief Petition pursuant to Idaho Code § 19-4906(c) on the general basis that, in light of the pleadings, answers, admissions, and the record of the underlying criminal case, the petition fails to raise a genuine issue of material fact.

Kent Hall's ineffective assistance of counsel claims fail to raise a genuine issue of material fact regarding both deficient performance and resulting prejudice. His other claims are either bare or conclusory, unsubstantiated by fact, procedurally defaulted, or clearly disproved by the record.

MOTION FOR SUMMARY DISMISSAL - 1

DATED this 5 day of September 2012.



ASHLEY GRAHAM
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5 day of September 2012, a true and correct copy of the foregoing MOTION FOR SUMMARY DISMISSAL was delivered to the following:

Kent Hall
SCIC
PO Box 8509
Boise, Idaho 83707

- Mail-Postage Pre-Paid
- Hand delivery
- Facsimile
- Courthouse Mail



ASHLEY GRAHAM
Deputy Prosecuting Attorney

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

CLERK OF DISTRICT COURT
BANNOCK COUNTY, IDAHO
2012 SEP -5 PM 2:25
[Handwritten signature]

ASHLEY GRAHAM, ISB #8496
Deputy Prosecuting Attorney

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

KENT HALL,	)	CASE NO. CV-2012-3577-PC
	)	Ref. Case No. CR-2011-8147-FE
Petitioner,)	
)	
vs.	)	ANSWER
)	
STATE OF IDAHO,)	
)	
Respondent.)	
_____)	

COMES NOW, the State of Idaho, by and through Deputy Prosecuting Attorney Ashley Graham, and does hereby answer Petitioner's ("Kent Hall") petition for post-conviction relief in the above-entitled action as follows:

I.
GENERAL RESPONSES TO HALL'S
POST-CONVICTION ALLEGATIONS

All allegations made by Kent Hall are denied by the state unless specifically admitted herein.

II.
SPECIFIC ANSWERS TO HALL'S
POST-CONVICTION ALLEGATIONS

1. Answering paragraph 1 of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations contained therein.
2. Answering paragraph 2 of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations contained therein.
3. Answering paragraph 3 of Hall's Petition for Post-Conviction Relief, Respondent denies the allegations contained therein. In CR-2011-8147-FE the Respondent was convicted of Possession of Meth with intent to deliver and Delivery of Meth. CR-2011-8364-FE has a separate post-conviction case pending and all allegations made regarding that case will be handled in a separate answer.
4. Answering paragraph 4(a) and 4(b) of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations.
5. Answering paragraph 5 of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations contained therein.
6. Answering paragraph 6 of Hall's Petition for Post-Conviction Relief, Respondent denies the allegations contained therein. The Respondent appealed in CR-2011-8147-FE the docket number is 39676-2012.
7. Answering paragraphs 7(a) through 7(c) of Hall's Petition for Post-Conviction Relief, Respondent denies the conclusory allegations contained therein.
8. Answering paragraphs 8(a), 8(b) and 8(c) of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations therein.

9. Answering paragraphs 9(a), 9(b) and 9(c) of Hall's Petition for Post-Conviction Relief for ineffective assistance of counsel, Respondent denies the conclusory allegations contained therein.
10. Paragraphs 10, 11 and 12 of Hall's Petition for Post-Conviction Relief regarding in forma pauperis request, request for appointment of counsel and requested relief are not factual allegations capable of being admitted or denied.

FIRST AFFIRMATIVE DEFENSE

Hall's petition fails to state any grounds upon which relief can be granted. Idaho Code § 19-4901(a); I.R.C.P. 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

To the extent Hall's claims should have been raised on direct appeal, the claims are procedurally defaulted. Idaho Code § 19-4901(b).

THIRD AFFIRMATIVE DEFENSE

Hall's Petition for Post-Conviction Relief contains bare and conclusory allegations unsubstantiated by affidavits, records, or other admissible evidence, and therefore fails to raise a genuine issue of material fact. Idaho Code §§ 19-4902(a), 19-4903, and 19-4906.

FOURTH AFFIRMATIVE DEFENSE


Hall's Petition for Post-Conviction Relief fails to state a claim upon which relief can be granted because the claims are uncognizable or are legally insufficient.

WHEREFORE, Respondent prays for relief as follows:

- a) That Hall's claims for post-conviction relief be denied;
- b) That Hall's claims for post-conviction relief be dismissed;
- c) For such other and further relief as the court deems necessary in

the case.

DATED this 5 day of September 2012.



ASHLEY GRAHAM
Deputy Prosecuting Attorney
for Bannock County

VERIFICATION

The Respondent, by and through Deputy Prosecuting Attorney Ashley Graham, being first duly sworn under oath, deposes and says:

- 1) I am the attorney for the Respondent in the above-entitled matter.
- 2) That the facts contained in the foregoing Answer to Petitioner's Petition

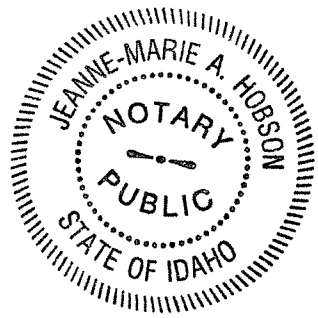
for Post-Conviction Relief are true and correct to the best of my information and belief.

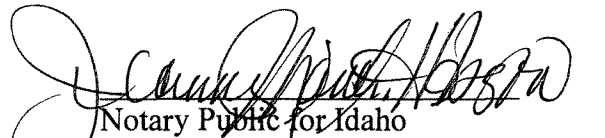

ASHLEY GRAHAM
Deputy Prosecuting Attorney
for Bannock County

STATE OF IDAHO)
) ss:
County of Bannock)

I hereby certify that on this 5 September 2012, personally appeared before me [my name] who, being first duly sworn, declared that he is representing the Respondent in this action, and that the statements contained in the foregoing document are believed to be true to the best of my information and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year first above written.




Notary Public for Idaho
Residing at: Pocatello, Idaho
My Commission Expires: 9.24.16

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5 day of September 2012, I caused a true and correct copy of the foregoing ANSWER to be placed in the United States mail, postage prepaid, addressed to:

Kent Hall
SICI
30134 Main Dorm
P.O. Box 8509
Boise, Idaho 83707



ASHLEY GRAHAM

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2012 SEP 19 PM 2:34

BY BKL
DEPUTY CLERK

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

KENT HALL,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

Case No. CV-2012-3577-PC
CV-2012-3578-PC

**NOTICE OF INTENT TO DENY
COUNSEL AND DISMISS PETITION
FOR POST-CONVICTION RELIEF**

On August 20, 2012, Petitioner, Kent Hall, filed Petitions for Post-Conviction Relief on Case No. CR-2011-08147 and Case No. CR-2011-08364 respectively. Hall makes the same allegations in his Post-Conviction Relief Petition for each of the cases; therefore, the Court will address Hall's Petitions for Post-Conviction Relief together and issue one decision to be applied to both cases.

Having reviewed Hall's Motions and Affidavits for Appointment of Counsel and his Petitions and Affidavits for Post-Conviction Relief, the Court hereby issues its Notice of Intent to DENY Counsel and DISMISS the Petitions for Post-Conviction Relief.

BACKGROUND

On December 14, 2011 Hall pled guilty to Possession of a Controlled Substance with Intent to Deliver, Methamphetamine, in Case No. CR-2011-08147 and Delivery of a Controlled
Notice 1
Case No. CV-2012-3577-PC and CV-2012-3578-PC

Substance, Methamphetamine in Case No. CR-2011-8364, both in violation of I.C. §37-2732(a)(1)(A). On January 31, 2012, the Court sentenced the Hall to five (5) years fixed and seven (7) years indeterminate for a unified sentence of twelve (12) years in each case to be served concurrently with one another. Hall has appealed both cases to the Idaho Supreme Court, Docket No. 39676-2012, and is there awaiting a resolution. Additionally, in May 2012, Hall filed Idaho Criminal Rule 35 motions in each of the cases, which this Court denied.

Hall filed a Petition for Post-Conviction Relief in each of the above named cases on August 20, 2012. The Petitions and accompanying affidavits are virtually identical in the two cases, with Hall alleging the following: 1) that he received ineffective assistance of counsel; 2) that his plea was not knowingly or voluntarily entered because it was induced by the false promise for a diversion into drug court, which would not include a prison term; 3) his due process rights were violated due to corrupted drug samples by the ISP Forensic Lab resulting in violations of Brady/Giglio; and 4) he was not competent to waive his right to a preliminary hearing because he was under the influence of narcotics.

STANDARD OF REVIEW

Proceedings under the Uniform Post-Conviction Procedure Act (UPCPA) are civil in nature.¹ The petitioner must prove the allegations giving rise to the application by a preponderance of evidence.² The application must include affidavits, records, or other evidence supporting its allegations, or must state why such supporting evidence is not included.³ The application must be verified with respect to facts within the personal knowledge of the

¹ *Stuart v. State*, 136 Idaho 490, 495, 36 P.3d 1278, 1282 (2001).

² *Grube v. State*, 134 Idaho 24, 995 P.2d 794 (2000).

³ *Id.*

petitioner.⁴ A court is required to accept the petitioner's un rebutted allegations as true, but not the petitioner's conclusions.⁵ A petitioner is not allowed to raise any issue that could have been raised on a direct appeal, but was not so raised, unless those issues were not known and could not have reasonably been known at the time of the appeal.⁶ Similarly, the petitioner may not re-litigate the same issues that were already presented in a direct appeal.⁷

When the alleged facts, even if true, would not entitle the petitioner to relief, the trial court may dismiss the application without holding an evidentiary hearing.⁸ Summary disposition of a petition is appropriate if the petitioner's evidence raises no genuine issue of material fact.⁹ Allegations contained in the application are insufficient for the granting of relief when (1) they are clearly disproved by the record of the original proceedings, or (2) do not justify relief as a matter of law.¹⁰ However, “[s]ummary dismissal of an application for post-conviction relief may be appropriate, . . . , even where the state does not controvert the petitioner's evidence because the court is not required to accept either the petitioner's mere conclusory allegations, unsupported by admissible evidence, or the petitioner's conclusions of law.”¹¹

DISCUSSION

In his Petition for Post-Conviction Relief, Hall alleges that his constitutional rights were violated due to the following occurrences: 1) he was induced to plead guilty by a promise to be diverted into drug court and thereby avoid a prison term; 2) he was incompetent to waive his

⁴ I.C. § 19-4903.

⁵ *Ferrier v. State*, 135 Idaho 797, 799, 25 P.3d 110, 112 (2001).

⁶ *Raudebaugh v. State*, 135 Idaho 602, 603, 21 P.3d 924, 925 (2001).

⁷ *Gilpin-Grubb v. State*, 138 Idaho 76, 81, 57 P.3d 787, 792 (2002).

⁸ *Stuart*, 118 Idaho 869, 801 P.2d 1220 (1990) (citing *Cooper v. State*, 96 Idaho 542, 545, 531 P.2d 1187, 1190 (1975)).

⁹ I.C. § 19-4906(b), (c).

¹⁰ *Stuart*, 118 Idaho 869, 801 P.2d 1220.

¹¹ *State v. LePage*, 138 Idaho 803, 807, 69 P.3d 1064, 1068 (Ct. App. 2003); *Goodwin v. State*, 138 Idaho 269, 272, 61 P.2d 626, 629 (Ct. App. 2003); *Roman v. State*, 125 Idaho 644, 647, 873 P.2d 898, 901 (Ct. App. 1994).

preliminary hearing due to narcotic use; 3) his drug samples were corrupted by the Idaho State Police (ISP) Forensics Lab; 4) he received ineffective counsel because his attorney did not object to the alleged corrupted drug analysis and also induced his guilty plea by making false promises of drug court. Hall has requested that counsel be appointed to assist him.

I. Do Hall's allegations raise the possibility of a valid claim entitling him to the assistance of appointed counsel?

Idaho appellate courts have clearly established that it is error for a district court to deny a Petition for Post-Conviction Relief on the merits before ruling on the petitioner's request for post-conviction counsel.¹² A district court abuses its discretion if it fails to determine whether an applicant for post-conviction relief is entitled to court-appointed counsel before denying the application on the merits.¹³ Therefore, Hall's Motion for Appointment of Counsel must be addressed first.

If a post-conviction petitioner is unable to pay for the expenses of representation, the trial court may appoint counsel to represent him.¹⁴ The decision to grant or deny a request for court-appointed counsel is discretionary.¹⁵ Nevertheless, counsel should be appointed if the petitioner qualifies financially and alleges facts sufficient to raise the possibility of a valid claim.¹⁶ If all of the claims alleged in the petition are patently frivolous the trial court will deny the request for counsel.¹⁷ If the court decides the claims in the petition are frivolous, it should provide sufficient notice regarding the basis for its ruling to enable the petitioner to provide additional facts, if they exist, to

¹² *Hust v. State*, 147 Idaho 682, 685, 214 P.3d 668, 671 (Ct. App. 2009).

¹³ *Charboneau v. State*, 140 Idaho 789, 793, 102 P.3d 1108, 1112 (2004).

¹⁴ I.C. § 19-4904.

¹⁵ *Charboneau*, 140 Idaho at 792, 102 P.3d at 1111.

¹⁶ *Id.* at 793, 102 P.3d at 1112.

¹⁷ *Newman v. State*, 140 Idaho 491, 493, 95 P.3d 642, 644 (Ct. App. 2004).

demonstrate the existence of a non-frivolous claim.¹⁸

“[T]he proper standard for determining whether to appoint counsel for an indigent petitioner in a post-conviction proceeding is whether the petition alleges facts showing the possibility of a valid claim that would require further investigation on the defendant's behalf.”¹⁹ All inferences must be drawn in favor of the unrepresented petitioner because they cannot be expected to know how to properly allege the necessary facts.²⁰ “A trial court must do more than determine whether the petition alleges a valid claim. The court must also consider whether circumstances prevent the petitioner from making a more thorough investigation into the facts.”²¹ Therefore, the trial court should appoint counsel if the petition alleges facts showing the possibility of a valid claim such that a reasonable person with adequate means would be willing to retain counsel to conduct a further investigation into the claim.²²

Thus, in determining whether Hall raised the possibility of a valid claim, the Court will consider whether the appointment of counsel would have assisted him in conducting an investigation into facts not in the record and whether a reasonable person with adequate means would have been willing to retain counsel to conduct that further investigation.

As discussed below, Hall’s allegations that his guilty plea was not voluntary due to false promises and his waiver of a preliminary trial was also involuntary due to narcotics use is directly contradicted by the record. Furthermore, the Petition and Affidavit do not provide facts or argument relative to how the “potential Brady/Giglio material” actually affected these cases. Finally, Hall’s ineffective assistance arguments are directly dependent on the previously

¹⁸ *Charboneau*, 140 Idaho at 792, 102 P.3d at 1111.

¹⁹ *Workman v. State*, 144 Idaho 518, 529, 164 P.3d 798, 809 (2007).

²⁰ *Charboneau*, 140 Idaho at 794, 102 P.3d at 1113.

²¹ *Swader v. State*, 143 Idaho 651, 654-55, 152 P.3d 12, 15-16 (2007).

²² *Id.* at 655, 152 P.3d at 16

mentioned allegations. Therefore, as explained in more detail below, Hall does not raise the possibility of a valid claim. Notice is therefore given of the Court's Intent to Dismiss Hall's Post-Conviction Petition and his request for counsel.

II. Hall's guilty plea was made Knowingly and Voluntarily.

Hall alleges that his guilty plea was not made knowingly and voluntarily because he was induced by a false promise that he would be diverted into drug court, without a prison sentence, in exchange for his guilty plea.²³ The Court finds that there is no merit to Hall's allegation concerning his guilty plea. Prior to pleading guilty, Hall completed a guilty plea questionnaire in each of his cases and delivered it to the Court at his change-of-plea hearing on December 14, 2012. In both cases, Hall affirmed in the questionnaire the terms of his plea agreement, wherein the State promised to dismiss three counts and a persistent violator charge in exchange for Hall's guilty plea to Possession of a Controlled Substance with Intent to Deliver, Methamphetamine (Case No. CR-2011-08147) and Delivery of a Controlled Substance, Methamphetamine (Case No. CR-2011-8364).²⁴ Furthermore, Hall responded in each questionnaire that no person had promised a special sentence, reward, favorable treatment or leniency with regard to his plea.²⁵ Finally, Hall responded in the questionnaire that he understood that no one, including his attorney could force him to plead guilty in his case, and that his guilty plea was being entered freely and voluntarily.²⁶ Therefore, pursuant to Hall's Guilty Plea Questionnaire and the colloquy the Court conducted at the change-of-plea hearing, the Court found that Hall's guilty pleas were knowingly and voluntarily given and that no promises had been made to him beyond the plea agreement, which was cited on the record. Hall's bare assertions to the contrary cannot now

²³ Petition for Post-Conviction Relief; Affidavit of Facts in Support of Post-Conviction Petition, p. 1, ¶1.

²⁴ Guilty Plea Questionnaire, ¶6, filed December 14, 2012.

²⁵ *Id.* at ¶12.

²⁶ *Id.* at ¶29; ¶30.

change the record to his advantage. Therefore, the Court finds there is no merit to Hall's allegations that his plea was not knowingly and voluntarily entered.

