

10-14-2015

## Devan v. State Clerk's Record Dckt. 43508

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IN THE SUPREME COURT OF THE  
STATE OF IDAHO

EVIN CHRISTOPHER DEVAN, )  
 )  
 Petitioner- )  
 Appellant, )  
 )  
 -vs- )  
 )  
 STATE OF IDAHO, )  
 )  
 )  
 Respondent. )

Supreme Court No. 43508-2015

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

HONORABLE MOLLY J. HUSKEY, Presiding

Sara Thomas, State Appellate Public Defender, P. O. Box 2816, Boise, Idaho 83701

Attorney for Appellant

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

Attorney for Respondent

## Post Conviction Relief

Date		Judge
2/13/2015	New Case Filed-Post Conviction Relief	Molly J Huskey
	Filing: H1c - Post-Conviction Act Proceedings * Paid by: Devan, Evin Christopher (subject) Receipt number: 0008745 Dated: 2/13/2015 Amount: \$.00 (Cash) For: Devan, Evin Christopher (subject)	Molly J Huskey
	Petition and Affidavit For Post Conviction Relief	Molly J Huskey
	Motion and Affidavit In Support For Appointment Of Counsel	Molly J Huskey
	Motion and Affidavit For Permission To Proceed On Partial Payment Of Court Fees (prisoner)	Molly J Huskey
2/17/2015	Hearing Scheduled (Conference - Status 03/09/2015 01:30 PM)	Molly J Huskey
2/25/2015	Notice Of Hearing / 03-09-15	Molly J Huskey
	Order Appointing Attorney / Public Defender	Molly J Huskey
	Order RE: Partial Payment of Court Fees (Prisoner) DENIED - no fees for indigent post conviction.	Molly J Huskey
2/26/2015	Answer	Molly J Huskey
	Motion for Summary Dismissal	Molly J Huskey
	Motion for Waiver of Attorney- Client Privilege (w/order)	Molly J Huskey
3/2/2015	Order for Waiver of Attorney Client-Privilege	Molly J Huskey
3/9/2015	Hearing result for Conference - Status scheduled on 03/09/2015 01:30 PM: Hearing Held	Molly J Huskey
	Hearing result for Conference - Status scheduled on 03/09/2015 01:30 PM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages	Molly J Huskey
	Hearing Scheduled (Conference - Status 05/11/2015 01:30 PM)	Molly J Huskey
3/24/2015	Notice of Conflict of Interest and assignment of conflict counsel/Nelson	Molly J Huskey
3/26/2015	Notice Of Hearing	Molly J Huskey
5/11/2015	Hearing result for Conference - Status scheduled on 05/11/2015 01:30 PM: Hearing Held	Molly J Huskey
	Hearing result for Conference - Status scheduled on 05/11/2015 01:30 PM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages	Molly J Huskey
	Hearing Scheduled (Motion Hearing 07/13/2015 02:30 PM) Motion for Summary Dismissal	Molly J Huskey
5/20/2015	Amended Notice of Hearing	Molly J Huskey
6/23/2015	Amended Notice of Hearing	Molly J Huskey
	Hearing Scheduled (Motion Hearing 07/10/2015 02:30 PM) Motion for Summary Dismissal	Molly J Huskey
	Hearing result for Motion Hearing scheduled on 07/06/2015 02:30 PM: Hearing Vacated Motion for Summary Dismissal	Molly J Huskey

## Post Conviction Relief

Date		Judge
7/10/2015	Hearing result for Motion Hearing scheduled on 07/10/2015 02:30 PM: Hearing Held / Motion for Summary Dismissal (UNDER ADVISEMENT)	Molly J Huskey
	Hearing result for Motion Hearing scheduled on 07/10/2015 02:30 PM: District Court Hearing Held Court Reporter: Laura Whiting Number of Transcript Pages for this hearing estimated: less than 100 pages	Molly J Huskey
7/14/2015	Order Granting the State's Motion and Dismissing the Petition for Post-Conviction Relief	Molly J Huskey
	Final Judgment	Molly J Huskey
	Civil Disposition entered for: Devan, Evin Christopher, Subject. Filing date: 7/14/2015	Molly J Huskey
	Case Status Changed: Closed	Molly J Huskey
8/3/2015	Miscellaneous Payment: CD Copies Paid by: Nelson, Maribel Receipt number: 0044747 Dated: 8/3/2015 Amount: \$6.25 (Cash)	Molly J Huskey
8/18/2015	Letter from defendant	Molly J Huskey
8/21/2015	Notice of Appeal	Molly J Huskey
	Appealed To The Supreme Court	Molly J Huskey
	Motion And Affidavit In Support For Appointment of Counsel (w/orders)	Molly J Huskey
	Case Status Changed: closed pending clerk action	Molly J Huskey
8/25/2015	Order RE: Partial Payment of Court Fees / DENIED (No costs for indigent appeals)	Molly J Huskey
	Order Appointing State Appellate Public Defender In Direct Appeal	Molly J Huskey
8/27/2015	Motion and Affidavit for Permission to Proceed on Partial Payment of Court Fees (Prisoner) For Appeal (with order)	Molly J Huskey
	Notice of Service	Molly J Huskey
9/10/2015	copies	Molly J Huskey

FILED  
11/11 A.M. P.M.  
FEB 13 2015

Inmate Name EVIN DEVAN  
IDOC No. 103006  
Address P.O. Box 14  
BOISE IDAHO 83709

CANYON COUNTY CLERK  
B HATFIELD, DEPUTY

Petitioner

IN THE DISTRICT COURT OF THE 3<sup>RD</sup> JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EVIN DEVAN )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
STATE OF IDAHO )  
 )  
 Respondent. )  
 )

Case No. CV2015-1285-C  
**PETITION AND AFFIDAVIT  
FOR POST CONVICTION  
RELIEF**

The Petitioner alleges:

1. Place of detention if in custody: ISCI
2. Name and location of the Court which imposed judgement/sentence: 3<sup>RD</sup>  
DISTRICT 1115 ALBANY AVE CALOONE IDAHO 83605

3. The case number and the offense or offenses for which sentence was imposed:
  - (a) Case Number: C11-14645 correct CR11-20535-C
  - (b) Offense Convicted: BURGLARY, CONSPIRACY, TRESPASS

4. The date upon which sentence was imposed and the terms of sentence:
  - a. Date of Sentence: 309-2012
  - b. Terms of Sentence: 2 FIXED 3 INDETERMINATE 5 YEARS TOTAL

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

Of guilty

Of not guilty

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

Yes  No

If so, what was the Docket Number of the Appeal? 39853-2012, 2011-20517

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

(a) INEFFECTIVE ASSISTANCE OF COUNCIL

(b) NEW EVIDENCE

(c) \_\_\_\_\_

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

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

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

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

MOTION FOR MISTRIAL OF NEW TREAL, 3<sup>RD</sup>

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

(a) SECURE WITNESSES

(b) FAILURE TO OBJECT

(c) FAILURE TO INVESTIGATE DEFENCE.

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

Yes      [ ] No

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

Yes      [ ] No

12. State specifically the relief you seek:

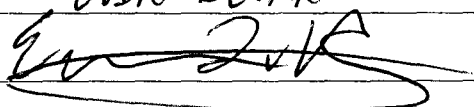
REVERSAL OF JUDGEMENT, NEW TRIAL

PURSUANT 28 U.S.C. 1746 I, EVIN DEVAN DECLARE  
UNDER PENALTY OF PERJURY THE FOLLOWING IS TRUE  
AND CORRECT.

ACCESS TO NOTARY OR COPIER ARE UNAVAILABLE AT  
THIS TIME. I HAVE MADE NUMEROUS REQUESTS TO  
OBTAIN RESOURCE CENTER ASSISTANCE, AND HAVE  
RECEIVED PARTIAL OR NO ASSISTANCE, UNTIMELY OR  
INCOMPLETELY

THAT THE PARTY IS THE PETITIONER IN THE ABOVE-ENTITLED  
APPEAL AND THAT ALL STATEMENTS IN THIS PETITION FOR  
POST CONVICTION RELIEF ARE TRUE AND CORRECT TO  
THE BEST OF HIS KNOWLEDGE AND BELIEF.

DATED @ FEB 6<sup>TH</sup> 2015

EVIN DEVAN  


-pg. \_\_\_\_\_



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 6<sup>TH</sup> day of FEB, 20 15, I mailed a copy of this PETITION FOR POST CONVICTION RELIEF for the purposes of filing with the court and of mailing a true and correct copy via prison mail system to the U.S. mail system to:

CANYON County Prosecuting Attorney  
1115 ALBANY STREET  
CALDWELL, IDAHO. 83605

  
Petitioner

Inmate name EVIN DEVAN  
IDOC No. 103006  
Address P.O. Box 14  
BOISE IDAHO 83707

**FILED**  
11/7/15 A.M. P.M.  
**FEB 13 2015**

**CANYON COUNTY CLERK  
B HATFIELD, DEPUTY**

Petitioner

IN THE DISTRICT COURT OF THE 3<sup>RD</sup> JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EVIN DEVAN,  
Petitioner,  
vs.  
STATE OF IDAHO,  
Respondent.

Case No. CV 2015 - 1285 - C  
**MOTION AND AFFIDAVIT IN  
SUPPORT FOR  
APPOINTMENT OF  
COUNSEL**

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

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

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

4. Other: \_\_\_\_\_.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

  
\_\_\_\_\_  
Petitioner

**AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL**

STATE OF IDAHO            )  
  ) ss  
County of ADA            )

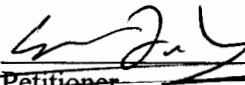
EVIN DEVAN \_\_\_\_\_, after first being duly sworn upon his/her oath, deposes and says as follows:

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

Further your affiant sayeth naught.

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

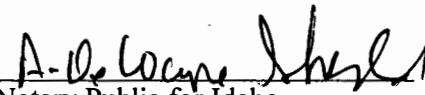
DATED This 27<sup>th</sup> day of JANUARY, 2015.

  
\_\_\_\_\_  
Petitioner

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 27 day of January, 2015.

(SEAL)

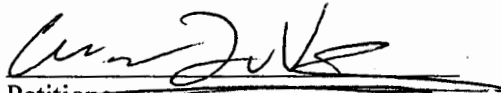


  
Notary Public for Idaho  
Commission expires: 11/06/19

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 6<sup>th</sup> day of FEB, 20 15, I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

CANYON County Prosecuting Attorney  
1115 ALBANY STREET  
CALDWELL, IDAHO, 83605

  
Petitioner

FILED  
A.M. P.M.

1197  
FEB 13 2015

CANYON COUNTY CLERK  
B HATFIELD, DEPUTY

EVIN DEVAN # 103006  
Full Name of Party Filing This Document  
P.O. Box 14  
Mailing Address (Street or Post Office Box)  
BOISE IDAHO 83707  
City, State and Zip Code  
N/A  
Telephone Number

IN THE DISTRICT COURT OF THE 3<sup>RD</sup> JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

EVIN DEVAN  
Plaintiff,  
vs.  
STATE OF IDAHO  
Defendant.

