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State v. Rozajewski Respondent's Brief Dckt. 42447

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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 vs.)
)
 STEPHEN PHILLIP ROZAJEWSKI,)
)
 Defendant-Appellant.)

No. 42447
Canyon Co. Case No.
CR-2014-2299

BRIEF OF RESPONDENT

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

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STATEMENT OF THE CASE

Nature of the Case

Stephen Rozajewski appeals from the district court's decision denying his motion to suppress.

Statement of Facts and Course of Proceedings

A probation officer called Officer Hemmert for assistance at a residence in Caldwell. (7/16/14 Tr., p. 10, Ls. 12-17.) The probation officer wanted to take a probationer by the name of Shon Delisle into custody and search his residence. (7/16/14 Tr., p. 10, L. 15 – p. 11, L. 1.)

When Officer Hemmert arrived he made contact with Shon Delisle, Lisa Lee, Karen Leischner and Rozajewski. (7/16/14 Tr., p. 11, Ls. 2-8.) Rozajewski told officer Hemmert that he was occupying a room at the residence. (7/16/14 Tr., p. 11, L. 9 – p. 12, L. 2.) Rozajewski declined consent to search his bedroom. (7/16/14 Tr., p. 13, Ls. 12-16.)

Officer Hemmert searched the rest of Mr. Delise's residence. (7/16/14 Tr., p. 13, Ls. 12-16.) Officer Hemmert found a marijuana pipe in the living room inside a backpack, a tin on the kitchen counter with a weighable amount of marijuana in it, and he found drug paraphernalia in a bedroom. (7/16/14 Tr., p. 13, L. 20 – p. 14, L. 4.)

After Officer Hemmert read Lisa Lee her Miranda rights, Lisa Lee stated that she thought she had a loaded methamphetamine smoking pipe in a backpack in Rozajewski's room. (7/16/14 Tr., p. 14, L. 22 – p. 15, L. 2.)

Officer Hemmert called Officer Fisher. (7/16/14 Tr., p. 20, Ls. 14-18.) Officer Hemmert told Officer Fisher that Lisa Lee said there was methamphetamine and paraphernalia in Rozajewski's room in her bag. (7/16/14 Tr., p. 14, L. 22 – p. 17, L. 13.)

Officer Fisher asked if the residence had been cleared and Officer Hemmert stated that Rozajewski's room had not been cleared. (7/16/14 Tr., p. 21, Ls. 1-14.) Officer Fisher did a protective sweep of Rozajewski's room to verify nobody was in the room who would be a danger to the officers or who would be destroying evidence. (Id.) Officer Fisher checked to make sure no one was hiding under the bed or in the closet. (7/16/14 Tr., p. 21, L. 23 – p. 22, L. 4.) During the protective sweep of Rozajewski's room Officer Fisher saw a pipe and a butane torch on the floor. (7/16/14 Tr., p. 22, L. 5 – p. 23, L. 6.)

Officer Fisher went to the courthouse to get a warrant to search Rozajewski's room. (7/16/14 Tr., p. 23, Ls. 21-24.) Officer Fisher testified that they found a marijuana pipe, tin can, snort tube and methamphetamine pipe in the residence. (Audio of Warrant Application hearing, 1:31 – 2:04.¹) Officer Fisher explained that he was at the residence approximately 45 minutes prior to the warrant application hearing and he saw the paraphernalia. (Audio of Warrant Application hearing, 2:23 – 2:39.) The paraphernalia was in the front living room, right as you walked in the residence. (Audio of Warrant Application hearing, 2:40 – 2:46.)

¹ The specific time references (minutes:seconds) in the audio of the warrant application testimony are estimates made to the best of counsel's ability.

Officer Fisher further testified that Rozajewski had recently moved in and had a room in the southwest corner of the residence. (Audio of Warrant Application hearing, 2:08 – 2:23.) Officer Fisher testified that he did a protective sweep of Rozajewski's bedroom, but Rozajewski's bedroom was not searched because he was not on probation and he did not consent to a search. (Audio of Warrant Application hearing, 2:48 – 3:20.)

