

5-13-2016

# State v. Tregeagle Clerk's Record Dckt. 44098

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,  
Plaintiff-Respondent,  
vs.  
MARVIE JEAN TREGGAGLE,  
Defendant-Appellant.

Supreme Court Case No. 44098

CLERK'S RECORD ON APPEAL

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

HONORABLE GERALD SCHROEDER

JOHN R. SHACKELFORD  
ATTORNEY FOR APPELLANT  
BOISE, IDAHO

LAWRENCE G. WASDEN  
ATTORNEY FOR RESPONDENT  
BOISE, IDAHO

State of Idaho vs. Marvie Jean Tregeagle

Date	Code	User	Judge
3/27/2015	NCRM	PRADAMKD	New Case Filed - Misdemeanor
	PROS	PRADAMKD	Prosecutor assigned Ada County Prosecutor
3/31/2015	AFPD	TCKEENMM	Application For Public Defender
	CHGA	TCKEENMM	Judge Change: Administrative
	ORPD	TCKEENMM	Order Appointing Public Defender Ada County Public Defender [on the record in open court]
	HRSC	TCKEENMM	Hearing Scheduled (AC Pretrial Conference 05/04/2015 08:15 AM)
	HRSC	TCKEENMM	Hearing Scheduled (Jury Trial 05/28/2015 08:15 AM)
	PLEA	TCKEENMM	A Plea is entered for charge: - NG (I37-2732(c)(3) {M} Controlled Substance-Possession of)
	NHPD	TCKEENMM	Notice & Order Of Hearing/appointment Of Pd
4/2/2015	RQDD	TCDERRJT	Defendant's Request for Discovery
4/16/2015	RQDS	TCKEENMM	State/City Request for Discovery
	RSDS	TCKEENMM	State/City Response to Discovery
5/1/2015	MOTE	TCSHANAA	Motion to Enlarge
	MOTN	TCWRIGSA	Motion to Suppress Evidence
5/4/2015	ORDR	TCBELLHL	Order Enlarging Time
	HRHD	TCBELLHL	Hearing result for AC Pretrial Conference scheduled on 05/04/2015 08:15 AM: Hearing Held. Set Suppression Hearing.
	HRVC	TCBELLHL	Hearing result for Jury Trial scheduled on 05/28/2015 08:15 AM: Hearing Vacated
	HRSC	TCBELLHL	Hearing Scheduled (Motion to Suppress 06/09/2015 04:00 PM)
	MMNH	TCBELLHL	Magistrate Minutes & Notice of Hearing
6/1/2015	MEMO	TCCHRIKE	Memorandum in Support of Motion to Suppress
6/3/2015	MEMO	TCCHRIKE	State's Memorandum in Opposition to Defendant's Motion to Suppress
6/5/2015	STIP	TCCHRIKE	Stipulation to Continue
6/9/2015	ORDR	TCBELLHL	Order to Continue
	CONT	TCBELLHL	Continued (Motion to Suppress 07/20/2015 03:30 PM)
	NOTH	TCBELLHL	Notice Of Hearing
6/26/2015	BAAT	PDVANVKE	ATTORNEY REASSIGNED BY BATCH PROCESSING (batch process) Erik J O'Daniel, 6534 removed. Elana O Salzman, 9607 assigned.
7/20/2015	HRHD	TCBELLHL	Hearing result for Motion to Suppress scheduled on 07/20/2015 03:30 PM: Hearing Held. Court Takes Matter Under Advisement.

## State of Idaho vs. Marvie Jean Tregagle

Date	Code	User	Judge
8/21/2015	MEMO	TCBELLHL	Memorandum Opinion on Motion to Suppress
	HRSC	TCBELLHL	Hearing Scheduled (AC Pretrial Conference 10/13/2015 08:15 AM)
	HRSC	TCBELLHL	Hearing Scheduled (Jury Trial 11/05/2015 08:15 AM)
	NOTH	TCBELLHL	Notice Of Hearing
10/13/2015	STIP	TCBELLHL	Stipulation to Enter Conditional Guilty Plea
	CAGP	TCBELLHL	Hearing result for AC Pretrial Conference scheduled on 10/13/2015 08:15 AM: Court Accepts Guilty Plea
	PLEA	TCBELLHL	A Plea is entered for charge: - GT (I37-2732(c)(3) {M} Controlled Substance-Possession of)
	FIGT	TCBELLHL	Finding of Guilty (I37-2732(c)(3) {M} Controlled Substance-Possession of)
	JAIL	TCBELLHL	Sentenced to Jail or Detention (I37-2732(c)(3) {M} Controlled Substance-Possession of) Confinement terms: Jail: 90 days. Suspended jail: 90 days.
	PROB	TCBELLHL	Probation Ordered (I37-2732(c)(3) {M} Controlled Substance-Possession of) Probation term: 1 year 0 months 0 days. (Misdemeanor Unsupervised)
	STAT	TCBELLHL	STATUS CHANGED: closed pending clerk action
	SNPF	TCBELLHL	Sentenced To Pay Fine 332.50 charge: I37-2732(c)(3) {M} Controlled Substance-Possession of
	OSOO	TCBELLHL	Other Sentencing Option Ordered: Community Service Hours assigned: 100
	HRVC	TCBELLHL	Hearing result for Jury Trial scheduled on 11/05/2015 08:15 AM: Hearing Vacated
	WPOG	TCBELLHL	Written Plea Of Guilty
	MOTN	TCFRIECT	Motion for Stay of Execution of sentence Pending Appeal
	APDC	TCWRIGSA	Appeal Filed In District Court
	NOTA	TCWRIGSA	NOTICE OF APPEAL
	CAAP	TCWRIGSA	Case Appealed:
	STAT	TCWRIGSA	STATUS CHANGED: Reopened
	CHGA	CCNELSRF	Judge Change: Administrative
10/14/2015	ORDR	TCBELLHL	Order Staying Execution of Sentence Pending Appeal
10/20/2015	NOPA	DCNIXONR	Notice of Preparation of Appeal Transcript
10/21/2015	ORDR	CCNELSRF	Order Governing Procedure on Appeal
10/29/2015	ORDR	CCNELSRF	Amended Order Governing Procedure on Appeal
11/10/2015	NLT	DCNIXONR	Notice Of Lodging Transcript On Appeal

State of Idaho vs. Marvie Jean Tregagle

Date	Code	User		Judge
12/4/2015	NOTC	CCNELSRF	Notice of Filing Appeal Transcripts	Gerald Schroeder
1/5/2016	MOTN	TCKEENMM	Motion to Extend Time	Gerald Schroeder
	MISC	TCKEENMM	Declaration in Support of appellant's Motion to Extend Time	Gerald Schroeder
1/8/2016	ORDR	CCNELSRF	Order Extending Time (01/29/16)	Gerald Schroeder
1/28/2016	BREF	TCWRIGSA	Appellant's Brief	Gerald Schroeder
3/22/2016	DEOP	DCLYKEMA	Opinion on Appeal	Gerald Schroeder
4/5/2016	NOTA	TCMALOWR	NOTICE OF APPEAL	Gerald Schroeder
	APSC	TCMALOWR	Appealed To The Supreme Court	Gerald Schroeder

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 4TH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA STATE OF IDAHO

) COMPLAINT AND SUMMONS

Infraction Citation

OR

Misdemeanor Citation

Accident Involved

Commercial Vehicle Driven by this Driver

VS.

TREGGLE

Last Name

MARVIL

First Name

S

Middle Initial

478810

IPUC # \_\_\_\_\_ USDOT TK Census # \_\_\_\_\_

Operator  Class A  Class B  Class C  Class D  Other \_\_\_\_\_

GVWR 26001 +  16 + Persons  Placard Hazardous Materials DR# 2389

Home Address \_\_\_\_\_

Business Address \_\_\_\_\_ Ph # \_\_\_\_\_

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds, and believe the above-named Defendant,

DL or SS# \_\_\_\_\_ State ID Sex  M  F

Height 5'7" Wt. 135 Hair BLU Eyes BRN DOB \_\_\_\_\_

Var. Lic.# 1AXR22 State ID Yr. of Vehicle 1989 Make GMC

Model TK Color WTR

Did commit the following act(s) on 3-10-15, 20 15 at 0114 o'clock A M.

**Vio. #1** POSS OF MS 37-2732 C3  
Code Section

**Vio. #2** \_\_\_\_\_  
Code Section

Location Five Mile / LA GRANDE BOISE

Hwy. \_\_\_\_\_ Mp. \_\_\_\_\_ **ADA** County, Idaho.

Date 3-16-15 Peckham 425-1 **ADA COUNTY SHERIFF**  
Officer/Party Serial #/Address Dept.

Date \_\_\_\_\_ Witnessing Officer Serial #/Address Dept.

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to appear before the Clerk of the Magistrate's Court of the

District Court of **ADA** County, **BOISE**, Idaho,

located at **208 W. FRONT STREET** on or after 3-17 20 15

but on or before 3-31, 20 15, between 8 a.m. and 4 p.m.

I acknowledge receipt of this summons and I promise to appear at the time indicated.

X SARVIL  
Defendant's Signature

I hereby certify service upon the defendant personally on \_\_\_\_\_, 20 \_\_\_\_\_

Officer

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.

COURT COPY VIOLATION #1

000005  
MDIS-4410

Defendant's Name:

FIRST LAST

MAR 11 2015

Ada County Clerk  
MAR 27 2015  
REGISTERED

MAR 31 2015

CHRISTOPHER D. RICH, Clerk  
By MEG KEENAN  
DEPUTY

PLEASE PRINT

(If defendant is a minor, a form must also be completed  
by parent or legal guardian)

CASE NO. CR MD 2015 2410

APPLICATION FOR PUBLIC DEFENDER

MARIE S. Toogole  
Defendant's Name  
61630 Southdale  
Street Address  
Boise ID 83709 P.O. Box  
City State Zip Code  
Mailing Address (if different from above)  
City State Zip Code

XXX-XX-[REDACTED]  
Sc [REDACTED] th Date(Month/Day/Year)  
Driver's License Number 461811  
Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_  
Message Phone \_\_\_\_\_

EMPLOYMENT

CTC 461811  
Name of Current or Last Employer Phone  
Nampz ID  
City State Zip Code  
1/1/06 20  
Begin Date End Date Time on the Job Hours Per Week  
Paid by the month  hour  Rate of Pay \$ 10.00

Name of Spouse's Current or Last Employer Phone  
City State Zip Code  
Begin Date End Date Time on the Job Hours Per week  
Paid by the month  hour  Rate of Pay \$ \_\_\_\_\_

Date Unemployment Benefits Began \_\_\_\_\_ Date Unemployment Benefits Terminate \_\_\_\_\_ Monthly Unempl. (or anticipated income) \_\_\_\_\_ (or will begin)

FINANCIAL

No. Children You Are Supporting \_\_\_\_\_ Monthly Support \$ \_\_\_\_\_ No. Children Living With You 3 Ages 5, 12, 14  
Child Support Current? Yes  No  Amount in Arrears \$ \_\_\_\_\_ No. Adults Living With You 4 Relationships family

ASSETS

Rent <input checked="" type="checkbox"/> or Own <input type="checkbox"/> Your Home			
Equity in Home	<u>\$ 305</u>	Mortgage Loan Balance	\$ _____
Equity in Other Land or Property	\$ _____	Property Loan Balance	\$ _____
Year and Make of Vehicle(s)	<u>1989 GMC Truck 800</u>	Vehicle Loan Balance	\$ _____
Equity in Vehicle(s)	\$ _____	Checking Acct. No.	_____
Cash on Hand	\$ _____	Savings Acct. No.	_____
Cash in Checking Accounts	\$ _____		
Name of Bank	_____		
Cash in Savings Accounts	\$ _____		
Name of Bank	_____		
Other Assets	_____		

Continued on Reverse

*Approved*

HOUSEHOLD MONTHLY INCOME

HOUSEHOLD MONTHLY DEBTS

Your Wages (Take-home, Before Garnishments)	\$ <u>200<sup>00</sup> / wk</u>	Rent or Mortgage Paid By You	\$ <u>325</u>
Spouse's Wages (Take-home)	\$ _____	Car Payment	\$ _____
Other Household Member Wages	\$ _____	Food	\$ <u>100</u>
A.F.D.C.	\$ _____	Utilities	\$ <u>150</u>
Social Security	\$ _____	Transportation	\$ _____
S.S.I. / S.S.D.	\$ _____	Auto Insurance	\$ <u>96</u>
Unemployment Insurance	\$ _____	Day Care	\$ _____
Veterans Benefits	\$ _____	Educational Loans	\$ _____
Retirement/Pension	\$ _____	Credit Cards	\$ _____
Child Support/Alimony	\$ _____	Medical	\$ _____
Other	\$ _____	Child Support/Alimony	\$ _____
		Court Fines	\$ _____
		Other	\$ _____
Total Monthly Income	\$ <u>800 464 334</u>	Total Monthly Debts	\$ <u>566</u>

Amount of money remaining at the end of each month \$ \_\_\_\_\_

If you are under legal age, who is your parent or guardian?

Who will assist you financially?

Marnie Tregayle 7034515  
 Name \_\_\_\_\_ Phone \_\_\_\_\_  
Boise ID 83704  
 City State Zip Code

Name \_\_\_\_\_ Phone \_\_\_\_\_  
 City State Zip Code

STATE OF IDAHO )  
 ) ss.  
 County of Ada )

I am requesting that a lawyer be appointed to represent me, and I understand that I may be required to reimburse the public defender at the end of my case. I swear under penalty of perjury that the answers above are true and correct to the best of my knowledge.