Case No.: CV 2015 - 1285 - C  
MOTION AND AFFIDAVIT FOR  
PERMISSION TO PROCEED ON PARTIAL  
PAYMENT OF COURT FEES (PRISONER)

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

STATE OF IDAHO )  
County of ADA ) ss.

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

1. This is an action for (type of case) POST CONVICTION RELIEF. I believe I'm entitled to get what I am asking for.

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

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

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

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

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

**IDENTIFICATION AND RESIDENCE:**

Name: EVIN DEVAN Other name(s) I have used: N/A

Address: P.O. Box 14 BOISE IDAHO 83707 (I.O.S.C.I.)

How long at that address? ~ 2 YEARS Phone: N/A

Date and place of birth: 2010.93, CALIFORNIA

**DEPENDENTS:**

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

Name of spouse: N/A

My other dependents (including minor children) are \_\_\_\_\_

**INCOME:**

Amount of my income: \$ 0 per [ ] week [] month

Other than my inmate account I have outside money from: N/A

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

**ASSETS:**

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

Your Address	City	State	Legal Description	Value	Equity
<del>2000 W</del>	<del>BOISE</del>	N/A			

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

Description (provide description for each item)	Value
Cash	0
Notes and Receivables	0
Vehicles:	0
Bank/Credit Union/Savings/Checking Accounts	0
Stocks/Bonds/Investments/Certificates of Deposit	0
Trust Funds	0
Retirement Accounts/IRAs/401(k)s	0
Cash Value Insurance	0
Motorcycles/Boats/RVs/Snowmobiles:	0
Furniture/Appliances	0
Jewelry/Antiques/Collectibles	0



**Description** (provide description for each item)

**Value**

TVs/Stereos/Computers/Electronics	N/A	0
Tools/Equipment		0
Sporting Goods/Guns		0
Horses/Livestock/Tack		0
Other (describe)		0
		0

**EXPENSES:** List all of your monthly expenses.

<b>Expense</b>	<b>Average Monthly Payment</b>
Rent/House Payment	N/A
Vehicle Payment(s)	
Credit Cards: (list each account number)	
Loans: (name of lender and reason for loan)	
Electricity/Natural Gas	
Water/Sewer/Trash	
Phone	
Groceries	
Clothing	
Auto Fuel	
Auto Maintenance	
Cosmetics/Haircuts/Salons	
Entertainment/Books/Magazines	
Home Insurance	

Expense		Average Monthly Payment
Auto Insurance	N/A	0
Life Insurance		0
Medical Insurance		0
Medical Expense		0
Other		0
		0
		0

**MISCELLANEOUS:**

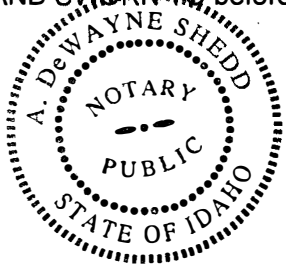
How much can you borrow? \$ 0 From whom? N/A  
 When did you file your last income tax return? NEVER Amount of refund: \$ 0

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

Name	Address	Phone	Years Known

*[Signature]*  
 Signature  
EVIN DEWAN  
 Typed or Printed Name

20 15 SUBSCRIBED AND SWORN TO before me this 27 day of January



*[Signature]*  
 Notary Public for Idaho  
 Residing at Boise  
 My Commission expires 11/06/19

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 11/25/2014 =

Doc No: 103006 Name: DEVAN, EVIN CHRISTOPHER  
 Account: CHK Status: ACTIVE

ISCI/UNT16 PRES FACIL  
 TIER-A CELL-33

Transaction Dates: 11/25/2013-11/25/2014

Beginning Balance	Total Charges	Total Payments	Current Balance
33.64	992.24	960.78	2.18

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
04/09/2014	IC0664470-140	099-COMM SPL		13.17DB	6.21
04/15/2014	IC0665000-073	099-COMM SPL		5.40DB	0.81
05/09/2014	IC0667671-002	070-PHOTO COPY	259138	0.50DB	0.31
05/13/2014	HQ0667952-015	011-RCPT MO/CC	41076	100.00	100.31
05/14/2014	IC0668241-008	078-MET MAIL	294901	0.21DB	100.10
05/21/2014	IC0668987-050	099-COMM SPL		11.95DB	88.15
05/28/2014	IC0669475-111	099-COMM SPL		11.55DB	76.60
06/03/2014	IC0670387-068	099-COMM SPL		12.26DB	64.34
06/04/2014	IC0670719-012	078-MET MAIL	273343	0.49DB	63.85
06/05/2014	IC0671044-003	078-MET MAIL	289370	0.49DB	63.36
06/06/2014	IC0671173-003	070-PHOTO COPY	297720	3.20DB	60.16
06/09/2014	IC0671306-005	078-MET MAIL	297725	0.98DB	59.18
06/11/2014	IC0671723-005	070-PHOTO COPY	297721	3.60DB	55.58
06/17/2014	IC0672231-121	099-COMM SPL		12.80DB	42.78
06/17/2014	IC0672231-122	099-COMM SPL		6.80DB	35.98
06/18/2014	IC0672408-019	078-MET MAIL	297726	0.21DB	35.77
06/24/2014	IC0672947-102	099-COMM SPL		10.47DB	25.30
06/24/2014	IC0672947-103	099-COMM SPL		7.42DB	17.88
06/24/2014	IC0672976-013	078-MET MAIL	297318	1.61DB	16.27
06/24/2014	IC0672994-003	071-MED CO-PAY	129082	5.00DB	11.27
06/26/2014	IC0673357-001	071-MED CO-PAY	129938	5.00DB	6.27
07/15/2014	IC0675444-107	099-COMM SPL		0.64DB	5.63
07/15/2014	IC0675444-108	099-COMM SPL		3.40DB	2.23
07/22/2014	IC0676116-062	099-COMM SPL		0.72DB	1.51
08/06/2014	IC0677989-019	071-MED CO-PAY	672515	5.00DB	3.49DB
08/11/2014	HQ0678648-013	011-RCPT MO/CC MAILROOM		100.00	96.51
08/12/2014	IC0678855-130	099-COMM SPL		7.95DB	88.56
08/14/2014	IC0679185-005	100-CR INM CMM		7.95	96.51
08/19/2014	IC0679592-088	099-COMM SPL		33.07DB	63.44
08/26/2014	IM0680208-001	099-COMM SPL		29.41DB	34.03
08/27/2014	IC0680544-004	100-CR INM CMM		29.41	63.44
09/04/2014	IC0681383-091	099-COMM SPL		23.12DB	40.32
09/04/2014	IC0681383-092	099-COMM SPL		7.88DB	32.44
09/09/2014	IC0682153-119	099-COMM SPL		3.40DB	29.04
09/09/2014	IC0682153-120	099-COMM SPL		4.37DB	24.67
09/10/2014	II0682350-003	100-CR INM CMM		19.72	44.39
09/11/2014	IC0682853-013	071-MED CO-PAY	689706	5.00DB	39.39
09/15/2014	II0683135-062	099-COMM SPL		11.07DB	28.32
09/15/2014	II0683238-002	100-CR INM CMM		4.37	32.69

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 11/25/2014 =

Doc No: 103006 Name: DEVAN, EVIN CHRISTOPHER  
 Account: CHK Status: ACTIVE

ISCI/UNT16 PRES FACIL  
 TIER-A CELL-33

Transaction Dates: 11/25/2013-11/25/2014

Beginning Balance	Total Charges	Total Payments	Current Balance
33.64	992.24	960.78	2.18

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
09/16/2014	II0683579-001	072-METER MAIL	226329	0.48DB	32.21
09/16/2014	II0683818-004	071-MED CO-PAY	688526	5.00DB	27.21
09/17/2014	IC0683997-002	100-CR INM CMM		11.07	38.28
09/26/2014	IC0684855-020	071-MED CO-PAY	687615	8.00DB	30.28
09/30/2014	IC0685206-075	099-COMM SPL		10.19DB	20.09
10/03/2014	IC0685903-001	100-CR INM CMM		10.19	30.28
10/08/2014	IC0686614-002	071-MED CO-PAY	674613	5.00DB	25.28
10/08/2014	IC0686614-003	071-MED CO-PAY	674243	5.00DB	20.28
10/13/2014	II0686977-061	099-COMM SPL		3.20DB	17.08
10/14/2014	II0687057-001	099-COMM SPL		1.96DB	15.12
10/16/2014	IC0687458-013	071-MED CO-PAY	673221	5.00DB	10.12
10/20/2014	II0687665-071	099-COMM SPL		1.92DB	8.20
10/22/2014	II0688207-003	100-CR INM CMM		1.96	10.16
10/24/2014	II0688476-004	317-CR MEDICAL COP B# 682853		8.00	18.16
10/27/2014	II0688598-057	099-COMM SPL		4.07DB	14.09
10/29/2014	HQ0688960-018	011-RCPT MO/CC	MAILROOM	100.00	114.09
11/03/2014	II0689477-063	099-COMM SPL		9.12DB	104.97
11/03/2014	II0689477-064	099-COMM SPL		5.00DB	99.97
11/04/2014	II0689880-019	071-MED CO-PAY	678060	11.00DB	88.97
11/04/2014	II0689889-004	100-CR INM CMM		0.37	89.34
11/10/2014	II0690649-074	099-COMM SPL		77.86DB	11.48
11/10/2014	II0690649-075	099-COMM SPL		6.40DB	5.08
11/13/2014	II0691058-001	072-METER MAIL	233680	1.82DB	3.26
11/17/2014	II0691290-067	099-COMM SPL		0.37DB	2.89
11/17/2014	II0691290-068	099-COMM SPL		2.76DB	0.13
11/17/2014	II0691367-008	071-MED CO-PAY	700960	8.00DB	7.87DB
11/18/2014	HQ0691477-002	011-RCPT MO/CC	MAILROOM	50.00	42.13
11/23/2014	II0692029-063	099-COMM SPL		25.56DB	16.57
11/23/2014	II0692029-064	099-COMM SPL		14.58DB	1.99
11/25/2014	II0692488-002	100-CR INM CMM		0.69	2.68
11/25/2014	HQ0692498-001	079-STATEMENT	218175	0.50DB	2.18

STATE OF IDAHO

Idaho Department of Correction

I hereby certify that the foregoing is a full, true and correct copy of an instrument as the same now remains on file and of record in my office.

WITNESS my hand hereto affixed this 25<sup>th</sup>

day of November A.D. 2014

by [Signature]

**FILED**  
A.M. P.M.

FEB 25 2015

CANYON COUNTY CLERK  
S FENNELL, DEPUTY

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

<b>EVIN DEVAN,</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>STATE OF IDAHO,</b>  <b>Defendants.</b>	<b>CASE NO. CV15-1285</b>  <b>ORDER APPOINTING COUNSEL</b>
---	--

The petitioner filed with the Court his Petition for Post-Conviction and Motion for Appointment of Counsel together with an Affidavit in Support for Appointment of Counsel.


The Court reviewed the petitioner's criminal file in regard to the above named defendant and found the petitioner to be indigent in this matter, and

NOW THEREFORE, IT IS HEREBY ORDERED that the Public Defender's Office be and is hereby appointed to represent the above named petitioner on his post-conviction proceeding in the above entitled matter.