Officer Fisher testified that Lisa Lee said there was meth and a meth pipe in Rozajewski's room. (Audio of Warrant Application hearing, 3:21 – 3:44.) Lisa Lee said she had seen meth inside the room with a methamphetamine pipe. (Id.) Officer Fisher identified Lisa Lee as Shon Delisle's significant other. (Id.) The state introduced a photograph of the residence and Officer Fisher testified regarding the location of Rozajewski's room in the residence. (Audio of Warrant Application hearing, 3:48 – 6:35.) Based on his training and experience Officer Fisher believed Rozajewski's room contained evidence of methamphetamine use because of all the drugs found in the common area and Lisa Lee's statement that there were drugs in Rozajewski's room. (Audio of Warrant Application hearing, 6:37 – 6:54.) Officer Fisher also testified that Lisa Lee lived at the residence. (Audio of Warrant Application Hearing, 6:59 – 7:06.) The magistrate found probable cause to believe evidence of methamphetamine use could be found in Rozajewski's room and issued the search warrant. (Audio of Warrant Application hearing, 7:09 – 8:32.)

Officer Fisher served the search warrant the same day. (2/11/14 Tr., p. 10, L. 17 – p. 11, L. 12.) Officer Fisher found three separate bags of

methamphetamine, several smoking devices and a .22 caliber pistol in Rozajewski's bedroom. (2/11/14 Tr., p. 11, L. 22 – p. 12, L. 7.) Officer Fisher also found a hypodermic needle, spoons with residue and multiple bags. (2/11/14 Tr., p. 16, Ls. 12-20.)

The state charged Rozajewski with Possession of a Controlled Substance, felony, Unlawful Possession of a Firearm and a Persistent Violator Enhancement. (R., pp. 19-22.) Rozajewski filed a Motion to Suppress evidence on the grounds that Officer Fisher presented false information to the magistrate during the warrant application. (R., pp. 65-68.) Specifically, Rozajewski challenged the following information:

1. Whether Lisa Lee was the significant other of Delisle.
2. Whether Lisa Lee lived at the residence.
3. Whether Lisa Lee saw methamphetamine in the room.
4. Whether Officer Fisher withheld material evidence when he did not tell the magistrate what he saw in Rozajewski's room during the protective sweep.

(7/16/14 Tr., p. 5, L. 23 – p. 7, L. 22; R., p. 78.)

The district court held a Franks hearing and Officers Hemmert and Fisher testified. (R., pp. 74-75.) During the motion to suppress, counsel for Rozajewski conceded that Officer Fisher had a right to do a protective sweep of Rozajewski's room and could have seized the pipe and butane torch at that time. (7/16/14 Tr., p. 33, Ls. 4-13.)

The district court denied Rozajewski's motion to suppress. (R., pp. 76-84.) The district court found that Officer's Fisher's statement that Lisa Lee was Delisle's girlfriend "was not made either intentionally or knowingly or with a reckless disregard for the truth." (R., p. 80.) Officer Fisher testified he thought

Lisa Lee and Rozajewski were a couple and testified that he must have misspoke during the warrant application. (R., p. 80.) The district court found Officer Fisher's testimony credible. (Id.) The district court held, "It was apparent from the testimony during the suppression hearing that Officer Fisher thought the defendant and Lee were a couple and it appears that he just misspoke during the warrant application process." (Id.)

The district court found that Officer Fisher's statement that Lisa Lee lived at the residence was a false statement made with a reckless disregard for the truth. (R., p. 80.) The district court ruled that Officer Fisher's statement was "based solely on his observations of seeing [Lisa] Lee sitting next to the defendant and he 'figured they were a couple and they were living together.'" (Id.)

The district court also held that Officer Fisher's statement that Lisa Lee saw methamphetamine in Rozajewski's room was a false statement made with a reckless disregard for the truth because he omitted that Lisa Lee said the methamphetamine was in a backpack. (R., pp. 80-81.) The district court reasoned it was a reckless disregard for the truth because Officer Fisher "was specifically told by another officer the location of the methamphetamine and did not convey that information to the magistrate." (Id.)

The district found that Officer Fisher did not make a false statement regarding what he saw during the protective sweep, because Officer Fisher did not present any testimony to the magistrate regarding what he saw during the protective sweep. (R., p. 81.) The district court held that if Officer Fisher had

relayed what he saw in Rozajewski's room during the protective sweep, it would have established probable cause for the warrant. (Id.)

