

12-29-2014

## State v. Walker Clerk's Record Dckt. 42655

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

MICHAEL J. WALKER,

Defendant-Appellant.

Supreme Court Case No. 42655

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE TIMOTHY HANSEN

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

State of Idaho vs. Michael J Walker

Date	Code	User		Judge
8/19/2009	NCRF	PRHARRSK	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRHARRSK	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 08/19/2009 01:30 PM)	Cawthon / Irby
	ARRN	TCCASTAE	Hearing result for Video Arraignment held on 08/19/2009 01:30 PM: Arraignment / First Appearance	Karen Vehlow
	CHGA	TCCASTAE	Judge Change: Adminsitrative	Kevin Swain
	ORPD	TCCASTAE	Order Appointing Public Defender Ada County Public Defender [on the record in open court]	Kevin Swain
	HRSC	TCCASTAE	Hearing Scheduled (Preliminary 09/02/2009 08:30 AM)	Kevin Swain
	BSET	TCCASTAE	BOND SET: at 5000.00 - (I37-2732(A)(1)(A)-P/I Controlled Substance-Possession With Intent to Manufacture or Deliver)	Kevin Swain
	ORPD	MADEFRJM	Order Appointing Public Defender [file stamped 08/20/2009]	Kevin Swain
8/20/2009	BNDS	TCWADAMC	Bond Posted - Surety (Amount 5000.00 )	Kevin Swain
	NOPE	TCWEGEKE	Notification of Penalties for Escape	Timothy Hansen
8/21/2009	RQDD	TCRAMISA	Defendant's Request for Discovery	Kevin Swain
8/27/2009	MTOC	TCRAMISA	Motion to Consolidate/FE-09-15303	Kevin Swain
9/2/2009	CONT	CCEDWARM	Hearing result for Preliminary held on 09/02/2009 08:30 AM: Continued	Kevin Swain
	CHGA	CCEDWARM	Judge Change: Adminsitrative	Cawthon / Irby
	HRSC	CCEDWARM	Hearing Scheduled (Preliminary 09/09/2009 08:30 AM)	Cawthon / Irby
	ORDR	CCEDWARM	Order to Consolidate W/FE09-15303	Cawthon / Irby
9/9/2009	CONT	CCEDWARM	Hearing result for Preliminary held on 09/09/2009 08:30 AM: Continued	Cawthon / Irby
	HRSC	CCEDWARM	Hearing Scheduled (Preliminary 10/01/2009 08:30 AM)	Cawthon / Irby
9/23/2009	NOAP	TCBULCEM	Notice Of Appearance/Ellsworth	Cawthon / Irby
	RQDD	TCBULCEM	Defendant's Request for Discovery	Cawthon / Irby
10/1/2009	CONT	CCEDWARM	Hearing result for Preliminary held on 10/01/2009 08:30 AM: Continued	Cawthon / Irby
	HRSC	CCEDWARM	Hearing Scheduled (Preliminary 10/21/2009 08:30 AM)	Cawthon / Irby
10/21/2009	PHWV	CCEDWARM	Hearing result for Preliminary held on 10/21/2009 08:30 AM: Preliminary Hearing Waived (bound Over)	Cawthon / Irby
	HRSC	CCEDWARM	Hearing Scheduled (Arraignment 10/30/2009 09:00 AM)	Kent Merica

State of Idaho vs. Michael J Walker

Date	Code	User		Judge
10/21/2009	COMT	CCEDWARM	Commitment	Kent Merica
10/22/2009	INFO	TCRAMISA	Information	Timothy Hansen
	PROS	PRMORTTF	Prosecutor assigned BRIAN NAUGLE	Timothy Hansen
10/30/2009	DCAR	DCOLSOMA	Hearing result for Arraignment held on 10/30/2009 09:00 AM: District Court Arraignment- Court Reporter: V. Gosney Number of Pages: less than 100	Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Entry of Plea 11/13/2009 09:00 AM)	Timothy Hansen
11/13/2009	DCHH	DCOLSOMA	Hearing result for Entry of Plea held on 11/13/2009 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Pretrial Conference 04/02/2010 01:30 PM)	Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Jury Trial 04/12/2010 09:00 AM) 2 Days	Timothy Hansen
11/17/2009	ORDR	DCELLISJ	Order Setting P/T & J/T	Timothy Hansen
1/25/2010	RSDS	TCRAMISA	State/City Response to Discovery	Timothy Hansen
	RQDS	TCRAMISA	State/City Request for Discovery	Timothy Hansen
1/27/2010	RSDS	TCRAMISA	State/City Response to Discovery/Addendum	Timothy Hansen
4/2/2010	CONT	DCOLSOMA	Continued (Pretrial Conference 04/09/2010 01:30 PM)	Timothy Hansen
4/7/2010	STIP	TCRAMISA	Stipulation to Vacate and Reset Trial	Timothy Hansen
	RSDS	TCPETEJS	State/City Response to Discovery/Second Addendum	Timothy Hansen
4/9/2010	DCHH	DCOLSOMA	Hearing result for Pretrial Conference held on 04/09/2010 01:30 PM: District Court Hearing Held Court Reporter: J. Hirmer Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
	HRVC	DCOLSOMA	Hearing result for Jury Trial held on 04/12/2010 09:00 AM: Hearing Vacated 2 Days	Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Pretrial Conference 06/11/2010 01:30 PM)	Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Jury Trial 06/21/2010 09:00 AM) 3 Days	Timothy Hansen
4/13/2010	ORDR	TCWEGEKE	Order Setting Pretrial Conference and Jury Trial	Timothy Hansen
4/15/2010	MOTN	TCRAMISA	Motion to Suppress	Timothy Hansen
	AFFD	TCRAMISA	Affidavit of Michael Walker in Support of Motion to Suppress	Timothy Hansen
	MISC	TCRAMISA	Memorandum in Support of Motion to Suppress	Timothy Hansen



State of Idaho vs. Michael J Walker

Date	Code	User	Judge
4/30/2010	RSDS	TCRAMISA	State/City Response to Discovery/Third Addendum Timothy Hansen
5/5/2010	NOHG	TCRAMISA	Notice Of Hearing Timothy Hansen
	ORDR	TCWEGEKE	Order to Reset Jury Trial Timothy Hansen
5/6/2010	HRSC	TCRAMISA	Hearing Scheduled (Hearing Scheduled 06/07/2010 03:00 PM) Suppress Timothy Hansen
5/18/2010	MISC	TCPETEJS	State's Memorandum in Support of Objection to Motion to Suppress Timothy Hansen
	MISC	TCPETEJS	Objection to Motion to Suppress Timothy Hansen
6/8/2010	ORDR	TCWEGEKE	Order Setting Pretrial Conference and Jury Trial Timothy Hansen
6/11/2010	DCHH	TCJOHNKA	Hearing result for Pretrial Conference held on 06/11/2010 01:30 PM: District Court Hearing Held Court Reporter: Vanessa Gosney Number of Transcript Pages for this hearing estimated: less than 50 pages Timothy Hansen
	HRVC	TCJOHNKA	Hearing result for Jury Trial held on 06/21/2010 09:00 AM: Hearing Vacated 3 Days Timothy Hansen
6/14/2010	CONT	DCOLSOMA	Continued (Hearing Scheduled 07/19/2010 03:00 PM) Suppress Timothy Hansen
6/16/2010	STIP	TCRAMISA	Stipulation to Continue Timothy Hansen
6/21/2010	CONT	DCOLSOMA	Continued (Hearing Scheduled 08/03/2010 03:00 PM) Suppress Timothy Hansen
	ORDR	DCOLSOMA	Order to Continue Timothy Hansen
6/25/2010	RSDS	TCRAMISA	State/City Response to Discovery/Fourth Addendum Timothy Hansen
7/26/2010	HRSC	DCOLSOMA	Hearing Scheduled (Pretrial Conference 08/06/2010 01:30 PM) Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Jury Trial 08/16/2010 09:00 AM) Timothy Hansen
8/3/2010	DCHH	DCOATMAD	Hearing result for Hearing Scheduled held on 08/03/2010 03:00 PM: District Court Hearing Held Court Reporter: Vanessa Gosney Number of Transcript Pages for this hearing estimated: Suppress less than 10 pgs Timothy Hansen
	STIP	DCOATMAD	Stipulation Re: Motion to Suppress Timothy Hansen
8/6/2010	DCHH	DCOLSOMA	Hearing result for Pretrial Conference held on 08/06/2010 01:30 PM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100 Timothy Hansen
8/13/2010	RSDS	TCRAMISA	State/City Response to Discovery/Sixth Addendum Timothy Hansen
8/16/2010	JTST	DCOLSOMA	Hearing result for Jury Trial held on 08/16/2010 09:00 AM: Jury Trial Started Timothy Hansen

State of Idaho vs. Michael J Walker

Date	Code	User	Judge
8/16/2010	HRSC	DCOLSOMA	Hearing Scheduled (Jury Trial 08/17/2010 09:00 AM) Day 2
8/17/2010	CONT	DCOLSOMA	Continued (Jury Trial 08/18/2010 09:00 AM) Day 3
8/18/2010	DCHH	DCOLSOMA	Hearing result for Jury Trial held on 08/18/2010 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Day 3 - 100-500
	HRSC	DCOLSOMA	Hearing Scheduled (Status 08/27/2010 09:00 AM) Scheduling Conference
	JRYI	TCWEGEKE	Jury Instructions
8/27/2010	DCHH	DCOLSOMA	Hearing result for Status held on 08/27/2010 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Scheduling Conference - less than 50
	HRSC	DCOLSOMA	Hearing Scheduled (Pretrial Conference 10/29/2010 01:30 PM)
	HRSC	DCOLSOMA	Hearing Scheduled (Jury Trial 11/08/2010 09:00 AM) 3 Days
	HRSC	DCJOHNSI	Hearing Scheduled (Sentencing 11/12/2010 10:30 AM)
9/1/2010	ORDR	TCWEGEKE	Order Setting Pretrial Conference and Jury Trial
10/4/2010	MOTN	TCPETEJS	Motion in Limine
10/29/2010	DCHH	DCOLSOMA	Hearing result for Pretrial Conference held on 10/29/2010 01:30 PM: District Court Hearing Held Court Reporter: K. Madsen Number of Transcript Pages for this hearing estimated: less than 100
11/3/2010	RSDS	TCRAMISA	State/City Response to Discovery/Seventh Addendum
11/8/2010	REDU	DCOLSOMA	Charge Reduced Or Amended (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz)
	PLEA	DCOLSOMA	A Plea is entered for charge: - GT (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz)
	HRVC	DCOLSOMA	Hearing result for Jury Trial held on 11/08/2010 09:00 AM: Hearing Vacated 3 Days
	DMOP	DCOLSOMA	Dismissed by Motion of the Prosecutor with hearing (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)
	DMPW	DCOLSOMA	Dismissed by Motion of the Prosecutor without hearing (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)
	GPA	DCOLSOMA	Guilty Plea Advisory

State of Idaho vs. Michael J Walker

Date	Code	User		Judge
11/8/2010	PSSA1	DCOLSOMA	Order for Presentence Investigation Report and Substance Abuse Assessment	Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Sentencing 12/17/2010 10:30 AM)	Timothy Hansen
	MINE	CCLUNDMJ	Minute Entry Hearing type: Arraignment Hearing date: 11/8/2010 Time: 10:51 am Courtroom: Court reporter: Minutes Clerk: Margaret Lundquist Tape Number: Defense Attorney: Joseph Ellsworth Prosecutor: Brian Naugle	Timothy Hansen
	MINE	CCLUNDMJ	Minute Entry Hearing type: Arraignment Hearing date: 11/8/2010 Time: 10:52 am Courtroom: Court reporter: Minutes Clerk: Margaret Lundquist Tape Number: Defense Attorney: Joseph Ellsworth Prosecutor: Brian Naugle	Timothy Hansen
12/17/2010	DCHH	CCCHILER	Hearing result for Sentencing held on 12/17/2010 10:30 AM: District Court Hearing Held Court Reporter: V Gosney Number of Transcript Pages for this hearing estimated: less than 50	Timothy Hansen
	HRSC	CCCHILER	Hearing Scheduled (Sentencing 01/28/2011 01:30 PM)	Timothy Hansen
	PSMH1	CCCHILER	Order for Pre-Sentence Investigation Report and Mental Health Assessment	Timothy Hansen
	MOTN	CCCHILER	Motion for Consideration of Mental Illness in Sentencing	Timothy Hansen
	ORDR	CCCHILER	Order for Mental Health Evaluation	Timothy Hansen
1/28/2011	DCHH	DCOLSOMA	Hearing result for Sentencing held on 01/28/2011 01:30 PM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
	FIGT	DCOLSOMA	Finding of Guilty (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz)	Timothy Hansen

State of Idaho vs. Michael J Walker

Date	Code	User	Judge
1/28/2011	JAIL	DCOLSOMA	Sentenced to Jail or Detention (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz) Confinement terms: Jail: 30 days. Discretionary: 180 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.
	PROB	DCOLSOMA	Probation Ordered (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz) Probation term: 5 years 0 months 0 days. (Felony Probation & Parole)
	STAT	DCOLSOMA	STATUS CHANGED: closed pending clerk action
	SNPF	DCOLSOMA	Sentenced To Pay Fine 165.50 charge: I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz
2/3/2011	JDMT	DCHOPPKK	Judgment, Suspended Sentence, ORder of Probation and Commitment
	ORDR	DCHOPPKK	Order for Restitution and Judgment
	BNDE	DCHOPPKK	Surety Bond Exonerated (Amount 5,000.00)
2/15/2011	RESR	PRHOWEJR	Restitution Recommended by the Prosecutor's office. 500.00 victim # 1
5/20/2011	MOTN	TCGREEAE	Motion for BW for PV
5/23/2011	ORDR	TCGREEAE	Order for BW for PV
	WARB	TCGREEAE	Warrant Issued - Bench Bond amount: No Bond: Hold Defendant w/o Bond Until Arraignment Failing to comply with a court order Defendant: Walker, Michael
	STAT	TCGREEAE	STATUS CHANGED: Inactive
6/1/2011	WART	TCMCCOSL	Warrant Returned Failing to comply with a court order Defendant: Walker, Michael
	STAT	TCMCCOSL	STATUS CHANGED: Pending
	BOOK	TCMCCOSL	Booked into Jail on:
	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 06/01/2011 01:30 PM)
	HRSC	TCMCCOSL	Hearing Scheduled (Arraignment 06/10/2011 09:00 AM)
	ARRN	TCFINNDE	Hearing result for Video Arraignment held on 06/01/2011 01:30 PM: Arraignment / First Appearance
	ORPD	TCFINNDE	Defendant: Walker, Michael Order Appointing Public Defender Public defender Ada County Public Defender [on the record in open court]
		MADEFRJM	Notice of Hearing
6/2/2011	MFBR	TCBROXLV	Motion For Bond Reduction
	NOHG	TCBROXLV	Notice Of Hearing

State of Idaho vs. Michael J Walker

Date	Code	User	Judge
6/2/2011	RQDD	TCBROXLV	Defendant's Request for Discovery Timothy Hansen
6/8/2011	MOTN	TCGREEAE	Amended Motion for PV Timothy Hansen
6/10/2011	DCAR	DCOLSOMA	Hearing result for Arraignment held on 06/10/2011 09:00 AM: District Court Arraignment- Court Reporter: Number of Pages: Motion for Bond Reduction - less than 100 Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Admit/Deny Probation Violation 06/24/2011 09:00 AM) Timothy Hansen
6/24/2011	DCHH	DCJOHNSI	Hearing result for Admit/Deny Probation Violation scheduled on 06/24/2011 09:00 AM: District Court Hearing Held Court Reporter: v. gosney Number of Transcript Pages for this hearing estimated:50 Timothy Hansen
	HRSC	DCJOHNSI	Hearing Scheduled (Admit/Deny Hearing 07/08/2011 09:00 AM) Timothy Hansen
7/8/2011	DCHH	DCOLSOMA	Hearing result for Admit/Deny Hearing scheduled on 07/08/2011 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100 Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Review 08/12/2011 09:00 AM) Timothy Hansen
	PLEA	DCOLSOMA	A Plea is entered for charge: - NG (I20-222 Probation Violation) Timothy Hansen
8/12/2011	DCHH	DCOLSOMA	Hearing result for Review scheduled on 08/12/2011 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100 Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Review 09/02/2011 09:00 AM) Timothy Hansen
9/2/2011	DCHH	DCOLSOMA	Hearing result for Review scheduled on 09/02/2011 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100 Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Probation Violation Hearing 10/20/2011 03:00 PM) 3 Hours Timothy Hansen
10/20/2011	PLEA	DCOLSOMA	A Plea is entered for charge: - GT (I20-222 Probation Violation) Timothy Hansen

State of Idaho vs. Michael J Walker

Date	Code	User		Judge
10/20/2011	DCHH	DCOLSOMA	Hearing result for Probation Violation Hearing scheduled on 10/20/2011 03:00 PM: District Court Hearing Held Court Reporter: S. Wolf Number of Transcript Pages for this hearing estimated: 3 Hours - less than 100	Timothy Hansen
	HRSC	DCOLSOMA	Hearing Scheduled (Probation Violation Disposition Hearing 12/02/2011 10:30 AM)	Timothy Hansen
10/24/2011	ORDR	DCOLSOMA	Order for Jail Program(s)	Timothy Hansen
12/2/2011	DCHH	DCOLSOMA	Hearing result for Probation Violation Disposition Hearing scheduled on 12/02/2011 10:30 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
	FIGT	DCOLSOMA	Finding of Guilty (I20-222 Probation Violation)	Timothy Hansen
	JAIL	DCOLSOMA	Sentenced to Jail or Detention (I20-222 Probation Violation) Confinement terms: Credited time: 188 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.	Timothy Hansen
	STAT	DCOLSOMA	STATUS CHANGED: closed pending clerk action	Timothy Hansen
	JAIL	DCOLSOMA	Sentenced to Jail or Detention (I20-222 Probation Violation) Confinement terms: Credited time: 420 days. Discretionary: 180 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.	Timothy Hansen
	PROB	DCOLSOMA	Probation Ordered (I20-222 Probation Violation) Probation term: 5 years 0 months 0 days. (Felony Probation & Parole)	Timothy Hansen
12/7/2011	ORPJ	DCHOPPKK	Order of Revocation of Probation and Order Retaining Jurisdiction	Timothy Hansen
	RJTR	DCHOPPKK	Retained Jurisdiction (Traditional Rider)	Timothy Hansen
6/26/2012	HRSC	DCHOPPKK	Hearing Scheduled (Rider Review 07/20/2012 10:30 AM)	Timothy Hansen
		DCHOPPKK	Order to Transport (Rider Review: 7-20-12 @ 10:30)	Timothy Hansen
7/20/2012	DCHH	DCOLSOMA	Hearing result for Rider Review scheduled on 07/20/2012 10:30 AM: District Court Hearing Held Court Reporter: C. Rhoades Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
	AMJD	DCOLSOMA	Amended Judgment Sentence modified on 7/20/2012. (I20-222 Probation Violation)	Timothy Hansen
	ORDR	DCHOPPKK	Order Reinstating and Amending Probation	Timothy Hansen
2/25/2013	MOTN	TCTURNJM	Motion for BW for PV	Timothy Hansen
2/27/2013	ORDR	TCTURNJM	Order for BW for PV	Timothy Hansen

State of Idaho vs. Michael J Walker

Date	Code	User	Judge
2/27/2013	WARB	TCTURNJM	Warrant Issued - Bench Bond amount: Hold Defendant without bond pending arraignment. Failing to comply with a court order Defendant: Walker, Michael
	STAT	TCTURNJM	STATUS CHANGED: Inactive
1/28/2014	WART	TCMCCOSL	Warrant Returned Failing to comply with a court order Defendant: Walker, Michael
	STAT	TCMCCOSL	STATUS CHANGED: Pending
	BOOK	TCMCCOSL	Booked into Jail on:
	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 01/28/2014 01:30 PM)
	HRSC	TCMCCOSL	Hearing Scheduled (Arraignment 02/05/2014 09:00 AM)
	ARRN	TCJOHNCS	Hearing result for Video Arraignment scheduled on 01/28/2014 01:30 PM: Arraignment / First Appearance
	ORPD	MADEFRJM	Order Appointing Public Defender
1/30/2014	MFBR	TCCHRIKE	Motion For Bond Reduction
	NOHG	TCCHRIKE	Notice Of Hearing(02/05/14 @9AM)
	RQDD	TCCHRIKE	Defendant's Request for Discovery
2/4/2014	MOTN	TCTURNJM	Amended Motion for PV
2/5/2014	DCAR	DCOLSOMA	Hearing result for Arraignment scheduled on 02/05/2014 09:00 AM: District Court Arraignment- Court Reporter: V. Gosney Number of Pages: less than 25
	HRSC	DCOLSOMA	Hearing Scheduled (Review 03/12/2014 09:00 AM)
2/20/2014	ORDR	DCOLSOMA	Order for Jail Program(s)
3/12/2014	DCHH	DCOLSOMA	Hearing result for Review scheduled on 03/12/2014 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 25
	PLEA	DCOLSOMA	A Plea is entered for charge: - NG (120-222 Probation Violation)
	HRSC	DCOLSOMA	Hearing Scheduled (Probation Violation Hearing 04/21/2014 03:00 PM)
4/21/2014	HRVC	DCOLSOMA	Hearing result for Probation Violation Hearing scheduled on 04/21/2014 03:00 PM: Hearing Vacated
	HRSC	DCOLSOMA	Hearing Scheduled (Review 05/14/2014 09:00 AM)

State of Idaho vs. Michael J Walker

Date	Code	User	Judge	
5/14/2014	DCHH	DCOATMAD	Hearing result for Review scheduled on 05/14/2014 09:00 AM: District Court Hearing Held Court Reporter: V Gosney Number of Transcript Pages for this hearing estimated: 25	Timothy Hansen
	HRSC	DCOATMAD	Hearing Scheduled (Disposition 05/28/2014 10:30 AM)	Timothy Hansen
	PLEA	DCOATMAD	A Plea is entered for charge: - GT (I20-222 Probation Violation)	Timothy Hansen
5/28/2014	DCHH	DCOLSOMA	Hearing result for Disposition scheduled on 05/28/2014 10:30 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Less than 100	Timothy Hansen
	FIGT	DCOLSOMA	Finding of Guilty (I20-222 Probation Violation)	Timothy Hansen
	JAIL	DCOLSOMA	Sentenced to Jail or Detention (I20-222 Probation Violation) Confinement terms: Penitentiary determinate: 1 year. Penitentiary indeterminate: 2 years.	Timothy Hansen
	STAT	DCOLSOMA	STATUS CHANGED: closed pending clerk action	Timothy Hansen
	ORDR	DCMAXWKK	Order of Revocation of Probation and Reducing Sentence and Commitment	Timothy Hansen
6/23/2014	BREF	TCLANGAJ	Brief in Support of Motion to Reconsider	Timothy Hansen
	MORE	TCLANGAJ	Motion to Reconsider	Timothy Hansen
	NOHG	TCLANGAJ	Notice Of Hearing (7/2/14)	Timothy Hansen
	HRSC	TCLANGAJ	Hearing Scheduled (Hearing Scheduled 07/02/2014 09:00 AM)	Timothy Hansen
7/2/2014	CONT	DCOLSOMA	Continued (Hearing Scheduled 07/23/2014 09:00 AM)	Timothy Hansen
		DCOLSOMA	Order to Transport	Timothy Hansen
7/22/2014	BREF	TCCHRIKE	Amended Brief in Support of Motion to Reconsider	Timothy Hansen
7/23/2014	DCHH	DCOLSOMA	Hearing result for Hearing Scheduled scheduled on 07/23/2014 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
7/24/2014	HRSC	DCOLSOMA	Hearing Scheduled (Hearing Scheduled 08/25/2014 09:00 AM)	Timothy Hansen
7/25/2014		DCOLSOMA	Order to Transport	Timothy Hansen
8/6/2014	BREF	TCWRIGSA	Brief Objecting to State's Motion to Reconsider	Timothy Hansen
8/25/2014	CONT	DCOLSOMA	Continued (Hearing Scheduled 09/02/2014 04:00 PM)	Timothy Hansen
		DCOLSOMA	Order to Transport	Timothy Hansen



State of Idaho vs. Michael J Walker

Date	Code	User		Judge
9/2/2014	CONT	DCOLSOMA	Continued (Hearing Scheduled 09/04/2014 02:00 PM)	Timothy Hansen
	NOTH	DCOLSOMA	Notice Of Hearing	Timothy Hansen
		DCOLSOMA	Order to Transport	Timothy Hansen
9/4/2014	DCHH	DCOLSOMA	Hearing result for Hearing Scheduled scheduled on 09/04/2014 02:00 PM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
10/17/2014	MEMO	DCMAXWKK	Memorandum Decision and Order	Timothy Hansen
10/23/2014	NOTA	TCLANGAJ	NOTICE OF APPEAL	Timothy Hansen
	APSC	TCLANGAJ	Appealed To The Supreme Court	Timothy Hansen
10/27/2014	HRSC	DCOLSOMA	Hearing Scheduled (Status 11/05/2014 08:30 AM) NO TRANSPORT	Timothy Hansen
10/28/2014	ORDR	DCOLSOMA	Order Appointing State Appellate Public Defender on Direct Appeal	Timothy Hansen
11/5/2014	DCHH	DCOLSOMA	Hearing result for Status scheduled on 11/05/2014 08:30 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
11/7/2014	HRSC	DCOLSOMA	Hearing Scheduled (Hearing Scheduled 11/26/2014 09:00 AM) Amend Judgment	Timothy Hansen
		DCOLSOMA	Order to Transport	Timothy Hansen
11/26/2014	DCHH	DCOLSOMA	Hearing result for Hearing Scheduled scheduled on 11/26/2014 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Timothy Hansen
	ORDR	DCMAXWKK	Amended Order of Revocation of Probation and Imposition of Sentence and Commitment	Timothy Hansen
12/29/2014	NOTC	TCWEGEKE	Notice of Transcript Lodged - Supreme Court No. 42655	Timothy Hansen

DR # 09-922071

AUG 19 2009

J. DAVID NAVARRO, Clerk  
By S. McCormack  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Whitney A. Faulkner  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2009-0015305

**COMPLAINT**

Walker's [REDACTED]  
Walker's [REDACTED]

PERSONALLY APPEARED Before me this 19th day of August 2009, Whitney A. Faulkner, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did commit the crimes of: I. POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER, FELONY, I.C. §37-2732(a) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as follows:

COUNT I

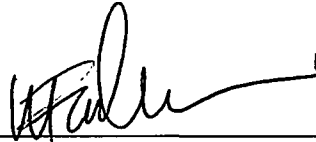
That the Defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Marijuana, a Schedule I(d)(19) controlled substance with the intent to deliver the aforementioned controlled substance.

COUNT II

That the Defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a scale and/or pipe, used to analyze and/or inhale a controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

**GREG H. BOWER**  
Ada County Prosecutor



Whitney A. Faulkner  
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 19th day of August 2009.

  
Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO. CRFE 09-15308

vs.

CLERK MARILYN EDWARDS

Michael Jason Walker

DATE 08/19/2009 TIME 1049

PROSECUTOR Whitney Faulkner

TOXIMETER \_\_\_\_\_

COMPLAINING WITNESS \_\_\_\_\_

CASE ID. Hawley 081909 BEG. 104956

END 105111

JUDGE

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/> BERECZ     | <input type="checkbox"/> MacGREGOR-IRBY |
| <input type="checkbox"/> BIETER     | <input type="checkbox"/> MANWEILER      |
| <input type="checkbox"/> CAWTHON    | <input type="checkbox"/> McDANIEL       |
| <input type="checkbox"/> COMSTOCK   | <input type="checkbox"/> MINDER         |
| <input type="checkbox"/> DAY        | <input type="checkbox"/> OTHS           |
| <input type="checkbox"/> GARDUNIA   | <input type="checkbox"/> REARDON        |
| <input type="checkbox"/> HARRIGFELD | <input type="checkbox"/> STECKEL        |
| <input type="checkbox"/> HAWLEY     | <input type="checkbox"/> SWAIN          |
| <input type="checkbox"/> HICKS      | <input type="checkbox"/> WATKINS        |

Payne

STATUS

- STATE SWORN
- PC FOUND \_\_\_\_\_
- COMPLAINT SIGNED
- AMENDED COMPLAINT SIGNED
- NO PC FOUND \_\_\_\_\_
- EXONERATE BOND
- SUMMONS TO BE ISSUED
- WARRANT ISSUED
- BOND SET \$ \_\_\_\_\_
- NO CONTACT

D.R. # \_\_\_\_\_

- DISMISS CASE
- IN CUSTODY

COMMENTS

AGENT'S WARRANT

RULE 5 (b)

FUGITIVE

ADA COUNTY MAGISTRATE MINUTES

Michael Walker CR-FE-2009-0015305



Scheduled Event: Video Arraignment Wednesday, August 19, 2009 01:30 PM

Judge: Cawthon / Irby Clerk: AC Interpreter: \_\_\_\_\_

Prosecuting Agency: AC BC GC MC Pros: L. Messerly

PD / Attorney: B. Barrera

- 1 I37-2732(A)(1)(A)-P/I Controlled Substance-Possession With Intent to Manufacture or Deliver F
- 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M

152407 Case Called Defendant: Present Not Present In Custody

Advised of Rights Waived Rights PD Appointed Waived Attorney

Guilty Plea / PV Admit N/G Plea Advise Subsequent Penalty

Bond \$ 5000.00 ROR Pay / Stay Payment Agreement

In Chambers PT Memo Written Guilty Plea No Contact Order

\_\_\_\_\_

PH 9/2/09 @ 8:30 w/ Swain

Finish ( ) Release Defendant 152629

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA MAGISTRATE DIVISION

NO. \_\_\_\_\_ FILED \_\_\_\_\_ P.M. 12:20

AUG 20 2009

J. DAVID NAVARRO, Clerk  
By ERIN PENA DEPUTY

STATE OF IDAHO, Plaintiff.

vs.

Michael Walker  
3301 W Hamilton  
Boise, ID 83704

Defendant.

Case No: CR-FE-2009-0015305

NOTICE OF APPOINTMENT OF PUBLIC DEFENDER AND SETTING CASE FOR HEARING

Ada  Boise  Garden City  Meridian

TO: Ada County Public Defender

YOU ARE HEREBY NOTIFIED that you are appointed to represent the defendant in this cause, or in the District Court until relieved by court order. The case is continued for:

Preliminary Judge: Wednesday, September 02, 2009 08:30 AM  
Kevin Swain

BOND AMOUNT: \_\_\_\_\_ The Defendant is:  In Custody  Released on Bail  ROR

TO: The above named defendant

IT HAS BEEN ORDERED BY THIS COURT that the defendant is to contact the Ada County Public Defender's Office at 200 W. Front Street, Room 1107, Boise, Idaho 83702. Telephone: (208) 287-7400. If the defendant is unable to post bond and obtain his/her release from jail, that the proper authorities allow the defendant to make a phone call to the Ada County Public Defender.

IT HAS BEEN FURTHER ORDERED: That the parties, prior to the pre-trial conference, complete and comply with Rule 16 I.C.R. and THAT THE DEFENDANT BE PERSONALLY PRESENT AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL: FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A BENCH WARRANT FOR THE DEFENDANT'S ARREST.

Dated : 8/19/2009

\_\_\_\_\_  
Deputy Clerk

I hereby certify that copies of this Notice were served as follows on this date Wednesday, August 19, 2009.

Defendant: Mailed \_\_\_\_\_ Hand Delivered  Signature \_\_\_\_\_  
Clerk / date \_\_\_\_\_ Phone ( ) \_\_\_\_\_

Prosecutor: Interdepartmental Mail   
Public Defender: Interdepartmental Mail

\_\_\_\_\_  
Deputy Clerk  
8-19-09

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

THE STATE OF IDAHO,  
Plaintiff,

vs.

WALKER MICHAEL JASON  
Defendant

NOTICE OF COURT DATE

AND FILED 6:30 PM  
BOND RECEIPT

AUG 20 2009

J. DAVID NAVARRO, Clerk  
By CHERYL WADAMS  
DEPUTY

**YOU ARE HEREBY NOTIFIED** that you must appear in Court  
on 02 September 2009 at 08:30:00 hrs, at the:

Ada County Court House  
200 West Front Street  
Boise, ID 837020000

**You are further notified** that if you fail to appear as specified herein, your bond  
will be forfeited and a Warrant of Arrest will be issued against you.

BOND RECEIPT No: 234091

Charge: 37-2732(a) {F} CONTROLLED SUBSTANCE-DELIVERY  
Bond Amount: \$ 5,000.00  
Case # CRFE20090015305  
Bond # 5-1126239  
Bond Type: Surety  
Warrant #:  
Agency: HOMETOWN BAIL BONDS  
Bondsman: HAMILTON JACARRA  
Address: 909 NORTH COLE ROAD  
BOISE, ID 83704

This is to certify that I have received a copy of this  
NOTICE TO APPEAR. I understand that I am being released on the  
conditions of posting bail and my promise to appear in the court  
at the time, date, and place described in this notice.

DATED 8/19/09

Mike W  
DEFENDANT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
STATE OF IDAHO, ADA COUNTY

FILED 8/20/09 AT 1:00 P.M.  
J. DAVID NAVARRO,  
CLERK OF THE DISTRICT COURT  
BY [Signature]  
Deputy

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
Michael Walker )  
Defendant )  
SSN: XXX-XX- )

CASE NO. FE-09-15305  
NOTIFICATION OF CONSEQUENCES AND  
PENALTIES FOR ESCAPE PURSUANT TO  
I.C. §§ 18-2505, 2506

TO: THE ABOVE-NAMED DEFENDANT, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I.C. § 18-2505 (1) Every prisoner charged with, convicted of, or on probation for a **felony** who is confined in any correctional facility, as defined in section 18-101A, Idaho Code, including any private correctional facility, or who while outside the walls of such correctional facility in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such correctional facility, who escapes or attempts to escape from such officer or person, or from such correctional facility, or from such factory, farm or other place without the walls of such correctional facility, shall be guilty of a **felony**, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged. **A felony is punishable by fine not exceeding fifty thousand dollars (\$50,000.00) or imprisonment in the state prison not to exceed five (5) years or both.**

I.C. § 18-2506 (1)(a) Every prisoner charged with or convicted of a **misdemeanor** who is confined in any county jail or other place or who is engaged in any county work outside of such jail or other place, or who is in the lawful custody of any officer or person, who escapes or attempts to escape therefrom, is guilty of a **misdemeanor**. **A misdemeanor is punishable by fine not exceeding \$1000.00 or by imprisonment in the county jail not to exceed one (1) year or both.**

(b) In cases involving escape or attempted escape by use of threat, intimidation, force, violence, injury to person or property other than that of the prisoner, or wherein the escape or attempted escape was perpetrated by use or possession of any weapon, tool, instrument or other substance, the prisoner shall be guilty of a **felony**.

Escape shall be deemed to include abandonment of a job site or work assignment without the permission of an employment supervisor or officer. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking, monitoring and detention or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care.

I ACKNOWLEDGE RECEIPT OF THIS WRITTEN NOTICE.

Defendant: [Signature]

Dated: 8-19-09



ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

FILED  
P.M.  
AUG 21 2009  
J. DAVID NAVARRO, Clerk  
By ERIN BULCHER  
DEPUTY

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

STATE OF IDAHO,

Plaintiff

vs.

MICHAEL WALKER,

Defendant.

Case No. CR-FE-2009-0015305

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

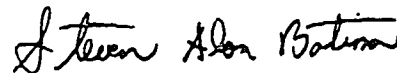
PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

**DATED**, Friday, August 21, 2009.



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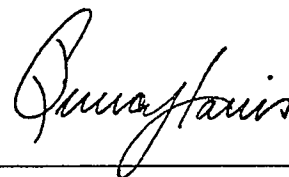
**STEVEN A BOTIMER**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Friday, August 21, 2009, I mailed a true and correct copy of the within instrument to:

**ADA COUNTY PROSECUTOR**  
**Counsel for the State of Idaho**

by placing said same in the Interdepartmental Mail.



---

394  
PL  
9/2  
830

**AUG 27 2009**

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Tanner Stellmon**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
KRISTINA MARIE BRUTSMAN-RICE )  
and )  
MICHAEL JASON WALKER, )  
)  
Defendants. )

**Case No. CR-FE-2009-0015303**  
**CR-FE-2009-0015305**  
**MOTION TO CONSOLIDATE**

**COMES NOW**, Tanner Stellmon, Deputy Prosecuting Attorney in and for the State of Idaho, County of Ada, and hereby moves this Honorable Court in the above entitled matter for an Order pursuant to Rule 13 of the Idaho Criminal Rules of Practice and Procedure consolidating criminal case CR-FE-2009-0015303 with criminal case CR-FE-2009-0015305 on the grounds and for the reasons that the facts, evidence and witnesses are the same in each case. An Order of consolidation would save witness and jury time and the expense for a separate and later trial.

8

DATED this 26<sup>th</sup> day of ~~September~~<sup>August</sup>, 2009.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



---

Tanner Stellman  
Deputy Prosecuting Attorney

ADA COUNTY MAGISTRATE MINUTES

Michael Walker CR-FE-2009-0015305



Scheduled Event: Preliminary Wednesday, September 02, 2009 08:30 AM

Judge: Kevin Swain Clerk: MARILYN EDWARDS Interpreter: \_\_\_\_\_

Prosecuting Agency:  AC  BC  GC  MC Pros: Janner Stellman  
 PD / Attorney: Steve Botwiner

- 1 I37-2732(A)(1)(A)-P/I Controlled Substance-Possession With Intent to Manufacture or Deliver F
- 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M

092117 Case Called Defendant:  Present  Not Present  In Custody  
 Advised of Rights  Waived Rights  PD Appointed  Waived Attorney  
 Guilty Plea / PV Admit  N/G Plea  Advise Subsequent Penalty  
 Bond \$5000  ROR  Pay / Stay  Payment Agreement  
 In Chambers  PT Memo  Written Guilty Plea  No Contact Order

*Note Consolidate*  
*Co-Def Set on 9/9.*  
*Caution...*  
*Ret this case w/codef*  
*9/9/09 @ 830am*  
*Caution*

092310

Finish ( ) Release Defendant

FILED 9/2/09 AT 9:22a .M.  
 J. DAVID NAVARRO,  
 CLERK OF THE DISTRICT COURT  
 BY Marilyn Edwards  
 Deputy

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

STATE OF IDAHO, )  
 Plaintiff, )  
 vs. Michael Walker )  
 Defendant. )

CASE NO. CRFE 09 15305

NOTICE OF:

Ada       Boise       GC       Meridian

FURTHER PROCEEDINGS

BEFORE JUDGE \_\_\_\_\_

TRIAL SET COURT/JURY

BEFORE JUDGE \_\_\_\_\_

PRELIMINARY HEARING RESET

BEFORE JUDGE Cauthon

DISTRICT COURT ARRAIGNMENT

BEFORE JUDGE \_\_\_\_\_

NOTICE IS HEREBY GIVEN to the above-named Defendant that proceedings in this case have been continued until 8:30 o'clock a.m./p.m. on Sept 09 09, in the courtroom at the

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

J. DAVID NAVARRO, Clerk

DATED 9/2/09

By: Marilyn Edwards  
 Deputy Clerk

I hereby certify that copies of this Notice were served as follows:

Defendant:  
 Hand Delivered  Mailed   
 Clerk ME Date \_\_\_\_\_

Signature Mike Walker  
 Address \_\_\_\_\_

Defense Attorney:  
 Hand Delivered  Mailed   
 Clerk \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

Prosecutor  Interdepartmental Mail  
 Public Defender -  Interdepartmental Mail

Clerk \_\_\_\_\_ Date \_\_\_\_\_  
 Clerk \_\_\_\_\_ Date \_\_\_\_\_

000025

RECEIVED  
AUG 27 2009  
NO. 022  
ADA COUNTY C.A.M. FILED P.M.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

SEP 2 - 2009

J. DAVID NAVARRO, Clerk  
By MARILYN EDWARDS  
DEPUTY

**Tanner Stellmon**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

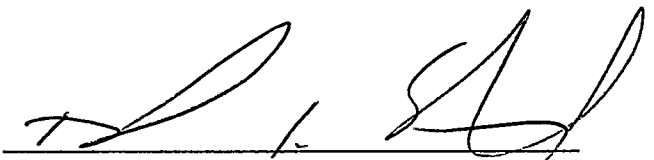
THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
KRISTINA MARIE BRUTSMAN-RICE )  
and )  
MICHAEL JASON WALKER, )  
)  
Defendants. )

Case No. CR-FE-2009-0015303  
CR-FE-2009-0015305

**ORDER TO CONSOLIDATE**

This Motion for Consolidation having come before me and good cause being shown,  
**IT IS HEREBY ORDERED AND THIS DOES ORDER** that the Motion to  
Consolidate be granted.

DATED this 21 day of September, 2009.

