

12-5-2014

State v. Rozajewski Clerk's Record v. 1 Dckt. 42447

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IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO,

**Plaintiff-
Respondent,**

-vs-

STEPHEN PHILLIP ROZAJEWSKI,

**Defendant-
Appellant.**

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

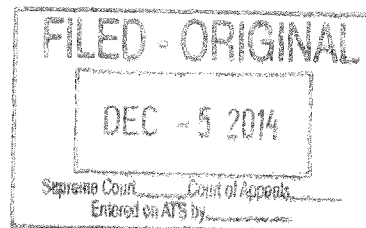
Honorable MOLLY J. HUSKEY, District Judge

Sara Thomas
State Appellate Public Defender
3050 N. Lake Harbor Lane, Ste. 100
Boise, Idaho 83703

Attorney for Appellant

Lawrence G. Wasden
Attorney General
Statehouse
Boise, Idaho 83720

Attorney for Respondent



42447

IN THE SUPREME COURT OF THE
STATE OF IDAHO

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

Supreme Court No. 42447-2014

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS
2011 DEC -5 PM 2:27

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

HONORABLE MOLLY J. HUSKEY, Presiding

Sara Thomas, State Appellate Public Defender, 3050 N. Lake Harbor Lane, Ste. 100,
Boise, Idaho 83703

Attorney for Appellant

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

Attorney for Respondent

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Felony

Date		Judge
1/29/2014	New Case Filed-Felony	Dayo O Onanubosi
	Affidavit Of Probable Cause	Jayme B. Sullivan
	Criminal Complaint	Jayme B. Sullivan
	Hearing Scheduled (Arrestment (In Custody) 01/29/2014 01:32 PM)	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Hearing Held	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Arrestment / First Appearance	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Constitutional Rights Warning	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Order Appointing Public Defender	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Consolidation Of Files CR2014-2275C, CR2014-2273, CR2014-2299C	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Commitment On Bond \$50,000 total with CR2014-2275C, CR2014-2273, CR2014-2299C	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Upon Posting Bond - Report to Pre-Trial Release	Jayme B. Sullivan
	Hearing result for Arrestment (In Custody) scheduled on 01/29/2014 01:32 PM: Notice Pretrial Release Services	Jayme B. Sullivan
	Change Assigned Judge	Karen J. Vehlow
	Hearing Scheduled (Preliminary Hearing 02/11/2014 08:30 AM)	Karen J. Vehlow
1/30/2014	Request For Discovery	Karen J. Vehlow
2/6/2014	Request For Discovery	Karen J. Vehlow
	Pa's Response To Request For Discovery	Karen J. Vehlow
	Demand For Notice Of Defense Of Alibi	Karen J. Vehlow
2/11/2014	Hearing result for Preliminary Hearing scheduled on 02/11/2014 08:30 AM: Hearing Held	Karen J. Vehlow
	Hearing result for Preliminary Hearing scheduled on 02/11/2014 08:30 AM: Amended Complaint Filed	Karen J. Vehlow
	Hearing result for Preliminary Hearing scheduled on 02/11/2014 08:30 AM: Charge Reduced Or Amended	Karen J. Vehlow
	Hearing result for Preliminary Hearing scheduled on 02/11/2014 08:30 AM: Preliminary Hearing Held	Karen J. Vehlow
	Change Assigned Judge	Molly J Huskey
	Hearing result for Preliminary Hearing scheduled on 02/11/2014 08:30 AM: Bound Over (after Prelim)	Karen J. Vehlow
	Hearing result for Preliminary Hearing scheduled on 02/11/2014 08:30 AM: Order Binding Defendant Over to District Court	Karen J. Vehlow
	Hearing Scheduled (Arrn. - District Court 02/21/2014 09:00 AM)	Juneal C. Kerrick

000001

Felony

Date		Judge
2/12/2014	Information Part I	Molly J Huskey
	Information Part II	Molly J Huskey
2/13/2014	Motion for production of preliminary hearing transcript (w/order)	Molly J Huskey
	Motion for Bond Reduction For Bond Reduction Or Release On Own Recognizance and Notice of Hearing	Molly J Huskey
2/18/2014	Order For Preliminary Hearing Transcript	Molly J Huskey
2/21/2014	Hearing result for Arrn. - District Court scheduled on 02/21/2014 09:04 AM: District Court Hearing Held Court Reporter: Kathy Klemetson Number of Transcript Pages for this hearing estimated: less than 100 pages	Gregory M Culet
	Hearing result for Arrn. - District Court scheduled on 02/21/2014 09:04 AM: Hearing Held motion for bond reduction HUSKEY PT- Apr 14@1:30 JT- May 6-9@8:30 w/ MORFITT	Gregory M Culet
	Hearing result for Arrn. - District Court scheduled on 02/21/2014 09:04 AM: Arraignment / First Appearance motion for bond reduction HUSKEY PT- Apr 14@1:30 JT- May 6-9@8:30 w/ MORFITT	Gregory M Culet
	Hearing result for Arrn. - District Court scheduled on 02/21/2014 09:04 AM: Appear & Plead Not Guilty motion for bond reduction HUSKEY PT- Apr 14@1:30 JT- May 6-9@8:30 w/ MORFITT	Gregory M Culet
	Hearing result for Arrn. - District Court scheduled on 02/21/2014 09:04 AM: Notice Of Hearing motion for bond reduction HUSKEY PT- Apr 14@1:30 JT- May 6-9@8:30 w/ MORFITT	Gregory M Culet
	Hearing result for Arrn. - District Court scheduled on 02/21/2014 09:04 AM: Motion Held motion for bond reduction HUSKEY PT- Apr 14@1:30 JT- May 6-9@8:30 w/ MORFITT	Gregory M Culet
	Hearing result for Arrn. - District Court scheduled on 02/21/2014 09:04 AM: Motion Denied motion for bond reduction HUSKEY PT- Apr 14@1:30 JT- May 6-9@8:30 w/ MORFITT	Gregory M Culet
	Hearing Scheduled (Pre Trial 04/14/2014 01:30 PM)	Molly J Huskey
	Hearing Scheduled (Jury Trial 05/06/2014 08:30 AM)	James C. Morfitt
2/24/2014	PA's 1st Supplemental Response to Request for Discovery	Molly J Huskey
2/25/2014	Hearing Scheduled (Pre Trial 04/18/2014 09:30 AM)	Molly J Huskey
2/28/2014	Amended Notice Of Hearing	Molly J Huskey

Felony

Date		Judge
3/4/2014	Hearing Scheduled (Pre Trial 04/21/2014 01:30 PM)	Molly J Huskey
	Amended Notice Of Hearing	Molly J Huskey
3/5/2014	PA's 2nd Supplemental Response to Request for Discovery	Molly J Huskey
3/6/2014	Specific Request For Discovery	Molly J Huskey
3/7/2014	Pa's Third Supplemental Response to Request for Discovery	Molly J Huskey
3/11/2014	PA's Response to Specific Request For Discovery	Molly J Huskey
3/19/2014	Transcript Filed (Preliminary Hearing)	Molly J Huskey
3/21/2014	PA's 4th Supplemental Response to Request for Discovery	Molly J Huskey
4/14/2014	Second Specific Request For Discovery	Molly J Huskey
4/21/2014	PA's Response To 2nd Specific Request For Discovery	Molly J Huskey
	Hearing result for Pre Trial scheduled on 04/21/2014 01:30 PM: Hearing Held	Molly J Huskey
	Hearing result for Pre Trial scheduled on 04/21/2014 01:30 PM: Pre-trial Memorandum	Molly J Huskey
	Hearing result for Pre Trial scheduled on 04/21/2014 01:30 PM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: Less than 100 pages	Molly J Huskey
	Hearing Scheduled (Motion Hearing 05/05/2014 02:30 PM) Motion to Suppress and Status Conference	James C. Morfitt
4/23/2014	PA's 5th Supplemental Response to Request for Discovery	Molly J Huskey
5/5/2014	Hearing result for Motion Hearing scheduled on 05/05/2014 02:30 PM: Hearing Held Motion to Suppress and Status Conference	James C. Morfitt
	Hearing result for Motion Hearing scheduled on 05/05/2014 02:30 PM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages	James C. Morfitt
5/6/2014	Hearing result for Jury Trial scheduled on 05/06/2014 08:30 AM: Hearing Held	James C. Morfitt
	Hearing result for Jury Trial scheduled on 05/06/2014 08:30 AM: District Court Hearing Held Court Reporter: Number of Transcript Pages for this hearing estimated:	James C. Morfitt
	Hearing Scheduled (Change of Plea 05/07/2014 03:30 PM)	James C. Morfitt
5/7/2014	Hearing result for Change of Plea scheduled on 05/07/2014 03:30 PM: Hearing Held	James C. Morfitt
	Hearing result for Change of Plea scheduled on 05/07/2014 03:30 PM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages	James C. Morfitt

Felony

Date		Judge
5/7/2014	Hearing result for Change of Plea scheduled on 05/07/2014 03:30 PM: Change Plea To Guilty Before H/t	James C. Morfitt
	Hearing result for Change of Plea scheduled on 05/07/2014 03:30 PM: Guilty Plea Advisory Form	James C. Morfitt
	Hearing result for Change of Plea scheduled on 05/07/2014 03:30 PM: Rule 11 Plea Agreement	James C. Morfitt
	Hearing result for Change of Plea scheduled on 05/07/2014 03:30 PM: Pre-Sentence Investigation Evaluation Ordered	James C. Morfitt
	Hearing Scheduled (Sentencing 06/30/2014 09:00 AM) Count 1, Count 2 and 3 to be dm	Molly J Huskey
	PSI Face Sheet Transmitted	Molly J Huskey
5/13/2014	Hearing Scheduled (Sentencing 06/30/2014 09:15 AM) Count 1, Count 2 and 3 to be dm	Molly J Huskey
5/14/2014	Amended Notice Of Hearing	Molly J Huskey
6/30/2014	Hearing result for Sentencing scheduled on 06/30/2014 09:15 AM: Hearing Held	Molly J Huskey
	Withdrawal Of Plea Of Guilty: Rule 11 rejected	Molly J Huskey
	Hearing result for Sentencing scheduled on 06/30/2014 09:15 AM: Notice Of Hearing	Molly J Huskey
	Hearing result for Sentencing scheduled on 06/30/2014 09:15 AM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: Less than 100 pages	Molly J Huskey
	Hearing Scheduled (Jury Trial 07/15/2014 08:30 AM)	G.D. Carey
7/10/2014	PA's 6th Supplemental Response to Request for Discovery	Molly J Huskey
	Disclosure Of Expert Witnesses Pursuant To ICR 16(b)(7) and IRE 702,703,705	Molly J Huskey
	Motion To Enlarge Time and Supporting Affidavit	Molly J Huskey
	Motion To Suppress Evidence	Molly J Huskey
	Motion To Vacate And Reset Jury Trial	Molly J Huskey
7/11/2014	Notice Of Hearing On Defendant's Motion to Suppress Evidence	Molly J Huskey
	Hearing Scheduled (Motion Hearing 07/16/2014 10:30 AM) motion to suppress	Molly J Huskey
7/14/2014	Defendant's Motion for Judicial Notice of Proceedings in Search Warant #3647	Molly J Huskey
7/15/2014	Hearing Scheduled (Jury Trial 07/29/2014 09:00 AM)	Molly J Huskey
	Notice Of Hearing	Molly J Huskey
7/16/2014	Hearing result for Motion Hearing scheduled on 07/16/2014 10:30 AM: Hearing Held motion to suppress	Molly J Huskey
	Case Taken Under Advisement motion to suppress	Molly J Huskey

Felony

Date		Judge
7/16/2014	Hearing result for Motion Hearing scheduled on 07/16/2014 10:30 AM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages	Molly J Huskey
	Order Denying Motion to Suppress	Molly J Huskey
7/18/2014	Drug Court Eligibility Screening & Application Decision - DENIED	Bradly S Ford
7/21/2014	Notice of Ineligibility for Admission into Drug Court	Bradly S Ford
	PA Seventh Supplemental Response to Request for Discovery	Molly J Huskey
7/24/2014	Pa's Eighth Supplemental Response to Request for Discovery	Molly J Huskey
	Notice Of Hearing to Enter a Guilty Plea	Molly J Huskey
	Hearing Scheduled (Change of Plea 07/28/2014 10:30 AM)	Molly J Huskey
	Hearing Scheduled (Change of Plea 07/28/2014 10:30 AM)	Molly J Huskey
7/28/2014	Hearing result for Jury Trial scheduled on 07/29/2014 09:00 AM: Hearing Vacated	Molly J Huskey
	Hearing result for Change of Plea scheduled on 07/28/2014 10:30 AM: Hearing Held	Molly J Huskey
	Guilty Plea Or Admission Of Guilt Count II	Molly J Huskey
	Dismissal During/after Trial Count I and III	Molly J Huskey
	Final Judgement, Order Or Decree Entered	Molly J Huskey
	Sentenced To Fine And Incarceration	Molly J Huskey
	Judgment and Commitment Count II	Molly J Huskey
	Notice of Post Judgment Rights	Molly J Huskey
	Statement of Rights - Immigration Status	Molly J Huskey
	District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: Less than 100 pages	Molly J Huskey
	Guilty Plea Advisory Form	Molly J Huskey
7/29/2014	Restitution Order Filed	Molly J Huskey
	Restitution Ordered 100.00 victim # 1	Molly J Huskey
	Restitution Ordered 100.00 victim # 2	Molly J Huskey
7/30/2014	Order to Dismiss Count I and Part II- Persistant Violator	Molly J Huskey
8/20/2014	Notice of Appeal	Molly J Huskey
	Appealed To The Supreme Court	Molly J Huskey
	Motion For Appointment Of State Appellate Public Defender (With Order)	Molly J Huskey
8/25/2014	Order For Appointment of State Appellate Public Defender	Molly J Huskey
9/4/2014	SC - Notice of Defect	Molly J Huskey
9/11/2014	AMENDED Notice of Appeal	Molly J Huskey

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created 1/28/14

In Custody

IN THE DISTRICT COURT OF THE 3RD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
MAGISTRATE DIVISION

FILED
A.M. 12:30
P.M.
JAN 29 2014

STATE OF IDAHO

Plaintiff

vs.

ROZAJEWSKI, STEPHEN PHILLIP

Defendant.

DOB: [REDACTED]
SSN: [REDACTED]
OLN: ID00209362
State: IDAHO

CANYON COUNTY CLERK
D KENNEL, DEPUTY

AFFIDAVIT OF PROBABLE CAUSE

Case No. CR14-02299

Agency Case No. 14-02126

PF
1/29/2014
PC for

I SFISHER #129 of the CALDWELL POLICE DEPARTMENT

being first duly sworn, state that the following is true and accurate.

The following acts occurred at: 2021 WASHINGTON AVE , Canyon County, State of Idaho

Time Occurred At: 1511 HOURS on the date of JANUARY 28, 2014

Crime(s) alleged to have been committed: FELONY PCS 37-2732
 PARA W/INTENT 37-2734
 FELON POSS. FIREARM 18-3316
 PCS MISDEMEANOR 37-2732

1. Please state what you did or observed that gives you reason to believe the individual(s) committed the crime(s) alleged:

On January 28, 2014, at approximately 1511 hours, I served Search Warrant #3647 to Rozajewski, Stephen Phillip [REDACTED] by reading it to him.

The search warrant was issued regarding misdemeanor probation finding drug paraphernalia in the common areas of 2021 Washington Ave and Lisa Lee stating Stephen had Methamphetamine and drug paraphernalia in his room.

Stephen said he understood the search warrant and yelled at me to search his room. Inside Stephen's room I located 3 separate bags of white crystal substance. The white crystal substance later tested presumptive positive for methamphetamine. The total package weight of white crystal substance was 46.9g. I also located packaging material (baggies and a digital scale) and a clear glass pipe that had burnt white crystal residue inside it. The packaging material and pipe were right beside the large bag of white crystal substance. The large bag of white crystal substance was surrounded by Stephen's possessions. Stephen's possessions included such things as his coat with his identification card and quest card in it, his school books, clothing, and so on. I also located a hand rolled cigarette that contained a green leafy substance. The green leafy substance later tested presumptive positive for marijuana.

A twenty two caliber pistol was located under Stephen's bed. Dispatch informed me Stephen was a convicted felon. On November 11, 2004, Stephen was found guilty of felony possession of a controlled substance, case number 2004-0028121. Right next to the pistol was Stephen school paper's from TVCC.

I informed Stephen he was under arrest for felony possession of a controlled substance, misdemeanor possession of drug paraphernalia, misdemeanor possession of a controlled substance, and felony possession of a firearm. Stephen said he understood, turned, and put his arms behind his back. I read Stephen his Miranda Warranting and he said he understood it.

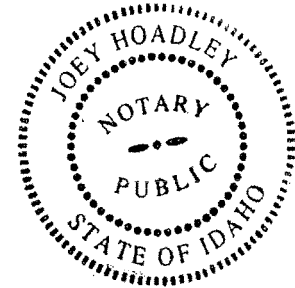
At the jail I asked Stephen how much he made selling drugs. Stephen looked at me and appeared to want to tell me, but then said something to the effect of "right, (looked upset) and then said I'm trying to get out of it." I explained to Stephen he was being booked in for felony possession of a controlled substance, misdemeanor possession of drug paraphernalia, misdemeanor possession of a controlled substance, and felony possession of a firearm. Stephen said he understood.

2. What further information do you have regarding what others did or observed giving you reasonable grounds to believe that the individual(s) committed the crime(s) alleged?

3. Set out any information you have and its source as to why a warrant instead of a summons should be issued.

For additional information, see report narrative.