III. Hall's Waiver of his Preliminary Hearing was entered Knowingly and Voluntarily.

Hall alleges that he was under the influence of narcotics and therefore was not competent to waive his right to a preliminary hearing.²⁷ Although he does not explicitly state it, the Court presumes that Hall believes that his procedural due process rights were violated by the alleged involuntariness of his waiver of the preliminary hearing. However, again, the Court does not find merit to Hall's allegations. On June 13, 2011, Hall appeared in front of Magistrate Judge Clark where he was questioned about his understanding of his right to a preliminary hearing and the voluntariness of the decision to waive the hearing. Furthermore, Hall signed and submitted a questionnaire, wherein he acknowledged he understood the rights he had at a preliminary hearing and that he would be foregoing those rights by waiving the hearing. Hall additionally had the aid of counsel at all times during the proceedings in this matter, including during the waiver of his preliminary hearing. Therefore, the Magistrate Court found that Hall's waiver of the preliminary hearing was knowingly and voluntarily entered,²⁸ and this Court will not make a finding to the contrary on the basis of Hall's unsupported allegations.

IV. Hall's allegations of improprieties at the state lab are barred by his guilty plea.

Hall alleges that the "ISP Forensic labs corrupted the alleged drug samples submitted in [his] case."²⁹ When a defendant knowingly and voluntarily pleads guilty all challenges to non-

²⁷ Affidavit of Facts in Support of Post-Conviction Petition, p. 1, ¶ 5.

²⁸ Minute Entry and Order Waiving Preliminary Hearing, June 13, 2011.

²⁹ Affidavit of Facts in Support of Post-Conviction Petition, p. 1, # 2.

jurisdictional defects are simultaneously waived.³⁰ As discussed above, the Court finds that Hall's guilty plea was not induced by a false promise and that the plea was therefore knowingly and voluntarily made. Because his plea was knowing and voluntary Hall waived his ability to claim that improprieties at the state lab led to his conviction.

Furthermore, although Hall attached three letters, from Major Kendrick Wills, dated May 3, 2011, advising of possible Brady/Giglio violations at the Lab, Hall has failed to show how the incidents at the lab are remotely relevant to the testing of the drugs in Hall's case. In short, the potential Brady/Giglio material identified in the attachments to the Petition is not evidence that there was any actual contamination related to Hall's case. Finally, Hall's conclusory allegations to the contrary are not supported by any evidence.

V. Hall did not Receive Ineffective Assistance of Counsel

Hall claims his counsel was ineffective because counsel 1) failed to "obtain and present obvious Brady/Giglio materials to the court" 2) "used promises to obtain a coerced guilty plea; and 3) failed to file motions to withdraw the guilty plea after learning of the alleged incidents at the ISP Forensics Lab."³¹

The UPCPA provides that ineffective assistance of counsel is a valid claim for Post-Conviction Relief.³² To prevail on an ineffective assistance of counsel claim the petitioner must satisfy both parts of the two-part *Strickland* test.³³ First, the petitioner must show that when judged objectively counsel's representation failed to meet reasonable and typical professional

³⁰ *Stone v. State*, 108 Idaho 822, 826, 702 P.2d 860, 864 (Ct. App. 1985).

³¹ Petition for Post-Conviction Relief, p. 3, ¶9.

³² *Murray v. State*, 121 Idaho 918, 924–25, 828 P.2d 1323, 1329–30 (Ct. App. 1992).

³³ *McKeeth v. State*, 140 Idaho 847, 850 103 P.3d 460, 463 (2004) (citing *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct 2052, 2064, 80 L.Ed.2d 674, 693 (1984)); *Gilpin-Grubb*, 138 Idaho at 80, 57 P.3d at 791.

norms.³⁴ The petitioner must overcome the “strong presumption that trial counsel’s performance fell within the wide range of reasonable professional assistance.”³⁵ Second, if the representation failed to meet the reasonable and typical professional norms, the petitioner must show that the result would have been different if counsel’s representation had not been ineffective.³⁶ To demonstrate prejudice, the petitioner must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the outcome of the case would have been different.³⁷ Hall must prove by a preponderance of evidence both parts of the *Strickland* test.

The *Strickland* test also applies to petitioners claiming ineffective assistance of counsel during plea agreements.³⁸ Petitioners for Post-Conviction Relief, as prior criminal defendants, are entitled to “the effective assistance of competent counsel” prior to entering into any plea agreement.³⁹ When a petitioner alleges a deficiency in regards to a plea agreement the petitioner must demonstrate “that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.”⁴⁰

Hall’s claims clearly do not pass the first part of the Strickland test. Hall claims that his counsel coerced a guilty plea by making him a false promise and failed to object or make a motion for withdrawal of Hall’s guilty plea after receiving notification of the potential Brady/Giglio violations at the ISP Forensics Lab. First, as stated above, the Court has found that Hall’s plea of guilty was knowingly and voluntarily made, and Hall’s unsupported allegations of attorney coercion do not create a valid ineffective assistance of counsel claim. Additionally, Hall

³⁴ *Padilla v. Kentucky*, 130 S.Ct. 1473, 1482 (2010).

³⁵ *Milburn*, 135 Idaho 701, 706, 23 P.3d 775, 780 (Ct. App. 2000).

³⁶ *Padilla*, 130 S.Ct. at 1482.

³⁷ *Gilpin-Grubb*, 138 Idaho at 81, 57 P.3d at 792.

³⁸ *McKeeth*, 140 Idaho 850, 103 P.3d 463.

³⁹ *Padilla*, 130 S.Ct. at 1480–81.

⁴⁰ *Ridgley v. State*, 148 Idaho 671, 676, 227 P.3d 925, 930 (2010).

has failed to show that his attorney's failure to investigate the alleged Brady/Giglio violations at the ISP Forensics lab and make corresponding motions was unreasonable or violated professional norms. Hall has merely set forth conclusory allegations regarding his counsel's strategic decisions. As stated above, the Court cannot see any relevance between the incidents at the ISP forensics lab and the testing of the drugs in Hall's case. Furthermore, as discussed above, a voluntary guilty plea is a waiver of non-jurisdictional defects because, in effect, the defendant is admitting that he knowingly committed the acts that make up the elements of a crime; therefore, forensic testing becomes moot. Additionally, an in-field presumptive test for narcotics was performed at the time of Hall's arrest.⁴¹ The results of the test were positive for methamphetamine.⁴² Strategic or tactical decisions regarding what motions to make based on the posture of the case are made by trial counsel and will not be second-guessed on review, unless those decisions were made upon a basis of inadequate preparation, ignorance of the relevant law, or other shortcomings capable of objective evaluation.⁴³ Based upon Hall's admissions to law enforcement, the presumptive field test, and the positive test done by the ISP forensics lab, Hall has failed to show that his counsel's failure to make motions for a change of plea and dismissal of the case was unreasonable. Therefore, because the Court is not required to accept Hall's conclusory allegations or legal conclusions, and because there is no evidence, either asserted by Hall or in the record, that would overcome the strong presumption that the performance of his counsel fell within the wide range of reasonable professional assistance, he has failed to prove the first prong of the *Strickland* test.

Additionally, Hall has failed to show that his counsel's decisions not to file frivolous

⁴¹ Bannock County Sheriff's Office Detail Incident Report, attached to Affidavit of Probable Cause, May 23, 2011, p. 4.

⁴² *Id.*

⁴³ *Campbell v. State*, 130 Idaho 546, 548, 944 P.2d 143, 145 (Ct. App. 1997).

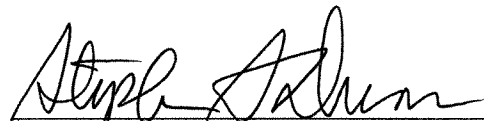
motions have prejudiced him. Because Hall has failed to prove either part of the *Strickland* test his claim of ineffective assistance of counsel fails.

CONCLUSION

Hall's Motion for Appointment of Counsel must be denied because he does not have the possibility of valid claim. His Petition for Post-Conviction Relief must also be denied because none of his claims or allegations has any supporting evidence. First, the record reflects that his waiver of the preliminary hearing and his eventual guilty plea were knowingly and voluntarily entered. Second, Hall's accusations of impropriety at the forensics lab are irrelevant to his case, and are anyway barred by his voluntary guilty plea. Finally, Hall has failed to prove either part of the *Strickland* test when alleging his counsel was ineffective. Therefore, Hall is given twenty (20) days to respond with additional facts on these issues or his Petition will be dismissed.

IT IS SO ORDERED.

DATED this 19th day of September, 2011


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of September, 2011, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.


Kent Hall
SCIS
PO Box 8509
Boise, ID 83707

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

Ashley Graham
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

DATED this 19 day of September, 2011.




Deputy Clerk

Court hereby **DENIES** Hall's Motion for Continuance because, as the Court explained in its Notice of Intent to Dismiss, when a defendant knowingly and voluntarily pleads guilty to the underlying charges all challenges to non-jurisdictional defects are simultaneously waived.¹ Hall knowingly and voluntarily pled guilty to his underlying charges; therefore, any allegations that he may have that the narcotics testing done in connection with his case was defective is irrelevant, and subpoenaing the Idaho State Police forensics lab will not further Hall's case. Therefore, the Court **DENIES** Hall's Motion to Continue.

Hall has not submitted any further evidence or argument in support of his Petitions for Post-Conviction Relief. Therefore, the Court hereby **DISMISSES** both of Hall's Petitions for Post-Conviction Relief because Hall failed to show any new or additional information that would justify reconsideration of this Court's Intent to Dismiss Hall's Petitions.

IT IS SO ORDERED.

DATED this ____ day of October, 2012


STEPHEN S. DUNN
District Judge

¹ *Stone v. State*, 108 Idaho 822, 826, 702 P.2d 860, 864 (Ct. App. 1985).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18 day of October, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

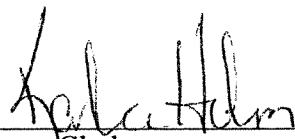
Kent Hall
SCIS
PO Box 8509
Boise, ID 83707

U.S. Mail
 Overnight Delivery
 Hand Delivery
 Facsimile

Ashley Graham
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

U.S. Mail
 Overnight Delivery
 Hand Delivery
 Facsimile

DATED this 18 day of October, 2012.



Deputy Clerk

Inmate Name KENT E HALL
IDOC No. 30134
Address Box 8509
SICI Boise ID 83707

2012 MAY 15 10:15 AM
CIVIL
CLERK

Appellant

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

Kent Hall,

Petitioner-Appellant,

v.

STATE OF IDAHO,

Respondent.

CV-2012 35 77 AC
CASE NO. CV 2012-3578 PE
Ref Case CR-2011-8364 FE
S.C. DOCKET NO. _____

NOTICE OF APPEAL
Post Conviction

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, STATE OF IDAHO, PROSECUTING ATTORNEY AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the entered in the above-entitled action on the 5.20.11 (DATE), the Honorable Dunn (NAME OF JUDGE) presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c)(1-10), I.A.R.
3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

VI

- (a) Did the district court err in dismissing the appellant's Petition for Post Conviction Relief?
4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).
5. The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(a). The appellant also requests the preparation of the following portions of the reporter's transcript:
- (a) The Status Hearing held on _____ **(DATE OF HEARING)**; and
- (b) The Evidentiary Hearing held on _____ **(DATE OF HEARING)**.
6. The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):
- (a) Any briefs or memorandums, filed or lodged, by the state, the appellate, or the court in support of, or in opposition to, the dismissal of the Post Conviction Petition;
- (b) Any motions or responses, including all attachments, affidavits or copies of transcripts, filed or lodged by the state, appellant or the court in support of, or in opposition to, the dismissal of the Post Conviction Petition; and
- (c) (ANY ITEMS FROM THE UNDERLYING CRIMINAL CASE OF WHICH THE COURT TAKES JUDICIAL NOTICE NOTE: UNLESS SPECIFICALLY ASKED FOR, THE PORTIONS OF THE UNDERLYING RECORD WHICH THE DISTRICT COURT TOOK JUDICIAL NOTICE OF WON'T BE INCLUDED IN THE RECORD.)

My Attorney said to Judge Neun
that I did some things to Rectify
my situation, meaning I did work
for Pocatello Police Dept. and was
promised a life sentence, Not 12 years.
Also why else was I Released on O.R.
Two Times,

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the reporter;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Baucock (NAME OF COUNTY) County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 31 day of Oct, 20 12

Kent Hall
Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 31 day of Oct, 2012, I mailed a true and correct copy of the attached NOTICE OF APPEAL via prison mail system for processing to the United States mail system, postage prepaid, addressed to:

**Deputy Attorney General
Criminal Division
P.O. Box 83720
Boise, ID 83720-0010**

Bannock County Prosecuting Attorney
624 E Center
Pocostello ID 83201

Kurt E Hall
Signature



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

September 21, 2012

Mr. Kent Hall, #30134
Post Office Box 8509
Boise, ID 83707

Dear Mr. Hall:

This letter is in response to the correspondence that you addressed to the FBI in which you allege that the Idaho State Police Forensic Laboratory compromised evidence in your case.

You should continue to pursue your allegation through the appropriate appeals process with the assistance of an attorney.

Sincerely yours,

A handwritten signature in black ink, reading "Patrick F. Fallon, Jr." with a stylized flourish at the end.

Patrick F. Fallon, Jr.
Acting Chief, Civil Rights Unit
Criminal Investigative Division

2012-11-15 10:16
 RECEIVED
 [Signature]

Inmate name KENT E HALL
 IDOC No. 30134
 Address SICI Box 8509
Boise ID

Defendant-Appellant

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

Kent E Hall)
)
 Petitioner-Appellant,)
)
 vs.)
)
 STATE OF IDAHO,)
)
 Respondent)

CV 2012-3577-PC
 Case No. CV 2012 3578-PC

**MOTION AND AFFIDAVIT IN
 SUPPORT FOR
 APPOINTMENT OF
 COUNSEL**

COMES NOW, Kent E Hall, Petitioner-Appellant in the
 above entitled matter and moves this Honorable Court to grant Defendant-Appellant's Motion
 for Appointment of Counsel for the reasons more fully set forth herein and in the Affidavit in
 Support of Motion for Appointment of Counsel.

1. Petitioner-Appellant is currently incarcerated within the Idaho Department of
 Corrections under the direct care, custody and control of Warden Kirkhien
 of the SICI Idaho Department of Corrections.

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

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

4. Other: _____.

DATED this 31 day of Oct, 2012

Kent E Hall
Petitioner-Appellant

AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL

STATE OF IDAHO)
) ss
County of Ada)

Kent E Hall, after first being duly sworn upon his/her oath, deposes and says as follows:

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the 3101,
under the care, custody and control of Warden Kirkham;
3. I am indigent and do not have any funds to hire private counsel;
4. I am without bank accounts, stocks, bonds, real estate or any other form of real property;
5. I am unable to provide any other form of security;
6. I am untrained in the law;

7. If I am forced to proceed without counsel being appointed I will be unfairly handicapped in competing with trained and competent counsel of the State;

Further your affiant sayeth naught.

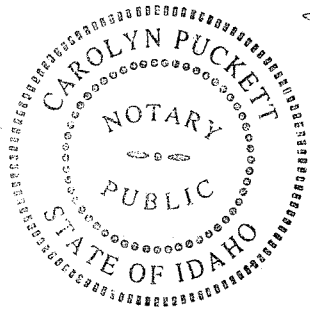
WHEREFORE, Petitioner-Appellant respectfully prays that this Honorable Court issue it's Order granting Petitioner-Appellant's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Petitioner-Appellant is entitled to.

DATED This 31 day of Oct, 2012.

Kurt E Hall
Petitioner-Appellant

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 31ST day
of October, 2012

(SEAL)



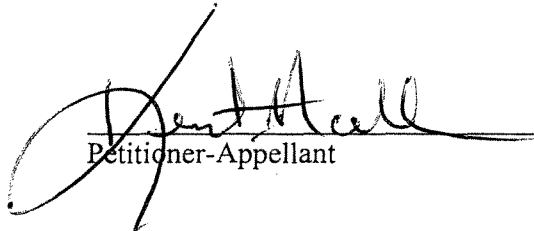
[Signature]
Notary Public for Idaho
Commission expires: 6-7-15

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 31 day of oct, 2012 I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

**Deputy Attorney General
Criminal Division
P.O. Box 83720
Boise, ID 83720-0010**

Bannock County Prosecuting Attorney
624 E Center St
Pocahontas ID 83201


Petitioner-Appellant

Kent Emmitt Hall
Full Name of Party Filing Document

SICI Box 8509
Mailing Address (Street or Post Office Box)

Boise ID 83707
City, State and Zip Code

Telephone

2011 APR 10 10:15
JUDICIAL DISTRICT

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

Kent E Hall
Plaintiff,
vs.
State of Idaho
Defendant. AND APPELLANT

Case No. CR 2012-3577 PC
CR 2012-3578 PC
MOTION AND AFFIDAVIT FOR
PERMISSION TO PROCEED ON PARTIAL
PAYMENT OF COURT FEES (PRISONER)

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

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

1. This is an action for (type of case) Post Conviction Relief. I believe I am entitled to get what I am asking for.

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

3. I am unable to pay all the court costs now. I have attached to this affidavit a current statement of my inmate account, certified by a custodian of inmate accounts, that reflects the activity of the account over my period of incarceration or for the last twelve (12) months, whichever is less.