Marnie Tregayle  
 Applicant's Signature

3/31/15  
 Date

SUBSCRIBED and SWORN to before me on 3/31/15

CHRISTOPHER D. RICH  
 Clerk of the District Court  
 By [Signature]  
 Deputy Clerk



**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. )  
Marvie Jean Tregeagle )  
6630 Southdale )  
Boise, ID 83709 )  
Defendant. )

Case No: CR-MD-2015-0004410  
**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:

AC Pretrial Conference...Monday, May 04, 2015 ....08:15 AM  
Judge: Thomas Watkins

Jury Trial...Thursday, May 28, 2015 ....08:15 AM  
Judge: Thomas Watkins

**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 of Tuesday, March 31, 2015.

**Defendant:** Mailed \_\_\_\_\_ Hand Delivered  Signature Marvie Tregeagle  
Clerk / date MW, 3/31 Phone 208 703 4515

**Prosecutor:** Interdepartmental Mail  Clerk / date MW, 4/1

**Public Defender:** Interdepartmental Mail  Clerk / date MW, 4/1

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

Cite Pay Website: <https://www.citepayusa.com/payments>  
Supreme Court Repository: <https://www.idcourts.us>

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. 3:10

APR 02 2015

CHRISTOPHER D. RICH, Clerk  
By MEG KEENAN  
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.

MARVIE JEAN TREGAEGLE,

Defendant.

Case No. CR-MD-2015-0004410

REQUEST FOR DISCOVERY

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

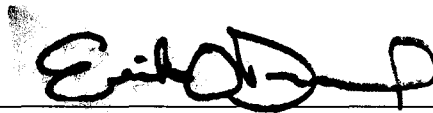
PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 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, April 02, 2015.



---

**ERIK J O'DANIEL**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Thursday, April 02, 2015, 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.



---

APR 16 2015

CHRISTOPHER D. RICH, Clerk  
By MEG KEENAN  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Sean P. Watson**  
Deputy Prosecuting Attorney  
200 W. 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. )  
 )  
 MARVIE J. TREGGEGLE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**Case No. CR-MD-2015-0004410**  
**REQUEST FOR DISCOVERY**

**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 14<sup>th</sup> day of April, 2015.

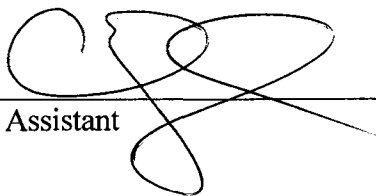
**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
Sean P. Watson  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16 day of April, 2015, I caused to be served, a true and correct copy of the foregoing document to: **Erik O'Daniel, Ada County Public Defender**, by the method indicated below:

- 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 hand delivering copies of the same to defense counsel.
- 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

APR 16 2015

CHRISTOPHER D. RICH, Clerk  
By MEG KEENAN  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Sean P. Watson**  
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. )  
)  
MARVIE J. TREGAEGLE, )  
)  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-MD-2015-0004410**  
**DISCOVERY**  
**RESPONSE TO COURT**

**COMES NOW**, Sean P. Watson, 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 14<sup>th</sup> day of April, 2015.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
Sean P. Watson  
Deputy Prosecuting Attorney

*AK*

384  
pe  
5/4  
8:15

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

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

MAY 01 2015

CHRISTOPHER D. RICH, Clerk  
By ARIQ SHANK  
DEPUTY

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

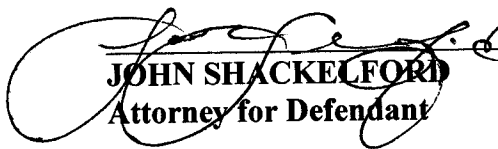
STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MARVIE JEAN TREGLEAGLE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Criminal No. MD 15 4410

MOTION TO ENLARGE TIME

COMES NOW, the above-named Defendant, MARVIE JEAN TREGLEAGLE, by and through her Attorney of Record, the Ada County Public Defender's Office, JOHN SHACKELFORD, handling attorney, and hereby moves this Honorable Court for its Order enlarging the time set for filing pre-trial motions. This motion is made pursuant to I.C.R. 12 and is based upon the documents and records on file.

DATED, this 1<sup>st</sup> day of May, 2015.

  
JOHN SHACKELFORD  
Attorney for Defendant

~~12~~

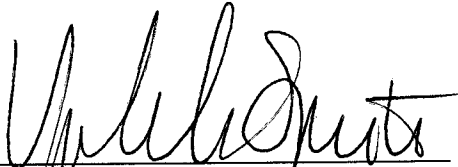


**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 1<sup>st</sup> day of May, 2015, I mailed a true and correct copy of the foregoing to the:

**Ada County Prosecutor**

by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Yolanda Smith

384  
PAC  
5/4  
8/5

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

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

MAY 01 2015

CHRISTOPHER D. RICH, Clerk  
By ARIC SHANK  
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. )  
 )  
 MARVIE JEAN TREGGAGLE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Criminal No. MD 15 4410


MOTION TO SUPPRESS EVIDENCE

COMES NOW, the above-named Defendant, MARVIE JEAN TREGGAGLE, by and through her Attorney of Record, the Ada County Public Defender's Office, JOHN SHACKELFORD, handling attorney, and hereby moves this Honorable Court, pursuant to I.C.R. 12(b)(3), for its Order to suppress all evidence seized in the instant case. In support of this motion, the defendant states as follows:

Memorandum in support to follow.

This motion is made pursuant to the Fourth and Fourteenth Amendments of the United States Constitution, Article 1, Section 17 of the Idaho State Constitution, and I.C.R. 12.

DATED, this 1<sup>st</sup> day of May, 2015.

  
JOHN SHACKELFORD  
Attorney for Defendant

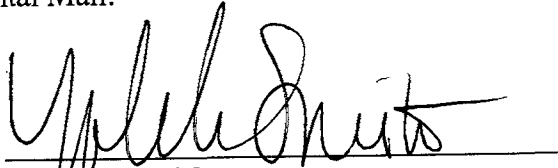


**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 1<sup>st</sup> day of May, 2015, I mailed a true and correct copy of the foregoing to the:

**Ada County Prosecutor**

by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
**Yolanda Smith**

RECEIVED

MAY 01 2015

NO. \_\_\_\_\_ FILED  
A.M. 10 P.M.

MAY 04 2015

ADA COUNTY PUBLIC DEFENDER

Attorneys for Defendant

200 West Front Street, Suite 1107

Boise, Idaho 83702

Telephone: (208) 287-7400

Facsimile: (208) 287-7419

ADA COUNTY CLERK

CHRISTOPHER D. RICH, Clerk  
By HEIDI BELL  
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. )

MARVIE JEAN TREGAEGLE, )

Defendant. )

Criminal No. MD 15 4410

ORDER ENLARGING TIME

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

IT IS HEREBY ORDERED, AND THIS DOES ORDER, that pursuant to I.C.R. 12, and based upon the documents and records on file, the defendant is granted an additional \_\_\_\_\_ days in which to file pre-trial motions.

DATED, this 4<sup>th</sup> day of May, 2015.

  
Magistrate

CC: PD, AC

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

MAY 04 2015

CHRISTOPHER D. RICH, Clerk

STATE OF IDAHO,

Plaintiff,

vs.

*Marie J. Tregeagle*

Defendant.

**MAGISTRATE MINUTES / NOTICE OF HEARING**  
 PRE-TRIAL MEMORANDUM

Case Number: *CCMD 2015-4410*

Event Date: *5/4/15*

Judge: *TW* Clerk: *HB*

Case Called:  In Chambers

Interpreter: \_\_\_\_\_

AC  BC  EA  GC  MC *S. Watson* PD/Private *Shackelford*

Defendant:  Present  Not Present  In Custody  PD Appointed  PD Denied  Waived Attorney

Defendant failed to appear. Bond forfeited/ROR revoked. Bench Warrant issued. Bond \$ \_\_\_\_\_

Advised Rights  Not Guilty  Guilty / Admit  Written Guilty Plea  No Contact  Pre-Trial Release Order

*Please set hearing for MTS, which was filed last Friday (Memo to follow)*

Release Defendant, This Case Only

**NOTICE OF HEARING**

Sentencing on \_\_\_\_\_ at \_\_\_\_\_ am/pm w/ Judge \_\_\_\_\_

Court Trial Conference on \_\_\_\_\_ at \_\_\_\_\_ am/pm w/ Judge \_\_\_\_\_

Court Trial on \_\_\_\_\_ at \_\_\_\_\_ am/pm w/ Judge \_\_\_\_\_

Pre-Trial Conference on \_\_\_\_\_ at \_\_\_\_\_ am/pm w/ Judge \_\_\_\_\_

Jury Trial on \_\_\_\_\_ at \_\_\_\_\_ am/pm w/ Judge \_\_\_\_\_

*Suppression* on *6-9-15* at *4:00* am/pm w/ Judge *Watkins*

Contact the Ada County Public Defender, 200 W. Front St., Rm. 1107, Boise, ID 83702, telephone (208) 287-7400.

**You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest, or default judgment may be entered if you are charged with an infraction.**

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

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

Defendant: Hand Delivered  Via Counsel

Defense Atty: Hand Delivered  Intdept Mail

Prosecutor: Hand Delivered  Intdept Mail

Signature *Marie J. Tregeagle*

*[Signature]*  
Magistrate Judge (for Pre-Trial Memorandum)

CHRISTOPHER D. RICH, Clerk of the District Court

By: *[Signature]*  
Deputy Clerk

DATED *5-4-15*

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HS  
4/19

NO. \_\_\_\_\_  
A.M. 10:47 P.M. FILED

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

JUN 01 2015

CHRISTOPHER D. RICH, Clerk  
By ARIC SHANK  
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. )  
 )  
 MARVIE JEAN TREGEAGLE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Criminal No. CR MD 2015-4410

MEMORANDUM IN SUPPORT OF  
MOTION TO SUPPRESS

COMES NOW, the above-named Defendant, Marvie Tregeagle, by and through her Attorney of Record, the Ada County Public Defender, to offer a memorandum of fact and law in support of her previously submitted motion to suppress.

FACTS

The following facts are derived from the police reports of Officer Pickard and Deputy Kindelberger as well as video footage provided in the course of discovery; the Defendant does not stipulate to any given fact.

On March 10, 2015, Marvie Tregeagle was driving southbound on South Five Mile Road in Boise, Idaho, in a white Chevrolet truck. Officer Pickard was traveling directly behind Ms.

Tregeagle's vehicle. Pickard initiated a traffic stop at 1:14 A.M. Pickard's only reason for pulling over the truck was because a trailer ball was obstructing his view of two letters on the rear license plate. Officer video footage shows the license plate securely attached to the bumper, in its designated location. The trailer ball appears to be part of the bumper itself, rather than an aftermarket attachment.

Ms. Tregeagle identified herself with her Idaho driver's license. A passenger traveling with Ms. Tregeagle verbally identified himself as Lucas Francke. During his conversation with the occupants, Pickard could smell the odor of marijuana emanating from the vehicle.

Deputy Kindelberger arrived on the scene with his narcotic detection canine at about 1:24 A.M.. Prior to deploying the canine, Kindelberger requested that the two occupants exit the truck. The canine began searching the truck and alerted Kindelberger to a small baggy containing marijuana. Kindelberger returned the canine to the patrol vehicle and Pickard and Kindelberger then continued to search the truck. The officers discovered additional illegal drugs and drug paraphernalia. Admissions were made as to who were responsible for the drugs. Pickard cited and released Tregeagle for possession of marijuana.

#### **ISSUE**

Did law enforcement lack reasonable, articulable suspicion that Ms. Tregeagle had recently been engaged in or was about to engage in criminal activity?

#### **AUTHORITIES AND ARGUMENT**

The Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section 17 of the Idaho Constitution together protect citizens against unreasonable searches and seizures. *State v. Salois*, 144 Idaho 344, 347 (Ct. App. 2007); *State v. Cerino*, 141 Idaho 736,

737 (Ct. App. 2005). The purpose of this legal principle is to “impose a standard of ‘reasonableness’ upon the exercise of discretion by government officials, including law enforcement agents, to ‘safeguard the privacy and security of individuals against arbitrary invasions.’” *Delaware v. Prouse*, 440 U.S. 648, 653-54 (1979). When a law enforcement officer activates the overhead lights of a patrol vehicle, to signal a stop, a seizure is effectuated. *State v. Mireles*, 133 Idaho 690 (Ct. App. 1999). Any evidence obtained in violation of these constitutional protections must be suppressed in a criminal prosecution of the person whose rights were violated. *State v. Curl*, 125 Idaho 224, 227 (1993); *Wong Sun v. United States*, 371 U.S. 471 (1963).

In *Terry v. Ohio*, 392 U.S. 1 (1968), the United States Supreme Court held that when “a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot” he may stop the individual to investigate. The officer’s conclusion, however, cannot simply be a hunch, but must be “a reasonable articulable suspicion that criminal activity is occurring.” *State v. DuValt*, 131 Idaho 550, 553 (1998).

“An investigative detention is constitutionally permissible when based upon reasonable suspicion, derived from specific articulable facts, that the person stopped has committed or is about to commit a crime.” *State v. Cutler*, 143 Idaho 297, (Ct. App. 2006) citing *State v. Salato*, 137 Idaho 260, 264, (Ct. App. 2001). The totality of the circumstances must give the officer “a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *United States v. Cortez*, 449 U.S. 411, 417-18 (1981). Because a detaining officer must have more than an “inchoate, unparticularized suspicion or ‘hunch,’” merely being somewhere that criminal activity is suspected is generally not sufficient, *Brown v. Texas*, 443 U.S. 47 (1979) (internal citations omitted).



“The interpretation of a statutory provision must begin with the literal words of the statute, giving the language its plain, obvious and rational meaning.” *Crawford v. Dept. of Correction*, 133 Idaho 633, 635, 991 P.2d 358, 360 (1999) (citing *State v. Watts*, 131 Idaho 782, 963 P.2d 1219 (1998)). If the statute is not ambiguous it must be followed as the law was written. *State v. Schwartz*, 139 Idaho 360, 362, 79 P.3d 719, 721 (2003) (abrogated on other grounds by *Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 893, 265 P.3d 502, 506 (2011)). Idaho Code section 49-428(2) provides:

Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(4), Idaho Code . . . .

Idaho Code § 49-428(2) plainly describes a list of conditions that must be met to properly display a vehicle's license plate.