  
\_\_\_\_\_  
Judge

c

ADA COUNTY MAGISTRATE MINUTES

Michael Walker CR-FE-2009-0015305



Scheduled Event: Preliminary Wednesday, September 09, 2009 08:30 AM

Judge: Cawthon / Irby Clerk: MADRYN EDWARDS Interpreter:

Prosecuting Agency: X AC \_\_\_ BC \_\_\_ GC \_\_\_ MC Pros: Janner Stellman  
PD Attorney: Ann Casko

- 1 I37-2732(A)(1)(A)-P/I Controlled Substance-Possession With Intent to Manufacture or Deliver F
- 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M

093619 Case Called Defendant: X Present \_\_\_ Not Present \_\_\_ In Custody  
 \_\_\_ Advised of Rights \_\_\_ Waived Rights \_\_\_ PD Appointed \_\_\_ Waived Attorney  
 \_\_\_ Guilty Plea / PV Admit \_\_\_ N/G Plea \_\_\_ Advise Subsequent Penalty  
 X Bond \$ 5000 \_\_\_ ROR \_\_\_ Pay / Stay \_\_\_ Payment Agreement  
 \_\_\_ In Chambers \_\_\_ PT Memo \_\_\_ Written Guilty Plea \_\_\_ No Contact Order

mo to Consolidate  
 2- need to Conflict one Δ  
 Reg 80  
 1- No obj  
 Riset 10/01/09 @ 830am

093855

Finish ( ) Release Defendant



FILED 9/9/09 AT 9:38 .M.  
 J. DAVID NAVARRO,  
 CLERK OF THE DISTRICT COURT  
 BY Marilyn Edwards  
 Deputy

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

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs: Michael Shalke )  
 )  
 Defendant. )

CASE NO. CRFE 09 15305

NOTICE OF:

Ada     Boise     GC     Meridian

- FURTHER PROCEEDINGS
- TRIAL SET COURT/JURY
- PRELIMINARY HEARING RESET
- DISTRICT COURT ARRAIGNMENT

BEFORE JUDGE \_\_\_\_\_  
 BEFORE JUDGE \_\_\_\_\_  
 BEFORE JUDGE Irbey  
 BEFORE JUDGE \_\_\_\_\_

NOTICE IS HEREBY GIVEN to the above-named Defendant that proceedings in this case have been continued until 830 o'clock a.m. p.m. on Oct 01 09, in the courtroom at the

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

J. DAVID NAVARRO, Clerk

DATED 9/9/09

By: Marilyn Edwards  
 Deputy Clerk

I hereby certify that copies of this Notice were served as follows:

Defendant:  
 Hand Delivered  Mailed   
 Clerk ME Date \_\_\_\_\_

Signature Mike Walker  
 Address \_\_\_\_\_

Defense Attorney:  
 Hand Delivered  Mailed   
 Clerk \_\_\_\_\_ Date \_\_\_\_\_

Prosecutor  - Interdepartmental Mail  
 Public Defender - Interdepartmental Mail

Clerk \_\_\_\_\_ Date \_\_\_\_\_  
 Clerk \_\_\_\_\_ Date \_\_\_\_\_

400  
PH  
10/11  
8:30

JOSEPH L. ELLSWORTH, ISB #3702  
ELLSWORTH, KALLAS, TALBOY & DEFRANCO P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 440

SEP 23 2009

J. DAVID NAVARRO, Clerk  
By ERIN BULCHER  
DEPUTY

ATTORNEY FOR DEFENDANT CONFLICT COUNSEL

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

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL WALKER, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No.: CR FE 2009 0015305

**NOTICE OF APPEARANCE**  
(Conflict Counsel)

COMES NOW Joseph L. Ellsworth, and hereby enters his appearance as the  
Conflict Attorney of Record for the above-named Defendant.

Please direct all notices or pleadings through this office.

DATED this 23rd day of September, 2009.

BY *Joe Ellsworth*  
JOSEPH L. ELLSWORTH

CERTIFICATE OF SERVICE

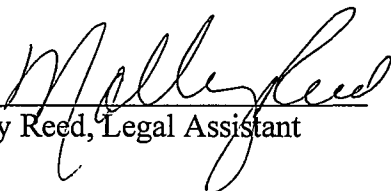
The undersigned hereby certifies that on this 23 day of September, 2009, a true and correct copy of the foregoing document was served upon counsel as follows:

Ada County Prosecuting Attorney  
200 W. Front Street  
Boise, Idaho 83702

U.S. Mail  
 Hand Delivery  
 Facsimile: 287-7709

Ada County Public Defender  
200 W. Front Street  
Boise ID 83702

US-Mail  
 Hand Delivery  
 Facsimile: 287-7409

  
Molly Reed, Legal Assistant

SEP 23 2009

J. DAVID NAVARRO, Clerk  
By ERIN BULCHER  
DEPUTY

JOSEPH L. ELLSWORTH, ISB #3702  
ELLSWORTH, KALLAS, TALBOY & DEFRANCO P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945

ATTORNEY FOR DEFENDANT

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No.: CR FE 2009 0015305
	)	
vs.	)	<b>REQUEST FOR DISCOVERY</b>
	)	
MICHAEL WALKER,	)	
	)	
Defendant.	)	
_____	)	

TO: ADA COUNTY PROSECUTING ATTORNEY

**PLEASE TAKE NOTICE** That the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests discovery and photocopies of the following information, evidence, and materials:


1. All material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment therefore. I.C.R. 16(a).
2. All written or recorded statements or oral admissions of the defendant within the possession, custody, control, or knowledge of the State.
3. All written or recorded statements or oral admissions of any co-defendant within the possession, custody, control or knowledge of the State.



4. Any prior criminal record of the defendant and co-defendant, if any.
5. All documents and tangible objects as defined by I.C.R. 16(b) (4) in the possession or control of the prosecutor which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.
6. All reports of physical or mental examinations and of scientific tests or experiments within the possession, control or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence including the results of any forensic testing.
7. A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
8. All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including ticket notes.
9. Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to I.R.E. 612.

The undersigned further requests written compliance within 14 days of service of this request.

DATED this 23rd day of September, 2009.

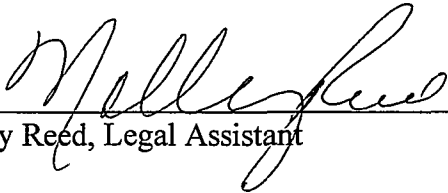
  
Joseph L. Ellsworth  
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 23 day of September, 2009, I served a true and correct copy of the within and foregoing document by the method indicated below and addressed to the following:

Ada County Prosecuting Attorney  
200 W. Front Street, Ste. 3191  
Boise, Idaho 83702

US Mail  
 Hand Delivery  
 Facsimile: 287-7709

  
\_\_\_\_\_  
Molly Reed, Legal Assistant

ADA COUNTY MAGISTRATE MINUTES

Michael Walker CR-FE-2009-0015305



Scheduled Event: Preliminary Thursday, October 01, 2009 08:30 AM

Judge: Cawthon / Irby Clerk: MARILYN EDWARDS Interpreter:

Prosecuting Agency: X AC BC GC MC Pros: Tanner Stillman PD / Attorney: Joe Ellsworth

- 1 I37-2732(A)(1)(A)-P/I Controlled Substance-Possession With Intent to Manufacture or Deliver F
• 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M

091826 Case Called Defendant: X Present Not Present In Custody
Advised of Rights Waived Rights PD Appointed Waived Attorney
Guilty Plea / PV Admit N/G Plea Advise Subsequent Penalty
Bond \$ 5000 ROR Pay / Stay Payment Agreement
In Chambers PT Memo Written Guilty Plea No Contact Order

2- 1st unavailability the afternoon
1- no pay
Reset 10/21/09 @ 8:30am

092313

Finish ( ) Release Defendant

FILED 10/01/09 AT 9:26 .M.  
 J. DAVID NAVARRO,  
 CLERK OF THE DISTRICT COURT  
 BY Marilyn Edwards  
 Deputy

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

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. Michael Walker )  
 )  
 Defendant. )

CASE NO. CRFE 09 15305

NOTICE OF:

Ada       Boise       GC       Meridian

FURTHER PROCEEDINGS

BEFORE JUDGE \_\_\_\_\_

TRIAL SET COURT/JURY

BEFORE JUDGE \_\_\_\_\_

PRELIMINARY HEARING RESET

BEFORE JUDGE Crowthorn

DISTRICT COURT ARRAIGNMENT

BEFORE JUDGE \_\_\_\_\_

NOTICE IS HEREBY GIVEN to the above-named Defendant that proceedings in this case have been continued until 8:30 o'clock a.m./p.m. on Oct 21 09, in the courtroom at the

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

J. DAVID NAVARRO, Clerk

DATED 10/01/09

By: Marilyn Edwards  
 Deputy Clerk

I hereby certify that copies of this Notice were served as follows:

Defendant:  
 Hand Delivered  Mailed   
 Clerk ME Date \_\_\_\_\_

Signature Mike Walker  
 Address \_\_\_\_\_

Defense Attorney:  
 Hand Delivered  Mailed   
 Clerk ME Date \_\_\_\_\_

Opie Ellsworth  
 \_\_\_\_\_

Prosecutor  - Interdepartmental Mail  
 Public Defender - Interdepartmental Mail

Clerk \_\_\_\_\_ Date \_\_\_\_\_  
 Clerk \_\_\_\_\_ Date \_\_\_\_\_

000035



ADA COUNTY MAGISTRATE MINUTES

Michael Walker CR-FE-2009-0015305



Scheduled Event: Preliminary Wednesday, October 21, 2009 08:30 AM

Judge: Cawthon / Irby / *maria* Clerk: MARILYN EDWARDS Interpreter: \_\_\_\_\_

Prosecuting Agency:  AC  BC  GC  MC Pros: Janner Stelmon

PD / Attorney: Joe Ellsworth

- 1 I37-2732(A)(1)(A)-P/I Controlled Substance-Possession With Intent to Manufacture or Deliver F
- 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M

090945 Case Called Defendant:  Present  Not Present  In Custody

Advised of Rights  Waived Rights  PD Appointed  Waived Attorney

Guilty Plea / PV Admit  N/G Plea  Advise Subsequent Penalty

Bond \$ 5000  ROR  Pay / Stay  Payment Agreement

In Chambers  PT Memo  Written Guilty Plea  No Contact Order

Δ Waiver Prog

B10 10/30/09 @ 900 am  
Comm Signed

091235

Finish ( ) Release Defendant

FILED 10/21/09 AT 9:11a .M.  
 J. DAVID NAVARRO,  
 CLERK OF THE DISTRICT COURT  
 BY Marilyn Edwards  
 Deputy

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

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
Michael Walker )  
 Defendant. )

CASE NO. CRF 09 15305

NOTICE OF:

Ada     Boise     GC     Meridian

FURTHER PROCEEDINGS

BEFORE JUDGE \_\_\_\_\_

TRIAL SET COURT/JURY

BEFORE JUDGE \_\_\_\_\_

PRELIMINARY HEARING RESET

BEFORE JUDGE \_\_\_\_\_

DISTRICT COURT ARRAIGNMENT

BEFORE JUDGE Hansen

NOTICE IS HEREBY GIVEN to the above-named Defendant that proceedings in this case have been continued until 9:00 o'clock a.m. on Oct 30 09, in the courtroom at the

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

J. DAVID NAVARRO, Clerk

DATED 10/21/09

By: Marilyn Edwards  
 Deputy Clerk

I hereby certify that copies of this Notice were served as follows:

Defendant:  
 Hand Delivered  Mailed   
 Clerk ME Date \_\_\_\_\_

Signature Mike Walker  
 Address \_\_\_\_\_

Defense Attorney:  
 Hand Delivered  Mailed   
 Clerk ME Date \_\_\_\_\_

Joe Ellsworth  
 \_\_\_\_\_  
 \_\_\_\_\_

Prosecutor  - Interdepartmental Mail  
 Public Defender - Interdepartmental Mail

Clerk \_\_\_\_\_ Date \_\_\_\_\_  
 Clerk \_\_\_\_\_ Date \_\_\_\_\_

000037

OCT 21 2009

J. DAVID NAVARRO, Clerk  
By MARILYN EDWARDS  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Tanner Stellmon  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

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

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2009-0015305
	)	
vs.	)	<b>C O M M I T M E N T</b>
	)	Defendant's [REDACTED]
MICHAEL JASON WALKER,	)	Defendant's [REDACTED]
	)	
Defendant.	)	
_____	)	

**THE ABOVE NAMED DEFENDANT, MICHAEL JASON WALKER,** having been brought before this Court for a Preliminary Examination on the \_\_\_\_ day of \_\_\_\_\_ 2009, on a charge that the Defendant on or about the 18th day of August 2009, in the County of Ada, State of Idaho, did commit the crimes of I. POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER, FELONY, I.C. §37-2732(a) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A, as follows:

ME

COUNT I

That the Defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Marijuana, a Schedule I(d)(19) controlled substance with the intent to deliver the aforementioned controlled substance.

COUNT II

That the Defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a scale and/or pipe, used to analyze and/or inhale a controlled substance.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

**WHEREFORE, IT IS ORDERED** that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ \_\_\_\_\_.

**DATED** this \_\_\_\_ day of September 2009.

\_\_\_\_\_  
MAGISTRATE



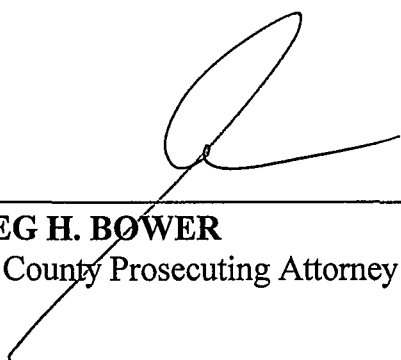
COUNT I

That the Defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Marijuana, a Schedule I(d)(19) controlled substance <sup>in excess of three ounces</sup> ~~with the intent to~~ deliver the aforementioned controlled substance. ~~as~~

COUNT II

That the Defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a scale and/or pipe, used to analyze and/or inhale a controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

  
\_\_\_\_\_  
**GREG H. BOWER**  
Ada County Prosecuting Attorney

Session: Hansen103009  
Session Date: 2009/10/30  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:28

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Gunn, George  
Naugle, Brian

Public Defender(s):  
Jones, Teri

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0006

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2009/10/30

09:25:51 - Operator  
Recording:  
09:25:51 - New case  
Walker, Michael  
09:25:56 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
09:26:07 - Pers. Attorney: Ellsworth, Joe  
conflict PD  
09:26:16 - State Attorney: Naugle, Brian  
no objection to PD  
09:26:27 - Judge: Hansen, Timothy  
will continue PD  
09:26:54 - Judge: Hansen, Timothy  
arraigns the def. on the information  
09:28:13 - Pers. Attorney: Ellsworth, Joe

would like 2 weeks

09:28:17 - Judge: Hansen, Timothy  
will set over for EOP to 11/13/09 at 9

09:28:34 - Operator  
Stop recording:

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Session: Hansen111309  
Session Date: 2009/11/13  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:40

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Dinger, Dan  
Duggan, Barbara  
Gunn, George  
Naugle, Brian

Public Defender(s):  
Jones, Teri  
Loschi, Jonathon  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):

Case ID: 0003

Case number: CRFE09-1583058  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney:  
Public Defender:

2009/11/13


09:17:39 - Operator  
Recording:  
09:17:39 - New case  
Walker, Michael  
09:17:53 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
09:18:38 - Pers. Attorney: Ellsworth, Joe  
will enter NG Plea  
09:18:47 - Judge: Hansen, Timothy  
will set for 2 day JT on 4/12/10 at 9 and PTC on 4/2/10 at 1:30  
09:19:56 - Operator

Stop recording:

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THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA NOV 17 2009

THE STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MICHAEL WALKER, )  
 )  
Defendant. )

J. DAVID NAVARRO, Clerk  
By:  DEPUTY

Case No. CRFE09-15305  
ORDER SETTING PRETRIAL  
CONFERENCE & JURY TRIAL

A jury trial will be held on **April 12, 2010 at 9:00 a.m.**

A pretrial conference will be held on **April 2, 2010 at 1:30 pm.** The defendant must be personally present in court. At this conference, counsel for each party shall deliver a written list of prospective witnesses and proposed exhibits to the court and counsel for all parties.

**Alternate judges.** Notice is hereby given, pursuant to Rule 25(a)(6), I.C.R. that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

- |                               |                         |
|-------------------------------|-------------------------|
| Hon. Phillip M. Becker        | Hon. G.D. Carey         |
| Hon. Dennis Goff              | Hon. Nathan Higer       |
| Hon. Daniel C. Hurlbutt Jr.   | Hon. James Judd         |
| Hon. Duff McKee               | Hon. Daniel Meehl       |
| Hon. George R. Reinhardt, III | Hon. Ronald Schilling   |
| Hon. W.H. Woodland            | Hon. Linda Copple Trout |
| Hon. Kathryn Sticklen         |                         |

Unless a party has previously exercised its right to disqualification without cause under Rule 25(a), I.C.R., each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this notice.

IT IS SO ORDERED this 16<sup>th</sup> day of November, 2009.

  
TIMOTHY HANSEN  
District Judge

cc: ADA COUNTY PROSECUTOR  
INTERDEPARTMENTAL MAIL

JOE ELLSWORTH  
ATTORNEY AT LAW  
1031 EAST PARK BLVD  
BOISE, IDAHO 83712

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

**JAN 25 2010**

**J. DAVID NAVARRO, Clerk**  
By **ERIN BULGHER**  
DEPUTY

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
)  
\_\_\_\_\_ )

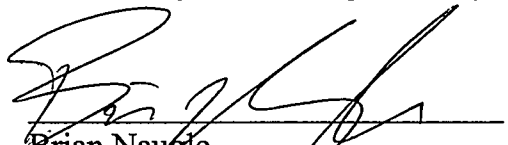
**Case No. CR-FE2009-0015305**

**DISCOVERY  
RESPONSE TO COURT**

COMES NOW, Brian Naugle, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

RESPECTFULLY SUBMITTED this 25 day of January 2010.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
Brian Naugle  
Deputy Prosecuting Attorney

8

160  
4/12  
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132

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_  
JAN 25 2010  
J. DAVID NAVARRO, Clerk  
By ERIN BULCHER  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 366  
Boise, Id. 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2009-0015305</b>
	)	
vs.	)	<b>REQUEST FOR DISCOVERY</b>
	)	
MICHAEL JASON WALKER,	)	
	)	
Defendant.	)	
_____	)	

**TO THE ABOVE NAMED DEFENDANT:**

**PLEASE TAKE NOTICE** that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

- (1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are

within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.


(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to Idaho Criminal Rule 16(c)(4), including the facts and data supporting the opinion and the witness's qualifications.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 25 day of January 2010.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: Brian Naugle  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 25<sup>th</sup> day of January 2010, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Name and address: Joseph Ellsworth, Attorney at Law, 1031 E. Park Blvd., Boise ,ID 83712

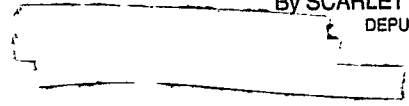
- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
Legal Assistant

P 160  
4/2  
120

JAN 27 2010

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY



**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

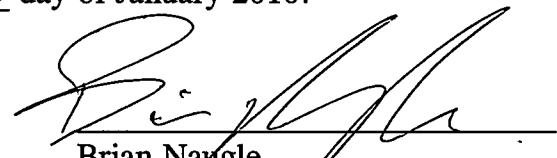
THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
)

Case No. CR-FE-2009-0015305

**ADDENDUM TO DISCOVERY  
RESPONSE TO COURT**

Comes now, Brian Naugle, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted an Addendum to  
Response to Discovery.

RESPECTFULLY SUBMITTED this 26 day of January 2010.

  
Brian Naugle  
Deputy Prosecuting Attorney

8



Session: Hansen040210  
Session Date: 2010/04/02  
Judge: Hansen, Timothy  
Reporter: Hirmer, Jeanne

Division: DC  
Session Time: 08:35

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Duggan, Barbara  
Gunn, George  
Guzman, Cathy  
Naugle, Brian  
Reilly, Heather  
Welsh, Whitney

Public Defender(s):  
Jones, Teri  
Loschi, Jonathon  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0028

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Duggan, Barbara  
Public Defender:

2010/04/02

13:44:22 - Operator  
Recording:  
13:44:22 - New case  
Walker, Michael  
13:44:44 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
13:45:01 - Pers. Attorney: Ellsworth, Joe  
would like 1 week for further PTC  
13:45:19 - State Attorney: Duggan, Barbara

no objection to that

13:45:25 - Judge: Hansen, Timothy  
will set for further PTC to 4/9/10 at 1:30

13:45:48 - Operator  
Stop recording:

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NO. \_\_\_\_\_  
A.M. | 1 | FILED \_\_\_\_\_ P.M.  
APR 07 2010

**GREG H. BOWER**  
Ada County Prosecuting Attorney

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2009-15305</b>
	)	
vs.	)	<b>STIPULATION TO VACATE</b>
	)	<b>AND RESET TRIAL</b>
MICHAEL JASON WALKER,	)	
	)	
Defendant.	)	
_____	)	

**COMES NOW**, Brian Naugle, Deputy Prosecuting Attorney for Ada County, and Joseph Ellsworth, Attorney for Defendant, and stipulate and agree that the Jury Trial scheduled in the above entitled case for the 12th day of April 2010, at 9:00 a.m., be reset to June 21, 2010 at 9:00 a.m., for the reason that this is the current trial setting for Mr. Walker's co-defendant, CHRISTINA BRUTSMAN-RICE in CR-FE-2009-15303. In addition, within the prior week, the Defendant's trial posture has changed dramatically and the State has made additional discovery disclosures that make it difficult if not impossible to be adequately prepared for trial by the 12th of April. Mr. Walker has reported a willingness to waive his right to a speedy trial in order to accommodate the requested reset.

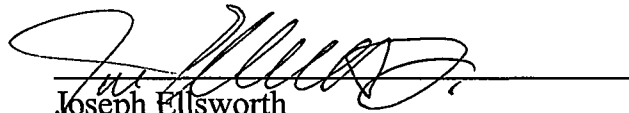
8

DATED this 7 day of April, 2010.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Brian Naugle  
Deputy Prosecuting Attorney



Joseph Ellsworth  
Attorney for Defendant

100  
PT  
4/9  
120

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 11 P.M.  
**APR 07 2010**  
J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney


**Brian Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2009-0015305
vs.	)	
	)	<b>SECOND ADDENDUM TO</b>
MICHAEL JASON WALKER,	)	<b>DISCOVERY TO COURT</b>
	)	
Defendant.	)	
	)	

Comes now, Brian Naugle, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Second Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 7 day of April 2010.

  
\_\_\_\_\_  
Brian Naugle  
Deputy Prosecuting Attorney

JP

Session: Hansen040910  
Session Date: 2010/04/09  
Judge: Hansen, Timothy  
Reporter: Hirmer, Jeanne

Division: DC  
Session Time: 08:47

Courtroom: CR503

Clerk(s):  
Olson, Miren

State Attorney(s):  
Duggan, Barbara  
Gunn, George  
Naugle, Brian  
Taylor, Joshua

Public Defender(s):  
Jones, Teri  
Loschi, Jonathon  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):

Case ID: 0021

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/04/09

13:33:38 - Operator  
Recording:  
13:33:38 - New case  
Walker, Michael  
13:33:56 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
13:34:09 - Pers. Attorney: Ellsworth, Joe  
will stipulate to continue the trial into June  
13:34:40 - State Attorney: Naugle, Brian  
will be a joint request - comments  
13:36:20 - Judge: Hansen, Timothy  
comments on waiver of speedy trial  
13:36:31 - Pers. Attorney: Ellsworth, Joe  
is prepared to waive speedy trial  
13:36:38 - Judge: Hansen, Timothy  
comments to the def. on the waiver of speedy trial  
13:38:24 - Defendant: Walker, Michael  
will waive speedy trial

13:38:35 - Judge: Hansen, Timothy  
the trial scheduled for 4/12 - will be vacated and will be rescheduled to  
13:38:57 - Judge: Hansen, Timothy  
6/21/10 at 9 and PTC on 6/11/10 at 1:30  
13:39:13 - State Attorney: Naugle, Brian  
notes for the record any plea offers are withdrawn  
13:40:24 - Operator  
Stop recording:

---

APR 13 2010

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

J. DAVID NAVARRO, Clerk

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

By: [Signature]  
DEPUTY

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CRFE09-15305
	)	
MICHAEL WALKER,	)	
	)	
Defendant.	)	ORDER SETTING PRETRIAL CONFERENCE & JURY TRIAL

A jury trial will be held on **June 21, 2010 at 9:00 a.m.**

A pretrial conference will be held on **June 11, 2010 at 1:30 pm.** The defendant must be personally present in court. At this conference, counsel for each party shall deliver a written list of prospective witnesses and proposed exhibits to the court and counsel for all parties.

**Alternate judges.** Notice is hereby given, pursuant to Rule 25(a)(6), I.C.R. that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

- |                               |                         |
|-------------------------------|-------------------------|
| Hon. Phillip M. Becker        | Hon. G.D. Carey         |
| Hon. Dennis Goff              | Hon. Nathan Higer       |
| Hon. Daniel C. Hurlbutt Jr.   | Hon. James Judd         |
| Hon. Duff McKee               | Hon. Daniel Meehl       |
| Hon. George R. Reinhardt, III | Hon. Ronald Schilling   |
| Hon. W.H. Woodland            | Hon. Linda Copple Trout |
| Hon. Kathryn Sticklen         |                         |

Unless a party has previously exercised its right to disqualification without cause under Rule 25(a), I.C.R., each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this notice.

IT IS SO ORDERED this 13<sup>th</sup> day of April, 2010.

[Signature]  
TIMOTHY HANSEN  
District Judge

cc: ADA COUNTY PROSECUTOR  
INTERDEPARTMENTAL MAIL

JOE ELLSWORTH  
ATTORNEY AT LAW  
1031 EAST PARK BLVD  
BOISE, IDAHO 83712

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NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 147

APR 15 2010

JOSEPH L. ELLSWORTH, ESQ.  
ELLSWORTH, KALLAS, & TALBOY, P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945  
Idaho State Bar #3702

J. DAVID NAVARRO, Clerk  
By HEIDI KELLY  
DEPUTY

Attorney for Defendant

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

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR FE-2009-0015305
	)	
vs.	)	
	)	MOTION TO SUPPRESS
MICHAEL WALKER,	)	
	)	
Defendant.	)	
_____	)	

Comes Now, the defendant, through counsel, and hereby moves the court enters hereby moves the court, pursuant to ICR I2(b)(3 to suppress and all statements made by the defendant to police while in custody, including, without limitation, any statements made to officers Reimer and Montoya.

The defendant moves on the basis that these interviews were conducted in violation of the defendant's rights under the Fifth and Fourteenth Amendment of the United States Constitution as set forth in *Miranda v. Arizona*, 384 U.S. 486 (1966), and under Article 1, Section 13 of the Idaho Constitution, in the following particulars, to wit:

- 1) The defendant was arrested, handcuffed and interviewed by officer Reimer without any Miranda warnings;
- 2) The defendant was arrested, handcuffed and interviewed by officer Montoya without proper Miranda warnings including the admonition of the right to remain

MOTION TO SUPPRESS

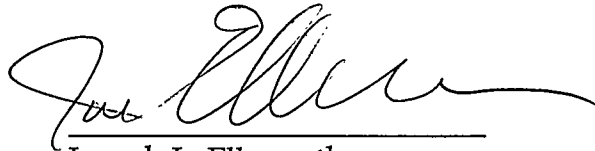
F

silent, and the right to have an attorney appointed if the defendant could not afford one.

3) The defendant was interviewed by officers after the defendant invoked his right to have an attorney present.

Oral argument is requested.

Dated this 13<sup>th</sup> day of April, 2009.



Joseph L. Ellsworth  
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 14<sup>th</sup> day of April, 2010, I served a true and correct copy of the within and foregoing document by the method indicated below and addressed to the following:

Ada County Prosecuting Attorney  
200 W. Front Street  
Boise, Idaho 83702

- U.S. Mail
- Facsimile
- Hand Delivery



Joseph L. Ellsworth

JOSEPH L. ELLSWORTH, ISB #3702  
 ELLSWORTH, KALLAS, TALBOY & DEFRANCO P.L.L.C.  
 1031 E. Park Blvd.  
 Boise, ID 83712  
 Phone: (208) 336-1843  
 Fax: (208) 345-8945

NO. \_\_\_\_\_  
 FILED \_\_\_\_\_  
 A.M. \_\_\_\_\_ P.M. **147**

**APR 15 2010**

**J. DAVID NAVARRO, Clerk**  
 By **HEIDI KELLY**  
 DEPUTY

ATTORNEY FOR DEFENDANT

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,	)	
	)	Case No.: CR FE 2009 0015305
Plaintiff,	)	
	)	<b>AFFIDAVIT OF MICHAEL</b>
vs.	)	<b>WALKER IN SUPPORT OF</b>
	)	<b>MOTION TO SUPPRESS</b>
MICHAEL WALKER,	)	
	)	
Defendant.	)	
_____	)	

STATE OF IDAHO )  
 ) ss:  
 County of Ada )

**COMES NOW** Michael Walker, and being first duly sworn upon oath, hereby  
 deposes and states:

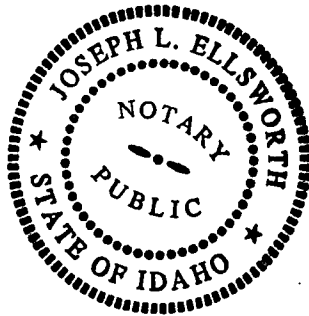
1. I am the Defendant in the above-titled case. The facts stated hereinafter are true and correct to the best of my knowledge and belief.
2. At the time of my arrest I was questioned by police. I was in custody and at the police station.
3. I repeatedly asked to have an attorney present during questioning.
4. After I requested an attorney, police continued to question me for an extensive period of time. I believe the interview lasted for well over an hour.

5. Further your affiant saith naught.

DATED this 12<sup>th</sup> day of April, 2010.

Mike Walker  
Michael Walker

SUBSCRIBED and SWORN to before me this 12 day of April, 2010.



Joseph L. Ellsworth  
Notary Public  
Residing at: Boise, Idaho  
My Commission Expires: 4/10/2014

CERTIFICATE OF SERVICE

I hereby certify that on this 14 day of April, 2010, I served a true and correct copy of the within and foregoing document by the method indicated below and addressed to the following:

Ada County Prosecuting Attorney  
200 W. Front Street, Ste. 3191  
Boise, Idaho 83702

US Mail  
 Hand Delivery  
 Facsimile: 287-7709

Molly Reed  
Molly Reed, Legal Assistant

APR 15 2010

J. DAVID NAVARRO, Clerk  
By HEIDI KELLY  
DEPUTY

JOSEPH L. ELLSWORTH, ESQ.  
ELLSWORTH, KALLAS, & TALBOY, P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945  
Idaho State Bar #3702

Attorney for Defendant

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

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL WALKER, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. CR FE-2009-0015305

MEMORANDUM IN SUPPORT  
OF MOTION TO SUPPRESS

BACKGROUND FACTS

Michael Walker was arrested on the service of a search warrant at 3301 W. Hamilton Street on August 18, 2009.

Mr. Walker was handcuffed at the scene and taken to the police station where he was charged in the instant case.

At the station Mr. Walker had a conversation with Officer Reimers. No Miranda Warning were given. Officer Reimers indicated that another officer would interview the defendant but then engaged in a conversation for several minutes with defendant without any warnings.

Officer Montoya then interviewed the defendant. Although the audio quality is extremely low quality, Officer Montoya provided a warning to the defendant, but the language of the admonition is not consistent with Miranda. It is not clear that the

MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS

J

defendant was informed that he had the right to remain silent, that the information could be used against the defendant in a court of law, or that the defendant had the right to appointment of an attorney if he could not afford one prior to questioning.

The defendant, Walker, according to his affidavit, repeatedly invoked his right to an attorney but was questioned anyway. Again, although the audio quality is very low, but there is taped evidence that the defendant requested appointment of counsel: "Get me a lawyer, Dude" (Reimer's recording at approximately 30 minutes). Walker was questioned further and allegedly made a statement regarding his supply of 1 to 2 ounces of marijuana.

The defendant moves to suppress statements made to the police.

#### ARGUMENT

Under *Miranda vs. Arizona*, 384 U.S. 436 (1996) an individual is in custody once agents make a formal arrest. The Supreme Court has also found a person to be in custody when objective factors show the indicia of arrest or a restraint on liberty. *Orozco v. Texas*, 394 U.S. 324 (1969).

Although there is no bright line rule, questioning at home is considered "custodial interrogation", the Supreme Court determined in *Orozco v. Texas*, 394 U.S. 324 (1969) that an accused was in custody when armed officers broke into his house in the middle of the night and surrounded him in his bedroom.

The primary focus is on the coerciveness of government agents and the environment in which the interrogation occurs. *U.S. v. Beraun-Perez*, 812 F.2d 127, *modified* 830 F.2d 127 (9th Cir. 1987). In this case, the court held the accused was subjected to psychological restraints as binding as physical restraint.

Although the U.S. Supreme Court has never required an exact reading of Miranda Warnings, the right to remain silent, and the right to consult with an attorney prior to questioning and to have the attorney present during an interrogation forms the basis of the Miranda decision. Any waiver of these rights must be expressed clearly

by the defendant.

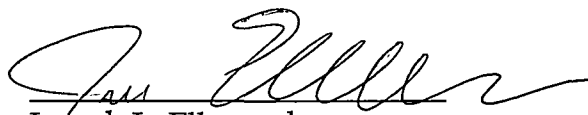
If a defendant invokes his rights under Miranda, questioning must cease until there is a sufficient cooling off period and new warnings given.

In this case it is unclear if the defendant understood that he had the right to counsel prior to questioning. The audio quality is unclear but the warnings given incomplete and there is no clear waiver of these rights.

The defendant invoked his right to counsel but was questioned by the police without interruption or additional warnings.

This Court should grant the Motion to Suppress.

Dated this 13<sup>th</sup> day of April, 2010.



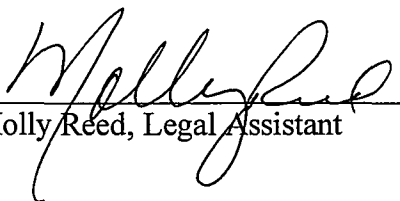
Joseph L. Ellsworth  
Attorney for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14 day of April, 2010, a true and correct copy of the within and foregoing document was served by the method indicated below and addressed to the following:

Ada County Prosecuting Attorney  
200 W. Front Street  
Boise, Idaho 83702

U.S. Mail  
 Hand Delivery  
 Facsimile: 287-7709

  
Molly Reed, Legal Assistant



160  
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NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 2

APR 30 2010

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney


**Brian Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2009-0015305</b>
vs.	)	
	)	<b>THIRD ADDENDUM TO</b>
MICHAEL JASON WALKER,	)	<b>DISCOVERY TO COURT</b>
	)	
Defendant.	)	
	)	

Comes now, Brian Naugle, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Third Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 29 day of April 2010.

  
\_\_\_\_\_  
Brian Naugle  
Deputy Prosecuting Attorney

8

3-47-15-168

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 3:30

MAY 05 2010

J. DAVID NAVARRO, Clerk  
By JANA E PETERSON  
DEPUTY

JOSEPH L. ELLSWORTH, ISB #3702  
ELLSWORTH, KALLAS, TALBOY & DEFRANCO, P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945

ATTORNEY FOR DEFENDANT


**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No.: CR FE 2009 0015305
	)	
vs.	)	<b>NOTICE OF HEARING</b>
	)	
MICHAEL WALKER,	)	
	)	
Defendant.	)	
_____	)	

TO: ADA COUNTY PROSECUTING ATTORNEY

**PLEASE TAKE NOTICE** that the Defendant, by and through attorney of record, will call on for hearing the Motion to Suppress, on **Monday, June 7, 2010 at 3:00 p.m.**, at the Ada County Courthouse, 200 West Front Street, Boise, Idaho, in front of the Honorable Judge Timothy Hansen.

**DATED** this 5<sup>th</sup> day of May, 2010.

  
Joseph L. Ellsworth  
Attorney for Defendant

**ORIGINAL**

7

CERTIFICATE OF SERVICE

I hereby certify that on this 5 day of May, 2010, I served a true and correct copy of the within and foregoing document by the method indicated below and addressed to the following:

Brian Naugle, Deputy Prosecuting Attorney  
Ada County Prosecuting Attorney  
200 W. Front Street, Ste. 3191  
Boise, Idaho 83702

US Mail  
 Hand Delivery  
 Facsimile: 287-7709

  
\_\_\_\_\_  
Molly Reed, Legal Assistant

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**MAY 05 2010**

J. DAVID NAVI, R.F.C. Clerk  
By Auren Olson  
DEPUTY

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

**RECEIVED**  
**APR 07 2010**  
ADA COUNTY CLERK

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

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL JASON WALKER )  
 )  
 Defendants. )  
 \_\_\_\_\_ )  
 )


Case No. CR-FE-2009-15305

**ORDER TO RESET JURY TRIAL**

This Stipulation Vacate and Reset Jury Trial from the 12<sup>th</sup> day of April, 2010 to the 21<sup>st</sup> day of June, 2010 at 9:00 a.m. having come before ~~me~~ <sup>the Court</sup> and good cause being shown,

**IT IS HEREBY ORDERED AND THIS DOES ORDER** that the Stipulation to Vacate and Reset Jury Trial to the 21<sup>st</sup> day of June, 2010 at 9:00 a.m. be granted.

**DATED** this 7<sup>th</sup> day of April, 2010.

  
\_\_\_\_\_  
Timothy Hansen  
District Judge

*mw*

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A.M. \_\_\_\_\_ FILED P.M. \_\_\_\_\_

MAY 18 2010

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian D. Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2009-0015305

**STATE'S MEMORANDUM IN  
SUPPORT OF OBJECTION TO  
MOTION TO SUPPRESS**

On behalf of the above-named Plaintiff comes Brian D. Naugle, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits this **MEMORANDUM IN SUPPORT OF OBJECTION TO MOTION TO SUPPRESS**.

**INTRODUCTION AND STATEMENT OF FACTS<sup>1</sup>**

On August 18, 2009, Officer Kelly Montoya and other members of the Boise Police Department served a Search Warrant at a home where the Defendant resided at 3301 W Hamilton Street in Boise. The search of that home revealed over five ounces of marijuana. As a result, Mr. Walker was arrested and taken to the police station, where he was interviewed by Officers Montoya and Reimers. Prior to being asked questions, Officer Montoya advised Mr.

<sup>1</sup> Testimony to be given in a suppression hearing will support the facts in this memorandum.

DP

Walker of his rights under *Miranda* in the presence of Officer Reimers. The Defendant waived those rights and agreed to speak with the Officers. The Defendant made incriminating statements. At no time during the questioning by the Officers did the Defendant request the presence of an attorney.

### ARGUMENT

When a person is subjected to a custodial interrogation, they must be warned that they have the right to remain silent, that anything they say could be used against them in court, that they have the right to the presence of an attorney, and that if they cannot afford an attorney will be appointed prior to questioning. *Miranda v. Arizona*, 384 U.S. 436, 479, 86 S.Ct. 1602, (1966). These warnings need not be given with a precise formula or set of words. Rather, the Court's "inquiry is simply whether the warnings reasonably convey to a suspect his rights as required by *Miranda*." *Florida v. Powell*, 130 S. Ct. 1195, 1204 (2010).

The State agrees with the Defendant that he was in custody for purposes of *Miranda* and thus the required warnings were required prior to any questioning of him. The State also agrees with the Defendant that the U.S. Supreme Court has never required an exact reading of the *Miranda* warnings. Thus, in the State's view, the Defendant's motion rests on a factual dispute between the parties.

The State will provide evidence showing that the Officers complied with *Miranda* and that the Defendant did not ask for the presence of an attorney at any point during the questioning of him. As mentioned by the Defendant, there is an audio-recording of the interview with the Defendant. The quality of this recording is poor and as such, not all words said during the interview can be heard. What can be heard, about 36 seconds into the interview, is Officer Kelly Montoya saying, "alright, I'm going to read you your rights...".

Officer Montoya then says some other words that cannot be understood, followed by the words... “you have the right to stop answering questions at any time...” followed shortly thereafter by the words “and/or have your attorney present...”. The entire colloquy lasts for about 20 seconds but the aforementioned phrases are the only ones that can be understood during that time frame due to the poor recording. Officers Reimers and Montoya, both present during the interview, will testify that the *Miranda* rights were given in their entirety, most likely from a standard form read by the Officers during interrogation interviews conducted at the police station. In addition, both Officers will testify that the Defendant waived those rights and agreed to speak with them. Finally, at no point during the interview did the Defendant request the presence of an attorney, and if he had, questioning would have ceased immediately.

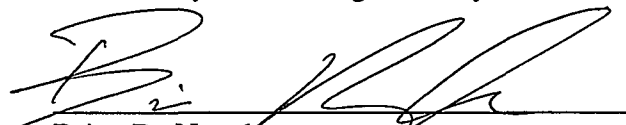
As for the Defendant’s contention that the Defendant said the words, “Get me a lawyer, dude,” 30 minutes into the interview, the State does not believe those words are captured in Officer Reimer’s audio recording.

**CONCLUSION**

The State agrees that *Miranda* applies to the interview in this case. *Miranda*’s requirements were followed. Therefore, anything the Defendant said during the interview is admissible and the State respectfully asks the Court to deny the Defendant’s Motion.

DATED this 14 day of May, 2010.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
Brian D. Naugle  
Deputy Prosecuting Attorney

MAY 18 2010

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian D. Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )


Case No. CR-FE-2009-0015305

**OBJECTION TO MOTION  
TO SUPPRESS**

Comes now the above-named Plaintiff, Brian D. Naugle, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and hereby objects to Defendant's Motion to Suppress. This objection is supported by the accompanying Memorandum in Support of Objection to Motion to Suppress.

DATED this 14 day of May, 2010.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
Brian D. Naugle  
Deputy Prosecuting Attorney

*De*



Session: Hansen060710  
Session Date: 2010/06/07  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 14:42

Courtroom: CR504

Clerk(s):  
Olson, Miren

State Attorney(s):  
Naugle, Brian

Public Defender(s):

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/06/07

15:04:57 - Operator  
Recording:  
15:04:57 - New case  
Walker, Michael  
15:05:08 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
15:05:19 - State Attorney: Naugle, Brian  
may not be prepared to go forward - explanation  
15:07:02 - Pers. Attorney: Ellsworth, Joe  
that is correct - comments  
15:08:01 - Judge: Hansen, Timothy  
comments - def. has waived right to speedy trial already - will vacate the  
15:08:48 - Judge: Hansen, Timothy  
PTC and JT at this time and the Mo/Suppress - will re-set the suppression  
15:10:39 - Judge: Hansen, Timothy  
motion to 7/19/10 at 3 and 3 D JT on 8/16/10 and PTC on 8/6/10 at 1:30  
15:12:29 - Judge: Hansen, Timothy  
comments to the def.  
15:13:07 - Operator  
Stop recording:

JUN 08 2010

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO  
By David Navarre Clerk

By Aren Olson DEPUTY

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CRFE09-15305
	)	
MICHAEL WALKER,	)	
	)	ORDER SETTING PRETRIAL
Defendant.	)	CONFERENCE & JURY TRIAL
	)	

A jury trial will be held on **August 16, 2010 at 9:00 a.m.**

A pretrial conference will be held on **August 6, 2010 at 1:30 pm.** The defendant must be personally present in court. At this conference, counsel for each party shall deliver a written list of prospective witnesses and proposed exhibits to the court and counsel for all parties.