Dated 01-28-2014
Affiant [Signature]
SUBSCRIBED and SWORN to before me on 1/28/14
Notary Public for Idaho [Signature]
Residing in Candover, Idaho
My Commission Expires 5/25/19



F P L E
A M P M

JAN 29 2014

CANYON COUNTY CLERK
D KENNEL, DEPUTY

dm

BRYAN F. TAYLOR
CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605
Telephone: (208) 454-7391

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

THE STATE OF IDAHO

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI
D.O.B. [REDACTED]

Defendant.

CASE NO. CR2014- 2299C

CRIMINAL COMPLAINT

**COUNT I - POSSESSION OF
CONTROLLED SUBSTANCE**

Felony, I.C. §37-2732B(a)(4)

**COUNT II - UNLAWFUL POSSESSION OF
A FIREARM**

Felony, I.C. §18-3316

PART II PERSISTENT VIOLATOR

Felony, I.C. §19-2514

STATE OF IDAHO)
 SS
County of Canyon)

PERSONALLY APPEARED Before me this 29th day of January, 2014,

Gerald L. Wolff, of the Canyon County Prosecuting Attorney's Office, who

being duly sworn, complains and says:

COUNT I

That the Defendant, Stephen Phillip Rozajewski, on or about the 28th day of January, 2014, in the County of Canyon, State of Idaho, did possess or was in actual or constructive possession of 28 grams or more of methamphetamine and/or amphetamine, a controlled substance, or of any mixture or substance containing a detectable amount of methamphetamine and/or amphetamine.

All of which is contrary to **Idaho Code**, Section 37-2732B(a)(4) and against the power, peace and dignity of the State of Idaho.

COUNT II

That the Defendant, Stephen Phillip Rozajewski, on or about the 28th day of January, 2014, in the County of Canyon, State of Idaho, did knowingly and unlawfully possess or have under his custody or control a firearm, to-wit: a .22 caliber pistol, knowing that he has been convicted of Possession of a controlled Substance in Canyon County Case CR2004-28121, date of conviction November 11, 2004, a felony crime.

All of which is contrary to **Idaho Code**, Section 18-3316 and against the power, peace and dignity of the State of Idaho.

PART II

That the Defendant, Stephen Phillip Rozajewski, was previously convicted of the following felonies:

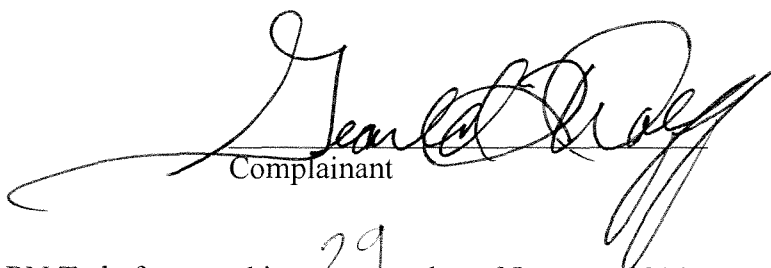
Possession of a Controlled Substance

On or about the 12th day of August, 2005, under the name of Stephen Rozajewski, the Defendant was convicted of the felony of Possession of Controlled Substance, in the County of Canyon, State of Idaho, by Judge Thomas J. Ryan, in case number CR2004-28121

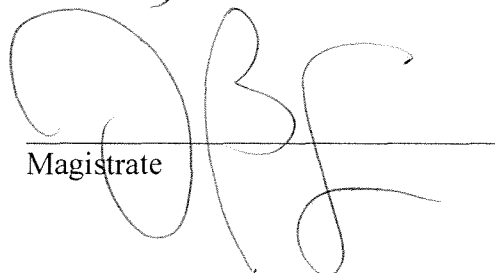
Possession of a Controlled Substance

On or about the 12th day of November, 1997, under the name of Stephen Rozajewski, the Defendant was convicted of the felony of Possession of Controlled Substance, in the County of Kootenai, State of Idaho, by Judge John P. Luster, in case number CR1995-04471

All of which is contrary to **Idaho Code**, Section 19-2514 and against the power, peace and dignity of the State of Idaho.


Complainant

SUBSCRIBED AND SWORN To before me this 29 day of January, 2014.


Magistrate

THIRD JUDICIAL DISTRICT, STATE OF IDAHO
COUNTY OF CANYON

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

STATE OF IDAHO,)
Plaintiff)

Case No. CR2014-2275C
CR2014-2273C
CR2014-2299C

-vs-)
Stephen Phillip Rozajewski)
Defendant.)

Date: January 29, 2014

True Name)
Corrected Name:)

Judge: Sullivan

Recording: Mag7(211-218)

APPEARANCES:

Defendant
 Defendant's Attorney

Prosecutor Jed Bigelow
 Interpreter

ADVISEMENT OF RIGHTS: Defendant

was informed of the charges against him/her and all legal rights, including the right to be represented by counsel.

requested court appointed counsel.

waived right to counsel.

Indigency hearing held.

Court appointed public defender.

Court denied court-appointed counsel.

Arraignment continued to

before Judge

to consult / retain counsel, other

PRELIMINARY HEARING:

Statutory time waived: Yes No
February 11, 2014 at 8:30 a.m.

Preliminary Hearing Waived
before Judge Vehlow
before Judge

Preliminary Hearing set

District Court Arraignment:

BAIL: State recommends \$100,000 bond, upon posting report to Pre Trial Release

Released on written citation promise to appear

Released on bond previously posted.

Released on own recognizance (O.R.)

Remanded to the custody of the sheriff.

Released to pre-trial release officer.

Bail set at \$50,000 total

No Contact Order entered continued

Consolidated with CR2014-2275C, CR2014-2273C and CR2014-2299C

Address Verified

Defendant to Report to Pretrial Release Services upon posting bond.

Corrected Address: _____

OTHER: The Court noted for the record that the Criminal Complaint filed alleged Possession of a Controlled Substance which did not match the front of the file which read Felony Trafficking; however, the language in the Complaint was for Trafficking. In response to the Court's inquiry, Mr. Bigelow advised the court the issue would be taken up at the time of District Court Arraignment.

Ala, Deputy Clerk

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 1-29-14 AT 2:18 P. M.
CLERK OF THE DISTRICT COURT
BY W. Henderson, Deputy

CR2014-2275C
CR2014-2273C

Case No. CR2014-2299C

**ORDER APPOINTING PUBLIC
DEFENDER**

THE STATE OF IDAHO/or

Stephen Phillip Rozajewski

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

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

THE MATTER IS SET FOR Preliminary Hearing
Feb 11, 2014 @ 8:30am before Judge Vehlow

THE MATTER SHALL BE SET FOR _____
_____ before Judge _____

Dated: 1-29-14

Signed: [Signature]
Judge

In Custody -- Bond \$ 50,000 total
 Released: O.R.
 on bond previously posted
 to PreTrial Release

Juvenile: In Custody
 Released to _____

No Contact Order entered.

Cases consolidated.

Discovery provided by State.

Interpreter required.

Additional charge of FTA.

Original--Court File

Yellow--Public Defender

Pink--Prosecuting Attorney

**ORDER APPOINTING PUBLIC
DEFENDER**

000012

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 1-29-14 AT 2:19P M.
CLERK OF THE DISTRICT COURT
BY [Signature], DEPUTY

STATE OF IDAHO,
-vs- Plaintiff,

Stephen Phillip Rozajewski
Defendant,

Case No. CR2014-2275C
CR2014-2273C
CR2014-2299C

ORDER FOR

- Conditional Release/Pretrial Services
- Release on Own Recognizance
- Commitment on Bond

IT IS HEREBY ORDERED the defendant abide by the following conditions of release:

- Defendant is Ordered released
 - On own recognizance
 - Placed on probation
 - Case Dismissed
 - Bond having been set in the sum of \$ _____ Total Bond
 - Bond having been increased reduced to the sum of \$ 50,000⁰⁰ Total Bond
 - Upon posting bond, defendant must report to the Canyon County Pretrial Services office as stated below:
 - Defendant shall report to the Canyon County Pretrial Services Office and follow the standard reporting conditions:
 - Comply with a curfew designated by the Court or standard curfew set by Pretrial Services _____.
 - Not consume or possess alcoholic beverages or mood altering substances without a valid prescription.
 - Submit to evidentiary testing for alcohol and/or drugs as requested by Pretrial Services at defendant's expense.
 - Not operate or be in the driver's position of any motor vehicle.
 - Abide by any No Contact Order and its conditions.
 - Submit to GPS Alcohol monitoring as directed by Pretrial Services.
- Defendants Ordered to submit to GPS or alcohol monitoring shall make arrangements with a provider approved by Pretrial Services, prior to release.**

OTHER: _____

Failure by defendant to comply with the rules and/or reporting conditions and/or requirements of release as Ordered by the Court may result in the revocation of release and return to the custody of the Sheriff.

Dated: 1/29/2014 Signed: [Signature] Judge

- White - Court
- Yellow - Jail/Pretrial Services
- Pink - Defendant

dm

FEB 11 2014

BRYAN F. TAYLOR
CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605
Telephone: (208) 454-7391

CANYON COUNTY CLERK
K BECKLEY, DEPUTY

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

THE STATE OF IDAHO

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI
D.O.B. [REDACTED]

Defendant.

CASE NO. CR2014- 02299

AMENDED CRIMINAL COMPLAINT

**COUNT I - TRAFFICKING IN
METHAMPHETAMINE**

Felony, I.C. §37-2732B(a)(4)

**COUNT II - UNLAWFUL POSSESSION OF
A FIREARM**

Felony, I.C. §18-3316

PART II PERSISTENT VIOLATOR

Felony, I.C. §19-2514

*possession of
controlled
substance*

STATE OF IDAHO)
)
) SS
County of Canyon)

PERSONALLY APPEARED Before me this 11 day of January, 2014,

C. Topmiller, of the Canyon County Prosecuting Attorney's Office, who

being duly sworn, complains and says:

COUNT I

That the Defendant, Stephen Phillip Rozajewski, on or about the 28th day of January, 2014, in the County of Canyon, State of Idaho, did possess or was in actual or constructive possession of ~~28 grams or more~~ ¹⁰ of methamphetamine and/or amphetamine, a controlled substance, or of any mixture or substance containing a detectable amount of methamphetamine and/or amphetamine.

All of which is contrary to **Idaho Code**, Section 37-2732B(a)(4) and against the power, peace and dignity of the State of Idaho.

COUNT II

That the Defendant, Stephen Phillip Rozajewski, on or about the 28th day of January, 2014, in the County of Canyon, State of Idaho, did knowingly and unlawfully possess or have under his custody or control a firearm, to-wit: a .22 caliber pistol, knowing that he has been convicted of Possession of a controlled Substance in Canyon County Case CR2004-28121, date of conviction November 11, 2004, a felony crime.

All of which is contrary to **Idaho Code**, Section 18-3316 and against the power, peace and dignity of the State of Idaho.

PART II

That the Defendant, Stephen Phillip Rozajewski, was previously convicted of the following felonies:

Possession of a Controlled Substance

On or about the 12th day of August, 2005, under the name of Stephen Rozajewski, the Defendant was convicted of the felony of Possession of Controlled Substance, in the County of Canyon, State of Idaho, by Judge Thomas J. Ryan, in case number CR2004-28121

Possession of a Controlled Substance

On or about the 12th day of November, 1997, under the name of Stephen Rozajewski, the Defendant was convicted of the felony of Possession of Controlled Substance, in the County of Kootenai, State of Idaho, by Judge John P. Luster, in case number CR1995-04471

All of which is contrary to **Idaho Code**, Section 19-2514 and against the power, peace and dignity of the State of Idaho.


Complainant

SUBSCRIBED AND SWORN To before me this 11th day of January, 2014.


Magistrate

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

STATE OF IDAHO)
) Plaintiff) Case No. **CR14-2299**
-vs-) Date: **February 11, 2014**
Stephen Phillip Rozajewski)
) Defendant.) Judge: **K. Vehlow**
 True Name)
Corrected Name:) Recording: **Mag 6 (942-1015)**
)

APPEARANCES:

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

PROCEEDINGS:

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

STATE'S WITNESSES SWORN: 1. **Steve Fisher** 2. _____
3. _____ 4. _____ 5. _____

DEFENDANT'S WITNESSES SWORN: 1. _____ 2. _____
3. _____ 4. _____ 5. _____

- Defendant had no testimony or evidence to present.

EXHIBITS: As set forth on attached list.

COURT'S RULING:

- No probable cause; Complaint dismissed; Defendant discharged.
 Bond exonerated. Probable cause found for offense set forth in Complaint.
 Charges amended to: Possession of a Controlled Substance, amended from Trafficking in Methamphetamine.
 Probable cause found for amended charges.
 Defendant held to answer to the District Court. District Court Arraignment set for **2/21/14** at **9:00** a.m. before Judge **Kerrick**.
 Misdemeanor case(s) continued consolidated with felony case for further proceedings.
 Motion for bond reduction to be heard at the time of District Court Arraignment.

BAIL: The Defendant was

- Released on own recognizance (O.R.) Released to pre-trial release officer.
 Remanded to custody of the sheriff. Released on bond previously posted.
 Bail set \$50,000.00-total.

OTHER: Before testimony began, Mr. Topmiller presented an Amended Criminal Complaint to the Court for its signature. Mr. James had no objection to the filing of the Amended Criminal Complaint.

K. Beckley, Deputy Clerk

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

Filed: 2/11/14 at 10:15 a.m.

Clerk of the District Court

By K Beckley, Deputy

STATE OF IDAHO
Plaintiff,

vs.

Stephen Phillip Rozajewski
Defendant,

Case No: CR14-2299C

ORDER BINDING DEFENDANT OVER TO DISTRICT COURT

Preliminary hearing having been waived held in this case on the 11th day of February, 20 14 and the Court being fully satisfied that a public offense has been committed and that there is probable or sufficient cause to believe the Defendant guilty thereof,

IT IS HEREBY ORDERED that the Defendant herein be held to answer in the District Court of the Third Judicial District of The State of Idaho, in and for the County of Canyon, to the charge of Possession of Controlled Substance 37-2732(c)(1) ¹ Unlawful Possession of a Firearm 18-3316 ² Part II - Persistent Violator 19-2514, a felony, committed in Canyon County, Idaho on or about the 28th day of January, 20 14.

IT IS FURTHER ORDERED that the Defendant herein shall be arraigned before the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, on the 21st day of February, 20 14 at 9:00 a.m.

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

YOU, THE SHERIFF OF CANYON COUNTY, IDAHO, are commanded to receive into your custody and detain the Defendant until legally discharged. Defendant is to be admitted to bail in the sum of \$ 50,000.00-cont.

Dated: 2/11/14

Signed Karen Wehler
Magistrate
000018

FILED
A.M. P.M.
FEB 12 2014

CANYON COUNTY CLERK
B HATFIELD, DEPUTY

dm

BRYAN F. TAYLOR
CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605
Telephone: (208) 454-7391

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

THE STATE OF IDAHO

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI
D.O.B. [REDACTED]

Defendant.

CASE NO. CR2014-02299

PART I INFORMATION

COUNT I-PART I: POSSESSION OF CONTROLLED SUBSTANCE

Felony, I.C. §37-2732(c)(1)

COUNT II-PART I: UNLAWFUL POSSESSION OF A FIREARM

Felony, I.C. §18-3316

BRYAN F. TAYLOR, Prosecuting Attorney in and for the County of Canyon,
State of Idaho, who in the name and by authority of said state prosecutes in its behalf, in proper
person comes into the above entitled Court and informs said Court that the above name
Defendant stands accused by this Information of crime of

POSSESSION OF CONTROLLED SUBSTANCE

Felony

Idaho Code Section 37-2732(c)(1)

UNLAWFUL POSSESSION OF A FIREARM

Felony

Idaho Code Section 18-3316

PART I INFORMATION

000019

committed as follows:

COUNT I-PART I

That the Defendant, Stephen Phillip Rozajewski, on or about the 28th day of January, 2014, in the County of Canyon, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.


All of which is contrary to **Idaho Code**, Section 37-2732(c)(1) and against the power, peace and dignity of the State of Idaho.

COUNT II-PART I

That the Defendant, Stephen Phillip Rozajewski, on or about the 28th day of January, 2014, in the County of Canyon, State of Idaho, did knowingly and unlawfully possess or have under his custody or control a firearm, to-wit: a .22 caliber pistol, knowing that he has been convicted of Possession of a controlled Substance in Canyon County Case CR2004-28121, date of conviction November 11, 2004, a felony crime.

All of which is contrary to **Idaho Code**, Section 18-3316 and against the power, peace and dignity of the State of Idaho.

DATED this 11th day of February, 2014.


CHRISTOPHER N. TOPMILLER for
BRYAN F. TAYLOR
Prosecuting Attorney for Canyon County, Idaho

dm

BRYAN F. TAYLOR
CANYON COUNTY PROSECUTING ATTORNEY
Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605
Telephone: (208) 454-7391

F I L E D
A.M. P.M.
FEB 12 2014

CANYON COUNTY CLERK
B HATFIELD, DEPUTY

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

THE STATE OF IDAHO

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI
D.O.B. [REDACTED]

Defendant.