Here, Officer Pickard stopped Ms. Tregagle for an obstructed license plate. An obstruction, or “foreign material,” by itself cannot justify a stop under I.C. § 49-428. The “free from foreign material” requirement is found in a list that has been clearly divided into several separate and distinct conditions for the displaying of a license plate. However, there is no comma before the “and” which separates being “maintained free from foreign materials” and “in a condition to be clearly legible.” The lack of a comma would indicate that the legislature intended that these conditions be read in whole and not as separate conditions.


According to Officer Pickard's incident report, the sole basis for the traffic stop was based on the claim that the license plate was obstructed. However, the sole basis for the license obstruction was a ball hitch mounted on the bumper. The plate was actually readable and free from foreign material. Officer Pickard therefore lacked reasonable, articulable suspicion that he was in violation of I.C. § 49-428(2). Lacking sufficient justification to effectuate a seizure, Officer Pickard illegally detained Ms. Tregeagle, in violation of her constitutional rights.

### CONCLUSION

Officer Pickard seized Ms. Tregeagle because the vehicle she was driving had a license plate that was "obstructed" by a ball hitch. But a ball hitch is not illegal under I.C. § 49-428(2). Therefore it was an improper seizure. Due to the impropriety of the officer's actions, it is asserted that all direct and indirect fruits of the stop, including statements and any other evidence gathered, should be suppressed as fruit of the poisonous tree, or, in the alternative, this case should be dismissed. *Wong Sun v. United States*, 371 U.S. 471 (1963). This Motion is based upon the entire record in this matter and such further documentary and testimonial evidence as may be presented.

Following the evidentiary hearing, the Defendant requests the right to submit a further memorandum of law in support of this Motion, as may be appropriate and necessary.

Respectfully submitted this 29<sup>th</sup> day of May 2015.

  
John R. Shackelford  
Deputy Public Defender

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NO. 110  
A.M. \_\_\_\_\_ FILED \_\_\_\_\_ P.M. \_\_\_\_\_

JUN - 3 2015

CHRISTOPHER D. RICH, Clerk  
By SARA WRIGHT  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Sean P. Watson**  
Deputy Prosecuting Attorney  
Magistrate Division  
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. )  
)  
MARVIE JEAN TREGAEGLE, )  
)  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-MD-2015-0004410**  
**STATE'S MEMORANDUM IN  
OPPOSITION TO  
DEFENDANT'S MOTION  
TO SUPPRESS**

**COMES NOW**, the Ada County Prosecuting Attorney, through Sean P. Watson, Deputy Prosecuting Attorney for Ada County, State of Idaho, and hereby objects to the Defendant's Motion to Suppress and requests that this Court DENY Defendant's motion.

**I. STATEMENT OF FACTS**

On March 10, 2015, at approximately 0114 hours, Ada County Sheriff's Deputy James Pickard stopped a Chevrolet truck at or near the intersection of S. Five Mile Road and W. La Grange Street in Boise, Idaho. Deputy Pickard explained to the driver of the truck, the Defendant Marvie Tregaegle, that the reason for the stop was that the truck's tow hitch/ball obstructed the vehicle's rear license plate. Because Deputy Pickard could smell the odor of marijuana coming

from the vehicle, he inquired with the defendant concerning the presence of any illegal substances in the vehicle. The defendant initially denied any such substances were present, but prior to Deputy Pickard deploying a drug detection K-9 around the vehicle, the defendant admitted to a small amount of marijuana in the car. This contraband was eventually located and the defendant was cited for possession of a controlled substance.

## II. LEGAL STANDARD

In Idaho, “[a] traffic stop by a law enforcement officer constitutes a seizure of the vehicle’s occupants which implicates the Fourth Amendment’s guarantee of freedom from unreasonable searches and seizures, as applied to the states by the Fourteenth Amendment.” *State v. Atkinson*, 128 Idaho 559, 561, 916 P.2d 1284, 1286 (Ct. App. 1996) (citations omitted). “When a defendant challenges the validity of a vehicle stop, the burden is on the state to prove that the stop was justified.” *State v. Martin*, 148 Idaho 31, 37, 218 P.3d 10, 16 (Ct. App. 2009). For an investigative traffic stop to be consistent with the Fourth Amendment, it “must be supported by reasonable and articulable suspicion that the vehicle is being driven contrary to traffic laws . . .” *Atkinson*, 128 Idaho at 561, 916 P.2d at 1286 (quoting *State v. Naccarato*, 126 Idaho 10, 12, 878 P.2d 184, 186 (Ct. App. 1994)). The Idaho Supreme Court expounded that “[r]easonable suspicion must be based on specific, articulable facts and the rational inferences that can be drawn from those facts.” *State v. Bishop*, 146 Idaho 804, 811, 203 P.3d 1203, 1210 (2009). Further, “[a]n officer may draw reasonable inferences from the facts in his or her possession, and those inferences may be drawn from the officer’s experience and law enforcement training.” *State v. Swindle*, 148 Idaho 61, 64, 218 P.3d 790, 793 (Ct. App. 2009).

“The reasonableness of the suspicion must be evaluated upon the totality of the circumstances at the time of the stop.” *Atkinson*, 128 Idaho at 561, 916 P.2d at 1286 (citation omitted). “This reasonable suspicion standard requires less than probable cause, but more than speculation or instinct on the part of an officer.” *Id.* “Suspicion will not be found to be justified if the conduct observed by the officer fell ‘within the broad range of what can be described as normal driving behavior.’” *Id.* (citing *State v. Emory*, 119 Idaho 661, 809 P.2d 522 (Ct. App. 1991)).

“At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court.” *State v. Veneroso*, 138 Idaho 925, 928, 71 P.3d 1072, 1075 (Ct. App. 2003).

**A. The evidence obtained from the stop should not be suppressed because the investigative stop was supported by reasonable and articulable suspicion that the Defendant was driving the Chevrolet in violation of Idaho Code § 49-428(2).**

As summarized by the Idaho Court of Appeals, “Idaho law requires that a motor vehicle be registered and display license plates when being operated on the highways of this state, subject to certain exceptions.” *State v. Salois*, 144 Idaho 344, 348, 160 P.3d 1279, 1283 (Ct. App. 2007) (citing I.C. § 49-456(1)). Idaho Code § 49-456(1) provides in pertinent part:

It shall be unlawful for any person: (1) To operate or for the owner to permit the operation upon a highway of any motor vehicle . . . which is not registered and which does not have attached and displayed the license plates assigned to it for the current registration year. . .

Idaho Code § 49-428(2) provides the following requirements for displaying license plates:

Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, *be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible*, and all registration stickers shall be securely attached to the license plates . . .

(Emphasis added).

The Idaho Court of Appeals in *State v. Martin* addressed the requirements listed under Idaho Code § 49-428(2) and set forth the following principles of statutory interpretation and construction:

When called upon to interpret a statute, we begin with an examination of its literal words. The statutory language is to be given its plain, obvious, and rational meaning. A statute is to be construed as a whole without separating one provision from another. In attempting to discern and implement the intent of the legislature, a court may seek edification from the statute’s legislative history and contemporaneous context at enactment. However, if the statutory language is clear and unambiguous, a court need merely apply the statute without engaging in any statutory construction.

148 Idaho 31, 36, 218 P.3d 10, 15 (Ct. App. 2009) (internal citations omitted). In *Martin*, the district court considered whether Idaho Code § 49-428(2) was “void for vagueness” and concluded, in part, “[t]he language of section 49-428 clearly conveys the legislative purpose that all license plates shall be securely fastened, clearly visible, and clearly legible.” *Id.* at 35, 218 P.3d at 14. The Idaho Court of Appeals agreed “with the district court that the language of the statute defines criminal conduct with sufficient clarity and definiteness that ordinary people can understand what conduct is prohibited and that it is worded in a manner that does not allow arbitrary and discriminatory enforcement.” *Id.*


The facts of this case fit squarely under the plain requirements of Idaho Code § 49-428(2); specifically, that all license plates be clearly visible and clearly legible. The plain ordinary meaning of the word “visible” is capable of being seen and the plain ordinary meaning of the word “legible” is capable of being read. It is undisputed there was a license plate secured to the rear of the Defendant’s vehicle prior to and at the time of the stop. It is also undisputed there was a tow hitch/ball that was situated in front of the license plate. Deputy Pickard will testify that he could neither see nor read the entire license plate as a result of the tow hitch/ball obstructing the plate, and until he exited his patrol vehicle to effectuate the traffic stop, he could not read the whole plate. The State will also admit on-body video of the stop, which video will support this testimony. Thus, the license plate was not clearly visible nor clearly legible and was thus not in compliance with Idaho Code § 49-428(2).

#### CONCLUSION

For the foregoing reasons, the State requests that this Court enter an Order denying Defendant’s motion to suppress.

DATED this 2<sup>nd</sup> day of June, 2015.

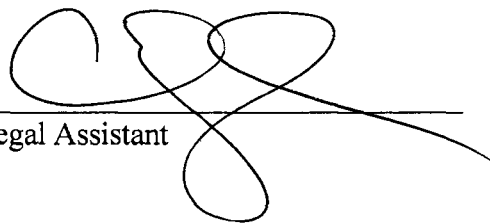
**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
Sean P. Watson  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on this 3 day of June, 2015, I caused to be served, a true and correct copy of the foregoing State's Memorandum in Opposition to Defendant's Motion to Suppress to: **John Shackelford, Ada County Public Defender, 200 W. Front St., Rm. 1107, Boise, ID 83702.**

- 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 hand delivering copies of the same to defense counsel.
- 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

384  
4/5/9

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

**JUN - 5 2015**

CHRISTOPHER D. RICH, Clerk  
By KATRINA CHRISTENSEN  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Sean P. Watson**  
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. )  
)  
MARVIE J. TREGAEGLE, )  
)  
Defendant. )

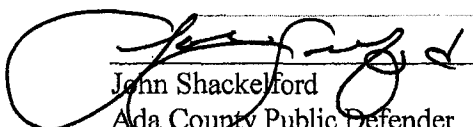
**Case No. CR-MD-2015-0004410**  
**STIPULATION TO CONTINUE**

COMES NOW, Sean P. Watson, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and John Shackelford, Attorney for Defendant, and stipulate to continue the Motion to Suppress Hearing in this matter on the 9<sup>th</sup> of June, 2015, at 4:00 p.m. to a suitable time for Court and Counsel for the following reason: the State's witness is unavailable on the aforementioned date. The State requests the hearing date be set after the 25<sup>th</sup> of June, 2015.

DATED this 4<sup>th</sup> day of June, 2015.

**JAN M. BENNETTS**  
Ada County Prosecutor

  
Sean P. Watson  
Deputy Prosecuting Attorney

  
John Shackelford  
Ada County Public Defender

**STIPULATION TO CONTINUE (TREGAEGLE), Page 1**



JUN 09 2015

CHRISTOPHER D. FROH, Clerk  
By HEIDI BELL  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

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

**RECEIVED**  
**JUN - 5 2015**  
**ADA COUNTY COURT 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. )  
)  
MARVIE J. TREGAGLE, )  
)  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-MD-2015-0004410**

**ORDER TO CONTINUE**

The above entitled matter having come before this Court and Good Cause appearing, and no objection being raised;

**IT IS HEREBY ORDERED** that the Motion to Suppress Hearing be continued to the 20<sup>th</sup> day of JULY, 2015, at 3:30 PM o'clock.

**DATED** this 9<sup>th</sup> day of June, 2015.

*Tom Watson*  
Judge

BY: Heidi Bell  
Deputy Clerk

**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.

Marvie Jean Tregaeale  
6630 Southdale  
Boise, ID 83709  
Defendant.

Case No: CR-MD-2015-0004410

**NOTICE OF HEARING**

**NOTICE IS HEREBY GIVEN** that the above-entitled case is hereby set for:

Motion to Suppress....Monday, July 20, 2015....03:30 PM  
Judge: Thomas Watkins

THE DEFENDANT SHALL 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 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 SB Date 6-10-15 Phone ( ) \_\_\_\_\_

Erik J O'Daniel  
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 SB Date 6-10-15

Public Defender: Interdepartmental Mail   
Clerk SB Date 6-10-15

Other: \_\_\_\_\_  
Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_ Signature \_\_\_\_\_  
Clerk \_\_\_\_\_ Date \_\_\_\_\_ Phone ( ) \_\_\_\_\_

Dated: 6/9/2015

CHRISTOPHER D. RICH  
Clerk of the Court

By: [Signature]  
Deputy Clerk

Cite Pay Website: https://www.citepayusa.com/payments Supreme Court Repository: https://www.idcourts.us

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>3:55:42 PM</u>		Tregeagle MD-15-4410 Motion to Suppress
<u>3:56:32 PM</u>	S. Watson	Calls SW#1 James Pickard. Sworn. Direct Exam.
<u>3:59:31 PM</u>	S. Watson	Moves to Admit SE#1
<u>3:59:38 PM</u>	J. Shackelford	No Objection
<u>3:59:39 PM</u>	Judge Watkins	SE#1 Admitted
<u>4:04:21 PM</u>	S. Watson	Moves to Admit SE#1
<u>4:04:24 PM</u>	J. Shackelford	Objection - Relevance
<u>4:04:38 PM</u>	S. Watson	Response
<u>4:04:50 PM</u>	J. Shackelford	No Objection
<u>4:04:52 PM</u>	Judge Watkins	SE#2 Admitted
<u>4:06:50 PM</u>	J. Shackelford	Cross Exam
<u>4:14:05 PM</u>	S. Watson	Objection - Relevance
<u>4:14:15 PM</u>	J. Shackelford	Response
<u>4:14:49 PM</u>	Judge Watkins	Overruled
<u>4:15:46 PM</u>	S. Watson	State Rests
<u>4:15:54 PM</u>	J. Shackelford	Closing Argument
<u>4:17:57 PM</u>	S. Watson	Closing Argument
<u>4:20:24 PM</u>	Judge Watkins	Questions S. Watson
<u>4:20:35 PM</u>	S. Watson	Response
<u>4:22:00 PM</u>	J. Shackelford	No Rebuttal
<u>4:22:04 PM</u>	Judge Watkins	Court Takes Matter Under Advisement. Questions J. Shackelford.
<u>4:22:23 PM</u>	J. Shackelford	Response

AUG 21 2015

CHRISTOPHER D. RICH, Clerk  
By HEIDI BELL  
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. )  
 )  
 MARVIE J. TREGAEGLE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

CASE NO. CR-MD-2015-0004410

MEMORANDUM OPINION

ON MOTION TO SUPPRESS

**INTRODUCTION**

This matter came before the court on defendant Tregagle's motion to suppress evidence obtained after his vehicle was stopped for an alleged obstructed license plate. The court heard testimony from witnesses and arguments from counsel, and the case was taken under advisement.

