

1-22-2016

State v. Brown Clerk's Record Dckt. 43916

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY BROWN,

Defendant-Appellant.

Supreme Court Case No. 43916

LIMITED CLERK'S RECORD ON APPEAL

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

HONORABLE JASON D. SCOTT

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

JEREMY BROWN,

Defendant-Appellant.

ORDER TO AUGMENT PRIOR
APPEAL NO. 38147

Supreme Court Docket No. 43916-2016
Ada County No. CR-2010-1346

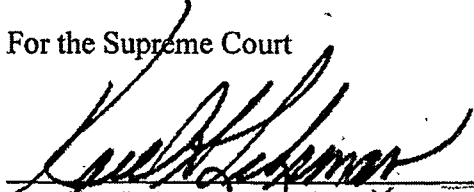
A NOTICE OF APPEAL was filed in the District Court on January 22, 2016, and filed with this Court on January 26, 2016, from the ORDER WITHDRAWING CREDIT FOR TIME SERVED entered by District Judge Jason D. Scott and file stamped on January 20, 2016. A Clerk's Record and Reporter's Transcript were filed with this Court in prior appeal No. 38147, *State v. Brown* (Ada County No. CR-2010-1346); therefore,

IT HEREBY IS ORDERED that the above entitled appeal shall be AUGMENTED to include the Clerk's Record and Reporter's Transcript filed in prior appeal No. 38147, *State v. Brown* (Ada County No. CR-2010-1346).

IT FURTHER IS ORDERED that the District Court Clerk shall prepare and file a CLERK'S RECORD with this Court, which shall contain the documents requested in this Notice of Appeal, together with a copy of this Order, but shall not duplicate any documents filed in prior appeal No. 38147, *State v. Brown* (Ada County No. CR-2010-1346).

DATED this 31st day of March, 2016.

For the Supreme Court


Karel A. Lehrman, Chief Deputy Clerk for
Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk
District Judge Jason D. Scott

Entered on JSI
By: kg

State of Idaho vs. Jeremy Brown

Date	Code	User		Judge
1/25/2010	NCRF	PRNYEJED	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRNYEJED	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
1/27/2010	PROS	PRJOHNLM	Prosecutor assigned Shawna Dunn	Magistrate Court Clerk
1/28/2010	MOTT	TCBULCEM	Motion To Transport	Magistrate Court Clerk
1/29/2010	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 02/11/2010 01:30 PM)	Cawthon / Irby
2/2/2010	ORDR	TCBULCEM	Order to transport	Magistrate Court Clerk
2/11/2010	CONT	TCMCCOSL	Continued (Video Arraignment 02/17/2010 01:30 PM)	Michael Oths
	MOTT	TCBULCEM	Motion To Transport	Magistrate Court Clerk
	ORDR	TCBULCEM	Order to transport	Magistrate Court Clerk
2/17/2010	ARRN	TCGARDKM	Hearing result for Video Arraignment held on 02/17/2010 01:30 PM: Arraignment / First Appearance	Michael Oths
	CHGA	TCGARDKM	Judge Change: Adminisitrative	Daniel L Steckel
	HRSC	TCGARDKM	Hearing Scheduled (Preliminary 03/03/2010 08:30 AM)	Daniel L Steckel
	BSET	TCGARDKM	BOND SET: at 10000.00 - (I18-907 Battery-Aggravated)	Daniel L Steckel
		MADAVISM	Notice Of Hearing	Daniel L Steckel
2/18/2010	NOPE	TCPENAEL	Notification of Penalties for Escape	Daniel L Steckel
2/25/2010	ORMR	CCMANLHR	Order For Delivery of Medical Records	Daniel L Steckel
	MOTT	TCRAMISA	Motion To Transport (Defendant)	Daniel L Steckel
	ORDR	TCRAMISA	Order to Transport	Daniel L Steckel
	MOTT	TCRAMISA	Motion To Transport (Witness)	Daniel L Steckel
	ORDR	TCRAMISA	Order to Transport	Daniel L Steckel
2/26/2010	NOAP	TCBULCEM	Notice Of Appearance/Nona	Daniel L Steckel
	RQDD	TCBULCEM	Defendant's Request for Discovery	Daniel L Steckel
3/3/2010	CONT	CCMANLHR	Continued (Preliminary 03/30/2010 08:30 AM)	Daniel L Steckel
3/5/2010	MOTT	TCBULCEM	Motion To Transport	Daniel L Steckel
	MOTN	TCBULCEM	Motion to Transport a Witness Separately from the ISP	Daniel L Steckel
3/8/2010	ORDR	TCBULCEM	Order to Transport	Daniel L Steckel
	ORDR	TCBULCEM	Order to transport	Daniel L Steckel
3/30/2010	PHWV	CCMANLHR	Hearing result for Preliminary held on 03/30/2010 08:30 AM: Preliminary Hearing Waived (bound Over)	Daniel L Steckel
	HRSC	CCMANLHR	Hearing Scheduled (Arraignment 04/07/2010 01:30 PM)	Daniel L Steckel
	COMT	CCMANLHR	Commitment	Daniel L Steckel
4/1/2010	INFO	TCBULCEM	Information	Cheri C. Copsey