CASE NO. CR2014-02299

PART II INFORMATION

**COUNT I AND COUNT II – PART II:
PERSISTENT VIOLATOR**

Felony, I.C. 19-2514

BRYAN F. TAYLOR, Prosecuting Attorney in and for the County of Canyon,
State of Idaho, who in the name and by authority of said state prosecutes in its behalf, in proper
person comes into the above entitled Court and informs said Court that the above name

Defendant stands accused by this Information of crime of

COUNT I AND COUNT II: PERSISTENT VIOLATOR

Felony

Idaho Code Section 19-2514

PART II INFORMATION

000021

committed as follows:

**COUNT I AND COUNT II
PART II**

That the Defendant, Stephen Phillip Rozajewski, was previously convicted of the following felonies:

Possession of a Controlled Substance


On or about the 12th day of August, 2005, under the name of Stephen Rozajewski, the Defendant was convicted of the felony of Possession of Controlled Substance, in the County of Canyon, State of Idaho, by Judge Thomas J. Ryan, in case number CR2004-28121

Possession of a Controlled Substance

On or about the 12th day of November, 1997, under the name of Stephen Rozajewski, the Defendant was convicted of the felony of Possession of Controlled Substance, in the County of Kootenai, State of Idaho, by Judge John P. Luster, in case number CR1995-04471

All of which is contrary to **Idaho Code**, Section 19-2514 and against the power, peace and dignity of the State of Idaho.

DATED this 12 day of February, 2014.


CHRISTOPHER N. TOPMILLER for
BRYAN F. TAYLOR
Prosecuting Attorney for Canyon County, Idaho

CANYON COUNTY PUBLIC DEFENDER
MIMURA LAW OFFICES, PLLC
RANDALL S. GROVE
510 Arthur Street
Caldwell, Idaho 83605
Phone: (208) 639-4585
Fax: (208) 639-4611
Idaho State Bar No. 4397

FILED
A.M. P.M.
FEB 19 2014

CANYON COUNTY CLERK
B HATFIELD, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

STEPHEN ROZAJEWSKI,

Defendant.

Case No. CR-2014-2275

CR-2014-2273

CR-2014-2299

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

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

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

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

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

CMF

000023

NOTICE OF HEARING: NOTICE IS HEREBY GIVEN that attorney for Defendant will bring on for hearing the above Motion at the Canyon County Magistrate Court, 1115 Albany Street, Caldwell, Idaho, on the 21st day of February, 2014, at the hour of 9:00 a.m. before the Honorable Judge Juneal C. Kerrick, or as soon thereafter as counsel may be heard.


CERTIFICATE OF SERVICE:

I hereby certify that on the 13th day of February, 2014, I served a true and correct copy of the within Motion for Bond Reduction or Release on Own Recognizance and Notice of Hearing upon the individual(s) names below in the manner noted:



By placing such a copy in the Prosecutor's basket located in the Clerk's office on the second floor of the Canyon County Courthouse.

Canyon County Prosecuting Attorney
1115 Albany
Caldwell Idaho 83605


Randall S. Grove
Attorney for the Defendant

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
RANDALL S. GROVE
510 Arthur St.
Caldwell, ID 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 4397

F I L E D 2014
A.M. P.M.

FEB 13 2014

CANYON COUNTY CLERK
S HILL, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

STEPHEN ROZAJEWSKI,

Defendant.


Case No. CR-2014--2299-C

MOTION FOR PRODUCTION OF
PRELIMINARY HEARING
TRANSCRIPT

COMES NOW, the above named defendant, Stephen Rozajewski, by and through his attorney of record, Randall S. Grove, the Assistant Canyon County Public Defender, and moves this honorable Court for an Order to produce the record of the preliminary hearing held in this matter on the 11th day of February, 2014 in front of the Honorable Judge Karen J. Vehlow leading to the filing of the Information in this matter.

THIS MOTION is made pursuant to the provisions of Idaho Rules of Criminals Procedures 5.2.

DATED THIS 13th day of February, 2014




Randall S. Grove
Attorney for the Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 2014, I served a true and correct copy of the within and foregoing document upon the following: by hand delivering copies of the same to the office(s) indicated below.

Canyon County Prosecuting Attorney
1115 Albany Street
Caldwell, Idaho 83605

Canyon County Public Defender
510 Arthur Street
Caldwell, Idaho 83605



Randall S. Grove
Attorney for the Defendant

FILED
8:00 A.M. FEB 18 2014
CLERK

FEB 18 2014

CANYON COUNTY CLERK
S MEHIEL, DEPUTY

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
RANDALL S. GROVE
510 Arthur St.
Caldwell, ID. 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
State Bar No. 4397

Attorneys for the Defendant

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-2014-2299-C
vs.)	
)	
STEPHEN ROZAJEWSKI,	)	ORDER FOR PRELIMINARY
	)	HEARING TRANSCRIPT
Defendant,)	
_____)	

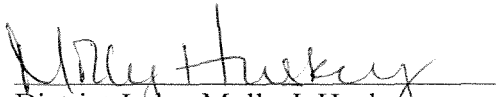
The above named Defendant having filed a motion for an order to produce the record of the Preliminary Hearing of the above named Defendant, good cause appearing and under authority of Idaho Criminal Rule 5.2 therefore;

IT IS HEREBY ORDERED AND THIS DOES ORDER a transcript of Preliminary Hearing proceedings be prepared within 30 days of the filing of this Order and delivered to the Court, prosecuting attorney and defense counsel thereafter, to be prepared by Laura Whiting.

IT IS FURTHER ORDERED:

Based upon Idaho Criminal Rule 5.2 the defendant has previously been determined by a court to be indigent as the public defender was appointed and therefore order the payment of the preliminary hearing transcript to be conducted at county expense.

Dated this 14 day of February, 2014,


District Judge Molly J. Huskey

CLERKS CERTIFICATE OF SERVICE

I certify that on 18 day of February, 2014, I served a true and correct copy of the within and foregoing Order for Preliminary Hearing Transcript upon the following individual(s) named below in the manner noted:

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

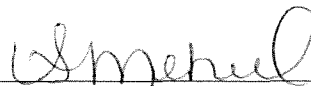
Bryan Taylor
Canyon County Prosecuting Attorney
Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605

Canyon County Public Defender
510 Arthur St.
Caldwell, ID 83605

Theresa Randall
Transcript Clerk
Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605

CHRIS YAMAMOTO

Clerk of the Court


By: _____ Deputy Clerk

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

STATE OF IDAHO

) Case No. CR-2014-2299*C
CR-2014-2275*C
CR-2014-2273*C

-vs-
STEPHEN PHILLIP ROZAJEWSKI

Plaintiff)

) Date: February 21, 2014

Defendant.)

) Judge: Gregory Culet

True Name

) Recording: dct 5 (1113-1120)

) Reported By: Kathy Klemetson

APPEARANCES:

Defendant
 Defendant's Attorney Dave Christensen

Prosecutor Dallin Creswell

ADVISEMENT OF RIGHTS: Defendant

- the defendant was advised of his constitutional rights, the charges in the above referenced cases and of the maximum possible penalties for each offense.
 The Court determined the Defendant understood the maximum possible penalties provided by law upon conviction.

Formal reading of the Information was waived Defense counsel.

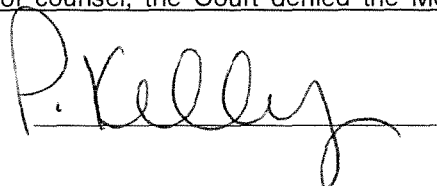
ENTRY OF PLEA:

- In answer to the Court's inquiry, the Defendant
 entered a plea of **NOT GUILTY** to the charge of **Possession of a Controlled Substance, Unlawful Possession of Firearm, Persistent Violator Possession of Drug Paraphernalia and Frequenting Places where Use of Controlled Substances**
- The right to a speedy trial was not waived.
- The Court scheduled this matter for **PRETRIAL CONFERENCE April 14, 2014 at 1:30 p.m.** before Judge Huskey and a four (4) day **JURY TRIAL to commence on May 6, 2014 at 8:30 a.m.** before Senior Judge Morfitt.

BAIL: The Defendant was

remanded to the custody of the sheriff on the bond as previously set.

OTHER: Upon hearing the respective arguements of counsel, the Court denied the Motion for Bond Reduction.

 Deputy Clerk

APR 21 2014

CANYON COUNTY CLERK
K HAWKES, DEPUTY

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

CR-2014-2273-C
CR-14-2275-C

THE STATE OF IDAHO,)
Plaintiff,)
-vs-)
Stephen Phillip Rozajewski)
Defendant.)

Case No. CR/14-02299

PRETRIAL MEMORANDUM

DORT 2 (1.28-145)

REPORTER: LARA WRIGHT

Appearances:
Prosecuting Attorney Hambly Attorney for Defendant Grove

- Counsel revealed to each other prior to pretrial at pretrial the evidence to be offered at trial.
- Intoximeter (or other breath test) reading
- Video
- Physical evidence: on police report other Reports from Dosier + Fisher not yet provided
- Tape recording
- Oral statements: on police report other Report/notes from ID not provided
- Plaintiffs' witnesses and addresses:

<u>Steve Fisher CPD</u>	<u>Rob Sanford P+P</u>
<u>Larry Hammert CPD</u>	<u>Alma Ortega P+P</u>
<u>Heather Campbell CPD</u>	<u>Dosier CPD</u>
<u>Dale Schreiber CPD</u>	<u>All in Discovery</u>
<u>Samuel Szyehira CISO</u>	

Defendants' witnesses and addresses:

Defendant

Lisa Lee, 208 S 14th St., Caldwell

Jolee Grigg, address unknown

Any listed by the state

Counsel shall reveal to each other and the Court, in writing, any additional witnesses or exhibits to the above list of the preceding evidence by April 23, 2014 at 5:00 p.m.

Plea negotiations:

Plead guilty to (F) PCS and (F) Unlawful Possession of a Firearm, State will dismiss Part II Persistent Violator, recommend 3 years fixed on each count, concurrent, indeterminate portion in Court's discretion, restitution for labs offer arrears until 4/29

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

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

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

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

Pretrial motions shall be filed.

within 10 days of this Order.

no less than _____ days prior to trial.

no later than _____, 20____.

Pretrial motions, timely filed, are set for hearing on May 5, 2014 at 2:30 p.m.

Copies of Pretrial Memorandum given to both counsel.

Parties to reappear for a status conference on May 5, 2014 at 2:30 p.m. The Defendant must be personally present.

Other: Instructions, witnesses, exhibit lists by 5/1

Madison J
Deputy Prosecuting Attorney

Palumbo
Defense Attorney

Dated: 4/21/14

Signed: M. H. Wong
Magistrate Judge

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

PRESIDING: **JAMES C MORFITT** DATE: May 5, 2014

THE STATE OF IDAHO,	)	COURT MINUTE
	)	CR2014-2299*C
Plaintiff,	)	CASE NO: CR2014-2273*C
	)	CR2014-2275*C
vs.	)	TIME: 2:30 P.M.
)	
STEPHEN PHILLIP ROZAJEWSKI,	)	REPORTED BY:
	)	Laura Whiting
Defendant.)	
_____	)	DCRT4 (234-249)

This having been the time heretofore set for **status conference and motion to suppress** in the above entitled matter, the State was represented by Ms. Madison Hamby, Deputy Prosecuting Attorney for Canyon County, and the defendant was personally present in court, with counsel, Mr. Randall Grove.

The Court called the case, noted the jury trial was set for tomorrow and asked counsel the status of the case.

Mr. Grove advised the Court he had some additional investigation to do in this case and would be requesting this matter be continued until June 3, 2014.

In answer to the Court's inquiry, Mr. Grove advised the Court there were two witnesses he had not interviewed in this case. Additionally, Mr. Grove advised the Court he had a motion to suppress set for today but they were not prepared.

In answer to the Court's inquiry, Mr. Grove advised the Court he had not discussed speedy trial with the defendant.

Ms. Hamby advised the Court, the State disclosed the report about two weeks ago regarding the suppression issue and due to the late disclosure the State would not object to a continuance.

The Court noted it would recess for Mr. Grove to discuss speedy trial with the defendant.

The Court recessed at 2:38 p.m.

The Court reconvened at 2:45 p.m.

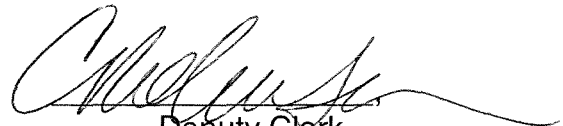
Mr. Grove advised the Court he discussed speedy trial with the defendant and the defendant would not be waiving speedy trial at this time, if it came up tomorrow it was possible the defendant would waive.

The Court noted the **jury trial would remain set for May 6, 2014 at 8:30 a.m. before Senior Judge Morfitt.**

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


Deputy Clerk

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



Deputy Clerk

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

PRESIDING **JAMES C. MORFITT** DATE: May 7, 2014

THE STATE OF IDAHO,	)	COURT MINUTES
	)	CR2014-2275*C
Plaintiff,	)	CASE NO: CR2014-2299*C
	)	CR2014-2273*C
vs)	
	)	TIME: 3:30 P.M.
STEPHEN PHILLIP ROZAJEWSKI,)	
	)	REPORTED BY: Laura Whiting
Defendant.)	
	)	DCRT 4(353-424)

This having been the time heretofore set for **change of plea** in the above entitled matter, the State was represented by, Ms. Madison Hamby, Deputy Prosecuting Attorney for Canyon County; and the defendant was present with counsel, Mr. Randall Grove.

The Court called the case and was advised this would be change of plea.

Mr. Grove advised the Court that a Rule 11 agreement had been reached and provided the Court with the Guilty Plea Advisory form and the written Rule 11 agreement.

Mr. Grove advised the Court **the defendant would entered an Alford plea of guilty to Possession of a Controlled Substance Count I in case**

CR2014-2299*C, Count II and Count III would be dismissed, the State would dismiss CR2014-2273*C and CR2014-2275*C, at sentencing the State would agree to three (3) years fixed sentence, the indeterminate portion would be open for argument, the State would refer the defendant for screening into Drug Court, if he was accepted the Court would have the authority based on the agreement to suspend the sentence and place the defendant on probation, if the defendant was not accepted the sentence would be executed.

In answer to the Court's inquiry, each of counsel and the defendant indicated that was the agreement reached.

The Court examined the defendant and determined he had reviewed the Rule 11 Agreement with his attorney and he was satisfied that his attorney explained the Rule 11 Agreement to him and that it was his signature on the Rule 11 Agreement. Additionally, the defendant advised the Court it was his desire to enter an Alford plea to Possession of a Controlled Substance Count I in CR2014-2299*C.

The Court reviewed the Rule 11 agreement and indicated it appeared the defendant would be entering an Alford plea of guilty to Count I of the Information filed in CR2014-2299*C, a felony offense of Possession of a Controlled Substance and all other charges would be dismissed, and if the Court

determined it would accept the Rule 11 Agreement, the Court was therefore bound to sentence the defendant in accordance with the agreement.

The Court indicated the Rule 11 agreement would be taken under advisement pending sentencing and the sentencing Judge would determine if the agreement would be accepted by the Court. If the Court was not willing to follow the Rule 11 agreement, the defendant would be allowed to withdraw his guilty plea.

The Court examined the defendant and determined he had reviewed the Guilty Plea Advisory form with his attorney and that he had initialed and signed the document. The Court reviewed with the defendant the questions and answers provided in the Guilty Plea Advisory form and determined the defendant understood the questions contained in the document and the rights he would be waiving. Further, the Court determined the defendant believed he had adequate time to discuss his charge of plea with his attorney.

The Court examined the defendant and determined he was taking prescription medication for a mental health condition; however, they did not affect or hinder his ability to understand the proceedings, and had not consumed any alcohol or drugs or other medications within the last twenty four (24) hours. Mr. Grove informed the Court he was satisfied the prescription medications did not hinder, affect or influence his understanding or ability to participate in these proceedings.

The Court noted the defendant marked on the Guilty Plea Advisory form that it was a conditional plea in which the defendant was reserving his right to appeal any pretrial issues.

Mr. Grove advised the Court there was one issue that remained a problem for the defendant and that was in regards to the search of his room and his house pursuant to the search warrant. Additionally, Mr. Grove advised the Court the defendant had expressed his concerns that he had and his desire to seek suppression of evidence, the defendant was still struggling with if it was right or wrong for the warrant to be issued, he has gone over all the evidence and listened to the proceedings before the Magistrate that issued the warrant and he could not find anything in the material that was constitutionally wrong on which to base a motion to suppress, the defendant still felt his rights were violated, it was a matter of moral concern for the defendant but legally there was no basis for a motion of suppression.

In answer to the Court's inquiry, Mr. Grove advised the Court the defendant understood that by taking advantage of the Rule 11 Agreement he would not be able to challenge the suppression issues and the defendant concurred.

The Court noted the defendant marked on the Guilty Plea Advisory form that he did not waive his right to appeal, but in the Rule 11 Agreement it appeared there was a written waiver of it.

The Court examined the defendant and determined he understood he would be waiving his right to appeal. The Court had the defendant cross out his answer and mark the correct answer and initial the correction.

The Court noted that on the Guilty Plea Advisory form the defendant indicated that he asked his attorney to do certain things, that he did not do, specifically with the suppression issue on the search warrant.

The Court examined the defendant and determined he understood that this was his opportunity to raise any issues and if he proceeded with the Rule 11 Agreement, and if the Court accepted it, the defendant would waive his right to appeal, his right for Rule 35 relief and for post-conviction.

The defendant indicated he was satisfied with the representation of counsel, and had sufficient time to discuss matters with counsel prior to entry of this plea. Additionally, he did not have any further questions for his counsel, or the Court at this time and that he received and reviewed all discovery with Mr. Grove.

The Court read the Information which charged the offense of Possession of a Controlled Substance in CR2014-2299*C; in answer to the Court's inquiry the defendant entered a formal Alford plea of guilty to the felony charge.

The Court examined the defendant and determined he was entering a plea freely, voluntarily, without promises, threats, coercion or inducement and that he understood the plea agreement was not binding on the Court.

The Court advised the defendant that by entering a plea of guilty to the charge, he would be waiving his right to a jury trial, the right to confront and cross-examine the State's witnesses, the right to present witnesses, evidence and testimony, the right to use the subpoena power of the Court for the attendance of witnesses, the right to require the State to prove his guilty beyond a reasonable doubt, the right to the presumption of innocence and the right against self-incrimination, and finally he would be waiving any defenses he may have.