IT IS FURTHERED ORDERED that the Public Defender's Office shall appoint conflict counsel if deemed necessary.

IT IS FURTHER ORDERED that any amended petition be filed together with any additional information for the Court's consideration within thirty (30) days.

Dated this 18<sup>th</sup> day of February, 2015.

  
Molly J. Huskey  
District Judge

CERTIFICATE OF SERVICE

STATE OF IDAHO,            )  
  ) ss  
COUNTY OF CANYON        )

I hereby certify that a true and correct copy of the foregoing Order was forwarded to the following persons:

Bryan Taylor  
Prosecutor  
1115 Albany  
Caldwell, Idaho 83605

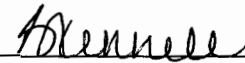
Tera Harden  
Chief Public Defender  
111 N. 11<sup>th</sup> Ave., Ste. 120  
Caldwell, Idaho 83605  
(copy petition provided)

Evin Devan #103006  
ISCI  
P.O. Box 14  
Boise, Idaho 83707

either by depositing the same in the U.S. mail, first class postage prepaid, or by personal service.

Dated this 25 day of February, 2015.

CHRIS YAMAMOTO, Clerk  
Clerk of District Court

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

FEB 25 2015

CANYON COUNTY CLERK  
S FENNELL, DEPUTY

EVAN DEVAN  
Full Name of Party Submitting This Document  
P.O. Box 14  
Mailing Address (Street or Post Office Box)  
BOISE IDAHO 83707  
City, State and Zip Code  
WA  
Telephone Number

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

EVAN DEVAN  
Plaintiff,  
vs.  
STATE OF IDAHO  
Defendant.

Case No.: CV 2015-1285-C

ORDER RE: PARTIAL PAYMENT OF  
COURT FEES (PRISONER)

Having reviewed the  Plaintiff's [ ] Defendant's Motion and Affidavit for Partial Payment of Court Fees,

THIS COURT FINDS AND ORDERS:

[ ] The average monthly deposits in the prisoner's inmate account total \$ \_\_\_\_\_, the average monthly balance in the prisoner's inmate account during the last six months has been \$ \_\_\_\_\_; 20% of the greater of these amounts is \$ \_\_\_\_\_ and must be paid as a partial initial fee at the time of filing. The prisoner shall make monthly payments of not less than 20% of the preceding month's income credited to the prisoner's inmate account until the remainder of the court filing fees in the amount of \$ \_\_\_\_\_ are paid in full. The agency or entity having custody of the prisoner shall forward payments from the prisoner's inmate account to the clerk of the court each time the amount in the prisoner's inmate account exceeds ten dollars (\$10.00) until the full amount is paid

or [ ] The prisoner has no assets and need not pay any fee at this time. The prisoner shall make monthly payments of not less than 20% of the preceding month's income credited to the prisoner's inmate account until the court filing fees in the amount of \$ \_\_\_\_\_ are paid in



full. The agency or entity having custody of the prisoner shall forward payments from the prisoner's inmate account to the clerk of the court each time the amount in the prisoner's inmate account exceeds ten dollars (\$10.00) until the full amount is paid.

or  THIS COURT DENIES the motion because *NO fees for indigent post conviction.*  
 the prisoner did not comply with all the requirements of Idaho Code §31-3220A , or  
 the Court finds the prisoner has the ability to pay the full filing fee at this time.

Date: Feb. 18, 2015 *Delly Hussey*  
Judge

CLERK'S CERTIFICATE OF SERVICE

I certify that a copy was served:

To Prisoner: EVAN DEVAN #103006  Hand-delivery  
Name: P.O. Box H  Mailing  
Address: BOISE IDAHO 83707  Fax to (number) \_\_\_\_\_  
City, State, Zip:

To  counsel for the county sheriff  the department of correction or  the private correctional facility:  
Name: \_\_\_\_\_  Hand-delivery  
Address: \_\_\_\_\_  Mailing  
City, State, Zip: \_\_\_\_\_  Fax to (number) \_\_\_\_\_

Date: 02/25/15 *Dennice*  
Deputy Clerk

FEB 26 2015

CANYON COUNTY CLERK  
B DOMINGUEZ, DEPUTY

**BRYAN F. TAYLOR, ISB #6400**  
**GREGORY N. SWANSON, ISB #3909**  
Canyon County Prosecuting Attorney  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391  
Facsimile: (208) 455-5955  
pamail@canyonco.org

Attorney for Respondent

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

EVIN DEVAN,  
  
Petitioner,

v.

STATE OF IDAHO,  
  
Respondent.

CASE NO. CV2015-01285

**ANSWER**

Respondent State of Idaho, by and through its attorney Gregory N. Swanson of the Canyon County Prosecuting Attorney's Office, hereby answers Petitioner's Petition for Post-Conviction Relief in the above-entitled action as follows:

1. Respondent denies all allegations contained in Petitioner's Petition for Post-Conviction Relief not herein expressly and specifically admitted.
2. Respondent admits paragraphs 1, 2, 3a, 3b, 4a, 4b, 5, 6 in Petitioner's Petition for Post-Conviction Relief.

**ANSWER**

CV2015-01285

3. Respondent denies paragraphs 7a, 7b, 9a, 9b, 9c, 12 in Petitioner's Petition for Post-Conviction Relief.

4. To the extent paragraphs 10, 11, in Petitioner's Petition for Post-Conviction Relief requires an answer, Respondent denies the same.

5. Attached hereto on a CD as Exhibits A- H are portions of the record that is material to the questions presented in Petitioner's Petition and which are available at the time this Answer is being filed.

- A. Amended Motion for Mistrial, Or in the Alternative, Motion for New Trial Filed January 27, 2012.
- B. Memorandum in Support of Motion for Mistrial, or in the Alternative. Motion for New Trial Filed January 27, 2012.
- C. Order Denying Defendant's Motion for a New Trial Filed February 23, 2012.
- D. Judgment and Commitment and Order of Probation on Suspended Execution of Judgment Filed March 19, 2012.
- E. Notice of Appeal Filed April 09, 2012.
- F. Amended Judgment and Commitment Filed May 31, 2013.
- G. Jury Trial Transcript
- H. Motion Hearings Transcripts

**FIRST AFFIRMATIVE DEFENSE**

Petitioner's Petition fails to state any grounds upon which relief can be granted. Petitioner's allegations as framed and supported are not viable under the Uniform Post-Conviction Relief Act. Petitioner has failed to support any allegation with evidence.

**SECOND AFFIRMATIVE DEFENSE**

Some or all of the Petitioner's claims should have been raised on direct appeal. 7(b),

**THIRD AFFIRMATIVE DEFENSE**

Petitioner's Petition is not supported by admissible evidence justifying any relief. Pursuant to *King v. State*, 114 Idaho 442 (Ct. App. 1988) "Bare allegations or mere conclusions, unsubstantiated by any fact are inadequate to entitle a petitioner to an evidentiary hearing." *Id.* 446. Respondent would argue that the entire Petition is subject to this defense. There was no affidavit provided in support of the Petition.

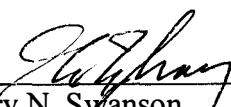
**FOURTH AFFIRMATIVE DEFENSE**

Petitioner's Petition fails to allege sufficient facts to warrant a finding that counsel's performance was deficient and/or that any deficiency prejudiced the Petitioner. *Buss v. State*, 147 Idaho 514 (Idaho App. 2009), *Vick v. State*, 131 Idaho 121 (Idaho App. 1998) Respondent would argue that the entire Petition is subject to this defense.

WHEREFORE, Respondent prays for relief as follows:


- a) That Petitioner's claims for Post-Conviction Relief be denied and/or dismissed;
- and
- b) For such other and further relief as the court deems necessary in the case.

DATED this 26th day of February, 2015.

  
\_\_\_\_\_  
Gregory N. Swanson  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer to be delivered to the Defendant's attorney of record by placing said copy in the Public Defender's basket in the Clerk's office on or about the 26th day of February, 2015.

  
\_\_\_\_\_  
Gregory N. Swanson  
Deputy Prosecuting Attorney

FEB 26 2015

CANYON COUNTY CLERK  
B DOMINGUEZ, DEPUTY

**BRYAN F. TAYLOR, ISB #6400**  
**GREGORY N. SWANSON, ISB #3909**  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391  
Facsimile: (208) 455-5955  
Email: [pamail@canyonco.org](mailto:pamail@canyonco.org)

Attorney for Respondent

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

EVIN DEVAN,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

CASE NO. CV2015-01285

**MOTION FOR WAIVER OF ATTORNEY-  
CLIENT PRIVILEGE**

COMES NOW, Gregory N. Swanson, Deputy Canyon County Prosecuting Attorney, and moves this court for an order for waiver of attorney-client privilege. Generally, the filing of a post-conviction motion alleging ineffective assistance of counsel is a waiver of the attorney-client privilege. *See* Molina v. State, 87 P.3d 533 (Nev. 2004); Waldrip v. Head, 532 S.E.2d 380 (Ga. 2000); Petersen v. Palmateer, 19 P.3d 364 (Or. Ct. App. 2001); Arbelaez v. State, 775 So.2d 909 (Fla. 2000). A waiver of the attorney-client privilege is not limited solely to the attorney's testimony, but extends also to documents in trial counsel's files. The purpose of the post-conviction proceeding is to determine the truth of the allegations that constitutional rights were violated. Thus, the defendant "cannot allege that he was deprived of his constitutional

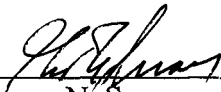
**MOTION FOR WAIVER OF  
ATTORNEY-CLIENT PRIVILEGE**

CV2015-01285

rights and then invoke the shield of the attorney-client privilege to prevent an accurate determination of the merit of his claim." Waldrip, 532 S.E.2d at 386. The state is permitted to discover pretrial communications between the defendant and counsel as well as the files and records which pertain to the claim, including work-product material. State v. Buckner, 527 S.E.2d 307 (N.C. 2001).

For the reasons set forth above, Respondent requests the Court issue an order for waiver of attorney-client privilege. The attorney of record pertinent to this motion is Kenneth Stringfield.

DATED this 26th day of February, 2015.


  
\_\_\_\_\_  
Gregory N. Swanson  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26th day of February, 2015, a true and correct copy of the foregoing **MOTION FOR WAIVER OF ATTORNEY-CLIENT PRIVILEGE** was served on the following in the manner indicated.