**Alternate judges.** Notice is hereby given, pursuant to Rule 25(a)(6), I.C.R. that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

- |                               |                         |
|-------------------------------|-------------------------|
| Hon. Phillip M. Becker        | Hon. G.D. Carey         |
| Hon. Dennis Goff              | Hon. Nathan Higer       |
| Hon. Daniel C. Hurlbutt Jr.   | Hon. James Judd         |
| Hon. Duff McKee               | Hon. Daniel Meehl       |
| Hon. George R. Reinhardt, III | Hon. Ronald Schilling   |
| Hon. W.H. Woodland            | Hon. Linda Copple Trout |
| Hon. Kathryn Sticklen         | Hon. Barry Wood         |

Unless a party has previously exercised its right to disqualification without cause under Rule 25(a), I.C.R., each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this notice.

IT IS SO ORDERED this 7th day of June, 2010.

  
TIMOTHY HANSEN  
District Judge

cc: ADA COUNTY PROSECUTOR  
INTERDEPARTMENTAL MAIL

JOE ELLSWORTH  
ATTORNEY AT LAW  
1031 E PARK BLVD.  
BOISE, IDAHO 83712

Session: Hansen061110  
Session Date: 2010/06/11  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:59

Courtroom: CR507

Clerk(s):  
Johnson, Kathy

State Attorney(s):  
Duggan, Barbara  
Fisher, Jean  
Gunn, George  
Guzman, Cathy  
Naugle, Brian  
Sheehan, Karen

Public Defender(s):  
Jones, Teri  
Loschi, Jonathon  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):

Case ID: 0030

Case number: CRFE09.15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Sheehan, Karen  
Public Defender: Simonaitis, David

2010/06/11  
13:53:52 - Operator  
Recording:  
13:53:52 - New case  
Walker, Michael  
13:54:12 - Judge: Hansen, Timothy  
The Crt addresses counsel - rescheduled this matter.  
13:54:48 - Operator  
Stop recording:

06/15/2010 15:29 FAX

JUN 16 2010

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO, )

Plaintiff, )

vs. )

MICHAEL JASON WALKER, )

Defendant. )

Case No. CR-FE-2009-0015305

STIPULATION TO  
CONTINUE

COMES NOW, Brian Naugle, Deputy Prosecuting Attorney for Ada County, State of Idaho, and Joe Ellsworth, Attorney for the defendant, and hereby stipulate and agree that the Suppression Hearing scheduled for the 19th day of July 2010, be reset to the 3<sup>rd</sup> day of August 2010, at 3:00pm. The reason for this stipulated change is that the Officers are unavailable on that date.

06/15/2010 15:28 FAX

003/003

DATED this 16 day of June, 2010.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Brian Naugle  
Deputy Prosecuting Attorney



Joseph Ellsworth  
Counsel for Defendant

000080

JUN 21 2010

By J. David Naffaro Clerk  
DEPUTY

RECEIVED  
JUN 16 2010  
ADA COUNTY CLERK

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-2009-0015305  
**ORDER TO CONTINUE**

The above entitled matter having come before this Court and good cause appearing;

**IT IS HEREBY ORDERED** that the Suppression Hearing be reset to the 3<sup>rd</sup> day of August 2010, at the hour of 3:00 o'clock of said day.

**DATED** this 14 day of June 2010.



Judge

10  
AS  
8/3  
3

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JUN 25 2010

J. DAVID NAVARRO, Clerk  
By JANA E PETERSON  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Brian Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

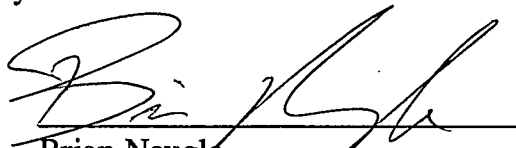
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
)

Case No. **CR-FE-2009-0015305**  
**FOURTH ADDENDUM TO  
DISCOVERY TO COURT**

Comes now, Brian Naugle, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted a Fourth Addendum to  
Response to Discovery.

RESPECTFULLY SUBMITTED this 24 day of June 2010.

  
\_\_\_\_\_  
Brian Naugle  
Deputy Prosecuting Attorney

Session: Hansen080310  
Session Date: 2010/08/03  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 14:49

Courtroom: CR501

Clerk(s):  
Oatman, Diane

State Attorney(s):  
Naugle, Brian

Public Defender(s):

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case number: FE0915305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/08/03

15:09:58 - Operator  
Recording:  
15:09:58 - New case  
Walker, Michael  
15:10:15 - Judge: Hansen, Timothy  
Ct calls case; def not present; counsel for def is present  
15:10:27 - Pers. Attorney: Ellsworth, Joe  
adv Ct def not present -- counsel stipulated to motion to suppress  
15:11:05 - Judge: Hansen, Timothy  
Ct will make additional record at pretrial when def is present  
15:11:20 - Pers. Attorney: Ellsworth, Joe  
prep'd written stip provided to the court  
15:12:19 - Judge: Hansen, Timothy  
Ct inquires of counsel re: additional record necessary



15:12:31 - State Attorney: Naugle, Brian  
interview with def lasts around 2hrs -- at about 1hr 27m, def invokes  
his

15:13:01 - State Attorney: Naugle, Brian  
right to counsel -- that will be excluded -- tract 4, is second half of

15:13:29 - State Attorney: Naugle, Brian  
interview -- tract 3 all admissible

15:13:43 - Pers. Attorney: Ellsworth, Joe  
concurrs with counsel -- stip reflects that agreement as well

15:14:01 - Judge: Hansen, Timothy  
Ct notes stip for the record -- will not sign order until Ct inquires of  
def

15:14:24 - Judge: Hansen, Timothy  
as to his understanding of stipulation

15:14:34 - Judge: Hansen, Timothy  
Ct notes Aug 6 pretrial

15:14:48 - Operator  
Stop recording:

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AUG 03 2009

By: J. David Navar (RC) Clerk  
DEPUTY

JOSEPH L. ELLSWORTH  
ELLSWORTH, KALLAS, TALBOY & DEFRANCO, P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945  
Idaho State Bar #3702

Attorney for Defendant

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

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL WALKER, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. CR FE-2009-0015305

STIPULATION: RE:  
MOTION TO SUPPRESS

Comes Now, the defendant, through counsel, Joseph Ellsworth, and the State of Idaho, by and through the undersigned deputy attorney, Brian Naugle, and hereby stipulate and agree that the Motion to Suppress be granted, in part, as follows:

The State agrees that the defendant's statement while in custody at and after the point on the audio recording identified as Reimer's 4-5, at a point approximately 20 minutes and 40 seconds shall not be admitted at the trial as evidence of the defendant's guilt. The parties agree that this is the point in which the defendant asked for a lawyer and that nothing after this invocation shall be used in the State's case.

Dated this 3 day of August, 2009.

Joseph L. Ellsworth  
Joseph L. Ellsworth  
Attorney for Defendant

Brian Naugle  
Brian Naugle  
Ada County Deputy Attorney

Session: Hansen080610  
Session Date: 2010/08/06  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:49

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Fisher, Jean  
Gunn, George  
Hemmer, Casey  
Naugle, Brian  
Udink, Denyce

Public Defender(s):  
Jones, Teri  
Loschi, Jonathon  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0020

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/08/06

13:41:31 - Operator  
Recording:  
13:41:31 - New case  
Walker, Michael  
13:41:45 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
13:42:00 - Pers. Attorney: Ellsworth, Joe  
still in a go mode for trial  
13:43:25 - State Attorney: Naugle, Brian  
will expect that this will go to trial

13:43:35 - Judge: Hansen, Timothy  
inquires as to trial issues

13:49:34 - Judge: Hansen, Timothy  
will have the parties here at 8:30 on the morning of trial

13:50:02 - Operator  
Stop recording:

---

5/16  
8/16  
2  
NO

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 3:12

AUG 13 2010

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

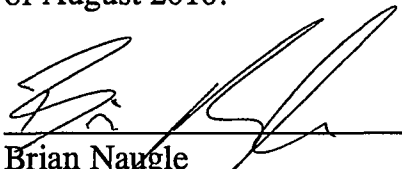
**Brian Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2009-0015305
vs.	)	
	)	<b>SIXTH ADDENDUM TO</b>
MICHAEL JASON WALKER,	)	<b>DISCOVERY RESPONSE TO</b>
	)	<b>COURT</b>
Defendant.	)	
	)	

Comes now, Brian Naugle, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Sixth Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 13 day of August 2010.

  
\_\_\_\_\_  
Brian Naugle  
Deputy Prosecuting Attorney

8

Session: Hansen081610  
Session Date: 2010/08/16  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:36

Courtroom: CR503

Clerk(s):  
Olson, Miren

State Attorney(s):  
Duggan, Barbara  
Naugle, Brian

Public Defender(s):  
Loschi, Jonathon

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/08/16

08:55:14 - Operator  
Recording:  
08:55:14 - New case  
Walker, Michael  
08:55:26 - Judge: Hansen, Timothy  
Calls case, def. is present with counsel - State present  
08:55:40 - Judge: Hansen, Timothy  
will bring up preliminary matter  
08:55:50 - State Attorney: Naugle, Brian  
comments -  
08:59:10 - Pers. Attorney: Ellsworth, Joe  
response  
08:59:13 - Judge: Hansen, Timothy  
questions to counsel  
08:59:24 - Pers. Attorney: Ellsworth, Joe  
response to the Court  
08:59:48 - Judge: Hansen, Timothy  
comments to Mr. Ellsworth  
09:00:24 - Operator  
Stop recording:  
09:06:55 - Operator  
Recording:

09:06:55 - Record  
Walker, Michael

09:06:57 - Judge: Hansen, Timothy  
Back on the record parties again in Court

09:08:44 - Judge: Hansen, Timothy  
comments on the instructions

09:09:16 - State Attorney: Naugle, Brian  
no additions, corrections or objections to the voir dire instructions

09:09:34 - Pers. Attorney: Ellsworth, Joe  
no additions, corrections or objections to the voir dire instructions

09:10:15 - Judge: Hansen, Timothy  
reminder on voir dire time

09:21:51 - Judge: Hansen, Timothy  
JURY IS BROUGHT IN AND IS NOW PRESENT

09:22:06 - Judge: Hansen, Timothy  
Beginning Instructions

09:27:56 - Judge: Hansen, Timothy  
Clerk calls roll of the initial 27 jurors

09:28:14 - Judge: Hansen, Timothy  
further instructions

09:30:28 - Judge: Hansen, Timothy  
Jury panel is sworn for Voir Dire

09:37:47 - Judge: Hansen, Timothy  
Courts initial questions for voir dire

09:40:09 - State Attorney: Naugle, Brian  
Begins Voir Dire

09:47:34 - State Attorney: Naugle, Brian  
moves to excuse #21 for cause

09:47:44 - Pers. Attorney: Ellsworth, Joe  
no objection

09:47:47 - Judge: Hansen, Timothy  
will excuse #21 for cause

09:47:59 - State Attorney: Naugle, Brian  
continues with voir dire

09:50:50 - State Attorney: Naugle, Brian  
moves to excuse #34

09:50:59 - Pers. Attorney: Ellsworth, Joe  
no objections

09:51:04 - Judge: Hansen, Timothy  
will excuse #34

09:51:11 - State Attorney: Naugle, Brian  
continues with Voir Dire

10:06:41 - State Attorney: Naugle, Brian  
moves to excuse #12

10:06:52 - Pers. Attorney: Ellsworth, Joe  
no objection

10:06:56 - Judge: Hansen, Timothy  
will excuse #12

10:07:02 - State Attorney: Naugle, Brian  
continues with voir dire

10:27:35 - State Attorney: Naugle, Brian  
passes the panel for cause

10:27:49 - Judge: Hansen, Timothy  
will take a 10 minute recess - admonishes the jury

10:28:17 - Operator  
Stop recording: (On Recess)

10:41:26 - Operator  
Recording:

10:41:26 - Record  
Walker, Michael

10:41:27 - Judge: Hansen, Timothy  
Back on the record - jurors present - def. present with counsel - State

10:41:47 - Judge: Hansen, Timothy  
present

10:41:50 - State Attorney: Naugle, Brian  
waives roll call

10:41:54 - Pers. Attorney: Ellsworth, Joe  
waives roll call

10:41:59 - Pers. Attorney: Ellsworth, Joe  
begins Voir Dire

10:54:49 - State Attorney: Naugle, Brian  
objection

10:55:16 - Judge: Hansen, Timothy  
sustains the objection

10:55:29 - Pers. Attorney: Ellsworth, Joe  
continues with voir dire

11:03:14 - Judge: Hansen, Timothy

11:03:16 - Pers. Attorney: Ellsworth, Joe  
waives panel for cause

11:03:28 - Judge: Hansen, Timothy  
preemptory challenges

11:25:09 - State Attorney: Naugle, Brian  
jury acceptable to the State

11:25:16 - Pers. Attorney: Ellsworth, Joe  
jury acceptable to the defense

11:25:23 - Judge: Hansen, Timothy  
comments to excused jurors

11:26:34 - Judge: Hansen, Timothy  
comments to the jury

11:27:23 - Judge: Hansen, Timothy  
jury is sworn - will take a recess

11:28:34 - Operator  
Stop recording:

11:58:58 - Operator  
Recording:

11:58:58 - Record  
Walker, Michael

11:58:58 - Judge: Hansen, Timothy  
Back on the record - parties again in Court

12:00:35 - State Attorney: Naugle, Brian  
no additions, corrections or objections to the opening instructions

12:00:49 - Pers. Attorney: Ellsworth, Joe  
no additions, corrections or objections to the opening instructions

12:01:12 - Judge: Hansen, Timothy  
JURY IS BROUGHT IN AND IS NOW PRESENT

12:03:13 - State Attorney: Naugle, Brian  
Waives Roll Call

12:03:17 - Pers. Attorney: Ellsworth, Joe  
Waives Roll Call

12:03:23 - Judge: Hansen, Timothy  
opening instructions

12:14:08 - State Attorney: Naugle, Brian  
Opening Statement

12:21:11 - Pers. Attorney: Ellsworth, Joe  
Opening Statement

12:24:49 - State Attorney: Naugle, Brian



objection  
12:24:52 - Judge: Hansen, Timothy  
overruled  
12:24:55 - Pers. Attorney: Ellsworth, Joe  
continues with opening  
12:26:38 - State Attorney: Naugle, Brian  
Calls first witness  
12:27:29 - Other: Montoya, Officer Kelly  
Is sworn and direct examined by Mr. Naugle  
12:55:06 - Pers. Attorney: Ellsworth, Joe  
Cross-Examination of Officer Montoya  
13:16:45 - State Attorney: Naugle, Brian  
Re-Direct Examination  
13:17:31 - Pers. Attorney: Ellsworth, Joe  
objection - hearsay  
13:17:38 - Judge: Hansen, Timothy  
sustained  
13:17:42 - State Attorney: Naugle, Brian  
continues with re-direct  
13:18:34 - Judge: Hansen, Timothy  
witness stands down and is excused  
13:19:01 - State Attorney: Naugle, Brian  
calls next witness  
13:19:42 - Other: Powell, Officer Brett  
Is sworn and direct examined by Mr. Naugle  
13:32:44 - Pers. Attorney: Ellsworth, Joe  
Cross-Examination of Officer Powell  
13:33:08 - State Attorney: Naugle, Brian  
nothing further  
13:33:14 - Judge: Hansen, Timothy  
witness stands down and is excused  
13:33:31 - State Attorney: Naugle, Brian  
calls next witness  
13:34:23 - Other: Clark, Officer Kelly  
Is sworn and direct examined by Mr. Naugle  
13:43:07 - State Attorney: Naugle, Brian  
moves to admit and publish ex. 19  
13:43:17 - Pers. Attorney: Ellsworth, Joe  
no objection  
13:43:21 - Judge: Hansen, Timothy  
will admit ex. 19 and allow publication  
13:43:46 - State Attorney: Naugle, Brian  
continues with direct  
13:45:33 - State Attorney: Naugle, Brian  
moves to admit and publish State's ex. 20  
13:45:53 - Pers. Attorney: Ellsworth, Joe  
no objection  
13:45:56 - Judge: Hansen, Timothy  
will admit and allow publication of State's Ex. 20  
13:46:09 - State Attorney: Naugle, Brian  
continues with direct  
13:48:34 - State Attorney: Naugle, Brian  
moves to admit and publish ex. 23, 24, and 16  
13:48:56 - Pers. Attorney: Ellsworth, Joe  
no objection  
13:48:59 - Judge: Hansen, Timothy  
will admit and allow publication of Ex.s 23, 24, and 16  
13:49:17 - State Attorney: Naugle, Brian

continues with direct  
13:53:05 - Pers. Attorney: Ellsworth, Joe  
Cross-Examination  
13:57:46 - Pers. Attorney: Ellsworth, Joe  
13:57:50 - State Attorney: Naugle, Brian  
nothing further  
13:57:58 - State Attorney: Naugle, Brian  
13:57:59 - Judge: Hansen, Timothy  
witness stands down and is excused  
13:58:08 - Judge: Hansen, Timothy  
admonishes the jury  
13:59:33 - Judge: Hansen, Timothy  
JURY IS TAKEN OUT  
13:59:39 - Judge: Hansen, Timothy  
comments to counsel  
14:00:24 - Operator  
Stop recording: (On Recess)

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Session: Hansen081710  
Session Date: 2010/08/17  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:38

Courtroom: CR503

Clerk(s):  
Olson, Miren

State Attorney(s):  
Naugle, Brian

Public Defender(s):

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/08/17

09:05:38 - Operator  
Recording:  
09:05:38 - New case  
Walker, Michael  
09:05:51 - Judge: Hansen, Timothy  
Calls case, def. is present with counsel - State present  
09:06:04 - State Attorney: Naugle, Brian  
no preliminary matters  
09:06:09 - Pers. Attorney: Ellsworth, Joe  
no preliminary matters  
09:06:14 - Judge: Hansen, Timothy  
JURY IS BROUGHT IN AND IS NOW PRESENT  
09:07:46 - State Attorney: Naugle, Brian  
WAIVES ROLL CALL  
09:07:49 - Pers. Attorney: Ellsworth, Joe  
WAIVES ROLL CALL  
09:07:55 - Judge: Hansen, Timothy  
reviews  
09:08:00 - State Attorney: Naugle, Brian  
calls next witness  
09:09:01 - Other: Burch, Sgt. Dave  
Is sworn and direct examined by Mr. Naugle  
09:18:16 - Pers. Attorney: Ellsworth, Joe  
objection

09:18:26 - Judge: Hansen, Timothy  
response to Mr. Ellsworth - will overrule the objection

09:18:42 - State Attorney: Naugle, Brian  
continues with Direct

09:27:07 - State Attorney: Naugle, Brian  
moves to admit Ex. 18

09:28:51 - Pers. Attorney: Ellsworth, Joe  
no objection

09:28:54 - Judge: Hansen, Timothy  
will admit ex. 18 and allows publication

09:29:03 - State Attorney: Naugle, Brian  
continues with direct

09:29:40 - Pers. Attorney: Ellsworth, Joe  
cross-examination

09:38:05 - State Attorney: Naugle, Brian  
nothing further

09:38:09 - Judge: Hansen, Timothy  
witness stands down and is excused

09:38:20 - State Attorney: Naugle, Brian  
calls next witness

09:39:20 - Other: Reimers, Officer Will  
Is sworn and direct examined by Mr. Naugle

09:53:10 - Pers. Attorney: Ellsworth, Joe  
objection - relevance

09:53:16 - State Attorney: Naugle, Brian  
response

09:53:33 - Pers. Attorney: Ellsworth, Joe  
comments

09:53:44 - Judge: Hansen, Timothy  
comments to Mr. Ellsworth - overrules the objection

09:54:25 - Starting Side Bar.  
Starting Side Bar.

09:54:37 - Ending Side Bar.  
Ending Side Bar.

09:55:03 - State Attorney: Naugle, Brian  
continues with direct

09:55:52 - State Attorney: Naugle, Brian  
moves to admit and publish state's ex. 11

09:56:05 - Pers. Attorney: Ellsworth, Joe  
question in aid of objection

09:56:42 - Judge: Hansen, Timothy  
will admit State's 11 and will allow publication

09:56:53 - State Attorney: Naugle, Brian  
continues with direct

10:01:37 - State Attorney: Naugle, Brian  
publishes the Audio CD

10:10:48 - Pers. Attorney: Ellsworth, Joe  
cross-examination

10:23:34 - Pers. Attorney: Ellsworth, Joe  
moves to admit ex. A-k

10:23:50 - Pers. Attorney: Ellsworth, Joe

10:23:52 - Pers. Attorney: Ellsworth, Joe  
no objection

10:23:55 - Judge: Hansen, Timothy  
will admit Ex.s A thru K

10:24:05 - State Attorney: Naugle, Brian

10:24:07 - Pers. Attorney: Ellsworth, Joe  
continues with cross

10:26:29 - State Attorney: Naugle, Brian  
Re-Direct

10:26:34 - State Attorney: Naugle, Brian

10:26:36 - Judge: Hansen, Timothy  
witness stands down and is excused

10:26:43 - Judge: Hansen, Timothy  
admonishes the jury

10:28:46 - Operator  
Stop recording:

10:48:38 - Operator  
Recording:

10:48:38 - Record  
Walker, Michael

10:48:38 - Judge: Hansen, Timothy  
Back on the record - parties again in Court

10:48:50 - State Attorney: Naugle, Brian  
no preliminary matters

10:48:55 - Pers. Attorney: Ellsworth, Joe  
no preliminary matters

10:49:02 - Judge: Hansen, Timothy  
JURY IS BROUGHT BACK IN AND IS NOW PRESENT

10:50:36 - State Attorney: Naugle, Brian  
waives roll call

10:50:39 - Pers. Attorney: Ellsworth, Joe  
waives roll call

10:50:43 - Judge: Hansen, Timothy  
reviews

10:51:24 - State Attorney: Naugle, Brian  
calls next witness

10:51:35 - Other: Weddle, Laura  
Is sworn and direct examined by Mr. Naugle

10:56:00 - State Attorney: Naugle, Brian  
Moves to admit ex. 17

10:56:54 - Pers. Attorney: Ellsworth, Joe  
no objection

10:56:57 - Judge: Hansen, Timothy  
will admit ex. 17

10:57:02 - State Attorney: Naugle, Brian  
continues with direct

10:57:34 - State Attorney: Naugle, Brian  
would like to publish ex. 17

10:57:42 - Pers. Attorney: Ellsworth, Joe  
no objection

10:57:45 - Judge: Hansen, Timothy  
will allow publication of Ex. 17

10:57:52 - State Attorney: Naugle, Brian  
continues with direct

11:00:22 - State Attorney: Naugle, Brian  
moves to admit and publish ex. 21

11:00:34 - Pers. Attorney: Ellsworth, Joe  
no objection

11:00:37 - Judge: Hansen, Timothy  
will admit ex. 21 and allow publication

11:00:46 - State Attorney: Naugle, Brian  
continues with direct

11:02:24 - State Attorney: Naugle, Brian  
moves to admit ex.

11:02:41 - Pers. Attorney: Ellsworth, Joe

no objection  
11:02:46 - Judge: Hansen, Timothy  
will admit ex.  
11:02:53 - State Attorney: Naugle, Brian  
continues with direct  
11:06:21 - State Attorney: Naugle, Brian  
moves to admit ex. 1  
11:06:27 - Pers. Attorney: Ellsworth, Joe  
no objection  
11:06:31 - Judge: Hansen, Timothy  
will admit ex. 1  
11:06:35 - State Attorney: Naugle, Brian  
continues with direct  
11:13:40 - State Attorney: Naugle, Brian  
moves to admit ex. 3  
11:13:46 - Pers. Attorney: Ellsworth, Joe  
no objection  
11:13:48 - Judge: Hansen, Timothy  
will admit ex. 3  
11:13:58 - State Attorney: Naugle, Brian  
continues with direct  
11:16:40 - State Attorney: Naugle, Brian  
moves to admit ex. 4  
11:16:46 - Pers. Attorney: Ellsworth, Joe  
no objection  
11:16:48 - Judge: Hansen, Timothy  
will admit ex. 4  
11:16:53 - State Attorney: Naugle, Brian  
continues with direct  
11:25:05 - State Attorney: Naugle, Brian  
moves to admit ex. 6  
11:25:11 - Pers. Attorney: Ellsworth, Joe  
no objection  
11:25:18 - Judge: Hansen, Timothy  
will admit ex. 6  
11:25:23 - State Attorney: Naugle, Brian  
continues with direct  
11:30:02 - State Attorney: Naugle, Brian  
moves to admit ex. 7  
11:30:08 - Pers. Attorney: Ellsworth, Joe  
no objection  
11:30:10 - Judge: Hansen, Timothy  
will admit ex. 7  
11:30:16 - State Attorney: Naugle, Brian  
continues with direct  
11:32:49 - Pers. Attorney: Ellsworth, Joe  
cross-examination  
11:39:26 - Judge: Hansen, Timothy  
witness stands down and is free to go  
11:39:44 - State Attorney: Naugle, Brian  
calls next witness  
11:40:00 - Other: Brutsman-Rice, Kristina  
Is sworn and direct examined by Mr. Naugle  
11:47:35 - Pers. Attorney: Ellsworth, Joe  
objection  
11:47:46 - Judge: Hansen, Timothy  
comments to Mr. Ellsworth - overrules the objection  
11:48:01 - Pers. Attorney: Ellsworth, Joe

requests cautionary instruction  
11:48:12 - Judge: Hansen, Timothy  
instructs the jury  
11:48:35 - State Attorney: Naugle, Brian  
continues with direct  
11:49:39 - Pers. Attorney: Ellsworth, Joe  
same objection - prior bad acts  
11:49:52 - Judge: Hansen, Timothy  
will take the matter up outside of the jury - admonishes the jury and takes  
11:50:09 - Judge: Hansen, Timothy  
them out  
11:51:00 - Judge: Hansen, Timothy  
will have the witness stand down  
11:51:21 - Judge: Hansen, Timothy  
comments to counsel as to prior deliveries  
11:52:16 - State Attorney: Naugle, Brian  
response to the Court  
11:53:39 - Pers. Attorney: Ellsworth, Joe  
comments to the Court  
11:54:56 - Judge: Hansen, Timothy  
comments to counsel  
11:56:10 - State Attorney: Naugle, Brian  
comments to the Court  
11:58:56 - Judge: Hansen, Timothy  
comments to counsel  
11:59:00 - State Attorney: Naugle, Brian  
nothing further  
11:59:03 - Pers. Attorney: Ellsworth, Joe  
nothing further  
11:59:09 - Judge: Hansen, Timothy  
JURY IS BROUGHT BACK IN AND IS NOW PRESENT  
11:59:23 - Judge: Hansen, Timothy  
WITNESS RETAKES THE STAND  
12:01:07 - State Attorney: Naugle, Brian  
waives roll call  
12:01:10 - Pers. Attorney: Ellsworth, Joe  
waives roll call  
12:01:16 - Judge: Hansen, Timothy  
reviews - has sustained in part and overruled the objection in part  
12:01:47 - Judge: Hansen, Timothy  
reminds the witness of her oath  
12:02:07 - State Attorney: Naugle, Brian  
continues with direct  
12:02:13 - Pers. Attorney: Ellsworth, Joe  
objection  
12:02:16 - Judge: Hansen, Timothy  
noted and overruled  
12:02:23 - State Attorney: Naugle, Brian  
continues with direct  
12:07:55 - Pers. Attorney: Ellsworth, Joe  
objection - hearsay  
12:08:04 - State Attorney: Naugle, Brian  
response to the Court  
12:08:17 - Pers. Attorney: Ellsworth, Joe  
response  
12:08:21 - Judge: Hansen, Timothy  
will overrule the objection  
12:08:42 - State Attorney: Naugle, Brian

continues with direct  
12:20:34 - Pers. Attorney: Ellsworth, Joe  
cross-examination  
12:26:16 - State Attorney: Naugle, Brian  
re-direct  
12:27:00 - Judge: Hansen, Timothy  
witness stands down and is excused  
12:27:41 - Judge: Hansen, Timothy  
admonishes the jury  
12:27:49 - Operator  
Stop recording: (On Recess)  
12:28:20 - Operator  
Recording:  
12:28:20 - Record  
Walker, Michael  
12:28:25 - Judge: Hansen, Timothy  
comments to counsel on DC Staffing  
12:29:47 - Operator  
Stop recording: (On Recess)  
12:44:15 - Operator  
Recording:  
12:44:15 - Record  
Walker, Michael  
12:44:15 - Judge: Hansen, Timothy  
Back on the record parties again in Court - comments to counsel  
12:46:15 - State Attorney: Naugle, Brian  
no preliminary matters  
12:46:20 - Pers. Attorney: Ellsworth, Joe  
no preliminary matters  
12:46:30 - Pers. Attorney: Ellsworth, Joe  
12:46:31 - Judge: Hansen, Timothy  
JURY IS BROUGHT BACK IN AND IS NOW PRESENT  
12:47:37 - State Attorney: Naugle, Brian  
WAIVES ROLL CALL  
12:47:45 - Pers. Attorney: Ellsworth, Joe  
WAIVES ROLL CALL  
12:47:58 - State Attorney: Naugle, Brian  
Calls next witness  
12:48:52 - Other: Owsley, Corrina  
Is sworn and direct examined by Mr. Naugle  
13:04:26 - State Attorney: Naugle, Brian  
moves to admit 2, 5, and 8  
13:04:34 - Pers. Attorney: Ellsworth, Joe  
no objection  
13:04:38 - Judge: Hansen, Timothy  
will admit ex.s 2, 5, and 8  
13:04:47 - Pers. Attorney: Ellsworth, Joe  
cross examination  
13:07:06 - State Attorney: Naugle, Brian  
re-direct  
13:07:49 - Judge: Hansen, Timothy  
witness stands down and is excused  
13:07:57 - State Attorney: Naugle, Brian  
State rests  
13:08:02 - Pers. Attorney: Ellsworth, Joe  
will not present any evidence  
13:08:14 - Judge: Hansen, Timothy  
comments to the Jury



13:08:52 - Judge: Hansen, Timothy  
admonishes the jury and will bring them back tomorrow at 9:00 a.m

13:10:08 - Judge: Hansen, Timothy  
JURY IS EXCUSED

13:10:14 - Judge: Hansen, Timothy  
comments to counsel on the jury instructions

13:10:37 - Judge: Hansen, Timothy  
will have counsel present at 8:30 in the morning to go over instructions

13:11:21 - State Attorney: Naugle, Brian  
comments on a lesser included

13:11:29 - Judge: Hansen, Timothy  
comments

13:11:33 - State Attorney: Naugle, Brian  
Would request a lesser included of Poss. of greater than 3 ozs

13:11:54 - Pers. Attorney: Ellsworth, Joe  
no objection to that instruction

13:12:02 - Judge: Hansen, Timothy  
will include that instruction as a lesser included

13:12:47 - State Attorney: Naugle, Brian  
nothing further

13:12:53 - Pers. Attorney: Ellsworth, Joe  
nothing further

13:12:58 - Judge: Hansen, Timothy  
comments

13:13:04 - Operator  
Stop recording:

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Session: Hansen081810  
Session Date: 2010/08/18  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:27

Courtroom: CR503

Clerk(s):

Olson, Miren

State Attorneys:

Naugle, Brian

Public Defender(s):

Prob. Officer(s):

Court interpreter(s):

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Case ID: 0001

Case Number: CRFE09-15305

Plaintiff:

Plaintiff Attorney:

Defendant: Walker, Michael

Co-Defendant(s):

Pers. Attorney: Ellsworth, Joe

State Attorney: Naugle, Brian

Public Defender:

2010/08/18

08:51:28 - Operator

Recording:

08:51:28 - New case

Walker, Michael

08:51:40 - Judge: Hansen, Timothy

Calls case, def. is present with counsel - State present

08:51:56 - Judge: Hansen, Timothy

questions to Mr. Walker to not testify in the case

08:52:11 - Pers. Attorney: Ellsworth, Joe

response to the Court

08:52:19 - Judge: Hansen, Timothy

questions

08:53:44 - Judge: Hansen, Timothy

is satisfied that the decision to not testify is knowing and

voluntary

08:55:53 - State Attorney: Naugle, Brian  
no additions corrections or objections

08:56:42 - Pers. Attorney: Ellsworth, Joe  
no additions corrections or objections

08:56:49 - State Attorney: Naugle, Brian  
no preliminary matters

08:56:54 - Pers. Attorney: Ellsworth, Joe  
no preliminary matters

08:57:02 - Judge: Hansen, Timothy  
JURY IS BROUGHT IN AND IS NOW PRESENT

08:57:11 - State Attorney: Naugle, Brian  
WAIVES ROLL CALL

08:57:15 - Pers. Attorney: Ellsworth, Joe  
WAIVES ROLL CALL

08:57:19 - State Attorney: Naugle, Brian

09:08:57 - Judge: Hansen, Timothy  
closing instructions

09:11:38 - State Attorney: Naugle, Brian  
closing argument

09:36:09 - Pers. Attorney: Ellsworth, Joe  
closing argument

09:49:28 - Pers. Attorney: Ellsworth, Joe

09:49:30 - State Attorney: Naugle, Brian  
objection - mistates the law

09:49:40 - Judge: Hansen, Timothy  
sustains the objection

09:49:45 - Pers. Attorney: Ellsworth, Joe  
continues with closing

09:56:44 - State Attorney: Naugle, Brian  
objection - misstates the evidence

09:56:52 - Judge: Hansen, Timothy  
overruled

09:56:54 - Pers. Attorney: Ellsworth, Joe  
continues with closing

09:57:55 - State Attorney: Naugle, Brian  
final argument

10:11:51 - Judge: Hansen, Timothy  
Juror #2 is chosen as the alternate

10:12:02 - Judge: Hansen, Timothy  
bailiff is sworn

10:12:07 - Judge: Hansen, Timothy  
JURY IS TAKEN OUT TO DELIBERATE

10:13:32 - Operator  
Stop recording:

14:20:59 - Operator  
Recording:

14:20:59 - Record

Walker, Michael

- 14:20:59 - Judge: Hansen, Timothy  
Back on the record - parties again in Court - has a question from the Jury
- 14:21:26 - Judge: Hansen, Timothy  
will read the question into the record
- 14:21:33 - Judge: Hansen, Timothy  
deadlocked - better off to settle on lesser or continue to deliberate
- 14:22:15 - Judge: Hansen, Timothy  
comments on the discussion with counsel in chambers
- 14:23:37 - State Attorney: Naugle, Brian  
agrees with the course of action
- 14:23:44 - Pers. Attorney: Ellsworth, Joe  
agrees with the course of action
- 14:24:04 - Pers. Attorney: Ellsworth, Joe  
would prefer not to ask where the jury stands
- 14:24:13 - State Attorney: Naugle, Brian  
would like to know where the jury stands
- 14:24:23 - Judge: Hansen, Timothy  
comments - Court is under the opinion that polling the jury would not be
- 14:24:43 - Judge: Hansen, Timothy  
productive
- 14:25:07 - Pers. Attorney: Ellsworth, Joe  
question to the Court
- 14:25:13 - Judge: Hansen, Timothy  
response to Mr. Ellsworth
- 14:25:55 - Pers. Attorney: Ellsworth, Joe  
response to the Court
- 14:26:05 - Judge: Hansen, Timothy  
comments
- 14:27:03 - Judge: Hansen, Timothy  
JURY IS BROUGHT BACK IN AND IS NOW PRESENT
- 14:28:22 - State Attorney: Naugle, Brian  
WAIVES ROLL CALL
- 14:28:26 - Pers. Attorney: Ellsworth, Joe  
WAIVES ROLL CALL
- 14:28:38 - Judge: Hansen, Timothy  
comments to the jury on the question
- 14:29:13 - Judge: Hansen, Timothy  
inquiries to the presiding juror
- 14:30:07 - Judge: Hansen, Timothy  
it appears to the Court that we have a hung jury and the Court will declare a
- 14:30:22 - Judge: Hansen, Timothy  
mistrial at this time - will excuse the jury at this time -  
Thanks to the

14:30:39 - Judge: Hansen, Timothy  
Jury

14:30:53 - Judge: Hansen, Timothy  
final instruction

14:33:03 - Judge: Hansen, Timothy  
JURY IS EXCUSED

14:33:11 - State Attorney: Naugle, Brian  
would request that the matter be tried again

14:33:34 - Judge: Hansen, Timothy  
will set the matter for scheduling conference to 8/27/10 at  
9

14:35:52 - Operator  
Stop recording:

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AUG 18 2010

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO  
By: Maren Olson (Clerk)  
DEPUTY  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL JASON WALKER, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. CR-FE-2009-0015305

JURY INSTRUCTIONS

THE HONORABLE TIMOTHY HANSEN

DISTRICT JUDGE

PRESIDING

**INSTRUCTION NO.   1**

This is the case of State of Idaho v. MICHAEL JASON WALKER. Are the parties ready to proceed?

Ladies and Gentlemen, you have been summoned as prospective jurors in the lawsuit now before us. The first thing we do in a trial is to select 12 jurors and, one alternate juror from among you.

I am Timothy Hansen, the judge in charge of the courtroom and this trial. The deputy clerk of court marks the trial exhibits and administers oaths to you jurors and to the witnesses. The bailiff will assist me in maintaining courtroom order and working with the jury. The court reporter, will keep a verbatim account of all matters of record during the trial.

Each of you is qualified to serve as a juror of this court. This call upon your time does not frequently come to you, but is part of your obligation for your citizenship in this state and country. No one should avoid fulfilling this obligation except under the most pressing circumstances. Service on a jury is a civic and patriotic obligation which all good citizens should perform.

Service on a jury affords you an opportunity to be a part of the judicial process, by which the legal affairs and liberties of your fellow men and women are determined and protected under our form of government. You are being asked to perform one of the highest duties of citizenship, that is, to sit in judgment on facts which will determine the guilt or innocence of persons charged with a crime.

To assist you with the process of selection of a jury, I will introduce you to the parties and their lawyers and tell you in summary what this action is about. When I introduce an individual would you please stand and briefly face the jury panel and then retake your seat.

The State of Idaho is the plaintiff in this action. The lawyer representing the State is Brian Naugle, a member of the county prosecuting attorney's staff.

The defendant in this action is MICHAEL JASON WALKER. The lawyer representing Mr. Walker is Joseph Ellsworth.

I will now read you the pertinent portion of the Information which sets forth the charges against the defendant. The Information is not to be considered as evidence but is a mere formal charge against the defendants. You must not consider it as evidence of guilt and you must not be influenced by the fact that charges have been filed.

The Information in Count I charges that the defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Marijuana, a Schedule I(d)(19) controlled substance with the intent to deliver the aforementioned controlled substance.

The Information in Count II charges that the defendant, MICHAEL JASON WALKER, on or about the 18th day of August, 2009, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a scale and/or pipe, used to analyze and/or inhale a controlled substance.

To each of these charges Mr. Walker has pled not guilty.

Under our law and system of justice, every defendant is presumed to be innocent. The effect of this presumption is to require the State to prove a defendant's guilt beyond a reasonable doubt in order to support a conviction against that defendant.



As the judge in charge of this courtroom, it is my duty, at various times during the course of this trial, to instruct you as to the law that applies to this case.

The duty of the jury is to determine the facts; to apply the law set forth in the instructions to those facts, and in this way to decide the case. In applying the Court's instructions as to the controlling law, you must follow those instructions regardless of your opinion of what the law is or what the law should be, or what any lawyer may state the law to be.

During the course of this trial, including the jury selection process, you are instructed that you are not to discuss this case among yourselves or with anyone else, nor to form any opinion as to the merits of the case until after the case has been submitted to you for your determination.

The clerk will now call roll of the initial selection of 27 jurors. As your name is called please respond audibly.

In this part of the jury selection, you will be asked questions touching on your qualifications to serve as jurors in this particular case. This part of the case is known as the voir dire examination.

Voir dire examination is for the purpose of determining if your decision in this case would in any way be influenced by opinions which you now hold or by some personal experience or special knowledge which you may have concerning the subject matter to be tried. The object is to obtain twelve persons who will impartially try the issues of this case upon the evidence presented in this courtroom without being influenced by any other factors.

Please understand that this questioning is not for the purpose of prying into your affairs for personal reasons but is only for the purpose of obtaining an impartial jury.

Each question has an important bearing upon your qualifications as a juror and each question is based upon a requirement of the law with respect to such qualifications. Each question is asked each of you, as though each of you were being questioned separately.

If your answer to any question is yes, please raise your hand. You will then be asked to identify yourself both by name and juror number.

At this time I would instruct both sides to avoid repeating any question during this voir dire process which has already been asked. I would ask counsel to note, however, that you certainly have the right to ask follow-up questions of any individual juror based upon that juror's response to any previous question.

The jury should be aware that during and following the voir dire examination one or more of you may be challenged.

Each side has a certain number of "peremptory challenges", by which I mean each side can challenge a juror and ask that he or she be excused without giving a reason therefore. In addition each side has challenges "for cause", by which I mean that each side can ask that a juror be excused for a specific reason. If you are excused by either side please do not feel offended or feel that your honesty or integrity is being questioned. It is not.

The clerk will now swear the entire jury panel for the voir dire examination.

**INSTRUCTION NO. 2**

During the course of this trial, including the jury selection process, you are instructed that you are not to discuss this case among yourselves or with anyone else, nor to form an opinion as to the merits of the case until after the case has been submitted to you for your determination.

INSTRUCTION NO. 3

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the State has the burden of proof, it goes first. After the State's opening statement, the defense may make an opening statement, or may wait until the State has presented its case.

The State will offer evidence that it says will support the charges against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the State may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the State and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

**INSTRUCTION NO. 4**

Under our law and system of justice, the defendant is presumed to be innocent. The presumption of innocence means two things.

First, the State has the burden of proving the defendant guilty. The State has that burden throughout the trial. The defendant is never required to prove his innocence, nor does the defendant ever have to produce any evidence at all.

Second, the State must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It is the kind of doubt which would make an ordinary person hesitant to act in the most important affairs of his or her own life. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

**INSTRUCTION NO. 5**

This criminal case has been brought by the State of Idaho. I will sometimes refer to the State as the prosecution. The State is represented at this trial by the prosecuting attorney, Brian Naugle. The defendant, MICHAEL JASON WALKER, is represented by a lawyer, Joseph Ellsworth.

The defendant is charged by the State of Idaho with violation of law. The charge against the defendant is contained in the Information. The clerk shall read the Information and state the defendant's plea.