The Court advised the defendant if the Court accepted his plea, it would be very unlikely he would be allowed to withdraw his guilty plea. The Court advised the defendant the felony offense of **Possession of a Controlled Substance** was punishable by a maximum of seven (7) years imprisonment and a fine of up to \$15,000.00; or both such fine and imprisonment.

The Court accepted the defendant's plea to the charge contained in the Information. The Court determined the defendant was entering freely and voluntarily plea, he understood the consequences of his plea and the rights he was waiving and giving up by entering such a plea.

The Court Ordered the defendant to obtain a **Presentence Investigation Report and GAIN I Assessment** and set this matter for **sentencing June 30, 2014 at 9:00 a.m. before Judge Huskey.**

The Court instructed the State to prepare an order dismissing Count II and a motion to dismiss Part II to present to the Court at sentencing.

In answer to the Court's inquiry, Ms. Hamby advised the Court the State would not request the Court dismiss the misdemeanors until sentencing.

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


Deputy Clerk

MAY 07 2014

CANYON COUNTY CLERK
C ROBINSON, DEPUTY

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
RANDALL S. GROVE
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 4397

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI,

Defendant.

Case No. CR-2014-2299

RULE 11 PLEA AGREEMENT

COMES NOW, the Defendant, Stephen Phillip Rozajewski, by and through his attorneys of record, the Canyon County Public Defender, and the State of Idaho, by and through its attorney, the Canyon County Prosecuting Attorney, and hereby enter into a binding plea agreement under Idaho Criminal Rule 11(f).

WAIVER OF TRIAL AND RIGHTS

Defendant understands and acknowledges that he has a right to have a speedy and public trial on the all allegations against him in this case, and that the factual issue of guilt would be decided by a jury of twelve persons selected from the community. At such a trial, the burden of proving guilt would always rest upon the State; Defendant would not be required to present any evidence or testify himself, and would be entitled to

the presumption of innocence. Defendant could not be called by the State as a witness to testify at such a trial, and the State's advocate could make no comment on his silence to the jury in the event Defendant chose not to testify. Defendant may, however, choose to testify at such a trial and would have the right to consult with his legal counsel before making such a decision. Defendant would have the right to be personally present during the testimony of all witnesses, and, through his legal counsel, would have the right to ask questions of all witnesses and challenge all evidence offered. Defendant could, through the subpoena power of the Court, compel people, at public expense, to attend the trial and offer relevant testimony and other evidence for the jury to consider in its deliberations.

Defendant understands that by pleading guilty he is relieving the State of its obligation to prove him guilty at such a trial and eliminating the need for a jury to decide the issue of guilt. By negating the need for a trial, Defendant acknowledges that he is waiving the rights listed above which he could have exercised at such a trial. Defendant understands that the Court may have questions of him during his guilty plea, which he will be required to answer. Such answers can and will be used against Defendant in other hearings in this case, and could be used against him at a later trial in the event the Court does not accept his guilty plea, or in the event the Court allows the guilty plea to be withdrawn.

FACTUAL BASIS

On January 28, 2014, misdemeanor probation officers were at 2021 Washington in Caldwell, Idaho and sought police assistance with a search of a probationer's residence. Defendant was present but declined consent to search a room in the house claimed to be his. Officers obtained a search warrant and searched the southwest

bedroom of the residence. In such room, officers found identification and other items belonging to Defendant as well as a baggie containing a substance later tested positive for methamphetamine.

OTHER CONSIDERATIONS

Defendant acknowledges that he has reviewed all the terms in this document and understands them. He has sought the advice and assistance of his legal counsel in explaining any terms to his satisfaction. The decision to plead guilty is one Defendant has carefully considered, having reviewed police reports and other discoverable material, and having consulted with his legal counsel. Defendant has not been pressured, coerced or otherwise improperly influenced in his decision to plead guilty. Defendant has made this decision having considered the maximum penalties for the offense of possession of a controlled substance, a felony. Defendant was not on probation or parole at the time of the offense in this case but has been advised that his guilty plea in this case could serve as the basis for revoking any outstanding probation or parole. Defendant is a United States citizen but has been advised that his plea of guilty could have additional adverse consequences in any immigration proceedings and could result deportation or removal from the United States, inability to obtain legal status, or denial of any application for citizenship. Defendant understands that this agreement would require him to plead guilty to one felony offense and that this offense could be used in the future for evaluation or prosecution as a persistent violator under Idaho law should he ever be charge with another felony. Defendant has chosen to plead guilty of his own free will, without undue influence from others, having considered and weighed his options, and understanding the consequences which can attach to this plea. Defendant has consulted with his legal

counsel about opportunities to challenge the State's evidence and declines to seek any orders limiting or suppressing such evidence.

MAXIMUM AND MINIMUM PENALTIES

Under Idaho Code §§ 37-2732(c) and 37-2732(k), the maximum penalties for this offense are: (1) seven (7) years in the custody of the state board of correction; (2) a fifteen thousand dollar (\$15,000.00) fine; and (3) possible restitution for the costs of investigation. Under Idaho Code § 37-2738(2), Defendant shall be required to obtain a substance abuse evaluation prior to sentencing. Defendant has been advised and understands that he will plead guilty to one felony count and that the Court would have the power to run any sentence in this concurrently with, or consecutively to, any other sentence in existence. Pursuant to Idaho Code § 19-5506, Defendant shall be required to deliver a DNA sample and right thumbprint impression to the Idaho State Police

TERMS OF AGREEMENT

1. Defendant was charged by Information filed February 12, 2014 with one count of possession of a controlled substance and one count of unlawful possession of a firearm, both felonies. A Part II of that Information was filed the same day alleging Defendant to be a persistent violator of the law subject to enhanced penalties. Defendant was charged by citations in CR2014-2273 and 2275 with misdemeanor crimes of frequenting, possession of drug paraphernalia and possession of a controlled substance.
2. Defendant will enter a guilty plea to the felony charge of possession of a controlled substance as alleged in Count I of the Information in this case and the State will dismiss the unlawful possession of a firearm in Count II, the persistent

violator enhancement in Part II and the misdemeanors charged in cases CR2014-2273 and 2275.

3. The State shall refer Defendant to be screened for consideration of placement in the Canyon County Drug Court program.
4. The Court shall impose sentence as follows: On the count of possession of a controlled substance, a prison sentence with three (3) years fixed and the indeterminate portion open for argument, but in no event shall the unified sentence exceed seven (7) years, with such sentence running concurrently with any sentence in existence at the time of sentencing.
5. The Court may suspend such sentence if Defendant is accepted into the Drug Court program and place Defendant on probation. If Defendant is not accepted, such sentence shall be executed.
6. The Court shall impose mandatory court costs and fees and a reasonable amount for a fine and/or public defender reimbursement.
7. The Court, in its discretion, may order reimbursement or restitution for the cost of laboratory testing.
8. The Court, in its discretion, may order the preparation of a new, or update of a previous, presentence report.
9. The Court shall order Defendant to deliver a DNA sample and right thumbprint impression to the Idaho State Police.
10. The above-recited agreements are conditioned on Defendant timely obtaining a presentence report and evaluations that may accompany it, if ordered, making all

required court appearances and avoiding new misdemeanor or felony charges prior to sentencing.

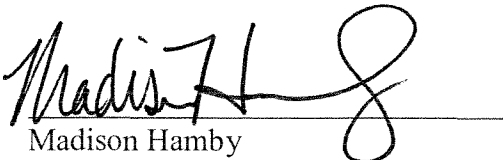
BINDING AGREEMENT
WAIVER OF APPEAL, RULE 35, POST CONVICTION RELIEF

This agreement is intended as a binding agreement under Idaho Criminal Rule 11(f). In the event the Court declines to follow the terms of this agreement, or in the event the State seeks to withdraw from the terms herein, Defendant shall be allowed to withdraw his guilty plea, at his option, and have this matter set again for jury trial. In the event Defendant fails to satisfy conditions in this agreement, the State shall be free to argue, and the Court shall be free to impose, any other disposition in this case up to the maximum penalty.

Defendant would ordinarily have the right to: (1) appeal the sentence and any final decision of this Court to the Idaho Supreme Court; (2) seek sentence modification under Idaho Criminal Rule 35, so long as the time limits for filing have been met. However, because Defendant has bargained for a specific resolution of this case, he hereby waives these rights. Defendant also agrees to waive his right to pursue any issues from the sentence in a post-conviction petition under Idaho Code § 19-4901, except for any issues arising out of claims for ineffective assistance of counsel.

DATED this 7 day of May, 2014

CANYON COUNTY PROSECUTING ATTORNEY


Madison Hamby

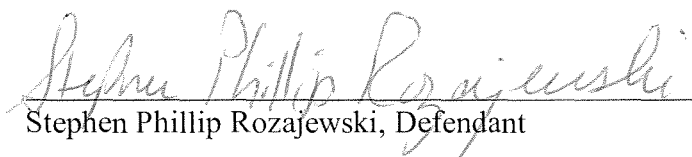
DATED this 7 day of May, 2014

CANYON COUNTY PUBLIC DEFENDER


Randall S. Grove

I have reviewed this agreement and understand its contents and have had the opportunity to consult with my attorney and have all questions about this agreement answered. My intention is to be bound by this agreement and desire to plead guilty because of it.

DATED this 7th day of May, 2014


Stephen Phillip Rozajewski, Defendant

MAY 07 2014

GUILTY PLEA ADVISORY

CANYON COUNTY CLERK
C ROBINSON, DEPUTY

Defendant's Name: Stephen Phillip Rozajewski

Date: 5/7/2014

Case Number: CR2014-2299

Nature of Charge(s):

Minimum & Maximum Possible Penalty:

Felony – Possession of a

No minimum penalty

Controlled Substance

Max: 7 years prison, \$15,000 fine

**STATEMENT OF RIGHTS & EXPLANATION OF WAIVERS BY PLEA OF GUILTY
(PLEASE INITIAL EACH RESPONSE)**

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elected to have a trial, the state could not call you as a witness or ask you any questions. However, anything you do say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent before and during trial. SR.

2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case. Even after pleading guilty, you will still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). You can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. SR.

3. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the judge for an attorney who will be paid by the county.

4. You are presumed to be innocent. You would be found guilty if: 1) you plead guilty in front of the judge, or 2) you are found guilty at a jury trial.

I understand that by pleading guilty I am waiving my right to be presumed innocent. SR.

5. You have the right to a speedy and public jury trial. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. The state must convince each and every one of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am waiving my right to a speedy and public jury trial. SR.

6. You have the right to confront the witnesses against you. This occurs during a jury trial where the state must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call your own witnesses of your choosing to testify concerning your guilt or innocence. If you do not have the funds to bring those witnesses to court, the state will pay the cost of bringing your witnesses to court.

I understand that by pleading guilty I am waiving my right to confront the witnesses against me, an present witnesses and evidence in my defense.
SR.

QUESTIONS REGARDING PLEA

(Please answer every question. If you do not understand a question consult your attorney before answering.)

PLEASE CIRCLE ONE

1. Do you read and write the English language?
If not, have you been provided with an interpreter to help you fill out this form?

YES NO
 YES NO

2. What is your age? 59.

3. What is your true and legal name?

Stephen Phillip Rozajewski.

4. What was the highest grade you completed? 14.

If you did not complete high school, have you received either a general education diploma or high school equivalency diploma?

YES NO

5. Are you currently under the care of a mental health professional? YES NO

6. Have you ever been diagnosed with a mental health disorder? YES NO

If so, what was the diagnosis and when was it made?

Depression
7. Are you currently prescribed any medication? YES NO

If so, have you taken your prescription medication during the past 24 hours? YES NO

8. In the last 24 hours, have you taken any medications or drugs, or drank any alcoholic beverages which you believe affect your ability to make a reasoned and informed decision in this case? YES NO

9. Is there any other reason that you would be unable to make a reasoned and informed decision in this case? YES NO

10. Is your guilty plea the result of a plea agreement? YES NO

If so, what are the terms of that plea agreement?
(If available, a written plea agreement should be attached hereto as "Addendum 'A'")

See attached Rule 11 agreement

11. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea you are entering:

a. I understand that my plea agreement is a binding plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. SR.

b. I understand that my plea agreement is a non-binding plea agreement. This means that the

court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, including the maximum sentence stated above. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. _____.

12. As a term of your plea agreement, are you pleading guilty to more than one crime?

YES NO

If so, do you understand that your sentences for each crime could be ordered to be served either concurrently (at the same time) or consecutively (one after the other)?

YES NO

13. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues?

YES NO

If so, what issue are you reserving the right to appeal?

14. Have you waived your right to appeal your judgment of conviction and sentence as part of your plea agreement?

YES NO *MG SR*

15. Have any other promises been made to you which have influenced your decision to plead guilty?

YES NO

If so, what are those promises?

16. Do you feel you have had sufficient time to discuss your case with your attorney?

YES NO

17. Have you told your attorney everything you know about the crime?

YES NO

18. Is there anything you have requested your attorney to do that has not been done?

YES NO *MG SR*

If yes, please explain. Suppression issues

19. Your attorney can get various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called discovery. Have you reviewed the evidence provided to your attorney during discovery?

YES NO *sub 9?*

20. Have you told your attorney about any witnesses who would show your innocence?

YES NO

21. Do you understand that by pleading guilty you will waive any defenses, both factual and legal, that you believe you may have in this case?

YES NO

22. Are there any motions or other requests for relief that you believe should still be filed in this case?

YES NO

If so, what motions or requests? _____

23. Do you understand that if you enter an unconditional guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including:
1) any searches or seizures that occurred in your case,
2) any issues concerning the method or manner of your arrest, and 3) any issues about any statements you may have made to law enforcement?

YES NO

24. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty?

YES NO

25. Are you currently on probation or parole?

YES NO

If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole? YES NO

26. Are you aware that if you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship? YES NO

27. Does any crime to which you will plead guilty require you to register as a sex offender? (I.C. § 18-8304) YES NO

28. Are you aware that if you plead guilty you may be required to pay restitution to the victims in this case? (I.C. § 19-5304) YES NO

29. Have you agreed to pay restitution to any other party as a condition of your plea agreement? YES NO
If so, to whom? _____

30. Is there a mandatory driver's license suspension as a result of a guilty plea in this case? YES NO
If so, for how long must your license be suspended? _____.

31. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse, or psychosexual evaluation is required? (I.C. §§ 18-918(7)(a), -8005(11), -8316) YES NO *MSR*

32. Are you pleading guilty to a crime for which you may be required to pay the costs of prosecution and investigation? (I.C. § 37-2732A(K)) YES NO *MSR*

33. Are you pleading guilty to a crime for which you will be required to submit a DNA sample to the state? (I.C. § 19-5506) YES NO *MSR*

34. Are you pleading guilty to a crime for which the court could impose a fine for a crime of violence of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307) YES NO

35. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to vote in Idaho? (ID. CONST. art. 6, § 3) YES NO

36. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to hold public office in Idaho? (ID. CONST. art. 6, § 3) YES NO

37. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform jury service in Idaho? (ID. CONST. art. 6, § 3) YES NO

38. Do you understand that if you plead guilty to a felony you will lose your right to purchase, possess, or carry firearms? (I.C. § 18-310) YES NO

39. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES NO

40. Are you entering your plea freely and voluntarily? YES NO

41. Are you pleading guilty because you did commit the acts alleged in the information or indictment? YES NO *ref GR*

42. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES NO

43. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue with your attorney? YES NO

I have answered the questions on pages 1-7 of this Guilty Plea Advisory form truthfully, understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this form freely and voluntarily. Furthermore, no one has threatened me to do so.

Dated this 7 day of MAY, 2014.

Stephen Phillip Rozojewski
DEFENDANT

I hereby acknowledge that I have discussed, in detail, the foregoing questions and answers with my client.

[Signature]
DEFENDANT'S ATTORNEY

ORIGINAL OF THIS DOCUMENT TO IDOC

Assigned to: _____
Assigned: _____

BY C. Robinson, DEPUTY

**Third Judicial District Court, State of Idaho
In and For the County of Canyon
ORDER FOR PRESENTENCE REPORT AND EVALUATIONS**

STATE OF IDAHO
Plaintiff,

vs.

Stephen Phillip Rozajewski
2021 Washington
Caldwell, ID 83605

Case No: CR-2014-0002299-C

**ORDER FOR PRE – SENTENCE INVESTIGATION
REPORT**

CHARGE(s):

I37-2732(c)(1) F Controlled Substance-Possession of

ROA : PSIO1- Order for Presentence Investigation Report

On this Wednesday, May 07, 2014, a **Pre-sentence Investigation Report** was ordered by the Honorable Morfitt to be completed for Court appearance on:

Sentencing Monday, June 30, 2014 at 09:00 AM at the above stated courthouse before the Honorable Huskey.