Canyon County Public Defender  
111 N. 11<sup>th</sup> Ave. Ste. #120  
Caldwell, Idaho 83605

- U.S. Mail
- Placed in PD basket in Clerk's Office
- Facsimile
- Hand Delivery

  
\_\_\_\_\_  
Gregory N. Swanson  
Deputy Prosecuting Attorney

**FILED**  
A.M. 3:44 P.M.

FEB 26 2015

CANYON COUNTY CLERK  
B DOMINGUEZ, DEPUTY

**BRYAN F. TAYLOR, ISB #6400**  
**GREGORY N. SWANSON, ISB #3909**  
CANYON COUNTY PROSECUTING ATTORNEY  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391  
Facsimile: (208) 455-5955  
Email: [pamail@canyonco.org](mailto:pamail@canyonco.org)

Attorney for Respondent

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

EVIN DEVAN,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

CASE NO. CV2015-01285

**MOTION FOR SUMMARY DISMISSAL**

Respondent State of Idaho, by and through its attorney Gregory N. Swanson of the Canyon County Prosecuting Attorney's Office, hereby moves this Court for an Order dismissing this Petition on the basis that, in light of the pleadings, answers, admissions, and the record of the underlying criminal case, the petition fails to raise and support genuine issue of material facts sufficient to withstand a motion for summary dismissal. In fact, there was no evidence or supporting affidavit filed in this matter to support the Petition.

**MOTION FOR SUMMARY DISMISAL**

CV2015-01285

Page 1 of 5



**BACKGROUND OF CASE**

Petitioner was charged with Conspiracy to Commit Burglary and Burglary. A jury trial was held on January 11<sup>th</sup>, 2012 before the Honorable James C. Morfitt. Petitioner was found guilty of both charges and in addition, a consolidated misdemeanor trespassing charge. The Petitioner was sentenced before the Honorable Molly J. Huskey on March 9, 2012. He was sentenced to two (2) years fixed followed by three (3) years indeterminate for a unified sentence of five (5) years. The Court suspended that sentence and placed Petitioner on probation. The sentences on each count were ordered to run concurrent to each other. Petitioner filed his Notice of Appeal on April 9, 2012.<sup>1</sup> The Supreme Court of Idaho affirmed his conviction on November 7, 2014 with the resulting remittitur being filed with the District Court on February 14<sup>th</sup>, 2014. The Petition for Post-Conviction relief was filed on February 13, 2015.

**Allegations**

Petitioner in his pro se Petition filed the following allegations:

7(a) Ineffective assistance of Council [sic]

7(b) New Evidence.

9(a) Secure Witnesses

9(b) Failure to Object

9(c) Failure to Investigate Defence. [sic]

**STANDARDS FOR POST-CONVICTION CASES**

Pursuant to case law, the Respondent would submit the following quote from *Vick v. State* 131 Idaho 121 ( Idaho App.1998). This lengthy quote summarizes and sets forth the basic

---

<sup>1</sup> Petitioner had an intervening probation violation and his sentence was imposed on May 20<sup>th</sup>, 2013.

case law and standards as articulated by Idaho courts that apply to Post-Conviction cases:

An application for post-conviction relief filed pursuant to the Uniform Post-Conviction Procedure Act is civil in nature and is governed by the *Idaho Rules of Civil Procedure*. *Pizzuto v. State*, 127 Idaho 469, 470, 903 P.2d 58, 59 (1995). A district court's "[s]ummary dismissal of an application pursuant to § 19-4906 is the procedural equivalent of summary judgment under I.R.C.P. 56." *Medrano v. State*, 127 Idaho 639, 642, 903 P.2d 1336, 1339 (Ct.App.1995). If an applicant facing a motion for summary dismissal fails to present evidence making a prima facie case, then summary dismissal is appropriate. *Roman v. State*, 125 Idaho 644, 647, 873 P.2d 898, 901 (Ct.App.1994). Furthermore, an application for post-conviction relief must present or be accompanied by admissible evidence to avoid summary dismissal. *Medrano*, 127 Idaho at 642-43, 903 P.2d at 1339-40. Thus, the threshold issue on "appeal from the summary dismissal of an application for post-conviction relief is whether the application, affidavits, or other evidence supporting the application allege facts which, if true, would entitle the applicant to relief." *Roman*, 125 Idaho at 647, 873 P.2d at 901, citing *Whitehawk v. State*, 116 Idaho 831, 780 P.2d 153 (Ct.App.1989).

*Vick*, at 122.

This Court has recognized that the UPCPA is an appropriate vehicle for considering claims of ineffective assistance of counsel. *Nellsch v. State*, 122 Idaho 426, 430, 835 P.2d 661, 665 (Ct.App.1992). In order to prevail on an ineffective assistance of counsel claim brought pursuant to the UPCPA, an applicant must demonstrate both "that his attorney's performance was deficient, and that he was prejudiced thereby." *Hassett v. State*, 127 Idaho 313, 316, 900 P.2d 221, 224 (Ct.App.1995), citing *Davis v. State*, 116 Idaho 401, 406, 775 P.2d 1243, 1248 (Ct.App.1989). To show deficient performance, a defendant must overcome the strong presumption that counsel's performance was adequate by demonstrating "that counsel's representation did not meet objective standards of competence." *Roman v. State*, 125 Idaho 644, 648-49, 873 P.2d 898, 902-03 (Ct.App.1994). If a defendant succeeds in establishing that counsel's performance was deficient, he must also "show there is a reasonable probability that, but for counsel's unprofessional errors, the results of the proceeding would have been different." *Id.* at 649, 873 P.2d at 903 (citations omitted).

*Id.*, at 124

"This Court has recognized that the UPCPA is an appropriate vehicle for considering claims of ineffective assistance of counsel. *Nellsch v. State*, 122 Idaho 426, 430, 835 P.2d 661, 665 (Ct.App.1992). In order to prevail on an ineffective assistance of counsel claim brought pursuant to the UPCPA, an applicant must demonstrate both "that his attorney's performance was

deficient, and that he was prejudiced thereby." *Hassett v. State*, 127 Idaho 313, 316, 900 P.2d 221, 224 (Ct.App.1995), citing *Davis v. State*, 116 Idaho 401, 406, 775 P.2d 1243, 1248 (Ct.App.1989). To show deficient performance, a defendant must overcome the strong presumption that counsel's performance was adequate by demonstrating "that counsel's representation did not meet objective standards of competence." *Roman v. State*, 125 Idaho 644, 648-49, 873 P.2d 898, 902-03 (Ct.App.1994). If a defendant succeeds in establishing that counsel's performance was deficient, he must also "show there is a reasonable probability that, but for counsel's unprofessional errors, the results of the proceeding would have been different." *Id.* at 649, 873 P.2d at 903 (citations omitted).

*Id.*, at 124

#### **ARGUMENT/ANALYSIS**

Petitioner has failed to provide a detailed and comprehensive Petition that sets forth his allegations in other than a cursory or conclusory fashion. In fact, there is no evidence provided whatsoever.


"To withstand summary dismissal, a post-conviction applicant must present evidence establishing a prima facie case as to each element of the claims upon which the applicant bears the burden of proof." *State v. Lovelace*, 140 Idaho 53, 72, 90 P.3d 278, 297 (2003). Thus, a claim for post-conviction relief is subject to summary dismissal "if the applicant's evidence raises no genuine issue of material fact" as to each element of petitioner's claims. *Workman v. State*, 144 Idaho 518, 522, 164 P.3d 798,802 (2007). There simply is no evidence of deficiency. A genuine issue of material fact can only exist for allegations of ineffective assistance where Petitioner has demonstrated that his attorney's performance was deficient, and that he was prejudiced thereby. *Hayes v. State*, 143 Idaho 88, 92, 137 P.3d 475, 479 (Ct. App. 2006). There has been no evidence

of prejudice in this record . *Strickland v. Washington*. 466 U.S. 668, 104 S.Ct. 2052, 89 L.Ed.2d (1984).

**CONCLUSION**

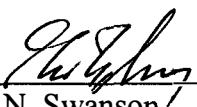
Pursuant to the above argument, coupled with the Petitioner’s failure to provide substantiation of the claims <sup>2</sup>, the Respondent hereby moves this Court to dismiss this Petition upon the grounds that there are no material issues of fact and the Respondent is entitled to Judgment as a matter of law.

DATED this 26th day of February 2015.

  
\_\_\_\_\_  
Gregory N. Swanson  
Attorney for Respondent

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing **Motion for Summary Dismissal** to be delivered to the Defendant’s attorney of record by placing said copy in the Public Defender’s basket in the Clerk’s office on or about the 26<sup>th</sup> day of February, 2015.

  
\_\_\_\_\_  
Gregory N. Swanson  
Deputy Prosecuting Attorney

<sup>2</sup> The Respondent would argue that the Petition itself is defective and should be dismissed without further hearing as the claims are so deficient that they are not even complete allegations.

**FILED**  
A.M. 12:22 P.M.

MAR 02 2015

CANYON COUNTY CLERK  
B DOMINGUEZ, DEPUTY

**BRYAN F. TAYLOR, ISB #6400**  
**GREGORY N. SWANSON, ISB #3909**  
Canyon County Prosecuting Attorney  
Canyon County Courthouse  
1115 Albany Street  
Caldwell, Idaho 83605  
Telephone: (208) 454-7391  
Facsimile: (208) 455-5955  
pamail@canyonco.org

Attorney for Respondent

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

EVIN DEVAN,  
  
Petitioner,

v.

STATE OF IDAHO,  
  
Respondent.

CASE NO. CV2015-01285

**ORDER FOR WAIVER OF ATTORNEY-CLIENT PRIVILEGE**

The Court having considered Respondent's Motion for Waiver of Attorney-Client Privilege and there being no objection by Petitioner's Counsel, and good cause appearing;

IT IS HEREBY ORDERED that the attorney-client privilege is hereby waived in regards to attorney Kenneth Stringfield and Petitioner. This Order shall extend to the communications, documents, papers, and/or theories or matters that touch upon and relate to the issues raised by or framed by Petitioner's Petition for Post-Conviction Relief.

**ORDER FOR WAIVER OF ATTORNEY-CLIENT PRIVILEGE**

CV2015-01285

**ORIGINAL**

DATED this 27<sup>th</sup> day of February, 2015



MOLLY J. HUSKEY  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2 day of ~~February~~ <sup>March</sup>, 2015, a true and correct copy of the foregoing **Order for Waiver of Attorney-Client Privilege** was served on the following in the manner indicated.

Public Defender  
111 N. 11<sup>th</sup> Ave. Ste. #120  
Caldwell, Idaho 83605

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

Canyon County Prosecutor's Office  
1115 Albany Street  
Caldwell, ID 83605

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



Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, AND FOR THE COUNTY OF CANYON  
PRESIDING: **MOLLY J. HUSKEY** DATE: MARCH 09, 2015

EVIN CHRISTOPHER DEVAN,	)	COURT MINUTE
	)	
	)	CASE NO. CV-2015-01285-C
Petitioner,	)	
	)	TIME: 1:30 P.M.
vs	)	
	)	REPORTED BY: Laura Whiting
STATE OF IDAHO,	)	
	)	DCRT 2 (139-141)
Respondent.	)	
_____	)	

This having been the time heretofore set for **status conference** in the above entitled matter, the Petitioner was not present but was represented by Mr. Randall Grove. The Respondent was represented by Mr. Gregory Swanson.

The Court noted the Petition was filed the 13<sup>th</sup> day of February 2015.

The Court instructed Mr. Grove to file an Amended Petition if desired no later than the 11<sup>th</sup> day of May 2015.

Mr. Grove advised the Court he may have a conflict in this case, but needed to speak with the Petitioner on the issue.