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

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

(Do not leave any items blank. If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.)

IDENTIFICATION AND RESIDENCE:

Name: Keut E Hall Other name(s) I have used: Ø

Address: SICI P.O Box 8509 Boise ID 707

How long at that address? 8 months Phone: Ø

Year and place of birth: _____

DEPENDENTS:

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

Name of spouse: Ø

My other dependents including minor children (use only initials and age to identify children) are: _____

Matthew K Hall

INCOME:

Amount of my income: \$ Ø per week month

Other than my inmate account I have outside money from: 0

My spouse's income: \$ 0 per week month.

ASSETS:

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

Your Address	City	State	Legal Description	Value	Equity
<u>SIC1</u>	<u>Baise</u>	<u>IN</u>	<u>Prison</u>		

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

Description (provide description for each item)	Value
Cash	0
Notes and Receivables	0
Vehicles	0
Bank/Credit Union/Savings/Checking Accounts	0
Stocks/Bonds/Investments/Certificates of Deposit	0
Trust Funds	0
Retirement Accounts/IRAs/401(k)s	0
Cash Value Insurance	0
Motorcycles/Boats/RVs/Snowmobiles	0
Furniture/Appliances	0
Jewelry/Antiques/Collectibles	0
Description (provide description for each item)	
TVs/Stereos/Computers/Electronics	0
Tools/Equipment	0
Sporting Goods/Guns	0
Horses/Livestock/Tack	0

Other (describe) _____ 0
 _____ 0
 _____ 0

EXPENSES: (List all of your monthly expenses.)

Expense	Average Monthly Payment
Rent/House Payment _____	<u>0</u>
Vehicle Payment(s) _____	<u>0</u>
Credit Cards (List last four digits of each account number.)	
_____	<u>0</u>
_____	<u>0</u>
_____	<u>0</u>
Loans (name of lender and reason for loan)	
_____	<u>0</u>
_____	<u>0</u>
Electricity/Natural Gas _____	<u>0</u>
Water/Sewer/Trash _____	<u>0</u>
Phone _____	<u>0</u>
Groceries _____	<u>0</u>
Clothing _____	<u>0</u>
Auto Fuel _____	<u>0</u>
Auto Maintenance _____	<u>0</u>
Cosmetics/Haircuts/Salons _____	<u>0</u>
Entertainment/Books/Magazines _____	<u>0</u>
Home Insurance _____	<u>0</u>

Expense	Average Monthly Payment
Auto Insurance _____	0
Life Insurance _____	0
Medical Insurance _____	0
Medical Expense _____	0
Other _____	0
_____	0

MISCELLANEOUS:

How much can you borrow? \$ 0 From whom? 0
 When did you file your last income tax return? 0 Amount of refund: \$ 0

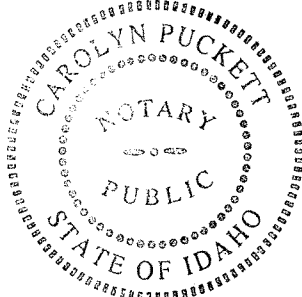
PERSONAL REFERENCES: (These persons must be able to verify information provided.)

Name	Address	Phone	Years Known
Jaw Simmons	1485 Bluebell	2419427	56
Randy Hall	Pocatello ID		56
KENT E Hall			

Typed/printed _____ Signature Kent Hall

STATE OF IDAHO)
 County of Ada) ss.

SUBSCRIBED AND SWORN before me on this 31st day of October, 2017



[Signature]
 Notary Public for Idaho
 Residing at Boise
 Commission expires 1-7-15

IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/31/2012 =

oc No: 30134 Name: HALL, KENT EMMITT
 ccount: CHK Status: INDIGENT

SICI/MAIN PRES FACIL
 TIER-3 CELL-1

Transaction Dates: 10/31/2011-10/31/2012

Beginning Balance 0.00
 Total Charges 135.75
 Total Payments 117.30
 Current Balance 18.45DB

===== TRANSACTIONS =====

Date	Batch	Description	Ref Doc	Amount	Balance
04/12/2012	HQ0581395-001	950-RREINCARCERATE	IBSUSPCHK	0.00	0.00
04/12/2012	HQ0581397-020	011-RCPT MO/CC	RTCP MO	25.00	25.00
04/19/2012	SI0582111-059	099-COMM SPL		21.50DB	3.50
04/27/2012	II0582765-002	072-METER MAIL	92693	2.15DB	1.35
04/30/2012	HQ0582957-015	011-RCPT MO/CC	RCPT MO	20.00	21.35
05/01/2012	SI0583285-004	070-PHOTO COPY	92690	1.50DB	19.85
05/03/2012	SI0583541-067	099-COMM SPL		13.25DB	6.60
05/03/2012	SI0583541-068	099-COMM SPL		6.09DB	0.51
05/10/2012	II0584427-002	072-METER MAIL	92751	0.40DB	0.11
06/05/2012	HQ0587757-015	011-RCPT MO/CC	RCPT MO	20.00	20.11
06/06/2012	SI0588011-002	070-PHOTO COPY	93295	4.55DB	15.56
06/07/2012	SI0588168-079	099-COMM SPL		8.68DB	6.88
06/07/2012	SI0588168-080	099-COMM SPL		4.35DB	2.53
06/15/2012	SI0589215-002	071-MED CO-PAY	518675	5.00DB	2.47DB
06/20/2012	SI0589628-017	071-MED CO-PAY	518898	5.00DB	7.47DB
07/05/2012	II0590893-014	072-METER MAIL	93391	0.65DB	8.12DB
07/10/2012	SI0591666-007	070-PHOTO COPY	93393	1.20DB	9.32DB
07/26/2012	HQ0593404-012	011-RCPT MO/CC	RCPT MO	20.00	10.68
07/27/2012	II0593577-013	072-METER MAIL	92893	0.65DB	10.03
08/09/2012	SI0595104-079	099-COMM SPL		8.59DB	1.44
08/10/2012	SI0595376-018	071-MED CO-PAY	519119	5.00DB	3.56DB
08/14/2012	HQ0595626-017	011-RCPT MO/CC	RCPT MO	25.00	21.44
08/17/2012	II0596036-021	072-METER MAIL	92964	5.20DB	16.24
08/21/2012	SI0596310-011	071-MED CO-PAY	529530	5.00DB	11.24
08/23/2012	SI0596526-072	099-COMM SPL		9.54DB	1.70
08/24/2012	II0596670-004	072-METER MAIL	92987	2.30DB	0.60DB
08/29/2012	SI0597094-003	070-PHOTO COPY	92963	10.30DB	10.90DB
08/29/2012	SI0597094-010	070-PHOTO COPY	92986	4.85DB	15.75DB
09/11/2012	SI0598847-014	071-MED CO-PAY	529535	5.00DB	20.75DB
09/19/2012	SI0600035-006	071-MED CO-PAY	529820	5.00DB	25.75DB
10/02/2012	SI0601281-001	218-SPL PRJCTS	SEP PAY	7.30	18.45DB

I hereby certify that these amounts are true and correct copies of official records or reports as furnished to me by the Department of Corrections

Dated: 10/31/12

FILED
BANKNOCK COUNTY
CLERK OF THE COURT

2012 NOV -6 PM 5:20

BY 
DEPUTY CLERK


Inmate name Kent E Hall
IDOC No. 20134
Address SIC1 Box 8504
Boise ID 83201


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

Kent E Hall,)
)
Petitioner-Appellant,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)

Case No. CR 2012 3577 PC
CR 2012 3578 PC
**ORDER GRANTING
MOTION FOR
APPOINTMENT
OF COUNSEL**

IT IS HEARBY ORDERED that the Petitioner-Appellant's Motion for Appointment of Counsel is granted and Stephen Larsen (attorney's name), a duly licensed attorney in the State of Idaho, is hereby appointed to represent said defendant in all proceedings involving this appeal.

DATED this 6th day of November, 2012 


District Judge

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2012 NOV 16 AM 11:40

BY *AA*
DEPUTY CLERK

IN THE DISTRICT COURT FOR THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CV-2012-3577-PC & #CV-2012-3578-PC

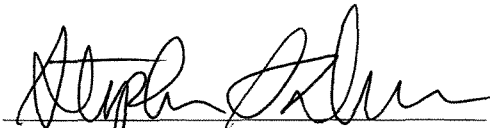
KENT HALL,)
)
)
Petitioner,)
)
-vs-)
)
)
STATE OF IDAHO,)
)
)
Respondent.)
_____)

JUDGMENT

Pursuant to a Memorandum Decision and Order Dismissing Petition for Post-Conviction Relief, entered the 18th day of October, 2012, this Court entered an order denying Petitioner's Motion to Continue and dismissing both post-conviction relief petitions referenced above. WHEREFORE, by virtue of the law and for the reasons previously set forth,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that JUDGMENT be entered in this matter in favor of the State of Idaho and against Kent Hall and said cases are hereby DISMISSED.

DATED this 15th day of November, 2012.



Stephen S. Dunn
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of November, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

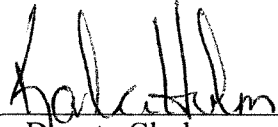
Kent Hall
SCIS
PO Box 8509
Boise, ID 83707

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

Ashley Graham
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

DATED this 16 day of November, 2012.



Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2012 DEC 19 PM 4:13

BY

DEPUTY CLERK

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

Register No.CV-2012-03577-PC

KENT E. HALL,

Petitioner-Appellant,

-vs-

STATE OF IDAHO,

Respondent.

ORDER APPOINTING COUNSEL

IT IS HEREBY ORDERED that the Petitioner-Appellant's Motion for Appointment of Counsel is granted and the State Appellant Public Defender's Office shall be appointed to represent said defendant in all proceedings involving this appeal.

DATED December 19, 2012.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of Dec, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- () U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

Kent E. Hall
IDOC No. 30134
SICI
PO Box 8509
Boise, ID 83707

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

State Appellant Public Defender
3050 N Lake Harbor Lane, Ste 100
Boise, ID 83707

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

Stephen W. Kenyon
Clerk of the Court
PO Box 83720
Boise, ID 83720-0010

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

Lawrence G. Wasden
Attorney General for Idaho
Room 210
PO Box 83720
Boise, ID 83720-0010

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

DATED this 19 day of Dec, 2012.

[Signature]
Deputy Clerk

CR-2012-3578-FE

ORIGINAL

FILED
BANNOCK COUNTY
2012 AUG 20 AM 11:12
CJ

Inmate Name Kent E. Hall #30134
IDOC No. 30134 main Dorm
Address PO Box 8509
BOISE ID 83707

Petitioner

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

KENT E. HALL,)
)
Petitioner,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)
)

CR-2011-08147-FE
Case No. CR-2011-08364-FE
**PETITION AND AFFIDAVIT
FOR POST CONVICTION
RELIEF**

The Petitioner alleges:

1. Place of detention if in custody: Idaho Dept of Corrections, SIC 1
2. Name and location of the Court which imposed judgement/sentence: SIXTH
JUDICIAL DISTRICT COURT, BANNOCK COUNTY
3. The case number and the offense or offenses for which sentence was imposed:
 - (a) Case Number: CR-2011-08147-FE
CR-2011-08364-FE
 - (b) Offense Convicted: Delivery of a Controlled Substance
4. The date upon which sentence was imposed and the terms of sentence:
 - a. Date of Sentence: December 12, 2011
 - b. Terms of Sentence: 5 years fixed, 7 years indeterminate

8

3.

5. Check whether a finding of guilty was made after a plea:

Of guilty [] Of not guilty

6. Did you appeal from the judgment of conviction or the imposition of sentence?

[] Yes No

If so, what was the Docket Number of the Appeal? _____

7. State concisely all the grounds on which you base your application for post conviction relief: (Use additional sheets if necessary.)

(a) Ineffective Assistance of Counsel

(b) Petitioners Plea was not Knowingly or Voluntarily entered because it was induced by unkept promises.

(c) The conviction and sentence is in violation of the U.S. and Idaho State Constitution

8. Prior to this petition, have you filed with respect to this conviction:

a. Petitions in State or Federal Court for habeas corpus? NO

b. Any other petitions, motions, or applications in any other court? yes

c. If you answered yes to a or b above, state the name and court in which each petition, motion or application was filed:

Rule 35 motion, Sixth Judicial District Court, Bannock County.

9. If your application is based upon the failure of counsel to adequately represent you, state concisely *and in detail* what counsel failed to do in representing your interests:

(a) obtain and present obvious Brady/Giglio materials to the court.

(b) used promises to obtain a coerced guilty plea from me.

(c) failed to file appropriate motions to withdraw my guilty plea and to dismiss my charges, due to tainted evidence/lab tests at ISP labs.

10. Are you seeking leave to proceed in forma pauperis, that is, requesting the proceeding be at county expense? (If your answer is "yes", you must fill out a Motion to Proceed in Forma Pauperis and supporting affidavit.)

Yes [] No

11. Are you requesting the appointment of counsel to represent you in this case? (If your answer is "yes", you must fill out a Motion for the Appointment of Counsel and supporting affidavit, as well as a Motion to Proceed In Forma Pauperis and supporting affidavit.)

Yes [] No

12. State specifically the relief you seek:

1) allow me to withdraw my guilty pleas
2) Vacate my sentence and conviction
3) Order a hearing to dismiss my charges WITH PREJUDICE due to tainted evidence, and corruption at the ISP Forensic lab

13. This Petition may be accompanied by affidavits in support of the petition. (Forms for this are available.)

DATED this 16 day of August, 2012.

Kent E Hall
Petitioner

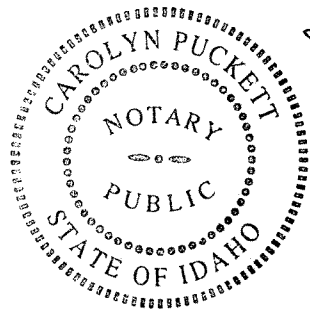
STATE OF IDAHO)
) ss
County of Ada)

Kent E Hall, being sworn, deposes and says that the party is the Petitioner in the above-entitled appeal and that all statements in this PETITION FOR POST CONVICTION RELIEF are true and correct to the best of his or her knowledge and belief.

Kent E Hall
Petitioner

SUBSCRIBED AND SWORN and AFFIRMED to before me this 16th day of August, 2012

(SEAL)

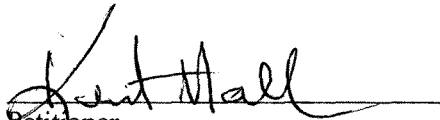


[Signature]
Notary Public for Idaho
Commission expires: 2-17-15

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 16 day of August, 2012, I mailed a copy of this PETITION FOR POST CONVICTION RELIEF for the purposes of filing with the court and of mailing a true and correct copy via prison mail system to the U.S. mail system to:

BANNOCK County Prosecuting Attorney
624 E. Center
Pocatello Id. 83201


Petitioner

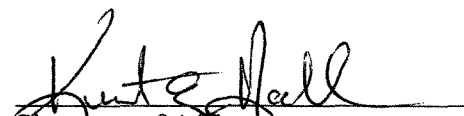
AFFIDAVIT OF FACTS IN SUPPORT OF POST-CONVICTION PETITION

STATE OF IDAHO)
COUNTY OF ADA) ss

Kent E. Hall, being first duly sworn on oath, deposes and says:

- 1) To induce me to enter a guilty plea in my cases, I was PROMISED I would receive DRUG COURT and subsequent probation, NO PRISON TERM.
- 2) ISP Forensic labs corrupted the alleged drug samples submitted in my case (see attached letters from ISP Major Kendrick Wills, Forensic Services commander) and thus violated my rights to due process.
- 3) my counsel REFUSED to file a motion to allow me to withdraw my guilty plea upon learning of the facts stated above.
- 4) my counsel REFUSED to file a motion to DISMISS my charges when I asked him to after learning about the tainted ISP Forensic labs tests, etc.
- 5) I was under the influence of narcotics and NOT COMPETENT to waive my right to a preliminary hearing in my cases and did not understand the consequences of doing so.

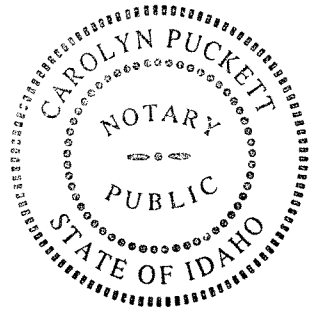
Further your affiant sayeth not.


Signature of Affiant

SUBSCRIBED AND SWORN AND AFFIRMED TO before me this 16 day of
August, 2012



Notary Public for Idaho
My Commission Expires: 2-17-15



MAY-03-2011 TUE 09:39 AM ISP

FAX NO. [REDACTED]

P. 01/03



Idaho State Police

Service Since 1939



Colonel G. Jerry Russell
Director

C.L. "Butch" Otter
Governor

TO: IDAHO COUNTY PROSECUTING ATTORNEYS
AND IDAHO MUNICIPAL ATTORNEYS

RE: POSSIBLE *BRADY/GIGLIO* MATERIAL
Idaho State Police, Forensics Lab Manager Skyler Anderson

DATE: MAY 3, 2011

The purpose of this letter is to advise you of potential *Brady/Giglio* material that has recently been identified concerning an ISP Forensic Laboratory scientist. The situation is as follows.