*******GAIN I ASSESSMENT WAS ORDERED*******

- Behavioral Health Assessments waived by the Court
- Waiver under IC 19-2524 2 (e) allowing assessment and treatment services by the same person or facility

Other non- §19-2524 evaluations/examinations ordered for use with the PSI:

Sex Offender Domestic Violence Other _____ Evaluator: _____

PLEA AGREEMENT: State recommendation

WHJ/JOC Probation PD Reimb Fine ACJ Restitution Other: _____

DEFENSE COUNSEL: Public Defender Randall Grove

PROSECUTOR: Canyon County Prosecutor Madison Hamby

THE DEFENDANT IS IN CUSTODY: YES If yes where: Canyon County Jail

DO YOU NEED AN INTERPRETER? NO

Date: 5/7/14

Signature: *George A. Leathers*
District Judge

Cindy Robinson

From: Microsoft Outlook
To: Health and Welfare; Laura Peterson; Orestes Alambra
Sent: Thursday, May 08, 2014 08:39 AM
Subject: Relayed: FW: Scanned from a Xerox multifunction device

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Health and Welfare \(19-2524@dhw.idaho.gov\)](mailto:19-2524@dhw.idaho.gov)

[Laura Peterson \(lpeterso@idoc.idaho.gov\)](mailto:lpeterso@idoc.idaho.gov)

[Orestes Alambra \(oalambra@idoc.idaho.gov\)](mailto:oalambra@idoc.idaho.gov)

Subject: FW: Scanned from a Xerox multifunction device

000058

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

PRESIDING: **MOLLY J. HUSKEY** DATE: JUNE 30, 2014

THE STATE OF IDAHO,)	
	)	COURT MINUTES
Plaintiff,)	
	)	CASE NO. CR-2014-0002299-C
	)	CR-2014-0002275-C
	)	CR-2014-0002273-C
vs)	
	)	TIME: 9:15 A.M.
STEPHEN PHILLIP ROZAJEWSKI,)	
	)	REPORTED BY: Laura Whiting
Defendant.)	
_____	)	DCRT 2 (915-919)

This having been the time heretofore set for **sentencing** in the above entitled matter, the State was represented by Ms. Madison Hamby, Deputy Prosecuting Attorney for Canyon County, and the defendant was present in court with counsel, Mr. Randall Grove.

The Court reviewed relevant procedural history in this matter, and noted its understanding of the Rule 11 Plea agreement previously stated for the record.

The Court informed each of counsel and the defendant it would not accept the Rule 11 Plea Agreement.

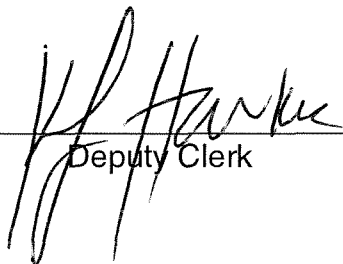
The Court inquired of the defendant as to whether he wished to proceed with sentencing or withdraw his plea of guilty.

Mr. Grove informed the Court the defendant would withdraw his guilty plea and proceed to trial on these matters.

The Court set this matter for a **four (4) day Jury Trial to commence on the 15th day of July, 2014 at 8:30 a.m. before Judge G.D. Carey**. The Court informed each of counsel if Judge Carey was not available it could hear the trial.

Mr. Grove informed the Court of a potential issue regarding a witness.


The defendant was remanded to the custody of the Canyon County Sheriff pending further proceedings or posting of bond. Upon posting of said bond the defendant shall report to Pretrial Services.


Deputy Clerk

1. That I am employed by the Canyon County Public Defender, the Defendant's legal counsel listed in the above-captioned cases.
2. That I had reviewed this shortly after Defendant's arraignment on February 21, 2014 looking for potential suppression issues and noting that we did not have a copy of the search warrant and appeared to be missing some reports.
3. That I filed a specific request for discovery on March 6, 2014, seeking a copy of the search warrant and any related reports.
4. That on March 11, 2014, the State filed a response to the specific request essentially refusing to provide the requested copies.
5. That on April 10, 2014, I obtained a copy of Search Warrant #3647 and obtained an audio recording of the oral affidavit and proceedings before the magistrate who issued the warrant.
6. That I reviewed the recording and compared it to the video of events inside the residence which had been searched.
7. That on April 14, 2014, I filed a second specific request for discovery for reports from individuals present at the residence at the time the search warrant was executed.
8. That on April 21, 2014, the State filed a response to the second specific request advising the items sought had been requested and would be delivered when obtained.
9. That on April 23, 2014, I received by email from the prosecuting attorney a statement prepared by the misdemeanor probation office.
10. That during this same time frame there was on-going negotiation regarding settlement.

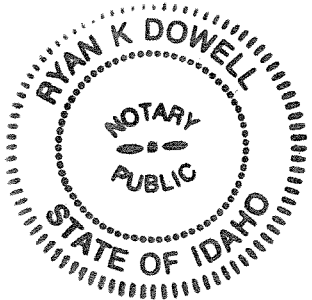
11. That an agreement was reached on or about May 6, 2014, that contemplated a guilty plea to the felony charge of possession of a controlled substance in case CR2014-2299 and agreement was a "binding" plea agreement under I.C.R. 11(f).
12. That Defendant entered a guilty plea pursuant to the agreement on May 7, 2014, and the matter was scheduled for sentencing on June 30, 2014, during which time I did not further pursue any potential suppression issues.
13. That the Court advised Defendant on June 30, 2014, that the plea agreement would not be accepted, and Defendant exercised his option to withdraw his guilty plea.
14. That on June 30, 2014, the matter was scheduled for jury trial to begin on July 15, 2014.
15. That I have been diligently pursuing possible suppression issues since June 30, 2014.
16. That the motion to suppress may be dispositive of this case, and there should be no prejudice to the State by allowing Defendant to pursue the suppression issues.

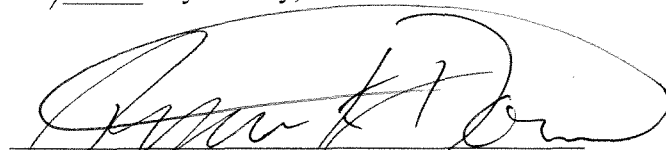
DATED this 10 day of July, 2014.



Randall S. Grove

SUBSCRIBED AND SWORN to before me this 10 day of July, 2014.





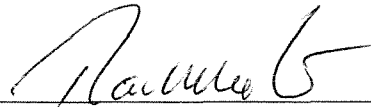
Notary Public for Idaho
Residing at: Meridian, Ada County, Idaho
Commission expires: 6/19/18

CERTIFICATE OF SERVICE

I hereby certify that this 10 day of July, 2014, I served a true and correct copy of the within and foregoing document upon the following:

Canyon County Prosecuting Attorney
1115 Albany
Caldwell, Idaho 83605

By placing such copy in the Prosecutor's mail basket in the Clerk's office on the second floor of the Canyon County Courthouse.



Randall S. Grove

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
RANDALL S. GROVE
Idaho State Bar No. 4397
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611

F I L E D
A.M. P.M.
JUL 18 2014 ✓
CANYON COUNTY CLERK
B HATFIELD, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI,

Defendant.

Case Nos. CR-2014-2299 ✓
CR-2014-2273
CR-2014-2275

MOTION TO SUPPRESS EVIDENCE

COMES NOW, the Defendant, Stephen Phillip Rozajewski, by and through his attorney of record, the Canyon County Public Defender, and hereby moves this Honorable Court for an ORDER, pursuant to Idaho Criminal Rule 12(b)(3), suppressing evidence on the grounds that it was illegally obtained. This motion is for the reason that evidence and/or statements were obtained by virtue of a seizure and/or search without a warrant and in violation of the Fourth Amendment to the United States Constitution and/or Article 1, Section 17 of the Constitution of the State of Idaho.

STATEMENT OF FACTS

On January 28, 2014, Caldwell police officers went to 2021 Washington in Caldwell to assist misdemeanor probation officers in arresting Shon Delisle and searching his residence. Caldwell Officers Hemmert and Schreiber arrived to assist. Hemmert encountered Delisle and arrested him for the probation violation and for obstructing and delaying officers based on his personal interaction with Delisle. Officers then began searching the interior of the residence. Defendant, Stephen Rozajewski, was present at the residence when these events unfolded. Rozajewski had begun renting a room in the house and was in the process of moving in. When asked for consent to search the room by Hemmert, Rozajewski declined.

Hemmer requested additional assistance and Officers Dosier and Fisher responded. Fisher entered Rozajewski's room to check for any persons which may have been hiding therein, but found none. Fisher then proceeded to the Canyon County courthouse in an effort to obtain a search warrant for Rozajewski's room. While Fisher had gone to request a warrant, Lisa Lee, another person present at the house, told Hemmert that she had a loaded meth pipe in her bag inside Rozajewski's room. Fisher and a prosecuting attorney met with Magistrate Judge Gary DeMeyer regarding the application for a search warrant.

Fisher told the judge that items of paraphernalia and drugs were located in the common areas of 2021 Washington. He also told the judge he had been inside the room but offered no information about what he did or did not see inside the room. He told the judge that Lisa Lee had seen methamphetamine inside Rozajewski's room. He told the judge that Lee was Delisle's girlfriend, and, when asked by judge, stated she lived at that residence. The information Lee had given Hemmert, however, was that she did not live there and was a guest of Rozajewski.

BASIS FOR SUPPRESSION

Evidence seized pursuant to a search warrant where the reviewing magistrate was misled by facts the affiant knew, or should have known, were false or where material, exculpatory facts were deliberately withheld by the affiant will not be protected by any good-faith exception and must be suppressed. *State v. Beaty*, 118 Idaho 20, 794 P.2d 290 (Idaho App. 1990). In this case, Fisher's statements that Lisa Lee was the girlfriend of Shon Delisle and lived at the residence at 2021 Washington were false statements. As Officer Hemmert had already received information different than that presented to the magistrate, the statements made to the judge were made with a reckless disregard for the truth. Fisher omitted in his testimony that while inside Rozajewski's room, he did not see any indication of drugs or contraband. The magistrate's evaluation of probable cause would have been affected had the true facts been presented.

CONCLUSION

Defendant's room inside 2021 Washington was subject to a search pursuant to a search warrant which was obtained by false and misleading information presented to the reviewing magistrate and any evidence obtained pursuant to such warrant must be suppressed.

DATED this 10 day of July, 2014.

CANYON COUNTY PUBLIC DEFENDER



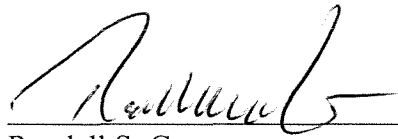
Randall S. Grove
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that this 10 day of July, 2014, I served a true and correct copy of the within and foregoing document upon the following:

Canyon County Prosecuting Attorney
1115 Albany
Caldwell, Idaho 83605

By placing such copy in the Prosecutor's mail basket in the Clerk's office on the second floor of the Canyon County Courthouse.



Randall S. Grove

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
RANDALL S. GROVE
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 4397

FILED
A.M. 2:49 P.M.
JUL 10 2014
CANYON COUNTY CLERK
B HATFIELD, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI,

Defendant.

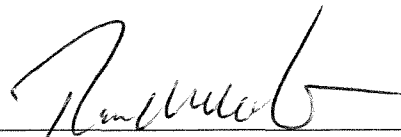
Case Nos. CR-2014-2299 ✓
CR-2014-2273
CR-2014-2275

MOTION TO VACATE AND RESET
JURY TRIAL

COMES NOW, the Defendant, Stephen Phillip Rozajewski, by and through his attorney, the Canyon County Public Defender, and hereby moves this Honorable Court for an ORDER vacating the jury trial currently set for July 15, 2014 at 8:30 a.m., to allow Defendant an opportunity to pursue his motion to suppress evidence.

DATED this 10 day of July, 2014.

CANYON COUNTY PUBLIC DEFENDER



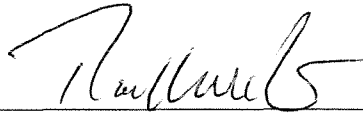
Randall S. Grove

CERTIFICATE OF SERVICE

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1115 Albany
Caldwell, Idaho 83605

By placing such copy in the Prosecutor's mail basket in the Clerk's office on the second floor of the Canyon County Courthouse.



Randall S. Grove

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
RANDALL S. GROVE
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510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611

FILED
A.M. P.M.

JUL 14 2014

CANYON COUNTY CLERK
S FENNELL, DEPUTY

Attorneys for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI,

Defendant.

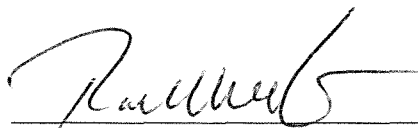
Case Nos. CR-2014-2299
CR-2014-2273
CR-2014-2275

DEFENDANT'S MOTION FOR
JUDICIAL NOTICE OF PROCEEDINGS
IN SEARCH WARRANT #3647

COMES NOW, the Defendant, Stephen Phillip Rozajewski, by and through his attorney of record, the Canyon County Public Defender, and hereby moves this Honorable Court to take judicial notice of the proceedings before a Canyon County magistrate judge on January 28, 2014 pertaining to search warrant #3647, a warrant to search a room inside 2021 Washington, Caldwell, Idaho. A copy of the recording of such proceedings is attached to this motion.

DATED this 14 day of July, 2014.

CANYON COUNTY PUBLIC DEFENDER



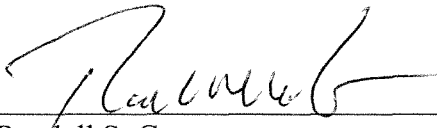
Randall S. Grove

CERTIFICATE OF SERVICE

I hereby certify that this 14 day of July, 2014, I served a true and correct copy of the within and foregoing document upon the following:

Canyon County Prosecuting Attorney
1115 Albany
Caldwell, Idaho 83605

By hand delivery.



Randall S. Grove

CD (see Certificate of Exhibits)

000073

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
PRESIDING: **MOLLY J. HUSKEY** DATE: JULY 16, 2014

THE STATE OF IDAHO,	)	COURT MINUTES
)	
Plaintiff,	)	CASE NO: CR-2014-02299-C
	)	CR-2014-02273-C
	)	CR-2014-02275-C
)	
vs.	)	TIME: 10:30 A.M.
)	
STEPHEN ROZAJEWSKI,	)	REPORTED BY: Laura Whiting
)	
Defendant.	)	DCRT 2 (1030-1110)
_____)	

This having been the time heretofore set for **Defendant's Motion to Suppress** in the above entitled matter, the State was represented by Ms. Madison Hamby, Deputy Prosecuting Attorney for Canyon County, and the defendant was present in court with counsel, Mr. Randall Grove.

Ms. Hamby submitted a certified copy of the search warrant for the Court's review.

The Court noted the motion set to be heard this date and indicated it reviewed the audio of the search warrant.

In answer to the Court's inquiry, Mr. Grove indicated he would call the two (2) officers.

The Court stated its understanding of the basis of the motion.

Mr. Grove concurred and made additional comments.

The Court inquired of Mr. Grove.

Larry Hemmert was called as the defendant's first witness, sworn by the clerk, direct examined, cross examined and excused.

Steve Fisher was called as the defendant's second witness, sworn by the clerk, direct examined, cross examined and excused.

The Court inquired of Mr. Grove.

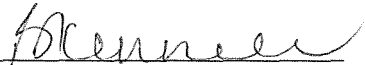
Mr. Grove presented argument in support of the motion.

Ms. Hamby presented argument against the motion.

Mr. Grove presented additional argument.

The Court took this matter under advisement and indicated it written decision would be forthcoming.

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


Deputy Clerk

FILED
A.M. P.M.

JUL 16 2014

CANYON COUNTY CLERK
BY: [Signature] DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

<p>STATE OF IDAHO,</p> <p>Plaintiff,</p> <p>vs.</p> <p>STEPHEN PHILLIP ROZAJEWSKI,</p> <p>Defendants.</p>	<p>CASE NO. CR14-2299 CR14-2275 CR14-2273</p> <p>ORDER DENYING MOTION TO SUPPRESS</p>
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This case comes before the Court on the defendant's motion to suppress the evidence seized from a search of defendant's bedroom. The basis for the motion to suppress is the defendant's assertion that the officers, knowingly or intentionally, or with reckless disregard for the truth, made false statements to the magistrate when obtaining the search warrant. The defendant contends the officer also omitted exculpatory evidence. After reviewing the allegations presented in the motion and listening to the audio recording of the warrant application, the Court, pursuant to *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978), held a hearing to determine whether the facts as testified to at the warrant application hearing were false and if so, whether they were knowingly and intentionally made or made with reckless disregard for the truth. The Court also conducted the hearing to determine the materiality of the statements.

Facts

Officer Hemmert was assisting Idaho Department of Correction probation officers. The probation officers were conducting a home search of probationer, Shon Delisle. Also in the residence was Karen Lechner, Delisle's girlfriend, the defendant, Stephen Rozajewski, and Lisa Lee, the defendant's friend. The defendant had recently begun renting a room from Delisle.

Upon entering the house, the officers found various items of paraphernalia and small amounts of marijuana in the common area of the home. Based on that, they searched the remainder of the house and found paraphernalia in the room Delisle shared with Lechner. Because the defendant refused to consent to the search of his room, the officers sought a search warrant.

Officer Hemmert remained at the house while Officer Fisher went to obtain the warrant. During that time, Officer Hemmert had a conversation with Lisa Lee. Lee told Officer Hemmert that she had a backpack in the defendant's room, and in the backpack was a pipe loaded with methamphetamine. Officer Hemmer called Officer Fisher and relayed that piece of information.

Officer Fisher obtained a warrant and the defendant's room was searched. During the search, the officers found a briefcase under the defendant's bed. In the briefcase was a handgun, methamphetamine and a receipt with the defendant's name on it. The defendant was charged with possession of methamphetamine and unlawful possession of a handgun, both felonies, and various misdemeanor offenses.

The defendant filed a motion challenging the validity of the search warrant, alleging that Officer Fisher made false statements and those false statements were

either knowingly and intentionally made or were made with reckless disregard for the truth. The defendant takes issue with the following statements made by Officer Fisher, while under oath, during the search warrant application:

1. That Lisa Lee was the significant other of Shon Delisle;
2. That Lisa Lee lived at the residence;
3. That Lisa Lee had seen methamphetamine in the room;

The defendant further asserts that Officer Fisher omitted to tell the magistrate that when he had done the protective sweep of the room, he had not seen any contraband.