**FINDINGS OF FACTS**

The facts in this case aren't in dispute. On March 10, 2015, at approximately 1:15 a.m., Dep. Pickard of the Ada County Sheriff's Office was on patrol on a two-lane highway. His

cc: ac, PD

patrol vehicle was a Chevy Tahoe, an SUV-type truck. At some point, he got behind Tregeagle's vehicle, a GMC pickup. The pickup is equipped with a trailer hitch. Dep. Pickard testified that when looking at the license plate, he was not able to read the center two digits of the license plate because the trailer hitch obstructed his view. He further testified that he was travelling at 35 mph, and at that speed, he could not safely maneuver his patrol vehicle in a way that would allow him to read the center digits. Based on his inability to read the license plate, Dep. Pickard chose to stop Tregeagle's truck. Once the truck was stopped, Dep. Pickard was able to walk up to the truck and at this point, from a distance of about ten feet, read the plate in its entirety. Dep. Pickard testified that the license plate itself had no foreign matter attached to it, and that it was properly affixed to the bumper. His sole reason for making the traffic stop was that the trailer hitch obstructed his full view of the license plate. After the traffic stop was made, a controlled substance was later found.

### ANALYSIS

Tregeagle argues that any evidence obtained as a result of the traffic stop must be suppressed since the deputy lacked any lawful basis upon which to make the stop. In support of this, Tregeagle directs the court to the body-cam recording of the incident wherein the license plate on his truck is visible and legible. The state claims that the stop was lawful.

Under the Fourth Amendment, an officer may stop a vehicle to investigate possible criminal behavior if there is a reasonable and articulable suspicion that the vehicle is being driven contrary to traffic laws. United States v. Cortez, 449 U.S. 411, 417, 101 S.Ct. 690, 694-95, 66 L.Ed.2d 621, 628-29, (1981); State v. Flowers, 131 Idaho 205, 208, 953 P.2d 645, 648 (Ct.App. 1998). The reasonableness of the suspicion must be evaluated upon the totality of the circumstances at the time of the stop. State v. Ferreira, 133 Idaho 474, 483, 988 P.2d 700,

709 (Ct.App. 1999). The reasonable suspicion standard requires less than probable cause but more than mere speculation or instinct on the part of the officer. *Id.* An officer may draw reasonable inferences from the facts in his or her possession, and those inferences may be drawn from the officer's experience and law enforcement training. State v. Montague, 114 Idaho 319, 321, 756 P.2d 1083, 1085 (Ct.App. 1988). Suspicion will not be found to be justified if the conduct observed by the officer fell within the broad range of what can be described as normal driving behavior. Atkinson, 128 Idaho at 561, 916 P.2d at 1286. The commission of a traffic offense gives law enforcement the legal cause to stop a vehicle. State v. Schmidt, 121 Idaho 381, 383, 825 P.2d 104, 106 (Ct.App.1992).

The state argues that Dep. Pickard had a lawful basis upon which to make the traffic stop because he witnessed a violation of Idaho Code Section 49-428, which governs the display of license plates. Idaho Code Section 49-428(2) provides:

Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(4), Idaho Code.

Tregeagle argues that this code section simply makes it unlawful to have some kind of foreign substance or material on the license plate itself which renders the plate illegible. And since the evidence is clear that the plate was properly secured and free from any foreign material, the officer erred in relying on this statute to justify the stop.

No appellate court in Idaho has ruled on this issue, but other states have weighed in. In Harris v. State, 11 So. 3d 462 (Fla. Dist. Ct. App. 2009), two law enforcement officers were behind Harris in separate vehicles and both officers attempted to obtain the tag number from

Harris's vehicle. The officers testified that a trailer hitch partially blocked the tag and they could not read the tag from a distance of about thirty to fifty feet. After the stop was made, marijuana and cocaine were found in the vehicle. The Florida court reversed the trial court's failure to suppress evidence, holding that the statute involved prohibited a license plate itself from having foreign matter or debris on it which obstructed the view from 100 feet.

Similarly, the Michigan Court of Appeals rejected a traffic stop where the officer testified that a trailer hitch obstructed his view of the license plate and he was unable to determine whether a middle digit was a five or a six. People v. Dunbar, Docket No. 314877, (Decided September 9, 2014). The court explained that there was no evidence that the license plate on Dunbar's truck was not maintained free from foreign material, nor was there any evidence that the plate was dirty, rusted, defaced, or any other way not maintained in a legible manner.

However, both the Florida and Michigan statutes have important and significant textual differences from I.C. Section 49-428(2). The Florida statute provides that "all letters, numerals, printing, writing, and other identifying marks upon the plates regarding the word 'Florida,' the registration decal, and the alphanumeric designation should be clear and distinct and free from defacement, mutilation, grease, and other obscuring matter, so that they will be plainly visible and legible at all times 100 feet from the rear or front." Here, it is clear that the legislative intent was to make sure the plate itself contained nothing to obscure its legibility. Likewise, the Michigan statute requires that a vehicle's license "plate shall be maintained free from foreign materials that obscure or partially obscure the registration information and in a clearly legible condition." Once again, this legislation is directed at the actual license plate and any obstruction directly upon it.

Other states have upheld traffic stops based upon an obstructing trailer hitch. The New Mexico Court of Appeals held that a traffic stop based upon the officer's inability to see the registration sticker because of a trailer hitch was proper, despite the defendant's insistence that the statute required the plate itself to be obstructed. State v. Hill, 131 N.M. 189, 34 P.3d 139 (Ct. App. 2001). The statute at issue required that the registration plate be "in a place and position so as to be clearly visible, and it shall be maintained free from foreign material and in a condition to be clearly legible." The court explained that the registration plate contained not only the plate itself, but also any tabs or renewal stickers, and that legibility and **visibility** of the entire plate had to be maintained. As can be seen, the New Mexico statute has two separate requirements: that the plate be in "a place and position so as to be clearly visible," and; "maintained free from foreign material and in a condition to be clearly legible."

Wyoming reached a similar result in Parks v. State, 247 P.3d 857 (2011). There, a law enforcement officer observed an older model Chevy pickup driven by Parks. A trailer hitch ball was mounted in a pre-drilled hole in the truck's factory bumper so that the license plate was partially obstructed. Due to the obstruction, the officer was unable to read the license plate, and so he stopped Parks' truck. Once he approached the truck, the officer was able to read the plate. After a discussion with Parks, marijuana was found in the vehicle.

Parks moved to suppress the evidence, claiming the officer had no lawful basis for the stop. When the district court denied the motion, he entered a conditional plea and appealed. The Wyoming Supreme Court began its decision with a review of the applicable statute, which provided, in pertinent part:

License plates for vehicles shall be:

- (i) Conspicuously displayed and securely fastened to be plainly visible:



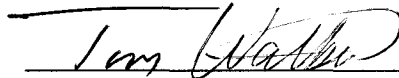
- (ii) Secured to prevent swinging;
- (iii) Attached in a horizontal position no less than twelve (12) inches from the ground;
- (iv) Maintained free from foreign materials and in a condition to be clearly legible.

The court explained that the requirements that a license plate be “plainly visible” and “clearly legible” indicate that a license plate must not be obstructed in any manner. License plates need to be easily read in order to facilitate law enforcement and ordinary citizens in reporting and investigating hit-and-run accidents, traffic violations, gas-pump drive offs, and other criminal activity. The plain language and the purpose of the statute indicate that a trailer ball mounted in a place that causes it to partially obstruct a license plate from view is a violation of Wyoming law. The court also rejected Parks argument that since the license plate was legible from certain angles that he was not in violation of the statute. At the suppression hearing, the officer testified that he typically calls in a license plate to the police dispatcher before activating his overhead lights to stop a suspect vehicle. In this instance, however, he was unable to follow his normal procedure because he could not read the license plate. He called in the license plate number after stopping Parks and exiting his patrol vehicle to read the plate. In citing a case from Ohio, the court found that middle numbers of a license plate are not in “plain view” if obstructed by a ball hitch even though readable from the side of the vehicle. *See, State v. Small*, (Ohio Ct. App., Sept. 27, 2000).

I.C. Section 49-428(2) is similar to the statutes in New Mexico and Wyoming. A plain reading of the statute reveals two-part restriction: 1) that the license be in a place and position as to be clearly visible, and 2); be maintained free from foreign materials and in a condition to be clearly visible. The first requirement refers to its **visibility**, and the second as to its **legibility**.

Here, there is ample evidence to support the deputy's claim that the license plate was not clearly visible because of the hitch. Dep. Pickard testified that it was his habit to call in the license plate of a suspect vehicle that he planned to stop, but was not able to do so in this case because he could not read the plate. The state produced the dispatch logs in support of this. It was only after the traffic stop had been conducted that the deputy was able to read the license plate. As the Wyoming Supreme Court explained, "[w]e agree with the majority of jurisdictions that have considered this issue and determined that a trailer ball positioned so as to partially obstruct a license plate constitutes a violation of the respective license plate display statute." This court concurs and finds that the traffic stop in this case was justified based on a violation of Idaho Code Section 49-428(2).

DATED This 20<sup>th</sup> day of August, 2015.

  
THOMAS P. WATKINS  
Magistrate Judge

FILED  
 M. \_\_\_\_\_ P.M. 109  
 Friday, August 21, 2015  
 CHRISTOPHER D. RICH, CLERK OF THE COURT  
 BY: Heidi Bell  
 Deputy Clerk

**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. )  
 Marvie Jean Tregagle )  
 6630 Southdale )  
 Boise, ID 83709 )  
 Defendant. )

Case No: CR-MD-2015-0004410

**NOTICE OF HEARING**

**NOTICE IS HEREBY GIVEN** that the above-entitled case is hereby set for:

AC Pretrial Conference...Tuesday, October 13, 2015...08:15 AM  
 Judge: Thomas Watkins

Jury Trial...Thursday, November 05, 2015...08:15 AM  
 Judge: Thomas Watkins

THE DEFENDANT SHALL 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 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 \_\_\_\_\_  
 Sandra Burch Date 8-28 Phone ( ) \_\_\_\_\_

Elana O Salzman  
 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  
 Sandra Burch Date 8-28

Public Defender: Interdepartmental Mail  
 Sandra Burch Date 8-28

Other: \_\_\_\_\_  
 Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_ Signature \_\_\_\_\_  
 Clerk \_\_\_\_\_ Date \_\_\_\_\_ Phone ( ) \_\_\_\_\_

Dated: 8/21/2015

CHRISTOPHER D. RICH  
 Clerk of the Court

By: [Signature]  
 Deputy Clerk

Cite Pay Website: <https://www.citepayusa.com/payments> Supreme Court Repository: <https://www.idcourts.us>

000042

NO. \_\_\_\_\_  
A.M. 9:13 P.M. \_\_\_\_\_

OCT 13 2015

CHRISTOPHER D. BROWN, CLERK  
BY MARI SELL  
2015

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7419**

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

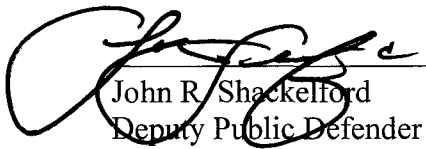
STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MARVIE JEAN TREGEAGLE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )


**Criminal No. CR MD 2015-4410**

**STIPULATION TO ENTER**  
**CONDITIONAL GUILTY PLEA**

COME NOW, the above-named parties, by and through undersigned counsel, to move this Court, pursuant to I.C.R. 11(a)(2), to allow Defendant to enter a conditional plea of guilty in the above-entitled matter, while reserving the right to appeal this Court's adverse ruling on Defendant's Motion to Suppress. If Defendant prevails on appeal, Defendant shall be allowed to withdraw her plea of "guilty."

Respectfully submitted this 13<sup>th</sup> day of October 2015.