The Information is simply a description of the charge; it is not evidence.

**INSTRUCTION NO. 6**

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are

not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms “circumstantial evidence,” “direct evidence” and “hearsay evidence.” Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.



**INSTRUCTION NO. 7**

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

**INSTRUCTION NO. 8**

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note-taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

**INSTRUCTION NO. 9**

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

First, do not talk about this case either among yourselves or with anyone else during the course of the trial. You should keep an open mind throughout the trial and not form or express an opinion about the case. You should only reach your decision after you have heard all the evidence, after you have heard my final instruction and after the final arguments. You may discuss this case with the other members of the jury only after it is submitted to you for your decision. All such discussion should take place in the jury room.

Second, do not let any person talk about this case in your presence. If anyone does talk about it, tell them you are a juror on the case. If they won't stop talking, report that to the bailiff as soon as you are able to do so. You should not tell any of your fellow jurors about what has happened.

Third, during this trial do not talk with any of the parties, their lawyers or any witnesses. By this, I mean not only do not talk about the case, but do not talk at all, even to pass the time of day. In no other way can all parties be assured of the fairness they are entitled to expect from you as jurors.

Fourth, during this trial do not make any investigation of this case or inquiry outside of the courtroom on your own. Do not go any place mentioned in the testimony without an explicit order from me to do so. You must not consult any books, dictionaries, encyclopedias, the Internet or any other source of information unless I specifically authorize you to do so.

Fifth, do not read about the case in the newspapers. Do not listen to radio or television broadcasts about the trial. You must base your verdict solely on what is presented in court and not upon any newspaper, radio, television or other account of what may have happened.

**INSTRUCTION NO. 10**

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

**INSTRUCTION NO. 11**

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. anything you may have seen or heard when the court was not in session.

**INSTRUCTION NO. 12**

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 13

In order for the defendant to be guilty of COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER, the State must prove each of the following:

1. On or about August 18, 2009;
2. in the State of Idaho;
3. the defendant, MICHAEL JASON WALKER, possessed any amount of marijuana;
4. the defendant either knew it was marijuana or believed it was a controlled substance;  
and
5. the defendant intended to deliver that substance to another.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

The possession of one or more controlled substances, even in multiple packages, is not sufficient by itself to prove an intent to deliver. The State must prove one or more additional circumstances from which you can infer that intent. The additional circumstances could include, but are not limited to, the possession of controlled substances in quantities greater than would be kept for personal use; or the existence of items customarily used to weigh, package, or process controlled substances; or the existence of money and/or records which indicate sales or deliveries of controlled substances.

You are not required to infer an intent to deliver from any such additional circumstances. Whether any such additional circumstances have been proven, whether an intent to deliver should be inferred from them, and the weight to be given such inference are for you to decide. You should consider all of the evidence when deciding whether the state has proven an intent to deliver beyond a reasonable doubt.



**INSTRUCTION NO. 14**

If your unanimous verdict is that the defendant is not guilty of COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER, you must acquit the defendant of that charge. In that event, you must next consider the included offense of POSSESSION OF A CONTROLLED SUBSTANCE IN EXCESS OF THREE OUNCES.

INSTRUCTION NO. 15

In order for the defendant to be guilty of the included offense of POSSESSION OF A CONTROLLED SUBSTANCE IN EXCESS OF THREE (3) OUNCES, the State must prove each of the following:

1. On or about August 18, 2009;
2. in the State of Idaho;
3. the defendant, MICHAEL JASON WALKER, possessed over three (3) ounces of marijuana;
4. and the defendant either knew it was marijuana or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

**INSTRUCTION NO. 16**

If your unanimous verdict is that the defendant is not guilty of the included offense of POSSESSION OF A CONTROLLED SUBSTANCE IN EXCESS OF THREE (3) OUNCES, you must acquit the defendant of that charge. In that event, you must next consider the included offense of POSSESSION OF A CONTROLLED SUBSTANCE.

INSTRUCTION NO. 17

In order for the defendant to be guilty of POSSESSION OF A CONTROLLED SUBSTANCE, the State must prove each of the following:

1. On or about August 18, 2009;
  2. in the State of Idaho;
  3. the defendant, MICHAEL JASON WALKER, possessed any amount of marijuana;
- and
4. the defendant either knew it was marijuana or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 18

If the evidence is sufficient to support a finding of guilty of both the offense charged and an included offense, but you entertain a reasonable doubt as to which offense the defendant is guilty, it is your duty to find him guilty only of the included offense. He may be found guilty of an included offense only if the evidence is sufficient to establish his guilty beyond a reasonable doubt.

**INSTRUCTION NO. 19**

Evidence has been introduced for the purpose of showing that the defendant committed acts other than that for which the defendant is on trial.

Such evidence, if believed, is not to be considered by you to prove the defendant's character or that the defendant has a disposition to commit crimes.

Such evidence may be considered by you only for the limited purpose of proving the defendant's intent.

**INSTRUCTION NO. 20**

In order for the defendant to be guilty of COUNT II. POSSESSION OF DRUG PARAPHERNALIA, the State must prove each of the following:

1. On or about August 18, 2009;
2. in the State of Idaho;
3. the defendant, MICHAEL JASON WALKER, possessed a scale and/or pipe, intending to
4. analyze and/or inhale a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

**INSTRUCTION NO. 21**

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on any or all of the offenses charged.



**INSTRUCTION NO. 22**

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it.

**INSTRUCTION NO. 23**

Under Idaho law, marijuana is a controlled substance.

**INSTRUCTION NO. 24**

The term "marijuana" as used in these instructions means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant unless the same are intermixed with prohibited parts thereof, fiber produced from the stalks, oil or cake made from the seeds or the achene of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom or where the same are intermixed with prohibited parts of such plant), fiber, oil, cake, or the sterilized seed of such plant which is incapable of germination.

**INSTRUCTION NO. 25**

The term "deliver" means the transfer or attempted transfer, either directly or indirectly, from one person to another.

## INSTRUCTION NO. 26

"Drug Paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing a controlled substance into the human body.

**INSTRUCTION NO. 27**

It is alleged that the crime charged was committed “on or about” a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

**INSTRUCTION NO. 28**

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

**INSTRUCTION NO. 29**

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.



Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

**INSTRUCTION NO. 30**

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

**INSTRUCTION NO. 31**

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

You will each receive a copy of the instructions.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

INSTRUCTION NO. 32

It is for you, the jury, to determine from all the evidence in this case, applying the law as given in these instructions, whether defendant is guilty or not guilty of the offense charged or of any included offenses.

With respect to the facts alleged in Count I of the Information, the offense charged of Possession of a Controlled Substance With the Intent to Deliver includes the offenses of Possession of a Controlled Substance in Excess of Three (3) Ounces and Possession of a Controlled Substance. It is possible for you to return on Count I any one, but only one of the following verdicts:

- Guilty** of Possession of a Controlled Substance with Intent to Deliver
- Guilty** of Possession of a Controlled Substance in Excess of Three (3) Ounces
- Guilty** Possession of a Controlled Substance
- NOT Guilty** Count I

When you are deliberating you should first consider the crime charged. You should consider the included offenses in the order listed only in the event the State has failed to convince you beyond a reasonable doubt of the defendant's guilt with respect to the crime charged and each preceding included offense.

INSTRUCTION NO. 33

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

DATED This 18<sup>th</sup> day of August, 2010.



---

TIMOTHY HANSEN  
District Judge

**INSTRUCTION NO. 34**

You have now completed your duties as jurors in this case and are discharged with the sincere thanks of this Court. The question may arise as to whether you may discuss this case with the attorneys or with anyone else. For your guidance, the Court instructs you that whether you talk to the attorneys, or to anyone else, is entirely your own decision. It is proper for you to discuss this case, if you wish to, but you are not required to do so, and you may choose not to discuss the case with anyone at all. If you choose to, you may tell them as much or as little as you like, but you should be careful to respect the privacy and feelings of your fellow jurors. Remember that they understood their deliberations to be confidential. Therefore, you should limit your comments to your own perceptions and feelings. If anyone persists in discussing the case over your objection, or becomes critical of your service, either before or after any discussion has begun, please report it to me.

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

STATE OF IDAHO, )

Plaintiff, )

vs. )

MICHAEL JASON WALKER, )

Defendant. )

Case No. CR-FE-2009-0015305

VERDICT

We, the Jury, unanimously find the defendant, MICHAEL JASON WALKER,

COUNT I

\_\_\_\_\_ **Guilty** of Possession of a Controlled Substance with Intent to Deliver

\_\_\_\_\_ **Guilty** of Possession of a Controlled Substance in Excess of Three (3) Ounces

\_\_\_\_\_ **Guilty** Possession of a Controlled Substance

\_\_\_\_\_ **NOT Guilty** Count I

COUNT II

\_\_\_\_\_ **Guilty** of Possession of Drug Paraphernalia

\_\_\_\_\_ **NOT Guilty** Count II

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRESIDING JUROR

Session: Hansen082710  
Session Date: 2010/08/27  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:56

Courtroom: CR503

Clerk(s):  
Olson, Miren

State Attorney(s):  
Dingeldein, Adam  
Duggan, Barbara  
Gunn, George  
Naugle, Brian

Public Defender(s):  
Jones, Teri  
Loschi, Jonathon  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):

Case ID: 0012

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/08/27

09:42:46 - Operator  
Recording:  
09:42:46 - New case  
Walker, Michael  
09:43:21 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
09:43:30 - General:  
Time stamp  
09:43:32 - Judge: Hansen, Timothy  
reviews file  
09:44:01 - Pers. Attorney: Ellsworth, Joe  
would ask to re-set the trial  
09:44:09 - Judge: Hansen, Timothy  
will set for 3 day JT on 11/8/10 at 9 and PTC 10/29/10 at 1:30  
09:47:39 - Operator  
Stop recording:



SEP 01 2010

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO  
By DAVID NAVARRO Clerk  
Alvin Olson DEPUTY

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CRFE09-15305
	)	
MICHAEL WALKER,	)	
	)	ORDER SETTING PRETRIAL
Defendant.	)	CONFERENCE & JURY TRIAL
_____	)	

A jury trial will be held on **November 8, 2010 at 9:00 a.m.**

A pretrial conference will be held on **October 29, 2010 at 1:30 pm.** The defendant must be personally present in court. At this conference, counsel for each party shall deliver a written list of prospective witnesses and proposed exhibits to the court and counsel for all parties.

**Alternate judges.** Notice is hereby given, pursuant to Rule 25(a)(6), I.C.R. that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

- |                               |                        |
|-------------------------------|------------------------|
| Hon. Phillip M. Becker        | Hon. G.D. Carey        |
| Hon. Dennis Goff              | Hon. Nathan Higer      |
| Hon. Daniel C. Hurlbutt Jr.   | Hon. James Judd        |
| Hon. Duff McKee               | Hon. Daniel Meehl      |
| Hon. George R. Reinhardt, III | Hon. Ronald Schilling  |
| Hon. W.H. Woodland            | Hon. Linda Cople Trout |
| Hon. Kathryn Sticklen         | Hon. Barry Wood        |

IT IS SO ORDERED this 27th day of August, 2010.

  
\_\_\_\_\_  
TIMOTHY HANSEN  
District Judge

cc: ADA COUNTY PROSECUTOR  
INTERDEPARTMENTAL MAIL

JOE ELLSWORTH  
ATTORNEY AT LAW  
1031 EAST PARK BLVD.  
BOISE, IDAHO 83712

OCT 04 2010

J. DAVID NAVARRO, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Brian D. Naugle  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

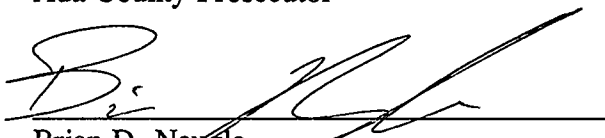
THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2009-0015305
vs.	)	
	)	MOTION IN LIMINE
MICHAEL JASON WALKER,	)	
	)	
Defendant.	)	
_____	)	

The State of Idaho, by and through Brian D. Naugle, Deputy Prosecuting Attorney for Ada County, moves this court for an order preventing the Defendant from referring to charges or crimes as a felony, felonious, felonies, or misdemeanor(s) during all parts of the trial, including voire dire. The State makes this motion based on the following:

1. The level of crime or the label given the charge is not relevant to the determination of whether the charges against the defendant have been proven beyond a reasonable doubt.
2. The mere mention of such labels, especially the labeling of charges pending against the defendant, can improperly influence the jury by signaling to the jury the level of punishment possible for the crimes with which the Defendant is charged, which is not a permissible basis upon which a jury may base its verdict.

DATED this <sup>1st</sup> ~~20~~ day of October, 2010.

**GREG H. BOWER**  
Ada County Prosecutor

  
\_\_\_\_\_  
Brian D. Naugle  
Deputy Prosecuting Attorney

100  
PT  
19/29  
130

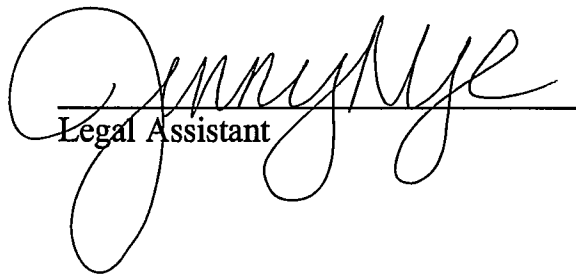
100

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4<sup>th</sup> day of October, 2010, I caused to be served, a true and correct copy of the foregoing Motion in Limine upon the individual named below in the manner noted:

Name and address: Joe Ellsworth, Attorney at Law, 1031 East Park Blvd., Boise, ID 83712

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number:  
\_\_\_\_\_

  
Legal Assistant

Session: Hansen102910  
Session Date: 2010/10/29  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:51

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Bandy, R. Scott  
Duggan, Barbara  
Fisher, Jean  
Gunn, George  
Hemmer, Casey  
Naugle, Brian

Public Defender(s):  
Lojek, Michael  
Loschi, Jonathon  
Marx, Brian  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):

Case ID: 0037

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Micahel  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/10/29

14:53:32 - Operator  
Recording:  
14:53:32 - New case  
Walker, Micahel  
14:53:50 - Judge: Hansen, Timothy  
alls case, def. is present on bond with counsel  
14:53:59 - Pers. Attorney: Ellsworth, Joe  
is still planning on going to trial - will stipulate that the evidence that

14:54:24 - Pers. Attorney: Ellsworth, Joe  
were previously admitted can be admitted without foundational objection

14:55:53 - State Attorney: Naugle, Brian  
does not beleive there is any evidentiary issues

14:56:08 - Pers. Attorney: Ellsworth, Joe  
no evidentiary issues

14:56:15 - State Attorney: Naugle, Brian  
no witness issues

14:56:35 - Pers. Attorney: Ellsworth, Joe  
no witness issues

14:56:54 - Judge: Hansen, Timothy  
will leave on for trial 11/8/10 at 9:00 and will start trial at 8:30 on the

14:57:25 - Judge: Hansen, Timothy  
first day of trial

14:58:29 - Operator  
Stop recording:

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9-11-10  
103

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 9 P.M. \_\_\_\_\_

NOV 03 2010

J. DAVID NAVARRO, Clerk  
By LANI BROXSON  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

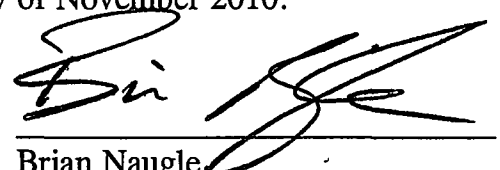
**Brian Naugle**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2009-0015305</b>
vs.	)	
	)	<b>SEVENTH ADDENDUM TO</b>
MICHAEL JASON WALKER,	)	<b>DISCOVERY RESPONSE TO</b>
	)	<b>COURT</b>
Defendant.	)	
	)	

Comes now, Brian Naugle, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Seventh Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of November 2010.

  
\_\_\_\_\_  
Brian Naugle  
Deputy Prosecuting Attorney

**GUILTY PLEA ADVISORY**

NOV 08 2010

J. DAVID NAVARRO, Clerk  
By Cherie Olson  
DEPUTY

Defendant's Name: Mike Walker

Date: 10/8/10 Case Number(s): \_\_\_\_\_

Pleading Guilty to: Charge(s):	Minimum & Maximum Prison/Fine
<u>Possession Cart Subs</u>	<u>5 yr prison + fine</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

I. 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 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. MW

II. 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. MZ.

III. 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. I understand MZ.

IV. 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. MZ.

V. 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. MZ.

VI. 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, and to present witnesses and evidence in my defense. MZ.

### 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?

YES  NO

If not, have you been provided with an interpreter to help you fill out this form?

YES  NO  N/A

2. What is your age? 21.



3. What is your true and legal name? Mike Walker

4. What was the highest grade you completed in school? 12

If you did not complete high school, have you received either a general education diploma or high school equivalency diploma?  YES NO N/A

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? IDHD 6

7. Are you currently prescribed any medication? YES  NO

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

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'")

RULE 11 POSS court subs (Felony 5 years probation 1 fx - 4 indeterminate suspended. 30 days ACT.

MZ

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

+ standard conditions probation.

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. MZ

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  N/A

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

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. Have you had sufficient time to discuss your case with your attorney?

YES NO

17. Have you told your attorney everything you know about the crime(s) to which you are pleading guilty?

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. These 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 in discovery?  YES  NO

20. Are there any witnesses whose testimony would show that you are innocent?  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 officers?  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  N/A

26. 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. Do you understand?  YES  NO

27. Is the crime to which you will plead guilty one which will 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 in another case as a condition of your plea agreement in this case? 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(9),-8317) 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 of violence for which the court could impose a civil penalty 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  N/A

43. Have you had any trouble answering any of the questions in this form which you could not resolve by discussion 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 8th day of November, 200.

Mike Walker  
DEFENDANT

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

[Signature]  
DEFENDANT'S ATTORNEY

Session: Hansen110810  
Session Date: 2010/11/08  
Judge: Hansen, Timothy  
Reporter: Tillman, Jayleen

Division: DC  
Session Time: 08:42

Courtroom: CR401

Clerk(s):  
Olson, Miren

State Attorneys:  
Naugle, Brian

Public Defender(s):

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0001

Case Number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Naugle, Brian  
Public Defender:

2010/11/08

09:43:29 - Operator  
Recording:  
09:43:29 - New case  
Walker, Michael  
09:43:34 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
09:43:48 - Judge: Hansen, Timothy  
reviews file  
09:43:58 - Pers. Attorney: Ellsworth, Joe  
has filled out a gpa - gg to poss. greater than 3 ounces  
09:45:45 - Judge: Hansen, Timothy  
question to counsel  
09:46:14 - State Attorney: Naugle, Brian  
would like to proceed with interlineation

09:46:36 - Pers. Attorney: Ellsworth, Joe  
no objection to that  
09:46:43 - Judge: Hansen, Timothy  
will amend the information by interlineation  
09:50:03 - Judge: Hansen, Timothy  
arraigns the def. on the amended information  
09:53:43 - Judge: Hansen, Timothy  
questions to Mr. Ellsworth  
09:54:46 - Judge: Hansen, Timothy  
Def. is sworn and examined by the Court  
10:00:04 - Judge: Hansen, Timothy  
will accept the plea; orders PSI and 2524 Sub abuse sentenci  
ng on 12/17/10 at  
10:01:24 - Judge: Hansen, Timothy  
10:30 am.  
10:02:20 - Operator  
Stop recording:

---

Session: Hansen121710  
Session Date: 2010/12/17  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:13

Courtroom: CR507

Clerk(s):  
Child, Emily

State Attorney(s):  
Atwood, Chris  
Duggan, Barbara  
Gunn, George  
Guzman, Cathy  
Naugle, Brian

Public Defender(s):  
Barnum, Randall  
Jones, Teri  
Loschi, Johnathan  
Marx, Brian  
Simmons, Kimberly  
Simonaitis, David

Prob. Officer(s):

Court interpreter(s):  
Bell, Vanessa  
Bell, Vanessa

---

Case ID: 0018

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joseph  
State Attorney: Atwood, Chris  
Public Defender: Simmons, Kimberly

2010/12/17

10:40:15 - Operator

Recording:

10:40:15 - New case

Walker, Michael

10:40:30 - Judge: Hansen, Timothy



ct calls case; def present in cust with Ellsworth; state present  
10:40:41 - Judge: Hansen, Timothy  
Ellsworth request mental  
10:40:52 - Pers. Attorney: Ellsworth, Joseph  
has motion  
10:41:00 - Judge: Hansen, Timothy  
file that motion now  
10:41:40 - Judge: Hansen, Timothy  
make that change, 19-2524  
10:42:11 - Judge: Hansen, Timothy  
sent 1/28/11 @ 1:30  
10:43:40 - Judge: Hansen, Timothy  
mental eval for psi ordered  
10:44:08 - Operator  
Stop recording:

---

DEC 17 2010

JOSEPH L. ELLSWORTH, ISB #3702  
ELLSWORTH, KALLAS, TALBOY & DEFRANCO, P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945

J. DAVID NAVARRO, Clerk  
By E. CHILD  
DEPUTY

ATTORNEY FOR DEFENDANT

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

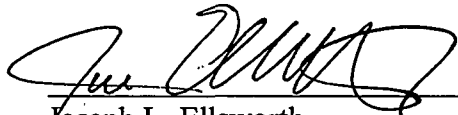
STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No.: CR FE 2009-0015305

**MOTION FOR CONSIDERATION  
OF MENTAL ILLNESS IN  
SENTENCING**  
(I.C.R. Rule 19-2523))

COMES NOW MICHAEL JASON WALKER, by and through attorney of record,  
and hereby moves the Court, pursuant to Idaho Criminal Rules 19-2523, for an evaluation  
of Defendant's mental condition before sentencing. Defendant believes mental illness  
may be a significant factor warranting an examination prior to sentencing.

DATED this 16<sup>th</sup> day of December, 2010.

  
\_\_\_\_\_  
Joseph L. Ellsworth  
Attorney for Defendant

EB

CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of December, 2010, I served a true and correct copy of the within and foregoing document by the method indicated below and addressed to the following:

Ada County Prosecuting Attorney  
200 W. Front Street, Ste. 3191  
Boise, Idaho 83702

\_\_\_\_ US Mail  
\_\_\_\_ Hand Delivery  
\_\_\_\_ Facsimile: 287-7709

---

Danika Kramer, Legal Assistant

NO. \_\_\_\_\_  
FILED 8:31 1:48  
A.M.

JOSEPH L. ELLSWORTH, ISB #3702  
ELLSWORTH, KALLAS, TALBOY & DEFRANCO P.L.L.C.  
1031 E. Park Blvd.  
Boise, ID 83712  
Phone: (208) 336-1843  
Fax: (208) 345-8945

**DEC 17 2010**

**J. DAVID NAVARRO, CLERK**  
By **E. CHIL**  
DEPUTY

ATTORNEY FOR DEFENDANT

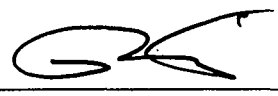
**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,	)	
	)	Case No.: CR FE 2009 0015305
Plaintiff,	)	
	)	<b>ORDER FOR</b>
vs.	)	<b>MENTAL HEALTH</b>
	)	<b>EVALUATION PURSUANT</b>
MICHAEL WALKER	)	<b>TO §19-252<del>9</del>. <i>n</i></b>
	)	
Defendant.	)	
_____	)	

The above-entitled matter having come before the Court, and good cause appearing therefore;

THE COURT HEREBY ORDERS AND THIS DOES ORDER that a mental health examination and report be prepared pursuant to the Idaho Code Section 19-252~~9~~ and at public expense..

DATED this 17~~th~~ day of December, 2010



HON TIMOTHY HANSEN  
DISTRICT JUDGES

EU

CERTIFICATE OF SERVICE


I hereby certify that on this 17 day of December, 2010, I served a true and correct copy of the within and foregoing document by the method indicated below and addressed to the following:

Ada County Prosecuting Attorney  
200 W. Front Street, Ste. 3191  
Boise, Idaho 83702

Interdepartmental Mail  
 Hand Delivery  
 Facsimile: 287-7709

Joseph L. Ellsworth  
Ellsworth, Kallas, Talboy & DeFranco  
1031 E. Park Blvd.  
Boise, Idaho 83712

US Mail  
 Hand Delivery  
 Facsimile: 345-8945

  
\_\_\_\_\_  
Clerk

Session: Hansen012811  
Session Date: 2011/01/28  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:24

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Duggan, Barbara  
Fleming, Tim  
Harmer, Ben  
Naugle, Brian

Public Defender(s):  
Geddes, Anthony  
Loschi, Jonathon  
Simmons, Kimberly  
Simonaitis, David  
Wollen, Nick

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0033

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney: Ellsworth, Joe  
State Attorney: Harmer, Ben  
Public Defender:

2011/01/28

13:42:43 - Operator  
Recording:  
13:42:43 - New case  
Walker, Michael  
13:43:13 - Judge: Hansen, Timothy  
Calls case, def. is present on bond with counsel  
13:44:11 - Judge: Hansen, Timothy  
reviews file  
13:44:14 - State Attorney: Harmer, Ben

no additions corrections or objections  
13:44:23 - Pers. Attorney: Ellsworth, Joe  
no additions corrections or objections  
13:44:32 - State Attorney: Harmer, Ben  
no evidence or VIS  
13:44:39 - Pers. Attorney: Ellsworth, Joe  
no evidence  
13:44:44 - State Attorney: Harmer, Ben  
argues sentencing  
13:45:26 - Pers. Attorney: Ellsworth, Joe  
argues sentencing - no objection of restitution  
13:47:29 - Defendant: Walker, Michael  
declines statement  
13:47:37 - Pers. Attorney: Ellsworth, Joe  
no legal cause  
13:47:40 - State Attorney: Harmer, Ben  
no legal cause  
13:47:45 - Judge: Hansen, Timothy  
comments  
13:48:06 - Judge: Hansen, Timothy  
goes over with counsel the understanding of the Rule 11 agreement  
13:50:14 - Judge: Hansen, Timothy  
comments - will follow the rule 11 agreement  
13:56:07 - Judge: Hansen, Timothy  
will enter a joc of 1+4=5; suspended for 5 years probation - standard terms  
14:01:31 - Judge: Hansen, Timothy  
appeal rights  
14:03:25 - Operator  
Stop recording:

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COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE, MARIJUANA, GREATER THAN THREE OUNCES, FELONY, I.C. §37-2732(e); which plea was accepted following examination of the Defendant under oath and waiver of all applicable rights. Count II was dismissed pursuant to plea negotiations. Sentencing was continued for preparation of a presentence report, which was completed and reviewed by the Court and counsel.

The Court asked whether the Defendant had witnesses or evidence to present in a hearing in mitigation of punishment; heard statements from counsel; and gave Defendant an opportunity to make a statement.

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

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant is guilty of the crime of: COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE, MARIJUANA, GREATER THAN THREE OUNCES, FELONY, I.C. §37-2732(e), and that he be sentenced to the custody of the State Board of Correction of the State of Idaho for an aggregate term of five (5) years, to be served as follows: a minimum period of confinement of one (1) year, followed by a subsequent indeterminate period of custody not to exceed four (4) years; with credit for two (2) days served in pre-judgment incarceration as provided by §18-309, Idaho Code.

IT IS FURTHER ADJUDGED that pursuant to Idaho Code, the Defendant be, and hereby is, assessed and Ordered to pay the following fines, fees and costs as to each count:

1. Court costs in the amount of \$17.50 (I.C. §31-3201A(b), I.C. §31-4602).
2. County Administrative Surcharge Fee in the amount of \$10.00 (I.C. §31-4502).

3. ISTARs technology fee in the amount of \$10.00 (I.C. §31-3201(5)).
4. Victim's Compensation Fund Fees in the amount of \$75.00 (I.C. §72-1025).
5. P.O.S.T. Academy fees in the amount of \$10.00 (I.C. §31-3201B).
6. Peace Officer and Detention Officer Temporary Disability Fund \$3.00 (I.C. §72-1105).
7. Restitution in the amount of \$500.00 to be joint and several with the co-defendant, Kristina Brutsman-Rice (I.C. §19-5302).
8. A \$10.00 domestic violence fine.
9. Defendant shall pay \$10.00 for the drug hotline fee pursuant to I.C. §37-2735A.

EXECUTION OF SUCH JUDGMENT IS SUSPENDED and Defendant is placed on probation for a period of five (5) years, under the following conditions, to-wit:

A. That the probation is granted to and accepted by the probationer, subject to all its terms and conditions and with the understanding that the Court may at any time, in case of the violation of the terms of probation, cause the probationer to be returned to the Court for the imposition of sentence as prescribed by law or any other punishment as the Court may see fit to hand down.

B. That the probationer shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court with supervised probation and subject to the rules of probation as prescribed by the Board of Correction and the District Court.

C. Special conditions, to-wit:

1. Defendant shall not violate any law or ordinance of the United States or any city, state or county therein, wherein a fine or bond forfeiture of more than \$250.00 or a jail term could be imposed as a penalty.

2. Defendant shall pay the amounts set out in this judgment for fines, fees, costs, restitution and/or public defender reimbursement, less any payments already made. Payments shall be paid in monthly installments in an amount to be arranged with his/her probation officer.
3. Defendant shall enroll in and meaningfully participate in any and all programs of rehabilitation recommended by his/her probation officer, including but not limited to: mental health counseling and any/all substance abuse treatment, including inpatient, if requested, and an aftercare program. Defendant shall obtain a psychological evaluation and follow all of its recommendations. In addition, Defendant is to take all medication prescribed at the rate it is prescribed. Further, Defendant shall waive privilege with all medical and mental health care providers as to his/her probation officer.
4. During the entire term of his/her probation, said Defendant shall maintain steady employment, be actively seeking employment, or be enrolled as a full-time student.
5. Defendant is to obtain his/her G.E.D. or H.S.E. (High School Equivalency) within two (2) years.
6. Defendant shall not purchase, carry or have in his/her possession any firearm(s) or other weapons.
7. Defendant agrees to waive his/her Fourth Amendment rights applying to search and seizure as provided by the Fourth Amendment of the Constitution, and to submit to a search by his/her probation officer or law enforcement officer of his/her person, residence, vehicle or other property upon request of such probation officer or law enforcement officer.
8. Defendant shall not purchase, possess or consume any alcoholic beverages while on probation.
9. Defendant shall not purchase, possess or consume any drug or narcotic unless specifically prescribed by a medical doctor.
10. Defendant shall not frequent establishments where alcohol is the main source of income.
11. Defendant shall not associate with individuals specified by his/her probation officer.
12. Defendant agrees to tests of his/her blood, breath or urine or other chemical tests

for the detection of alcohol and/or drugs at the request of his/her probation officer, to be administered at Defendant's own expense. In addition, Defendant is to submit to any field sobriety evaluations requested by a law enforcement officer and shall submit to any test of his/her blood, breath or urine offered by a law enforcement officer for D.U.I. detection.

13. Upon request of his/her probation officer, Defendant agrees to submit to polygraph examinations administered by qualified examiners and limited in scope to those matters which are calculated to determine whether Defendant is complying with the lawful conditions of probation.
14. Defendant is to serve thirty (30) days in the Ada County Jail, with credit for two (2) days served, leaving a balance of twenty-eight (28) days to serve. Defendant shall have all options to serve jail time available, with the exception of an electronic monitoring device. If Defendant chooses the S.I.L.D. option, it shall be served at the rate of 2 to 1. Jail service is to commence within sixty (60) days and is to be arranged through his/her probation officer.
15. Defendant may be required to serve an additional one hundred eighty (180) days in the Ada County Jail at the discretion of his/her probation officer and upon approval of this Court.
16. Defendant shall perform one hundred (100) hours of community service and pay the sixty (60) cent workman's compensation fee for each hour of service. Community service is to be completed within one (1) year.

D. THAT THE PROBATIONER, IF PLACED ON PROBATION TO A DESTINATION OUTSIDE THE STATE OF IDAHO, OR LEAVES THE CONFINES OF THE STATE OF IDAHO WITH OR WITHOUT PERMISSION OF THE DIRECTOR OF PROBATION AND PAROLE DOES HEREBY WAIVE EXTRADITION TO THE STATE OF IDAHO AND ALSO AGREES THAT THE SAID PROBATIONER WILL NOT CONTEST ANY EFFORT BY ANY STATE TO RETURN THE PROBATIONER TO THE STATE OF IDAHO.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment and

Probation Order and Commitment to the said Sheriff, which shall serve as the commitment of Defendant.

This probation shall expire at midnight on January 27, 2016.

Dated this 28th day of January, 2011.



---

TIMOTHY HANSEN  
District Judge

This is to certify that I have read or had read to me and fully understand and accept all the conditions, regulations and restrictions under which I am being granted probation. I will abide by and conform to them strictly and fully understand that my failure to do so may result in the revocation of my probation and commitment to the Board of Correction to serve the sentence originally imposed.

\_\_\_\_\_  
Probationer's Signature

\_\_\_\_\_  
Date of Acceptance

WITNESSED:

\_\_\_\_\_  
Probation and Parole Officer  
State of Idaho

**CERTIFICATE OF MAILING**

I do hereby certify that on the 3<sup>rd</sup> day of February, 2011, I caused to be emailed/mailed one copy of the within instrument to in this cause as follows:

ADA COUNTY PROSECUTOR

PROBATION AND PAROLE

ADA COUNTY JAIL

IDAHO DEPARTMENT OF CORRECTION

PRESENTENCE INVESTIGATION DEPARTMENT

JOSEPH ELLSWORTH, ESQ.  
ELLSWORTH, KALLAS, TALBOY &  
DeFRANCO, PLLC  
1031 E. PARK BLVD.  
BOISE, ID 83712

CHRISTOPHER D. RICH  
Clerk of the District Court

By:  \_\_\_\_\_  
Deputy Court Clerk

NO. 9:00 FILED PM

FEB 03 2011

*[Signature]* CH, Clerk  
Deputy

**Greg H. Bower**  
Ada County Prosecuting Attorney

Brian Naugle  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700  
Fax: (208)-287-7709

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
Michael Jason Walker, )  
)  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-FE-2009-0015305**  
**ORDER FOR RESTITUTION**  
**AND JUDGMENT**

**WHEREAS**, on the 28 day of Jan, 2011 a Judgment of Conviction was entered against the Defendant Michael Jason Walker; and therefore pursuant to Idaho Code §37-2732(k) and based on evidence presented to this Court;

**IT IS HEREBY ORDERED**, that the Defendant, Michael Jason Walker, shall make restitution to the victim(s) in the following amounts of:



DRUG ENFORCEMENT DONATION ACCOUNT \$500.00  
**TOTAL:** \$500.00


Interest on said restitution amount shall be computed at 5.375 % per annum.

Restitution to be joint and several with codefendant Kristina Brutsman-Rice, Case No. CR-FE-2009-0015303.

**FURTHER**, pursuant to I.C. 19-5305 this Order may be recorded as a judgment against the Defendant, Michael Jason Walker, and the listed victim(s) may execute as provided by law for civil judgments.

**IT IS SO ORDERED.**

DATED this 27 day of July 2010.

  
\_\_\_\_\_  
Judge

**MAY 20 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **NATALIE FARACA**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: (208) 287-7700  
Fax: (208) 287-7709

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-FE-2009-0015305**  
**MOTION FOR BENCH**  
**WARRANT FOR**  
**PROBATION VIOLATION**

STATE OF IDAHO )  
) ss:  
County of Ada )

**COMES NOW**, Ben Harmer, Deputy Prosecuting Attorney for Ada County, State of Idaho, being first duly sworn, deposes and says:

That on the 8<sup>th</sup> day of November 2010, the said Defendant pled guilty to POSSESSION OF MARIJUANA IN EXCESS OF THREE OUNCES, FELONY, and that

AG

on the 28<sup>th</sup> day of January 2011, this Court placed the Defendant on probation for a period of five (5) years.

This Court required, and the Defendant agreed, that as a condition of probation he would respect and obey all the laws of the State of Idaho, at all times conduct himself as a good citizen, and obey the rules and regulations of probation. That the Defendant violated the above-mentioned term of his probation agreement by:

1. Failing to obtain written permission from his supervising officer before changing residence, to-wit: on or about the 23<sup>rd</sup> day of February 2011, contact was attempted at the said Defendant's listed residence and the said Defendant's step-father stated that the said Defendant did not reside there;
2. Failing to report to his supervising officer on the date(s) and time(s) specified, to-wit: the said Defendant failed to report to his supervising officer on or about the 24<sup>th</sup> day of February 2011, and failed to report to the River of Life Rescue Mission on or about the 23<sup>rd</sup> day of February 2011, as instructed;
3. Absconding from supervision;
4. Failing to pay fines, fees, funds, surcharges and/or costs as ordered by the Court, and by;
5. Failing to pay restitution as ordered by the Court (please see attached computer printout).

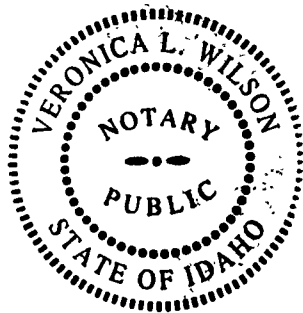
**WHEREFORE**, your affiant prays for an Order of this Court directing the Clerk of the Court to issue a Bench Warrant for the arrest of the Defendant requiring that he be arrested and brought before this Court on the arraignment day next following his arrest, at which time to show cause why the probation and sentence in this cause should not be revoked and sentence imposed according to law.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Ben Harmer  
Deputy Prosecuting Attorney

**SUBSCRIBED AND SWORN** to before me this 20<sup>th</sup> day of May 2011.



Veronica L. Wilson  
Notary Public for the State of Idaho  
Residing at Boise, Idaho  
Commission Expires: 12-16-2015

MAY 23 2011

CHRISTOPHER D. RICH, Clerk  
By ASHLEY GREEN  
DEPUTY

RECEIVED  
MAY 20 2011  
ADA COUNTY CLERK

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700  
Fax: (208) 287-7709

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

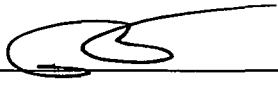
STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2009-0015305
	)	
vs.	)	<b>ORDER FOR BENCH WARRANT FOR</b>
	)	<b>PROBATION VIOLATION</b>
MICHAEL JASON WALKER,	)	
	)	
Defendant.	)	
_____	)	

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Clerk of the Court issue a Bench Warrant for the arrest of the Defendant requiring that he be arrested at any time during the day or night and brought before this Court on the arraignment day next following his arrest.

It is further ordered that the above-named Defendant shall remain on active probationary status and be subject to all requirements of his probation order during the pendency of these

proceedings, unless the Defendant meets the criteria for absconding. Bond is set at ~~hold Defendant without~~  
~~nd~~  
~~nd~~ pending arraignment on the Bench Warrant.

DATED this 23rd day of May 2011.

  
\_\_\_\_\_  
Judge

**BOND SET AT:**

~~\$ \_\_\_\_\_ Cash/Surety~~  
~~\$ \_\_\_\_\_ Cash~~ *At 10/12 Defendant without bond pending arraignment.*  
~~\$ \_\_\_\_\_ Surety~~

692610

NO. 2:00 FILED P.M.

JUN 01 2011

CHRISTOPHER D. RICH, Clerk  
By STORMY McCORMACK  
DEPUTY

DR# 09-922071

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

RECEIVED  
Ada County Sheriff  
Administrative Services  
MAY 25 2011  
Gary Raney, Sheriff  
BOISE, IDAHO

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
1-30-89 ✓ )

FE-2009-0015305-01-01  
Case No. CR-FE-2009-0015305

**BENCH WARRANT FOR  
PROBATION VIOLATION**

TO ANY SHERIFF, CONSTABLE OR PEACE OFFICER OF THE STATE OF IDAHO:

**YOU ARE HEREBY COMMANDED** forthwith, to arrest the defendant and probationer at any time during the day or night and deliver him into the custody of the Sheriff of Ada County, Idaho, at the County Jail; the Defendant and Probationer to be brought before this Court on the next regular arraignment day of the Court following his arrest and delivery to the Ada County Jail, then and there to show cause, if any, why the

**BENCH WARRANT FOR PROBATION VIOLATION**  
(WALKER/CR-FE-2009-0015305), Page 1

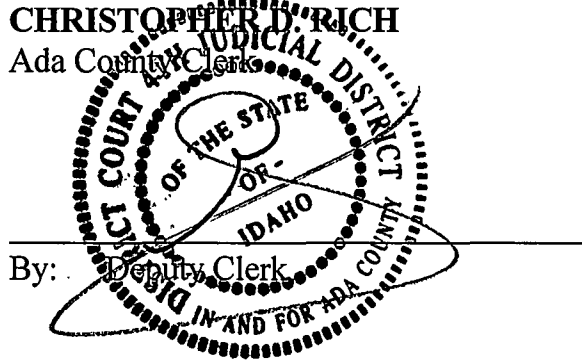
**ARRESTED**  
ADA COUNTY SHERIFF

PR

probation and withheld sentence heretofore granted him in the above-entitled cause should not be revoked and sentence imposed according to law, it appearing to this Court that the Defendant, a probationer under the jurisdiction of this Court, has violated the terms and conditions of said Judgment and Order and Agreement of Probation.

DATED this 23 day of May 2011.

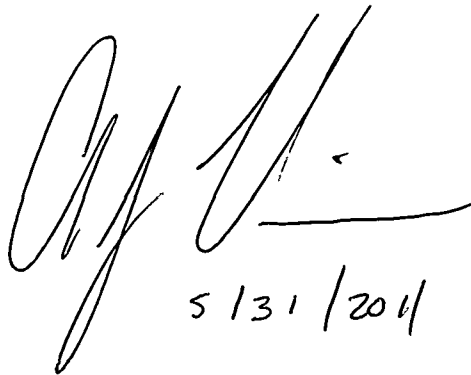
CHRISTOPHER D. RICH  
Ada County Clerk



By: Deputy Clerk

BOND SET AT: No Bond  
\$ ~~\_\_\_\_\_~~ Cash/Surety  
\$ ~~\_\_\_\_\_~~ Cash  
\$ ~~\_\_\_\_\_~~ Surety

Pending arraignment on the Bench Warrant by Judge Bl Hansen.