A hearing was held. Both Officer Hemmert and Officer Fisher testified. Officer Hemmert testified that he did not tell Officer Fisher that Lisa Lee lived at the house or that she was the significant other of Shon Delisle. Officer Hemmert also testified that his audio recording of his telephone conversation with Officer Fisher represented that Lisa Lee had said she had a pipe loaded with methamphetamine in her backpack in the defendant's room.

Officer Fisher testified that he had been employed by Caldwell Police Department for more than seven years. He testified that he did tell the magistrate that Lisa Lee was Shon Delisle's girlfriend, that she lived in the residence, and that she had seen methamphetamine in the room. He also testified that when he did the protective sweep he saw a butane torch and a pipe on the floor. This piece of information is not in any report, was not told to any other officer, and was not conveyed to the magistrate because Officer Fisher did not want to "muddy up the warrant."¹

¹ Officer Fisher testified that although he had a "technical" right to be in the room to do a protective sweep, he did not believe he had the ability to collect the torch and pipe at

Officer Fisher testified at the hearing that he thought Lisa Lee was the defendant's girlfriend based on his opinion of what he saw at the house. He further clarified that what he saw at the house was the defendant being present, "them being together, the way they were sitting together at the time." He testified that he actually thought Lee was the Defendant's significant other, not Delisle's and made a mistake if he said that during the warrant application. There was no explanation of why, after being told that Lee said she had a pipe loaded with methamphetamine in her backpack, Officer Fisher told the magistrate that Lee had seen drugs in the room.

Analysis

The standard for determining the validity of a search warrant based on allegations of false statements is as follows:

In *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978), the United States Supreme Court held that a defendant may challenge the validity of a warrant by making "a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit." *Id.* at 155-56, 98 S.Ct. at 2676-77, 57 L.Ed.2d at 672. When such a showing is made, the Fourth Amendment requires a hearing to determine, by a preponderance of the evidence, whether the statements are indeed false or made in reckless disregard for the truth. *Id.* The *Franks* doctrine applies not only to affirmative falsehoods in a warrant application, but also to a deliberate or reckless omission of material exculpatory information. *State v. Guzman*, 122 Idaho 981, 983-84, 842 P.2d 660, 662-63 (1992); *State v. Rounsville*, 136 Idaho 869, 871, 42 P.3d 100, 103 (Ct.App.2002). For the defendant to prevail in such a hearing, he or she must prove by a preponderance of the evidence that the false statement was made, or the exculpatory information was omitted intentionally or in reckless disregard for the truth, and that the information in question was material. *Franks*, 438 U.S. at 155-56, 98 S.Ct. at 2676-77, 57 L.Ed.2d at 672; *State v. Lindner*, 100 Idaho 37, 41, 592 P.2d 852, 856 (1979). Omitted information is material only if there is a substantial probability that, had the omitted information been presented, it would have altered the

the time he saw them because he was only doing a protective sweep and because the room was secured while obtaining the warrant.

magistrate's finding of probable cause. *State v. Peterson*, 133 Idaho 44, 48, 981 P.2d 1154, 1158 (Ct.App.1999); *State v. Kay*, 129 Idaho 507, 511, 927 P.2d 897, 901 (Ct.App.1996). The inquiry—whether a statement or omission was intentional or reckless—presents a question of fact, and we will not disturb the lower court's finding without clear error. *Peterson*, 133 Idaho at 47, 981 P.2d at 1157. The second query—whether the statement or omission was material—is an issue of law that we review freely. *Id.*

State v. Brown, 155 Idaho 423, 428-29, 313 P.3d 751, 756-57 (Ct. App. 2013.)

The Court finds that the statement that Lee was Delisle's girlfriend was not made either intentionally or knowingly or with a reckless disregard for the truth. At the *Franks* hearing, Officer Fisher testified that he thought Lee and the defendant were a couple, based on the fact that the defendant and Lee were sitting together and the way they were acting. He testified that if he said differently at the warrant application hearing, he must have misspoke. The Court finds the testimony to be credible. There were four people and Lechner and Delisle shared a room. 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.

However, as to the other statements, the officer made false statements at least with reckless disregard for the truth. Officer Fisher testified that his conclusion that Lisa Lee lived at the residence and saw methamphetamine in the room were false statements. His conclusion that Lee lived at the house was based solely on his observations of seeing Lee sitting next to the defendant and he "figured they were a couple and they were living together." He didn't question Lee, the defendant, or the other officers to confirm or rebut his assumption. His conclusion was based solely on the fact that the defendant and Lee were sitting together.

The third statement is troubling to the Court because the officer was specifically told by another officer the location of the methamphetamine and did not convey that information to the magistrate. To convey information different than what he was specifically told demonstrates, at least, a reckless disregard for the truth. See *State v. Kay*, 129 Idaho 507, 513, 927 P.2d 897, 903 (Ct. App. 1996); *State v. Jardine*, 118, Idaho 288, 292, 796 P.2d 165, 169 (Ct. App. 1990).

The Court finds there were no false statements made to the magistrate about what the officer did or did not see during the protective sweep, as the officer made no statement about it at all. While the fact that the officer did not convey that he saw paraphernalia on the floor of the room results in no prejudice to the defendant; had that information been conveyed it would have established probable cause for the warrant.

Because the Court finds there were false statements that were made with a reckless disregard for the truth, the Court must next determine whether the statements are material, i.e., is there is a substantial probability that, had the false statements been omitted and the omitted information been presented, would it have altered the magistrate's finding of probable cause?

The most problematic statement is the statement made by Officer Fisher regarding the location of the methamphetamine in defendant's room. What Lee told Officer Hemmert was that she had a loaded methamphetamine pipe in her backpack in the Defendant'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.

When determining whether probable cause exists:

The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the “veracity” and “basis of knowledge” of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

Illinois v. Gates, 462 U.S. 213, 238, 103 S.Ct. 2317, 2332, 76 L.Ed.2d 527, 548 (1983).

Additionally:

Probable cause to search requires a nexus between criminal activity and the item to be seized, and a nexus between the item to be seized and the place to be searched. U.S. Const. amend. IV; *State v. Yager*, 139 Idaho 680, 686, 85 P.3d 656, 662 (2004); *Belden*, 148 Idaho at 280, 220 P.3d at 1099. Most courts require that a nexus between the items to be seized and the place to be searched must be established by specific facts, and an officer's general conclusions are not enough. *Yager*, 139 Idaho at 686, 85 P.3d at 662; *Belden*, 148 Idaho at 280, 220 P.3d at 1099. Nonetheless, even though criminal objects are not tied to a particular place by any direct evidence, an inference of probable cause to believe that they would be found in that place can be reasonable. *O'Keefe*, 143 Idaho at 287, 141 P.3d at 1156; *Fairchild*, 121 Idaho at 966, 829 P.2d at 556. A magistrate is entitled to draw reasonable inferences about where evidence is likely to be kept based on the nature of the evidence and the type of offense. *Belden*, 148 Idaho at 280, 220 P.3d at 1099; *O'Keefe*, 143 Idaho at 287, 141 P.3d at 1156. Moreover, the magistrate may take into account the experience and expertise of the officer conducting the search in making a probable cause determination

State v. Harper, 152 Idaho 93, 100, 266 P.3d 1198, 1205 (Ct. App. 2011).

Here, after deleting the false statements and including exculpatory information about the location of the methamphetamine, the magistrate could still have concluded that there was a fair probability that evidence of a crime could have been found in the defendant's room. The information known to the magistrate was that officers found a marijuana pipe in a backpack in the living room, a tin containing marijuana on the

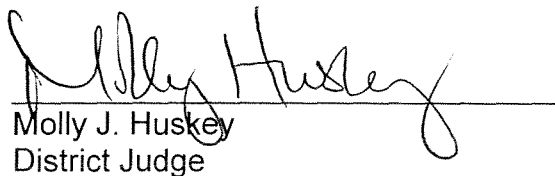
kitchen counter, drug paraphernalia in the bedroom of the Delisle and Lechner, and methamphetamine in a backpack in defendant's room. This, in conjunction with the other information, establishes that it was likely that additional drugs or drug paraphernalia would have been located in the defendant's bedroom.

The other false statement - that Lee lived at the house - was not material and therefore, need not be omitted. Even if the statements 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. Finally, if the information regarding Lee's occupancy of the house is categorized as erroneously omitted exculpatory information and therefore, should have been included, it would have given more weight to the information provided to the magistrate.

Conclusion

As such, the Court finds that the false and/or omitted evidence was not material, and would not have altered the magistrate's finding of probable cause and therefore, DENIES the defendant's motion to suppress the evidence.

Dated this 16th day of July, 2014.


Molly J. Huskey
District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that on 16 day of July, 2014, s/he served a true and correct copy of the original of the foregoing ORDER DENYING MOTION TO SUPPRESS on the following individuals in the manner described:

- upon counsel for State:

Madison Hamby
Canyon County Prosecutor's Office
1115 Albany St.
Caldwell, Idaho 83605

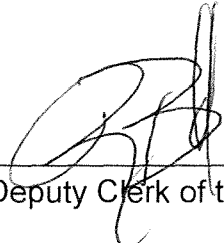
- upon counsel for Defendant:

Randy S. Grove
CANYON COUNTY PUBLIC DEFENDER'S OFFICE
510 Arthur St
Caldwell, ID 83605

and/or when s/he deposited each a copy of the foregoing ORDER in the U.S. Mail with sufficient postage to individuals at the addresses listed above.

CHRIS YAMAMOTO,
Clerk of the Court

By: _____


Deputy Clerk of the Court

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON
PRESIDING: **MOLLY J. HUSKEY** DATE: JULY 28, 2014

THE STATE OF IDAHO,	)	COURT MINUTES
)	
Plaintiff,	)	CASE NO: CR-2014-0002299-C
	)	CR-2014-0002273-C
	)	CR-2014-0002275-C
vs)	
	)	TIME: 10:30 A.M.
)	
STEPHEN PHILLIP ROZAJEWSKI,	)	REPORTED BY: Laura Whiting
)	
Defendant.	)	DCRT 2 (1035-1120)
)	
)	

This having been the time heretofore set for **Change of Plea/ Sentencing** in the above entitled matter, the State was represented by, Ms. Madison Hamby, Deputy Prosecuting Attorney for Canyon County; and the defendant was present with counsel, Mr. Randall Grove.

Mr. Grove informed the Court the defendant would plead guilty to Count II Unlawful Possession of a Firearm in CR-2014-0002299-C, and the State agreed to dismiss remainder Counts I and III as well as CR-2014-0002273-C and CR-2014-0002275-C. Sentencing would be open for argument.

Ms. Hamby informed the Court the plea agreement was contingent on the defendant not having any failure's to appear, comply with all terms and conditions of Pretrial Release Services, completion of all evaluations including the Presentence Investigation Report and no new crimes.

In answer the Court's inquiry, each of counsel and the defendant indicated that was the agreement.

The Court informed the defendant the felony offenses of Possession of a **Controlled Substance (Methamphetamine)**, carried a maximum possible penalty of seven (7) years imprisonment and/or a fine in the amount of \$15,000.00 and submission of a DNA sample and right thumbprint impression, as well as one hundred (100) hours of community service if granted probation, and **Unlawful Possession of a Firearm**, carried a maximum possible penalty of five (5) years imprisonment and/or a fine in the amount of \$50,000.00. The **Persistent Violator** enhancement carried an additional penalty of five (5) years up to life imprisonment. The misdemeanor offenses of **Frequenting Place where Drugs are Sold/Used**, carried a maximum possible penalty of ninety (90) days in county jail and/or a fine in the amount of \$300.00, **Possession of Drug Paraphernalia** and **Possession of a Controlled Substance (Marijuana)**, each, carried a maximum possible penalty of one (1) year county jail and/or a fine in the amount of \$1000.00.

The Court advised each of counsel it denied the motion to suppress and inquired as to whether each of counsel received said decision.

Each of counsel responded in the affirmative.

The defendant stated he had not reviewed the decision and inquired of the Court.

The Court made statements to the defendant in regard to legal procedure.

The defendant made further statements for the record.

The Court noted its understanding was the defendant did not wish to accept the plea agreement in this case.

Neither party objected to a conditional guilty plea.

The Court explained what conditional guilty plea to the defendant which would allow him to retain his right to appeal the decision made on the motion to suppress.

The defendant understood the same and wished to proceed this date.

Mr. Grove informed the Court that the defendant would enter **Alford Plea of guilty to count II in CR-2014-0002299-C, Unlawful Possession of a Firearm.**

Upon direction of the Court, the clerk placed the defendant under oath.

The Court advised the defendant he had the right to remain silent as anything he said could be used against him.

The Court reiterated its understanding of the plea agreement, all charges and penalties in CR-2014-0002299-C, CR-2014-002273-C and CR-2014-0002275-C, as well as the contingencies set forth by the State.

The Court examined the defendant and determined he had sufficient time to discuss the plea with his attorney.

The Court examined the defendant and determined his age, level of education and that he read, spoke and understood the English language.

The defendant stated he was taking prescription medications but was not under the influence of any intoxicating substance at this time. Further, the defendant had no mental or physical impairments that would prevent him from understanding these proceedings. The defendant stated the medications he was currently taking for the record.

The Court examined the defendant and determined that he read, spoke and understood the English language.

The Court determined the defendant read, understood, initialed and signed the form entitled Guilty Plea Advisory. Further, he understood his rights, defenses, and possible consequences upon entering a plea of guilty.

The Court informed the defendant he would be required to submit a DNA sample and right thumbprint impression.

The Court examined the defendant and determined his age.

The Court determined there had been no promises of leniency, or threats made to the defendant to cause him to plead guilty.

The Court advised the defendant that it was not bound by recommendations or negotiations of the attorneys, only by the maximum penalties provided by law.

The Court further advised the defendant that if he was not a citizen of the United States and pled guilty, or was found guilty of any criminal offense, it could have immigration consequences to include, deportation from the United States, inability to obtain legal status in the United States, or denial of an application for United States citizenship.

The Court advised the defendant it could run this sentence consecutive to any other sentence.

The Court examined Mr. Grove and determined all discovery had been received, and there were no viable motions. Further, he was satisfied the defendant understood the nature of the offense, consequences of the plea, waiver of defenses and constitutional rights.

The Court advised the defendant that if he was currently on probation or parole for any offense, a guilty plea in this matter could adversely affect the

status of those matter(s). Further, in the state of Idaho, three or more felony convictions constitute a Persistent Violator enhancement, which increases the penalties to a minimum of five (5) years imprisonment up to life imprisonment.

In answer to the Court's inquiry, the defendant indicated he had enough time to think about the plea. Further, his attorney explained the nature of the offense, the consequences of the plea of guilty, as well as waiver of defenses and constitutional rights.

The Court advised the defendant that the plea of guilty is final and he will not be allowed to withdraw the same at a later date.

The Court finally advised the defendant that by entering a plea of guilty to the charge, he would be waiving his constitutional right to a speedy and public trial which must be held within six (6) months of the filing date of the charging document. Waiver of the right to watch witnesses testify and ask them questions, confront and cross-examine the State's witnesses and accusers. Waiver of the right to present a defense, witnesses, evidence and testimony on his own behalf. Waiver of the right to have the Court sign orders compelling witnesses to testify under oath; and waiver of the right to require the State to prove his guilt beyond a reasonable doubt, the right to the presumption of innocence and the right against self-incrimination.

In answer to the Court's inquiry, the defendant indicated he understood the constitutional rights he would waive upon entry of a guilty plea.

In answer to the Court's inquiry, the defendant entered an **Alford Plea of Guilty** to the felony to the felony offense of **Unlawful Possession of a Firearm**.

Ms. Hamby stated a factual basis for the plea of guilt.

In answer to the Court's inquiry, the defendant indicated based upon the recitation of facts, there was a high likelihood he would be convicted of the charge.

The defendant indicated the plea of guilty was made freely, voluntarily, knowingly, and intentionally.

The Court found the defendant understood the nature of the offense, the consequences of the plea of guilty and that there is a factual basis for the plea. The Court concluded the plea of guilty was made freely, voluntarily, knowingly and intentionally; and accepted the same. The Court directed the clerk to enter the plea of guilty upon the records of this court.

The Court inquired of the defendant as to whether he wished to proceed with sentencing this date.

The defendant indicated he was ready to proceed.

The Court reviewed relevant procedural history in this matter, and noted its understanding of the plea agreement previously stated for the record.

The Court determined all parties had received / reviewed a copy of the Presentence Investigation Report, and attached evaluation. Factual corrections were stated for the record.

Mr. Grove presented the Court with documents for its review and requested they be attached to the Presentence Investigation Report.

The Court so reviewed and attached.

In answer to the Court's inquiry, neither counsel had testimony / evidence to present in aggravation or mitigation.

Ms. Hamby made statements regarding the defendant and recommended the Court impose three (3) years fixed and two (2) years indeterminate, further, the State requested restitution in the amount of \$200.00 and presented an Order to the same.

Mr. Grove made statements on behalf of the defendant and requested the Court impose a period of retained jurisdiction.

The defendant made a statement to the Court on his own behalf.

The Court reviewed sentencing criteria for the record and expressed opinions.

There being no legal cause why judgment should not be pronounced, the Court found the defendant guilty of the offense of **Unlawful Possession of a Firearm**, upon his Alford plea of guilty and sentenced him as reflected in the **Judgment and Commitment**.

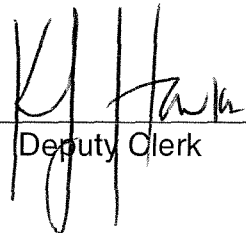
Pursuant to the plea agreement the Court **dismissed Count I and II in CR-2014-0002299-C as well as CR-2014-0002275-C and CR-2014-0002273-C**.

The Court advised the defendant of his post judgment rights.