The Court set this matter for **further status conference 11<sup>th</sup> day of May 2015 at 1:30 p.m.**

-----

  
Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, AND FOR THE COUNTY OF CANYON  
PRESIDING: **MOLLY J. HUSKEY** DATE: MAY 11, 2015

EVIN CHRISTOPHER DEVAN, )  
) )  
) )  
Petitioner, )  
) )  
vs )  
) )  
STATE OF IDAHO, )  
) )  
Respondent. )  
\_\_\_\_\_ )

COURT MINUTE  
CASE NO. CV-2015-01285-C  
TIME: 1:30 P.M.  
REPORTED BY: Laura Whiting  
DCRT 2 (209-212)

This having been the time heretofore set for **status conference** in the above entitled matter, the Petitioner was not present but was represented by Ms. Danielle Scarlett for Mr. Michael Nelson. The Respondent was represented by Mr. Gregory Swanson.

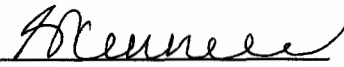
The Court noted the State filed a Motion for Summary Dismissal in this matter.

Ms. Scarlett indicated she was not prepared to argue the motion as she was merely filling in for Mr. Nelson who was just appointed as conflict counsel.

The Court reviewed procedural history and noted Mr. Nelson was appointed in March 2015.

The Court set this matter for **Motion for Summary Dismissal the 13<sup>th</sup> day of July 2015 at 2:30 p.m.**

-----

  
Deputy Clerk



IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, AND FOR THE COUNTY OF CANYON  
PRESIDING: **MOLLY J. HUSKEY** DATE: JULY 10, 2015

EVIN CHRISTOPHER DEVAN, )  
)  
)  
Petitioner, )  
)  
vs )  
)  
STATE OF IDAHO, )  
)  
Respondent. )  
\_\_\_\_\_ )

COURT MINUTE  
CASE NO. CV-2015-01285-C  
TIME: 2:30 P.M.  
REPORTED BY: Laura Whiting  
DCRT 4 (331-332)

This having been the time heretofore set for **Motion for Summary Dismissal** in the above entitled matter, the Petitioner was not present but was represented by Mr. Michael Nelson. The Respondent was represented by Mr. Gregory Swanson.

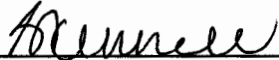
The Court reviewed its understanding of the motion set to be heard this date.

Mr. Swanson advised the Court the State would stand on the pleadings filed in this case.

Mr. Nelson made comments for the record and submitted on the motion.

The Court took the motion **under advisement** and indicated a written decision would be forthcoming.

-----

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

FILED  
A.M. P.M.

JUL 14 2015

CANYON COUNTY CLERK  
A YOUNG, DEPUTY

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

EVIN DEVAN,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

CASE NO. CV-2015-1285

ORDER GRANTING THE STATE'S  
MOTION AND DISMISSING THE  
PETITION FOR POST-CONVICTION  
RELIEF

Following a jury trial, the Petitioner was convicted of conspiracy to commit burglary, burglary, and misdemeanor trespass. Petitioner filed an appeal, which was denied. The Petitioner thereafter timely filed his petition for post-conviction relief and requested the appointment of counsel. Counsel was appointed. Petitioner raises the following claims:

1. Ineffective assistance of counsel for;
  - a. Failing to get witnesses;
  - b. Failing to object;
  - c. Failing to investigate defense.

ORDER GRANTING THE STATE'S MOTION AND DISMISSING THE PETITION -  
Page -1

2. New evidence

The petition is not verified, nor is there any declaration or affidavit. The State filed a Motion for Summary Dismissal and the case came before the Court for argument on July 10, 2015. Based on the Record and the arguments submitted in this case, the Court HEREBY GRANTS the State's motion.

Standards for Post-Conviction

The grounds for filing a post- conviction petition are outlined in Idaho Code § 19-4901. Idaho Code § 19-4903 requires that facts within the personal knowledge of the Petitioner that support his claim shall be set forth in an affidavit and attached to the Petition.

An application for post-conviction relief initiates a proceeding which is civil in nature. Like a plaintiff in a civil action, the applicant must prove by a preponderance of evidence the allegations upon which the request for post-conviction relief is based. An application for post-conviction relief differs from a complaint in an ordinary civil action, however, for an application must contain much more than "a short and plain statement of the claim" that would suffice for a complaint under I.R.C.P. 8(a)(1). Rather, an application for post-conviction relief must be verified with respect to facts within the personal knowledge of the applicant, and affidavits, records or other evidence supporting its allegations must be attached, or the application must state why such supporting evidence is not included with the application. I.C. § 19-4903. In other words, the application must present or be accompanied by admissible evidence supporting its allegations, or the application will be subject to dismissal.

*Baker v. State*, 142 Idaho 411, 415-16, 128 P.3d 948, 952-53 (Ct. App. 2005) (internal citations omitted).

Summary disposition of a petition for post-conviction relief is appropriate if the applicant's evidence raises no genuine issue of material fact. On review of a dismissal of a post-conviction relief application without an evidentiary hearing, this Court will determine whether a genuine issue of fact exists based on the pleadings, depositions and admissions together with any affidavits on file and will liberally construe the facts and reasonable inferences in favor of the non-moving party. A court is required

to accept the petitioner's un rebutted allegations as true, but need not accept the petitioner's conclusions. When the alleged facts, even if true, would not entitle the applicant to relief, the trial court may dismiss the application without holding an evidentiary hearing. Allegations contained in the application are insufficient for the granting of relief when (1) they are clearly disproved by the record of the original proceedings, or (2) do not justify relief as a matter of law.

*Kelly v. State*, 149 Idaho 517, 521, 236 P.3d 1277, 1281 (2010)

In order to establish that his attorney rendered ineffective assistance of counsel, the Petitioner must show:

Counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

*Workman v. State*, 144 Idaho 518, 525, 164 P.3d 798, 805 (2007), *citing Strickland v.*

*Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 693 (1984).

Furthermore,

In assessing the reasonableness of attorney performance, this Court has cautioned that "judicial scrutiny must be highly deferential and every effort must 'be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time.' " Furthermore, tactical or strategic decisions of trial counsel will not be second-guessed on appeal unless those decisions are based on "inadequate preparation, ignorance of the relevant law, or other shortcomings capable of objective review." Even where the defendant carries her burden of establishing deficient performance, she must also show a reasonable probability that but for counsel's performance, the result of the trial would have been different.

*Johnson v. State*, 156 Idaho 7, 11, 319 P.3d 491, 495 (2014) (internal citations omitted).

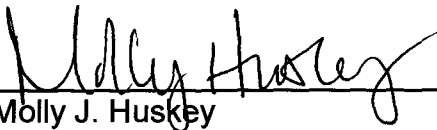
Petitioner has alleged no facts to support his petition, nor has he established any

prejudice. Because there is no factual basis on which to determine the existence of a genuine issue of material fact, the Court HEREBY GRANTS the State's Motion for Summary Dismissal.

Conclusion

Based on the above, the Court HEREBY GRANTS the State's Motion to Dismiss and dismisses the petition with prejudice.

Dated this 11<sup>th</sup> day of July, 2015.

  
\_\_\_\_\_  
Molly J. Huskey  
District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that on the 14 day of July, 2015, s/he served a true and correct copy of the original of the foregoing ORDER GRANTING THE STATE'S MOTION AND DISMISSING THE PETITION on the following individuals in the manner described:

- upon counsel for Petitioner

Michael J. Nelson  
915 12<sup>th</sup> Avenue S., Ste 2  
Nampa, Idaho 83651

- upon counsel for Respondent:

Gregory Swanson  
Canyon County Prosecuting Attorney  
1115 North Albany Street  
Caldwell, ID 83605

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

CHRIS YAMAMOTO,  
Clerk of the Court

By: A Young  
Deputy Clerk of the Court

FILED  
11:07 AM P.M.

JUL 14 2015

CANYON COUNTY CLERK  
A YOUNG, DEPUTY

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

EVIN DEVAN,

Petitioner,

vs.

STATE OF IDAHO,

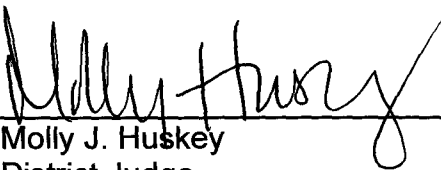
Respondent.

CASE NO. CV-2015-1285

FINAL JUDGMENT

JUDGMENT IS ENTERED AS FOLLOWS: The Petition for Post-Conviction Relief is DISMISSED WITH PREJUDICE.

Dated this 11 day of July, 2015.

  
Molly J. Huskey  
District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that on the 14 day of July, 2015, s/he served a true and correct copy of the original of the foregoing FINAL JUDGMENT on the following individuals in the manner described:

- upon counsel for Petitioner

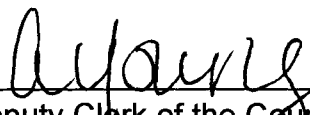
Michael J. Nelson  
915 12<sup>th</sup> Avenue S., Ste 2  
Nampa, Idaho 83651

- upon counsel for Respondent:

Gregory Swanson  
Canyon County Prosecuting Attorney  
1115 North Albany Street  
Caldwell, ID 83605

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

CHRIS YAMAMOTO,  
Clerk of the Court

By:   
Deputy Clerk of the Court



FILED  
A.M. P.M.

AUG 21 2015

CANYON COUNTY CLERK  
SALSUP, DEPUTY

Inmate Name EVIN DeVAN  
IDOC No. 103006  
Address P.O. Box 51  
BOISE, ID, 83707-0051

Appellant

IN THE DISTRICT COURT OF THE 3<sup>RD</sup> JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR CANYON COUNTY

EVIN DEVAN,

Petitioner-Appellant,

v.

STATE OF IDAHO,

Respondent.

CASE NO. CV02015-0001285 EC

S.C. DOCKET NO. \_\_\_\_\_

**NOTICE OF APPEAL**  
Post Conviction

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

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the entered in the above-entitled action on the 7-14-15 (DATE), the Honorable Nelly Hoskey (NAME OF JUDGE) presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c)(1-10), I.A.R.
3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

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

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

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

(a) The Status Hearing held on 309.19 (DATE OF HEARING); and

(b) The Evidentiary Hearing held on \_\_\_\_\_ (DATE OF HEARING).

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

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

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

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

PORTIONS OF RECORD WHICH THE DISTRICT  
COURT TOOK JUDICIAL NOTICE.

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

DATED this 12<sup>TH</sup> day of AUGUST, 2015.