On February 24, 2011, ISP Capt. Clark Rollins received an Idaho State Police Administrative Incident Report from ISP Lab Improvement Manager Matthew Gamette regarding Skyler Anderson. Gamette alleged that Mr. Anderson maintained an ongoing unauthorized quantity of controlled narcotics for display purposes, outside the practices of the Forensics Quality Manual and without proper documentation, tracking and auditing. During yearly audits of the Region 5 lab facility, Mr. Anderson and others intentionally hid the unauthorized "display drugs" from auditors to avoid detection of this practice. Mr. Anderson personally hid the drugs from auditors on at least four occasions.

ISP Det. Julie Donahue investigated this individual. Her written reports are available at your request. Please feel free to contact me if you have any questions at 208-884-7207.

Sincerely,

Major Kedrick Wills
Forensic Services Commander
Idaho State Police



Idaho State Police

Service Since 1939



Colonel G. Jerry Russell
Director

C.L. "Butch" Otter
Governor

TO: IDAHO COUNTY PROSECUTING ATTORNEYS
AND IDAHO MUNICIPAL ATTORNEYS

RE: POSSIBLE *BRADY/GIGLIO* MATERIAL
Idaho State Police, Forensic Scientist Lamora Lewis

DATE: MAY 3, 2011

The purpose of this letter is to advise you of potential *Brady/Giglio* material that has recently been identified concerning an ISP Forensic Laboratory scientist. The situation is as follows.

On February 23, 2011, at approximately 4:45 p.m., ISP Headquarters Lab Manager Skyler Anderson and Region 5 Lab Manager Shannon Larson had a telephone conversation. Mr. Anderson told Ms. Larson that there was a box of drugs in the Region 5 Lab that was used for "tours" and "show and tell." He also told Ms. Larson that the drugs in the box were not tracked and were untraceable. He told her the box of drugs might be in the vault, but since there was an audit coming up, it might be somewhere else. Mr. Anderson told Ms. Larson that Lamora Lewis would know where the box was. When Ms. Larson asked Ms. Lewis about the box of drugs that was used for "tours," Ms. Lewis climbed up on the drug bench, lifted the ceiling tiles, and pulled out a box of drugs. When interviewed, she explained how she became involved in this intentional deception. She stated that she knew that intentionally hiding the box from auditors was wrong and stated "because if you are hiding it obviously something is wrong, but I know I should have said something."

ISP Det. Julie Donahue investigated this individual. Her written reports are available at your request. Please feel free to call me if you have any questions at 208-884-7207.

Sincerely,

Major Kedrick Wills
Forensic Services Commander
Idaho State Police



Idaho State Police

Service Since 1939



Colonel G. Jerry Russell
Director

C.L. "Butch" Otter
Governor

TO: IDAHO COUNTY PROSECUTING ATTORNEYS
AND IDAHO MUNICIPAL ATTORNEYS

RE: POSSIBLE *BRADY/GIGLIO* MATERIAL
Idaho State Police, Forensic Lab Scientist Susan Williamson

DATE: MAY 3, 2011

The purpose of this letter is to advise you of potential *Brady/Giglio* material that has recently been identified concerning an ISP Forensic Laboratory scientist. The situation is as follows.

In 2003, ISP Scientist Susan Williamson ordered Gamma-hydroxybutyric Acid (GHB) with verbal approval from her then immediate supervisor. She submitted the proper DEA forms, but did not check the ISP Forensic Quality Manual's authorized amounts and ordered more than the manual allowed. Ms. Williamson deliberately kept the GHB secreted within the lab on the top shelf of her evidence vault, on the very back of the shelf, and most recently kept it in a secure area in a friction lid can. When asked why she put it there, she said that she put it there because she knew no one would find it there. All the documentation was kept with it and the unused amount was completely accounted for. When asked if she had ever hidden anything else from inspectors or auditors, she said "No, this is my only skeleton in my closet."

ISP Det. Julie Donahue investigated this individual. Her written reports are available at your request. If you have any questions, please feel free to call me at (208) 884-7207.

Sincerely,

Major Kedrick Wills
Forensic Services Commander
Idaho State Police

ALLI SEE FOR SHANNON LARSON IS A SPEEDING TICKET AND A DIVORCE IN 2009

1-----

Shannon Ann Larson vs. Gary Robert Larson
Case: CV-DR-2009-19826 Magistrate Filed: 10/19/2009 Subtype: Domestic Relations Judge: David E. Day Status: Closed 12/10/2009
Defendants: Larson, Gary Robert
Plaintiffs: Larson, Shannon Ann

1 Cases Found.

State of Idaho vs. Shannon A Larson
No hearings scheduled
Case: CR-IN-2008-0046700 Magistrate Judge: Magistrate Court Clerk Amount due: \$0.00 Closed
Charges: Violation Date Charge Citation Disposition
10/17/2008 149-654 Speeding Basic Rule- No Speed Listed 1316627 Finding: Guilty
Officer: Christensen, Kyle, BO Disposition date: 11/12/2008
Fines/fees: \$75.00

Register of actions: Date
10/22/2008 New Case Filed - Infraction
11/12/2008 Ada Default Letter- Overdue - Step 1, Failure to Appear - Charge # 1, Speeding Basic Rule- No Speed Listed Appearance date: 11/12/2008
11/12/2008 STATUS CHANGED: Closed pending clerk action
12/02/2008 Notice of Nonpayment Infraction- Overdue - Step 1, Failure to Pay Fines and Fees - Charge # 1, Speeding Basic Rule- No Speed Listed
02/12/2009 STATUS CHANGED: closed

2-----

1 Cases Found.

State of Idaho vs. Shannon A Larson
No hearings scheduled
Case: CR-IN-2008-0046700 Magistrate Judge: Magistrate Court Clerk Amount due: \$0.00 Closed
Charges: Violation Date Charge Citation Disposition
10/17/2008 149-654 Speeding Basic Rule- No Speed Listed 1316627 Finding: Guilty
Officer: Christensen, Kyle, BO Disposition date: 11/12/2008
Fines/fees: \$75.00

Register of actions: Date
10/22/2008 New Case Filed - Infraction
11/12/2008 Ada Default Letter- Overdue - Step 1, Failure to Appear - Charge # 1, Speeding Basic Rule- No Speed Listed Appearance date: 11/12/2008
11/12/2008 STATUS CHANGED: Closed pending clerk action
12/02/2008 Notice of Nonpayment Infraction- Overdue - Step 1, Failure to Pay Fines and Fees - Charge # 1, Speeding Basic Rule- No Speed Listed
02/12/2009 STATUS CHANGED: closed

State of Idaho vs. Natasha D Wheatley
No hearings scheduled

Case: CR-2000-0112263-IN

Bingham

1 Cases Found.

State of Idaho vs. Natasha D. Wheatley
No hearings scheduled
Case: CR-2002-0006260 Magistrate Judge: Magistrate Court Clerks Amount due: \$0.00 Closed
Charges: Violation Date Charge Citation Disposition
06/17/2002 149-654(2) Speed-exceed Maximum Speed Limit 38523 Finding: Guilty
Officer: Myler, Todd, 2000 Disposition date: 07/05/2002
Fines/fees: \$53.00

PP 3/12/12
235 5/29/12

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

Register #CR-2011-08147-FE

STATE OF IDAHO,)
)
Plaintiff,)
)
-vs-)
)
KENT EMMITT HALL,)
DOB: [REDACTED])
SSN: [REDACTED])
)
Defendant.)
_____)

MINUTE ENTRY, JUDGMENT
OF CONVICTION & COMMITMENT
ORDER

On December 12, 2011, the Defendant entered a plea of GUILTY to the charge of **POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A);**

On January 30, 2012, the Defendant appeared with his counsel, Ian Johnson, for sentencing. Cleve Colson, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheila Fish performed as Court Reporter for this proceeding.

A pre-sentence investigation report was received and reviewed by the Court. The Court received corrections and objections to the report from the Defendant's counsel. The Court heard comments and recommendations from respective counsel, and a statement from the Defendant.

Being fully advised in the premises,

IT IS HEREBY ORDERED that the Defendant be and is herewith sentenced to the custody of the Idaho Department of Correction pursuant to Idaho Code 19-2513, for a **UNIFIED TERM OF 12 YEARS OF WHICH FIVE YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SEVEN YEARS**. During the fixed term of confinement, said Defendant shall not be eligible for parole or discharge, credit or reduction of sentence for good conduct, except as provided by Idaho Code Section 20-1-1(d). Said sentence shall run concurrently to the sentence imposed in Bannock County case number CR-2011-08364-FE.

IT IS FURTHER ORDERED that the Defendant receive credit for time served in this matter. The Defendant was arrested in this matter on May 20, 2011 and remained in custody until being released on August 10, 2011, 83 days. The Defendant's release was revoked on December 25, 2011 and the Defendant remained in custody until the date of sentencing, January 30, 2012, 37 days. Therefore, the Defendant shall receive credit for a total of 120 days served in the Bannock County Jail in this matter.

IT IS FURTHER ORDERED the Defendant shall pay the following upon his release:

\$265.50	Court Costs
\$750.00	District Court Fund

The Defendant shall pay the sum of \$750.00 to the County for costs of defense, pursuant to Idaho Code 19-854. The sum so paid shall be remitted to the County Auditor who shall deposit

said amount directly into the District Court Fund in and for Bannock County.

RESTITUTION ORDER

IT IS HEREBY ORDERED that the above named Defendant shall pay the following;

\$200.00	Restitution to the victim: Forensic Services 700 South Stratford Dr Meridian, ID 83642-6202
\$ 50.00	Restitution to the victim; 6 th District Narcotic Enforcement Units Pocatello Police Department PO Box 2877 Pocatello, ID 83206-2877

IT IS FURTHER ORDERED that the said Defendant be and he is hereby **REMANDED** to the custody of the Bannock County Sheriff to be by him delivered to the proper officer or officers and to be by said officer or officers conveyed to said site.

Defendant was advised of his right to appeal, and that said appeal must be filed with the Idaho Supreme Court no later than 42 days from the date the sentence is imposed. Defendant was further advised that a person who is unable to pay the costs of an appeal has the right to apply for leave to appeal *in forma pauperis*.

COMMITMENT ORDER

Now, on this 30th day of January, 2012, the Bannock County Prosecuting Attorney with the Defendant and his counsel, Ian Johnson, came into Court. The Defendant was duly informed by the

Court of the nature of the Information filed against him for the crime of **POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A)**, committed on or about the 20th day of May, 2011, of his arraignment and plea of **GUILTY** as charged in the Information on the 12th day of December, 2011.

The Defendant was asked by the Court if he had any legal cause to show why judgment should not be pronounced against him to which he replied that he had none. And no sufficient cause being shown or appearing to the Court;

NOW, THEREFORE, the said Defendant having been convicted of the crime of **POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A)**, it is hereby ordered, considered and adjudged that the said Defendant, **KENT EMMITT HALL**, be imprisoned and kept at a site designated by the Idaho State Board of Correction for a **UNIFIED TERM OF 12 YEARS OF WHICH FIVE YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SEVEN YEARS**, commencing from the date of his sentence.

DATED February 1, 2012

_____/s/_____
STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of January, 2012,
I served a true and correct copy of the foregoing document upon each of the following
individuals in the manner indicated.

Bannock County Prosecutor () U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

Ian Johnson () U.S. Mail
Bannock County Public Defender (X) Email
() Hand Deliver
() Facsimile

Bannock County Jail () U.S. Mail
() Email
(X) Hand Deliver
() Facsimile

Records Administration () U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

Division of Community Correction () U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

DATED this 31 day of January, 2012.

_____/s/_____
Deputy Clerk

in
PP 3/12/12
R35 5/29/12

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

Register #CR-2011-08364-FE

STATE OF IDAHO,)
)
Plaintiff,)
)
-vs-)
)
KENT EMMITT HALL,)
DOB: [REDACTED])
SSN: [REDACTED])
)
Defendant.)
_____)

MINUTE ENTRY, JUDGMENT
OF CONVICTION & COMMITMENT
ORDER

On December 12, 2011, the Defendant entered a plea of GUILTY to the charge of **DELIVERY OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A)**;

On January 30, 2012, the Defendant appeared with his counsel, Ian Johnson, for sentencing. Cleve Colson, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheila Fish performed as Court Reporter for this proceeding.

A pre-sentence investigation report was received and reviewed by the Court. The Court received corrections and objections to the report from the Defendant's counsel. The Court heard comments and recommendations from respective counsel, and a statement from the Defendant.

Register No. CR-2011-08364-FE
Minute Entry, Judgment of Conviction & Commitment Order
Page 1

Being fully advised in the premises,

IT IS HEREBY ORDERED that the Defendant be and is herewith sentenced to the custody of the Idaho Department of Correction pursuant to Idaho Code 19-2513, for a **UNIFIED TERM OF 12 YEARS OF WHICH FIVE YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SEVEN YEARS**. During the fixed term of confinement, said Defendant shall not be eligible for parole or discharge, credit or reduction of sentence for good conduct, except as provided by Idaho Code Section 20-1-1(d). Said sentence shall run concurrently to the sentence imposed in Bannock County case number CR-2011-08147-FE.

IT IS FURTHER ORDERED that the Defendant receive credit for time served in this matter. The Defendant was arrested in this matter on May 20, 2011 and remained in custody until being released on August 10, 2011, 83 days. The Defendant's release was revoked on December 25, 2011 and the Defendant remained in custody until the date of sentencing, January 30, 2012, 37 days. Therefore, the Defendant shall receive credit for a total of 120 days served in the Bannock County Jail in this matter.

IT IS FURTHER ORDERED the Defendant shall pay the following upon his release:

\$265.50	Court Costs
\$750.00	District Court Fund

The Defendant shall pay the sum of \$750.00 to the County for costs of defense, pursuant to Idaho Code 19-854. The sum so paid shall be remitted to the County Auditor who shall deposit

said amount directly into the District Court Fund in and for Bannock County.

RESTITUTION ORDER

IT IS HEREBY ORDERED that the above named Defendant shall pay the following;

\$600.00	Restitution to the victim: Forensic Services 700 South Stratford Dr Meridian, ID 83642-6202
\$365.00	Restitution to the victim; 6 th District Narcotic Enforcement Units Pocatello Police Department PO Box 2877 Pocatello, ID 83206-2877

IT IS FURTHER ORDERED that the said Defendant be and he is hereby **REMANDED** to the custody of the Bannock County Sheriff to be by him delivered to the proper officer or officers and to be by said officer or officers conveyed to said site.

Defendant was advised of his right to appeal, and that said appeal must be filed with the Idaho Supreme Court no later than 42 days from the date the sentence is imposed. Defendant was further advised that a person who is unable to pay the costs of an appeal has the right to apply for leave to appeal *in forma pauperis*.

COMMITMENT ORDER

Now, on this 30th day of January, 2012, the Bannock County Prosecuting Attorney with the Defendant and his counsel, Ian Johnson, came into Court. The Defendant was duly informed by the

Court of the nature of the Information filed against him for the crime of **DELIVERY OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A)**, committed on or about the 15th day of February, 2011, of his arraignment and plea of **GUILTY** as charged in the Information on the 12th day of December, 2011.

The Defendant was asked by the Court if he had any legal cause to show why judgment should not be pronounced against him to which he replied that he had none. And no sufficient cause being shown or appearing to the Court;

NOW, THEREFORE, the said Defendant having been convicted of the crime of **DELIVERY OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, I.C. §37-2732(a)(1)(A)**, it is hereby ordered, considered and adjudged that the said Defendant, **KENT EMMITT HALL**, be imprisoned and kept at a site designated by the Idaho State Board of Correction for a **UNIFIED TERM OF 12 YEARS OF WHICH FIVE YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SEVEN YEARS**, commencing from the date of his sentence.

DATED February 1, 2012

/s/
STEPHEN S. DUNN
District Judge

KENT E. HALL #30134

Full Name of Party Filing Document

P O Box 8509, main Dorm

Mailing Address (Street or Post Office Box)

Boise Idaho 83707

City, State and Zip Code

Telephone

FILED
BANNOCK COUNTY

2011 AUG 20 11:17

DEPUTY CLERK

STEPHEN S. DUBIN

CN-MID-3578-PC

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

KENT E HALL

Plaintiff,

vs.

STATE OF IDAHO

Defendant.

Case No. CR-2011-08147-FE
CR-2011-08364-FE

MOTION AND AFFIDAVIT FOR
PERMISSION TO PROCEED ON PARTIAL
PAYMENT OF COURT FEES (PRISONER)

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

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

1. This is an action for (type of case) post conviction relief. I believe I am entitled to get what I am asking for.

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

3. I am unable to pay all the court costs now. I have attached to this affidavit a current statement of my inmate account, certified by a custodian of inmate accounts, that reflects the activity of the account over my period of incarceration or for the last twelve (12) months, whichever is less.

Handwritten mark

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

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

(Do not leave any items blank. If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.)