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

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

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



Deputy Clerk

GUILTY PLEA ADVISORY

JUL 28 2014

Defendant's Name: Stephen Phillip Rozajewski

CANYON COUNTY CLERK
K. HAWKES, DEPUTY

Date: 7/28/2014

Case Number: CR2014-2296

Nature of Charge(s):

Minimum & Maximum Possible Penalty:

Felony – Unlawful Possession

No minimum penalty

of a Firearm

Max: 5 years prison, \$5,000 fine

**STATEMENT OF RIGHTS & EXPLANATION OF WAIVERS BY PLEA OF GUILTY
(PLEASE INITIAL EACH RESPONSE)**

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elected to have a trial, the state could not call you as a witness or ask you any questions. However, anything you do say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent before and during trial. SR.

2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case. Even after pleading guilty, you will still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). You can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. SR.

3. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the judge for an attorney who will be paid by the county. SR

4. You are presumed to be innocent. You would be found guilty if: 1) you plead guilty in front of the judge, or 2) you are found guilty at a jury trial. SR

I understand that by pleading guilty I am waiving my right to be presumed innocent. SR.

5. You have the right to a speedy and public jury trial. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. The state must convince each and every one of the jurors of your guilt beyond a reasonable doubt. SR

I understand that by pleading guilty I am waiving my right to a speedy and public jury trial. SR.

6. You have the right to confront the witnesses against you. This occurs during a jury trial where the state must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call your own witnesses of your choosing to testify concerning your guilt or innocence. If you do not have the funds to bring those witnesses to court, the state will pay the cost of bringing your witnesses to court.

I understand that by pleading guilty I am waiving my right to confront the witnesses against me, an present witnesses and evidence in my defense. SR.

QUESTIONS REGARDING PLEA

(Please answer every question. If you do not understand a question consult your attorney before answering.)

PLEASE CIRCLE ONE

1. Do you read and write the English language?
If not, have you been provided with an interpreter to help you fill out this form? SR

YES NO

YES NO

2. What is your age? 60

3. What is your true and legal name?

Stephen Phillip Rczajewski

4. What was the highest grade you completed? 15

If you did not complete high school, have you received either a general education diploma or high school equivalency diploma?

YES NO

5. Are you currently under the care of a mental health professional?

YES NO

6. Have you ever been diagnosed with a mental health disorder?

YES NO

If so, what was the diagnosis and when was it made?

Depression

7. Are you currently prescribed any medication?

YES NO

If so, have you taken your prescription medication during the past 24 hours?

YES NO

8. In the last 24 hours, have you taken any medications or drugs, or drank any alcoholic beverages which you believe affect your ability to make a reasoned and informed decision in this case?

YES NO

9. Is there any other reason that you would be unable to make a reasoned and informed decision in this case?

YES NO

10. Is your guilty plea the result of a plea agreement?

YES NO

If so, what are the terms of that plea agreement?
(If available, a written plea agreement should be attached hereto as "Addendum 'A'")

Pb to the unlawful possession of a firearm. All other charges + enhancements dismissed. Sentence open for argument.

11. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea you are entering:

a. I understand that my plea agreement is a binding plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. _____

b. I understand that my plea agreement is a non-binding plea agreement. This means that the

court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, including the maximum sentence stated above. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. SL.

12. As a term of your plea agreement, are you pleading guilty to more than one crime?

YES NO

If so, do you understand that your sentences for each crime could be ordered to be served either concurrently (at the same time) or consecutively (one after the other)? SL

YES NO

13. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues?

YES NO

If so, what issue are you reserving the right to appeal?

Denial of the Motions to Suppress

14. Have you waived your right to appeal your judgment of conviction and sentence as part of your plea agreement?

YES NO

15. Have any other promises been made to you which have influenced your decision to plead guilty?

YES NO

If so, what are those promises?

16. Do you feel you have had sufficient time to discuss your case with your attorney?

YES NO

17. Have you told your attorney everything you know about the crime?

YES NO

18. Is there anything you have requested your attorney to do that has not been done?

YES NO

If yes, please explain. _____

19. Your attorney can get various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called discovery. Have you reviewed the evidence provided to your attorney during discovery?

YES NO

20. Have you told your attorney about any witnesses who would show your innocence?

YES NO

21. Do you understand that by pleading guilty you will waive any defenses, both factual and legal, that you believe you may have in this case?

YES NO

22. Are there any motions or other requests for relief that you believe should still be filed in this case?

YES NO

If so, what motions or requests? _____

23. Do you understand that if you enter an unconditional guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including:
1) any searches or seizures that occurred in your case,
2) any issues concerning the method or manner of your arrest, and 3) any issues about any statements you may have made to law enforcement?

YES NO

24. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty?

YES NO

25. Are you currently on probation or parole?

YES NO

If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole? YES NO

26. Are you aware that if you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship?

YES NO

27. Does any crime to which you will plead guilty require you to register as a sex offender?
(I.C. § 18-8304)

YES NO

28. Are you aware that if you plead guilty you may be required to pay restitution to the victims in this case?
(I.C. §19-5304)

YES NO

29. Have you agreed to pay restitution to any other party as a condition of your plea agreement?

YES NO

If so, to whom? State

30. Is there a mandatory driver's license suspension as a result of a guilty plea in this case?

YES NO

If so, for how long must your license be suspended? _____.

31. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse, or psychosexual evaluation is required? (I.C. §§ 18-918(7)(a),-8005(11),-8316) YES NO

32. Are you pleading guilty to a crime for which you may be required to pay the costs of prosecution and investigation? (I.C. § 37-2732A(K))

YES NO

33. Are you pleading guilty to a crime for which you will be required to submit a DNA sample to the state?
(I.C. § 19-5506)

YES NO

34. Are you pleading guilty to a crime for which the court could impose a fine for a crime of violence of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307)

YES NO

35. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to vote in Idaho? (ID. CONST. art. 6, § 3)

YES NO

36. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to hold public office in Idaho? (ID. CONST. art. 6, § 3) YES NO
37. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform jury service in Idaho? (ID. CONST. art. 6, § 3) YES NO
38. Do you understand that if you plead guilty to a felony you will lose your right to purchase, possess, or carry firearms? (I.C. § 18-310) YES NO
39. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES NO
40. Are you entering your plea freely and voluntarily? YES NO
41. Are you pleading guilty because you did commit the acts alleged in the information or indictment? YES NO
42. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES NO
43. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue with your attorney? YES NO

I have answered the questions on pages 1-7 of this Guilty Plea Advisory form truthfully, understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this form freely and voluntarily. Furthermore, no one has threatened me to do so.

Dated this 28 day of July, 2014.

Stacy Ryzewski
DEFENDANT

I hereby acknowledge that I have discussed, in detail, the foregoing questions and answers with my client.

Raunb
DEFENDANT'S ATTORNEY

FILED
A.M. P.M.

JUL 28 2014

CANYON COUNTY CLERK
S FENNELL, DEPUTY

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

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 STEPHEN PHILLIP ROZAJEWSKI,)
)
 SSN: [REDACTED])
 D.O.B: [REDACTED])
 Defendant.)
 _____)

JUDGMENT AND COMMITMENT

CASE # CR-2014-0002299-C

On this 28th day of July 2014, personally appeared Madison Hamby, Prosecuting Attorney for the County of Canyon, State of Idaho, the defendant Stephen Phillip Rozajewski, and the defendant's attorney, Randall Grove, this being the time heretofore fixed for pronouncing judgment.

IT IS ADJUDGED that the defendant has been convicted upon a plea of guilty to the offense of **Unlawful Possession of a Firearm**, a felony, as charged in Count II, Part I of the Information, in violation of I.C. §18-3316 being committed on or about the 28th day of January, 2014; and the Court having asked the defendant whether there was any legal cause to show why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant be sentenced to the custody of the Idaho State Board of Correction for a determinate period of confinement of four (4) years, followed by a subsequent indeterminate period of confinement of one (1) year, for a total unified term of five (5) years.

IT IS ORDERED that the defendant be given credit for one hundred eighty-two (182) days of incarceration prior to the entry of judgment for this offense (or included offense) pursuant to I.C. §18-309.

JUDGMENT AND COMMITMENT

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1000000000 07/28/14 42

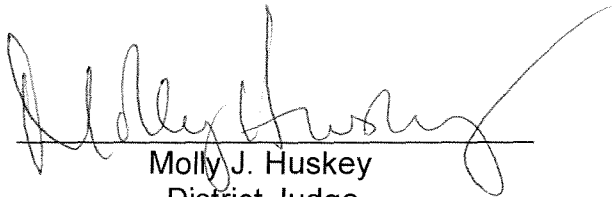
IT IS FURTHER ORDERED that the Defendant pay court costs in the sum of \$240.50, a fine in the sum of \$300.00 and restitution in the sum of \$200.00, pursuant to the Restitution Order.

IT IS FURTHER ORDERED that the defendant shall submit a DNA sample and right thumbprint impression to the Idaho State Police or its agent, pursuant to I.C. §19-5506. Such sample must be provided within 10 calendar days of this order; failure to provide said sample within the 10 day period is a felony offense.

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

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

DATED this 28th day of July 2014.


Molly J. Huskey
District Judge

THIRD JUDICIAL DISTRICT
STATE OF IDAHO
COUNTY OF CANYON

FILED 07/28/14 AT 11:20 A.M.
CLERK OF THE DISTRICT COURT
BY Zolner, DEPUTY

STATE OF IDAHO,)
)
Plaintiff,)
-vs-)

Stephen Rozajewski)
Defendant,)

Case No. CR14-02299C

ORDER FOR

- Conditional Release/Pretrial Services
- Release on Own Recognizance
- Commitment on Bond

IT IS HEREBY ORDERED the defendant abide by the following conditions of release:

- Defendant is Ordered released
 - On own recognizance
 - Placed on probation
 - ~~Case~~ Dismissed
 - Bond having been set in the sum of \$ _____ Total Bond
 - Bond having been increased reduced to the sum of \$ _____ Total Bond
 - Upon posting bond, defendant must report to the Canyon County Pretrial Services office as stated below:
 - Defendant shall report to the Canyon County Pretrial Services Office and follow the standard reporting conditions:
 - Comply with a curfew designated by the Court or standard curfew set by Pretrial Services _____.
 - Not consume or possess alcoholic beverages or mood altering substances without a valid prescription.
 - Submit to evidentiary testing for alcohol and/or drugs as requested by Pretrial Services at defendant's expense.
 - Not operate or be in the driver's position of any motor vehicle.
 - Abide by any No Contact Order and its conditions.
 - Submit to GPS Alcohol monitoring as directed by Pretrial Services.
- Defendants Ordered to submit to GPS or alcohol monitoring shall make arrangements with a provider approved by Pretrial Services, prior to release.**

OTHER: Counts I + Part II dismissed.

Failure by defendant to comply with the rules and/or reporting conditions and/or requirements of release as Ordered by the Court may result in the revocation of release and return to the custody of the Sheriff.

Dated: 07/28/14 Signed: [Signature]
Judge

- White - Court
- Yellow - Jail/Pretrial Services
- Pink - Defendant

FILED
8:00 AM
P.M.

JUL 29 2014

CANYON COUNTY CLERK
A HERNANDEZ, DEPUTY

SZ

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

THE STATE OF IDAHO

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI,

Defendant.

CASE NO. CR2014-02299

LAB RESTITUTION ORDER

Based upon the judgment and sentence in this case, and the expenses of the victim on this matter, and pursuant to **Idaho Code**, Section 37-2732.

IT IS HEREBY ORDERED THAT THE DEFENDANT, STEPHEN PHILLIP ROZAJEWSKI, pay **TWO HUNDRED DOLLARS (\$200)** in restitution and that such restitution be paid to the Court to be distributed by the Court to the following victim(s):

Idaho State Police
Forensic Services
700 S. Stratford Dr., Suite #125
Meridian, ID 83642-6202

<u>Date</u>	<u>Lab Expense</u>	<u>Total</u>
2/12/14	\$100	\$100

LAB RESTITUTION ORDER

000104
1

ORIGINAL

Canyon County Sheriff's Office
Attn: CCSO Forensic Services
1115 Albany St.
Caldwell, ID 83605

<u>Date</u>	<u>Lab Expense</u>	<u>Total</u>
2.5.14	\$100	\$100

There are no known co-defendants. *Total amount of restitution: \$200.-*

It is **FURTHER ORDERED** that pursuant to I.C. Section 19-5305, that forty-two (42) days after entry of this order, or at the conclusion of a hearing to reconsider this order, whichever occurs later, this order may be recorded as judgment and the victim(s) may execute as provided by law for civil judgments.

DATED this 28th day of July, 2014.

[Handwritten Signature]
District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order for Restitution was forwarded to the following persons this 29 day of July, 2014.

Prosecutor: Court Basket X

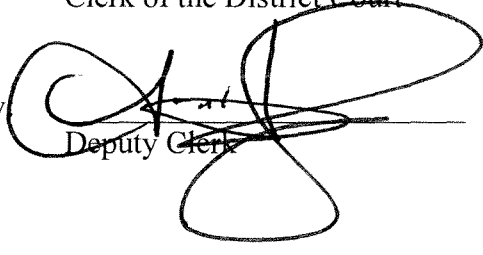
Public Defender: Court Basket X

Idaho State Police: Mailed X
Forensic Services
700 S. Stratford Dr., Suite #125
Meridian, ID 83642-6202

Canyon County Sheriff's Office: Court Basket X
Attn: CCSO Forensic Services
1115 Albany St.
Caldwell, ID 83605

Felony Parole & Probation: Court Basket X

Dated: 7/29/14
CHRIS YAMAMOTO
Clerk of the District Court

By: 
Deputy Clerk



IDAHO STATE POLICE FORENSIC SERVICES

700 South Stratford Drive, Ste 125

Meridian, ID 83642-6202

Phone: (208) 884-7170

Fax: (208) 884-7197

FORENSIC CONTROLLED SUBSTANCE ANALYSIS REPORT

Case Agency(s): CALDWELL POLICE DEPARTMENT	Agency Case No(s): 14-02126	Laboratory Case No.: M2014-0392
Date(s) of Offense: 1/28/2014	Investigating Officer(s): Steve Fisher	Report No.: 1
Evidence Received Date: 2/4/2014	Analyst: Heather Campbell	
Case Name(s): Suspect - STEPHEN ROZAJEWSKI		

Lab Item #	Agency Exhibit	Description	Conclusions and Interpretations	Additional Information
1	3	9.73g crystalline material	Methamphetamine (CII)	
2.1	17	13.19g crystalline material	No controlled substances detected	
2.2	18	crystalline material	Not analyzed	

REMARKS:

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Heather B. Campbell

Heather Campbell / Forensic Scientist

Issue Date:

02/12/2014

02/05/2014

1

CANYON COUNTY SHERIFF'S OFFICE FORENSIC SERVICES

1014 Belmont St. Caldwell, Idaho 83605 (208) 454-7528

Lab #: 140211

Agency Case No.: 14-02126

Agency Requesting Analysis: Caldwell Police

Offense Date: 1/28/2014

FORENSIC ANALYSIS REPORT

Agency Received From: Caldwell Police

Received From: Bry

Date Received: 2/4/2014

Received By: 5961 - Hobbs

Suspect(s): Rozajewski, Stephen

Victim: State of Idaho

Date Tested: 2/5/2014

EVIDENCE DESCRIPTION:

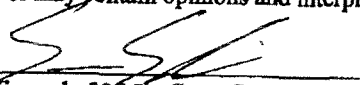
CONCLUSION:

1 small evidence envelope sealed with evidence tape and initials, containing:

0211-4 (AE#4) Handrolled cigarette containing green plant material in heat sealed plastic (<0.1g net weight, <0.1g used for test).

Contains marijuana
Schedule I non-narcotic

This report does or may contain opinions and interpretations of the undersigned analyst based on scientific data


Lab Tech Assigned: 5385 - Sam Suyehira

Lab #: 140211

Case notes are on file and available upon written request.

000109

CANYON COUNTY SHERIFF'S OFFICE FORENSIC SERVICES

1014 Belmont St. Caldwell, ID 83605 (208) 454-7528

AFFIDAVIT

Lab No: 140211

Agency Case No: 14-02126

Suspect: Rozajewski, Stephen

Victim: State of Idaho

State of Idaho)


) ss.

County of Canyon)

Samuel Suyehira, being first duly sworn, deposes and says the following:

- 1. That I am a Criminalist with the Canyon County Sheriff's Office Forensic Services and am qualified to perform the examination and draw conclusions of the type shown on the attached report;
- 2. That I conducted a scientific examination of evidence described in the attached report in the ordinary course and scope of my duties with the Canyon County Sheriff's Office Forensic Services;
- 3. That the conclusion(s) expressed in this report is/are correct to the best of my knowledge;
- 4. That the case identifying information reflected in this report came from the evidence packaging, a case report, or another reliable source;

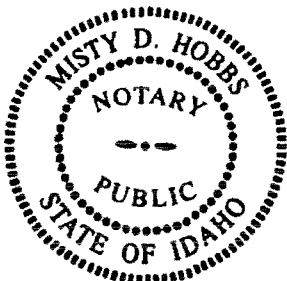
That a true and accurate copy of this report is attached to this affidavit.



 Samuel Suyehira

Dated this February 5, 2014

Subscribed and Sworn to before me this 5th day of February 2014





 Notary Public, State of Idaho

Commission Expires: 10-18-19

CANYON COUNTY SHERIFF'S OFFICE FORENSIC SERVICES

1014 Belmont St. Caldwell, ID 83605

(208) 454-7528

DRUG RESTITUTION

As provided in Idaho Code 37-2732(k), the Canyon County Sheriff's Office requests restitution from the defendant (s) for the confirmation of the following drug(s) being present in the sample(s) submitted to this laboratory. The amount requested reflects a portion of the cost incurred to the laboratory during the analysis of drug evidence.