  
John R. Shackelford  
Deputy Public Defender

  
Deputy Prosecutor

FILED 10/13/15 AT 920<sup>a</sup> M.  
CHRISTOPHER D. RICH,  
CLERK OF THE DISTRICT COURT  
BY H. Bell  
Deputy

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

STATE OF IDAHO )  
vs. )  
Marvie Tregeagle )  
\_\_\_\_\_ )

CASE NO. MD-15-4410 DIGITALS \_\_\_\_\_  
 Ada  Boise  Eagle  Garden City  Meridian  
State's Attorney Haynes  
Defense Attorney Shackelford

Address \_\_\_\_\_  
DOB \_\_\_\_\_ SSN XXX-XX-\_\_\_\_\_  
 Interpreter present

CHARGE(s):  PROBATION VIOLATION  CONTEMPT  OTHER POSSESSION 37-2732(c)(3)

PLEA:  Guilty  Admit  Not Guilty  Deny  IN CHAMBERS PER WRITTEN GUILTY PLEA

DECISION:  Acquitted  Dismissed  Guilty  WHJ Sustained  WHJ Revoked

PENALTY: FINE \$ 150 / 75 COSTS \$ CU JAIL 90 / 90 CTS \_\_\_\_\_  
RESTITUTION \$ \_\_\_\_\_  APPLY CASH BOND \$ \_\_\_\_\_  REIMBURSE PD \$ \_\_\_\_\_

REORDER: FINE & COSTS \$ \_\_\_\_\_ JAIL \_\_\_\_\_ / \_\_\_\_\_ CTS CLASSES \_\_\_\_\_

DEFENDANT SHALL MAKE 10 EQUAL MONTHLY PAYMENTS BEGINNING ONE MONTH FROM TODAY

REMARKS: WCF - \$60

ORDERED: DEFENDANT'S DRIVING PRIVILEGES SUSPENDED \_\_\_\_\_ days beginning \_\_\_\_\_; or  
 CONSECUTIVE TO ANY CURRENT SUSPENSION  Absolute Suspension \_\_\_\_\_ days  
 PROBATION ORDERED/CONDITIONS: Supervised Probation Expires: \_\_\_\_\_ Unsupervised Probation Expires: 10/13/16  
Programs (re) Ordered: (Defined on Responsibilities Form)  Commit no new crimes  Discretionary jail days to Probation Officer \_\_\_\_\_  
 No Alcohol Poss/Consumption  Refuse no evidentiary test for drugs/alcohol (BAC)  
 Alcohol/Drug Ed hrs \_\_\_\_\_  Anger Management hrs \_\_\_\_\_  Tobacco Ed hrs \_\_\_\_\_  Driving School hrs \_\_\_\_\_  
 Victim's Panel  Theft classes hrs \_\_\_\_\_  Domestic Violence Treatment Weeks \_\_\_\_\_  Cog Self Change  
 Classes and treatment per Probation Officer  OTHER \_\_\_\_\_

TOTAL DAYS JAIL TO SERVE = \_\_\_\_\_  Concurrent to Case number(s): \_\_\_\_\_  
 Concurrent to all cases  Consecutive to any other cases

\_\_\_\_\_ days must be fully completed, with **NO OPTIONS** available.  \_\_\_\_\_ days must be fully completed, with **INTERIM JAIL** available.

Pay or Stay \$ \_\_\_\_\_  In-Custody \_\_\_\_\_ SAP \_\_\_\_\_ ABC  Interlock Funds (after use of any cafeteria funds)

OR  THE FOLLOWING options offered by the County Sheriff are available to the defendant IF he/she meets the requirements of the Sheriff's programs.

All Options \_\_\_\_\_ days  
 Any combination of the following Options:  
Wk RIs \_\_\_\_\_ days; SLD \_\_\_\_\_ days; SCS 100 hours; Hs. Arr. (2 for 1) \_\_\_\_\_ days (1 for 1) \_\_\_\_\_ days

If approved by the Ada County Sheriff's Office, defendant is allowed to serve in \_\_\_\_\_ County at defendant's expense.  
For all jail, including out of county service, Defendant must first report to Day Reporting Center within 48 hours.

If defendant is in-custody, release and re-book for any options

JUDGE Jan Hatton 384 Number Date 10/13/15 Defendant Marvie Tregeagle

Release Defendant this case only.

FILED 10/13/15 AT 9:17 a.m.  
 CHRISTOPHER D. RICH,  
 CLERK OF THE DISTRICT COURT  
 BY Hell  
 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. )  
 )  
Marvie Tregeagle )  
 Defendant. )

Case No. CRIM 2015-4410  
conditional  
 DEFENDANT'S WRITTEN GUILTY PLEA

I, Marvie Tregeagle, the above-named defendant, desire to plead guilty as set forth below, to the charge(s) in this case. I am 50 years of age and have had 10 years of education. I am not under the influence of any alcohol, drugs, or other mind-affecting substances at this time. I am fully aware of the present proceedings and of their legal significance. I have discussed my decision to plead guilty with my attorney, Shackelford (through Interpreter \_\_\_\_\_). No one has made any promises, threats, or other inducements to get me to plead guilty in this action. If I am on probation or parole, this guilty plea may be used against me as the basis for a probation or parole violation.

I understand that the judge is not bound by any plea agreement between the state and myself, and the maximum punishment allowed under state law has been explained to me. The only agreement that has been made in this case is as follows:  
\$150/75 tcc, 90/90, 1yr USP, 100 hrs SCS  
Parties stipulate to stay execution pending appeal

In entering this guilty plea, I am fully aware that I am waiving any defenses I may have to these charges. Additionally, I am waiving certain important rights such as:

- |   |   |
|---|---|
| <input type="checkbox"/> To be represented by an attorney, and have one appointed if I cannot afford one. | <input checked="" type="checkbox"/> To require the state to prove every element of my charges beyond a reasonable doubt.  |
| <input checked="" type="checkbox"/> To enter a plea in open court before a judge.                         | <input type="checkbox"/> To appeal this conviction, although the sentence may be appealed.  |
| <input checked="" type="checkbox"/> To have a jury trial or court trial.                                  | <input checked="" type="checkbox"/> To personally address the court prior to sentencing.  |
| <input checked="" type="checkbox"/> To not be compelled to testify against myself.                        | <input checked="" type="checkbox"/> If I am not a U.S. citizen, the entry of a guilty plea or making of factual admissions could have consequences of deportation, removal, inability to obtain legal status in the U.S., or denial of an application for U.S. citizenship. |
| <input checked="" type="checkbox"/> To confront witnesses against me and subpoena my own witnesses.       |   |

THEREFORE, I hereby authorize my attorney to enter a guilty plea in the above-captioned action, pursuant to M.C.R. 6(d) and State v. Poynter, 34 Idaho 504, 205 P. 561, 208 P. 871 (1921). This plea is given knowingly, intelligently, and voluntarily.

DATED this 13<sup>th</sup> day of October, 20 15.

Marvie Tregeagle  
 Defendant  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

[Signature]  
 Counsel for Defendant  
[Signature]  
 Deputy Prosecuting Attorney  
[Signature]  
 Magistrate Judge

304

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 3:26

**ADA COUNTY PUBLIC DEFENDER**  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

**OCT 13 2015**

**CHRISTOPHER D. RICH, Clerk**  
By **CHRIS FRISB**  
DEPUTY

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

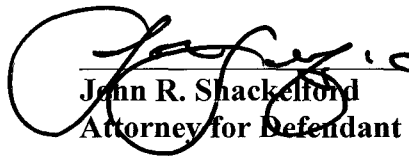
**STATE OF IDAHO,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **MARVIE TREGEAGLE,** )  
 )  
 **Defendant.** )  
 \_\_\_\_\_ )

**Criminal No. CRMD 2015-4410**

**MOTION FOR STAY OF EXECUTION  
OF SENTENCE PENDING APPEAL**

COMES NOW, the above-named Defendant, Marvie Tregeagle, by and through her Attorney of Record, the Ada County Public Defender, John Shackelford, handling attorney, and hereby moves this Honorable Court for its Order staying the execution of the sentence pending appeal in the instant case pursuant to I.C.R. 54.5 (a).

DATED, this 13<sup>th</sup> day of October, 2015.

  
\_\_\_\_\_  
**John R. Shackelford**  
Attorney for Defendant

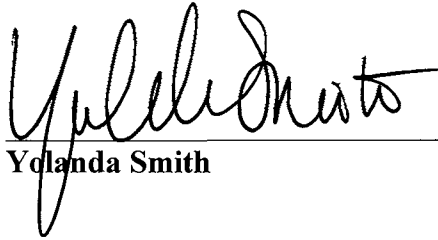
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CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 13<sup>th</sup> day of October, 2015, I mailed a true and correct copy of the foregoing to the:

**Ada County Prosecutor**

by depositing the same in the Interdepartmental Mail.



Yolanda Smith



364

OCT 13 2015

CHRISTOPHER D. RICH, Clerk  
By CHRIS FRIES

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

**RECEIVED IN TRANSCRIPTS**  
10-19-15 - RJ

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. )  
 )  
 MARVIE JEAN TREGEAGLE, )  
 )  
 Defendant-Appellant. )  
 \_\_\_\_\_ )

Case No. CR-MD-2015-4410

**NOTICE OF APPEAL**

**TO: THE ABOVE-NAMED RESPONDENT, THE STATE OF IDAHO, BY AND THROUGH THE ADA COUNTY PROSECUTING ATTORNEY'S OFFICE, AND THE CLERK OF THE ABOVE-ENTITLED COURT.**

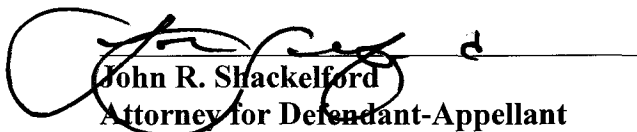
**NOTICE IS HEREBY GIVEN** that the above-named Defendant-Appellant, Marvie Tregeagle, appeals against the State of Idaho to the District Court of the Fourth Judicial District, State of Idaho, from the Judgment of Conviction entered on the 13th day of October 2015 following Ms. Tregeagle's conditional guilty plea.

- a. **Title of the Action:** *State v. Tregeagle*
- b. **Title of Court that heard Proceedings Appealed from and Presiding Magistrate:** Magistrate Division of the Fourth Judicial District Court, State of Idaho, the Honorable Judge Watkins presiding.
- c. **Case Number:** CR-MD-2015-0004410
- d. **Court to Which Appeal Taken:** District Court of the Fourth Judicial District, State of Idaho.

W

- e. **Date and Heading of Judgment, Decision, or Order from Which Appeal is Taken:** Judgment of Conviction, entered October 13, 2013 and Memorandum Opinion on Motion to Suppress, issued August 21, 2015.
- f. **Statement as to Whether Appeal is Taken Upon Matters of Law, or Upon Matters of Fact, or Both:**
1. Appeal is taken upon all matters of law.
  2. The Defendant-Appellant anticipates raising issues including but not limited to: Did the magistrate court err in denying the defendant's motion to suppress?
- g. **Statement as to Whether the Testimony and Proceedings in the Original Trial or Hearing Were Recorded or Reported; Identification of Method of Recording or Reporting; Transcript Request:**
1. The proceedings in the hearing on Defendant's Motion to Suppress were recorded through the magistrate court's courtroom audio recording mechanism.
  2. The audio recording is in the possession of the Transcript Coordinator of the Fourth Judicial District Court, State of Idaho.
  3. The Defendant-Appellant requests the following transcript: Transcript from the hearing on Defendant's Motion to Suppress, held on July 20, 2015.
- h. **Certification:** I certify the following:
1. That a copy of this Notice of Appeal has been served on the reporter through the Clerk of the Court through Interdepartmental Mail.
  2. That a copy of this Notice of Appeal has been served on the opposing party through Interdepartmental Mail.
  3. That the Defendant-Appellant is exempt from paying the estimated transcript fee because she is an indigent person and is unable to pay said fee.
  4. That the Defendant-Appellant is exempt from paying the estimated fee for preparation of the record because she is an indigent person and is unable to pay said fee.
  5. That the Defendant-Appellant is exempt from paying the appellant filing fee because he is indigent and is unable to pay said fee.
- i. **Jurisdiction:** That the Defendant-Appellant may appeal to the District Court, and the judgment described above is appealable under and pursuant to Idaho Criminal Rule 54.1(a).

DATED this 13<sup>th</sup> day of October, 2015.

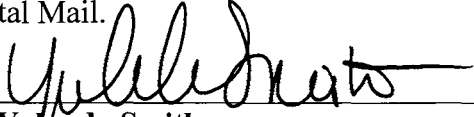
  
John R. Shackelford  
Attorney for Defendant-Appellant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 13<sup>th</sup> day of October, 2015, I mailed a true and correct copy of the foregoing to the:

- 1) Ada County Prosecuting Attorney, and
- 2) Clerk of the District Court of the Fourth Judicial District, State of Idaho

by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Yolanda Smith

**RECEIVED**  
**OCT 13 2015**  
**Ada County Clerk**

**OCT 14 2015**

CHRISTOPHER C. B. C. C. J. J. J.  
By HETHELLE  
CLERK

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7419**

**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.** )  
 )  
 **MARVIE TREGEAGLE,** )  
 )  
 **Defendant.** )  
 \_\_\_\_\_ )


**Criminal No. CRMD 2015-4410**

**ORDER STAYING EXECUTION OF**  
**SENTENCE PENDING APPEAL**

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

**IT IS HEREBY ORDERED, AND THIS DOES ORDER,** that the execution of sentence is stayed pending appeal.

DATED, this 14 day of Oct., 2015.

  
Magistrate

CC: ac, PD, aLSD

OCT 20 2015

CHRISTOPHER D. RICH, Clerk  
By RAE ANN NIXON  
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/Respondent,	)	
	)	
vs.	)	Case No. <b>CRMD-2015-0004410</b>
	)	
<b>MARVIE J. TREGAEGLE,</b>	)	NOTICE OF PREPARATION
	)	OF APPEAL TRANSCRIPT
Defendant/Appellant,	)	
_____	)	

A Notice of Appeal was filed in the above-entitled matter on October 13, 2014 and a copy of said Notice was received by the Transcription Department on **October 19, 2014**. I certify the estimated cost of preparation of the appeal transcript to be:

Type of Hearing: Appeal

Date of Hearing: July 20, 2015 Judge: Thomas Watkins

**34 Pages x \$3.25 = \$110.50**

Pursuant to Idaho Rules of Civil Procedure, Rule 83(k)(1), the appellant must, unless otherwise ordered by a District Judge, pay the estimated fee for the preparation of the transcript within fourteen (14) days after the filing of the Notice of Appeal, and the appellant shall pay the balance of the fee, if any, for the transcript upon completion.

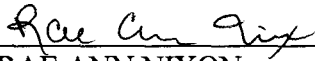
**In this case, the Ada County Public Defender has agreed to pay for the cost of the transcript fee upon completion of the transcript.**

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty-five (35) days from the date of this notice. The transcriber may make

*ln*

application to the District Judge for an extension of time in which to prepare the transcript.

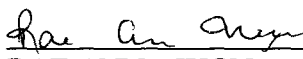
Dated this 20th day of October, 2015.

  
\_\_\_\_\_  
RAE ANN NIXON  
Ada County Transcript Coordinator

### CERTIFICATE OF MAILING

I certify that on this 20th day of October, 2015, a true and correct copy of the Notice of Preparation of Appeal Transcript was forwarded to Appellant or Appellant's attorney of record, by first class mail, at:

Ada County Public Defender  
200 West Front Street Ste 1107  
Boise, ID 83702  
JON SHACKELFORD

  
\_\_\_\_\_  
RAE ANN NIXON  
Ada County Transcript Coordinator

OCT 21 2015

CHRISTOPHER D. RICH, Clerk  
By RIC NELSON  
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/Respondent,

vs.