  
BPD #759  
5/31/2011



ADA COUNTY MAGISTRATE MINUTES

Michael Walker CR-FE-2009-0015305



Scheduled Event: Video Arraignment Wednesday, June 01, 2011 01:30 PM

Judge: John Hawley Jr. Clerk: DF Interpreter:

Prosecuting Agency: X AC BC EA GC MC Pros: R. Slaven

PD / Attorney:

- 1 I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz F
• 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M
• 3 I20-222 Probation Violation F

150137 Case Called Defendant: X Present Not Present X In Custody

Advised of Rights Waived Rights X PD Appointed Waived Attorney

Guilty Plea / PV Admit N/G Plea Advise Subsequent Penalty

X Bond \$ NO BOND ROR Pay / Stay Payment Agreement

In Chambers PT Memo Written Guilty Plea No Contact Order

Advised:

Arr: 6/10/11 @ 9:00

w/Hansen.

Finish ( ) Release Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA  
MAGISTRATE DIVISION

200 W. Front Street, Boise, Idaho 83702

STATE OF IDAHO,  
Plaintiff.

vs.

Michael Walker  
3301 W Hamilton  
Boise, ID 83704

Defendant.

Case No: CR-FE-2009-0015305

NOTICE OF HEARING

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_  
FILED P.M. 3:14

JUN 01 2011

CHRISTOPHER D. RICH, Clerk  
KELLE WEGENER  
DEPUTY

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Arraignment... Friday, June 10, 2011... 09:00 AM  
Judge: Timothy Hansen

I HEREBY CERTIFY that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows:

Defendant: Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_ Signature \_\_\_\_\_  
Clerk \_\_\_\_\_ Date \_\_\_\_\_ Phone ( ) \_\_\_\_\_


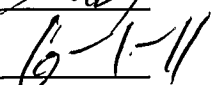
Ada County Public Defender  
200 W Front St Rm 1107  
Boise ID 83702

Private Counsel: Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_ Signature \_\_\_\_\_  
Clerk \_\_\_\_\_ Date \_\_\_\_\_ Phone ( ) \_\_\_\_\_

Prosecutor: Interdepartmental Mail \_\_\_\_\_  Ada  Boise  Eagle  G.C.  Meridian  
Clerk \_\_\_\_\_ Date \_\_\_\_\_

Public Defender: Interdepartmental Mail \_\_\_\_\_  
Clerk \_\_\_\_\_ Date \_\_\_\_\_

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mailed \_\_\_\_\_ Hand Delivered  Signature   
Clerk \_\_\_\_\_ Date \_\_\_\_\_ Phone ( ) \_\_\_\_\_ 

Dated: 6/1/2011

CHRISTOPHER D. RICH  
Clerk of the Court

By: \_\_\_\_\_  
Deputy Clerk

000189

100  
Mar  
6/16  
9:00  
ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

FILED  
A.M. P.M. U

JUN 02 2011

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

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

STATE OF IDAHO,  
Plaintiff

vs.

MICHAEL WALKER,  
Defendant.

Case No. CR-FE-2009-0015305

MOTION FOR BOND REDUCTION

COMES NOW, MICHAEL WALKER, the above-named defendant, by and through counsel NICHOLAS L WOLLEN, Ada County Public Defender's office, and moves this Court for its ORDER reducing bond in the above-entitled matter upon the grounds that the bond is so unreasonably high that the defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that the defendant has thereby been effectively denied their right to bail.

DATED, Thursday, June 02, 2011.

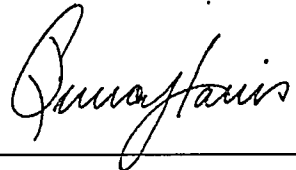
  
NICHOLAS L WOLLEN  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Thursday, June 02, 2011, I mailed a true and correct copy of the within instrument to:

BEN HARMER  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

FILED  
P.M. 4  
JUN 02 2011  
CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

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

STATE OF IDAHO,

Plaintiff

vs.

MICHAEL WALKER,

Defendant.

Case No. CR-FE-2009-0015305

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to BEN HARMER:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Friday, June 10, 2011, at the hour of 09:00 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Thursday, June 02, 2011.



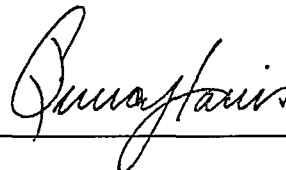
NICHOLAS L WOLLEN  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Thursday, June 02, 2011, I mailed a true and correct copy of the within instrument to:

BEN HARMER  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



NOTICE OF HEARING

000191

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M.   y  

JUN 02 2011

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

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

STATE OF IDAHO,

Plaintiff

vs.

MICHAEL WALKER,

Defendant.

Case No. CR-FE-2009-0015305

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

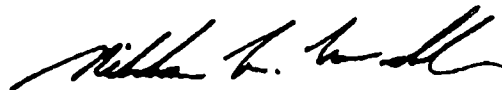
PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

**DATED**, Thursday, June 02, 2011.



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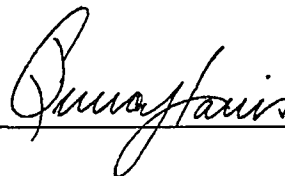
**NICHOLAS L WOLLEN**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Thursday, June 02, 2011, I mailed a true and correct copy of the within instrument to:

**ADA COUNTY PROSECUTOR**  
**Counsel for the State of Idaho**

by placing said same in the Interdepartmental Mail.



---

NO. \_\_\_\_\_ FILED 3:16  
A.M. \_\_\_\_\_ P.M.

JUN 08 2011

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: (208) 287-7700  
Fax: (208) 287-7709

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

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL JASON WALKER, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. CR-FE-2009-0015305  
**AMENDED MOTION FOR  
PROBATION VIOLATION**

STATE OF IDAHO )  
 ) ss:  
County of Ada )

**COMES NOW**, Ben Harmer, Deputy Prosecuting Attorney for Ada County, State of Idaho, being first duly sworn, deposes and says:

That on the 8<sup>th</sup> day of November 2010, the said Defendant pled guilty to POSSESSION OF MARIJUANA IN EXCESS OF THREE OUNCES, FELONY, and that

on the 28<sup>th</sup> day of January 2011, this Court placed the Defendant on probation for a period of five (5) years.

This Court required, and the Defendant agreed, that as a condition of probation he would respect and obey all the laws of the State of Idaho, at all times conduct himself as a good citizen, and obey the rules and regulations of probation. That the Defendant violated the above-mentioned term of his probation agreement by:


1. Failing to obtain written permission from his supervising officer before changing residence, to-wit: on or about the 23<sup>rd</sup> day of February 2011, contact was attempted at the said Defendant's listed residence and the said Defendant's step-father stated that the said Defendant did not reside there;
2. Failing to report to his supervising officer on the date(s) and time(s) specified, to-wit: the said Defendant failed to report to his supervising officer on or about the 24<sup>th</sup> day of February 2011, and failed to report to the River of Life Rescue Mission on or about the 23<sup>rd</sup> day of February 2011, as instructed;
3. Absconding from supervision;
4. Failing to pay fines, fees, funds, surcharges and/or costs as ordered by the Court;
5. Failing to pay restitution as ordered by the Court (please see attached computer printout);
6. Committing the crime of ~~BURGLARY, FELONY~~ *MALICIOUS INJURY TO PROPERTY, MISDEMEANOR,* on or about the 31<sup>st</sup> day of May 2011, filed as case number CR-FE-2011-0008275, and by;
7. Committing the crime of ATTEMPTED STRANGULATION, FELONY, on or about the 31<sup>st</sup> day of May 2011, filed as case number CR-FE-2011-0008275.



The purpose of this Motion to Amend Probation Violation is to add new allegations numbers six (6) and seven (7) above, in addition to allegations numbers one (1) through number five (5), previously filed. (Local rule 8.4)

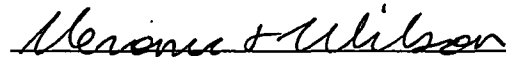
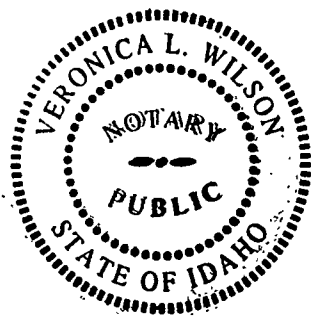
**GREG H. BOWER**

Ada County Prosecuting Attorney



By: Ben Harmer  
Deputy Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of June 2011.



Notary Public for the State of Idaho  
Residing at Boise, Idaho  
Commission Expires: 12-16-2015.

Session: Hansen061011  
Session Date: 2011/06/10  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:20

Courtroom: CR507

Clerk(s):  
Olson, Miren  
Johnson, Kathy

State Attorney(s):  
Duggan, Barbara  
Fleming, Tim  
Gunn, George  
Harmer, Ben

Public Defender(s):  
Geddes, Anthony  
Herrett, Megan  
Wollen, Nick

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0008

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Micahel  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Gunn, George  
Public Defender: Wollen, Nick

2011/06/10  
09:55:02 - Operator  
Recording:

09:55:02 - New case  
Walker, Micahel

09:55:15 - Judge: Hansen, Timothy  
Calls case, def. is present in custody with counsel

09:55:56 - State Attorney: Gunn, George  
no objection to PD

09:56:01 - Judge: Hansen, Timothy  
will continue the appointment of the PD

09:56:10 - Judge: Hansen, Timothy  
arraigns the def. on the amended PV Motion

09:58:03 - Public Defender: Wollen, Nick  
would like 1 week

09:58:46 - Judge: Hansen, Timothy  
will set over for A/D to 6/24/11 at 9:00 a.m.

09:58:57 - Public Defender: Wollen, Nick  
may take up bond at the next hearing

09:59:06 - Judge: Hansen, Timothy  
will note that for the record

10:00:12 - Operator  
Stop recording:

---

Session: Hansen062411  
Session Date: 2011/06/24  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:18

Courtroom: CR507

Clerk(s):  
Johnson, Inga

State Attorneys:  
Duggan, Barbara  
Gunn, George  
Guzman, Cathy  
Harmer, Ben  
Moody, Melissa  
Vogt, James

Public Defender(s):  
Geddes, Anthony  
Herrett, Megan  
Wollen, Nick

Prob. Officer(s):

Court interpreter(s):

Case ID: 0015

Case Number: FE0915305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Harmer, Ben  
Public Defender: Wollen, Nick

2011/06/24  
09:57:58 - Operator  
Recording:  
09:57:58 - New case  
Walker, Michael  
09:58:33 - General:  
def present in custody for A/D  
09:58:43 - Public Defender: Wollen, Nick  
cont 2 wks  
09:59:33 - Judge: Hansen, Timothy  
A/D-7/8/11 at 9  
09:59:50 - Public Defender: Wollen, Nick  
will argue bond then also  
10:00:14 - Operator  
Stop recording:

Session: Hansen070811  
Session Date: 2011/07/08  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:21

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Duggan, Barbara  
Gunn, George  
Harmer, Ben

Public Defender(s):  
Geddes, Anthony  
Herrett, Megan  
Wollen, Nick

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Harmer, Ben  
Public Defender: Wollen, Nick

2011/07/08  
09:04:28 - Operator  
Recording:  
09:04:28 - New case  
Walker, Michael

09:04:43 - Judge: Hansen, Timothy  
Calls case, def. is present in custody with counsel  
09:04:51 - Public Defender: Wollen, Nick  
will enter a denial  
09:04:56 - Judge: Hansen, Timothy  
questions to Mr. Walker  
09:05:33 - Defendant: Walker, Michael  
pleads NG  
09:05:36 - Judge: Hansen, Timothy  
will set for scheduling conference on 8/12/11 at 9:00 a.m.  
09:07:05 - Operator  
Stop recording:

---

Session: Hansen081211  
Session Date: 2011/08/12  
Judge: Hansen, Timothy  
Reporter: Gosney, Vanessa

Division: DC  
Session Time: 08:54

Courtroom: CR507

Clerk(s):  
Olson, Miren

State Attorney(s):  
Duggan, Barbara  
Gunn, George  
Harmer, Ben  
Vogt, James

Public Defender(s):  
Geddes, Anthony  
Herrett, Megan  
Wollen, Nick

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0023

Case number: CRFE09-15305  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Walker, Michael  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Gunn, George  
Public Defender: Wollen, Nick

2011/08/12  
11:01:16 - Operator  
Recording:  
11:01:16 - New case

Walker, Michael

11:01:32 - Judge: Hansen, Timothy

Calls case, def. is present in custody with counsel

11:01:48 - Judge: Hansen, Timothy

reviews file

11:03:05 - Judge: Hansen, Timothy

will set over to 9/2/11 at 9:00 a.m. for further scheidung

11:03:58 - Operator

Stop recording:

---



<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>9:22:49 AM</u>		CRFE09-15305 State v Michael Walker
<u>9:22:49 AM</u>	State Attorney	George Gunn
<u>9:22:49 AM</u>	Public Defender	Nick Wollen
<u>9:22:49 AM</u>	Judge Hansen	Calls case, def. is present in custody with counsel
<u>9:22:49 AM</u>	Judge Hansen	will need to set for PV Hearing and will set that to 10/20/11 at 3:00 p.m. for 3 hour hearing
<u>9:22:49 AM</u>		END CASE

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>2:39:17 PM</u>		State v Michael Walker - CRFE09-15305
<u>2:39:17 PM</u>	State Attorney	Ben Harmer
<u>3:39:05 PM</u>	Public Defender	Nick Wollen
<u>3:39:09 PM</u>	Judge Hansen	Calls case, def. is present in custody with counsel
<u>3:39:31 PM</u>	Public Defender	resolution - State will amend the motion through interlineation to add a charge of Misd. - will admit allegations 3 and malicious injury to property - reinstate Probation with CTS - and ABC class - prepared to proceed to disposition today - will waive the updated PSI
<u>3:41:13 PM</u>	State Attorney	that is correct - would move to amend the amended PV Allegation 6 to reduce to Misdemeanor malicious injury to property - has contacted the victim
<u>3:42:14 PM</u>	Judge Hansen	question to counsel
<u>3:42:24 PM</u>	State Attorney	matter will be remanded in front of Judge Wilper on Tuesday - victim will not be present for any of this - does not wish to be
<u>3:43:13 PM</u>	Judge Hansen	comments - will take the admission today - questions to counsel
<u>3:44:12 PM</u>	Public Defender	takes a moment with his client
<u>3:44:50 PM</u>	Public Defender	comments to the Court - comfortable with going forward today
<u>3:45:07 PM</u>	State Attorney	comfortable with going forward today
<u>3:45:21 PM</u>	State Attorney	no other terms or conditions of the agreement to place on the record
<u>3:45:32 PM</u>	Public Defender	no other terms or conditions of the agreement to place on the record
<u>3:45:51 PM</u>	Judge Hansen	question as to whether or not it is a rule 11
<u>3:46:08 PM</u>	State Attorney	had not discussed that
<u>3:46:14 PM</u>	Public Defender	does not feel this would be binding on the Court
<u>3:46:26 PM</u>	Judge Hansen	comments - if the agreement is for reinstatement of probation - would prefer to have an updated PSI before going to sentencing - question as to if that would change the parties agreement
<u>3:48:11 PM</u>	Public Defender	would not have change the position with an updated PSI - would ask for an order for the ABC class today to get that going
<u>3:48:41 PM</u>	State Attorney	no objection

<u>3:48:45 PM</u>	Judge Hansen	will amend the amended motion for violation as to allegation 6 to malicious injury to property - Misd. - will now arraign the def. on that 2nd amended motion
<u>3:50:45 PM</u>	Judge Hansen	will continue the PD appointment - arraigns the def. on the 2nd amended motion
<u>3:53:18 PM</u>	Judge Hansen	questions to Mr. Wollen
<u>4:00:35 PM</u>	Judge Hansen	def. is sworn and examined by the Court
<u>4:00:43 PM</u>	Judge Hansen	will accept the admissions and will order the updated PSI and will set for sentencing on 12/2/11 at 10:30 a.m.
<u>4:02:32 PM</u>	Judge Hansen	will bring up the issue of the ABC class
<u>4:02:41 PM</u>	Public Defender	comments - asking for Interlock subject to reimbursement
<u>4:02:54 PM</u>	State Attorney	no objection to that
<u>4:02:59 PM</u>	Judge Hansen	will order the ABC class while in custody - subject to reimbursement
<u>4:04:07 PM</u>		END CASE

OCT 24 2011

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
NICHOLAS L. WOLLEN, ISB #6170  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702

Telephone: (208) 287-7400

Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff,

vs.

MICHAEL WALKER,

Defendant.

Case No. CR-FE-2009-0015305

ORDER FOR JAIL PROGRAM(S)

For good cause appearing, the defendant shall participate in the following Ada County Sheriff's in-custody program(s) on the next available date; *when space is available*.

- Substance Abuse Program (SAP)
- Active Behavior Change (ABC):

- The Court further ORDERS Defendant shall be enrolled in the following ABC emphasis:
  - ABC-MRT (Moral Reconation Therapy)
  - ABC-AM (Anger Management)

Said participation shall be at the expense of:

- Defendant

- Ada County (Interlock Fund), Idaho Code § 18-8010:

The necessary funds shall be transferred from the Interlock Fund, *if funds are available*, to the Ada County Sheriff's account to pay for the defendant's participation. The Ada County Treasurer, the Ada County Clerk, and the Ada County Sheriff shall comply with all necessary steps to facilitate the actual transfer of funds. *If funds are unavailable*, Defendant shall pay for his/her participation.

The defendant is hereby placed on notice that he/she will be subject to making restitution to or reimbursing Ada County for any and all monies used from the Interlock Fund for his/her participation in the above program(s).

SO ORDERED AND DATED, this 21<sup>st</sup> day of Oct 20 11.

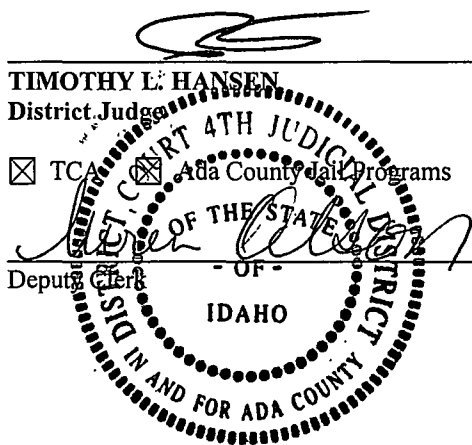
TIMOTHY L. HANSEN  
District Judge

Clerk will provide copies to:

- Public Defender
- Prosecutor

- TCA
- Ada County Jail Programs

Deputy Clerk



ORDER FOR JAIL PROGRAM(S)

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>1:43:22 PM</u>		<b>CRFE09-15305 State v Michael Walker</b>
<u>1:44:12 PM</u>	State Attorney	George Gunn
<u>1:44:16 PM</u>	Public Defender	Nick Wollen
<u>1:44:19 PM</u>	Judge Hansen	Calls case, def. is present in custody with counsel
<u>1:44:27 PM</u>	Judge Hansen	reviews file
<u>1:44:31 PM</u>	State Attorney	no additions corrections or objections
<u>1:44:42 PM</u>	Public Defender	no additions corrections or objections
<u>1:44:50 PM</u>	State Attorney	no evidence or VIS
<u>1:44:54 PM</u>	Public Defender	no evidence
<u>1:44:58 PM</u>	State Attorney	argues sentencing
<u>1:46:12 PM</u>	Public Defender	argues sentencing
<u>1:50:02 PM</u>	State Attorney	comments to the Court
<u>1:50:13 PM</u>	Judge Hansen	comments
<u>1:51:57 PM</u>	Public Defender	continues with arguement
<u>1:53:10 PM</u>	Defendant	makes a statement
<u>1:53:47 PM</u>	Public Defender	no legal cause
<u>1:53:53 PM</u>	Judge Hansen	comments - will revoke probation and impose the 1+4=5; Retains Jurisdiction for 365 days - will rec. traditional rider; cts of 188 days
<u>2:00:14 PM</u>	Judge Hansen	appeal rights
<u>2:00:44 PM</u>		END CASE

DEC 07 2011

CHRISTOPHER D. RICH, Clerk  
By KARI HOPP  
DEPUTY

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
[REDACTED] )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2009-0015305  
ORDER OF REVOCATION OF  
PROBATION AND IMPOSITION  
OF SENTENCE AND COMMITMENT  
AND ORDER RETAINING JURISDICTION

In the above entitled action, Defendant appeared before the Court in response to an Amended Motion and Order for Bench Warrant for Violation of Probation, and Defendant having admitted the allegations numbered 3 and 6, as set forth in said Motion, the Court finds Defendant has violated his probation order;

Now, therefore IT IS HEREBY ORDERED, that the probation entered by the Court on the 28th day of January, 2011 be and the same is hereby revoked.

IT IS FURTHER ORDERED that the Judgment of Conviction entered by the Court on the 28th day of January, 2011, for the crime of COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE, MARIJUANA, GREATER THAN THREE OUNCES, FELONY, I.C. §37-2732(e), committed on or about the 18th day of August, 2009, be and the same is hereby

1/11

executed according to its original terms to-wit: that Defendant be sentenced to the custody of the State Board of Correction of the State of Idaho for an aggregate term of five (5) years, to be served as follows: a minimum period of confinement of one (1) year followed by a subsequent indeterminate period of custody not to exceed four (4) years.

Pursuant to I.C. § 18-309, Defendant is given credit for a total of one hundred eighty-eight (188) days served.


The Court retains jurisdiction under I.C. §19-2601(4) for a period of three hundred sixty-five (365) days. The Court recommends that Defendant participate in the Traditional rider program. The Idaho Department of Correction shall determine which program Defendant shall complete while incarcerated. The period of retained jurisdiction shall not commence until Defendant is taken into custody by the State Board of Correction.

Defendant shall pay all costs previously imposed that have not been paid.

Defendant is hereby remanded to the custody of the Sheriff of Ada County to be delivered FORTHWITH into the custody of the Director of the Idaho State Correctional Institution.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Order of Revocation of Probation to the said Sheriff, which shall serve as the commitment of Defendant.

**DATED** this 2nd day of December, 2011.

  
\_\_\_\_\_  
TIMOTHY HANSEN  
District Judge

**CERTIFICATE OF MAILING**

I do hereby certify that on the 7<sup>th</sup> day of December~~a~~, 2011, I caused to be emailed/mailed one copy of the within instrument to in this cause as follows:

ADA COUNTY PROSECUTOR

ADA COUNTY PUBLIC DEFENDER


PROBATION AND PAROLE

ADA COUNTY JAIL

IDAHO DEPARTMENT OF CORRECTION

PRESENTENCE INVESTIGATION DEPARTMENT

CHRISTOPHER D. RICH  
Clerk of the District Court

By:   
Deputy Court Clerk





<b>Time</b>	<b>Speaker</b>	<b>Note</b>
<b>10:53:02 AM</b>		<b>State v Michael Walker - CRFE09-15305</b>
<b>10:53:21 AM</b>	State Attorney	George Gunn
<b>10:53:24 AM</b>	Public Defender	Nick Wollen
<b>10:53:27 AM</b>	Judge Hansen	Calls case, def. is present in custody with counsel
<b>10:53:36 AM</b>	Judge Hansen	reviews file
<b>10:54:49 AM</b>	State Attorney	no additions corrections or objections
<b>10:54:56 AM</b>	Public Defender	no additions corrections or objections
<b>10:55:01 AM</b>	State Attorney	no evidence or VIS
<b>10:55:06 AM</b>	Public Defender	no evidence
<b>10:55:08 AM</b>	State Attorney	argues sentencing - does not oppose recc. of probation
<b>10:56:16 AM</b>	Public Defender	argues sentencing - recc. probation
<b>10:57:35 AM</b>	Defendant	makes a statement on his own behalf
<b>10:59:34 AM</b>	State Attorney	no legal cause
<b>10:59:37 AM</b>	Public Defender	no legal cause
<b>10:59:41 AM</b>	Judge Hansen	comments - will follow the recc. and again place the def. on probation for 1+4=5; 5 years probation to expire on 01/27/16 - cts of 420 days; same terms and conditions of probation;
<b>11:07:43 AM</b>	State Attorney	no further terms of probation
<b>11:07:49 AM</b>	Public Defender	no terms that cause concern
<b>11:07:57 AM</b>	Defendant	understands and accepts terms and conditions of probation
<b>11:08:08 AM</b>	Judge Hansen	appeal rights
<b>11:08:50 AM</b>		END CASE

JUL 20 2012

CHRISTOPHER D. RICH, Clerk  
By KARI HOPP  
DEPUTY

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
[REDACTED] )  
)  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2009-0015305  
ORDER REINSTATING AND  
AMENDING PROBATION

WHEREAS on the 2nd day of December, 2011, pursuant to Defendant's admission to the Amended Motion for Probation Violation filed on the 8th day of June, 2011, Defendant's probation was revoked and sentence for the crime of COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE, MARIJUANA, GREATER THAN THREE OUNCES, FELONY, I.C. §37-2732(e), was executed according to its original terms.

AND WHEREAS the Court retained jurisdiction for 365 days to suspend execution of Judgment pursuant to Section 19-2601 (4), of the Idaho Code;

AND WHEREAS, the said District Court, having ascertained the desirability of suspending execution of the judgment and again placing Defendant on probation for the balance of said sentence;

KH

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the said sentence be suspended and Defendant be placed on probation through January 27, 2016, effective the date of this order, upon the same terms and conditions entered by the Court on the 28th day of January, 2011, with said probation amended to include the following special conditions:

1. Defendant shall not violate any law or ordinance of the United States or any city, state or county therein, wherein a fine or bond forfeiture of more than \$250.00 or a jail term could be imposed as a penalty.
2. Defendant shall pay any amounts previously ordered by the Court for fines, fees, costs, public defender reimbursement, and specifically \$500.00 in restitution, joint and several with the co-defendant, Kristina Brutsman-Rice, less any amounts already paid. Payments shall be paid in monthly installments in an amount to be arranged with his/her probation officer.
3. Defendant shall enroll in and meaningfully participate in any and all programs of rehabilitation recommended by his/her probation officer, including but not limited to: mental health counseling and any/all substance abuse treatment, including inpatient, if requested, and an aftercare program. In addition, Defendant is to take all medication prescribed at the rate it is prescribed. Further, Defendant shall waive privilege with all medical and mental health care providers as to his/her probation officer.
4. During the entire term of his/her probation, said Defendant shall maintain steady employment, be actively seeking employment, or be enrolled as a full-time student.
5. Defendant is to obtain his/her G.E.D. or H.S.E. (High School Equivalency) within two (2) years.
6. Defendant shall not purchase, carry or have in his/her possession any firearm(s) or other weapons.
7. Defendant agrees to waive his/her Fourth Amendment rights applying to search and seizure as provided by the Fourth Amendment of the Constitution, and to submit to a search by his/her probation officer or law enforcement officer of his/her person, residence, vehicle or other property upon request of such probation officer or law enforcement officer.
8. Defendant shall not operate any motor vehicle unless he/she has a valid driver's license and the vehicle he/she is operating is licensed and properly insured.

9. Defendant shall not purchase, possess or consume any alcoholic beverages while on probation.
10. Defendant shall not purchase, possess or consume any drug or narcotic unless specifically prescribed by a medical doctor.
11. Defendant shall not frequent establishments where alcohol is the main source of income.
12. Defendant shall not associate with individuals specified by his/her probation officer.
13. Defendant agrees to tests of his/her blood, breath or urine or other chemical tests for the detection of alcohol and/or drugs at the request of his/her probation officer, to be administered at Defendant's own expense. In addition, Defendant is to submit to any field sobriety evaluations requested by a law enforcement officer and shall submit to any test of his/her blood, breath or urine offered by a law enforcement officer for D.U.I. detection.
14. Upon request of his/her probation officer, Defendant agrees to submit to polygraph examinations administered by qualified examiners and limited in scope to those matters which are calculated to determine whether Defendant is complying with the lawful conditions of probation.
15. Defendant may be required to serve an additional one hundred eighty (180) days in the Ada County Jail at the discretion of his/her probation officer and upon approval of this Court.
16. Defendant shall perform one hundred (100) hours of community service and pay the sixty (60) cent workman's compensation fee for each hour of service. Community service is to be completed within nine (9) months. Defendant shall receive credit any community service already completed.

IT IS FURTHER ORDERED THAT THE PROBATIONER, IF PLACED ON PROBATION TO A DESTINATION OUTSIDE THE STATE OF IDAHO, OR LEAVES THE CONFINES OF THE STATE OF IDAHO WITH OR WITHOUT PERMISSION OF THE DIRECTOR OF PROBATION AND PAROLE DOES HEREBY WAIVE EXTRADITION TO THE STATE OF IDAHO AND ALSO AGREES THAT THE SAID PROBATIONER WILL NOT CONTEST ANY EFFORT BY ANY STATE TO RETURN THE PROBATIONER TO

THE STATE OF IDAHO.

For record purposes only, pursuant to I.C. §18-309, Defendant is given credit for a total of four hundred twenty (420) days served.

Probation shall expire at midnight on January 27, 2016.

Dated this 20th day of July, 2012.



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TIMOTHY HANSEN  
District Judge

This is to certify that I have read or had read to me and fully understand and accept all the conditions, regulations and restrictions under which I am being reinstated on probation. I will abide by and conform to them strictly and fully understand that my failure to do so may result in the revocation of my probation and commitment to the Board of Correction to serve the sentence originally imposed.

\_\_\_\_\_  
Probation Officer

\_\_\_\_\_  
Probationer

\_\_\_\_\_  
Date of Acceptance

**CERTIFICATE OF MAILING**

I do hereby certify that on the 20<sup>th</sup> day of July, 2012, I caused to be emailed/mailed one copy of the within instrument to in this cause as follows:

ADA COUNTY PROSECUTOR

ADA COUNTY PUBLIC DEFENDER

PROBATION AND PAROLE

ADA COUNTY JAIL

IDAHO DEPARTMENT OF CORRECTION

PRESENTENCE INVESTIGATION DEPARTMENT

CHRISTOPHER D. RICH  
Clerk of the District Court

By:  \_\_\_\_\_  
Deputy Court Clerk



FEB 25 2013

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: (208) 287-7700  
Fax: (208) 287-7709

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-FE-2009-0015305**  
**MOTION FOR BENCH**  
**WARRANT FOR**  
**PROBATION VIOLATION**

STATE OF IDAHO )  
) ss:  
County of Ada )

**COMES NOW**, Ben Harmer, Deputy Prosecuting Attorney for Ada County, State of Idaho, being first duly sworn, deposes and says:

That on the 8<sup>th</sup> day of November 2010, the said Defendant pled guilty to POSSESSION OF MARIJUANA IN EXCESS OF THREE OUNCES, FELONY, and that on the 28<sup>th</sup> day of January 2011, this Court placed the Defendant on probation for a period

BT

of five (5) years, and that on the 20<sup>th</sup> day of October 2011, the said Defendant pled guilty to PROBATION VIOLATION, FELONY, and that on the 2<sup>nd</sup> day of December 2011, this Court retained jurisdiction, and that on the 20<sup>th</sup> day of July 2012, this Court reinstated and amended probation for a period of five (5) years.

This Court required, and the Defendant agreed, that as a condition of probation he would respect and obey all the laws of the State of Idaho, at all times conduct himself as a good citizen, and obey the rules and regulations of probation. That the Defendant violated the above-mentioned term of his probation agreement by:

1. Failing to attend and/or successfully complete MRT Aftercare as lawfully requested by his supervising officer, to-wit: on or about the 12<sup>th</sup> day of February 2013, the said Defendant failed MRT Aftercare after missing a total of eleven (11) classes;
2. Failing to maintain full-time employment, be actively seeking employment or be enrolled as a full time student as lawfully requested by his supervising officer, to-wit: on or about the 12<sup>th</sup> day of February 2012, the said Defendant's reported employer informed that the Defendant no longer worked there;
3. Failing to perform one hundred (100) hours of community service and provide documentation of completion as ordered by the Court, to-wit: the said Defendant has not reported beginning his community service;
4. Failing to obtain permission from his supervising officer before changing residence, to-wit: on or about the 9<sup>th</sup> day of February 2013, the said Defendant moved from his reported residence at Rising Sun, without permission;

5. Failing to pay the cost of supervision fee as ordered by the Court;
6. Absconding from supervision;
7. Failing to pay fines, fees, funds, surcharges and/or costs as ordered by the Court, and by;
8. Failing to pay restitution as ordered by the Court (please see attached computer printout).

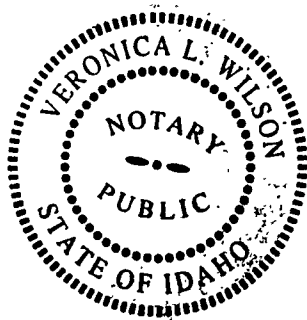
**WHEREFORE**, your affiant prays for an Order of this Court directing the Clerk of the Court to issue a Bench Warrant for the arrest of the Defendant requiring that he be arrested and brought before this Court on the arraignment day next following his arrest, at which time to show cause why the probation and sentence in this cause should not be revoked and sentence imposed according to law.

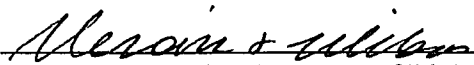
**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Ben Harmer  
Deputy Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of February 2013.



  
Notary Public for the State of Idaho  
Residing at Boise, Idaho  
Commission Expires: 12-16-2015.

IDAHO DEPARTMENT OF CORRECTION  
DIVISION OF COMMUNITY CORRECTIONS

Probation and Parole, District 4  
8752 W. Fairview Avenue  
Boise, Idaho  
327-7008

REPORT OF PROBATION VIOLATION

DATE: February 14th, 2013

RECEIVED

TO: The Honorable Judge Hansen  
Fourth District Judge  
Ada County Court House  
Boise ID, 83702

FEB 25 2013  
ADA COUNTY CLERK

NAME: Michael Jason Walker  
IDOC: 98643

CASE NO.: CR-FE-2009-0015305

ADDRESS: ABSCONDER

DATE OF SENTENCE: 01/28/2011 SENTENCE: Suspended (5 Years)  
DATE OF PROBATION: 07/20/2012  
DATE OF REINSTATEMENT: 07/20/2012

COUNTY: Ada JUDICIAL DISTRICT: Fourth

**RULE VIOLATED:**

SPECIAL CONDITION "3," OF THE COURT ORDER, which states: "Defendant shall enroll in and meaningfully participate in any and all programs of rehabilitation recommended by his/her probation officer, including but not limited to: mental health counseling and any/all substance abuse treatment, including inpatient, if requested, and an aftercare program. In addition, Defendant is to take all medication prescribed at the rate it is prescribed. Further, Defendant shall waive privilege with all medical and mental health care providers as to his/her probation officer."

**SUMMARY:**

SPECIAL CONDITION "3" OF THE COURT ORDER, was violated in that: On 02/12/2013, Michael Walker failed MRT Aftercare after missing a total of 11 classes. On 12/18/2012, Michael Walker was given a warning about missing his required after classes and assured his supervising officer that he would not miss any more classes.

**RULE VIOLATED:**

SPECIAL CONDITION "4", OF THE COURT ORDER, which states: "During the entire term of his/her probation, said Defendant shall maintain steady employment, be actively seeking employment, or be enrolled as a full time student."

**SUMMARY:**

SPECIAL CONDITION "4" OF THE COURT ORDER, was violated in that: On 02/12/2012, I called Michael Walker's reported place of employment, Jerry's Restaurant, who reported that Michael Walker  
000224

PV: 00001

Name: Michael Walker  
Date: 02/14/2013  
Case No.: CR-FE-2009-0015305

no longer works there.

**RULE VIOLATED:**

SPECIAL CONDITION "16", OF THE COURT ORDER, which states:

"Defendant shall perform one hundred (100) hours of community service and pay the sixty (60) cent workman's compensation fee for each hour of service. Community service is to be completed within nine (9) months. Defendant shall receive credit any community service already completed.

**SUMMARY:**

SPECIAL CONDITION "6" OF THE COURT ORDER, was violated in that: Michael Walker has not reported beginning his community service or even starting his community service which he was instructed to begin back in November 2012.

**RULE VIOLATED:**

CONDITION "3", OF THE IDAHO DEPARTMENT OF CORRECTION AGREEMENT OF SUPERVISION, which states: "Residence: The defendant shall not change residence without first obtaining permission from an authorized agent of the Idaho Dept of Correction."

**SUMMARY:**

SPECIAL CONDITION "3" OF THE COURT ORDER and CONDITION "17", OF THE IDAHO DEPARTMENT OF CORRECTION AGREEMENT OF SUPERVISION, were violated in that: On or about the day of 02/09/2013, Michael Walker moved from his reported residence at Rising Sun, without permission, and has made no attempt to disclose this information to his supervising officer since.

**RULE VIOLATED:**

CONDITION "12", OF THE IDAHO DEPARTMENT OF CORRECTION AGREEMENT OF SUPERVISION, which states: "Cost of Supervision: The defendant shall comply with Idaho Code 20-225, which authorizes the Idaho Dept of Correction to collect a cost of supervision fee. The defendant shall make payments as prescribed in his/her monthly cost of supervision bill."

**SUMMARY:**

SPECIAL CONDITION "12" OF THE COURT ORDER and CONDITION "17", OF THE IDAHO DEPARTMENT OF CORRECTION AGREEMENT OF SUPERVISION, were violated in that: As of 02/14/2013, Michael Walker owes \$300 to the Idaho Department of Correction for Cost of Supervision and has not made a payment since October 2012.

**RULE VIOLATED:**

CONDITION "17", OF THE IDAHO DEPARTMENT OF CORRECTION AGREEMENT OF SUPERVISION, which states: "Absconding Supervision: The defendant will not leave or attempt to leave the state or the assigned district in an effort to abscond or flee supervision. The defendant will make himself/herself available for supervision and program participation as instructed by the probation officer and will not actively avoid supervision."

Name: Michael Walker  
Date: 02/14/2013  
Case No.: CR-FE-2009-0015305

### **SUMMARY:**

SPECIAL CONDITION "17" OF THE COURT ORDER and CONDITION "17", OF THE IDAHO DEPARTMENT OF CORRECTION AGREEMENT OF SUPERVISION, were violated in that: Michael Walker has moved without permission. A note was placed on the door of the Rising Sun house where he was living stating that he is not to enter the residence without first contacting his supervising officer. Residents of the Rising Sun house report that they have not seen Michael Walker for several days. I have attempted to contact Michael Walker several times on his reported phone number and left him numerous voicemails to call me and to come in to the office but there has been no attempt made by Michael Walker to get a hold of me. I have also tried to contact Michael Walker's mother on a number he previously provided but the number has since been changed. When I attempted to get a hold of Michael Walker on his listed employer's number, the employer stated that he no longer works there.

### **INTERMEDIATE SANCTIONS:**

- Orientation
- CRP Aftercare
- MRT Aftercare
- Curfew
- Monthly Reports
- 90/90
- COS Collection Night

### **SUPERVISION HISTORY:**

#### RESIDENCE

Michael Walker is currently an ABSCONDER with no known residence but until this week has lived in a Safe and Sober Rising Sun house since October 2012.

#### EMPLOYMENT

Michael Walker has no known employment but was previously employed with Jerry's Restaurant and the Idaho Youth Ranch.

#### RELATIONSHIPS

Michael Walker has not reported any relationships since being reinstated to probation.

#### PHYSICAL AND MENTAL HEALTH

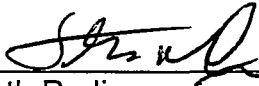
The defendant appears to be in good physical and mental health, with no apparent physical limitations that may restrict his ability to obtain employment.

### **RECOMMENDATIONS**

The defendant has been provided multiple opportunities to correct her criminal thinking and actions in the community, but has failed to do so successfully. Based upon the defendant's continued criminal thinking and actions, coupled with prior opportunities on a CRP Rider and the fact that this is Michael Walker's second Absconding, it is respectfully requested that a **BENCH WARRANT** be issued for Michael Walker, who has **ABSCONDED**, so that he may be brought before the court to give reason as to why his probation should not be revoked and his original sentence be imposed.

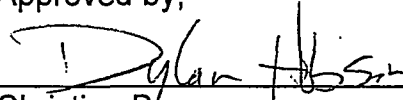
Name: Michael Walker  
Date: 02/14/2013  
Case No.: CR-FE-2009-0015305

Respectfully submitted,



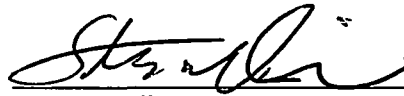
Seth Radimer  
(208) 327-7008 ext: 249  
Probation and Parole Officer, District 4

Approved by,



Christine Barrera  
(208) 327-7008 x: 235  
Section Supervisor, District 4

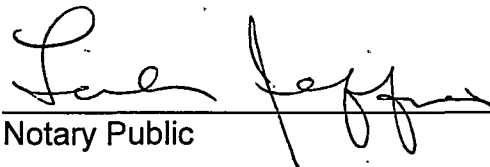
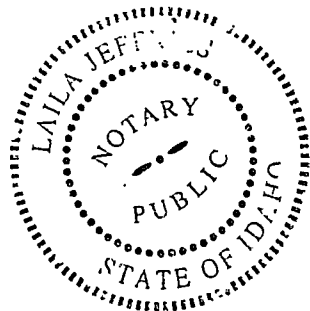
THE ABOVE DOCUMENTED INFORMATION, WHICH IS IN WRITING, IS KNOWN BY ME TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



Seth Radimer

SWORN AND SUBSCRIBED TO BEFORE ME, A NOTARY PUBLIC FOR THE STATE OF IDAHO, ON

THIS 14 DAY OF Feb 2013.