  
\_\_\_\_\_  
Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 14<sup>th</sup> day of August, 2019, I mailed a true and correct copy of the attached NOTICE OF APPEAL via prison mail system for processing to the United States mail system, postage prepaid, addressed to:

- 1.) Deputy Attorney General  
Criminal Division  
P.O. Box 83720  
Boise, ID 83720-0010
  
- 2.) CANYON County Prosecuting Attorney  
1115<sup>TH</sup> ALBANY STREET  
CALDWELL, IDAHO, 83605
  
- 3.)   
Signature  
CANYON COUNTY CLERK  
1115<sup>TH</sup> ALBANY STREET  
CALDWELL, IDAHO, 83605
  
- 4.) 3<sup>RD</sup> DISTRICT COURT  
LAURA WHITTING  
COURT REPORTER  
1115<sup>TH</sup> ALBANY STREET  
CALDWELL, IDAHO, 83605

AUG 21 2015

CANYON COUNTY CLERK  
SALSUP, DEPUTY

Inmate name EVIN DEVAN  
IDOC No. 103006  
Address P.O. Box 51  
BOISE, IDAHO, 83707-0051

Defendant-Appellant

IN THE DISTRICT COURT OF THE 3<sup>RD</sup> JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO, )  
)  
Plaintiff-Respondent, )  
)  
vs. )  
EVIN DEVAN )  
)  
Defendant-Appellant. )

Case No. CV15-01285

MOTION AND AFFIDAVIT IN  
SUPPORT FOR  
APPOINTMENT OF  
COUNSEL

COMES NOW, EVIN DEVAN, Defendant-Appellant in the

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

1. Defendant-Appellant is currently incarcerated within the Idaho Department of Corrections under the direct care, custody and control of Warden RANIERZ, of the IMSI.

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

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 1

Revised: 10/17/05

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

4. Other: \_\_\_\_\_

DATED this 12 day of AUGUST, 2015.

  
\_\_\_\_\_  
Defendant-Appellant

**AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL**

STATE OF IDAHO            )  
  ) ss  
County of Ada            )

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

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

Further your affiant sayeth naught.

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

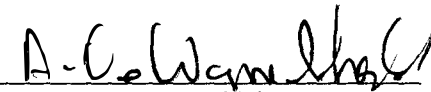
DATED This \_\_\_\_\_ day of August, 2015.

  
\_\_\_\_\_  
Defendant-Appellant

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 14 day  
of August, 2015.

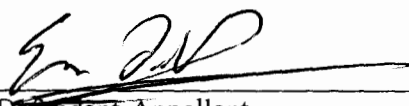
(SEAL)



  
\_\_\_\_\_  
Notary Public for Idaho  
Commission expires: 11/06/19

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 14<sup>th</sup> day of AUGUST, 20 15, I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

- 1.) Deputy Attorney General  
Criminal Division  
P.O. Box 83720  
Boise, ID 83720-0010
  
- 2.) CANYON County Prosecuting Attorney  
115<sup>th</sup> ALBANY STREET  
CALDWELL, IDAHO, 83605
  
- 3.)   
Defendant-Appellant  
3<sup>rd</sup> DISTRICT COURT  
COUNTY CLERK  
115<sup>th</sup> ALBANY STREET  
CALDWELL, IDAHO, 83605



= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 08/04/2015 =

Doc No: 103006 Name: DEVAN, EVIN CHRISTOPHER  
 Account: CHK Status: INDIGENT

IMSI/A-BLK PRES FACIL  
 TIER-3 CELL-68

Transaction Dates: 06/21/2013-08/04/2015

Beginning Balance		Total Charges	Total Payments	Current Balance	
116.88		1620.40	1472.60	30.92DB	
===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
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12/31/2013	IC0653718-167	099-COMM SPL		13.40DB	30.13
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01/10/2014	IC0655050-015	078-MET MAIL	241816	0.92DB	23.60
01/14/2014	IC0655318-159	099-COMM SPL		6.80DB	16.80
01/16/2014	HQ0655592-008	011-RCPT MO/CC	32814	100.00	116.80
01/22/2014	IC0656084-005	099-COMM SPL		8.66DB	108.14
01/22/2014	IC0656084-006	099-COMM SPL		32.16DB	75.98
01/27/2014	HQ0656491-003	011-RCPT MO/CC	33356	100.00	175.98
01/29/2014	IC0656790-017	078-MET MAIL	284943	0.20DB	175.78
01/29/2014	IC0656807-010	071-MED CO-PAY	123671	5.00DB	170.78
01/29/2014	IC0656807-013	071-MED CO-PAY	126117	5.00DB	165.78
02/07/2014	HQ0657876-001	011-RCPT MO/CC	34122	100.00	265.78
02/07/2014	IC0657954-002	078-MET MAIL	289355	0.70DB	265.08
02/12/2014	IC0658316-004	099-COMM SPL		9.69DB	255.39
02/19/2014	IC0658916-051	099-COMM SPL		7.43DB	247.96
02/26/2014	IC0659691-044	099-COMM SPL		30.21DB	217.75
02/26/2014	IC0659691-045	099-COMM SPL		6.75DB	211.00
03/03/2014	IC0660192-003	070-PHOTO COPY	257775	1.00DB	210.00
03/04/2014	IC0660373-106	099-COMM SPL		20.23DB	189.77
03/04/2014	IC0660373-107	099-COMM SPL		42.74DB	147.03
03/04/2014	IC0660444-013	078-MET MAIL	284945	1.61DB	145.42
03/07/2014	IC0660997-001	317-REFUND MEDICAL	656807-10	5.00	150.42
03/11/2014	IC0661369-070	099-COMM SPL		30.11DB	120.31
03/12/2014	IC0661525-051	099-COMM SPL		33.60DB	86.71
03/14/2014	IC0661827-010	078-MET MAIL	262861	0.49DB	86.22
03/14/2014	HQ0661853-008	011-RCPT MO/CC	36917	100.00	186.22
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03/19/2014	IC0662169-140	099-COMM SPL		50.47DB	117.99
03/26/2014	IC0662901-107	099-COMM SPL		16.70DB	101.29
03/26/2014	IC0662901-108	099-COMM SPL		58.58DB	42.71
04/02/2014	IC0663645-106	099-COMM SPL		23.33DB	19.38
04/09/2014	IC0664470-140	099-COMM SPL		13.17DB	6.21
04/15/2014	IC0665000-073	099-COMM SPL		5.40DB	0.81
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05/13/2014	HQ0667952-015	011-RCPT MO/CC	41076	100.00	100.31
05/14/2014	IC0668241-008	078-MET MAIL	294901	0.21DB	100.10
05/21/2014	IC0668987-050	099-COMM SPL		11.95DB	88.15
05/28/2014	IC0669475-111	099-COMM SPL		11.55DB	76.60

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 08/04/2015 =

Doc No: 103006 Name: DEVAN, EVIN CHRISTOPHER  
 Account: CHK Status: INDIGENT

IMSI/A-BLK PRES FACIL  
 TIER-3 CELL-68

Transaction Dates: 06/21/2013-08/04/2015

Beginning Balance	Total Charges	Total Payments	Current Balance
116.88	1620.40	1472.60	30.92DB

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
06/03/2014	IC0670387-068	099-COMM SPL		12.26DB	64.34
06/04/2014	IC0670719-012	078-MET MAIL	273343	0.49DB	63.85
06/05/2014	IC0671044-003	078-MET MAIL	289370	0.49DB	63.36
06/06/2014	IC0671173-003	070-PHOTO COPY	297720	3.20DB	60.16
06/09/2014	IC0671306-005	078-MET MAIL	297725	0.98DB	59.18
06/11/2014	IC0671723-005	070-PHOTO COPY	297721	3.60DB	55.58
06/17/2014	IC0672231-121	099-COMM SPL		12.80DB	42.78
06/17/2014	IC0672231-122	099-COMM SPL		6.80DB	35.98
06/18/2014	IC0672408-019	078-MET MAIL	297726	0.21DB	35.77
06/24/2014	IC0672947-102	099-COMM SPL		10.47DB	25.30
06/24/2014	IC0672947-103	099-COMM SPL		7.42DB	17.88
06/24/2014	IC0672976-013	078-MET MAIL	297318	1.61DB	16.27
06/24/2014	IC0672994-003	071-MED CO-PAY	129082	5.00DB	11.27
06/26/2014	IC0673357-001	071-MED CO-PAY	129938	5.00DB	6.27
07/15/2014	IC0675444-107	099-COMM SPL		0.64DB	5.63
07/15/2014	IC0675444-108	099-COMM SPL		3.40DB	2.23
07/22/2014	IC0676116-062	099-COMM SPL		0.72DB	1.51
08/06/2014	IC0677989-019	071-MED CO-PAY	672515	5.00DB	3.49DB
08/11/2014	HQ0678648-013	011-RCPT MO/CC	MAILROOM	100.00	96.51
08/12/2014	IC0678855-130	099-COMM SPL		7.95DB	88.56
08/14/2014	IC0679185-005	100-CR INM CMM		7.95	96.51
08/19/2014	IC0679592-088	099-COMM SPL		33.07DB	63.44
08/26/2014	IM0680208-001	099-COMM SPL		29.41DB	34.03
08/27/2014	IC0680544-004	100-CR INM CMM		29.41	63.44
09/04/2014	IC0681383-091	099-COMM SPL		23.12DB	40.32
09/04/2014	IC0681383-092	099-COMM SPL		7.88DB	32.44
09/09/2014	IC0682153-119	099-COMM SPL		3.40DB	29.04
09/09/2014	IC0682153-120	099-COMM SPL		4.37DB	24.67
09/10/2014	II0682350-003	100-CR INM CMM		19.72	44.39
09/11/2014	IC0682853-013	071-MED CO-PAY	689706	5.00DB	39.39
09/15/2014	II0683135-062	099-COMM SPL		11.07DB	28.32
09/15/2014	II0683238-002	100-CR INM CMM		4.37	32.69
09/16/2014	II0683579-001	072-METER MAIL	226329	0.48DB	32.21
09/16/2014	II0683818-004	071-MED CO-PAY	688526	5.00DB	27.21
09/17/2014	IC0683997-002	100-CR INM CMM		11.07	38.28
09/26/2014	IC0684855-020	071-MED CO-PAY	687615	8.00DB	30.28
09/30/2014	IC0685206-075	099-COMM SPL		10.19DB	20.09
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10/08/2014	IC0686614-002	071-MED CO-PAY	674613	5.00DB	25.28

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 08/04/2015 =

Doc No: 103006 Name: DEVAN, EVIN CHRISTOPHER  
 Account: CHK Status: INDIGENT

IMSI/A-BLK PRES FACIL  
 TIER-3 CELL-68

Transaction Dates: 06/21/2013-08/04/2015

Beginning Balance	Total Charges	Total Payments	Current Balance
116.88	1620.40	1472.60	30.92DB