The district court next analyzed whether the false statements made with a reckless disregard for the truth were material. (R., p. 81.) The district court focused on Officer Fisher's statement regarding the omission of the information that the methamphetamine was in a backpack in Rozajewski's room. (Id.) The district court reasoned that if this information were conveyed to the magistrate it would not have altered its probable cause finding. (R., pp. 81-82.)

What Lee told Officer Hemmert was that she had a loaded methamphetamine pipe in her backpack in [Rozajewski's] room. What was told to the magistrate was that Lee had seen drugs in the room. There was no factual basis to convey to the magistrate the impression that Lee had seen drugs in the room when she admitted to having them in the backpack. However, had the omitted information been conveyed – that Lee said she had methamphetamine in her backpack, not the rest of the room generally – it would still have provided a basis for the magistrate to issue a search warrant for the room.

(Id.) The district court concluded that the other false statement, that Lisa Lee lived in the house, was not material and therefore need not be omitted. (R., p. 83.) In the alternative the district court found that even if Lisa Lee's residence was material and was excluded from the search warrant it would not have altered the probable cause finding. (Id.)

The district court found that after deleting the false statements and including the exculpatory information about the location of the methamphetamine in the backpack the magistrate still could have concluded there was a fair probability that evidence of a crime could be found in Rozajewski's room. (R., p. 82.)

Rozajewski pled guilty to Unlawful Possession of a Firearm and retained his right to appeal the decision on the motion to suppress. (R., pp. 85-93.) The district court entered judgment and sentenced Rozajewski to five years with one year fixed. (R., pp. 101-102.) Rozajewski timely appealed. (R., pp. 115-116.)

ISSUE

Rozajewski states the issue on appeal as:

Whether the district court erred when it denied Mr. Rozajewski's motion to suppress.

(Appellant's brief, p. 10.)

The state rephrases the issue as:

Has Rozajewski failed to show the district court erred when it denied his motion to suppress?

ARGUMENT

The District Court Did Not Err When It Denied Rozajewski's Motion To Suppress

A. Introduction

Officers found paraphernalia and drugs in the common living area of the residence where Rozajewski was residing. (Audio of Warrant Application hearing, 1:31 – 2:46.) Lisa Lee told the officers there was methamphetamine in a pipe in a backpack in Rozajewski's room. (7/16/14 Tr., p. 14, L. 22 – p. 15, L. 2.) In support of the warrant application, Officer Fisher testified that Lisa Lee said there was meth and a meth pipe in Rozajewski's room. (Audio of Warrant Application hearing, 3:21 – 3:44.) The district court held that Officer Fisher omitted the fact that the meth and meth pipe were in a backpack in a reckless disregard for the truth. (R., pp. 80-83.) The district court denied the motion to suppress because when the omitted information was included, there was not a substantial probability that it would have changed the magistrate's determination. (Id.) Assuming the information was recklessly omitted, the district court correctly applied the law.

In the alternative, the district court erred when it determined that Officer Fisher recklessly gave false testimony regarding the precise location of the methamphetamine in Rozajewski's room. While Officer's Fisher's testimony was not precise as to the exact location of the mehtamphatime – in the backpack – it did not rise to the level of false testimony made with a reckless disregard for the truth because it did not mislead the magistrate.

Further, probable cause to issue a warrant to search a residence exists if drugs and paraphernalia are found in the common living areas of that house. See State v. Hansen, 151 Idaho 342, 256 P. 3d 750 (2011). Even if all of the challenged testimony is deleted, the magistrate still had probable cause to issue the search warrant.

B. Standard Of Review

Whether a statement or omission from a warrant affidavit was made negligently or an innocent mistake, or was made intentionally or recklessly, is a factual determination that the appellate court will not disturb on appeal unless it is clearly erroneous. See State v. Peightal, 122 Idaho 5, 7, 830 P. 2d 516, 518 (1992); State v. Peterson, 133 Idaho 44, 47, 981 P. 2d 1154, 1157 (Ct. App. 1999). Whether a misrepresentation or omission is “material,” however, is a question of law over which the appellate court exercises free review. See Peightal, 122 Idaho at 7, 830 P. 2d at 518; Peterson, 133 Idaho at 47, 981 P. 2d at 1157.