IDENTIFICATION AND RESIDENCE:

Name: Kent E. Hall #30134 Other name(s) I have used: _____

Address: P O Box 8501, Boise Id 83707

How long at that address? 1 1/2 yrs Phone: _____

Year and place of birth: Pocatello Id 8/14/56

DEPENDENTS:

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

Name of spouse: _____

My other dependents including minor children (use only initials and age to identify children) are: _____

1 Son

INCOME:

Amount of my income: \$ 0 per week month

Other than my inmate account I have outside money from: _____

My spouse's income: \$ N/A per week month.

ASSETS:

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

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

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

Description (provide description for each item)

Value

Cash _____

21.44

Notes and Receivables _____

Vehicles _____

Bank/Credit Union/Savings/Checking Accounts _____

Stocks/Bonds/Investments/Certificates of Deposit _____

Trust Funds _____

Retirement Accounts/IRAs/401(k)s _____

Cash Value Insurance _____

Motorcycles/Boats/RVs/Snowmobiles _____

Furniture/Appliances _____

Jewelry/Antiques/Collectibles _____

Description (provide description for each item)

TVs/Stereos/Computers/Electronics _____

Tools/Equipment _____

Sporting Goods/Guns _____

Horses/Livestock/Tack _____

Other (describe) _____

EXPENSES: (List all of your monthly expenses.)

Expense	Average Monthly Payment
Rent/House Payment _____	|
Vehicle Payment(s) _____	|
Credit Cards (List last four digits of each account number.) _____ _____ _____	|
Loans (name of lender and reason for loan) _____ _____	|
Electricity/Natural Gas _____	|
Water/Sewer/Trash _____	|
Phone _____	|
Groceries _____	|
Clothing _____	|
Auto Fuel _____	|
Auto Maintenance _____	|
Cosmetics/Haircuts/Salons _____	|
Entertainment/Books/Magazines _____	|
Home Insurance _____	|

Expense	Average Monthly Payment
Auto Insurance _____	|
Life Insurance _____	
Medical Insurance _____	
Medical Expense _____	
Other _____	

MISCELLANEOUS:

How much can you borrow? \$ 0 From whom? _____
 When did you file your last income tax return? _____ Amount of refund: \$ N/A

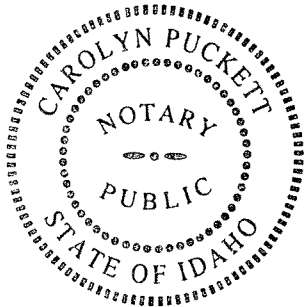
PERSONAL REFERENCES: (These persons must be able to verify information provided.)

Name	Address	Phone	Years Known
<u>Jan Simmons</u>	_____	<u>(208) 241-9427</u>	<u>56 yrs</u>
<u>Brent Adkins</u>	_____	<u>(208) 233-3024</u>	<u>56 yrs</u>
<u>Kent E Hall</u>	_____	<u>[Signature]</u>	_____

Typed/printed _____ Signature _____

STATE OF IDAHO)
 County of Ada) ss.

SUBSCRIBED AND SWORN before me on this 16th day of August, 2012



[Signature]
 Notary Public for Idaho
 Residing at Boise
 Commission expires 2-7-15

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 08/16/2012 =

Doc No: 30134 Name: HALL, KENT EMMITT
 Account: CHK Status: ACTIVE

SICI/MAIN PRES FACIL
 TIER-3 CELL-1

Transaction Dates: 08/16/2011-08/16/2012

Beginning Balance	Total Charges	Total Payments	Current Balance
0.00	88.56	110.00	21.44

===== TRANSACTIONS =====

Date	Batch	Description	Ref Doc	Amount	Balance
04/12/2012	HQ0581395-001	950-RREINCARCERATE	IBSUSPCHK	0.00	0.00
04/12/2012	HQ0581397-020	011-RCPT MO/CC	RTCP MO	25.00	25.00
04/19/2012	SI0582111-059	099-COMM SPL		21.50DB	3.50
04/27/2012	II0582765-002	072-METER MAIL	92693	2.15DB	1.35
04/30/2012	HQ0582957-015	011-RCPT MO/CC	RCPT MO	20.00	21.35
05/01/2012	SI0583285-004	070-PHOTO COPY	92690	1.50DB	19.85
05/03/2012	SI0583541-067	099-COMM SPL		13.25DB	6.60
05/03/2012	SI0583541-068	099-COMM SPL		6.09DB	0.51
05/10/2012	II0584427-002	072-METER MAIL	92751	0.40DB	0.11
06/05/2012	HQ0587757-015	011-RCPT MO/CC	RCPT MO	20.00	20.11
06/06/2012	SI0588011-002	070-PHOTO COPY	93295	4.55DB	15.56
06/07/2012	SI0588168-079	099-COMM SPL		8.68DB	6.88
06/07/2012	SI0588168-080	099-COMM SPL		4.35DB	2.53
06/15/2012	SI0589215-002	071-MED CO-PAY	518675	5.00DB	2.47DB
06/20/2012	SI0589628-017	071-MED CO-PAY	518898	5.00DB	7.47DB
07/05/2012	II0590893-014	072-METER MAIL	93391	0.65DB	8.12DB
07/10/2012	SI0591666-007	070-PHOTO COPY	93393	1.20DB	9.32DB
07/26/2012	HQ0593404-012	011-RCPT MO/CC	RCPT MO	20.00	10.68
07/27/2012	II0593577-013	072-METER MAIL	92893	0.65DB	10.03
08/09/2012	SI0595104-079	099-COMM SPL		8.59DB	1.44
08/10/2012	SI0595376-018	071-MED CO-PAY	519119	5.00DB	3.56DB
08/14/2012	HQ0595626-017	011-RCPT MO/CC	RCPT MO	25.00	21.44

I hereby certify that the above is a true and correct copy of the
 account of the offender named therein of the Idaho Department of Corrections

[Handwritten Signature]

FILED
BANNOCK COUNTY
CLERK

2012 AUG 20 AM 11:13
BY [Signature]
DEPUTY CLERK

Inmate name Kent E. Hall
IDOC No. 30134 main dorm
Address PO Box 8509
BOISE ID 83707

Petitioner

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

KENT E HALL,)
)
Petitioner,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

Case No. CR-2011-08147-FE
CR-2011-08364-FE

**MOTION AND AFFIDAVIT IN
SUPPORT FOR
APPOINTMENT OF
COUNSEL**

COMES NOW, Kent E. Hall, Petitioner in the above
entitled matter and moves this Honorable Court to grant Petitioner's Motion for Appointment of
Counsel for the reasons more fully set forth herein and in the Affidavit in Support of Motion for
Appointment of Counsel.

1. Petitioner is currently incarcerated within the Idaho Department of Corrections under the direct care, custody and control of Warden Kirkham, of the Southern Idaho Corr. Inst.
2. The issues to be presented in this case may become to complex for the Petitioner to properly pursue. Petitioner lacks the knowledge and skill needed to represent him/herself.
3. Petitioner/Respondent required assistance completing these pleadings, as he/she was unable to do it him/herself.

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 1
Revised: 10/13/05

4. Other: _____

DATED this 16 day of August, 2012.

K. J. Hall
Petitioner

AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL

STATE OF IDAHO)
County of ADA) ss


KENTE. HALL, after first being duly sworn upon his/her oath, deposes and says as follows:

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the Southern Idaho Corr. Inst. under the care, custody and control of Warden Kirkham;
3. I am indigent and do not have any funds to hire private counsel;
4. I am without bank accounts, stocks, bonds, real estate or any other form of real property;
5. I am unable to provide any other form of security;
6. I am untrained in the law;
7. If I am forced to proceed without counsel being appointed I will be unfairly handicapped in competing with trained and competent counsel of the State;

Further your affiant sayeth naught.

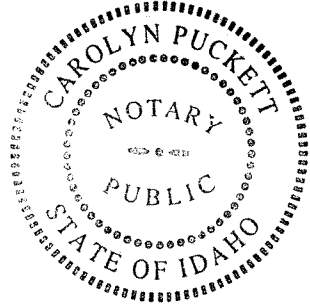
WHEREFORE, Petitioner respectfully prays that this Honorable Court issue it's Order granting Petitioner's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Petitioner is entitled to.


DATED This 16 day of August, 2012.


Petitioner

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 16th day
of August, 2012

(SEAL)

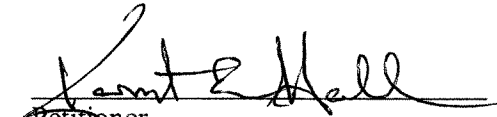



Notary Public for Idaho
Commission expires: 6/7/15

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 16 day of August, 20 12. I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

BANNOCK County Prosecuting Attorney
624 E. Center
Pocatello Id. 83201


Petitioner

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
2012 SEP -5 PM 2:26
XAA
DEPUTY CLERK

ASHLEY GRAHAM, ISB #8496
Deputy Prosecuting Attorney

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


KENT HALL,	)	CASE NO. CV-2012-3578-PC
	)	Ref. Case No. CR-2011-8364-FE
Petitioner,)	
)	
vs.	)	MOTION FOR SUMMARY
	)	DISMISSAL
)	
STATE OF IDAHO,)	
)	
Respondent.)	
_____)	

COMES NOW State of Idaho, Respondent, by and through Ashley Graham, Deputy Prosecuting Attorney for Bannock County, and hereby moves the Court for Summary Dismissal dismissing Kent Hall Post Conviction Relief Petition pursuant to Idaho Code § 19-4906(c) on the general basis that, in light of the pleadings, answers, admissions, and the record of the underlying criminal case, the petition fails to raise a genuine issue of material fact.

Kent Hall's ineffective assistance of counsel claims fail to raise a genuine issue of material fact regarding both deficient performance and resulting prejudice. His other

claims are either bare or conclusory, unsubstantiated by fact, procedurally defaulted, or clearly disproved by the record.

DATED this 5 day of September 2012.




ASHLEY GRAHAM
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5 day of September 2012, a true and correct copy of the foregoing MOTION FOR SUMMARY DISMISSAL was delivered to the following:

Kent Hall
SCIC
PO Box 8509
Boise, Idaho 83707

- Mail-Postage Pre-Paid
- Hand delivery
- Facsimile
- Courthouse Mail



ASHLEY GRAHAM
Deputy Prosecuting Attorney

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
CLERK OF DISTRICT COURT
2012 SEP -5 PM 2:26
KLL
DEPUTY CLERK

ASHLEY GRAHAM, ISB #8496
Deputy Prosecuting Attorney

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

KENT HALL,	)	CASE NO. CV-2012-3578-PC
	)	Ref. Case No. CR-2011-8364-FE
Petitioner,)	
)	
vs.	)	ANSWER
)	
STATE OF IDAHO,)	
)	
Respondent.)	
_____)	

COMES NOW, the State of Idaho, by and through Deputy Prosecuting Attorney Ashley Graham, and does hereby answer Petitioner's ("Kent Hall") petition for post-conviction relief in the above-entitled action as follows:

I.
**GENERAL RESPONSES TO HALL'S
POST-CONVICTION ALLEGATIONS**

All allegations made by Kent Hall are denied by the state unless specifically admitted herein.

II.
**SPECIFIC ANSWERS TO HALL'S
POST-CONVICTION ALLEGATIONS**

1. Answering paragraph 1 of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations contained therein.
2. Answering paragraph 2 of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations contained therein.
3. Answering paragraph 3 of Hall's Petition for Post-Conviction Relief, Respondent denies the allegations contained therein. In CR-2011-8364-FE the Respondent was convicted of Possession of Meth with intent to deliver and Delivery of Meth. CR-2011-8174-FE has a separate post-conviction case pending and all allegations made regarding that case will be handled in a separate answer.
4. Answering paragraph 4(a) and 4(b) of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations.
5. Answering paragraph 5 of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations contained therein.
6. Answering paragraph 6 of Hall's Petition for Post-Conviction Relief, Respondent denies the allegations contained therein. The Respondent appealed in CR-2011-8364-FE the docket number is 39676-2012.
7. Answering paragraphs 7(a) through 7(c) of Hall's Petition for Post-Conviction Relief, Respondent denies the conclusory allegations contained therein.
8. Answering paragraphs 8(a), 8(b) and 8(c) of Hall's Petition for Post-Conviction Relief, Respondent admits the allegations therein.

9. Answering paragraphs 9(a), 9(b) and 9(c) of Hall's Petition for Post-Conviction Relief for ineffective assistance of counsel, Respondent denies the conclusory allegations contained therein.
10. Paragraphs 10, 11 and 12 of Hall's Petition for Post-Conviction Relief regarding in forma pauperis request, request for appointment of counsel and requested relief are not factual allegations capable of being admitted or denied.

FIRST AFFIRMATIVE DEFENSE

Hall's petition fails to state any grounds upon which relief can be granted. Idaho Code § 19-4901(a); I.R.C.P. 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

To the extent Hall's claims should have been raised on direct appeal, the claims are procedurally defaulted. Idaho Code § 19-4901(b).

THIRD AFFIRMATIVE DEFENSE

Hall's Petition for Post-Conviction Relief contains bare and conclusory allegations unsubstantiated by affidavits, records, or other admissible evidence, and therefore fails to raise a genuine issue of material fact. Idaho Code §§ 19-4902(a), 19-4903, and 19-4906.


FOURTH AFFIRMATIVE DEFENSE

Hall's Petition for Post-Conviction Relief fails to state a claim upon which relief can be granted because the claims are uncognizable or are legally insufficient.

WHEREFORE, Respondent prays for relief as follows:

- a) That Hall's claims for post-conviction relief be denied;
- b) That Hall's claims for post-conviction relief be dismissed;
- c) For such other and further relief as the court deems necessary in the case.


DATED this 5 day of September 2012.


ASHLEY GRAHAM
Deputy Prosecuting Attorney
for Bannock County

VERIFICATION

The Respondent, by and through Deputy Prosecuting Attorney Ashley Graham, being first duly sworn under oath, deposes and says:

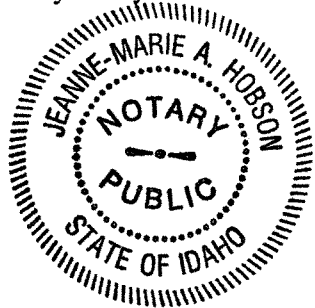
- 1) I am the attorney for the Respondent in the above-entitled matter.
- 2) That the facts contained in the foregoing Answer to Petitioner's Petition for Post-Conviction Relief are true and correct to the best of my information and belief.

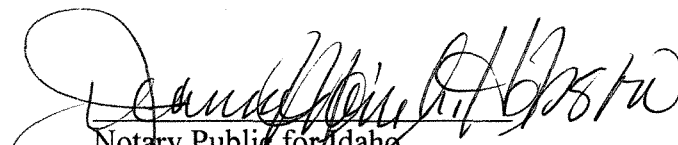

ASHLEY GRAHAM
Deputy Prosecuting Attorney
for Bannock County

STATE OF IDAHO)
) ss:
County of Bannock)

I hereby certify that on this 5 September 2012, personally appeared before me [my name] who, being first duly sworn, declared that he is representing the Respondent in this action, and that the statements contained in the foregoing document are believed to be true to the best of my information and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year first above written.

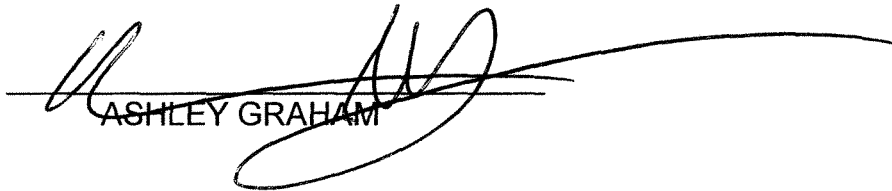



Notary Public for Idaho
Residing at: Pocatello, Idaho
My Commission Expires: 9-24-16

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5 day of September 2012, I caused a true and correct copy of the foregoing ANSWER to be placed in the United States mail, postage prepaid, addressed to:

Kent Hall
SICI
30134 Main Dorm
P.O. Box 8509
Boise, Idaho 83707


ASHLEY GRAHAM

Substance, Methamphetamine in Case No. CR-2011-8364, both in violation of I.C. §37-2732(a)(1)(A). On January 31, 2012, the Court sentenced the Hall to five (5) years fixed and seven (7) years indeterminate for a unified sentence of twelve (12) years in each case to be served concurrently with one another. Hall has appealed both cases to the Idaho Supreme Court, Docket No. 39676-2012, and is there awaiting a resolution. Additionally, in May 2012, Hall filed Idaho Criminal Rule 35 motions in each of the cases, which this Court denied.

Hall filed a Petition for Post-Conviction Relief in each of the above named cases on August 20, 2012. The Petitions and accompanying affidavits are virtually identical in the two cases, with Hall alleging the following: 1) that he received ineffective assistance of counsel; 2) that his plea was not knowingly or voluntarily entered because it was induced by the false promise for a diversion into drug court, which would not include a prison term; 3) his due process rights were violated due to corrupted drug samples by the ISP Forensic Lab resulting in violations of Brady/Giglio; and 4) he was not competent to waive his right to a preliminary hearing because he was under the influence of narcotics.