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
10/08/2014	IC0686614-003	071-MED CO-PAY	674243	5.00DB	20.28
10/13/2014	II0686977-061	099-COMM SPL		3.20DB	17.08
10/14/2014	II0687057-001	099-COMM SPL		1.96DB	15.12
10/16/2014	IC0687458-013	071-MED CO-PAY	673221	5.00DB	10.12
10/20/2014	II0687665-071	099-COMM SPL		1.92DB	8.20
10/22/2014	II0688207-003	100-CR INM CMM		1.96	10.16
10/24/2014	II0688476-004	317-CR MEDICAL COP	B# 682853	8.00	18.16
10/27/2014	II0688598-057	099-COMM SPL		4.07DB	14.09
10/29/2014	HQ0688960-018	011-RCPT MO/CC	MAILROOM	100.00	114.09
11/03/2014	II0689477-063	099-COMM SPL		9.12DB	104.97
11/03/2014	II0689477-064	099-COMM SPL		5.00DB	99.97
11/04/2014	II0689880-019	071-MED CO-PAY	678060	11.00DB	88.97
11/04/2014	II0689889-004	100-CR INM CMM		0.37	89.34
11/10/2014	II0690649-074	099-COMM SPL		77.86DB	11.48
11/10/2014	II0690649-075	099-COMM SPL		6.40DB	5.08
11/13/2014	II0691058-001	072-METER MAIL	233680	1.82DB	3.26
11/17/2014	II0691290-067	099-COMM SPL		0.37DB	2.89
11/17/2014	II0691290-068	099-COMM SPL		2.76DB	0.13
11/17/2014	II0691367-008	071-MED CO-PAY	700960	8.00DB	7.87DB
11/18/2014	HQ0691477-002	011-RCPT MO/CC	MAILROOM	50.00	42.13
11/23/2014	II0692029-063	099-COMM SPL		25.56DB	16.57
11/23/2014	II0692029-064	099-COMM SPL		14.58DB	1.99
11/25/2014	II0692488-002	100-CR INM CMM		0.69	2.68
11/25/2014	HQ0692498-001	079-STATEMENT	218175	0.50DB	2.18
12/03/2014	II0693424-002	100-CR INM CMM		14.58	16.76
12/08/2014	II0693974-063	099-COMM SPL		3.18DB	13.58
12/08/2014	II0693974-064	099-COMM SPL		4.42DB	9.16
12/16/2014	II0694945-002	100-CR INM CMM		3.18	12.34
12/16/2014	II0694999-001	071-MED CO-PAY	717858	8.00DB	4.34
12/19/2014	II0695393-017	071-MED CO-PAY	673971	5.00DB	0.66DB
01/14/2015	HQ0698311-010	011-RCPT MO/CC	MAILROOM	50.00	49.34
01/16/2015	II0698711-012	072-METER MAIL	273345	2.11DB	47.23
01/16/2015	II0698774-003	071-MED CO-PAY	718056	8.00DB	39.23
01/19/2015	II0698867-060	099-COMM SPL		18.84DB	20.39
01/19/2015	II0698867-061	099-COMM SPL		19.58DB	0.81
01/27/2015	IM0699606-002	071-MED CO-PAY	697738	8.00DB	7.19DB
01/29/2015	IM0699819-001	100-CR INM CMM		14.58	7.39
01/30/2015	HQ0699981-001	079-STATEMENT	183457	1.00DB	6.39
02/09/2015	IM0701066-031	099-COMM SPL		0.42DB	5.97

= IDOC TRUST ===== OFFENDER BANK BALANCES ===== 08/04/2015 =

Doc No: 103006 Name: DEVAN, EVIN CHRISTOPHER  
 Account: CHK Status: INDIGENT

IMSI/A-BLK PRES FACIL  
 TIER-3 CELL-68

Transaction Dates: 06/21/2013-08/04/2015

Beginning Balance 116.88	Total Charges 1620.40	Total Payments 1472.60	Current Balance 30.92DB
--------------------------------	-----------------------------	------------------------------	-------------------------------

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
02/09/2015	IM0701066-032	099-COMM SPL		3.82DB	2.15
02/09/2015	II0701077-015	072-METER MAIL	133414	3.85DB	1.70DB
02/18/2015	IM0702150-019	071-MED CO-PAY	697864	5.00DB	6.70DB
02/25/2015	II0703036-008	072-METER MAIL	129586	3.29DB	9.99DB
03/02/2015	IM0703448-002	070-PHOTO COPY	83118	7.10DB	17.09DB
03/05/2015	HQ0703909-005	011-RCPT MO/CC MAIL		30.00	12.91
03/09/2015	IM0704283-025	099-COMM SPL		12.80DB	0.11
03/09/2015	IM0704328-006	071-MED CO-PAY	729996	5.00DB	4.89DB
03/25/2015	II0706037-005	072-METER MAIL	116179	0.96DB	5.85DB
03/26/2015	IM0706416-011	071-MED CO-PAY	730078	8.00DB	13.85DB
03/26/2015	IM0706417-004	071-MED CO-PAY	730070	5.00DB	18.85DB
03/27/2015	HQ0706517-001	079-STATEMENT	006391	0.50DB	19.35DB
04/02/2015	II0707067-004	072-METER MAIL	116464	6.16DB	25.51DB
04/03/2015	II0707214-002	072-METER MAIL	142566	1.61DB	27.12DB
04/06/2015	IM0707412-001	070-PHOTO COPY	128532	3.80DB	30.92DB

**STATE OF IDAHO**

Idaho Department of Correction

I hereby certify that the foregoing is a full, true and correct copy of an instrument as the same now remains on file and of record in my office.

WITNESS my hand hereto affixed this 4TH

day of August A.D., 2015

by S. Anderson

STATE OF IDAHO

Idaho Department of Correction

I hereby certify that the foregoing is a full, true and correct copy of an instrument as the same now remains on file and of record in my office.

WITNESS my hand here to affixed this

4/TH

= IDOC TRUST ===== 08/04/2015 =

day of August A.D., 2015

Doc No: 103006 Name: DEVAN, EVIN CHRISTOPHER  
 Account: CHK Status: INDIAN S. Adams

IMSI/A-BLK PRES FACIL  
 TIER-3 CELL-68

Transaction Dates: 06/21/2013-08/04/2015

Beginning Balance	Total Charges	Total Payments	Current Balance
116.88	1620.40	1472.60	30.92DB

===== TRANSACTIONS =====					
Date	Batch	Description	Ref Doc	Amount	Balance
06/25/2013	II0631487-002	071-MED CO-PAY	589655	5.00DB	111.88
06/30/2013	II0632021-074	099-COMM SPL		17.46DB	94.42
06/30/2013	II0632021-075	099-COMM SPL		28.22DB	66.20
07/08/2013	II0633107-090	099-COMM SPL		26.44DB	39.76
07/08/2013	II0633107-091	099-COMM SPL		17.97DB	21.79
07/10/2013	II0633552-002	100-CR INM CMM		7.26	29.05
07/11/2013	II0633673-013	071-MED CO-PAY	589478	11.00DB	18.05
07/11/2013	II0633693-002	100-CR INM CMM		26.44	44.49
07/15/2013	II0633892-094	099-COMM SPL		27.70DB	16.79
07/16/2013	II0634188-002	100-CR INM CMM		17.97	34.76
07/22/2013	II0635222-084	099-COMM SPL		10.00DB	24.76
07/25/2013	IC0635838-001	100-CR INM CMM		10.00	34.76
07/26/2013	HQ0635885-005	011-RCPT MO/CC	20565	100.00	134.76
07/30/2013	IC0636107-064	099-COMM SPL		114.95DB	19.81
08/21/2013	IC0638837-026	078-MET MAIL	261647	0.20DB	19.61
08/27/2013	IC0639289-066	099-COMM SPL		18.92DB	0.69
08/28/2013	IC0639559-008	071-MED CO-PAY	116992	5.00DB	4.31DB
09/09/2013	HQ0640784-025	011-RCPT MO/CC	23339	100.00	95.69
09/10/2013	IC0640863-082	099-COMM SPL		5.05DB	90.64
09/17/2013	IC0641636-091	099-COMM SPL		68.26DB	22.38
09/24/2013	IC0642341-077	099-COMM SPL		5.93DB	16.45
09/24/2013	IC0642343-003	100-CR INM CMM		3.82	20.27
10/01/2013	IC0643212-002	100-CR INM CMM		65.06	85.33
10/11/2013	IC0644624-003	071-MED CO-PAY	113401	8.00DB	77.33
10/28/2013	IC0646495-002	071-MED CO-PAY	117995	5.00DB	72.33
10/29/2013	IC0646621-079	099-COMM SPL		69.73DB	2.60
11/01/2013	IC0647150-005	071-MED CO-PAY	108670	8.00DB	5.40DB
11/12/2013	IC0648256-079	099-COMM SPL		6.55DB	11.95DB
11/12/2013	IC0648257-005	100-CR INM CMM		68.93	56.98
11/19/2013	IC0648942-080	099-COMM SPL		10.97DB	46.01
11/22/2013	IC0649480-051	099-COMM SPL		7.37DB	38.64
11/22/2013	IC0649527-001	071-MED CO-PAY	117081	5.00DB	33.64
11/26/2013	IC0649819-001	317-REFUND MEDICAL	FIX647150	8.00	41.64
12/03/2013	IC0650468-082	099-COMM SPL		6.09DB	35.55
12/04/2013	HQ0650706-018	011-RCPT MO/CC	29111	100.00	135.55
12/10/2013	IC0651416-090	099-COMM SPL		5.27DB	130.28
12/12/2013	HQ0651788-024	061-CK INMATE	266921	85.00DB	45.28
12/17/2013	IC0652270-002	100-CR INM CMM		4.05	49.33
12/20/2013	IC0652799-007	078-MET MAIL	241818	5.60DB	43.73

AUG 25 2015

CANYON COUNTY CLERK  
S ALSUP, DEPUTY

EVAN DEVAL #103006  
Full Name of Party Submitting This Document  
P.O. Box 51  
Mailing Address (Street or Post Office Box)  
BOISE, ID, 83707  
City, State and Zip Code  
N/A  
Telephone Number

IN THE DISTRICT COURT OF THE 3<sup>RD</sup> JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

STATE OF IDAHO  
Plaintiff,  
vs.  
EVAN DEVAL  
Defendant.

Case No.: CV15-1285

ORDER RE: PARTIAL PAYMENT OF  
COURT FEES (PRISONER)

Having reviewed the [ ] Plaintiff's  Defendant's Motion and Affidavit for Partial Payment of Court Fees,

THIS COURT FINDS AND ORDERS:

[ ] The average monthly deposits in the prisoner's inmate account total \$ \_\_\_\_\_, the average monthly balance in the prisoner's inmate account during the last six months has been \$ \_\_\_\_\_; 20% of the greater of these amounts is \$ \_\_\_\_\_ and must be paid as a partial initial fee at the time of filing. The prisoner shall make monthly payments of not less than 20% of the preceding month's income credited to the prisoner's inmate account until the remainder of the court filing fees in the amount of \$ \_\_\_\_\_ are paid in full. The agency or entity having custody of the prisoner shall forward payments from the prisoner's inmate account to the clerk of the court each time the amount in the prisoner's inmate account exceeds ten dollars (\$10.00) until the full amount is paid

or [ ] The prisoner has no assets and need not pay any fee at this time. The prisoner shall make monthly payments of not less than 20% of the preceding month's income credited to the prisoner's inmate account until the court filing fees in the amount of \$ \_\_\_\_\_ are paid in

full. The agency or entity having custody of the prisoner shall forward payments from the prisoner's inmate account to the clerk of the court each time the amount in the prisoner's inmate account exceeds ten dollars (\$10.00) until the full amount is paid.

or  THIS COURT DENIES the motion because

*NO costs for  
urgent appeals  
M. Hussey*

the prisoner did not comply with all the requirements of Idaho Code §31-3220A , or

the Court finds the prisoner has the ability to pay the full filing fee at this time.