MARVIE JEAN TREGAEGLE,

Defendant/Appellant.

Case No. CR-MD-15-4110

ORDER GOVERNING PROCEDURE  
ON APPEAL

Notice of Appeal having been filed herein, and it appearing that a transcript of all the testimony of the original trial or hearing has been ordered and the estimated cost of said transcript having already been paid **OR** Ada County having agreed to pay the costs of said transcript upon completion;

It is ORDERED:

- 1) That Appellant's brief shall be filed and served within 35 days of the filing of the transcript.
- 2) That Respondent's brief shall be filed and served within 28 days after service of appellant's brief.
- 3) That Appellant's reply brief, if any, shall be filed and served within 21 days after service of respondent's brief.

4) That either party may notice the matter for oral argument in writing after all briefs are filed, and that if within fourteen (14) days after the final brief is filed, neither party does so notice for oral argument, the Court may deem oral argument waived and decide the case on the briefs and the record.

Dated this 21<sup>st</sup> day of October, 2015.



---

GERALD F. SCHROEDER  
Senior District Judge



CERTIFICATE OF MAILING


I hereby certify that on this 21<sup>st</sup> day of October, 2015, I mailed (served) a true and correct copy of the within instrument to:

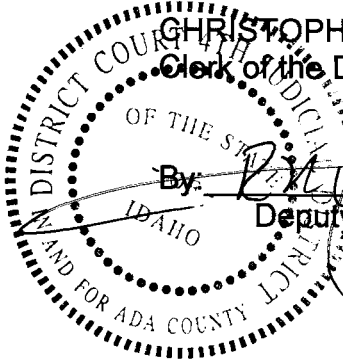
ADA COUNTY PUBLIC DEFENDER  
VIA: INTERDEPARTMENTAL MAIL

ADA COUNTY PROSECUTING ATTORNEY  
VIA: INTERDEPARTMENTAL MAIL

ADA COUNTY TRANSCRIPTS DEPARTMENT  
VIA: INTERDEPARTMENTAL MAIL

CHRISTOPHER D. RICH  
Clerk of the District Court

By:   
Deputy Court Clerk



OCT 29 2015

CHRISTOPHER D. RICH, Clerk  
MICHAEL NELSON  
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/Respondent,

vs.

MARVIE J. TREGEAGLE,

Defendant/^.

Case No. CR-MD-15-4410

AMENDED ORDER GOVERNING  
PROCEDURE  
ON APPEAL

Notice of Appeal having been filed herein, and it appearing that a transcript of all the testimony of the original trial or hearing has been ordered and the estimated cost of said transcript having already been paid **OR** Ada County having agreed to pay the costs of said transcript upon completion;

It is ORDERED:

- 1) That Appellant's brief shall be filed and served within 35 days of the filing of the transcript.
- 2) That Respondent's brief shall be filed and served within 28 days after service of appellant's brief.
- 3) That Appellant's reply brief, if any, shall be filed and served within 21 days after service of respondent's brief.

4) That either party may notice the matter for oral argument in writing after all briefs are filed, and that if within fourteen (14) days after the final brief is filed, neither party does so notice for oral argument, the Court may deem oral argument waived and decide the case on the briefs and the record.

Dated this 29<sup>th</sup> day of October, 2015.



---

GERALD F. SCHROEDER  
Senior District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 29<sup>th</sup> day of October, 2015, I mailed (served) a true and correct copy of the within instrument to:

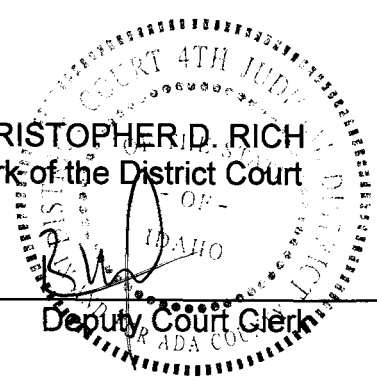
ADA COUNTY PUBLIC DEFENDER  
MARK COONTS  
INTEROFFICE MAIL

ADA COUNTY PROSECUTOR  
INTEROFFICE MAIL

CHRISTOPHER D. RICH  
Clerk of the District Court

By: \_\_\_\_\_

  
Deputy Court Clerk



NOV 10 2015

CHRISTOPHER D. RICH, Clerk  
By RAE ANN NIXON  
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/Respondent,	)	Case No. CRMD-2015-04410
	)	
vs.	)	NOTICE OF LODGING
	)	APPEAL TRANSCRIPT
MARVIE J. TREGAEGLE	)	
	)	
Defendant/Appellant.	)	
_____	)	

To: SCOTT WATSON Attorney for Respondent.

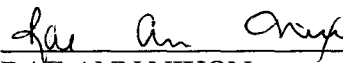
To: JON SHACKELFORD, Appearing Appellant

PLEASE TAKE NOTICE THAT a transcript of the proceeding in this action was lodged with the Court on **November 10, 2015**.

YOU ARE NOTIFIED that you may pick up a copy of said transcript at the District Clerk's Office, Ada County Courthouse, 200 West Front Street, Boise, ID 83702.

Unless objections to the content of the transcript are received within twenty-one (21) days from the date of mailing of this notice, such transcript shall be deemed settled.

Date this 10th day of November, 2015.

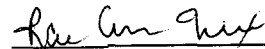
  
 \_\_\_\_\_  
 RAE ANN NIXON  
 Deputy Clerk of the District Court

*DN*

I hereby certify that on this 10th day of November, 2015, a true and correct copy of the Notice of Lodging was sent via US Mail to:

ADA CO. PROSECUTING ATTORNEY  
200 W. FRONT ST. STE. 3191  
BOISE, ID 83702  
SCOTT WATSON

ADA CO. PUBLIC DEFENDER  
200 W. FRONT ST. STE. 1107  
BOISE ID 83702  
JON SHACKELFORD



---

RAE ANN NIXON  
Deputy Clerk of the District Court

DEC 04 2015

CHRISTOPHER D. RICH, Clerk  
By RIC NELSON  
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/Respondent

MARVIE J. TREGAEGLE,

Defendant/Appellant

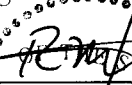
Case No. CR-MD-15-4410

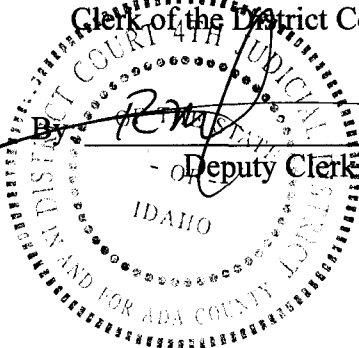
**NOTICE OF FILING  
TRANSCRIPT ON APPEAL**

Pursuant to I.R.C.P. 83(p), the transcript of the proceedings dated July 20, 2015, is now filed.

Dated this 4<sup>th</sup> day of December, 2015.

CHRISTOPHER D. RICH  
Clerk of the District Court

By   
- Deputy Clerk



CERTIFICATE OF MAILING

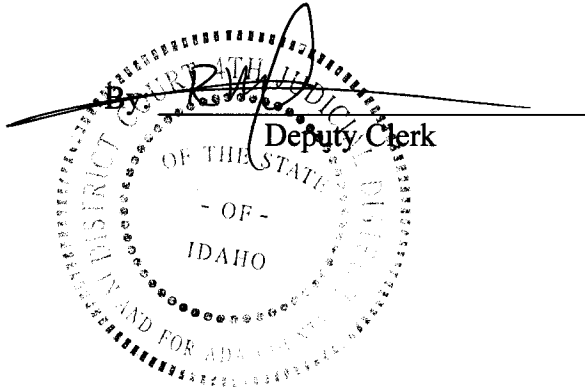
I hereby certify that on this 4<sup>th</sup> day of December, 2015, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PUBLIC DEFENDER  
VIA: INTERDEPARTMENTAL MAIL

ADA COUNTY PROSECUTING ATTORNEY  
VIA: INTERDEPARTMENTAL MAIL

ADA COUNTY TRANSCRIPTS DEPARTMENT  
VIA: INTERDEPARTMENTAL MAIL

CHRISTOPHER D. RICH  
Clerk of the District Court





JAN 05 2016

CHRISTOPHER D. RICH, Clerk  
By MEG KEENAN  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

130

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. CRMD 2015-4410
Plaintiff/Respondent,	)	
vs.	)	MOTION TO EXTEND TIME
	)	
MARVIE J. TREGEAGLE,	)	
	)	
Defendant/Appellant.	)	
_____	)	

COMES NOW, Marvie Tregagle, the above-named Appellant, to move this Honorable Court, pursuant to I.A.R. 34, for an order extending the time for filing a brief in support of Appellant's appeal. Please see the declaration of counsel filed herewith in support of this motion.

Respectfully submitted, this 5<sup>th</sup> day of January, 2016.

  
JOHN R. SHACKELFORD  
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 5<sup>th</sup> day of January, 2016, I sent a true and correct copy of the foregoing Motion to Extend time and attached Declaration of Counsel to:

Sean Watson, Deputy Ada County Prosecutor, by Interdepartmental Mail.

  
John R. Shackelford  
Ada County Public Defender

JAN 05 2016

ADA COUNTY PUBLIC DEFENDER  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

CHRISTOPHER D. RICH, Clerk  
By MEG KEENAN  
DEPUTY

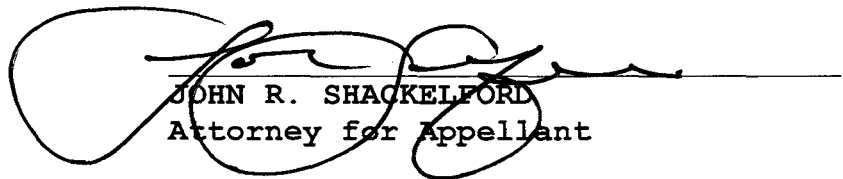
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Case No. CRMD 2015-4410
Plaintiff/Respondent,	)	
	)	DECLARATION IN SUPPORT OF
vs.	)	APPELLANT'S MOTION TO EXTEND
	)	TIME
MARVIE J. TREGEAGLE,	)	
	)	
Defendant/Appellant.	)	
_____	)	

1. I declare under penalty of perjury pursuant to the law of the State of Idaho that the following is true and correct:
2. I am appointed counsel for the Appellant, Marvie Tregeagle.
3. I believe Appellant's brief is due by Friday, January 8th, 2016.
4. There have been no extensions of time previously granted.
5. An extension is necessary to safeguard Appellant's right to effective assistance of counsel on appeal. I have not had the opportunity to fully research the issues presented in this appeal.

6. No more than 21 additional days would be required to finish and file Appellant's brief, which would then become due on Friday, January 29, 2016.
7. I contacted Sean Watson, counsel for the Respondent, about my request for an extension of time, and he said he did not oppose my request for additional time.
8. The Court can be assured of a timely filing because Appellant remains committed to her appeal and has remained in contact with counsel.

Respectfully submitted, this 5<sup>th</sup> day of January, 2016.

  
JOHN R. SHACKELFORD  
Attorney for Appellant

JAN 08 2016

CHRISTOPHER D. RICH, Clerk  
By RIC NELSON  
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/Respondent, )  
 )  
 vs. )  
 )  
 MARVIE JEAN TREGEAGLE, )  
 )  
 Defendant/Appellant. )  
 )  
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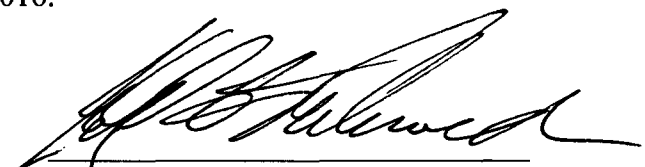
Case No. CRMD 2015-0004410

ORDER EXTENDING TIME

**FOR GOOD CAUSE APPEARING**, this Court hereby grants Appellant's Motion to  
Extend Time. Appellant's brief shall be due by the 29<sup>th</sup> day of January, 2016.

IT IS SO ORDERED.

DATED this 7 day of January, 2016.

  
\_\_\_\_\_  
Hon. Gerald Schroeder  
Senior District Court Judge

CERTIFICATE OF SERVICE

I certify that on the 8<sup>th</sup> day of January, 2016 a copy of the above ORDER EXTENDING TIME was mailed or hand delivered or faxed to the following persons:

- HAND DELIVERED
- MAILED POSTAGE PREPAID
- INTERDEPARTMENTAL MAIL
- VIA FACSIMILE

Sean Watson  
Ada County Prosecutor's Office

- HAND DELIVERED
- MAILED POSTAGE PREPAID
- INTERDEPARTMENTAL MAIL
- VIA FACSIMILE

John R. Shackelford  
Ada County Public Defender



130

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 130

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 SARA WRIGHT  
DEPUTY

STATE OF IDAHO, )  
 )  
Plaintiff-Respondent, )  
 )  
vs. )  
 )  
MARVIE J. TREGEAGLE, )  
 )  
 )  
Defendant-Appellant. )  
\_\_\_\_\_ )

Case No. CRMD 2015-4410

APPELLANT'S BRIEF

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

HONORABLE GERALD F. SCHROEDER

District Judge

JOHN R. SHACKELFORD  
Ada County Public Defender  
200 W. Front, Suite 1107  
Boise, Idaho 83702

SEAN WATSON  
Ada County Prosecutor's Office  
200 W. Front Street  
Boise, Idaho 83702

ATTORNEY FOR DEFENDANT-  
APPELLANT

ATTORNEY FOR PLAINTIFF-  
RESPONDENT

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## STATEMENT OF THE CASE

On March 10, 2015, Marvie Tregeagle was driving southbound on South Five Mile Road in Boise, Idaho, in her white Chevrolet truck. Officer Pickard of the Ada County Sheriff's Office was traveling directly behind Ms. Tregeagle's vehicle. Officer Pickard initiated a traffic stop because a trailer ball was obstructing his view of two letters on the rear license plate. The license plate was securely attached to the bumper in its designated location. The trailer ball appears to be part of the bumper itself, rather than an aftermarket attachment.