STANDARD OF REVIEW

Proceedings under the Uniform Post-Conviction Procedure Act (UPCPA) are civil in nature.¹ The petitioner must prove the allegations giving rise to the application by a preponderance of evidence.² The application must include affidavits, records, or other evidence supporting its allegations, or must state why such supporting evidence is not included.³ The application must be verified with respect to facts within the personal knowledge of the

¹ *Stuart v. State*, 136 Idaho 490, 495, 36 P.3d 1278, 1282 (2001).

² *Grube v. State*, 134 Idaho 24, 995 P.2d 794 (2000).

³ *Id.*

petitioner.⁴ A court is required to accept the petitioner's un rebutted allegations as true, but not the petitioner's conclusions.⁵ A petitioner is not allowed to raise any issue that could have been raised on a direct appeal, but was not so raised, unless those issues were not known and could not have reasonably been known at the time of the appeal.⁶ Similarly, the petitioner may not re-litigate the same issues that were already presented in a direct appeal.⁷

When the alleged facts, even if true, would not entitle the petitioner to relief, the trial court may dismiss the application without holding an evidentiary hearing.⁸ Summary disposition of a petition is appropriate if the petitioner's evidence raises no genuine issue of material fact.⁹ Allegations contained in the application are insufficient for the granting of relief when (1) they are clearly disproved by the record of the original proceedings, or (2) do not justify relief as a matter of law.¹⁰ However, “[s]ummary dismissal of an application for post-conviction relief may be appropriate, . . . , even where the state does not controvert the petitioner's evidence because the court is not required to accept either the petitioner's mere conclusory allegations, unsupported by admissible evidence, or the petitioner's conclusions of law.”¹¹

DISCUSSION

In his Petition for Post-Conviction Relief, Hall alleges that his constitutional rights were violated due to the following occurrences: 1) he was induced to plead guilty by a promise to be diverted into drug court and thereby avoid a prison term; 2) he was incompetent to waive his

⁴ I.C. § 19-4903.

⁵ *Ferrier v. State*, 135 Idaho 797, 799, 25 P.3d 110, 112 (2001).

⁶ *Raudebaugh v. State*, 135 Idaho 602, 603, 21 P.3d 924, 925 (2001).

⁷ *Gilpin-Grubb v. State*, 138 Idaho 76, 81, 57 P.3d 787, 792 (2002).

⁸ *Stuart*, 118 Idaho 869, 801 P.2d 1220 (1990) (citing *Cooper v. State*, 96 Idaho 542, 545, 531 P.2d 1187, 1190 (1975)).

⁹ I.C. § 19-4906(b), (c).

¹⁰ *Stuart*, 118 Idaho 869, 801 P.2d 1220.

¹¹ *State v. LePage*, 138 Idaho 803, 807, 69 P.3d 1064, 1068 (Ct. App. 2003); *Goodwin v. State*, 138 Idaho 269, 272, 61 P.2d 626, 629 (Ct. App. 2003); *Roman v. State*, 125 Idaho 644, 647, 873 P.2d 898, 901 (Ct. App. 1994).

preliminary hearing due to narcotic use; 3) his drug samples were corrupted by the Idaho State Police (ISP) Forensics Lab; 4) he received ineffective counsel because his attorney did not object to the alleged corrupted drug analysis and also induced his guilty plea by making false promises of drug court. Hall has requested that counsel be appointed to assist him.

I. Do Hall's allegations raise the possibility of a valid claim entitling him to the assistance of appointed counsel?

Idaho appellate courts have clearly established that it is error for a district court to deny a Petition for Post-Conviction Relief on the merits before ruling on the petitioner's request for post-conviction counsel.¹² A district court abuses its discretion if it fails to determine whether an applicant for post-conviction relief is entitled to court-appointed counsel before denying the application on the merits.¹³ Therefore, Hall's Motion for Appointment of Counsel must be addressed first.

If a post-conviction petitioner is unable to pay for the expenses of representation, the trial court may appoint counsel to represent him.¹⁴ The decision to grant or deny a request for court-appointed counsel is discretionary.¹⁵ Nevertheless, counsel should be appointed if the petitioner qualifies financially and alleges facts sufficient to raise the possibility of a valid claim.¹⁶ If all of the claims alleged in the petition are patently frivolous the trial court will deny the request for counsel.¹⁷ If the court decides the claims in the petition are frivolous, it should provide sufficient notice regarding the basis for its ruling to enable the petitioner to provide additional facts, if they exist, to

¹² *Hust v. State*, 147 Idaho 682, 685, 214 P.3d 668, 671 (Ct. App. 2009).

¹³ *Charboneau v. State*, 140 Idaho 789, 793, 102 P.3d 1108, 1112 (2004).

¹⁴ I.C. § 19-4904.

¹⁵ *Charboneau*, 140 Idaho at 792, 102 P.3d at 1111.

¹⁶ *Id.* at 793, 102 P.3d at 1112.

¹⁷ *Newman v. State*, 140 Idaho 491, 493, 95 P.3d 642, 644 (Ct. App. 2004).

demonstrate the existence of a non-frivolous claim.¹⁸

“[T]he proper standard for determining whether to appoint counsel for an indigent petitioner in a post-conviction proceeding is whether the petition alleges facts showing the possibility of a valid claim that would require further investigation on the defendant's behalf.”¹⁹ All inferences must be drawn in favor of the unrepresented petitioner because they cannot be expected to know how to properly allege the necessary facts.²⁰ “A trial court must do more than determine whether the petition alleges a valid claim. The court must also consider whether circumstances prevent the petitioner from making a more thorough investigation into the facts.”²¹ Therefore, the trial court should appoint counsel if the petition alleges facts showing the possibility of a valid claim such that a reasonable person with adequate means would be willing to retain counsel to conduct a further investigation into the claim.²²

Thus, in determining whether Hall raised the possibility of a valid claim, the Court will consider whether the appointment of counsel would have assisted him in conducting an investigation into facts not in the record and whether a reasonable person with adequate means would have been willing to retain counsel to conduct that further investigation.

As discussed below, Hall's allegations that his guilty plea was not voluntary due to false promises and his waiver of a preliminary trial was also involuntary due to narcotics use is directly contradicted by the record. Furthermore, the Petition and Affidavit do not provide facts or argument relative to how the “potential Brady/Giglio material” actually affected these cases. Finally, Hall's ineffective assistance arguments are directly dependent on the previously

¹⁸ *Charboneau*, 140 Idaho at 792, 102 P.3d at 1111.

¹⁹ *Workman v. State*, 144 Idaho 518, 529, 164 P.3d 798, 809 (2007).

²⁰ *Charboneau*, 140 Idaho at 794, 102 P.3d at 1113.

²¹ *Swader v. State*, 143 Idaho 651, 654-55, 152 P.3d 12, 15-16 (2007).

²² *Id.* at 655, 152 P.3d at 16

mentioned allegations. Therefore, as explained in more detail below, Hall does not raise the possibility of a valid claim. Notice is therefore given of the Court's Intent to Dismiss Hall's Post-Conviction Petition and his request for counsel.

II. Hall's guilty plea was made Knowingly and Voluntarily.

Hall alleges that his guilty plea was not made knowingly and voluntarily because he was induced by a false promise that he would be diverted into drug court, without a prison sentence, in exchange for his guilty plea.²³ The Court finds that there is no merit to Hall's allegation concerning his guilty plea. Prior to pleading guilty, Hall completed a guilty plea questionnaire in each of his cases and delivered it to the Court at his change-of-plea hearing on December 14, 2012. In both cases, Hall affirmed in the questionnaire the terms of his plea agreement, wherein the State promised to dismiss three counts and a persistent violator charge in exchange for Hall's guilty plea to Possession of a Controlled Substance with Intent to Deliver, Methamphetamine (Case No. CR-2011-08147) and Delivery of a Controlled Substance, Methamphetamine (Case No. CR-2011-8364).²⁴ Furthermore, Hall responded in each questionnaire that no person had promised a special sentence, reward, favorable treatment or leniency with regard to his plea.²⁵ Finally, Hall responded in the questionnaire that he understood that no one, including his attorney could force him to plead guilty in his case, and that his guilty plea was being entered freely and voluntarily.²⁶ Therefore, pursuant to Hall's Guilty Plea Questionnaire and the colloquy the Court conducted at the change-of-plea hearing, the Court found that Hall's guilty pleas were knowingly and voluntarily given and that no promises had been made to him beyond the plea agreement, which was cited on the record. Hall's bare assertions to the contrary cannot now

²³ Petition for Post-Conviction Relief; Affidavit of Facts in Support of Post-Conviction Petition, p. 1, ¶1.

²⁴ Guilty Plea Questionnaire, ¶6, filed December 14, 2012.

²⁵ *Id.* at ¶12.

²⁶ *Id.* at ¶29; ¶30.

change the record to his advantage. Therefore, the Court finds there is no merit to Hall's allegations that his plea was not knowingly and voluntarily entered.

III. Hall's Waiver of his Preliminary Hearing was entered Knowingly and Voluntarily.

Hall alleges that he was under the influence of narcotics and therefore was not competent to waive his right to a preliminary hearing.²⁷ Although he does not explicitly state it, the Court presumes that Hall believes that his procedural due process rights were violated by the alleged involuntariness of his waiver of the preliminary hearing. However, again, the Court does not find merit to Hall's allegations. On June 13, 2011, Hall appeared in front of Magistrate Judge Clark where he was questioned about his understanding of his right to a preliminary hearing and the voluntariness of the decision to waive the hearing. Furthermore, Hall signed and submitted a questionnaire, wherein he acknowledged he understood the rights he had at a preliminary hearing and that he would be foregoing those rights by waiving the hearing. Hall additionally had the aid of counsel at all times during the proceedings in this matter, including during the waiver of his preliminary hearing. Therefore, the Magistrate Court found that Hall's waiver of the preliminary hearing was knowingly and voluntarily entered,²⁸ and this Court will not make a finding to the contrary on the basis of Hall's unsupported allegations.

IV. Hall's allegations of improprieties at the state lab are barred by his guilty plea.

Hall alleges that the "ISP Forensic labs corrupted the alleged drug samples submitted in [his] case."²⁹ When a defendant knowingly and voluntarily pleads guilty all challenges to non-

²⁷ Affidavit of Facts in Support of Post-Conviction Petition, p. 1, ¶ 5.

²⁸ Minute Entry and Order Waiving Preliminary Hearing, June 13, 2011.

²⁹ Affidavit of Facts in Support of Post-Conviction Petition, p. 1, # 2.

jurisdictional defects are simultaneously waived.³⁰ As discussed above, the Court finds that Hall's guilty plea was not induced by a false promise and that the plea was therefore knowingly and voluntarily made. Because his plea was knowing and voluntary Hall waived his ability to claim that improprieties at the state lab led to his conviction.

Furthermore, although Hall attached three letters, from Major Kendrick Wills, dated May 3, 2011, advising of possible Brady/Giglio violations at the Lab, Hall has failed to show how the incidents at the lab are remotely relevant to the testing of the drugs in Hall's case. In short, the potential Brady/Giglio material identified in the attachments to the Petition is not evidence that there was any actual contamination related to Hall's case. Finally, Hall's conclusory allegations to the contrary are not supported by any evidence.

V. Hall did not Receive Ineffective Assistance of Counsel

Hall claims his counsel was ineffective because counsel 1) failed to "obtain and present obvious Brady/Giglio materials to the court" 2) "used promises to obtain a coerced guilty plea; and 3) failed to file motions to withdraw the guilty plea after learning of the alleged incidents at the ISP Forensics Lab."³¹

The UPCPA provides that ineffective assistance of counsel is a valid claim for Post-Conviction Relief.³² To prevail on an ineffective assistance of counsel claim the petitioner must satisfy both parts of the two-part *Strickland* test.³³ First, the petitioner must show that when judged objectively counsel's representation failed to meet reasonable and typical professional

³⁰ *Stone v. State*, 108 Idaho 822, 826, 702 P.2d 860, 864 (Ct. App. 1985).

³¹ Petition for Post-Conviction Relief, p. 3, ¶9.

³² *Murray v. State*, 121 Idaho 918, 924–25, 828 P.2d 1323, 1329–30 (Ct. App. 1992).

³³ *McKeeth v. State*, 140 Idaho 847, 850 103 P.3d 460, 463 (2004) (citing *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct 2052, 2064, 80 L.Ed.2d 674, 693 (1984)); *Gilpin-Grubb*, 138 Idaho at 80, 57 P.3d at 791.

norms.³⁴ The petitioner must overcome the “strong presumption that trial counsel’s performance fell within the wide range of reasonable professional assistance.”³⁵ Second, if the representation failed to meet the reasonable and typical professional norms, the petitioner must show that the result would have been different if counsel’s representation had not been ineffective.³⁶ To demonstrate prejudice, the petitioner must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the outcome of the case would have been different.³⁷ Hall must prove by a preponderance of evidence both parts of the *Strickland* test.

The *Strickland* test also applies to petitioners claiming ineffective assistance of counsel during plea agreements.³⁸ Petitioners for Post-Conviction Relief, as prior criminal defendants, are entitled to “the effective assistance of competent counsel” prior to entering into any plea agreement.³⁹ When a petitioner alleges a deficiency in regards to a plea agreement the petitioner must demonstrate “that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.”⁴⁰

Hall’s claims clearly do not pass the first part of the *Strickland* test. Hall claims that his counsel coerced a guilty plea by making him a false promise and failed to object or make a motion for withdrawal of Hall’s guilty plea after receiving notification of the potential Brady/Giglio violations at the ISP Forensics Lab. First, as stated above, the Court has found that Hall’s plea of guilty was knowingly and voluntarily made, and Hall’s unsupported allegations of attorney coercion do not create a valid ineffective assistance of counsel claim. Additionally, Hall

³⁴ *Padilla v. Kentucky*, 130 S.Ct. 1473, 1482 (2010).

³⁵ *Milburn*, 135 Idaho 701, 706, 23 P.3d 775, 780 (Ct. App. 2000).

³⁶ *Padilla*, 130 S.Ct. at 1482.

³⁷ *Gilpin-Grubb*, 138 Idaho at 81, 57 P.3d at 792.

³⁸ *McKeeth*, 140 Idaho 850, 103 P.3d 463.

³⁹ *Padilla*, 130 S.Ct. at 1480–81.

⁴⁰ *Ridgley v. State*, 148 Idaho 671, 676, 227 P.3d 925, 930 (2010).

has failed to show that his attorney's failure to investigate the alleged Brady/Giglio violations at the ISP Forensics lab and make corresponding motions was unreasonable or violated professional norms. Hall has merely set forth conclusory allegations regarding his counsel's strategic decisions. As stated above, the Court cannot see any relevance between the incidents at the ISP forensics lab and the testing of the drugs in Hall's case. Furthermore, as discussed above, a voluntary guilty plea is a waiver of non-jurisdictional defects because, in effect, the defendant is admitting that he knowingly committed the acts that make up the elements of a crime; therefore, forensic testing becomes moot. Additionally, an in-field presumptive test for narcotics was performed at the time of Hall's arrest.⁴¹ The results of the test were positive for methamphetamine.⁴² Strategic or tactical decisions regarding what motions to make based on the posture of the case are made by trial counsel and will not be second-guessed on review, unless those decisions were made upon a basis of inadequate preparation, ignorance of the relevant law, or other shortcomings capable of objective evaluation.⁴³ Based upon Hall's admissions to law enforcement, the presumptive field test, and the positive test done by the ISP forensics lab, Hall has failed to show that his counsel's failure to make motions for a change of plea and dismissal of the case was unreasonable. Therefore, because the Court is not required to accept Hall's conclusory allegations or legal conclusions, and because there is no evidence, either asserted by Hall or in the record, that would overcome the strong presumption that the performance of his counsel fell within the wide range of reasonable professional assistance, he has failed to prove the first prong of the *Strickland* test.

Additionally, Hall has failed to show that his counsel's decisions not to file frivolous

⁴¹ Bannock County Sherriff's Office Detail Incident Report, attached to Affidavit of Probable Cause, May 23, 2011, p. 4.

⁴² *Id.*

⁴³ *Campbell v. State*, 130 Idaho 546, 548, 944 P.2d 143, 145 (Ct. App. 1997).

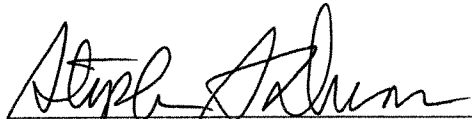
motions have prejudiced him. Because Hall has failed to prove either part of the *Strickland* test his claim of ineffective assistance of counsel fails.

CONCLUSION

Hall's Motion for Appointment of Counsel must be denied because he does not have the possibility of valid claim. His Petition for Post-Conviction Relief must also be denied because none of his claims or allegations has any supporting evidence. First, the record reflects that his waiver of the preliminary hearing and his eventual guilty plea were knowingly and voluntarily entered. Second, Hall's accusations of impropriety at the forensics lab are irrelevant to his case, and are anyway barred by his voluntary guilty plea. Finally, Hall has failed to prove either part of the *Strickland* test when alleging his counsel was ineffective. Therefore, Hall is given twenty (20) days to respond with additional facts on these issues or his Petition will be dismissed.

IT IS SO ORDERED.

DATED this 19th day of September, 2011


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of September, 20011, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Kent Hall
SCIS
PO Box 8509
Boise, ID 83707

U.S. Mail
 Overnight Delivery
 Hand Delivery
 Facsimile

Ashley Graham
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

U.S. Mail
 Overnight Delivery
 Hand Delivery
 Facsimile

DATED this 19 day of September, 20011.