Notary Public

Residing at Bonne, Idaho

My commission expires 6-10-15



2 Transactions

Date	Number	Type	Payor or Payee	Amount
9/10/2012	11:08 AM 104652	Criminal Payment	Walker, Michael	50.00
11/5/2012	11:17 AM 125601	Criminal Payment	Walker, Michael	50.00

	Type	Amount	Entered	Type	Approved
<b>Walker, Michael</b>					
<b>I37-2732(E)</b>					
<b>Fine</b>	Original	0.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Item total:	<b>0.00</b>			
<b>POST Fee</b>	Original	10.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Item total:	<b>10.00</b>			
<b>Victim Comp. - Felony</b>	Original	75.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Payment	-27.50	9/10/2012	TCPACKCF	
				Payment: 104652 Date: 9/10/2012	
	Payment	-47.50	11/5/2012	TCPOSELM	
				Payment: 125601 Date: 11/5/2012	
	Item total:	<b>0.00</b>			
<b>Administrative Surcharge - Misd/Fel</b>	Original	10.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Item total:	<b>10.00</b>			
<b>ISTARS Tech Fund</b>	Original	10.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Item total:	<b>10.00</b>			
<b>Court Costs - Misd/Fel</b>	Original	17.50	1/28/2011	DCOLSOMA	DCOLSOMA
	Payment	-17.50	9/10/2012	TCPACKCF	
				Payment: 104652 Date: 9/10/2012	
	Item total:	<b>0.00</b>			
<b>Peace Officer and Detention Officer Temporary Disability Fee</b>	Original	3.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Payment	-3.00	9/10/2012	TCPACKCF	
				Payment: 104652 Date: 9/10/2012	
	Item total:	<b>0.00</b>			
<b>Domestic Violence / Substance Abuse Fee</b>	Original	30.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Item total:	<b>30.00</b>			
<b>Drug Violations Hotline Fee</b>	Original	10.00	1/28/2011	DCOLSOMA	DCOLSOMA
	Item total:	<b>10.00</b>			
<b>Handling Fee</b>	Original	2.00	9/10/2012	TCPACKCF	000229

Type	Amount	Entered	Approved
<b>Walker, Michael</b>			
<b>I37-2732(E)</b>			
Payment	-2.00	9/10/2012	TCPACKCF Payment: 104652 Date: 9/10/2012
Adjustment	2.00	11/5/2012	TCPOSELM TCPOSELM Partial Payment fee
Payment	-2.00	11/5/2012	TCPOSELM Payment: 125601 Date: 11/5/2012
Item total:	<u>0.00</u>		
Charge amount due:	<u>70.00</u>		

**Restitution**

DRUG ENFORCEMENT DONATION	Original	500.00	2/15/2011	PRHOWEJR	
DRUG ENFORCEMENT DONATION	Adjustment	5.45	4/1/2011	JVSLAMTG	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.28	5/2/2011	JVSLAMTG	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.21	6/1/2011	JVSLAMTG	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.28	7/1/2011	JVSLAMTG	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	4.49	9/1/2011	TCMCMIBD	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.28	10/3/2011	CCDWONCP	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.21	11/1/2011	CCWATSCL	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.28	12/1/2011	TCMILLSA	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.28	1/2/2012	PRROOTSM	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.14	2/1/2012	JVSLAMTG	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.28	3/1/2012	JVSLAMTG	BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION	Adjustment	2.21	4/1/2012	PRHARRSK	BatchRun Victim Restitution Interest Applied

000230

PV : 00007

Type	Amount	Entered	Approved
<b>Walker, Michael</b>			
<b>Restitution</b>			
DRUG ENFORCEMENT DONATION Adjustment	2.28	5/1/2012	JVSLAMTG BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.21	6/1/2012	JVSLAMTG BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.28	7/2/2012	JVSLAMTG BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.28	8/1/2012	JVSLAMTG BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.21	9/4/2012	JVSLAMTG BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.28	10/1/2012	JVSLAMTG BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.21	11/1/2012	MAHICKTM BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Payment	-50	11/5/2012	TCPOSELM Payment: 125601 Date: 11/5/2012
DRUG ENFORCEMENT DONATION Adjustment	2.28	12/3/2012	TCPACKCF BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.28	1/2/2013	MAHICKTM BatchRun Victim Restitution Interest Applied
DRUG ENFORCEMENT DONATION Adjustment	2.06	2/1/2013	TCMORGAM BatchRun Victim Restitution Interest Applied
Item total:	<b>554.26</b>		
Total Amount Due:	<b>624.26</b>		

Search details:

[ New Search ] [ Result Summary ]

MICHAEL JASON WALKER #98643

Status: Probation/Parole

Supervising District: DISTRICT 4 FAIRVIEW OFFICE

Phone Number: 208-327-7008

Supervising Officer: RADIMER, SETH

IDOC Sentence Information

The sentence information shown is for active sentences under the jurisdiction, custody, and/or supervision of the Idaho Department of Correction only.

Offense	Sentencing County	Case No.	Sentence Satisfaction Date
POSSESSION OF A CONTROLLED SUBSTANCE	ADA	CR09-15305	01/27/2016

The Idaho Department of Correction updates this information regularly, to ensure that it is complete and accurate; however, this information can change quickly. Therefore, the information on this site may not reflect the true content, location, status, scheduled termination date, or other information regarding an offender.

More Information:

This offender search service is designed to provide basic information about an offender. If you need additional basic offender record information, contact inquire@idoc.idaho.gov.

Formal requests for copies of records should be mailed to:

Records Bureau  
Idaho Department of Correction  
1299 N. Orchard Street, Suite 110  
Boise, ID 83706

If you want to learn more about parole procedures, or need specific information about a parole eligibility date, tentative parole date and/or hearing results, please contact the Idaho Commission of Pardons & Parole.

For information on Idaho Department of Correction visitation, please go to: [www.idoc.idaho.gov/content/prisons/visiting](http://www.idoc.idaho.gov/content/prisons/visiting)

For information on Idaho Department of Correction mail regulations, please go to: [www.idoc.idaho.gov/content/prisons/offender\\_services/mail\\_rules](http://www.idoc.idaho.gov/content/prisons/offender_services/mail_rules)

RECEIVED  
FEB 25 2013  
ADA COUNTY CLERK

FEB 27 2013  
CHRISTOPHER D. RICH, Clerk  
By ANNA MORGAN  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700  
Fax: (208) 287-7709

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

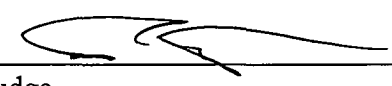
STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2009-0015305
	)	
vs.	)	ORDER FOR BENCH WARRANT FOR
	)	PROBATION VIOLATION
MICHAEL JASON WALKER,	)	
	)	
Defendant.	)	
_____	)	

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Clerk of the Court issue a Bench Warrant for the arrest of the Defendant requiring that he be arrested at any time during the day or night and brought before this Court on the arraignment day next following his arrest.

It is further ordered that the above-named Defendant shall remain on active probationary status and be subject to all requirements of his probation order during the pendency of these

proceedings, unless the Defendant meets the criteria for absconding. Bond is set at ~~without bond~~ <sup>hold Defendant</sup> pending arraignment on the Bench Warrant.

DATED this 26<sup>th</sup> day of July 2013.

  
\_\_\_\_\_  
Judge

BOND SET AT:

- \$ \_\_\_\_\_ ~~Cash/Surety~~
- \$ \_\_\_\_\_ ~~Cash~~
- \$ \_\_\_\_\_ ~~Surety~~

*Hold Defendant without bond pending arraignment.*

692610

NO. 8:00 FILED P.M.

JAN 28 2014

CHRISTOPHER D. RICH, Clerk  
By STORMY McCORMACK  
DEPUTY

DR# 09-922071

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

RECEIVED  
Ada County Sheriff  
Administrative Services  
  
FEB 28 2013  
  
Gary Raney, Sheriff  
BOISE, IDAHO

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

THE STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MICHAEL JASON WALKER, )  
 )  
Defendant. )  
DOB 11/30/1989 )

CRFE 2009 0015305.01.02

Case No. CR-FE-2009-0015305

**BENCH WARRANT FOR  
PROBATION VIOLATION**

TO ANY SHERIFF, CONSTABLE OR PEACE OFFICER OF THE STATE OF IDAHO:

**YOU ARE HEREBY COMMANDED** forthwith, to arrest the defendant and probationer at any time during the day or night and deliver him into the custody of the Sheriff of Ada County, Idaho, at the County Jail; the Defendant and Probationer to be brought before this Court on the next regular arraignment day of the Court following his arrest and delivery to the Ada County Jail, then and there to show cause, if any, why the

**BENCH WARRANT FOR PROBATION VIOLATION**  
(WALKER/CR-FE-2009-0015305), Page 1

**ARRESTED**  
**ADA COUNTY SHERIFF**  
000235

QB

SM



probation and withheld sentence heretofore granted him in the above-entitled cause should not be revoked and sentence imposed according to law, it appearing to this Court that the Defendant, a probationer under the jurisdiction of this Court, has violated the terms and conditions of said Judgment and Order and Agreement of Probation.

DATED this 27 day of Feb 2013.

CHRISTOPHER D. RICH  
Ada County Clerk

By: Alisa Moyle  
Deputy Clerk



BOND SET AT:

\$ \_\_\_\_\_ Cash/Surety

\$ \_\_\_\_\_ Cash

\$ \_\_\_\_\_ Surety

Pending arraignment on the Bench Warrant by Judge St. Wansa

*Debbie W. Anderson #853  
Boise Police  
1-27-14*

ADA COUNTY MAGISTRATE MINUTES

Michael Walker CR-FE-2009-0015305



Scheduled Event: Video Arraignment Tuesday, January 28, 2014 01:30 PM

Judge: Daniel L Steckel Clerk: [Signature] Interpreter: \_\_\_\_\_

Prosecuting Agency: [Signature] AC BC EA GC MC Pres: [Signature]

PD/Attorney: [Signature]

- 1 I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz F
- 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M
- 3 I20-222 Probation Violation F
- 4 I20-222 Probation Violation F

[Signature] Case Called Defendant: \_\_\_\_\_ Present [Signature] Not Present [Signature] In Custody

[Signature] Advised of Rights \_\_\_\_\_ Waived Rights [Signature] PD Appointed \_\_\_\_\_ Waived Attorney

\_\_\_\_\_ Guilty Plea / PV Admit \_\_\_\_\_ N/G Plea \_\_\_\_\_ Advise Subsequent Penalty

[Signature] Bond \$ NO Bond \_\_\_\_\_ ROR \_\_\_\_\_ Pay / Stay \_\_\_\_\_ Payment Agreement

\_\_\_\_\_ In Chambers \_\_\_\_\_ PT Memo \_\_\_\_\_ Written Guilty Plea \_\_\_\_\_ No Contact Order

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Arr: 2/5/14 @ 9:00 w/ Hansen

Finish ( ) Release Defendant

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_  
FILED P.M. 3:02

JAN 28 2014  
CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA  
MAGISTRATE DIVISION

STATE OF IDAHO, )  
Plaintiff. )  
vs. )  
Michael Walker )  
3301 W Hamilton )  
Boise, ID 83704 )  
Defendant. )

Case No: CR-FE-2009-0015305  
NOTICE OF APPOINTMENT OF PUBLIC DEFENDER  
AND SETTING CASE FOR HEARING  
 Ada  Boise  Eagle  Garden City  Meridian

TO: Ada County Public Defender

**YOU ARE HEREBY NOTIFIED** that you are appointed to represent the defendant in this cause, or in the District Court until relieved by court order. The case is continued for:

Arraignment... Wednesday, February 05, 2014 ....09:00 AM  
Judge: Timothy Hansen

**BOND AMOUNT:** \_\_\_\_\_ The Defendant is:  In Custody  Released on Bail  ROR

TO: The above named defendant

**IT HAS BEEN ORDERED BY THIS COURT** that the defendant is to contact the Ada County Public Defender's Office at 200 W. Front Street, Room 1107, Boise, Idaho 83702. Telephone: (208) 287-7400. If the defendant is unable to post bond and obtain his/her release from jail, that the proper authorities allow the defendant to make a phone call to the Ada County Public Defender.

**IT HAS BEEN FURTHER ORDERED:** That the parties, prior to the pre-trial conference, complete and comply with Rule 16 I.C.R. and THAT THE DEFENDANT BE PERSONALLY PRESENT AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL: FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A BENCH WARRANT FOR THE DEFENDANT'S ARREST.

I hereby certify that copies of this Notice were served as follows on this date Tuesday, January 28, 2014.

Defendant: Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_ Signature \_\_\_\_\_  
Clerk / date \_\_\_\_\_ Phone ( ) \_\_\_\_\_

Prosecutor: Interdepartmental Mail \_\_\_\_\_

Public Defender: Interdepartmental Mail \_\_\_\_\_

\_\_\_\_\_  
Deputy Clerk

100  
2/15/14  
A

**ADA COUNTY PUBLIC DEFENDER**  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_  
FILED \_\_\_\_\_

**JAN 30 2014**

CHRISTOPHER D. RICH, Clerk  
By KATRINA CHRISTENSEN  
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**  
**Plaintiff**

vs.

**MICHAEL WALKER,**  
**Defendant.**

**Case No. CR-FE-2009-0015305**

**MOTION FOR BOND REDUCTION**

COMES NOW, MICHAEL WALKER, the above-named defendant, by and through counsel ANTHONY R GEDDES, Ada County Public Defender's office, and moves this Court for its ORDER reducing bond in the above-entitled matter upon the grounds that the bond is so unreasonably high that the defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that the defendant has thereby been effectively denied their right to bail.

**DATED**, Thursday, January 30, 2014.

\_\_\_\_\_  
ANTHONY R GEDDES  
Attorney for Defendant

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Thursday, January 30, 2014, I mailed a true and correct copy of the within instrument to:

**BEN HARMER**  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.

\_\_\_\_\_  
*Quinn Harris*

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JAN 30 2014

CHRISTOPHER D. RICH, Clerk  
By KATRINA CHRISTENSEN  
DEPUTY

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

STATE OF IDAHO,  
Plaintiff

vs.

MICHAEL WALKER,  
Defendant.

Case No. CR-FE-2009-0015305

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to BEN HARMER:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Wednesday, February 05, 2014, at the hour of 09:00 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Thursday, January 30, 2014.

  
ANTHONY R GEDDES  
Attorney for Defendant

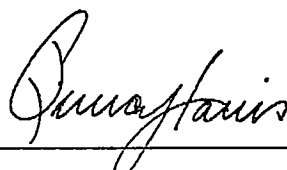
CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Thursday, January 30, 2014, I mailed a true and correct copy of the within instrument to:

BEN HARMER  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.

NOTICE OF HEARING

  
000240

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED \_\_\_\_\_  
P.M. \_\_\_\_\_

JAN 30 2014

CHRISTOPHER D. RICH, Clerk  
KATHINA CHRISTENSEN  
DEPUTY

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

STATE OF IDAHO,

Plaintiff

vs.

MICHAEL WALKER,

Defendant.

Case No. CR-FE-2009-0015305

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

- 6) All reports or physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

**DATED**, Thursday, January 30, 2014.

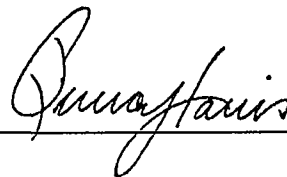
  
\_\_\_\_\_  
**ANTHONY R GEDDES**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Thursday, January 30, 2014, I mailed a true and correct copy of the within instrument to:

**ADA COUNTY PROSECUTOR**  
**Counsel for the State of Idaho**

by placing said same in the Interdepartmental Mail.

  
\_\_\_\_\_

NO. 30  
A.M. FILED P.M.

FEB - 4 2014

CHRISTOPHER D. RICH, Clerk  
By SARA WRIGHT  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: (208) 287-7700  
Fax: (208) 287-7709

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2009-0015305  
**AMENDED MOTION FOR  
PROBATION VIOLATION**

STATE OF IDAHO )  
) ss:  
County of Ada )

**COMES NOW**, Ben Harmer, Deputy Prosecuting Attorney for Ada County, State of Idaho, being first duly sworn, deposes and says:

That on the 8<sup>th</sup> day of November 2010, the said Defendant pled guilty to POSSESSION OF MARIJUANA IN EXCESS OF THREE OUNCES, FELONY, and that on the 28<sup>th</sup> day of January 2011, this Court placed the Defendant on probation for a period

81



of five (5) years, and that on the 20<sup>th</sup> day of October 2011, the said Defendant pled guilty to PROBATION VIOLATION, FELONY, and that on the 2<sup>nd</sup> day of December 2011, this Court retained jurisdiction, and that on the 20<sup>th</sup> day of July 2012, this Court reinstated and amended probation for a period of five (5) years.

This Court required, and the Defendant agreed, that as a condition of probation he would respect and obey all the laws of the State of Idaho, at all times conduct himself as a good citizen, and obey the rules and regulations of probation. That the Defendant violated the above-mentioned term of his probation agreement by:

1. Failing to attend and/or successfully complete MRT Aftercare as lawfully requested by his supervising officer, to-wit: on or about the 12<sup>th</sup> day of February 2013, the said Defendant failed MRT Aftercare after missing a total of eleven (11) classes;
2. Failing to maintain full-time employment, be actively seeking employment or be enrolled as a full time student as lawfully requested by his supervising officer, to-wit: on or about the 12<sup>th</sup> day of February 2012, the said Defendant's reported employer informed that the Defendant no longer worked there;
3. Failing to perform one hundred (100) hours of community service and provide documentation of completion as ordered by the Court, to-wit: the said Defendant has not reported beginning his community service;
4. Failing to obtain permission from his supervising officer before changing residence, to-wit: on or about the 9<sup>th</sup> day of February 2013, the said Defendant moved from his reported residence at Rising Sun, without permission;

5. Failing to pay the cost of supervision fee as ordered by the Court;
6. Absconding from supervision;
7. Failing to pay fines, fees, funds, surcharges and/or costs as ordered by the Court;
8. Failing to pay restitution as ordered by the Court (please see attached computer printout);
9. Committing the crime of POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER, FELONY, on or about the 27<sup>th</sup> day of January 2014, filed as case number CR-FE-2014-0001269, and by;
10. Committing the crime of POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, on or about the 27<sup>th</sup> day of January 2014, filed as case number CR-FE-2014-0001269.

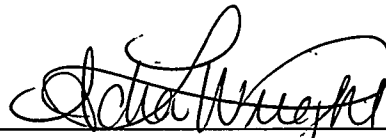
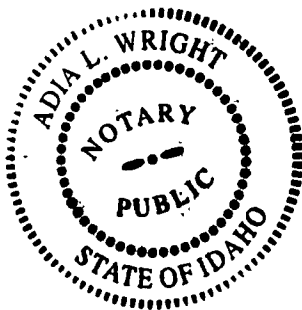
The purpose of this Motion to Amend Probation Violation is to add new allegations numbers nine (9) and ten (10) above, in addition to allegations numbers one (1) through eight (8), previously filed. (Local rule 8.4)

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Ben Harmer  
Deputy Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of February 2014.



Notary Public for the State of Idaho  
Residing at ANA, Idaho  
Commission Expires: 9/20/17.

Date: 2/4/2014  
Time: 10:55 AM  
Page 1 of 5

Fourth Judicial District Court - Ada County  
Complete Case History  
CR-FE-2014-0001269

User: PRWRIGAL

State of Idaho vs. Michael Jason Walker

Filed: 1/28/2014  
Subtype: Felony

Physical File:      Appealed: N

Comment:  
**Status History**  
Pending

**RECEIVED**  
**FEB - 4 2014**  
1/28/2014

**Judge History**

Date	Judge	Reason for Removal
1/28/2014	Swain, Kevin	Current
1/28/2014	Clerk, Magistrate Court	Administrative

**Prosecutors**

Ada County Prosecutor, Peterson, Daniel E.	(No longer on case) (Primary attorney)	Do Not Send Notices Send Notices
---	---	-------------------------------------

**PV000001**  
000247

State of Idaho vs. Michael Jason Walker

Defendant

Name: Walker, Michael Jason  
Address: 5512 Malad [REDACTED]  
Boise ID 83705 [REDACTED]  
Phone Number: (208) 919-7008 Work: [REDACTED] Sex: Male  
Driver's license [REDACTED] FPC Number: 1110187866  
Employer:  
Comment:

Money Due Date: Extension Date: Hold Date:  
Agreement Date: Terms:  
Trial Held: No Trial  
First Appearance: 1/28/2014

Attorneys

Botimer, Steven A (Primary attorney) Send Notices

Hearings

From	To	Judge	Type
1/28/2014 01:30 PM		Steckel, Daniel L	Video Arraignment
Hearing result for Video Arraignment scheduled on 01/28/2014 01:30 PM: Arraignment / First Appearance			
2/11/2014 08:30 AM		Swain, Kevin	Preliminary

Register of Actions

Date	Code	Description	Officer
1/28/2014	NCRF	New Case Filed - Felony	Clerk, Magistrate Court
	PROS	Prosecutor assigned Ada County Prosecutor	Clerk, Magistrate Court
	HRSC	Hearing Scheduled (Video Arraignment 01/28/2014 01:30 PM)	Steckel, Daniel L
	CRCO	Criminal Complaint	Clerk, Magistrate Court
	MOTN	Motion to Consol	Clerk, Magistrate Court
	ORDR	Order to Consol W/ FE-14-1268	Clerk, Magistrate Court
	ARRN	Hearing result for Video Arraignment scheduled on 01/28/2014 01:30 PM: Arraignment / First Appearance	Steckel, Daniel L
	CHGA	Judge Change: Administrative	Swain, Kevin
	ORPD	Order Appointing Public Defender Ada County Public Defender	Swain, Kevin
	HRSC	Hearing Scheduled (Preliminary 02/11/2014 08:30 AM)	Swain, Kevin
	BSET	BOND SET: at 30000.00 - (137-2732(a)(1)(A) {F} Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver)	Swain, Kevin

Date: 2/4/2014

Time: 10:55 AM

Page 3 of 5

Fourth Judicial District Court - Ada County

Complete Case History

CR-FE-2014-0001269

User: PRWRIGAL

State of Idaho vs. Michael Jason Walker

Register of Actions

1/28/2014	ORPD	Order Appointing Public Defender	Swain, Kevin
1/29/2014	MFBR	Motion For Bond Reduction	Swain, Kevin
	NOHG	Notice Of Hearing	Swain, Kevin
	RQDD	Defendant's Request for Discovery	Swain, Kevin

PV000003  
000249

State of Idaho vs. Michael Jason Walker

Charges

Charge: 201307 137-2732(a)(1)(A) Controlled Substance-Manufacture or Deliver, or Possess w Degree: F

Comment:

Violation Date: 1/27/2014 01:43 PM

Officer: Anderson, Wayne, BO

Police Reference: 14-401880

Disposition Date: Comment:

Plea: None Finding: None

Other Finding:

Sentencing Defer Date:

Modified Sentence: Modified Sentence Date:

Jurisdiction: Retained: Retained Days: Relinquished:

License Suspension: Years: Months: Days:  
Suspended: Suspension reported:  
Complied: Compliance reported:

Citation: Appearance Date: 1/28/2014 Accident: No

Cited Speed: Posted Speed: Hazardous Material: No Commercial Vehicle: No

Drivers License: ID Vehicle Plate:

ITD Reported :

BCI Reported Date: Withheld Reported Date:

JCA Reported Date: Agency Reported Date:

F and G Reimbursement: F and G Meat Processing Fee: Interlock Device:

Confinement Complete By: Years: Months: Days:

Suspended:

Credited Time:

Home:

Discretionary:

Penitentiary Determinate:

Penitentiary Indeterminate:

Juvenile:

Other:

Withheld:

Charge Withheld Result: Withheld Result Date:

Concurrent Sentences:

Consecutive Sentences:

Commutated Sentence: Penitentiary Suspended:

Life Sentence: Death Sentence:

Comment:

State of Idaho vs. Michael Jason Walker

Charges

Charge: 201307 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use Degree: M

Comment:

Violation Date: 1/27/2014 01:43 PM

Officer: Anderson, Wayne, BO

Police Reference: -463061032

Disposition Date: Comment:

Plea: None Finding: None

Other Finding:

Sentencing Defer Date:

Modified Sentence: Modified Sentence Date:

Jurisdiction: Retained: Retained Days: Relinquished:

License Suspension: Years: Months: Days:

Suspended: Suspension reported:

Complied: Compliance reported:

Citation: 1441305 Appearance Date: 1/28/2014 Accident: No

Cited Speed: Posted Speed: Hazardous Material: No Commercial Vehicle: No

Drivers License: ID Vehicle Plate:

ITD Reported :

BCI Reported Date: Withheld Reported Date:

JCA Reported Date: Agency Reported Date:

F and G Reimbursement: F and G Meat Processing Fee: Interlock Device:

Confinement Complete By: Years: Months: Days:

Suspended:

Credited Time:

Home:

Discretionary:

Penitentiary Determinate:

Penitentiary Indeterminate:

Juvenile:

Other:

Withheld:

Charge Withheld Result:

Withheld Result Date:

Concurrent Sentences:

Consecutive Sentences:

Commuted Sentence:

Penitentiary Suspended:

Life Sentence:

Death Sentence:

Comment:

I hereby certify that the attached record is a true and accurate reflection of the information related to this case, so far as it is documented in the ISTARS system.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Deputy Clerk of the 4th District Court  
in and for the County of Ada



<b>Time</b>	<b>Speaker</b>	<b>Note</b>
<u>9:58:11 AM</u>		<b>State v Michael Walker - CRFE09-15305</b>
<u>9:58:23 AM</u>	State Attorney	Jill Longhurst
<u>9:58:27 AM</u>	Public Defender	Tony Geddes
<u>9:58:29 AM</u>	Judge Hansen	Calls case, def. isw present in custody wtih counsel
<u>9:58:41 AM</u>	State Attorney	no objection to PD
<u>9:58:45 AM</u>	Judge Hansen	will continue the PD
<u>9:58:49 AM</u>	Judge Hansen	arraigns the def. on the Amended Motion for PV
<u>10:01:24 AM</u>	Public Defender	comments to the Court
<u>10:01:55 AM</u>	State Attorney	no objection
<u>10:01:57 AM</u>	Judge Hansen	will set over for review to 03/12/14 at 9:00 a.m.
<u>10:02:31 AM</u>		END CASE

FEB 20 2014

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

RECEIVED  
FEB 05 2014  
Ada County Clerk

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
ANTHONY R. GEDDES, ISB #5265  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702

Telephone: (208) 287-7400

Facsimile: (208) 287-7409

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

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
MICHAEL WALKER,  
  
Defendant.

Case No. CR-FE-2009-15305

ORDER FOR JAIL PROGRAM(S)

For good cause appearing, the defendant shall participate in the following Ada County Sheriff's program(s) on the next available date; *when space is available*.

Substance Abuse Program (SAP)

Active Behavior Change (ABC):

The Court further ORDERS Defendant shall be enrolled in the following ABC emphasis:  
 ABC-MRT (Moral Reconciliation Therapy)  
 ABC-AM (Anger Management)

Said participation shall be at the expense of:

Defendant

Ada County (Interlock Fund), Idaho Code § 18-8010:  
The necessary funds shall be transferred from the Interlock Fund, *if funds are available*, to the Ada County Sheriff's account to pay for the defendant's participation. The Ada County Treasurer, the Ada County Clerk, and the Ada County Sheriff shall comply with all necessary steps to facilitate the actual transfer of funds. *If funds are unavailable*, Defendant shall pay for his/her participation.  
The defendant is hereby placed on notice that he/she may be subject to reimbursing Ada County for any and all monies used from the Interlock Fund for his/her participation in the above program(s).

SO ORDERED AND DATED, this 20th day of Feb 2014.

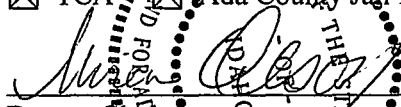


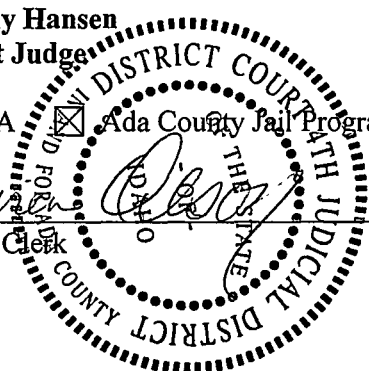
Timothy Hansen  
District Judge

Clerk will provide copies to:

Public Defender     Prosecutor

TCA     Ada County Jail Programs

  
Deputy Clerk



<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>11:43:15 AM</u>		<b>State v Michael Walker - CRFE09-15305</b>
<u>11:43:27 AM</u>	State Attorney	Ben Harmer
<u>11:43:30 AM</u>	Public Defender	Tony Geddes
<u>11:43:33 AM</u>	Judge Hansen	Calls case, def. is present in custody with counsel
<u>11:43:50 AM</u>	Judge Hansen	reviews file
<u>11:44:04 AM</u>	Public Defender	comments to the Court
<u>11:44:59 AM</u>	State Attorney	comments
<u>11:45:17 AM</u>	Public Defender	will enter denials and set for hearing
<u>11:45:25 AM</u>	Judge Hansen	questions to def.
<u>11:45:32 AM</u>	Defendant	enters denials
<u>11:46:16 AM</u>	Judge Hansen	will enter the denials and will for PV Hearing to 04/21/14 at 3:00 p.m.
<u>11:48:04 AM</u>	Public Defender	argues bond
<u>11:52:09 AM</u>	State Attorney	argues bond
<u>11:53:53 AM</u>	Public Defender	final comments
<u>11:54:17 AM</u>	Judge Hansen	comments - will deny the request to set a bond and will continue to be held without bond
<u>11:54:58 AM</u>		END CASE

APR 21 2014

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

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

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

MICHAEL WALKER,

Defendants.

Case No. CRFE09-15305

NOTICE OF HEARING

PLEASE TAKE NOTICE that the Honorable Timothy Hansen, District Judge, has set this matter for Review on the 14<sup>th</sup> day of May, 2014 at 9:00 a.m. at the Ada County Courthouse, 200 W. Front Street, Boise, Idaho. If the victim has not been notified of this hearing, the matter will have to be continued.

Dated: April 21, 2014

CHRISTOPHER D. RICH  
Clerk of the District Court  
By: *Miren Olson*  
Deputy Clerk  
DISTRICT COURT OF THE STATE OF IDAHO  
CLERK ADA CO.

ADA COUNTY PROSECUTOR ATTENTION: BEN HARMER INTERDEPARTMENTAL MAIL	ADA COUNTY PUBLIC DEFENDER ATTENTION: TONY GEDDES INTERDEPARTMENTAL MAIL
--	--

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>10:13:46 AM</u>		
<u>10:13:46 AM</u>		
<u>10:13:46 AM</u>	Judge	Michael Walker - FE0915305 - custody - Tony Geddes/Jill Longhurst
<u>10:14:09 AM</u>	Judge	revws file
<u>10:14:41 AM</u>	Public Defender	admit 3, 4, and 6 -- felony was remanded to misdemeanor -- pending for trial 29th and 30th - sentencing open to argument -- waive PSI and use old PSI
<u>10:15:44 AM</u>	State	no objection -- reqt copy of PSI
<u>10:17:36 AM</u>	Defendant	sworn and examined by the court
<u>10:20:12 AM</u>	Judge	accepts admissions -- no updated PSI ordered - PV dispo May 28, 2014 at 10:30
<u>10:20:48 AM</u>		End of Case
<u>10:20:48 AM</u>		

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
10:29:32 AM		<b>State v Michael Walker - CRFE09-15305</b>
10:29:42 AM	State Attorney	Ben Harmer
10:29:46 AM	Public Defender	Tony Geddes
10:29:48 AM	Judge Carey	Calls case, def. is present in custody with counsel
10:29:57 AM	Judge Carey	reviews file
10:43:20 AM	State Attorney	argues sentencing - rec. imposition
10:43:28 AM	Public Defender	argues sentencing - rec. probation
10:47:22 AM	Defendant	makes a statement to the Court
10:49:45 AM	Public Defender	no legal cause
10:49:51 AM	Judge Carey	comments - will revoke probation and impose the 1+4=5; will reduce the sentence per Rule 35 to 1+2=3 and CTS toward the fixed portion
10:51:39 AM	Judge Carey	appeal rights
10:52:33 AM	State Attorney	was a rule 11 agreement that the Court was Bound to - does not believe Rule 35 can apply in this case
10:52:56 AM	Judge Carey	will look - with a brief look at Rule 35 after probation violation - Court is authorized to reduce the sentence in the case of imposition - does not see anything in Rule 35 specifically prohibiting the Court to reduce the sentence after a probation violation with the original sentence being a rule 11 - the Court will stand by it's ruling
10:58:31 AM	State Attorney	would like to make clear the State's object
10:58:41 AM	Judge Carey	will note that for the record
10:58:45 AM		END CASE

MAY 28 2014

CHRISTOPHER D. RICH, Clerk  
By KARI MAXWELL  
DEPUTY

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
[REDACTED] )  
[REDACTED] )  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2009-0015305

ORDER OF REVOCATION OF  
PROBATION AND REDUCING  
SENTENCE AND COMMITMENT

In the above entitled action, Defendant appeared before the Court on the 28th day of May, 2014, for disposition on an Amended Motion and Order for Bench Warrant for Violation of Probation, and Defendant having admitted the allegations numbered 3, 4, and 6, as set forth in the Amended Motion and Order for Probation Violation, the Court finds Defendant has violated his probation order;

Now, therefore IT IS HEREBY ORDERED, that the probation entered by the Court on the 20th day of July, 2012, be and the same is hereby revoked.

IT IS FURTHER ORDERED that the Judgment of Conviction entered by the Court on the 28th day of January, 2011, for the crime of COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE, MARIJUANA, GREATER THAN THREE OUNCES, FELONY, I.C. §37-2732(e), committed on or about the 18th day of August, 2009, be and the same is hereby executed according to its original terms to-wit: that Defendant be sentenced to the custody of the State Board of Correction of the

KM

State of Idaho for an aggregate term of five (5) years, to be served as follows: a minimum period of confinement of one (1) year followed by a subsequent indeterminate period of custody not to exceed four (4) years.

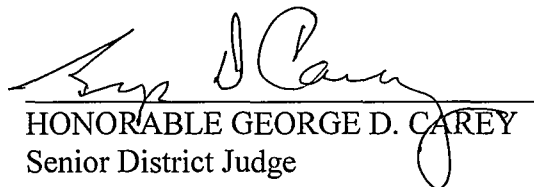
The Court will however, pursuant to Idaho Criminal Rule 35, **reduce** Defendant's sentence to an aggregate term of three (3) years; to be served as follows: a minimum term of one (1) year, followed by a subsequent indeterminate term of two (2) years. Defendant is given credit for a total of five hundred forty-two (520) days served in pre-judgment incarceration.

IT IS FURTHER ORDERED that Defendant shall fully comply with the DNA Database Act.

Defendant is hereby remanded to the custody of the Sheriff of Ada County to be delivered FORTHWITH into the custody of the Director of the Idaho State Correctional Institution.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment and Commitment to the said Sheriff, which shall serve as the commitment of Defendant.

DATED this 28th day of May, 2014.

  
HONORABLE GEORGE D. CAREY  
Senior District Judge



**CERTIFICATE OF SERVICE**

I do hereby certify that on the 28<sup>th</sup> day of May, 2014, I caused to be emailed/mailed one copy of the within instrument in this cause as follows:

ADA COUNTY PROSECUTNG ATTORNEY'S OFFICE  
VIA EMAIL

ADA COUNTY PUBLIC DEFENDER'S OFFICE  
VIA EMAIL

PRESENTENCE INVESTIGATION TEAM/DEPT. OF PROBATION & PAROLE  
VIA EMAIL

IDAHO DEPARTMENT OF CORRECTION  
VIA EMAIL

ADA COUNTY JAIL  
VIA EMAIL

CHRISTOPHER D. RICH  
Clerk of the District Court

By: *Kini Maxwell*  
Deputy Court Clerk

100

JUN 23 2014

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
Debra Groberg  
Legal Intern  
200 West Front Street, Room 3191  
Boise, ID 83702  
Phone: (208) 287-7700  
FAX: (208) 287-7709

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

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL JASON WALKER, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**Case No. CR-FE-2009-0015305**  
**BRIEF IN SUPPORT OF**  
**MOTION TO RECONSIDER**

**COMES NOW**, Ben Harmer, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, assisted by Debra Groberg, Ada County Prosecuting Attorney Legal Intern, and pursuant to Idaho Criminal Rule 47, hereby submits this brief in support of a Motion to Reconsider.

*lh*

## I. FACTS

On November 8, 2010, Defendant pleaded guilty to a violation of I.C. § 37-2732(e) Possession of Marijuana in Excess of Three Ounces, a felony, pursuant to a binding Idaho Criminal Rule 11 agreement between the State, Defendant, and the Court, ROA (Exhibit 1) and Audio 11-8-2010 (Exhibit 2). Following a Pre-Sentence Investigation and a substance abuse evaluation, the Court agreed to bind itself to the terms of the agreement, and issued a sentence of one year determinate and four years indeterminate, for an aggregate term of five years. The sentence was suspended, and the defendant was then put on probation for five years. Audio 1-28-2011 (Exhibit 3).

During the Defendants probation the Defendant violated the terms of his probation two times. On October 20, 2011, the Defendant admitted violating his probation by absconding and committing the new crime of Malicious Injury to Property. ROA. At the Disposition Hearing for the first probation violation on December 2, 2011, the Court revoked probation and imposed the original sentence, but retained jurisdiction for a period of up to 365 days. *Id.* On July 20, 2012, a rider review hearing was held, and the sentence was suspended, with the Court placing the Defendant on probation through 2016. ROA.

Following the filing of a second probation violation, the Defendant admitted violating his probation for a second time. ROA. On May 14, 2014, the Defendant admitted to violating his probation by failing to complete 100 hours of community service, by moving from Rising Sun Sober Living without first obtaining permission from his probation officer, and by once again absconding from probation. ROA.

On May 28, 2014, Judge Carey was covering the docket for Judge Hansen and handled the disposition of the second probation violation. ROA. At that hearing, the State sought

revocation of probation and imposition of the originally agreed upon sentence. Audio 5-28-2014 (Exhibit 4). Neither the State nor the Defense sought for a reduction of the original sentence. *Id.* The Court, *sua sponte*, reduced the indeterminate term of the sentence from four years to two years. *Id.* at 10:50am. The Court specifically noted, “**considering the nature of the original charge**, I think that the, uh, sentence was probably a little bit in excess of what was necessary considering the Toohill, uh, uh, considerations, so I am going to exercise Rule 35 jurisdiction by, uh, modifying the sentence to three years with one year fixed, two years indeterminate . . .” *Id.* The State objected, and a discussion was held on the record as to whether the Court, after binding itself to the original agreement, may then *sua sponte* reduce the sentence. The State’s objection was noted and overruled, and the State indicated that upon further research, it would likely file a motion to reconsider, and the Court understood that the motion would then be heard by the original sentencing judge, since the judge who reduced the sentence was sitting in for the original sentencing judge when the sentence was reduced. *Id.* at 10:58am.

## II. ISSUE

Whether the Court, after agreeing to bind itself to a specific unified sentence per ICR 11(f)(1)(C) and (f)(3), and so sentencing the defendant, may then at the disposition of a first or subsequent probation violation *sua sponte* reduce the unified sentence, because the Court feels that the nature of the original crime made the original sentence seem excessive.

## III. ARGUMENT

**A. A rule 11(f)(1)(C) and (f)(3) plea agreement is binding on all parties: the state, defendant, and the court.**

Once a plea agreement has been accepted and entered, the court, prosecution, and the defendant are bound by the plea agreement “once the plea is accepted without qualification.”

*State v. Horkley*, 125 Idaho 860, 865, 876 P.2d 142, 147 (Ct. App.1994). In *United States v. Krasn*, it was made clear that “[a]lthough plea bargaining is a matter of criminal jurisprudence, a plea bargain itself is contractual in nature and subject to contract-law standards.” 614 F.2d 1229 (9th Cir. 1980) (internal quotes omitted). In *State v. Wilson* the reviewing court held that the sentencing court could not impose a longer sentence than what was agreed to in the plea agreement, because the sentencing court had agreed to the terms of the plea agreement and was thus obligated to abide by those terms when considering sentencing. 127 Idaho 506, 513, 903 P.2d 95, 102 (Ct. App. 1995).

Additionally, the Ninth Circuit has held that a plea agreement “extends beyond the time of the original sentence to any future probation revocation hearing,” and those arrangements between the defendant and the government, once accepted by the Court, cannot be altered at a later date. *United States v. Gerace*, 997 F.2d 1293, 1295 (9th Cir. 1993). On review, the court should only consider what the parties agreed to as a question of fact that is subject to review under a clearly erroneous standard. *Id.* In the present case, it is clear that all parties to the Rule 11(f)(1)(C) and (f)(3) agreement contracted to the initial sentence of one year determinate and four years indeterminate.

Furthermore, parties to a plea agreement have enforcement rights also analogous to those found in contract law, including having a remedy. *Horkley*, 125 Idaho at 865, 876 P.2d at 147. A viable remedy is specific performance of the terms of the agreement. *Id.* The Idaho Supreme Court has held that the remedy of specific performance “may be invoked where necessary to complete justice between the parties” and that the “object of specific performance is to best effectuate the purpose for which the contract is made. . . .” *Fazzio v. Mason*, 150 Idaho 591, 597-98, 249 P.3d 390, 396-97 (2011) (quoting 81A C.J.S. *Specific Performance* § 2 (2011)). Idaho

courts have consistently held that when the state breaches the terms of the plea agreement, specific performance is the most adequate remedy. *State v. Rutherford*, 107 Idaho 910, 914, 693 P.2d 1112, 1116 (Ct. App. 2005). Similar to a defendant's interest in garnering specific performance from the State when it has violated a plea agreement, the State has interests in garnering specific performance from a defendant when revoking parole. *Bearden v. Georgia*, 461 U.S. 660, 670-71 (1983). Thus, specific performance should be granted by the Court because it meets the qualifications as specified by the Idaho Supreme Court, it best serves justice between the parties and best effectuates the purpose for which the contract is made.

**B. A rule 35 *sua sponte* reduction of sentence pronounced in adherence to a Rule 11(f)(1)(C) and (f)(3) is only appropriate if the original sentence was illegal on its face.**

I. A Rule 35(b) sentence reduction, when not correcting an illegal sentence, is a reduction in leniency which is typically within the discretion of the trial court.

A rule 35(b) *sua sponte* reduction of sentence may be made by the Court upon a revocation of a defendant's probation. ICR 35(b). When a court makes a *sua sponte* reduction of a sentence, the decision is committed to the discretion of the Court, that is, the court is not required to reduce a sentence. *State v. Hoskins*, 131 Idaho at 670, 672, 962 P.2d 1054, 1056. A reduction of sentence is limited to a narrow set of circumstances, such as sentences that are in need of correction because they are illegal, or sentences that are imposed in an illegal manner because they are unduly harsh. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838 (2007). If a sentence is within the statutory limits it is not per se illegal, and the circumstances for a reduction of sentence would be limited to those imposing a sentence in an unduly harsh manner. *See Munson v. State*, 128 Idaho 639, 642, 917 P.2d 796, 799 (1996). The standard of review for sentences within the statutory limits is abuse of discretion by the sentencing court. *Id.*

II. The trial court did not abuse its discretion when originally sentencing Walker in accordance with the terms of the Rule 11(f)(1)(C) and (f)(3) agreement.