Defendant (s): Rozajewski, Stephen

Lab Number: 140211

Total Amount: \$100.00


Confirmed Drug/Analysis	Cost
1. Marijuana (1 sample(s) confirmed at \$100.00 each)	\$100.00
2.	
3.	
4.	
5.	

Please present this restitution request form and a copy of the laboratory report to the court at the time of sentencing.

Please make checks payable to: Canyon County Sheriff's Office
Forensic Services
1115 Albany Street
Caldwell, Idaho 83605

Thank you for your cooperation in this matter.

Sincerely,


Sgt. Shawn Naccarato
Lab Supervisor
Forensic Services

CANYON COUNTY SHERIFF'S OFFICE FORENSIC SERVICES

1014 Belmont St. Caldwell, ID 83605

(208) 454-7528

Lab #: 140211

Agency Case No.: 14-02126

Agency Received From: Caldwell Police

Date of Crime: 1/28/2014

Type of Crime: PCS - Possession of Controlled Substance

EVIDENCE PROCESSING REPORT

Received From: Bry

Date Received: 2/4/2014

Received By: 5961 - Hobbs

Evidence to State Lab (Date):

From State Lab (Date):

Suspect(s): Rozajewski, Stephen

Victim: State of Idaho

Evidence Description: 2 small evidence envelopes and 1 evidence sack sealed with evidence tape and initials, listing:

- | | |
|-----------------------------------|-----|
| 1- plastic container | 8- |
| 2- digital scale | 9- |
| 3- 7.3g tpw green leafy substance | 10- |
| 4- | 11- |
| 5- | 12- |
| 6- | 13- |
| 7- | 14- |

PROCESS REQUESTED—

FP PROCESS: X **FP COMP.:** X

DRUG TEST: X **MEDIA REQ.:**

SERIAL # RESTORATION:

SHOE/TIRE TRACK: **OTHER (SPECIFY):**

RESULTS OF PROCESS:

NOTES: Released green leafy substance to Gulley from Caldwell PD 2/11/14 by Mhobbs 5961.

EVIDENCE RELEASED TO:

AGENCY:

DATE:

CRIMINALIST:

Case notes on file and available upon written request.

Date:02/11/2014

Page _of_000112

Lab #: 140211

Additional

140211

CANYON COUNTY SHERIFF'S OFFICE FORENSIC SERVICES
1014 Belmont St. Caldwell, ID 83605 (208) 454-7528
REQUEST FOR EVIDENCE PROCESSING

CCSO OFFICERS EVIDENCE AND PROPERTY RECORD MUST ACCOMPANY ALL EVIDENCE
CHAIN OF CUSTODY MUST BE SIGNED FOR ALL EVIDENCE

AGENCY CASE # 14-02126 AGENCY CALDWELL PD DATE 01-28-14
REQUESTOR S FISHER #21 TYPE OF CRIME PCS
DATE OF CRIME 01-28-14 VICTIM STATE
SUSPECT ROZANEWSKI STEPHEN

LIST ITEMS TO BE PROCESSED:	NO. OF PACKAGES <u>1</u>
1. <u>7.3 g TPW GREEN LEAFY SUB</u>	5. _____
2. _____	6. _____
3. _____	7. _____
4. _____	8. _____

PROCESS NEEDED: (LIST ITEM #'S IF MORE THAN ONE PROCESS NEEDED)

LATENT FINGERPRINT DEVELOPMENT _____ LATENT EXAM (& NO.) _____
DRUG TESTING #1 PRESUMPTIVE POSITIVE FOR _____
OTHER _____

REMARKS: _____ LAB NO. 140211
Officer email S FISHER #21 @ci.caldwell.id.us

000113

PROPERTY

SZ

FILED
A.M. P.M.
JUL 30 2014
CANYON COUNTY CLERK
K HAWKES, DEPUTY

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

THE STATE OF IDAHO

Plaintiff,

vs.

STEPHEN PHILLIP ROZAJEWSKI,

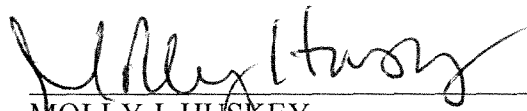
Defendant.

CASE NO. CR2014-02299

**ORDER TO DISMISS
COUNT I AND PART II – PERSISTENT
VIOLATOR**

Pursuant to State's Motion and good cause existing therefore, IT IS HEREBY
ORDERED that Count I-Possession of a Controlled Substance and Part II – Persistent Violator in
the above entitled matter be dismissed.

DATED this 30 day of July, 2014.


MOLLY J. HUSKEY
District Judge

ORDER TO DISMISS COUNT I AND
PART II-PERSISTENT VIOLATOR

1
000114

ORIGINAL

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

AUG 20 2014

CANYON COUNTY CLERK
S MEHIEL, DEPUTY

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
RANDALL S. GROVE
510 Arthur Street
Caldwell, Idaho 83605
Telephone: (208) 639-4610
Facsimile: (208) 639-4611
Idaho State Bar No. 4397

Attorneys for Defendant

OF L

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

STEPHEN PHILLIP ROZAJEWSKI,

Defendant-Appellant.

Case No. CR-2014-2299

NOTICE OF APPEAL

TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, CANYON COUNTY PROSECUTING ATTORNEY, 1115 Albany, Caldwell, Idaho, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

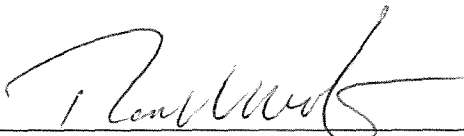
1. The above named appellant, STEPHEN PHILLIP ROZAJEWSKI, appeals to the Idaho Supreme Court from a final judgment of conviction announced in the above-entitled action on the 28th day of July, 2014 and filed with the Clerk of the Court on the same day, Honorable Molly J. Huskey, District Judge, presiding.
2. Appellant has a right to appeal to the Idaho Supreme Court, and the judgment or order described above is an appealable order under Rule 11(c)(1) I.A.R.
3. Appellant wishes to challenge the decision by the District Judge denying his motion to suppress evidence and wishes to challenge the propriety of the sentence

imposed upon him in this case. Appellant may clarify or add additional issues as this appeal progresses.

4. There has been no order entered sealing all or any portion of the record.
5. A reporter's standard transcript is requested at this time, and Appellant specifically requests transcripts of the July 28, 2014 change of plea and sentencing hearing, the July 16, 2014 suppression hearing, the June 30, 2014 hearing, and the May 7, 2014 change of plea hearing.
6. Appellant requests that the clerk's record include all documents normally included under Rule 28, I.A.R., and Appellant's presentence report and any documents submitted at the sentencing hearing.
7. I certify:
 - a) That service of this Notice of Appeal on the reporter has been made.
 - b) That no transcript fee has been paid as Appellant is incarcerated and unable to pay such fee.
 - c) Appellant is exempt from paying the fee for preparation of the clerk's record as he is incarcerated and unable to pay such fee.
 - d) As this is an appeal taken in a criminal case, no appellate filing fee is due under Rule 23(a)(8).
 - e) That a copy of this Notice of Appeal was served as required by Rule 20, I.A.R., upon the Canyon County Prosecuting Attorney by placing such copy in the Prosecutor's basket at the Canyon County courthouse and an additional copy was sent by mail to the Idaho Attorney General.

DATED this 20 day of August, 2014.

CANYON COUNTY PUBLIC DEFENDER



Randall S. Grove

F I L E D
A.M. 2:08 P.M.

AUG 20 2014

CANYON COUNTY CLERK
SARAH L. DEBUTY

MARK J. MIMURA
CANYON COUNTY PUBLIC DEFENDER
Randall S. Grove
510 Arthur Street
Caldwell, ID 83605
Phone: (208) 639-4610
Fax: (208) 639-4610
Idaho State Bar No. 4397

Attorneys for the Petitioner

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

STATE OF IDAHO,)	
	)	CASE NO. CR- 2014-2299-C
Petitioner,)	
)	
v.	)	MOTION FOR APPOINTMENT
	)	OF STATE APPELLATE PUBLIC
STEPHEN PHILLIP ROZAJEWSKI,	)	DEFENDER
)	
Respondent.)	
_____)	

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

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

DATED this 20th day of August, 2014,



Randall S. Grove
Deputy Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 20th day of August, 2014, I served a true and correct copy of the MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER upon the parties below as follows:

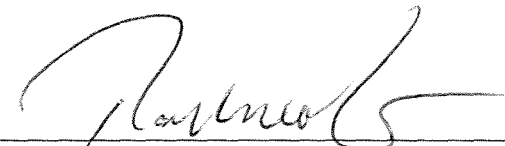
Stephen Phillip Rozajewski
Adams County Jail
P.O. Box 64
Council, Idaho 83612

Canyon County Prosecuting Attorney
1115 Albany Street
Caldwell, Idaho 83605

MOLLY J. HUSKEY
State Appellate Public Defender
3050 N. Lake Harbor Lane, Ste.100
Boise, ID 83703

DEPUTY ATTORNEY GENERAL
LAWRENCE WASDEN
P.O. BOX 83720
BOISE, ID 83720-0010

Canyon County Courthouse
1115 Albany Street
Caldwell, Idaho 83605



Randall S. Grove
Deputy Public Defender

FILED
A.M. / P.M.

AUG 25 2014

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

CANYON COUNTY CLERK
B HATFIELD, DEPUTY

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

CASE NO. CR-2014-2299-C

ORDER FOR APPOINTMENT
OF STATE APPELLATE PUBLIC
DEFENDER

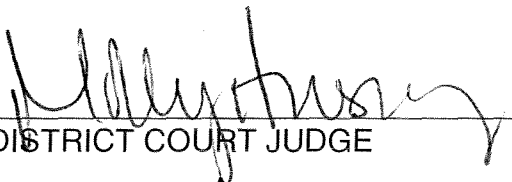
OFFICIAL

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

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

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

DATED this 22 day of August, 2014.


DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 25 day of August, 2014, I served a true and correct copy of the ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER upon the parties below as follows:

CANYON COUNTY COURTHOUSE
1115 Albany Street
Caldwell, Idaho 83605


CANYON COUNTY PUBLIC DEFENDER
510 Arthur Street
Caldwell, Idaho 83605

CANYON COUNTY PROSECUTING ATTORNEY
1115 Albany Street
Caldwell, Idaho 83605

Stephen Phillip Rozajewski
Adams County Jail
P.O. Box 64
Council, Idaho 83612

MOLLY J. HUSKEY
State Appellate Public Defender
3050 N. Lake Harbor Lane, Ste.100
Boise, ID 83703

LAWRENCE WASDEN
Deputy Attorney General
700 W. State Street
P.O. BOX 83720
BOISE, ID 83720-0010


Deputy Clerk

In the Supreme Court of the State of Idaho

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

SEP 04 2014

CANYON COUNTY CLERK
K WALDEMER, DEPUTY

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

NOTICE OF DEFECT

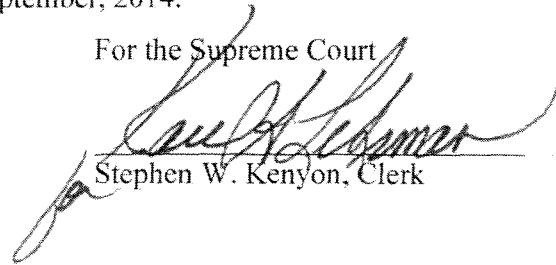
Supreme Court Docket No. 42447-2014
Canyon County No. 2014-2299

The Notice of Appeal filed August 20, 2014, with the District Court and August 22, 2014, with this Court is not in compliance with Idaho Appellate Rule 17 because it does not contain a Certificate of Service showing service on the reporter of whom a transcript is requested; therefore,

This appeal is SUSPENDED in order for Appellant to file an AMENDED NOTICE OF APPEAL, in compliance with Idaho Appellate Rule 17, with the District Court Clerk within fourteen (14) days from the date of this Order.

DATED this 4th day of September, 2014.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk
District Court Judge

FILED
A.M. 4:10 P.M.

SEP 11 2014

CANYON COUNTY CLERK
A. ANDERSON, DEPUTY

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867

ERIK R. LEHTINEN
Chief, Appellate Unit
I.S.B. #6247
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83703
(208) 334-2712

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

STATE OF IDAHO,

Plaintiff-Respondent,

v.

STEPHEN P. ROZAJEWSKI,

Defendant-Appellant.

CASE NO. CR 2014-2299

S.C. DOCKET NO. 42447

AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, BRYAN TAYLOR, CANYON COUNTY PROSECUTOR, 1115 ALBANY STREET, CALDWELL, ID, 83605, 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 final Judgment of Conviction entered in the above-entitled action on the 28th day of July, 2014, the Honorable Molly J. Huskey, 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 Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

000122

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:

a. Did the district court err in failing to grant the appellant's motion to suppress evidence?

b. Did the district court abuse its discretion by imposing an excessive sentence?

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. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

a. ~~Change of Plea Hearing held May 7, 2014;~~

b. ~~Hearing held June 30, 2014;~~

c. Motion to Suppress Evidence Hearing held on July 16, 2014 (Court Reporter: Laura Whiting, estimation of less than 100 pages); and

d. Entry of Guilty Plea and Sentencing Hearing held on July 28, 2014 (Court Reporter: Laura Whiting, estimation of less than 100 pages).

6. **Clerk's Record.** 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):

000123

- a. Affidavit of Probable Cause filed January 29, 2014;
- b. Preliminary Hearing Transcript filed March 19, 2014;
- c. Guilty Plea Advisory Form filed May 7, 2014;
- d. Rule 11 Plea Agreement filed May 7, 2014
- e. Withdrawal of Plea of Guilty: Rule 11 Rejected filed June 30, 2014;
- f. Defendant's Motion for Judicial Notice of Proceedings in Search Warrant #3647 filed July 14, 2014;
- g. Guilty Plea Advisory Form filed July 28, 2014;
- h. Any affidavits, objections, responses, briefs or memorandums, filed or lodged, by the state, appellant or the court in support of or in opposition to the Motion to Suppress; and
- i. Any exhibits, including but not limited to letters or victim impact statements and other addendums to the PSI or other items offered at the sentencing hearing.

7. I certify:

- a. That a copy of this Amended Notice of Appeal has been served on the Court Reporter, Laura Whiting;
- 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));

000124

- d That arrangements have been made with Canyon County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 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 11th day of September, 2014.


ERIK R. LEHTINEN
Chief, Appellate Unit

000125

CERTIFICATE OF MAILING


I HEREBY CERTIFY that I have this 11th day of September, 2014, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

MARK MIMURA
ATTORNEY AT LAW
2176 E FRANKLIN RD STE 12
MERIDIAN ID 83642

LAURA WHITING
COURT REPORTER
1115 ALBANY STREET
CALDWELL ID 83605

BRYAN TAYLOR
CANYON COUNTY PROSECUTOR
1115 ALBANY ST
CALDWELL ID 83605

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
Hand delivered to Attorney General's mailbox at Supreme Court



NANCY SANDOVAL
Administrative Assistant

ERL/tmf/ns

000126

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

STATE OF IDAHO,)
)
Plaintiff-)
Respondent,) Case No. CR-14-02299*C
)
-vs-)
) CERTIFICATE OF EXHIBITS
STEPHEN PHILLIP ROZAJEWSKI,)
)
Defendant-)
Appellant.)

I, CHRIS YAMAMOTO, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify the following exhibits were used at the Preliminary Hearing:

State's Exhibits:

1	Certificate of Authenticity	Admitted	Sent
----------	------------------------------------	-----------------	-------------

The following is being sent as a confidential exhibit:

Presentence Investigation Report

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

Preliminary Hearing Transcript (filed 3-19-14)

The following is also being sent as an exhibit:

CD (attached to Motion for Judicial Notice (Page 73)

CERTIFICATE OF EXHIBITS

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
the said Court at Caldwell, Idaho this 31th day of October, 2014.

CHRIS YAMAMOTO, Clerk of the District
Court of the Third Judicial
District of the State of Idaho,
in and for the County of Canyon.

By: *K Waldemes* Deputy

CERTIFICATE OF EXHIBITS

000128

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

STATE OF IDAHO,)	
	)	Case No. CR-14-02299*C
Plaintiff-)	
Respondent,)	
)	
-vs-	)	CERTIFICATE OF CLERK
)	
STEPHEN PHILLIP ROZAJEWSKI,)	
)	
Defendant-)	
Appellant.)	

I, CHRIS YAMAMOTO, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that the above and foregoing Record in the above entitled case was compiled and bound under my direction as, and is a true, full correct Record of the pleadings and documents under Rule 28 of the Idaho Appellate Rules, including all documents lodged or filed as requested in the Notice of Appeal.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 31st day of October 2014.

CHRIS YAMAMOTO, Clerk of the District
Court of the Third Judicial
District of the State of Idaho,
in and for the County of Canyon.
By: *K. Waldomey* Deputy

CERTIFICATE OF CLERK

000129

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

STATE OF IDAHO,)	
)	
Plaintiff-	)	Supreme Court No. 42447-2014
Respondent,)	
	)	CERTIFICATE OF SERVICE
-vs-)	
)	
STEPHEN PHILLIP ROZAJEWSKI,)	
)	
Defendant-)	
Appellant.)	

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

Sara Thomas, State Appellate Public Defender's Office,
3050 N. Lake Harbor Lane, Ste. 100, Boise, Idaho 83703

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 31st day of October, 2014.

CHRIS YAMAMOTO, Clerk of the District
Court of the Third Judicial
District of the State of Idaho
in and for the County of Canyon.

By: *K. Waldemer* Deputy

CERTIFICATE OF SERVICE