Deputy Clerk

KENT Emmit Hall #30134

Full Name/Prisoner Name

P.O. Box 8509
BOISE Id 83707

Complete Mailing Address

Plaintiff/Defendant
(circle one)

2012 OCT -6 11:25 AM
KH

SIXTH JUDICIAL DISTRICT COURT
STATE OF IDAHO, COUNTY OF BANNOCK

KENT HALL)
Plaintiff/Petitioner,)
(Full name and prisoner number.)

CASE NO. CV-2012-3577-PC
CV-2012-3578-PC

vs.)
STATE OF IDAHO)

MOTION FOR
CONTINUANCE

Defendant/Respondent(s),)
(Full name(s). Do not use et. al.))

COMES NOW, Kent Hall Plaintiff Defendant (circle one) in the above entitled

and moves this court for a thirty (30) day
continuance of the pending dismissal of the
PCR petitions in the above referenced cases

Plaintiff advised/advises this court that he is in the process of preparing and serving SUBPOENAS DUCES TECUM upon the Idaho State police forensic laboratory to obtain the investigative report that will support his contentions of backed testing of the alleged narcotics in the above entitled cases, and such will show that plaintiff is entitled to the relief he seeks in his PCR petitions.

Respectfully submitted this 26 day of September, 2012

X Kent E Hall
Plaintiff/Defendant (circle one)

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 30 day of September, 2012, I
mailed a true and correct copy of the motion for continuance via
prison mail system for processing to the U.S. mail system to:

ASHLEY GRAHAM
Bannock County prosecutor
P.O. Box D
Parcatello, Id. 83205

X Kent E Hall
Plaintiff/Defendant (circle one)

Kent E Hall 9.26.12 3
Revised 10/24/05

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2012 OCT 18 PM 12:06

BY 
DEPUTY CLERK

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

KENT HALL,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

Case No. CV-2012-3577-PC
CV-2012-3578-PC

**MEMORANDUM DECISION AND
ORDER DENYING PETITIONER'S
MOTION FOR CONTINUANCE AND
DISMISSING PETITION FOR POST-
CONVICTION RELIEF**

On August 20, 2012, Petitioner, Kent Hall, filed Petitions for Post-Conviction Relief on Case No. CR-2011-08147 and Case No. CR-2011-08364 respectively. As Hall's Petitions in the two respective cases were virtually identical, the Court issued one memorandum decision and order of its Notice of Intent to Deny Counsel and Dismiss Petition for Post-Conviction Relief on September 19, 2012, giving Hall twenty (20) days, pursuant to law, to respond to the Court's Notice of Intent to Dismiss.

In response, Hall filed a Motion for Continuance on October 4, 2012, wherein Hall moved the Court to continue the pending dismissal of his Post-Conviction Petitions for thirty (30) days so as to give Hall sufficient time to serve subpoenas deuces tecum upon the Idaho State Forensic Laboratory, which Hall believes will allow him to "obtain the investigative report that will support his contentions of boched [sic] testing of the alleged narcotics" in his case. The


Notice 1
Case No. CV-2012-3577-PC and CV-2012-3578-PC

Court hereby **DENIES** Hall's Motion for Continuance because, as the Court explained in its Notice of Intent to Dismiss, when a defendant knowingly and voluntarily pleads guilty to the underlying charges all challenges to non-jurisdictional defects are simultaneously waived.¹ Hall knowingly and voluntarily pled guilty to his underlying charges; therefore, any allegations that he may have that the narcotics testing done in connection with his case was defective is irrelevant, and subpoenaing the Idaho State Police forensics lab will not further Hall's case. Therefore, the Court **DENIES** Hall's Motion to Continue.

Hall has not submitted any further evidence or argument in support of his Petitions for Post-Conviction Relief. Therefore, the Court hereby **DISMISSES** both of Hall's Petitions for Post-Conviction Relief because Hall failed to show any new or additional information that would justify reconsideration of this Court's Intent to Dismiss Hall's Petitions.

IT IS SO ORDERED.

DATED this _____ day of October, 2012


STEPHEN S. DUNN
District Judge

¹ *Stone v. State*, 108 Idaho 822, 826, 702 P.2d 860, 864 (Ct. App. 1985).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18 day of October, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

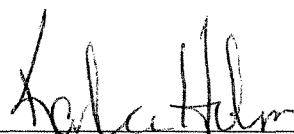
Kent Hall
SCIS
PO Box 8509
Boise, ID 83707

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

Ashley Graham
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

DATED this 18 day of October, 2012.



Deputy Clerk

Inmate Name KENT E HALL
IDOC No. 30134
Address Box 8509
SICI Boise ID 83707

RECEIVED
DISTRICT CLERK
JUL 10 2012 10:15
[Signature]

Appellant

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

Kent Hall

Petitioner-Appellant,

v.

STATE OF IDAHO,

Respondent.

CV-2012 35 77 AC
CASE NO. CV 2012-3578 PE
Ref Case CR-2011-8364 FE
S.C. DOCKET NO. _____

NOTICE OF APPEAL
Post Conviction

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, STATE OF IDAHO, PROSECUTING ATTORNEY AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the entered in the above-entitled action on the 5.20.11 (DATE), the Honorable Dunn (NAME OF JUDGE) presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c)(1-10), I.A.R.
3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

V1

(a) Did the district court err in dismissing the appellant's Petition for Post Conviction Relief?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(a). The appellant also requests the preparation of the following portions of the reporter's transcript:

(a) The Status Hearing held on _____ **(DATE OF HEARING)**; and

(b) The Evidentiary Hearing held on _____ **(DATE OF HEARING)**.

6. The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

(a) Any briefs or memorandums, filed or lodged, by the state, the appellate, or the court in support of, or in opposition to, the dismissal of the Post Conviction Petition;

(b) Any motions or responses, including all attachments, affidavits or copies of transcripts, filed or lodged by the state, appellant or the court in support of, or in opposition to, the dismissal of the Post Conviction Petition; and

(c) (ANY ITEMS FROM THE UNDERLYING CRIMINAL CASE OF WHICH THE COURT TAKES JUDICIAL NOTICE NOTE: UNLESS SPECIFICALLY ASKED FOR, THE PORTIONS OF THE UNDERLYING RECORD WHICH THE DISTRICT COURT TOOK JUDICIAL NOTICE OF WON'T BE INCLUDED IN THE RECORD.)

My Attorney said to Judge Dunn
that I did some things to Rectify
my situation. Meaning I did work
for Pocatello Police Dept. and was
promised a life Sentence, Not 12 years.

7.

I certify:

Also why else was I Released on O.R.
Two Times,

- (a) That a copy of this Notice of Appeal has been served on the reporter;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Bannock (NAME OF COUNTY) County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 31 day of Oct, 20 12

Kent Hall
Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 31 day of oct, 2012 I mailed a true and correct copy of the attached NOTICE OF APPEAL via prison mail system for processing to the United States mail system, postage prepaid, addressed to:

**Deputy Attorney General
Criminal Division
P.O. Box 83720
Boise, ID 83720-0010**

Bannock County Prosecuting Attorney
624 E Center
Payetteville ID 83201

Kent E Hall
Signature



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

September 21, 2012

Mr. Kent Hall, #30134
Post Office Box 8509
Boise, ID 83707

Dear Mr. Hall:

This letter is in response to the correspondence that you addressed to the FBI in which you allege that the Idaho State Police Forensic Laboratory compromised evidence in your case.

You should continue to pursue your allegation through the appropriate appeals process with the assistance of an attorney.

Sincerely yours,

A handwritten signature in black ink that reads "Patrick F. Fallon, Jr." followed by a stylized flourish.

Patrick F. Fallon, Jr.
Acting Chief, Civil Rights Unit
Criminal Investigative Division

2012-05-16
11:40 AM
CLERK OF DISTRICT COURT
JUDICIAL DISTRICT 16
[Handwritten Signature]

Inmate name KENT E HALL
IDOC No. 30134
Address SICI Box 8509
Boise ID

Defendant-Appellant

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

Kent E Hall,)
)
Petitioner-Appellant,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent .)
_____)

CV 2012-3577-PC
Case No. CV 2012 3578-PC

**MOTION AND AFFIDAVIT IN
SUPPORT FOR
APPOINTMENT OF
COUNSEL**

COMES NOW, Kent E Hall, Petitioner-Appellant in the
above entitled matter and moves this Honorable Court to grant Defendant-Appellant's Motion
for Appointment of Counsel for the reasons more fully set forth herein and in the Affidavit in
Support of Motion for Appointment of Counsel.

1. Petitioner-Appellant is currently incarcerated within the Idaho Department of
Corrections under the direct care, custody and control of Warden Kirkhin,
of the SICI Idaho Department of Corrections.

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

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

4. Other: _____.

DATED this 31 day of Oct, 2012

Kent E Hall
Petitioner-Appellant

AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL

STATE OF IDAHO)
) ss
County of Ada)

Kent E Hall, after first being duly sworn upon his/her oath, deposes and says as follows:

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the 3101 under the care, custody and control of Warden Kirkham;
3. I am indigent and do not have any funds to hire private counsel;
4. I am without bank accounts, stocks, bonds, real estate or any other form of real property;
5. I am unable to provide any other form of security;
6. I am untrained in the law;

7. If I am forced to proceed without counsel being appointed I will be unfairly handicapped in competing with trained and competent counsel of the State;

Further your affiant sayeth naught.

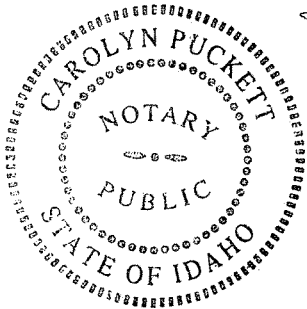
WHEREFORE, Petitioner-Appellant respectfully prays that this Honorable Court issue it's Order granting Petitioner-Appellant's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Petitioner-Appellant is entitled to.

DATED This 31 day of Oct, 2012.

Kurt E Hall
Petitioner-Appellant

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 31ST day
of October, 2012

(SEAL)



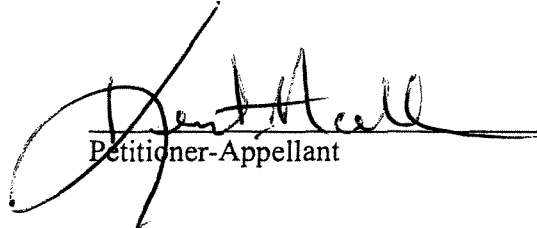
[Signature]
Notary Public for Idaho
Commission expires: 6-7-15

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 31 day of oct, 2012 I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

**Deputy Attorney General
Criminal Division
P.O. Box 83720
Boise, ID 83720-0010**

Bunnock County Prosecuting Attorney
624 E Center St
Pocahontas ID 83201


Petitioner-Appellant

Kent Emmitt Hall
Full Name of Party Filing Document

SICI Box 8509
Mailing Address (Street or Post Office Box)

Boise ID 83707
City, State and Zip Code

Telephone _____

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

Kent R Hall
Plaintiff,

vs.

State of Idaho
Defendant. AND APPELLANT

Case No. CR 2012-3577 PC
CR 2012-3578 PC

MOTION AND AFFIDAVIT FOR
PERMISSION TO PROCEED ON PARTIAL
PAYMENT OF COURT FEES (PRISONER)

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

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

1. This is an action for (type of case) Post Conviction Relief. I believe I am entitled to get what I am asking for.

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

3. I am unable to pay all the court costs now. I have attached to this affidavit a current statement of my inmate account, certified by a custodian of inmate accounts, that reflects the activity of the account over my period of incarceration or for the last twelve (12) months, whichever is less.

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

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

(Do not leave any items blank. If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.)

IDENTIFICATION AND RESIDENCE:

Name: Keut E Hall Other name(s) I have used: Ø

Address: SICI P.O Box 8509 Boise ID 707

How long at that address? 8 months Phone: Ø

Year and place of birth: _____

DEPENDENTS:

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

Name of spouse: Ø

My other dependents including minor children (use only initials and age to identify children) are: _____

Matthew K Hall

INCOME:

Amount of my income: \$ Ø per week month

Other than my inmate account I have outside money from: 0

My spouse's income: \$ 0 per week month.

ASSETS:

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

Your Address	City	State	Legal Description	Value	Equity
			SIC1 Boise ID Prison		

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

Description (provide description for each item)	Value
Cash	0
Notes and Receivables	0
Vehicles	0
Bank/Credit Union/Savings/Checking Accounts	0
Stocks/Bonds/Investments/Certificates of Deposit	0
Trust Funds	0
Retirement Accounts/IRAs/401(k)s	0
Cash Value Insurance	0
Motorcycles/Boats/RVs/Snowmobiles	0
Furniture/Appliances	0
Jewelry/Antiques/Collectibles	0
Description (provide description for each item)	
TVs/Stereos/Computers/Electronics	0
Tools/Equipment	0
Sporting Goods/Guns	0
Horses/Livestock/Tack	0

Other (describe) _____ 0
 _____ 0
 _____ 0

EXPENSES: (List all of your monthly expenses.)

Expense	Average Monthly Payment
Rent/House Payment _____	<u>0</u>
Vehicle Payment(s) _____	<u>0</u>
Credit Cards (List last four digits of each account number.)	
_____	<u>0</u>
_____	<u>0</u>
_____	<u>0</u>
Loans (name of lender and reason for loan)	
_____	<u>0</u>
_____	<u>0</u>
Electricity/Natural Gas _____	<u>0</u>
Water/Sewer/Trash _____	<u>0</u>
Phone _____	<u>0</u>
Groceries _____	<u>0</u>
Clothing _____	<u>0</u>
Auto Fuel _____	<u>0</u>
Auto Maintenance _____	<u>0</u>
Cosmetics/Haircuts/Salons _____	<u>0</u>
Entertainment/Books/Magazines _____	<u>0</u>
Home Insurance _____	<u>0</u>

Expense	Average Monthly Payment
Auto Insurance _____	0
Life Insurance _____	0
Medical Insurance _____	0
Medical Expense _____	0
Other _____	0
_____	0

MISCELLANEOUS:

How much can you borrow? \$ 0 From whom? 0
 When did you file your last income tax return? 0 Amount of refund: \$ 0

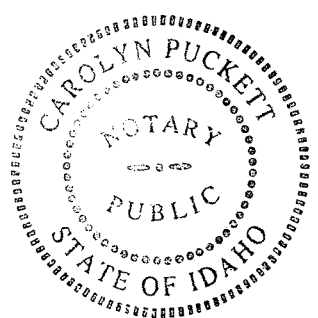
PERSONAL REFERENCES: (These persons must be able to verify information provided.)

Name	Address	Phone	Years Known
Jay Simmons	1485 Bluebell	2419427	56
Randy Hall	Pocatello ID		56
KENT E Hall			

Typed/printed _____ Signature Kent Hall

STATE OF IDAHO)
 County of Ada) ss.

SUBSCRIBED AND SWORN before me on this 31st day of October, 2012



[Signature]
 Notary Public for Idaho
 Residing at Boise
 Commission expires 6-1-15

IDOC TRUST ===== OFFENDER BANK BALANCES ===== 10/31/2012 =

Doc No: 30134 Name: HALL, KENT EMMITT
 Account: CHK Status: INDIGENT

SICI/MAIN PRES FACIL
 TIER-3 CELL-1

Transaction Dates: 10/31/2011-10/31/2012

Beginning Balance	Total Charges	Total Payments	Current Balance
0.00	135.75	117.30	18.45DB

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
4/12/2012	HQ0581395-001	950-RREINCARCERATE	IBSUSPCHK	0.00	0.00
4/12/2012	HQ0581397-020	011-RCPT MO/CC	RTCP MO	25.00	25.00
4/19/2012	SI0582111-059	099-COMM SPL		21.50DB	3.50
4/27/2012	II0582765-002	072-METER MAIL	92693	2.15DB	1.35
4/30/2012	HQ0582957-015	011-RCPT MO/CC	RCPT MO	20.00	21.35
5/01/2012	SI0583285-004	070-PHOTO COPY	92690	1.50DB	19.85
5/03/2012	SI0583541-067	099-COMM SPL		13.25DB	6.60
5/03/2012	SI0583541-068	099-COMM SPL		6.09DB	0.51
5/10/2012	II0584427-002	072-METER MAIL	92751	0.40DB	0.11
6/05/2012	HQ0587757-015	011-RCPT MO/CC	RCPT MO	20.00	20.11
6/06/2012	SI0588011-002	070-PHOTO COPY	93295	4.55DB	15.56
6/07/2012	SI0588168-079	099-COMM SPL		8.68DB	6.88
6/07/2012	SI0588168-080	099-COMM SPL		4.35DB	2.53
6/15/2012	SI0589215-002	071-MED CO-PAY	518675	5.00DB	2.47DB
6/20/2012	SI0589628-017	071-MED CO-PAY	518898	5.00DB	7.47DB
7/05/2012	II0590893-014	072-METER MAIL	93391	0.65DB	8.12DB
7/10/2012	SI0591666-007	070-PHOTO COPY	93393	1.20DB	9.32DB
7/26/2012	HQ0593404-012	011-RCPT MO/CC	RCPT MO	20.00	10.68
7/27/2012	II0593577-013	072-METER MAIL	92893	0.65DB	10.03
8/09/2012	SI0595104-079	099-COMM SPL		8.59DB	1.44
8/10/2012	SI0595376-018	071-MED CO-PAY	519119	5.00DB	3.56DB
8/14/2012	HQ0595626-017	011-RCPT MO/CC	RCPT MO	25.00	21.44
8/17/2012	II0596036-021	072-METER MAIL	92964	5.20DB	16.24
8/21/2012	SI0596310-011	071-MED CO-PAY	529530	5.00DB	11.24
8/23/2012	SI0596526-072	099-COMM SPL		9.54DB	1.70
8/24/2012	II0596670-004	072-METER MAIL	92987	2.30DB	0.60DB
8/29/2012	SI0597094-003	070-PHOTO COPY	92963	10.30DB	10.90DB
8/29/2012	SI0597094-010	070-PHOTO COPY	92986	4.85DB	15.75DB
9/11/2012	SI0598847-014	071-MED CO-PAY	529535	5.00DB	20.75DB
9/19/2012	SI0600035-006	071-MED CO-PAY	529820	5.00DB	25.75DB
0/02/2012	SI0601281-001	218-SPL PRJCTS	SEP PAY	7.30	18.45DB

I hereby certify that the contents are true and correct copies of official records or reports of the Department of Correction.