Date: 8/24/15

*M. Hussey*  
Judge

CLERK'S CERTIFICATE OF SERVICE

I certify that a copy was served:

To Prisoner:

Name: *EVILL DEVAH*

Hand-delivery

Address: *P.O. Box 51*

Mailing

City, State, Zip: *BOISE, IDAHO, 83707*

Fax to (number) \_\_\_\_\_

To  counsel for the county sheriff  the department of correction or  the private correctional facility:

Name: \_\_\_\_\_

Hand-delivery

Address: \_\_\_\_\_

Mailing

City, State, Zip: \_\_\_\_\_

Fax to (number) \_\_\_\_\_

Date: *8/25/15*

*[Signature]*  
Deputy Clerk

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

EVIN DEVAN,	)	
	)	
PetitionerAppellant.	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER IN
	)	DIRECT APPEAL
	)	
-vs-	)	Case No. CV15-1285
	)	
	)	
STATE OF IDAHO,	)	
	)	
Respondent.	)	

TO: IDAHO STATE APPELLATE PUBLIC DEFENDER

The above named petitioner-appellant filed a Notice of Appeal on the 21<sup>ST</sup> day of August, 2015.

The petitioner-appellant requested the assistance of counsel in pursuing a direct appeal from the Court's Order Granting the State's Motion and Dismissing the Petition for Post-Conviction Relief and Final Judgment in this Court, and the Court being satisfied that said petitioner-appellant is an indigent person entitled to the services of the State Appellate Public Defender pursuant to Idaho Code §19-870 and that the appeal is from an order enumerated in Idaho Code §19-870(1), and good cause appearing;

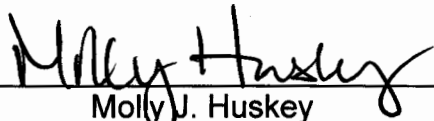


IT IS HEREBY ORDERED AND THIS DOES ORDER that the State Appellate Public Defender is appointed to represent the above named petitioner-appellant on the appeal from the Court's Order Granting the State's Motion and Dismissing the Petition for Post-Conviction Relief and Final Judgment entered in this case on the 14<sup>th</sup> day of July, 2015.

The State Appellate Public Defender's Office is provided the following information concerning this case:

1. The petitioner-appellant's attorney was: Michael J Nelson, Attorney at Law, 915 12<sup>th</sup> Ave. S., Ste 2, Nampa, Idaho 83651.
2. Petitioner-appellant has advised the Court that the petitioner-appellant's current address is: Evin Devan #103006, IMSI, P.O. Box 51, Boise, Idaho 83707.

Dated this 24 day of August, 2015.

  
Molly J. Huskey  
District Judge

**CERTIFICATE OF SERVICE**

STATE OF IDAHO            )  
  ) ss  
COUNTY OF CANYON        )

I hereby certify that I served true and correct copies of the foregoing document upon the following:

Bryan Taylor  
Canyon County Prosecuting Attorney  
Canyon County Courthouse  
Caldwell, Idaho 83605

Michael J Nelson  
ATTORNEY AT LAW  
915 12th Ave S, Ste 2  
Nampa, ID 83651

Kathy Waldemerl  
Appellate Clerk  
Canyon County Courthouse  
Caldwell, Idaho 83605


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

Evin Devan #103006  
IMSI  
P.O. Box 51  
Boise, Idaho 83707.

either by depositing the same in the U.S. mail, first class postage prepaid, or by personal service.

Dated this 25 day of August, 2015.

Chris Yamamoto, Clerk  
Clerk of District Court

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

AUG 27 2015

CANYON COUNTY CLERK  
MML DEPUTY

EVIN DEVAN  
Full Name of Party Filing This Document  
P.O. Box 51  
Mailing Address (Street or Post Office Box)  
BOISE, IDAHO, 83707  
City, State and Zip Code  
N/A  
Telephone Number

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

EVIN DEVAN  
APPELLANT  
Plaintiff,  
vs.  
STATE OF IDAHO  
Defendant.

Case No.: CV-2015-0001285-C  
MOTION AND AFFIDAVIT FOR  
PERMISSION TO PROCEED ON PARTIAL  
PAYMENT OF COURT FEES (PRISONER)  
FOR APPEAL

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

STATE OF IDAHO )  
County of ADA ) ss.

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

1. This is an action for (type of case) APPEAL OF POST CONVICTION. I believe I'm entitled to get what I am asking for.

MOTION AND AFFIDAVIT FOR PERMISSION TO  
PROCEED ON PARTIAL PAYMENT OF COURT FEES  
(PRISONER)  
CAO 1-10C 2/25/2005

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

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

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

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

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

**IDENTIFICATION AND RESIDENCE:**

Name: EVIN DEVAH Other name(s) I have used: N/A

Address: P.O. Box 51

How long at that address? ~3 YEARS Phone: N/A

Date and place of birth: 2010-93 CALIFORNIA

**DEPENDENTS:**

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

Name of spouse: N/A

My other dependents (including minor children) are: EO

**INCOME:**

Amount of my income: \$ 0 per [X] week [X] month

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

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

**ASSETS:**

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

Your Address	City	State	Legal Description	Value	Equity
	<u>N/A</u>				

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

Description (provide description for each item)	Value
<u>Cash</u>	<u>0</u>
<u>Notes and Receivables</u>	<u>0</u>
<u>Vehicles:</u>	<u>0</u>
<u>Bank/Credit Union/Savings/Checking Accounts</u>	<u>~ = 30.00</u>
<u>Stocks/Bonds/Investments/Certificates of Deposit</u>	<u>0</u>
<u>Trust Funds</u>	<u>0</u>
<u>Retirement Accounts/IRAs/401(k)s</u>	<u>0</u>
<u>Cash Value Insurance</u>	<u>0</u>
<u>Motorcycles/Boats/RVs/Snowmobiles:</u>	<u>0</u>
<u>Furniture/Appliances</u>	<u>0</u>
<u>Jewelry/Antiques/Collectibles</u>	<u>0</u>

Description (provide description for each item)	Value
TVs/Stereos/Computers/Electronics <u>RADIO</u>	<u>10.00</u>
Tools/Equipment	<u>0</u>
Sporting Goods/Guns	<u>0</u>
Horses/Livestock/Tack	<u>0</u>
Other (describe)	<u>0</u>

**EXPENSES:** List all of your monthly expenses.

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

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

**MISCELLANEOUS:**

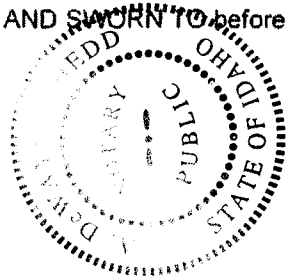
How much can you borrow? \$ MATHEW \$150 From whom? MOM  
 When did you file your last income tax return? Ø Amount of refund: \$ N/A

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

Name	Address	Phone	Years Known

*[Signature]*  
 Signature  
EVAN DEVAH 8-20<sup>th</sup>-2015  
 Typed or Printed Name

2015 SUBSCRIBED AND SWORN TO before me this 20 day of August.



A. DeWane Stone  
 Notary Public for Idaho  
 Residing at Boise  
 My Commission expires 11/06/19

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

EVIN CHRISTOPHER DEVAN,	)	
	)	
Petitioner-	)	Case No. CV-15-01285*C
Appellant,	)	
	)	
-vs-	)	CERTIFICATE OF EXHIBITS
	)	
STATE OF IDAHO,	)	
	)	
Respondent.	)	

I, CHRIS YAMAMOTO, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Canyon, do hereby certify that the following are being sent as exhibits:

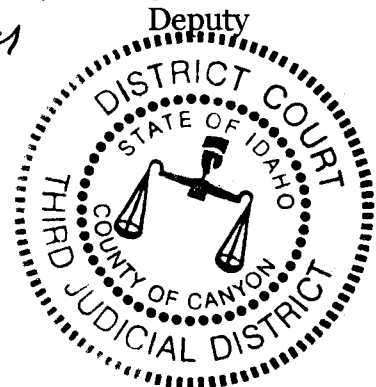
**Presentence Investigation Report (from Case #CR-11-20535\*C)  
CD (attached to Answer as exhibits)(page 25)**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 15<sup>th</sup> day of October, 2015.

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

By: *K Waldemer* Deputy

CERTIFICATE OF EXHIBITS





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

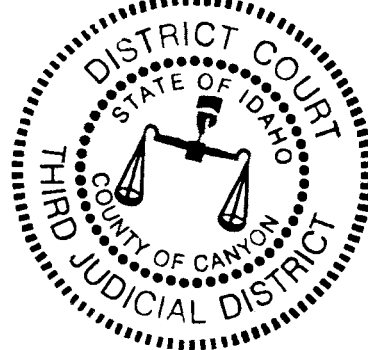
EVIN CHRISTOPHER DEVAN,	)	
	)	
Petitioner-	)	
Appellant,	)	Case No. CV-15-01285*C
	)	
-vs-	)	
	)	CERTIFICATE OF CLERK
STATE OF IDAHO,	)	
	)	
Respondent.	)	

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 15th day of October, 2015.

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

CERTIFICATE OF CLERK



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

EVIN CHRISTOPHER DEVAN, )  
 )  
 Petitioner- ) Supreme Court No. 43508-2015  
 Appellant, )  
 ) CERTIFICATE OF SERVICE  
 -vs- )  
 )  
 STATE OF IDAHO, )  
 )  
 Respondent. )

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

Sara Thomas, State Appellate Public Defender, P.O. Box 2816,  
Boise, Idaho 83701

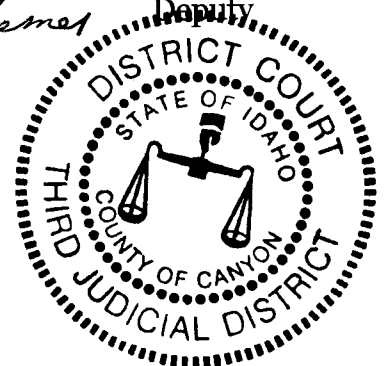
Lawrence G. Wasden, Attorney General, Statehouse, Boise, Idaho 83720

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court at Caldwell, Idaho this 15<sup>th</sup> day of October, 2015.

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

By: *K Waldemer* Deputy

CERTIFICATE OF SERVICE



TO: Clerk of the Court  
Idaho Supreme Court  
451 West State Street  
Boise, Idaho 83720  
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Docket No.	(Res) EVIN CHRISTOPHER DEVAN	CANYON
	vs.	DC Docket #
43508-2015	(App) STATE OF IDAHO	CV-2015-1285-C

NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on October 13, 2015, I lodged 0 & 3 transcripts of 8 pages in length for the above-referenced appeal with the District Court Clerk of the County of Canyon in the Third Judicial District. The transcript consists of the March 9, 2015, status hearing. An electronic copy was provided to the Supreme Court at [scfilings@idcourts.net](mailto:scfilings@idcourts.net).

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Laura L. Whiting, Court Reporter, CSR#688

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(Date)