C. The Magistrate Had Probable Cause To Issue The Search Warrant And The District Court Did Not Err By Denying Rozajewski’s Motion To Suppress

Rozajewski challenges the district court’s determination that the magistrate had probable cause to issue the search warrant. (Appellant’s brief, pp. 11-25.) The United States Supreme Court set forth the procedure under the fourth amendment for a defendant to challenge a warrant based on allegedly false information. Peightal, 122 Idaho at 6-7, 830 P. 2d at 517-518 (citing Franks

v. Delaware, 438 U.S. 154 (1978)). The Idaho Supreme Court adopted the Franks approach for Article I § 17 of the Idaho Constitution. Id. (citing State v. Lindner, 100 Idaho 37, 41, 592 P.2d 852, 856 (1979)). Under the Franks procedure a defendant must show by a preponderance of the evidence not only that an affiant made a false statement to obtain a warrant, but also that the affiant either provided the false statement to the magistrate knowingly and intentionally or with reckless disregard for the truth. Id. (citations omitted). However, the search warrant is only voided if there is insufficient evidence to establish probable cause after the false information is discarded. Id.

1. The District Court Correctly Determined That Even If Officer Fisher Gave False Testimony That There Was Sufficient Evidence For The Magistrate To Issue The Search Warrant

The district court did not err when it determined that the magistrate had probable cause to issue the search warrant even after the false testimony was corrected. (See, R., pp. 81-82.) The district court held that the false testimony given by Officer Fisher was his omission of the precise location of the meth and meth pipe. (Id.) The district court determined that Officer Fisher's omission that the meth and meth pipe were in a backpack would not have altered the magistrate's finding of probable cause. (R., pp. 81-83.)

Rozajewski argues that the district court erred when it considered the omitted information regarding the backpack. (Appellant's brief, pp. 16-20.) Rozajewski argues that because Officer Fisher omitted the information regarding the backpack, his entire testimony regarding the meth and meth pipe needed to be set aside in its entirety. (Id.) Idaho case law holds the contrary.

“An omission of facts is material only if there is a ‘substantial probability’ that had the omitted information been presented, it would have altered the magistrate determination of probable cause.” State v. Sorbel, 124 Idaho 275, 279-280, 858 P. 2d 814, 818-819 (Ct. App. 1993) (citing State v. Beaty, 118 Idaho 20, 794 P.2d 290 (Ct. App. 1990)); see also State v. Kay, 129 Idaho 507, 514, 927 P.2d 897, 904 (Ct. App. 1996); State v. Patterson, 139 Idaho 858, 863, 87 P. 3d 967, 972 (Ct. App. 2003); Peterson, 133 Idaho at 48, 981 P. 2d at 1158.

Here, the district court properly considered the materiality of the omitted information. (R., pp. 81-82.) The district court considered whether there was a substantial probability that had the omitted information been presented, whether it would have altered the probable cause finding. (Id.)

However, had the omitted information been conveyed – that Lee said she had methamphetamine in her backpack, not the rest of the room generally – it would still have provided a basis for the magistrate to issue a search warrant for the room.

(Id.) The district court correctly applied the law and did not err when it denied Rozajewski’s Motion to Suppress.

2. In The Alternative, The District Court Erred When It Failed To Determine Whether Officer Fisher’s Omission Of The Backpack Misled The Magistrate

In the alternative, the district court erred when it determined that Officer Fisher’s omission that the contraband was in a backpack was made with a reckless disregard for the truth. (See R., pp. 80-82.) The district court applied the wrong test. The district court should determine whether an omission was a recklessness or deliberate omission that tended to mislead the magistrate. See

State v. Jardine, 118 Idaho 288, 291-292, 796 P.2d 165, 168-169 (Ct. App. 1990).

[T]he Fourth Amendment mandates that a defendant be permitted to challenge a warrant affidavit valid on its face when it contains deliberate or reckless omissions of fact that tend to mislead.

The use of deliberately falsified information is not the only way by which police officers can mislead a magistrate when making a probable cause determination. By reporting less than the total story, an affiant can manipulate the inference a magistrate will draw. To allow a magistrate to be misled in such a manner could denude the probable cause requirement of all real meaning.