Date: 10/31/12

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

KENT HALL,)	
)	
)	
Petitioner-Appellant,	)	Supreme Court No.
)	
vs.)	
	)	CLERK'S CERTIFICATE
STATE OF IDAHO,	)	OF
	)	APPEAL
Respondent-Respondent on Appeal,)	
)	
_____)	

Appealed from: Sixth Judicial District, Bannock County

Honorable Judge Stephen S. Dunn presiding

Bannock County Case No: CV-2012-3578-PC

Order of Judgment Appealed from: Memorandum Decision and Order Denying
Petitioner's Motion for Continuance and Dismissing Petition for Post-Conviction
Relief filed the 18th day of October, 2012.

Attorney for Appellant: Kent Hall, pro se, motion to appoint State Appellate
Public Defender pending.

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Kent Hall

Appealed against: State of Idaho

Notice of Appeal filed: November 5, 2012

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

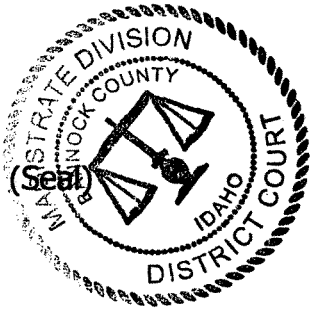
Request for additional records filed: No

Request for additional reporter's transcript filed: No

Name of Reporter: N/A

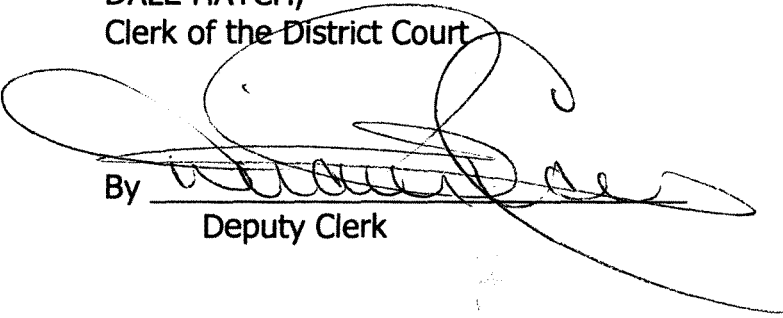
Was District Court Reporter's transcript requested? N/A

Estimated Number of Pages: N/A



Dated November 6, 2012

DALE HATCH,
Clerk of the District Court

By 
Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2012 NOV -6 PM 5:20

BY [Signature]
DEPUTY CLERK

Inmate name Kent E Hall
IDOC No. 20134
Address SIC1 Box 8509
Boise ID 83201

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

Kent E Hall,)
)
Petitioner-Appellant,)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent.)

Case No. CR 2012 3577 PC
CR 2012 3578 PC
**ORDER GRANTING
MOTION FOR
APPOINTMENT
OF COUNSEL**

IT IS HEARBY ORDERED that the Petitioner-Appellant's Motion for Appointment of Counsel is granted and Stephen Larsen (attorney's name), a duly licensed attorney in the State of Idaho, is hereby appointed to represent said defendant in all proceedings involving this appeal.

DATED this 6th day of Nov, 2012 [Signature]

[Signature]
District Judge

2012 NOV 16 AM 11:40

IN THE DISTRICT COURT FOR THE SIXTH JUDICIAL DISTRICT OF THE

DEPUTY CLERK

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CV-2012-3577-PC & #CV-2012-3578-PC

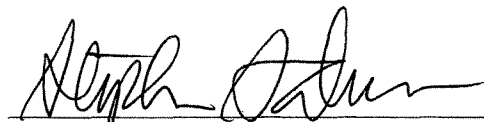
KENT HALL,)
)
Petitioner,)
)
-vs-)
)
)
STATE OF IDAHO,)
)
Respondent.)
_____)

JUDGMENT

Pursuant to a Memorandum Decision and Order Dismissing Petition for Post-Conviction Relief, entered the 18th day of October, 2012, this Court entered an order denying Petitioner's Motion to Continue and dismissing both post-conviction relief petitions referenced above. WHEREFORE, by virtue of the law and for the reasons previously set forth,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that JUDGMENT be entered in this matter in favor of the State of Idaho and against Kent Hall and said cases are hereby DISMISSED.

DATED this 15th day of November, 2012.



Stephen S. Dunn
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of November, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

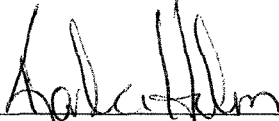
Kent Hall
SCIS
PO Box 8509
Boise, ID 83707

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile

Ashley Graham
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

- U.S. Mail
- Overnight Delivery
- Hand Delivery
- Facsimile


DATED this 16 day of November, 2012.



Deputy Clerk

DATED this 14th day of November, 2012.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Kent Hall, *pro se*
Counsel of Record
District Court Clerk
District Court Judge

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

2012 NOV - 8 A 8:54

FILED
BANNOCK COUNTY
DISTRICT COURT
120 FEB 11 AM 9:19
DEPUTY

KENT HALL,)
)
)
Petitioner-Appellant,)
)
)
vs.)
)
STATE OF IDAHO,)
)
)
Respondent)
)
_____)

Supreme Court No. 40471

CLERK'S CERTIFICATE
OF
APPEAL

Appealed from: Sixth Judicial District, Bannock County

Honorable Judge Stephen S. Dunn presiding

Bannock County Case No: CV-2012-3577-PC

Order of Judgment Appealed from: Memorandum Decision and Order Denying
Petitioner's Motion for Continuance and Dismissing Petition for Post-Conviction
Relief filed the 18th day of October, 2012.

Attorney for Appellant: Kent Hall, pro se, motion to appoint State Appellate
Public Defender pending.

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

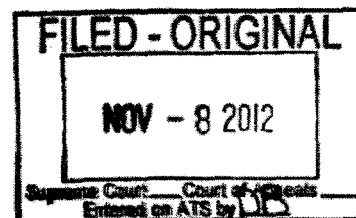
Appealed by: Kent Hall

Appealed against: State of Idaho

Notice of Appeal filed: November 5, 2012

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt



Request for additional records filed: No

Request for additional reporter's transcript filed: No

Name of Reporter: N/A

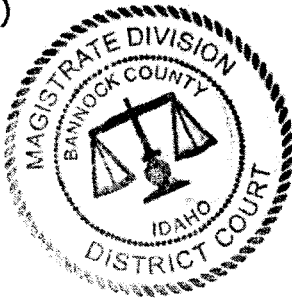
Was District Court Reporter's transcript requested? N/A

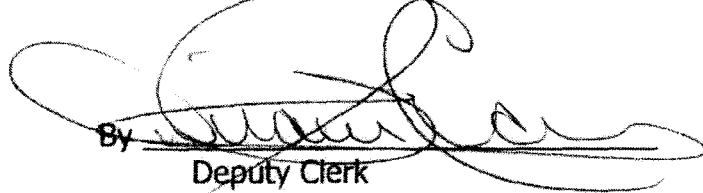
Estimated Number of Pages: N/A

Dated November 6, 2012

DALE HATCH,
Clerk of the District Court

(Seal)



By 
Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF DISTRICT COURT
12 DEC 14 AM 9:49

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

2012 NOV - 8 A 8:54

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

BY [Signature]
DEPUTY

KENT HALL,)
)
)
Petitioner-Appellant,)
)
)
vs.)
)
STATE OF IDAHO,)
)
Respondent)
)
_____)

Supreme Court No. 40472

CLERK'S CERTIFICATE
OF
APPEAL

Appealed from: Sixth Judicial District, Bannock County

Honorable Judge Stephen S. Dunn presiding

Bannock County Case No: CV-2012-3578-PC

Order of Judgment Appealed from: Memorandum Decision and Order Denying
Petitioner's Motion for Continuance and Dismissing Petition for Post-Conviction
Relief filed the 18th day of October, 2012.

Attorney for Appellant: Kent Hall, pro se, motion to appoint State Appellate
Public Defender pending.

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Kent Hall

Appealed against: State of Idaho

Notice of Appeal filed: November 5, 2012

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

FILED - ORIGINAL
NOV - 8 2012
Supreme Court _____ Court of Appeals _____
Entered on ATS by DB

In the Supreme Court of the State of Idaho

KENT HALL,)
)
 Petitioner-Appellant,)
)
 v.)
)
 STATE OF IDAHO,)
)
 Respondent.)

ORDER REMANDING TO DISTRICT COURT

 Supreme Court Docket No. ~~40472-2012~~
 Bannock County Docket No. ~~2012-3578~~

FILED
 BANNOCK COUNTY
 DISTRICT COURT
 11/15/12 9:49 AM

This appeal is from the District Court's MEMORANDUM DECISION AND ORDER DENYING PETITIONER'S MOTION FOR CONTINUANCE AND DISMISSING PETITION FOR POST-CONVICTION RELIEF filed October 18, 2011. It appears that a final judgment set forth on a separate document, as required by Idaho Rules of Civil Procedure 54(a) and 58(a), has yet to be entered. A MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL and a MOTION AND AFFIDAVIT FOR PERMISSION TO PROCEED ON PARTIAL PAYMENT OF COURT FEES were filed November 5, 2012. Therefore, good cause appearing,

IT HEREBY IS ORDERED that pursuant to Idaho Appellate Rules 11(a)(1), 13.3(a), 13.3(b), and 17(e)(2), the above-entitled matter be, and hereby is, REMANDED to the District Court and proceedings in this appeal shall be SUSPENDED to allow for the entry of a final judgment. Upon entry of the final judgment by the District Court, the District Court Clerk is directed to transmit a certified copy of the judgment to this Court.

IT FURTHER IS ORDERED that when a final judgment is entered, this appeal be, and hereby is, SUSPENDED to allow the District Court to act upon the MOTION FOR APPOINTMENT OF COUNSEL and the MOTION FOR FEE WAIVER.

IT FURTHER IS ORDER that this appeal is SUSPENDED until further notice from this Court.

DATED this 14th day of November, 2012.

For the Supreme Court

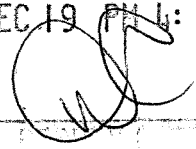
Stephen W. Kenyon

Stephen W. Kenyon, Clerk

cc: Kent Hall, *pro se*
Counsel of Record
District Court Clerk
District Court Judge

2012 DEC 19 PM 4: 12

BY



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

Register No.CV-2012-03578-PC

KENT E. HALL,

Petitioner-Appellant,

-vs-

STATE OF IDAHO,

Respondent.

ORDER APPOINTING COUNSEL

IT IS HEREBY ORDERED that the Petitioner-Appellant's Motion for Appointment of Counsel is granted and the State Appellant Public Defender's Office shall be appointed to represent said defendant in all proceedings involving this appeal.

DATED December 19, 2012.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of Dec, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- () U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

Kent E. Hall
IDOC No. 30134
SICI
PO Box 8509
Boise, ID 83707

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

State Appellant Public Defender
3050 N Lake Harbor Lane, Ste 100
Boise, ID 83707

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

Stephen W. Kenyon
Clerk of the Court
PO Box 83720
Boise, ID 83720-0010

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

Lawrence G. Wasden
Attorney General for Idaho
Room 210
PO Box 83720
Boise, ID 83720-0010

- (X) U.S. Mail
() Email
() Hand Deliver
() Facsimile

DATED this 19 day of Dec, 2012.

[Signature]
Deputy Clerk

In the Supreme Court of the State of Idaho

KENT HALL, _____)
)
 Petitioner-Appellant,)
)
 v.)
)
 STATE OF IDAHO,)
)
 Respondent.)

ORDER TO CONSOLIDATE APPEALS

Supreme Court Docket No. 40471-2012
 Bannock County District Court No.
 2012-3577

RECEIVED
 DISTRICT COURT
 BANNOCK COUNTY
 IDAHO
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_____)
 KENT HALL,)
)
 Petitioner-Appellant,)
)
 v.)
)
 STATE OF IDAHO,)
)
 Respondent.)

Supreme Court Docket No. 40472-2012
 Bannock County District Court No.
 2012-3578

1-17-12
 Due to Counsel

On December 20, 2012, this Court received certified copies of the documents listed below in each of the above entitled appeals:

1. A JUDGMENT file stamped in the district court on November 16, 2012; and
2. An ORDER APPOINTING COUNSEL file stamped in the district court on December 19, 2012.

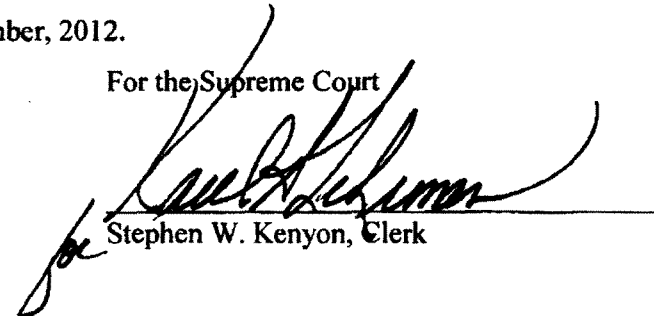
Therefore, good cause appearing,

IT HEREBY IS ORDERED that appeal Nos. 40471-2012 and 40472-2012 shall be CONSOLIDATED FOR ALL PURPOSES under Supreme Court Docket No. 40471-2012; however, all documents filed after the date of this Order shall bear both docket numbers.

IT FURTHER IS ORDERED that the due date for the filing of the CLERK'S RECORD in these consolidated appeals SHALL BE SET NINE (9) WEEKS FROM THE DATE OF THIS ORDER.

DATED this 20th day of December, 2012.

For the Supreme Court



 Stephen W. Kenyon, Clerk

cc: Counsel of Record
 District Court Clerk
 District Judge Stephen S. Dunn

ORDER TO CONSOLIDATE APPEALS – Docket Nos. 40471-2012 (40472-2012)

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

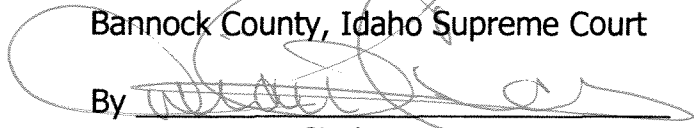
KENT HALL,)	
	)	Supreme Court No.40471 & 40472
Petitioner-Appellant,)	
)	
vs.	)	CLERK'S CERTIFICATE
)	
STATE OF IDAHO,)	
)	
Defendant-Appellant,)	
_____)	

I, DALE HATCH, Clerk of the District Court of the Sixth Judicial District, of the State of Idaho, in and for the County of Bannock, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true, full, and correct record of the pleadings and documents as are automatically required under Rule 28 of the Idaho appellate Rules.

I do further certify that there were no exhibits marked for identification or admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Pocatello, Idaho, this 11 day of February, 2013.

(Seal) DALE HATCH,
 Clerk of the District Court
 Bannock County, Idaho Supreme Court

By 
 Deputy Clerk

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

KENT HALL,)	
	)	Supreme Court No.40471 & 40472
Petitioner-Appellant,)	
)	
vs.	)	CERTIFICATE OF SERVICE
)	
STATE OF IDAHO,)	
)	
Defendant-Appellant.)	
_____)	

I, DALE HATCH, Clerk of the District Court of the Sixth Judicial District, of the State of Idaho, in and for the County of Bannock, do hereby certify that I have personally served or mailed, by United States mail, one copy of the REPORTER'S TRANSCRIPT and CLERK'S RECORD to each of the Attorneys of Record in this cause as follows:

Sara B. Thomas
 Appellate Public Defender
 Post Office Box 83720
 Boise, Idaho 83720-0005

Lawrence G. Wasden
 Idaho Attorney General
 Post Office Box 83720
 Boise, Idaho 83720-0010

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Pocatello, Idaho, this 11 day of February, 2013.

(Seal)

DALE HATCH,
 Clerk of the District Court
 Bannock County, Idaho Supreme Court
 By [Signature]
 Deputy Clerk