To determine whether a court has abused its discretion the reviewing court should consider all of the circumstances, including events that occurred during the probationary period, and not only the facts existing when the original sentence was imposed. *State v. Jensen*, 138 Idaho 941, 71 P.3d 1088, 1091 (Ct. App. 2003). And when considering those facts, “[w]here reasonable minds could differ whether a sentence is excessive [the] court [should] not disturb the decision of the sentencing court. The Court [should] set aside the sentence only where reasonable minds could not differ as to the excessiveness of the sentence.” *State v. Farwell*, 144 Idaho 732, 736, 170 P.3d 397, 401 (2007) (citations and quotation marks omitted). It must be established that under any reasonable view of the facts, the sentence was excessive considering objectives of criminal punishment, including: protection of society, deterrence to the individual and the public, rehabilitation, and retribution. *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982)

To analyze the objectives of criminal punishment in a particular case the Court should focus on the defendant’s character and the nature of the offense. *Hoskins*, 131 Idaho at 672, 962 P.2d at 1056 (1998). The number of offenses and whether the defendant has previously been granted lenity are factors that should be considered by the Court. *State v. McCarthy*, 15 Idaho 397, 400, 179 P.3d 360, 363 (Ct. App. 2008). In *McCarthy*, the defendant was granted lenity multiple times for criminal offenses but continued to offend. The appellate court held that the trial court’s revocation of probation and imposition of the original sentence was not an abuse of discretion. Similarly, defendant Walker has a history of criminal offenses, including one new offense committed during the period of his probation in the instant case. Additionally, the

defendant has been granted lenity previously by being put on probation twice, thus the Court should similarly revoke and impose the original sentence.

In addition, the nature of the crime as well as the defendant's success or failure for rehabilitation should be studied. *Hoskins*, 131 Idaho at 672, 962 P.2d at 1056. In *Hoskins* the defendant quickly violated the terms of his probation and was dishonest with law enforcement, so the Court held that it was not an abuse of discretion for the district court to impose the maximum permissible term. *Id.* Similarly, defendant Walker violated his first probation term quickly, within approximately three months, and now has an additional probation violation. Also, defendant Walker served a period of retained jurisdiction, wherein he accumulated approximately six different sanctions, but was still granted a second opportunity at probation thereafter. In all, defendant has spent more time in abscond status than he has on active supervision, despite the rider.

Because a Rule 11(f)(1)(C) and (f)(3) plea agreement is binding on all parties, including the Court, the Court should not have *sua sponte* reduced the defendant's original sentence. Additionally, there is no exception to the binding agreement because the trial court did not abuse its discretion when initially sentencing the defendant because the sentence was appropriate at the time it was ordered and is still appropriate when considering the circumstances leading up to the revocation of probation. Thus, the State requests the court to reconsider its ruling reducing the defendant's sentence by two years and to impose the defendant's original sentence of one year determinate and four years indeterminate. Following a sentence entered in accordance with ICR 11(f)(1)(C) and (f)(3), the only available remedy to an aggrieved party is specific performance of the agreement. *See Bearden v. Georgia*, 461 U.S. 660, 670-71 (1983); *Infra Part IIA.*

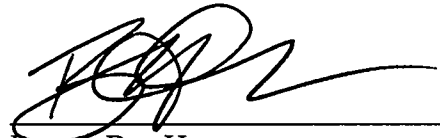


#### IV. CONCLUSION

Because the Court agreed to bind itself to the parties' original plea agreement in accordance with ICR 11(f)(1)(C) and (f)(3), it may not then *sua sponte* reduce the term of imprisonment, when citing as the sole reason for doing so that the original sentence was excessive. The State seeks to have the original sentence reinstated and imposed, because as a party to the negotiated plea agreement, specific performance of the agreement is the only available remedy.

DATED this 23<sup>rd</sup> day of June 2014.

**GREG H. BOWER**  
Ada County Prosecuting Attorney




By: Ben Harmer  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on this 23<sup>rd</sup> day of June 2014, I caused to be served, a true and correct copy of the foregoing State's Brief in Support of Motion to Reconsider upon the individual(s) named below in the manner noted:

Name and address: **Anthony R. Geddes, Ada County Public Defender**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By Hand Delivering said document to defense counsel.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
\_\_\_\_\_  
Legal Assistant

RECEIVED  
JUN 10 2014

Erin Pena

---

**From:** Veronica Wilson  
**Sent:** Monday, June 09, 2014 11:12 AM  
**To:** Clerk Fax  
**Subject:** Case: CR-FE-2009-0015305 - State of Idaho vs. Michael J Walker

Ada County  
Prosecuting Attorney's Office

Please provide me a Certified copy of the ROA for above case.

Thanks,  
Veronica Wilson

**Case: CR-FE-2009-0015305**      **Closed pending clerk action**      **Defendant**  
**Judge: Timothy Hansen**

<u>Charge</u>	<u>Degree</u>	<u>Disposed</u>	<u>Plea</u>	<u>Finding</u>	<u>Citation</u>
<b>Probation Violation</b> Issued: 8/18/2009	F	5/28/2014	Guilty	Guilty	
	Fines/Fees:	0.00	Paid:	0.00	Balance: 0.00
<b>Probation Violation</b> Issued: 8/18/2009	F	12/2/2011	Guilty	Guilty	
	Fines/Fees:	0.00	Paid:	0.00	Balance: 0.00

<u>Probation</u>	<u>Complete by</u>	Years	Months	Days	Comple
<b>Felony Probation &amp; Paro</b>	1/27/2016	5	0	0	Comple
<b>Controlled Substance-Possession Marijuana Mo F</b> Issued: 8/18/2009	1/28/2011	Guilty	Guilty		
	Fines/Fees:	169.50	Paid:	99.50	Balance: 70.00
Jail time	Years:	Months:	Days:	30	

<u>Probation</u>	<u>Complete by</u>	Years	Months	Days	Comple
<b>Felony Probation &amp; Paro</b>	1/28/2016	5	0	0	Comple
<b>Drug Paraphernalia-Use or Possess With Intent 1M</b> Issued: 8/18/2009	11/8/2010	None	Dismissed on Motior	1386201	
	Fines/Fees:	0.00	Paid:	0.00	Balance: 0.00

**Victims**

<b>DRUG ENFORCEMENT DONATI</b>	Joint / Several: Y	Interest Due: Y	Ref. #:	
	Restitution:	500.00	Paid:	-90.10
			Balance:	590.10
	<b>Case Total:</b>	<b>760.10</b>	<b>Paid:</b>	<b>100.00</b>
			<b>Balance:</b>	<b>660.10</b>

<u>Bench Warrant</u>	<u>Issued</u>	<u>Status</u>	<u>Status Date</u>
	5/23/2011	Returned, Served	6/1/2011
	2/27/2013	Returned, Served	1/28/2014

**Register of Actions**

Date	Code	Description	Judge
8/19/2009	NCRF	New Case Filed - Felony	Clerk, Magistrate Court
	PROS	Prosecutor assigned Ada County Prosecutor	
	HRSC	Hearing Scheduled (Video Arraignment 08/19/2009 01:30 PM)	Cawthon / Irby,
	ARRN	Hearing result for Video Arraignment held on 08/19/2009 01:30 PM: Arraignment / First Appearance	Vehlow, Karen
	CHGA	Judge Change: Adminsitrative	Swain, Kevin
	ORPD	Order Appointing Public Defender Ada County Public Defender	
	HRSC	Hearing Scheduled (Preliminary 09/02/2009 08:30 AM)	
	BSET	BOND SET: at 5000.00 - (I37-2732(A)(1)(A)-P/I Controlled Substance-Possession With Intent to Manufacture or Deliver)	
	ORPD	Order Appointing Public Defender	
8/20/2009	BNDS	Bond Posted - Surety (Amount 5000.00 )	Swain, Kevin
8/21/2009	RQDD	Defendant's Request for Discovery	Swain, Kevin
8/27/2009	MTOC	Motion to Consolidate/FE-09-15303	Swain, Kevin

**Register of Actions**

Date	Code	Description	Judge
9/2/2009	CONT	Hearing result for Preliminary held on 09/02/2009 08:30 AM: Continued	Swain, Kevin
	CHGA	Judge Change: Adminsitrative	Cawthon / Irby,
	HRSC	Hearing Scheduled (Preliminary 09/09/2009 08:30 AM)	
	ORDR	Order to Consolidate W/FE09-15303	
9/9/2009	CONT	Hearing result for Preliminary held on 09/09/2009 08:30 AM: Continued	Cawthon / Irby,
	HRSC	Hearing Scheduled (Preliminary 10/01/2009 08:30 AM)	
9/23/2009	NOAP	Notice Of Appearance/Ellsworth	Cawthon / Irby,
	RQDD	Defendant's Request for Discovery	
10/1/2009	CONT	Hearing result for Preliminary held on 10/01/2009 08:30 AM: Continued	Cawthon / Irby,
	HRSC	Hearing Scheduled (Preliminary 10/21/2009 08:30 AM)	
10/21/2009	PHWV	Hearing result for Preliminary held on 10/21/2009 08:30 AM: Preliminary Hearing Waived (bound Over)	Cawthon / Irby,
	HRSC	Hearing Scheduled (Arraignment 10/30/2009 09:00 AM)	Merica, Kent
	COMT	Commitment	
10/22/2009	INFO	Information	Hansen, Timothy
	PROS	Prosecutor assigned BRIAN NAUGLE	
10/30/2009	DCAR	Hearing result for Arraignment held on 10/30/2009 09:00 AM: District Court Arraignment- Court Reporter: V. Gosney Number of Pages: less than 100	Hansen, Timothy
	HRSC	Hearing Scheduled (Entry of Plea 11/13/2009 09:00 AM)	
11/13/2009	DCHH	Hearing result for Entry of Plea held on 11/13/2009 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
	HRSC	Hearing Scheduled (Pretrial Conference 04/02/2010 01:30 PM)	
	HRSC	Hearing Scheduled (Jury Trial 04/12/2010 09:00 AM) 2 Days	
11/17/2009	ORDR	Order Setting P/T & J/T	Hansen, Timothy
1/25/2010	RSDS	State/City Response to Discovery	Hansen, Timothy
	RQDS	State/City Request for Discovery	
1/27/2010	RSDS	State/City Response to Discovery/Addendum	Hansen, Timothy
4/2/2010	CONT	Continued (Pretrial Conference 04/09/2010 01:30 PM)	Hansen, Timothy000272

**Register of Actions**

Date	Code	Description	Judge
4/7/2010	STIP	Stipulation to Vacate and Reset Trial	Hansen, Timothy
	RSDS	State/City Response to Discovery/Second Addendum	
4/9/2010	DCHH	Hearing result for Pretrial Conference held on 04/09/2010 01:30 PM: District Court Hearing Held Court Reporter: J. Hirmer Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
	HRVC	Hearing result for Jury Trial held on 04/12/2010 09:00 AM: Hearing Vacated 2 Days	
	HRSC	Hearing Scheduled (Pretrial Conference 06/11/2010 01:30 PM)	
	HRSC	Hearing Scheduled (Jury Trial 06/21/2010 09:00 AM) 3 Days	
4/15/2010	MOTN	Motion to Suppress	Hansen, Timothy
	AFFD	Affidavit of Michael Walker in Support of Motion to Suppress	
	MISC	Memorandum in Support of Motion to Suppress	
4/30/2010	RSDS	State/City Response to Discovery/Third Addendum	Hansen, Timothy
5/5/2010	NOHG	Notice Of Hearing	Hansen, Timothy
5/6/2010	HRSC	Hearing Scheduled (Hearing Scheduled 06/07/2010 03:00 PM) Suppress	Hansen, Timothy
5/18/2010	MISC	State's Memorandum in Support of Objection to Motion to Suppress	Hansen, Timothy
	MISC	Objection to Motion to Suppress	
6/11/2010	DCHH	Hearing result for Pretrial Conference held on 06/11/2010 01:30 PM: District Court Hearing Held Court Reporter: Vanessa Gosney Number of Transcript Pages for this hearing estimated: less than 50 pages	Hansen, Timothy
	HRVC	Hearing result for Jury Trial held on 06/21/2010 09:00 AM: Hearing Vacated 3 Days	
6/14/2010	CONT	Continued (Hearing Scheduled 07/19/2010 03:00 PM) Suppress	Hansen, Timothy
6/16/2010	STIP	Stipulation to Continue	Hansen, Timothy
6/21/2010	CONT	Continued (Hearing Scheduled 08/03/2010 03:00 PM) Suppress	Hansen, Timothy
	ORDR	Order to Continue	
6/25/2010	RSDS	State/City Response to Discovery/Fourth Addendum	Hansen, Timothy
7/26/2010	HRSC	Hearing Scheduled (Pretrial Conference 08/06/2010 01:30 PM)	Hansen, Timothy
	HRSC	Hearing Scheduled (Jury Trial 08/16/2010 09:00 AM)	

**Register of Actions**

Date	Code	Description	Judge
8/3/2010	DCHH	Hearing result for Hearing Scheduled held on 08/03/2010 03:00 PM: District Court Hearing Held Court Reporter: Vanessa Gosney Number of Transcript Pages for this hearing estimated: Suppress less than 10 pgs	Hansen, Timothy
	STIP	Stipulation Re: Motion to Suppress	
8/6/2010	DCHH	Hearing result for Pretrial Conference held on 08/06/2010 01:30 PM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
8/13/2010	RSDS	State/City Response to Discovery/Sixth Addendum	Hansen, Timothy
8/16/2010	JTST	Hearing result for Jury Trial held on 08/16/2010 09:00 AM: Jury Trial Started	Hansen, Timothy
	HRSC	Hearing Scheduled (Jury Trial 08/17/2010 09:00 AM) Day 2	
8/17/2010	CONT	Continued (Jury Trial 08/18/2010 09:00 AM) Day 3	Hansen, Timothy
8/18/2010	DCHH	Hearing result for Jury Trial held on 08/18/2010 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Day 3 - 100-500	Hansen, Timothy
	HRSC	Hearing Scheduled (Status 08/27/2010 09:00 AM) Scheduling Conference	
8/27/2010	DCHH	Hearing result for Status held on 08/27/2010 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Scheduling Conference - less than 50	Hansen, Timothy
	HRSC	Hearing Scheduled (Pretrial Conference 10/29/2010 01:30 PM)	
	HRSC	Hearing Scheduled (Jury Trial 11/08/2010 09:00 AM) 3 Days	
	HRSC	Hearing Scheduled (Sentencing 11/12/2010 10:30 AM)	
10/4/2010	MOTN	Motion in Limine	Hansen, Timothy
10/29/2010	DCHH	Hearing result for Pretrial Conference held on 10/29/2010 01:30 PM: District Court Hearing Held Court Reporter: K. Madsen Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
11/3/2010	RSDS	State/City Response to Discovery/Seventh Addendum	Hansen, Timothy
11/8/2010	REDU	Charge Reduced Or Amended (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz)	Hansen, Timothy
	PLEA	A Plea is entered for charge: - GT (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz)	

**Register of Actions**

Date	Code	Description	Judge
11/8/2010	HRVC	Hearing result for Jury Trial held on 11/08/2010 09:00 AM: Hearing Vacated 3 Days	Hansen, Timothy
	DMOP	Dismissed by Motion of the Prosecutor with hearing (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)	
	DMPW	Dismissed by Motion of the Prosecutor without hearing (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)	
	GPA	Guilty Plea Advisory	
	PSSA1	Order for Presentence Investigation Report and Substance Abuse Assessment	
	HRSC	Hearing Scheduled (Sentencing 12/17/2010 10:30 AM)	
	MINE	Minute Entry Hearing type: Arraignment Hearing date: 11/8/2010 Time: 10:51 am Courtroom: Court reporter: Minutes Clerk: Margaret Lundquist Tape Number: Defense Attorney: Joseph Ellsworth Prosecutor: Brian Naugle	
	MINE	Minute Entry Hearing type: Arraignment Hearing date: 11/8/2010 Time: 10:52 am Courtroom: Court reporter: Minutes Clerk: Margaret Lundquist Tape Number: Defense Attorney: Joseph Ellsworth Prosecutor: Brian Naugle	
12/17/2010	DCHH	Hearing result for Sentencing held on 12/17/2010 10:30 AM: District Court Hearing Held Court Reporter: V Gosney Number of Transcript Pages for this hearing estimated: less than 50	Hansen, Timothy
	HRSC	Hearing Scheduled (Sentencing 01/28/2011 01:30 PM)	
	PSMH1	Order for Pre-Sentence Investigation Report and Mental Health Assessment	
	MOTN	Motion for Consideration of Mental Illness in Sentencing	
	ORDR	Order for Mental Health Evaluation	
1/28/2011	DCHH	Hearing result for Sentencing held on 01/28/2011 01:30 PM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy



**Register of Actions**

Date	Code	Description	Judge
1/28/2011	FIGT	Finding of Guilty (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz)	Hansen, Timothy
	JAIL	Sentenced to Jail or Detention (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz) Confinement terms: Jail: 30 days. Discretionary: 180 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.	
	PROB	Probation Ordered (I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz) Probation term: 5 years 0 months 0 days. (Felony Probation & Parole)	
	STAT	STATUS CHANGED: closed pending clerk action	
	SNPF	Sentenced To Pay Fine 165.50 charge: I37-2732(E) Controlled Substance-Possession Marijuana More Than 3 Oz	
2/3/2011	JDMT	Judgment, Suspended Sentence, ORder of Probation and Commitment	Hansen, Timothy
	ORDR	Order for Restitution and Judgment	
	BNDE	Surety Bond Exonerated (Amount 5,000.00)	
2/15/2011	RESR	Restitution Recommended by the Prosecutor's office. 500.00 victim # 1	Hansen, Timothy
5/20/2011	MOTN	Motion for BW for PV	Hansen, Timothy
5/23/2011	ORDR	Order for BW for PV	Hansen, Timothy
	WARB	Warrant Issued - Bench Bond amount: No Bond: Hold Defendant w/o Bond Until Arraignment Failing to comply with a court order Defendant: Walker, Michael	
	STAT	STATUS CHANGED: Inactive	
6/1/2011	WART	Warrant Returned Failing to comply with a court order Defendant: Walker, Michael	Hansen, Timothy
	STAT	STATUS CHANGED: Pending	
	BOOK	Booked into Jail on:	
	HRSC	Hearing Scheduled (Video Arraignment 06/01/2011 01:30 PM)	Hawley, John Jr.
	HRSC	Hearing Scheduled (Arraignment 06/10/2011 09:00 AM)	Hansen, Timothy
	ARRN	Hearing result for Video Arraignment held on 06/01/2011 01:30 PM: Arraignment / First Appearance	Schmidt, Richard
	ORPD	Defendant: Walker, Michael Order Appointing Public Defender Public defender Ada County Public Defender	Hansen, Timothy
		Notice of Hearing	
6/2/2011	MFBR	Motion For Bond Reduction	Hansen, Timothy
	NOHG	Notice Of Hearing	

**Register of Actions**

Date	Code	Description	Judge
6/2/2011	RQDD	Defendant's Request for Discovery	Hansen, Timothy
6/8/2011	MOTN	Amended Motion for PV	Hansen, Timothy
6/10/2011	DCAR	Hearing result for Arraignment held on 06/10/2011 09:00 AM: District Court Arraignment- Court Reporter: Number of Pages: Motion for Bond Reduction - less than 100	Hansen, Timothy
	HRSC	Hearing Scheduled (Admit/Deny Probation Violation 06/24/2011 09:00 AM)	
6/24/2011	DCHH	Hearing result for Admit/Deny Probation Violation scheduled on 06/24/2011 09:00 AM: District Court Hearing Held Court Reporter: v. gosney Number of Transcript Pages for this hearing estimated:50	Hansen, Timothy
	HRSC	Hearing Scheduled (Admit/Deny Hearing 07/08/2011 09:00 AM)	
7/8/2011	DCHH	Hearing result for Admit/Deny Hearing scheduled on 07/08/2011 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
	HRSC	Hearing Scheduled (Review 08/12/2011 09:00 AM)	
	PLEA	A Plea is entered for charge: - NG (I20-222 Probation Violation)	
8/12/2011	DCHH	Hearing result for Review scheduled on 08/12/2011 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
	HRSC	Hearing Scheduled (Review 09/02/2011 09:00 AM)	
9/2/2011	DCHH	Hearing result for Review scheduled on 09/02/2011 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
	HRSC	Hearing Scheduled (Probation Violation Hearing 10/20/2011 03:00 PM) 3 Hours	
10/20/2011	PLEA	A Plea is entered for charge: - GT (I20-222 Probation Violation)	Hansen, Timothy
	DCHH	Hearing result for Probation Violation Hearing scheduled on 10/20/2011 03:00 PM: District Court Hearing Held Court Reporter: S. Wolf Number of Transcript Pages for this hearing estimated: 3 Hours - less than 100	
	HRSC	Hearing Scheduled (Probation Violation Disposition Hearing 12/02/2011 10:30 AM)	
10/24/2011	ORDR	Order for Jail Program(s)	Hansen, Timothy000277

**Register of Actions**

Date	Code	Description	Judge
12/2/2011	DCHH	Hearing result for Probation Violation Disposition Hearing scheduled on 12/02/2011 10:30 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
	FIGT	Finding of Guilty (I20-222 Probation Violation)	
	JAIL	Sentenced to Jail or Detention (I20-222 Probation Violation) Confinement terms: Credited time: 188 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.	
	STAT	STATUS CHANGED: closed pending clerk action	
	JAIL	Sentenced to Jail or Detention (I20-222 Probation Violation) Confinement terms: Credited time: 420 days. Discretionary: 180 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.	
	PROB	Probation Ordered (I20-222 Probation Violation) Probation term: 5 years 0 months 0 days. (Felony Probation & Parole)	
12/7/2011	ORPJ	Order of Revocation of Probation and Order Retaining Jurisdiction	Hansen, Timothy
	RJTR	Retained Jurisdiction (Traditional Rider)	
6/26/2012	HRSC	Hearing Scheduled (Rider Review 07/20/2012 10:30 AM)  Order to Transport (Rider Review: 7-20-12 @ 10:30)	Hansen, Timothy
7/20/2012	DCHH	Hearing result for Rider Review scheduled on 07/20/2012 10:30 AM: District Court Hearing Held Court Reporter: C. Rhoades Number of Transcript Pages for this hearing estimated: less than 100	Hansen, Timothy
	AMJD	Amended Judgment Sentence modified on 7/20/2012. (I20-222 Probation Violation)	
	ORDR	Order Reinstating and Amending Probation	
2/25/2013	MOTN	Motion for BW for PV	Hansen, Timothy
2/27/2013	ORDR	Order for BW for PV	Hansen, Timothy
	WARB	Warrant Issued - Bench Bond amount: Hold Defendant without bond pending arrignment. Failing to comply with a court order Defendant: Walker, Michael	
	STAT	STATUS CHANGED: Inactive	
1/28/2014	WART	Warrant Returned Failing to comply with a court order Defendant: Walker, Michael	Hansen, Timothy
	STAT	STATUS CHANGED: Pending	
	BOOK	Booked into Jail on:	
	HRSC	Hearing Scheduled (Video Arraignment 01/28/2014 01:30 PM)	Steckel, Daniel L_000278

**Register of Actions**

Date	Code	Description	Judge
1/28/2014	HRSC	Hearing Scheduled (Arrestment 02/05/2014 09:00 AM)	Hansen, Timothy
	ARRN	Hearing result for Video Arrestment scheduled on 01/28/2014 01:30 PM: Arrestment / First Appearance	Steckel, Daniel L
	ORPD	Order Appointing Public Defender	Hansen, Timothy
1/30/2014	MFBR	Motion For Bond Reduction	Hansen, Timothy
	NOHG	Notice Of Hearing(02/05/14 @9AM)	
	RQDD	Defendant's Request for Discovery	
2/4/2014	MOTN	Amended Motion for PV	Hansen, Timothy
2/5/2014	DCAR	Hearing result for Arrestment scheduled on 02/05/2014 09:00 AM: District Court Arrestment-Court Reporter: V. Gosney Number of Pages: less than 25	Hansen, Timothy
	HRSC	Hearing Scheduled (Review 03/12/2014 09:00 AM)	
2/20/2014	ORDR	Order for Jail Program(s)	Hansen, Timothy
3/12/2014	DCHH	Hearing result for Review scheduled on 03/12/2014 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 25	Hansen, Timothy
	PLEA	A Plea is entered for charge: - NG (120-222 Probation Violation)	
	HRSC	Hearing Scheduled (Probation Violation Hearing 04/21/2014 03:00 PM)	
4/21/2014	HRVC	Hearing result for Probation Violation Hearing scheduled on 04/21/2014 03:00 PM: Hearing Vacated	Hansen, Timothy
	HRSC	Hearing Scheduled (Review 05/14/2014 09:00 AM)	
5/14/2014	DCHH	Hearing result for Review scheduled on 05/14/2014 09:00 AM: District Court Hearing Held Court Reporter: V Gosney Number of Transcript Pages for this hearing estimated: 25	Hansen, Timothy
	HRSC	Hearing Scheduled (Disposition 05/28/2014 10:30 AM)	
	PLEA	A Plea is entered for charge: - GT (120-222 Probation Violation)	
5/28/2014	DCHH	Hearing result for Disposition scheduled on 05/28/2014 10:30 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Less than 100	Hansen, Timothy
	FIGT	Finding of Guilty (120-222 Probation Violation)	

**Register of Actions**

Date	Code	Description	Judge
5/28/2014	JAIL	Sentenced to Jail or Detention (I20-222 Probation Violation) Confinement terms: Penitentiary determinate: 1 year. Penitentiary indeterminate: 2 years.	Hansen, Timothy
	STAT	STATUS CHANGED: closed pending clerk action	
	ORDR	Order of Revocation of Probation and Reducing Sentence and Commitment	

STATE OF IDAHO  
 COUNTY OF ADA  
 I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the foregoing is a true and correct copy of the original on file in this office. In witness whereof, I have hereunto set my hand and affixed my official seal this 14th day of June, 2014.  
 CHRISTOPHER D. RICH, CLERK  
 By \_\_\_\_\_ Deputy

100  
HS  
7/2  
9-

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

**JUN 23 2014**

**CHRISTOPHER D. RICH, Clerk**  
By **AMY LANG**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

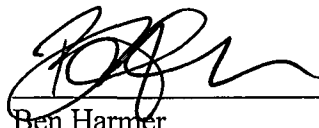
**Ben Harmer**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2009-0015305</b>
vs.	)	
	)	<b>MOTION TO RECONSIDER</b>
MICHAEL JASON WALKER,	)	
	)	
Defendant.	)	
_____	)	

**COMES NOW**, Ben Harmer, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and moves this Court to reconsider the findings by Judge Carey as set out in the State's Brief in Support of Motion to Reconsider.

**GREG H. BOWER**  
Ada County Prosecutor

  
\_\_\_\_\_  
Ben Harmer  
Deputy Prosecuting Attorney

h

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of June 2014, I caused to be served, a true and correct copy of the foregoing Motion to Reconsider upon the individual(s) named below in the manner noted:

**Anthony R. Geddes, Ada County Public Defender**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
\_\_\_\_\_  
Legal Assistant

**JUN 23 2014**

**CHRISTOPHER D. RICH, Clerk**  
By **AMY LANG**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Ben Harmer**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

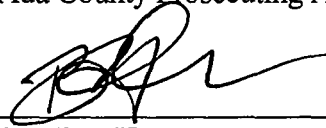
THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
MICHAEL JASON WALKER, )  
)  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-FE-2009-0015305**  
**NOTICE OF HEARING**

**TO:** Anthony R. Geddes his Attorney of Record, you will please take notice that on the 2nd day of July 2014, at the hour of 9:00 am of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Ben Harmer, will move this Honorable Court regarding the State's Motion to Reconsider in the above-entitled action.

**DATED** this 23<sup>rd</sup> day of June 2014

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Ben Harmer  
Deputy Prosecuting Attorney



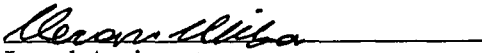


**CERTIFICATE OF SERVICE**

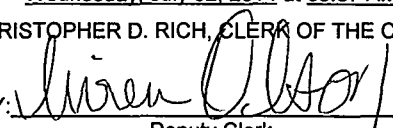
I HEREBY CERTIFY that on this 23<sup>rd</sup> day of June 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted:

Name and address: **Anthony R. Geddes, Ada County Public Defender**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
Legal Assistant


<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>9:09:05 AM</u>		<b>State v Michael Walker - CRFE09-15305</b>
<u>9:11:35 AM</u>	State Attorney	Ben Harmer
<u>9:11:38 AM</u>	Public Defender	Danica Comstock
<u>9:11:41 AM</u>	Judge Hansen	Calls case - def. is not present - Transport Order was not done
<u>9:12:01 AM</u>	Judge Hansen	will set this over for status only to 07/23/14 at 9:00 a.m. and the Clerk will prepare a transport order
<u>9:12:24 AM</u>		END CASE

FILED  
Wednesday, July 02, 2014 at 09:37 AM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY:   
Deputy Clerk

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

THE STATE OF IDAHO,  
Plaintiff,  
vs.  
MICHAEL J WALKER,  
Defendant.

Case No. CR-FE-2009-0015305  
ORDER TO TRANSPORT

Inmate Number:  


It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **MICHAEL J WALKER** be brought before this Court for:

Hearing Scheduled.....Wednesday, July 23, 2014 @ 09:00 AM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Wednesday, July 02, 2014.

  
TIMOTHY HANSEN  
DISTRICT JUDGE

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HS  
7/23  
a

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED \_\_\_\_\_ P.M. \_\_\_\_\_

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**JUL 22 2014**

CHRISTOPHER D. RICH, Clerk  
By SHERRI BOUCHER  
DEPUTY

**Ben Harmer**  
Deputy Prosecuting Attorney  
Debra Groberg  
Legal Intern  
200 West Front Street, Room 3191  
Boise, ID 83702  
Phone: (208) 287-7700  
FAX: (208) 287-7709

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

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MICHAEL JASON WALKER, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**Case No. CR-FE-2009-0015305**  
**AMENDED BRIEF IN SUPPORT OF**  
**MOTION TO RECONSIDER**

**COMES NOW** Ben Harmer, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, assisted by Debra Groberg, Ada County Prosecuting Attorney Legal Intern, and pursuant to Idaho Criminal Rule 47, hereby submits this brief in support of a Motion to Reconsider.

**I. FACTS**

On November 8, 2010, Defendant pleaded guilty to a violation of I.C. § 37-2732(e) Possession of Marijuana in Excess of Three Ounces, a felony, pursuant to a binding Idaho Criminal Rule 11 agreement between the State, Defendant, and the Court, ROA (Exhibit 1) and

✓

Audio 11-8-2010 (Exhibit 2). Following a Pre-Sentence Investigation and a substance abuse evaluation, the Court agreed to bind itself to the terms of the agreement, and issued a sentence of one year determinate and four years indeterminate, for an aggregate term of five years. The sentence was suspended, and the defendant was then put on probation for five years. Audio 1-28-2011 (Exhibit 3).

During the defendant's probation the defendant violated the terms of his probation two times. On October 20, 2011, the defendant admitted violating his probation by absconding and committing the new crime of Malicious Injury to Property. ROA. At the Disposition Hearing for the first probation violation on December 2, 2011, the Court revoked probation and imposed the original sentence, but retained jurisdiction for a period of up to 365 days. *Id.* On July 20, 2012, a rider review hearing was held, and the sentence was suspended, with the Court placing the defendant on probation through 2016. ROA.

Following the filing of a second probation violation, the defendant admitted violating his probation for a second time. ROA. On May 14, 2014, the defendant admitted to violating his probation by failing to complete 100 hours of community service, by moving from Rising Sun Sober Living without first obtaining permission from his probation officer, and by once again absconding from probation. ROA.

On May 28, 2014, Judge Carey was covering the docket for Judge Hansen and handled the disposition of the second probation violation. ROA. At that hearing, the State sought revocation of probation and imposition of the originally agreed upon sentence. Audio 5-28-2014 (Exhibit 4). Neither the State nor the Defense sought for a reduction of the original sentence. *Id.* The Court, *sua sponte*, reduced the indeterminate term of the sentence from four years to two years. *Id.* at 10:50am. The Court specifically noted, “**considering the nature of the original**

**charge**, I think that the, uh, sentence was probably a little bit in excess of what was necessary considering the Toohill, uh, uh, considerations, so I am going to exercise Rule 35 jurisdiction by, uh, modifying the sentence to three years with one year fixed, two years indeterminate . . .” *Id.* The State objected, and a discussion was held on the record as to whether the Court, after binding itself to the original agreement, may then *sua sponte* reduce the sentence. The State’s objection was noted and overruled, and the State indicated that upon further research, it would likely file a motion to reconsider, and the Court understood that the motion would then be heard by the original sentencing judge, since the judge who reduced the sentence was sitting in for the original sentencing judge when the sentence was reduced. *Id* at 10:58am.

## II. ISSUE

Whether the Court, after agreeing to bind itself to a specific unified sentence per ICR 11(f)(1)(C) and (f)(3), and so sentencing the defendant, may then at the disposition of a first or subsequent probation violation *sua sponte* reduce the unified sentence, because the Court feels that the nature of the original crime made the original sentence seem excessive.

## III. ARGUMENT

**A. A rule 11(f)(1)(C) and (f)(3) plea agreement is binding on all parties: the state, defendant, and the court.**

Once a plea agreement has been accepted and entered, the Court, prosecution, and the Defendant are bound by the plea agreement “once the plea is accepted without qualification.” *State v. Horkley*, 125 Idaho 860, 865, 876 P.2d 142, 147 (Ct. App.1994). In *United States v. Krasn*, it was made clear that “[a]lthough plea bargaining is a matter of criminal jurisprudence, a plea bargain itself is contractual in nature and subject to contract-law standards.” 614 F.2d 1229 (9th Cir. 1980) (internal quotes omitted). If the terms of a plea agreement are disputed, the Court

should use an objective standard to determine what the parties agreed to as a question of fact. *United States v. Gerace*, 997 F.2d 1293, 1294 (9<sup>th</sup> Cir. 1993).

Once the Court has determined what the parties agreed to, the agreement is subject to review under a clearly erroneous standard. *Id.* In *State v. Wilson* the reviewing court held that the sentencing court could not impose a longer sentence than what was agreed to in the plea agreement, because the sentencing court had agreed to the terms of the plea agreement and was thus obligated to abide by those terms when considering sentencing. 127 Idaho 506, 513, 903 P.2d 95, 102 (Ct. App. 1995).

In the present case, it is clear that all parties to the Rule 11(f)(1)(C) and (f)(3) agreement contracted to the initial sentence of one year determinate and four years indeterminate.

Furthermore, parties to a plea agreement have enforcement rights also analogous to those found in contract law, including having a remedy. *Horkley*, 125 Idaho at 865, 876 P.2d at 147. A viable remedy is specific performance of the terms of the agreement. *Id.* The Idaho Supreme Court has held that the remedy of specific performance “may be invoked where necessary to complete justice between the parties” and that the “object of specific performance is to best effectuate the purpose for which the contract is made. . . .” *Fazzio v. Mason*, 150 Idaho 591, 597-98, 249 P.3d 390, 396-97 (2011) (quoting 81A C.J.S. *Specific Performance* § 2 (2011)). Idaho courts have consistently held that when the state breaches the terms of the plea agreement, specific performance is the most adequate remedy. *State v. Rutherford*, 107 Idaho 910, 914, 693 P.2d 1112, 1116 (Ct. App. 2005). *Horkley*, 125 Idaho at 865, 876 P.2d at 147. Similar to a defendant’s interest in garnering specific performance from the State when it has violated a plea agreement, the State has interests in garnering specific performance from a defendant when revoking parole. *Bearden v. Georgia*, 461 U.S. 660, 670-71 (1983). Thus, specific performance

should be granted by the Court because the Court is bound by the express terms of the plea agreement, and it best serves justice between the parties, and best effectuates the purpose for which the contract is made.

**B. A rule 35 *sua sponte* reduction of sentence pronounced in adherence to a Rule 11(f)(1)(C) and (f)(3) is only appropriate if the original sentence was illegal on its face.**

I. A Rule 35(b) sentence reduction, when not correcting an illegal sentence, is a reduction in leniency which is typically within the discretion of the trial court.

A rule 35(b) *sua sponte* reduction of sentence may be made by the Court upon a revocation of a defendant's probation. ICR 35(b). When a court makes a *sua sponte* reduction of a sentence, the decision is committed to the discretion of the Court, that is, the Court is not required to reduce a sentence. *State v. Hoskins*, 131 Idaho at 670, 672, 962 P.2d 1054, 1056. A reduction of sentence is limited to a narrow set of circumstances, such as sentences that are in need of correction because they are illegal, or sentences that are imposed in an illegal manner because they are unduly harsh. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838 (2007). If a sentence is within the statutory limits it is not per se illegal, and the circumstances for a reduction of sentence would be limited to those imposing a sentence in an unduly harsh manner. *See Munson v. State*, 128 Idaho 639, 642, 917 P.2d 796, 799 (1996). The standard of review for sentences within the statutory limits is abuse of discretion by the sentencing court. *Id.*

II. The trial court did not abuse its discretion when originally sentencing Walker in accordance with the terms of the Rule 11(f)(1)(C) and (f)(3) agreement.

To determine whether a court has abused its discretion the reviewing court should consider all of the circumstances, including events that occurred during the probationary period, and not only the facts existing when the original sentence was imposed. *State v. Jensen*, 138



Idaho 941, 71 P.3d 1088, 1091 (Ct. App. 2003). And when considering those facts, “[w]here reasonable minds could differ whether a sentence is excessive [the] court [should] not disturb the decision of the sentencing court. The Court [should] set aside the sentence only where reasonable minds could not differ as to the excessiveness of the sentence.” *State v. Farwell*, 144 Idaho 732, 736, 170 P.3d 397, 401 (2007) (citations and quotation marks omitted). It must be established that under any reasonable view of the facts, the sentence was excessive considering objectives of criminal punishment, including: protection of society, deterrence to the individual and the public, rehabilitation, and retribution. *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982)

To analyze the objectives of criminal punishment in a particular case the Court should focus on the defendant’s character and the nature of the offense. *Hoskins*, 131 Idaho at 672, 962 P.2d at 1056 (1998). The number of offenses and whether the defendant has previously been granted lenity are factors that should be considered by the Court. *State v. McCarthy*, 15 Idaho 397, 400, 179 P.3d 360, 363 (Ct. App. 2008). In *McCarthy*, the defendant was granted lenity multiple times for criminal offenses but continued to offend. The appellate court held that the trial court’s revocation of probation and imposition of the original sentence was not an abuse of discretion. Similarly, Defendant Walker has a history of criminal offenses, including one new offense committed during the period of his probation in the instant case. Additionally, the defendant has been granted lenity previously by being put on probation twice, thus the Court should similarly revoke and impose the original sentence.

In addition, the nature of the crime as well as the defendant’s success or failure for rehabilitation should be studied. *Hoskins*, 131 Idaho at 672, 962 P.2d at 1056. In *Hoskins* the defendant quickly violated the terms of his probation and was dishonest with law enforcement,

so the Court held that it was not an abuse of discretion for the district court to impose the maximum permissible term. *Id.* Similarly, Defendant Walker violated his first probation term quickly, within approximately three months, and now has an additional probation violation. Also, Defendant Walker served a period of retained jurisdiction, wherein he accumulated approximately six different sanctions, but was still granted a second opportunity at probation thereafter. In all, Defendant has spent more time in abscond status than he has on active supervision, despite the rider.

Because a Rule 11(f)(1)(C) and (f)(3) plea agreement is binding on all parties, including the Court, the Court should not have *sua sponte* reduced the defendant's original sentence. Additionally, there is no exception to the binding agreement because the trial court did not abuse its discretion when initially sentencing the defendant because the sentence was appropriate at the time it was ordered and is still appropriate when considering the circumstances leading up to the revocation of probation. Thus, the State requests the Court to reconsider its ruling reducing the defendant's sentence by two years and to impose the defendant's original sentence of one year determinate and four years indeterminate. Following a sentence entered in accordance with ICR 11(f)(1)(C) and (f)(3), the only available remedy to an aggrieved party is specific performance of the agreement. *See Bearden v. Georgia*, 461 U.S. 660, 670-71 (1983); *Infra Part IIA.*

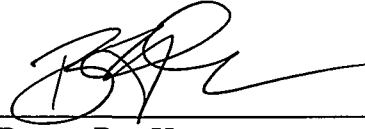
#### IV. CONCLUSION

Because the Court agreed to bind itself to the parties' original plea agreement in accordance with ICR 11(f)(1)(C) and (f)(3), it may not then *sua sponte* reduce the term of imprisonment, when citing as the sole reason for doing so that the original sentence was excessive. The State seeks to have the original sentence reinstated and imposed, because as a

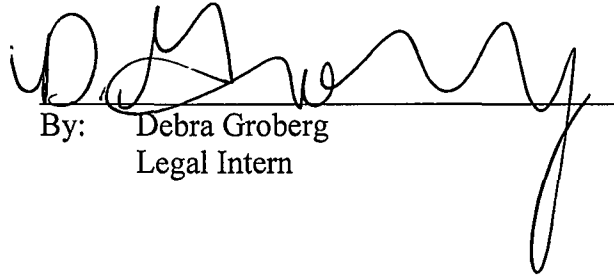
party to the negotiated plea agreement, specific performance of the agreement is the only available remedy.