Id. (quoting United States v. Stanert, 762 F.2d 775 at 781 (9th Cir. 1985), amended, 769 F.2d 1410 (9th Cir.1985) (additional citations omitted).)

The district court never found that Officer Fisher's omission had a tendency to mislead the magistrate. (See R., pp. 80-82.) Instead, the district court was troubled that Officer Fisher knew of the precise location of the methamphetamine but failed to convey that precise location to the magistrate. (R., p. 81) (citing Kay, 129 Idaho at 513, 927 P.2d at 903; Jardine, 118 Idaho at 292, 796 P. 2d at 169). However, an officer, when applying for a warrant, is not required to provide all relevant information to the magistrate, but is required only not to omit exculpatory information. See Kay, 129 Idaho at 513 n. 3, 927 P.2d at 903, n. 3. There was no finding by the district court that the omission of evidence that the meth and meth pipe were in Lee's backpack misled the magistrate. (See R., pp. 80-82.)

Officer Fisher's omission could not have misled the magistrate regarding whether there were illegal drugs in Rozajewski's room. Lisa Lee told Officer Hemmert that she thought she had a loaded methamphetamine smoking pipe in

a backpack in Rozajewski's room. (7/16/14 Tr., p. 14, L. 22 – p. 15, L. 2.) Officer Hemmert told Officer Fisher that Lisa Lee said there was methamphetamine and meth pipe in Rozajewski's room in her bag. (7/16/14 Tr., p. 14, L. 22 – p. 217, L. 13.) Officer Fisher testified at the warrant application hearing that Lisa Lee said there was meth and a meth pipe in Rozajewski's room. (Audio of Warrant Application hearing, 3:21 – 3:44.) Because "probable cause" is defined as a reasonable belief "that evidence or fruits of a crime may be found in a particular place," State v. Harper, 152 Idaho 93, 98, 266 P.3d 1198, 1203 (Ct. App. 2011), the fact the contraband was in a backpack belonging to someone else was irrelevant. The omission of the precise location of the meth and meth pipe in a backpack, did not mislead the magistrate and the district court erred.

3. Even If All Of Officer Fisher's Challenged Testimony Was Deleted The Magistrate Still Had Probable Cause To Issue The Search Warrant

Rozajewski challenged the following information Officer Fisher presented at the search warrant application hearing: that Lisa Lee was the significant other of Delisle; that Lisa Lee lived at the residence; that Lisa Lee saw methamphetamine in Rozajewski's room and that Officer Fisher withheld material evidence when he did not tell the magistrate what he saw in Rozajewski's room during the protective sweep. (7/16/14 Tr., p. 5, L. 23 – p. 7, L. 22; R., p. 78.) Rozajewski also argues that the district court improperly considered information that was not presented to the magistrate. (See

Appellant's brief, pp. 20-23.²) Even if all of this information is deleted, Rozajewski still failed to show a substantial probability the magistrate's determination of probable cause would have been altered. See Hansen, 151 Idaho at 346-347, 256 P.3d at 754-755.

In Hansen two probation officers and two sheriff deputies went to arrest Allan Kirsch for a probation violation. Id. at 344, 256 P. 3d at 752. Kirsch was on probation and listed Hansen's home as his place of residence. Id. After they caught Kirsch, the officers searched the common areas of what they believed to be Kirsch's residence. Id. In the bathroom they found a syringe they believed contained methamphetamine as well as other drug paraphernalia. Id.

The sheriff's deputies then relied on the syringe to obtain a search warrant for the rest of residence. Id. Upon executing the search warrant the deputies discovered additional drugs and paraphernalia in a locked bedroom belonging to Hansen. Id. Based on the evidence discovered in Hansen's room he was charged with drug related offenses. Id.

Hansen moved to suppress the evidence. Id. Hansen alleged, in part, that the police lacked probable cause for a search warrant. Id. The district court denied the motion to suppress holding that "the syringe in Hansen's bathroom provided sufficient probable cause to justify a search warrant for the entire

² Rozajewski argues that the district court was aware of more precise locations of the paraphernalia than was presented to the magistrate. (Appellant's brief, pp. 20-22.) However, the district court accurately summarized the audio recording of the warrant application hearing. (R., p. 77.) Rozajewski also failed to show how the district court's subsequent inclusion of this information changed the district court's ultimate conclusion. (See Appellant's brief, pp. 20-23.)

house.” Id. at 345, 256 P.3d at 753. After a conditional guilty plea, Hansen appealed. Id.