Illegal contraband was discovered in the vehicle, and Ms. Tregeagle was charged with misdemeanor possession of marijuana. Ms. Tregeagle entered a conditional guilty plea to the charge to appeal the magistrate's denial of her motion to suppress.

## ISSUE

Did the court err in finding that the traffic stop was justified based solely on a violation of Idaho Code Section 49-428(2) where the vehicle's rear license plate was in a position to be clearly visible and in a condition to be clearly legible?

## STANDARD OF REVIEW

The standard of review of a suppression motion is bifurcated. When a decision on a motion to suppress is challenged, we accept the trial court's findings of fact which are supported by substantial evidence, but we freely review the application of constitutional principles to the facts as found. At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court.

*State v. Roe*, 140 Idaho 176, 179, 90 P.3d 926, 929 (Ct. App. 2004) (citations omitted).

## AUTHORITIES AND ARGUMENT

The Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section 17 of the Idaho Constitution together protect citizens against unreasonable searches and seizures. *State v. Salois*, 144 Idaho 344, 347 (Ct. App. 2007); *State v. Cerino*, 141 Idaho 736, 737 (Ct. App. 2005). The purpose of this legal principle is to “impose a standard of ‘reasonableness’ upon the exercise of discretion by government officials, including law enforcement agents, to ‘safeguard the privacy and security of individuals against arbitrary invasions.’” *Delaware v. Prouse*, 440 U.S. 648, 653-54 (1979). When a law enforcement officer activates the overhead lights of a patrol vehicle, to signal a stop, a seizure is effectuated. *State v. Mireles*, 133 Idaho 690 (Ct. App. 1999). Any evidence obtained in violation of these constitutional protections must be suppressed in a criminal prosecution of the person whose rights were violated. See, e.g., *State v. Curl*, 125 Idaho 224, 227 (1993); *Wong Sun v. United States*, 371 U.S. 471 (1963).

“An investigative detention is constitutionally permissible when based upon reasonable suspicion, derived from specific articulable facts, that the person stopped has committed or is about to commit a crime.” *State v. Cutler*, 143 Idaho 297, (Ct. App. 2006) citing *State v. Salato*, 137 Idaho 260, 264, (Ct. App. 2001). The totality of the circumstances must give the officer “a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *United States v. Cortez*, 449 U.S. 411, 417-18 (1981).

A. Ms. Tregagle's trailer ball hitch does not violate the plain language of I.C. § 49-428(2).

“The interpretation of a statutory provision must begin with the literal words of the statute, giving the language its plain, obvious and rational meaning.” *Crawford v. Dept. of Correction*, 133 Idaho 633, 635, 991 P.2d 358, 360 (1999) citing *State v. Watts*, 131 Idaho 782, 963 P.2d 1219 (1998). If the statute is not ambiguous it must be followed as the law was written. *State v. Schwartz*, 139 Idaho 360, 362, 79 P.3d 719, 721 (2003) (abrogated on other grounds by *Verska v. Saint Alphonsus Reg'l Med. Ctr.*, 151 Idaho 889, 893, 265 P.3d 502, 506 (2011)). Idaho Code section 49-428(2) provides, in pertinent part:

Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible . . . .

Idaho Code § 49-428(2) plainly describes a list of conditions that must be met to properly display a vehicle's license plate. As to other items attached to the vehicle, I.C. § 49-428(2) is absolutely silent.

According to Officer Pickard, the sole basis for the traffic stop was based on the claim that the rear license plate was obstructed. Officer Pickard testified that the rear license plate was free from foreign material, securely attached, and placed in its designated position. (11/10/2015 Tr. p.12, Ls.3-18.) He also testified that he could read the entire plate from approximately ten feet away (*Id.* p.13, Ls.12-16) and that if he had been driving a taller vehicle, it's possible he could have read the entire plate from his own vehicle. (*Id.* p.12, Ls. 21-25.) State's Exhibit 1 shows that the trailer ball was not an after-market attachment or suspicious in its size or placement. The evidence does not show, therefore, that Ms. Tregagle's trailer ball violates the

plain language I.C. § 49-428(2). For this reason, the court erred in finding the stop was justified based on a violation of I.C. § 49-428(2).

B. Seizing Ms. Tregeagle violated her right to be free from unreasonable seizures under Art. I, Sec. 17 of the Constitution of the State of Idaho.

Idaho courts are “free to interpret our state constitution as more protective of the rights of Idaho citizens than the United States Supreme Court’s interpretation of the federal constitution.” *State v. Guzman*, 122 Idaho 981, 987, 842 P.2d 660, 666 (1992). In Idaho, suspicion is not justified “if the conduct observed by the officer fell within the broad range of what can be described as normal driving behavior.” *State v. Roe*, 140 Idaho 176, 180, 90 P.3d 926, 930 (Ct. App. 2004) (citation omitted). Officer Pickard testified that he has seen other attachments, such as bike racks and trailers obstructing the rear license plate on vehicles, but that he sometimes chooses not to detain those vehicles and their drivers. (11/10/2015 Tr. p.14, Ls. 2-19.) This testimony suggests two scenarios: (1) that Officer Pickard arbitrarily enforces his understanding of I.C. § 49-428(2) or (2) that he knows that having items attached to the back of a vehicle is normal and not indicative of criminal behavior. In either scenario, seizing Ms. Tregeagle was clearly unreasonable under Idaho law.

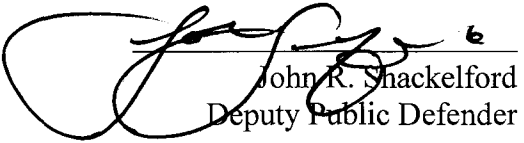
Idahoans use trailers and, by necessity, trailer ball hitches for commerce and recreation on a daily basis. *See, State v. Pruss*, 145 Idaho 623, 627, 181 P.3d 1231, 1235 (2008) (“Utilizing public lands for outdoor recreational activities is a longstanding custom in this State that is recognized as valuable to society.”) Rear license plates are regularly “obstructed” as the State understands it, by bike racks, wheelchair racks, horse trailers, utility trailers, and recreational vehicles. Officer Pickard admitted that such a trailer would be obstructing, in his view, the plate of the vehicle towing it. (11/10/2015 Tr. p.15, Ls. 16-21.) It seems to be the State’s position that

pulling a trailer in Idaho is illegal unless the driver of the towing vehicle removes the rear license plate and attaches it to the towed vehicle. Such conduct would likely be illegal however, and valid grounds for law enforcement to detain the vehicle. *See, State v. Geissler*, 134 Idaho 902, 905, 11 P.3d 1120, 1123 (Ct. App. 2000) (officer reasonably investigated violation of I.C. § 49-456(2) where license plates registered to a passenger car were found on a pickup truck). In short, the law and history of the State of Idaho support the conclusion that Officer Pickard lacked reasonable, articulable suspicion to seize Ms. Tregeagle.

### CONCLUSION


Officer Pickard seized Ms. Tregeagle because the vehicle she was driving had a license plate that was “obstructed” by a ball hitch. But a ball hitch is not clearly illegal under I.C. § 49-428(2). Moreover, because “obstructed” rear license plates are so common in Idaho, a simple trailer ball hitch cannot create a reasonable suspicion of criminal activity. For these reasons, Ms. Tregeagle’s right to be free from unreasonable seizure under the United States and Idaho constitutions was violated. The magistrate court therefore erred in denying Mr. Tregeagle’s motion to suppress. Ms. Tregeagle respectfully requests this court to reverse the finding of the magistrate and vacate the judgment of conviction. Oral argument is also requested.

Respectfully submitted this 28<sup>th</sup> day of January 2016.

  
John R. Shackelford  
Deputy Public Defender

**Certificate of Service**

I certify that the foregoing "Appellant's Brief" was served on Sean Watson, Deputy Ada County Prosecutor by Interdepartmental mail on January 28th, 2016.



John R. Shackelford  
Ada County Public Defender

MAR 22 2016

CHRISTOPHER D. RICH, Clerk  
By MARTHA LYKE  
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-Respondent,

vs.

MARVIE J. TREGAEGLE,

Defendant-Appellant.

Case No. CR-MD-2015-0004410

OPINION ON APPEAL

ATTORNEY FOR THE APPELLANT: JOHN R. SHACKELFORD

ATTORNEY FOR THE RESPONDENT: SEAN WATSON

Marvie J. Tregagle appeals from the decision of the magistrate denying her motion to suppress. Following the denial of her suppression motion, Ms. Tregagle entered a guilty plea to Possession of Marijuana, conditioned on her ability to appeal the denial of her motion to suppress. Both parties have waived oral argument.

**FACTS AND PROCEDURAL HISTORY**

The following is taken from the magistrate's decision:

The facts in this case aren't in dispute. On March 10, 2015, at approximately 1:15 a.m., Dep. Pickard of the Ada County Sheriff's Office was on patrol on a two-lane highway. His patrol vehicle was a Chevy Tahoe, an SUV-type truck. At some point, he got behind Tregagle's vehicle, a GMC pickup. The pickup is equipped with a trailer hitch. Dep. Pickard testified that when looking at the license plate, he was not able to read the center two digits of the license plate because the trailer hitch obstructed his view. He further testified that he was travelling at 35 mph,



and at that speed, he could not safely maneuver his patrol vehicle in a way that would allow him to read the center digits. Based on his inability to read the license plate, Dep. Pickard chose to stop Tregeagle's truck. Once the truck was stopped, Dep. Pickard was able to walk up to the truck and at this point, from a distance of about ten feet, read the plate in its entirety. Dep. Pickard testified that the license plate itself had no foreign matter attached to it, and that it was properly affixed to the bumper. His sole reason for making the traffic stop was that the trailer hitch obstructed his full view of the license plate. After the traffic stop was made, a controlled substance was later found. Memorandum Opinion on Motion to Suppress, at 1-2.

In the decision denying Ms. Tregeagle's motion to suppress, the magistrate stated (internal citations omitted):

Here, there is ample evidence to support the deputy's claim that the license plate was not clearly visible because of the hitch. Dep. Pickard testified that it was his habit to call in the license plate of a suspect vehicle that he planned to stop, but was not able to do so in this case because he could not read the plate. The state produced the dispatch logs in support of this. It was only after the traffic stop had been conducted that the deputy was able to read the license plate. As the Wyoming Supreme Court explained, '(w)e agree with the majority of jurisdictions that have considered this issue and determined that a trailer ball positioned so as to partially obstruct a license plate constitutes a violation of the respective license plate statute.' This court concurs and finds that the traffic stop in this case was justified based on a violation of Idaho Code Section 49-428(2). Memorandum Opinion on Motion to Suppress, at 7.

#### **STANDARD OF REVIEW**

When a district judge considers an appeal from a magistrate judge (not involving a trial de novo), the district judge is acting as an appellate court, not as a trial court. *State v. Kenner*, 121 Idaho 594, 596, 826 P.2d 1306, 1308 (1992). The interpretation of law or statute is a question of law over which the Court has free review. *State v. Miller*, 134 Idaho 458, 462, 4 P.3d 570, 574 (Ct. App. 2000).

### **A. Suppression**

“At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court.” *State v. Young*, 144 Idaho 646, 648, 167 P.3d 783, 785 (Ct. App. 2007).

“When reviewing ‘seizure’ issues, we defer to the trial court’s factual findings unless they are clearly erroneous. We freely review, de novo, the trial court’s legal determination of whether or not an illegal seizure occurred.” *State v. Schwarz*, 133 Idaho 463, 466, 988 P.2d 689, 692 (1999). *See also State v. Watts*, 142 Idaho 230, 234, 127 P.3d 133, 137 (2005): “The Court accepts the trial court’s findings of fact if supported by substantial evidence.”

### **ANALYSIS**

Ms. Tregeagle maintains that the court erred in finding that the traffic stop was justified based on a violation of Idaho Code Section 49-428(2) where the vehicle’s rear license plate was in a position to be clearly visible and in a condition to be clearly legible. Appellant’s Brief, at 1.

She more specifically asserts (internal citations omitted):

According to Officer Pickard, the sole basis for the traffic stop was based on the claim that the rear license plate was obstructed. Officer Pickard testified that the rear license plate was free from foreign material, securely attached, and placed in its designated position. He also testified that he could read the entire plate from approximately ten feet away and that if he had been driving a taller vehicle, it’s possible he could have read the entire plate from his own vehicle. State’s Exhibit 1 shows that the trailer ball was not an after-market attachment or suspicious in its size or placement. The evidence does not show, therefore, that Ms. Tregeagle’s trailer ball violates the plain language of I.C. § 49-428(2). For this reason, the court erred in finding the stop was justified based on a violation of I.C. § 49-428(2). *Id.* at 4.

The applicable standard is articulated in *State v. Anderson*:

A traffic stop by an officer constitutes a seizure of the vehicle's occupants and implicates the Fourth Amendment's prohibition against the unreasonable searches and seizures. The standards of the Fourth Amendment allow a limited investigative detention of an individual if the police officer who seized the individual has reasonable suspicion that the person has committed or is about to commit a criminal act. The police officer's suspicion must be premised upon specific articulable facts and the rational inferences drawn from those facts. The reasonableness of the suspicion is to be evaluated upon the totality of the circumstances at the time of the stop. The "whole picture" must yield a particularized and objective basis for suspecting that the individual being stopped is or has been engaged in wrongdoing. *State v. Anderson*, 134 Idaho 552, 554, 6 P.3d 408, 410 (Ct. App. 2000). "[R]easonable suspicion of a traffic violation . . . justifie[s] the stop of [a] vehicle." *Id.* (citations omitted).