DATED this 22<sup>nd</sup> day of July 2014.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Ben Harmer  
Deputy Prosecuting Attorney



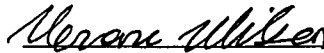
By: Debra Groberg  
Legal Intern

**CERTIFICATE OF MAILING**

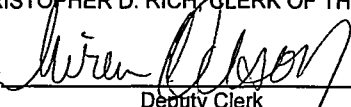
I HEREBY CERTIFY that on this 22<sup>nd</sup> day of July 2014, I caused to be served, a true and correct copy of the foregoing Amended Brief in Support of Motion to Reconsider upon the individual(s) named below in the manner noted;

Name and Address: **Anthony R. Geddes, Ada County Public Defender**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
\_\_\_\_\_  
Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
11:49:52 AM		<b>State v Michael Walker - CRFE09-15305</b>
11:50:09 AM	State Attorney	Ben Harmer
11:50:12 AM	Public Defender	Tony Geddes
11:50:16 AM	Judge Hansen	Calls case, def. is present in custody with counsel
11:50:29 AM	Judge Hansen	reviews file
11:51:47 AM	Public Defender	was not planning on briefing - was just going to argue the motion today
11:52:02 AM	Judge Hansen	is not prepared to hear argument today on the motion - will give Mr. Geddes until 08/06/14 at 5:00 p.m. and the State will have until 08/13 at 5 and will set for hearing on 08/25/14 at 9:00 a.m.
11:55:13 AM		END CASE

FILED  
Friday, July 25, 2014 at 10:34 AM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY:   
Deputy Clerk

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

THE STATE OF IDAHO,  
Plaintiff,  
vs.  
MICHAEL J WALKER,  
Defendant.

Case No. CR-FE-2009-0015305  
ORDER TO TRANSPORT

Inmate Number:



It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **MICHAEL J WALKER** be brought before this Court for:

Hearing Scheduled.....Monday, August 25, 2014 @ 09:00 AM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Friday, July 25, 2014.

  
TIMOTHY HANSEN  
DISTRICT JUDGE

100  
HS  
8/25  
9

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

AUG - 6 2014

CHRISTOPHER D. RICH, Clerk  
By SHERRI BOUCHER  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorney for Defendant

Anthony Geddes  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff,

vs.

MICHAEL J. WALKER,

Defendant.

Case No. CR-FE-2009-0015305

**BRIEF OBJECTING TO STATE'S  
MOTION TO RECONSIDER**

**I. STATEMENT OF THE CASE**

**A) Nature of the Case**

Brief in objection to the State's Motion to Reconsider.

**B) Procedural History**

On November 8, 2010, Michael Walker (herein referred to as the defendant) pled guilty to Possession of a Controlled Substance, Marijuana, Greater Than Three Ounces, a felony violation of I.C. § 37-2732(e).

On January 28, 2011, pursuant to a Rule 11 Plea Agreement, the defendant was sentenced to probation with an underlying sentence of one (1) year fixed followed by four (4) years indeterminate.

The defendant admitted violating probation in October of 2011. He completed a rider and was granted a return to probation in July of 2012.

*SW*

The defendant admitted violating probation a second time in May of 2014. At disposition on May 28, 2014, the Honorable Judge George Carey imposed the defendant's sentence, and *sua sponte*, reduced the underlying sentence to one (1) year fixed followed by two (2) years indeterminate.

The State's Motion to Reconsider followed.

## II. ISSUES PRESENTED FOR REVIEW

- A) Is a Rule 11 Plea Agreement binding on the Court at subsequent probation violation proceedings?
- B) Does this Court have the authority to reinstate the original sentence following a reduction in sentence pursuant to I.C.R. 35 previously entered by another Judge?

## III. ARGUMENT

### A) A Rule 11 Plea Agreement Does Not Bind The Court In Subsequent Probation Violation Proceedings

In the two briefs submitted by the State, they spend a great deal of time outlining and describing the nature, parameters, and legality of plea agreements entered into pursuant to I.C.R. 11. They also cite a number of cases that detail and describe what a Rule 11 is and how it functions.

All of the case law and legal authority referred to by the State is valid and current. Unfortunately, none of it is relevant to the issue at hand. The State has failed to cite any legal authority that stands for the proposition that a Rule 11 Plea Agreement binds the court in subsequent probation violation proceedings.

The State cites a Ninth Circuit case, *United States v. Gerace*, 997 F.2d 1293 (1993), as support for the notion that a plea agreement "extends beyond the time of the original sentence to any future probation revocation hearing" (State's Brief in Support, p. 4), but an accurate reading of that case reveals that it stands for just the opposite.

Gerace pled guilty to three counts of bank fraud pursuant to a Plea Agreement. The district court imposed a two-year suspended prison sentence and placed Gerace on five (5) years of probation. Before the written judgment and commitment order had been filed, however, the Judge *sua sponte* raised the suspended sentence to five (5) years. Gerace accepted the modified sentence without objection. As per the Plea Agreement, the government recommended concurrent sentences but otherwise agreed to stand silent.



Some years later, while being sentenced for violating his probation, Gerace objected to the government's argument against leniency, claiming that failure to remain silent violated the original Plea Agreement. The Judge allowed the government to comment, denied Gerace's motion to withdraw his guilty plea, and imposed his sentence.

The Ninth Circuit Court of Appeals referred to Gerace's "creative reading" of the Plea Agreement as unreasonable. They went on to note that there was no evidence to suggest at the time of the Plea Agreement that either of the parties contemplated that the government would be forever bound to silence at any future probation violation inquiries.

*Gerace*, therefore, does not stand for the proposition that a plea agreement binds the court in subsequent probation violation proceedings.

The defense is not aware of any legal authority that supports the State's position.

**B) A District Court Judge Does Not Have The Authority To Increase A Defendant's Sentence That Was Previously Reduced By Another Judge**

In its Amended Brief in Support of the Motion to Reconsider, the State concedes that a Judge may, *sua sponte*, reduce a previously imposed sentence. They also correctly point out that such a decision is committed to the sound discretion of the Court. They argue, in essence, that Judge Carey abused his discretion when he reduced the defendant's sentence to one (1) year fixed followed by two (2) years indeterminate.

Once again, however, the State has failed to cite any legal authority for the proposition that this Court has the authority, absent some illegality in the sentence, to overrule a fellow Judge's decision and reinstate the original, underlying sentence.

In its Amended Brief in Support of the Motion to Reconsider, the State cites *Bearden v. Georgia*, 461 U.S. 660 (1983), as authority for the proposition that they are entitled to specific performance from a defendant and the Court at subsequent probation revocation proceedings.

Again, a careful reading of *Bearden* does not support the State's claim. *Bearden* pled guilty to a theft offense and was given probation with the condition that he pay a \$500.00 fine and \$250.00 in restitution.

Despite his best efforts, *Bearden* could not get a job and was unable to pay the balance of his fines and restitution. The Judge revoked his probation and sent him to prison.

The issue in the case was whether the Fourteenth Amendment prohibits a Judge from revoking probation for failure to pay fines and restitution.

The U.S. Supreme Court held that a sentencing court cannot properly revoke a defendant's probation for failure to pay fines and restitution, absent evidence and findings that the defendant was responsible for the failure to pay, or that alternative forms of punishment were inadequate to meet the State's interest in punishment and deterrence.

The Court found it important to explore the reasons for non-payment and expressed its opinion that there should be a distinction between inability to pay and willful refusal to pay. The case was remanded for the lower court to make the appropriate findings consistent with the opinion.

*Bearden* does not stand for the proposition, as the State claims, that they are entitled to specific performance of the express terms of the Plea Agreement.

#### IV. CONCLUSION

A Rule 11 Plea Agreement is not binding upon the court in subsequent probation violation proceedings, and the State has provided no authority for their claim that it does or that it should.

Indeed, one of the cases the State cites in support of their theory, *Gerace*, rejected what it referred to as the defendant's "creative" interpretation of the Plea Agreement and did not hold the parties to be bound by the original Plea Agreement at a subsequent probation violation proceeding.

Furthermore, the State has not provided any legal basis for the proposition that this Court has the authority, absent some illegality in the sentence, to reverse Judge Carey's decision and increase the sentence to its original term.

Frankly, the State would have a legitimate interest in specific performance of the Rule 11 Plea Agreement, if at the time of original sentencing the Judge, after having agreed to be bound, failed to sentence the defendant in accordance with the Plea Agreement.

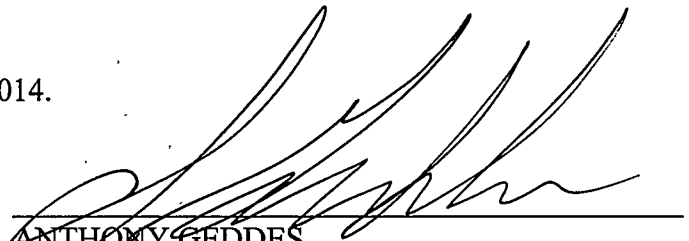
This, however, is not the circumstance of the case at hand. This Court followed the Rule 11 Plea Agreement. It was only at subsequent probation violation proceedings that Judge Carey reduced the sentence pursuant to the authority under I.C.R. 35.

The State is not entitled to specific performances of an initial Plea Agreement at subsequent probation violation proceedings, and the case they cite as authority for such a proposition, *Bearden*, actually holds that the lower court Judge must make certain findings (thus

exercising its discretion) before making the determination that probation should be revoked. Indeed, *Bearden* does not address the issue of specific performance of the Plea Agreement at all.

As articulated above, the Court is not bound by a Rule 11 Plea Agreement at subsequent probation violation proceedings. Judge Carey acted well within his authority and discretion under I.C.R. 35 when he reduced the defendant's underlying sentence. The State is not entitled to specific performance of the original Rule 11 Plea Agreement. The proper mechanism by which the State may challenge Judge Carey's decision is claiming he abused his discretion via the appeal process.

DATED this 6<sup>th</sup> day of August 2014.

  
\_\_\_\_\_  
ANTHONY GEDDES  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 10 day of August 2014, I mailed a true and correct copy of the foregoing to Ben Harmer, Ada County Prosecutor's Office, by placing the same in the Interdepartmental Mail.



\_\_\_\_\_  
Katie Van Vorhis

**AUG 25 2014**

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

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
MICHAEL WALKER,  
  
Defendants.

Case No. CRFE09-15305  
  
NOTICE OF HEARING

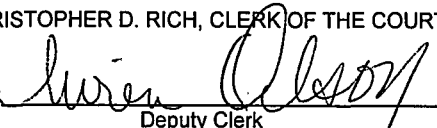
PLEASE TAKE NOTICE that the Honorable Timothy Hansen, District Judge, has set this matter for hearing on the Motion to Reconsider on the **2<sup>nd</sup> day of September, 2014** at **4:00 p.m.** at the Ada County Courthouse, 200 W. Front Street, Boise, Idaho. If the victim has not been notified of this hearing, the matter will have to be continued.

Dated: August 25, 2014

CHRISTOPHER D. RICH  
Clerk of the District Court  
By: Miren Olson  
Deputy Clerk

ADA COUNTY PROSECUTOR ATTENTION: BEN HARMER INTERDEPARTMENTAL MAIL	ADA COUNTY PUBLIC DEFENDER ATTENTION: TONY GEDDES INTERDEPARTMENTAL MAIL
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FILED  
Monday, August 25, 2014 at 09:25 AM  
CHRISTOPHER D. RICH, CLERK OF THE COURT

BY:   
Deputy Clerk

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

THE STATE OF IDAHO,

Plaintiff,


vs.

MICHAEL J WALKER,

Defendant.

Case No. CR-FE-2009-0015305 .

ORDER TO TRANSPORT

  
It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **MICHAEL J WALKER** be brought before this Court for:

Hearing Scheduled.....Tuesday, September 02, 2014 @ 04:00 PM


It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Monday, August 25, 2014.

  
TIMOTHY HANSEN  
DISTRICT JUDGE

SEP 02 2014

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

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

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
MICHAEL WALKER,  
  
Defendants.

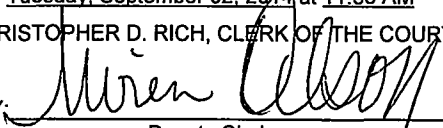
Case No. CRFE09-15305  
  
NOTICE OF HEARING

PLEASE TAKE NOTICE that the Honorable Timothy Hansen, District Judge, has set this matter for hearing on the Motion for Reconsideration on the 4<sup>th</sup> day of September, 2014 at 2:00 p.m. at the Ada County Courthouse, 200 W. Front Street, Boise, Idaho. If the victim has not been notified of this hearing, the matter will have to be continued.

Dated: September 2, 2014

CHRISTOPHER D. RICH  
Clerk of the District Court  
  
By Miren Olson  
Deputy Clerk

ADA COUNTY PROSECUTOR ATTENTION: BEN HARMER INTERDEPARTMENTAL MAIL	ADA COUNTY PUBLIC DEFENDER ATTENTION: TONY GEDDES INTERDEPARTMENTAL MAIL
--	--

FILED  
Tuesday, September 02, 2014 at 11:38 AM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY:   
Deputy Clerk

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

THE STATE OF IDAHO,

Plaintiff,

vs.

MICHAEL J WALKER,

Defendant.

Case No. CR-FE-2009-0015305

ORDER TO TRANSPORT

Inmate Number:



It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **MICHAEL J WALKER** be brought before this Court for:

Hearing Scheduled.....Thursday, September 04, 2014 @ 02:00 PM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Tuesday, September 02, 2014.



TIMOTHY HANSEN  
DISTRICT JUDGE



<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>1:20:41 PM</u>		<b>State v Michael Walker - CRFE09-15305</b>
<u>2:30:48 PM</u>	State Attorney	Ben Harmer
<u>2:30:51 PM</u>	Public Defender	Tony Geddes
<u>2:30:54 PM</u>	Judge Hansen	Calls case, def. is present in custody with counsel
<u>2:31:06 PM</u>	Judge Hansen	reviews file
<u>2:31:34 PM</u>	State Attorney	argues the motion for reconsideration
<u>2:33:29 PM</u>	Public Defender	argues the motion for reconsideration
<u>2:36:31 PM</u>	State Attorney	nothing further
<u>2:36:34 PM</u>	Judge Hansen	comments - will take the matter under advisement and will issue a written decision
<u>2:38:35 PM</u>		END CASE

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

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 1:55

OCT 17 2014

CHRISTOPHER D. RICH, Clerk  
BY SAOIMAXWELL  
DEPUTY

Case No. CRFE 2009-001580

MEMORANDUM DECISION  
AND ORDER

THE STATE OF IDAHO,

Plaintiff,

vs.

MICHAEL J. WALKER,

Defendant.

**BACKGROUND**

On November 8, 2010, Defendant Michael Walker entered a plea of guilty to the felony offense of Possession of a Controlled Substance, Marijuana, Greater Than Three Ounces, a violation of I.C. § 37-2732(e). On January 28, 2011, pursuant to a Rule 11 agreement, Defendant was sentenced to the custody of the Idaho State Board of Correction for an aggregate term of five (5) years, with a minimum period of confinement of one (1) year followed by a subsequent indeterminate period of four (4) years. Pursuant to the Rule 11 agreement, the Court suspended the sentence and Defendant was placed on probation for a period of five (5) years. A Judgment, Suspended Sentence, Order of Probation and Commitment entered on February 3, 2011.

On October 20, 2011, Defendant admitted violating the terms of his probation. On December 2, 2011, the Court revoked Defendant's probation, imposed the suspended sentence, and retained jurisdiction for a period of up to 365 days. An Order of Revocation of Probation and Imposition of Sentence and Commitment and Order Retaining Jurisdiction entered on December 7, 2011. A review hearing was held on July 20, 2012, at which time the Court again suspended Defendant's sentence and placed him on probation through January 27, 2016. An Order Reinstating and Amending Probation entered on the same date.

On May 14, 2014, Defendant again admitted violating the terms of his probation. A disposition hearing was held on May 28, 2014, at which the Honorable George Carey, senior

KM

1 district judge, was handling matters assigned to this Court. Judge Carey revoked Defendant's  
2 probation and, *sua sponte*, reduced the underlying sentence to one (1) year fixed followed by two  
3 (2) years indeterminate. An Order of Revocation of Probation and Reducing Sentence and  
4 Commitment entered on May 28, 2014.

5 On June 23, 2014, the State filed a Motion to Reconsider, along with a Brief in Support of  
6 Motion to Reconsider. An Amended Brief in Support of Motion to Reconsider was filed by the  
7 State on July 22, 2014. On August 6, 2014, Defendant filed a Brief Objecting to State's Motion to  
8 Reconsider.

9 A hearing on the State's motion was held on September 4, 2014, at which time the Court  
10 took the matter under advisement.

### 11 DISCUSSION

12 In its motion for reconsideration, the State asserts that because the Court agreed to accept a  
13 plea agreement which was binding upon the parties and the Court, Judge Carey could not *sua*  
14 *sponte* reduce Defendant's original sentence upon revocation of Defendant's probation. The State  
15 seeks specific performance of the plea agreement. Initially the Court notes that although the Idaho  
16 Criminal Rules do not specifically address motions for reconsideration filed by the State, the Idaho  
17 Court of Appeals has recognized that trial courts have the authority to entertain such requests when  
18 made. *See State v. Montague*, 114 Idaho 319, 320, 756 P.2d 1083, 1084 (Ct. App. 1988). Further,  
19 I.C.R. 35 permits a trial court to correct an illegal sentence at any time, upon the motion of either  
20 the prosecution or the defense. *See State v. Howard*, 122 Idaho 9, 10, 830 P.2d 520, 521 (1992),  
21 *citing State v. Martin*, 119 Idaho 577, 578, 808 P.2d 1322, 1324 (1991).

22 Pursuant to I.C.R. 11(f)(1)(C), the State and a defendant may enter into an agreement which  
23 provides that upon the defendant entering a plea of guilty to the charged offense or to a lesser or  
24 related offense, the State will agree that a specific sentence is the appropriate disposition of the  
25 case. If the court accepts the plea agreement, the court shall inform the defendant that it will  
26 implement the disposition provided for in the agreement. I.C.R. 11(f)(3). If such an agreement is  
accepted by the court, the agreement is binding, "and the court has no latitude to impose a sentence  
different from that to which the defendant and the prosecutor have agreed." *State v. Wade*, 125  
Idaho 522, 525, 873 P.2d 167, 170 (Ct. App. 1994) (discussing former I.C.R. 11(d)(1)(C)). A  
defendant is also obligated to adhere to the terms of the plea agreement, "and the State is entitled to

1 receive the benefit of its bargain.” *State v. Holdaway*, 130 Idaho 482, 484, 943 P.2d 72, 74 (Ct.  
2 App. 1997), citing *State v. Armstrong*, 127 Idaho 666, 668, 904 P.2d 578, 580 (Ct. App. 1995). A  
3 plea agreement “is contractual in nature and must be measured by contract law standards.”  
4 *Holdaway*, 130 Idaho at 484, 943 P.2d at 74 (citations omitted).

5 Upon revocation of a defendant’s probation, the original judgment which was suspended  
6 “shall be in full force and effect and may be executed according to law,” although a court “can *sua*  
7 *sponte* reduce the sentence pursuant to Idaho Criminal Rule 35.” *State v. Thomas*, 146 Idaho 592,  
8 594, 199 P.3d 769, 771 (2008), quoting I.C. § 19-2603; see also I.C.R. 35(b) (“The court may also  
9 reduce a sentence upon revocation of probation ...”). Neither I.C. § 19-2603 nor I.C.R. 35 address  
10 the issue of whether a court may *sua sponte* reduce a sentence upon revocation of probation where a  
11 binding plea agreement which provided for a specific stipulated sentence has been accepted by the  
12 court.

13 The Court notes that there is no Idaho case law directly on point. There is, however, Idaho  
14 case law indicating that a plea agreement which provides for a maximum sentence remains binding  
15 upon a court at the time of probation revocation. See *State v. Wilson*, 127 Idaho 506, 513, 903 P.2d  
16 95, 102 (Ct. App. 1995) (holding that when the district court later revoked probation, it was  
17 obligated to impose a sentence no greater than the maximum specified in the plea agreement).  
18 Where the plea agreement does not call for a specific or maximum sentence, upon revocation of  
19 probation the court is free to impose any sentence within the statutory maximum for the offense.  
20 See *Short v. State*, 135 Idaho 40, 42, 13 P.3d 1253, 1255 (Ct. App. 2000) (distinguishing *State v.*  
21 *Wilson*).

22 Again, I.C.R. 35 does not address the issue of a *sua sponte* reduction of sentence by the  
23 court where the parties have agreed to a specific sentence pursuant to a binding plea agreement.  
24 However, Idaho case law is clear that where a defendant is requesting such a reduction through a  
25 Rule 35 motion, the court’s authority to grant the motion is limited in cases where the defendant  
26 was initially sentenced in accordance with a binding plea agreement. See *Holdaway*, 130 Idaho at  
484-85, 943 P.2d at 74-75; see also *State v. Person*, 145 Idaho 293, 299, 178 P.3d 658, 664 (Ct.  
App. 2007), and *Wade*, 125 Idaho at 525, 873 P.2d at 170. In *State v. Holdaway*, the district court  
sentenced the defendant in accordance with the terms of a plea agreement containing a stipulated  
sentence. The defendant thereafter filed a motion for reduction of his sentence pursuant to I.C.R.  
35, and the district court denied the motion. On appeal, the Idaho Court of Appeals characterized

1 the plea agreement as an “obstacle” to the defendant’s claim for Rule 35 relief. 130 Idaho at 484,  
2 943 P.2d at 74. Noting the contractual nature of plea agreements, the court stated that a defendant  
3 is obligated to adhere to the terms of the plea agreement, and the State is entitled to receive the  
4 benefit of its bargain. *Id.*, citing *Armstrong*, 127 Idaho at 668, 904 P.2d at 580. The court further  
5 stated,

6 We do not hold that a trial court never has authority to reduce a sentence on a Rule 35  
7 motion after a stipulated sentence has been imposed, but in our view such relief should  
8 be allowed only in extraordinary circumstances. We agree with the United States  
9 District Court which stated in *United States v. Goehl*, 605 F. Supp. 517, 519 (N.D. Ill.  
10 1984) that the reduction of an agreed-upon sentence ordinarily will be justified only if  
11 “post-sentencing developments, previously unforeseen and rendering the earlier  
12 binding agreement inappropriate, were to occur.” . . . . Accordingly, we hold that a  
13 defendant requesting reduction of a stipulated sentence must show that his motion is  
14 based upon unforeseen events that occurred after entry of his guilty plea or new  
15 information that was not available and could not, by reasonable diligence, have been  
16 obtained by the defendant before he pleaded guilty pursuant to the agreement. The  
17 defendant must also show that these unanticipated developments are of such  
18 consequence as to render the agreed sentence plainly unjust.

19 130 Idaho at 485, 943 P.2d at 75. Similarly, *State v. Wade* and *State v. Person* involved Rule 35  
20 motions for reduction of sentence where the sentences had been imposed pursuant to binding plea  
21 agreements. In those cases the Idaho Court of Appeals also stated that such a reduction would only  
22 be justified if it was based upon new or additional information that was not available when the plea  
23 agreement was made. *See Person*, 145 Idaho at 299, 178 P.3d at 664; *Wade*, 125 Idaho at 525, 873  
24 P.2d at 170.

25 The Court recognizes that Defendant in the case at bar did not file a Rule 35 motion seeking  
26 reduction of his sentence. However, as the above cases refer to the issue in terms of the court’s  
“authority” to reduce the stipulated sentence, the Court concludes that the court’s ability to reduce  
such a sentence *sua sponte* is similarly limited to the circumstances articulated by the Idaho Court  
of Appeals in those cases. In other words, a court may *sua sponte* reduce a stipulated sentence in  
cases where new information or unanticipated developments render the earlier stipulated sentence  
unjust. *See Holdaway*, 130 Idaho at 485, 943 P.2d at 75.

At the May 28, 2014, disposition hearing in the case at bar, Judge Carey indicated that he  
was revoking Defendant’s probation and would order the balance of his sentence into execution and  
stated: “However, considering the . . . nature of the original charge, I think that the . . . sentence  
was probably a little bit in excess of what was necessary considering the Toohill . . . considerations,

1 so I am going to exercise Rule 35 jurisdiction by . . . modifying the sentence to three years with one  
2 year fixed, two years indeterminate . . .” State’s Exhibit 4 at 10:50-10:51. Because the reduction of  
3 the stipulated sentence in this case appears to have been based upon the nature of the original  
4 charge rather than upon new information which rendered the stipulated sentence unjust, the Court  
5 concludes that the reduction was not within Judge Carey’s authority. Again, considering the  
6 contractual nature of binding plea agreements, such relief is justified only in extraordinary  
7 circumstances. *See Holdaway*, 130 Idaho at 484-85, 943 P.2d at 74-75. For these reasons, the  
8 State’s motion for reconsideration is granted, and pursuant to I.C.R. 35(a), the Court will correct the  
9 sentence by ordering the balance of the original stipulated sentence into execution.

10 **CONCLUSION**

11 For the reasons set forth above, the State’s Motion to Reconsider is granted.

12 IT IS SO ORDERED.

13 Dated this 17<sup>th</sup> day of October, 2014.

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15 \_\_\_\_\_  
16 TIMOTHY HANSEN  
17 District Judge  
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**CERTIFICATE OF MAILING**

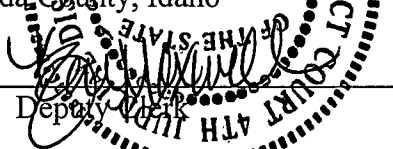
1  
2 I, Christopher D. Rich, the undersigned authority, do hereby certify that I have mailed, by  
3 United States Mail, on this 20<sup>th</sup> day of October, 2014, one copy of the ORDER as notice pursuant  
4 to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as  
5 follows:

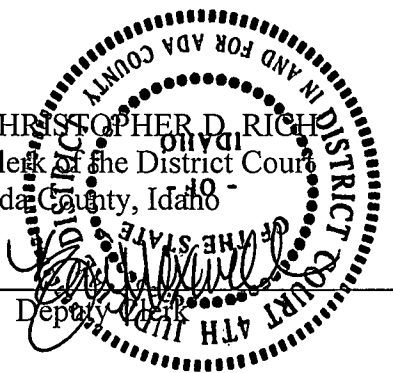
6 ADA COUNTY PROSECUTING ATTORNEY'S OFFICE  
7 ATTN: BENJAMIN HARMER  
8 VIA INTERDEPARTMENTAL MAIL

9 ADA COUNTY PUBLIC DEFENDER'S OFFICE  
10 ATTN: ANTHONY GEDDES  
11 VIA INTERDEPARTMENTAL MAIL

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CHRISTOPHER D. RICH  
Clerk of the District Court  
Ada County, Idaho

By:   
Deputy Clerk



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NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. *hjd*

OCT 23 2014

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorney for Defendant-Appellant

Anthony Geddes  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

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

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
  
vs.  
  
MICHAEL J. WALKER,  
  
Defendant-Appellant.

Case No. CR-FE-2009-0015305

NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE CLERK  
OF THE ABOVE-ENTITLED COURT

NOTICE IS HEREBY GIVEN THAT:

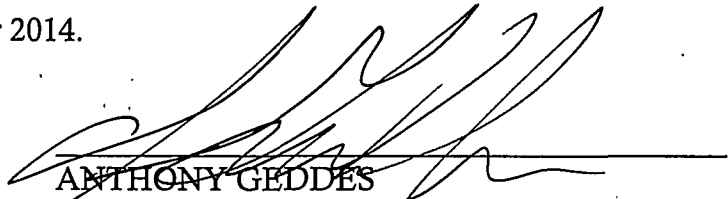
- 1) The above-named Appellant appeals against the above-named Respondent to the Idaho Supreme Court from the final decision and order entered against him in the above-entitled action on October 17, 2014, the Honorable Timothy Hansen, District Judge, presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to I.A.R. 11(c)(1-10).
- 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:
  - a) Did the district court err by granting the State's motion to reconsider filed pursuant to I.C.R. 35?

*hjd*



- 4) There is a portion of the record that is sealed. The portion of the record that is sealed is the presentence investigation report (PSI).
- 5) Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by I.A.R. 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
  - a) Disposition hearing held May 28, 2014 (Court Reporter: Vanessa Gosney, Estimated pages: 100);
  - b) Motion hearing held September 4, 2014 (Court Reporter: Vanessa Gosney, Estimated pages: 100).
- 6) Clerk's Record. The Appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). In addition to those documents automatically included under I.A.R. 28(b)(2), the Appellant also requests that any materials relating to his motion filed pursuant to I.C.R. 35, exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
- 7) I certify:
  - a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) mentioned in paragraph 5 above;
  - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent (I.C. §§ 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 (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
  - d) That Ada County will be responsible for paying for the reporter's transcript(s), as the client is indigent (I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e)); and
  - e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 23 day of October 2014.

  
ANTHONY GEDDES  
Attorney for Defendant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 23 day of October 2014, I mailed (served) a true and correct copy of the within instrument to:

Idaho Attorney General  
Criminal Division  
Joe R. Williams Bldg., 4<sup>th</sup> Flr.  
Statehouse Mail

Idaho State Appellate Public Defender  
3050 North Lake Harbor Lane, Suite 100  
Boise, Idaho 83703

Vanessa Gosney  
Court Reporter  
Interdepartmental Mail

Ben Harmer  
Ada County Prosecutor's Office  
Interdepartmental Mail

  
\_\_\_\_\_  
Katie Van Vorhis

**OCT 27 2014**

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
CHRISTOPHER D. RICH, Clerk  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA By MIREN OLSON  
DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

MICHAEL WALKER,

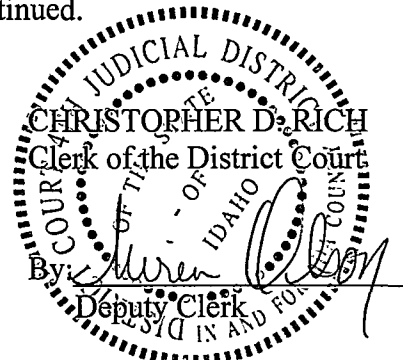
Defendants.

Case No. CRFE0915305

NOTICE OF HEARING

PLEASE TAKE NOTICE that the Honorable Timothy Hansen, District Judge, has set this matter for Status Conference on the 5<sup>th</sup> day of November, 2014 at 8:30 a.m. at the Ada County Courthouse, 200 W. Front Street, Boise, Idaho. If the victim has not been notified of this hearing, the matter will have to be continued.

Dated: October 27, 2014



ADA COUNTY PROSECUTOR ATTENTION: BEN HARMER INTERDEPARTMENTAL MAIL	ADA COUNTY PUBLIC DEFENDER ATTENTION: TONY GEDDES INTERDEPARTMENTAL MAIL
--	--

OCT 28 2014

CHRISTOPHER D. RICH, Clerk  
By MIREN OLSON  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorney for Defendant-Appellant

Anthony Geddes  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

RECEIVED

OCT 23 2014

Ada County Clerk

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

MICHAEL J. WALKER,

Defendant-Appellant.

Case No. CR-FE-2009-0015305

ORDER APPOINTING STATE  
APPELLATE PUBLIC DEFENDER  
ON DIRECT APPEAL

The Defendant has elected to pursue a direct appeal in the above-entitled matter. The Defendant being indigent and having heretofore been represented by the Ada County Public Defender's Office in the District Court, the Court finds that, under these circumstances, appointment of appellate counsel is justified. The Idaho State Appellate Public Defender shall be appointed to represent the above-named Defendant in all matters pertaining to the direct appeal.

IT IS SO ORDERED.

DATED this 28~~th~~ day of October 2014.



TIMOTHY HANSEN  
District Judge

**CERTIFICATE OF MAILING**

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have mailed one copy of the Order Appointing State Appellate Public Defender on Direct Appeal as notice pursuant to the Idaho Rules to each of the parties of record in this case in envelopes addressed as follows:

Idaho Attorney General  
Criminal Division  
Joe R. Williams Bldg., 4<sup>th</sup> Flr.  
Statehouse Mail

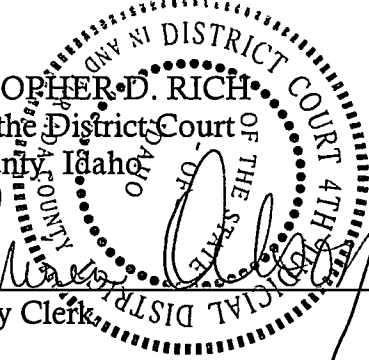
Idaho Appellate Public Defender  
3050 North Lake Harbor Lane, Suite 100  
Boise, Idaho 83703

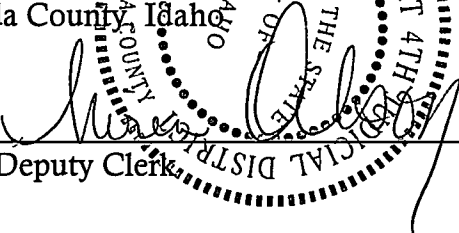
Ben Harmer  
Ada County Prosecutor's Office  
Interdepartmental Mail

Ada County Public Defender's Office  
Attn: Katie Van Vorhis  
Interdepartmental Mail

Date: 10/28/14

CHRISTOPHER D. RICH  
Clerk of the District Court  
Ada County, Idaho



By:   
Deputy Clerk

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>8:38:37 AM</u>		<b>State v Michael Walker - CRFE09-15305</b>
<u>8:38:50 AM</u>	State Attorney	Ben Harmer
<u>8:38:56 AM</u>	Public Defender	Tony Geddes
<u>8:38:59 AM</u>	Judge Hansen	Calls case, def. is not present - in custody was not transported - Mr. Geddes is here on his behalf
<u>8:39:55 AM</u>	Judge Hansen	comments - will need to set a hearing and will have Mr. Walker transported
<u>8:40:08 AM</u>	State Attorney	is fine with that
<u>8:40:14 AM</u>	Public Defender	no comments
<u>8:40:16 AM</u>	Judge Hansen	will do that and will let counsel know when that will happen
<u>8:40:29 AM</u>		END CASE

FILED  
Friday, November 07, 2014 at 02:56 PM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY: *Miren Olson*  
Deputy Clerk

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

THE STATE OF IDAHO,  
Plaintiff,

vs.

MICHAEL J WALKER,  
Defendant.

Case No. CR-FE-2009-0015305

ORDER TO TRANSPORT

Inmate Number:  
[REDACTED]

It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **MICHAEL J WALKER** be brought before this Court for:

Hearing Scheduled.....Wednesday, November 26, 2014 @ 09:00 AM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Friday, November 07, 2014.

*[Signature]*  
TIMOTHY HANSEN  
DISTRICT JUDGE

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>10:08:32 AM</u>		<b>State v Michael Walker - CRFE09-15305</b>
<u>10:08:42 AM</u>	State Attorney	George Gunn
<u>10:08:46 AM</u>	Public Defender	Tony Geddes
<u>10:08:49 AM</u>	Judge Hansen	Calls case, def. is present in custody with counsel
<u>10:08:57 AM</u>	Judge Hansen	reviews file
<u>10:10:23 AM</u>	Public Defender	will stand silent on the issue - does believe an amended judgment is appropriate
<u>10:10:41 AM</u>	State Attorney	also believes the amended judgment is appropriate
<u>10:10:54 AM</u>	Judge Hansen	comments - will enter an amended judgment and there would be no reduction in sentence
<u>10:13:27 AM</u>		END CASE



NOV 26 2014  
FILED  
F.M.  
1:00

NOV 26 2014

CHRISTOPHER D. RICH, Clerk  
By KARI MAXWELL  
DEPUTY

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MICHAEL JASON WALKER, )  
[REDACTED] )  
[REDACTED] )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2009-0015305

AMENDED ORDER OF REVOCATION OF  
PROBATION AND IMPOSITION  
OF SENTENCE AND COMMITMENT

WHEREAS, on the 28th day of May, 2014, Defendant appeared before the Court in response to a Motion and Order for Bench Warrant for Violation of Probation, and Defendant having admitted the allegations 3, 4, and 6, as set forth in said Motion, the Court finds Defendant has violated his probation order;

Now, therefore IT IS HEREBY ORDERED, that the probation entered by the Court on the 20th day of July, 2012, be and the same is hereby revoked.

IT IS FURTHER ORDERED that the Judgment of Conviction entered by the Court on the 28th day of January, 2011, for the crime of COUNT I. POSSESSION OF A CONTROLLED SUBSTANCE, MARIJUANA, GREATER THAN THREE OUNCES, FELONY, I.C. §37-2732(e), committed on or about the 18th day of August, 2009, be and the same is hereby executed according to

KM

its original terms to-wit: that Defendant be sentenced to the custody of the State Board of Correction of the State of Idaho for an aggregate term of five (5) years, to be served as follows: a minimum period of confinement of one (1) years followed by a subsequent indeterminate period of custody not to exceed four (4) years.

Pursuant to I.C. § 18-309, Defendant is given credit for a total of five hundred twenty (520) days served.

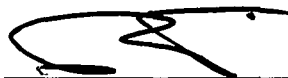
Defendant shall pay all costs previously imposed that have not been paid.

Defendant is hereby remanded to the custody of the Sheriff of Ada County to be delivered FORTHWITH into the custody of the Director of the Idaho State Correctional Institution.

IT IS FURTHER ORDERED that Defendant shall fully comply with the DNA Database Act.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Amended Order of Revocation of Probation to the said Sheriff, which shall serve as the commitment of Defendant.

**DATED** this 26th day of November, 2014.



TIMOTHY HANSEN  
District Judge

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 20<sup>th</sup> day of November, 2014, I caused to be emailed/mailed one copy of the within instrument in this cause as follows:

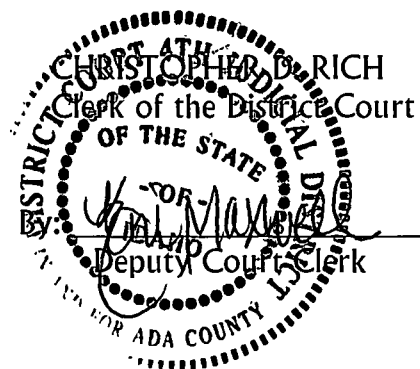
ADA COUNTY PROSECUTNG ATTORNEY'S OFFICE  
VIA EMAIL

ADA COUNTY PUBLIC DEFENDER'S OFFICE  
VIA EMAIL

PRESENTENCE INVESTIGATION TEAM/DEPT. OF PROBATION & PAROLE  
VIA EMAIL

IDAHO DEPARTMENT OF CORRECTION  
VIA EMAIL

ADA COUNTY JAIL  
VIA EMAIL



NO. \_\_\_\_\_  
A.M. 8:58 FILED  
P.M. \_\_\_\_\_

TO: CLERK OF THE COURT  
IDAHO SUPREME COURT  
451 WEST STATE STREET  
BOISE, IDAHO 83702

**DEC 29 2014**  
CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

STATE OF IDAHO,	)	
	)	Supreme Court No.
	)	42655-2014
Plaintiff-Respondent,	)	
vs.	)	Case No. CRFE-09-15305
	)	
MICHAEL WALKER,	)	
	)	
Defendant-Appellant.	)	
_____	)	

**NOTICE OF TRANSCRIPT LODGED**


Notice is hereby given that on December 15, 2014, I lodged a transcript 30 pages of length for the above-referenced appeal with the District Court Clerk of the **County of Ada** in the Fourth Judicial District.

**HEARING DATES INCLUDED:**

Disposition May 28, 2014

Motion September 4, 2014

  
\_\_\_\_\_  
Vanessa S. Gosney, Official Court Reporter

  
\_\_\_\_\_  
Date

KW

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

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
MICHAEL J. WALKER,  
  
Defendant-Appellant.

Supreme Court Case No. 42655

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

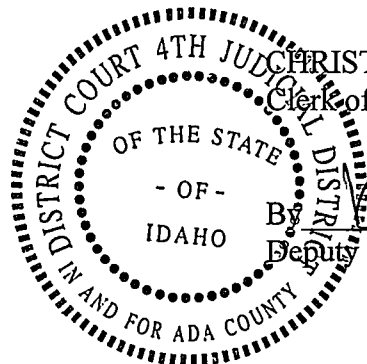
That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal. It should be noted, however, that the following exhibits will be retained at the District Court clerk's office and will be made available for viewing upon request.

1. State's Exhibit 1 – Metal Canister.
2. State's Exhibit 2 – Marijuana.
3. State's Exhibit 4 – Scale.
4. State's Exhibit 5 – Green Substance.
5. State's Exhibit 6 – Pipe & Knives.
6. State's Exhibit 7 – Ziplock Bag.
7. State's Exhibit 8 – Marijuana.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Presentence Investigation Report.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 29th day of December, 2014.



CHRISTOPHER D. RICH  
Clerk of the District Court

By Wegener  
Deputy Clerk



F.	Photo	Admit - 08/17/10
G.	Photo	Admit - 08/17/10
H.	Photo	Admit - 08/17/10
I.	Photo	Admit - 08/17/10
J.	Photo	Admit - 08/17/10
K.	Photo	Admit - 08/17/10
R.	(Illustrative) Drawing	Admit - 08/16/10

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

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
MICHAEL J. WALKER,  
  
Defendant-Appellant.

Supreme Court Case No. 42655

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

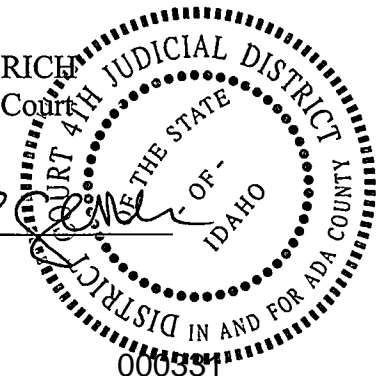
STATE APPELLATE PUBLIC DEFENDER  
  
ATTORNEY FOR APPELLANT  
  
BOISE, IDAHO

LAWRENCE G. WASDEN  
  
ATTORNEY FOR RESPONDENT  
  
BOISE, IDAHO

Date of Service: DEC 29 2014

CHRISTOPHER D. RICH  
Clerk of the District Court

By *Lawrence G. Wasden*  
Deputy Clerk



CERTIFICATE OF SERVICE



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

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
MICHAEL J. WALKER,  
  
Defendant-Appellant.

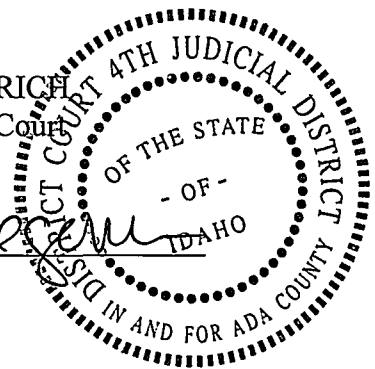
Supreme Court Case No. 42655  
CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 23rd day of October, 2014.

CHRISTOPHER D. RICH  
Clerk of the District Court

By *Christopher D. Rich*  
Deputy Clerk



CERTIFICATE TO RECORD

000332