On appeal Hansen argued that the syringe and paraphernalia discovered during the warrantless search of his house did not create probable cause to justify a search warrant. Id. at 346-347, 256 P.3d at 754-755. The Idaho Supreme Court disagreed and held that the discovery of drugs in the common areas of Hansen’s home was sufficient to support the magistrate’s finding of probable cause to search the remainder of the house. Id.

Because the officers found drugs in the common areas of Hansen’s home, the magistrate correctly concluded that there was probable cause to issue a search warrant for the remainder of the house.

...

We find no error in the magistrate court’s decision to issue a search warrant for the rest of the house to uncover further evidence of drug crimes.

Id. at 347, 256 P.3d at 755. The facts in this case are remarkably similar to the facts in Hansen.

In an attempt to distinguish Hansen, Rozajewski misreads Hansen to require the magistrate find a connection between the drugs found in the common places in a house and a specific room in that house to be searched. (Appellant’s brief, pp. 24-25.) This requirement is nowhere to be found in Hansen. See id. at 346-347, 256 P. 3d at 754-755. Rozajewski’s proposed requirement runs afoul of the “practical, common sense” standard used to issue a search warrant. See id.

Despite Rozajewski’s attempts, Hansen is controlling. Even if all of the challenged testimony is deleted there is still sufficient evidence to support a

finding a probable cause under the holding in Hansen. Officer Fisher testified that patrol got a call for a misdemeanor probation assist. (Audio of Warrant Application hearing, 1:31 – 2:04.) When officers entered they found drug paraphernalia in plain view; marijuana pipe, tin can, snort tube and methamphetamine pipe. (Id.) The paraphernalia was in the front living room, right as you walked in the residence. (Audio of Warrant Application hearing, 2:40 – 2:46.) Based upon this information—which has none of the challenged information—there was sufficient probable cause for the magistrate to issue a search warrant to search the rest of the house, including Rozajewski’s room.

4. The District Court Properly Considered The Testimony Regarding Lisa Lee’s Residence Under The Procedure Set Forth In *Franks*

The district court concluded that Officer Fisher’s testimony that Lisa Lee lived in the residence was a false statement. (R., p. 80.) The district court further concluded this was a false statement made with a reckless disregard for the truth because this statement was “was based solely on the fact the defendant and Lee were sitting together.” (Id.) On appeal Rozajewski argues that the district court erred when it decided that this “false representation ‘need not be omitted’ based on the district court’s determination that the false representation was not material.” (Appellant’s brief, p. 13 (citing R., p. 83).) Rozajewski argues this is a misapplication of Franks because the district court needed to first set aside the false statement before determining whether there was sufficient probable cause for the magistrate to issue the warrant. (Id.)

However, Rozajewski failed to acknowledge that the district court did remove the testimony regarding Lisa Lee's residence before it made the determination of probable cause. (R., pp. 82-83.) The district court summarized the evidence that would have been before the magistrate after the false statements had been deleted and exculpatory information included—and it did not include any reference to Lisa Lee's residence. (Id.) The district court then explicitly addressed the issue of Lisa Lee's residence and held:

Even if the statements [sic] was material and consequently, should have been excluded from the evidence considered by the magistrate, it would not have altered the finding of probable cause.

(R., p. 83.) Contrary to Rozajewski's argument, the district court properly applied the Franks test and considered whether probable cause existed if the testimony regarding Lisa Lee's residence was deleted.

CONCLUSION

The state respectfully requests that this Court affirm the district's court's order denying Rozajewski's motion to suppress.

DATED this 21st day of April 2015.



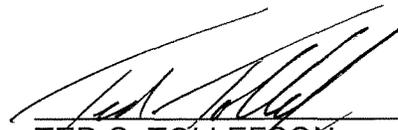
TED S. TOLLEFSON
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 21st day of April 2015, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

BRIAN R. DICKSON
DEPUTY STATE APPELLATE PUBLIC DEFENDER

to be placed in The State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.



TED S. TOLLEFSON
Deputy Attorney General