The following is the rule of statutory construction:

The cardinal rule of statutory construction is that where a statute is plain, clear and unambiguous, we are constrained to follow that plain meaning and neither add to the statute nor take away by judicial construction. Statutory interpretation always begins with an examination of the literal words of the statute. Unless the result is palpably absurd, we must assume that the legislature means what is clearly stated in the statute. We must give the words their plain, usual and ordinary meaning, and there is no occasion for construction where the language of a statute is unambiguous. We furthermore must give every word, clause and sentence effect, if possible. *Poison Creek Publishing, Inc. v. Central Idaho Publishing, Inc.*, 134 Idaho 426, 429, 3 P.3d 1254, 1257 (2000). When interpreting a statute, this Court must strive to give force and effect to the legislature's intent in passing the statute. 'It must begin with the literal words of the statute; those words must be given their plain, usual, and ordinary meaning; and the statute must be construed as a whole. Where the language of a statute is plain and unambiguous, this Court must give effect to the statute as written, without engaging in statutory construction.'" *Wheeler v. Idaho Department of Health and Welfare*, 147 Idaho 257, 263, 207 P.3d 988, 994 (2009). "[T]he court must construe a statute as a whole, and consider all sections of applicable statutes together to determine the intent of the legislature." *Davaz v. Priest River Glass Company*, 125 Idaho 333, 336, 870 P.2d 1292, 1295 (1994).

I.C. §49-428 ("Display of Plate and Stickers.") provides:

(1) License plates assigned to a motor vehicle shall be attached, one (1) in the front and the other in the rear, with the exception of the following:

(a) The license plate assigned to a motorcycle, all-terrain vehicle, utility type vehicle, motorbike or semitrailer and the license plate assigned to a motor vehicle operated by a manufacturer, repossession agent or dealer shall be attached to the rear.

(b) Vehicles displaying year of manufacture, old timer, classic car or street rod license plates shall be allowed to display one (1) plate attached to the rear of the vehicle.

(c) The license plate attached to a tractor shall be attached to the front.

(d) The wrecker plate shall be displayed on the vehicle being towed in such a manner as to be visible when the vehicle being towed is approached from the rear.

License plates shall be displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each license plate, except for trailers and semitrailers on extended registration under the provisions of section 49-434, Idaho Code. For the purposes of this title, the license plates together with the registration stickers shall be considered as license plates for the year designated on the registration sticker.

(2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443 (4), Idaho Code.

A plain reading of the statute reveals that every vehicle license plate must be displayed so that it is "in a place and position to be clearly visible" and "in a condition to be clearly legible." (Emphasis added.) It is undisputed that Officer Pickard's view of Ms. Tregeagle's license plate was partially obstructed by the trailer hitch ball on the vehicle.

The officer initiated a traffic stop because a trailer ball was obstructing his view of two letters on the rear license plate. July 20, 2015 Hearing Transcript, at 3-4: "The recess of the bumper holds the license plate, and then there is a trailer ball that was in front of the license plate." Consequently, at the time of the traffic stop, Ms. Tregagle's rear license plate was not clearly visible and clearly legible.

The reasoning of the Supreme Court of Wyoming, in *Parks v. State*, 247 P.3d 857 (Wyo. 2011), is persuasive. In *Parks*, "[a] trailer hitch ball was mounted in a predrilled hole in the truck's factory bumper so that the license plate was partially obstructed. Due to the obstruction, [the police officer: Officer Ransom] was unable to read the license plate" and made a traffic stop. 247 P.3d at 858:

Officer Ransom, now standing by his own car door and close to the truck's rear license plate, called in the plate number to his dispatcher. He then approached the driver's side door of the truck and informed Mr. Parks that he had been stopped for an obscured license plate and that he needed to remove the trailer ball when he had the first chance to do so. As he was talking to Mr. Parks, Officer Ransom smelled the odor of burnt marijuana coming from inside the truck. After questioning by Officer Ransom, Mr. Parks surrendered a bag of marijuana and a pipe. *Id.*

The Wyoming Supreme Court was construing a statute<sup>1</sup> essentially worded the same as I.C. § 49-428(2) and held that the pertinent language was unambiguous:

The requirements that a license plate be "plainly visible" and "clearly legible" indicate that a license plate must not be obstructed in any manner. This interpretation is in accordance with the purpose of the statute. License plates need to be easily read in order to facilitate law enforcement and ordinary citizens in reporting and investigating hit-and-run traffic accidents, traffic violations, gas-pump drive-offs, and other criminal activity . . . The plain language and the purpose of the statute indicate that a

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<sup>1</sup>The Wyoming statute, Wyo. Stat. Ann. § 31-2-205, states "[l]icense plates shall be . . . [c]onspicuously displayed and securely fastened to be plainly visibly . . . [m]aintained free from foreign materials and in a condition to be clearly legible." *Parks*, 247 P.3d at 858-59.

trailer ball mounted in a place that causes it to partially obstruct a license plate from view is a violation of Wyo. Stat. Ann. § 31-2-205. *Id.* at 860.

We agree with the majority of jurisdictions that have considered this issue and determined that a trailer ball positioned so as to partially obstruct a license plate constitutes a violation of the respective license plate display statute. The traffic stop in this case was justified based on an observed violation of Wyo. Stat. Ann. § 31-2-205. *Id.* at 861.

Ms. Tregagle complains that Officer Pickard arbitrarily enforced his understanding of I.C. § 49-428(2) or knew that having items attached to the back of a vehicle is normal and not indicative of criminal behavior. (Appellant's Brief, at 4.) He "testified that he has seen other attachments, such as bike racks and trailers obstructing the rear license plate on vehicles, but that he sometimes chooses not to detain those vehicles and their drivers." (*Id.*). She also argues that obstructed license plates are "so common" in Idaho it makes the officer's stop here unreasonable. *Id.* at 5. She cites no evidence in the record to support this assertion.

[S]o long as the officer has probable cause to believe that a traffic violation has occurred or was occurring, the resulting stop is not unlawful and does not violate the Fourth Amendment. We focus not on whether a reasonable officer "would" have stopped the suspect (even though he had probable cause to believe that a traffic violation had occurred), or whether any officer 'could' have stopped the suspect (because a traffic violation had in fact occurred), but on whether this particular officer in fact had probable cause to believe that a traffic offense had occurred, regardless of whether this was the only basis or merely one basis for the stop. The stop is reasonable if there was probable cause, and it is irrelevant what else the officer knew or suspected about the traffic violator at the time of the stop. It is also irrelevant whether the stop in question is sufficiently ordinary or routine according to the general practice of the police department or the particular officer making the stop. *United States v. Ferguson*, 8 F.3d 385, 391 (6<sup>th</sup> Cir. 1993).

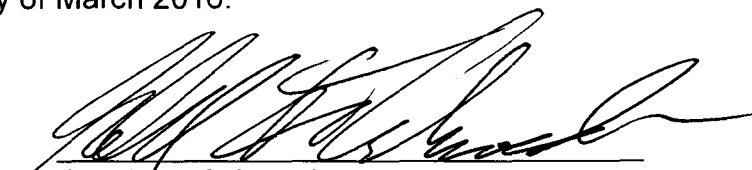
See also *Whren v. U.S.*, 517 U.S. 806, 116 S.Ct. 1769, 1774-75, 135 L.Ed.2d 89 (1996) ("[T]hese cases foreclose any argument that the constitutional reasonableness of traffic stops depends on the actual motivations of the individual officers involved. We of course agree with

petitioners that the Constitution prohibits selective enforcement of the law based on considerations such as race. But the constitutional basis for objecting to intentionally discriminatory application of laws is the Equal Protection Clause, not the Fourth Amendment. Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis . . . [Petitioners] insist that the standard they have put forward—whether the officer's conduct deviated materially from usual police practices, so that a reasonable officer in the same circumstances would not have made the stop for the reasons given—is an 'objective' one. But although framed in empirical terms, this approach is plainly and indisputably driven by subjective considerations . . . Instead of asking whether the individual officer had the proper state of mind, the petitioners would have us ask, in effect, whether (based on general police practices) it is plausible to believe that the officer had the proper state of mind . . . an exercise that might be called virtual subjectivity. . . . We cannot accept that the search and seizure protections of the Fourth Amendment are so variable.”).

#### CONCLUSION

The magistrate's decision denying Ms. Tregeagle's motion to suppress is affirmed.

Dated this 22 day of March 2016.

  
Gerald F. Schroeder  
Senior District Judge

## CERTIFICATE OF MAILING

I, Christopher D. Rich, the undersigned authority, do hereby certify that I have mailed, by United States Mail, one copy of the OPINION ON APPEAL as notice pursuant to the Idaho Rules to each of the parties of record in this cause in envelopes addressed as follows:

ADA COUNTY PUBLIC DEFENDER  
VIA INTERDEPARTMENTAL MAIL

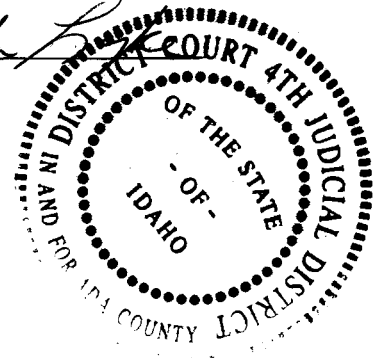
ADA COUNTY PROSECUTOR  
VIA INTERDEPARTMENTAL MAIL

HON. THOMAS WATKINS  
VIA INTERDEPARTMENTAL MAIL

CHRISTOPHER D. RICH  
Clerk of the District Court  
Ada County, Idaho

Date: March 22, 2016

By Shantha P. Rich  
Deputy Clerk





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

APR 05 2016

CHRISTOPHER D. RICH, Clerk  
By WENDY MALONE  
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-Respondent,  
  
vs.  
  
MARVIE JEAN TREGGAGLE,  
  
Defendant-Appellant.

Case No. CR-MD-2015-4410

NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE CLERK  
OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

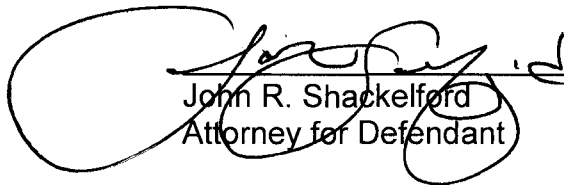
- 1) The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the final decision and order entered against her in the above-entitled action on March 22, 2016, the honorable Gerald F. Schroeder, District Judge, presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to IAR 11(c)(1-11).
- 3) A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal are:
  - a) Did the district court err by upholding the magistrate's decision denying the appellant's motion to suppress?
- 4) **Reporter's Transcript.**
  - a) Please use transcript previously prepared and lodged on November 10, 2015.
- 5) **Clerk's Record.** The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). The Appellant requests the following documents to be

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included in the clerk's record, in addition to those automatically included under IAR 28(b)(2):

- a) Any and all briefs, memoranda, statements or affidavits considered by the court, or considered on any motion made therein, and memorandum opinions or decisions of the court.
  - b) Any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI or other items offered at the sentencing hearing.
- 6) I certify:
- a) That copy of this Notice of Appeal has been served on the Court Reporter(s) listed in paragraph 4 above.
  - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (IDAHO CODE §§ 31-3220, 31-3220A, IAR 24(e)).
  - c) That there is no appellant filing fee since this is an appeal in a criminal case. (IDAHO CODE §§ 31-3220, 31-3220A, IAR 23(a)(8)).
  - d) That the Ada County Public Defender's office will be responsible for paying for the reporter's transcript, as the client is indigent (IDAHO CODE §§ 31-3220, 31-3220A, IAR 24(e)).
  - e) That service has been made upon all parties required to be served pursuant to IAR 20.

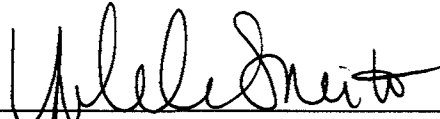
DATED this 5<sup>th</sup> day of April 2016.

  
John R. Shackelford  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 5<sup>th</sup> day of April 2016, I mailed (served) a true and correct copy of the within instrument to:

Ada County Prosecutor  
Interdepartmental Mail

  
\_\_\_\_\_  
Yolanda Smith

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.  
  
MARVIE JEAN TREGAEGLE,  
  
Defendant-Appellant.

Supreme Court Case No. 44098

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.

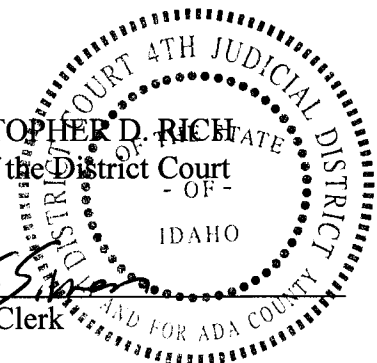
I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Transcript of Suppression Hearing Held July 20th, 2015, Boise, Idaho, filed December 4th, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 13th day of May, 2016.

CHRISTOPHER D. RICH  
Clerk of the District 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

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
  
MARVIE JEAN TREGEAGLE,  
  
Defendant-Appellant.

Supreme Court Case No. 44098

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

to each of the Attorneys of Record in this cause as follows:

JOHN R. SHACKELFORD  
  
ATTORNEY FOR APPELLANT  
  
BOISE, IDAHO

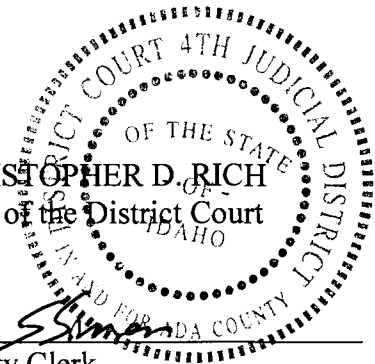
LAWRENCE G. WARDEN  
  
ATTORNEY FOR RESPONDENT  
  
BOISE, IDAHO

MAY 13 2016

Date of Service: \_\_\_\_\_

CHRISTOPHER D. RICH  
Clerk of the District Court

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



CERTIFICATE OF SERVICE

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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.  
  
MARVIE JEAN TREGGLE,  
  
Defendant-Appellant.

Supreme Court Case No. 44098  
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 5th day of April, 2016.

CHRISTOPHER D. RICH  
Clerk of the District Court

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