000003

State of Idaho vs. Jeremy Brown

Date	Code	User		Judge
4/2/2010	PROS	PRBRIGCA	Prosecutor assigned Julianne Meehan	Cheri C. Copsey
4/6/2010	MOTN	DCDANSEL	Motion to Disqualify Pursuant to ICR 25	Cheri C. Copsey
4/7/2010	HRVC	TCWEATJB	Hearing result for Arraignment held on 04/07/2010 01:30 PM: Hearing Vacated	Cheri C. Copsey
	ORDQ	TCWEATJB	Order Granting Disqualification	Cheri C. Copsey
	CJWO	TCWEATJB	Change Assigned Judge: Disqualification w/o Cause	Ronald J. Wilper
		TCWEATJB	Notice of Reassignment	Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Arraignment 04/13/2010 09:00 AM)	Ronald J. Wilper
	ORDR	DCJOHNSI	Order to Transport	Ronald J. Wilper
4/12/2010	PROS	PRMORTTF	Prosecutor assigned Brian Naugle	Ronald J. Wilper
4/13/2010	DCAR	DCJOHNSI	Hearing result for Arraignment held on 04/13/2010 09:00 AM: District Court Arraignment- Court Reporter:cromwell Number of Pages:50	Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Entry of Plea 04/27/2010 09:00 AM)	Ronald J. Wilper
	ORDR	DCJOHNSI	Order to Transport	Ronald J. Wilper
4/27/2010	DCHH	DCJOHNSI	Hearing result for Entry of Plea held on 04/27/2010 09:00 AM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated:50	Ronald J. Wilper
	PLEA	DCJOHNSI	A Plea is entered for charge: - GT (I18-907 Battery-Aggravated)	Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Sentencing 05/25/2010 10:00 AM)	Ronald J. Wilper
	PSIO1	DCJOHNSI	Pre-Sentence Investigation Evaluation Ordered	Ronald J. Wilper
	ORDR	DCJOHNSI	Order to Transport	Ronald J. Wilper
4/30/2010	GPA	DCJOHNSI	Guilty Plea Advisory	Ronald J. Wilper
5/25/2010	DCHH	DCJOHNSI	Hearing result for Sentencing held on 05/25/2010 10:00 AM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated:50	Ronald J. Wilper
	FIGT	DCJOHNSI	Finding of Guilty (I18-907 Battery-Aggravated)	Ronald J. Wilper
	JAIL	DCJOHNSI	Sentenced to Jail or Detention (I18-907 Battery-Aggravated) Confinement terms: Credited time: 55 days. Penitentiary determinate: 2 years. Penitentiary indeterminate: 4 years.	Ronald J. Wilper
	STAT	DCJOHNSI	STATUS CHANGED: closed pending clerk action	Ronald J. Wilper
5/26/2010	JDMT	DCABBOSM	Judgment of Conviction	Ronald J. Wilper
	ORDR	DCABBOSM	Order for DNA Sample	Ronald J. Wilper

State of Idaho vs. Jeremy Brown

Date	Code	User	Judge
5/27/2010	STAT	CCTOMPMA	STATUS CHANGED (batch process)
6/16/2010	MOTN	TCPETEJS	Motion for Restitution
6/18/2010	RESR	DCJOHNSI	Restitution Recommended by the Prosecutor's office. 17010.03 victim # 1
	STAT	DCJOHNSI	STATUS CHANGED: Closed pending clerk action
	ORDR	DCJOHNSI	Order for Restitution and Judgment
6/22/2010	MISC	TCRAMISA	Rule 35 Motion
	AFFD	TCRAMISA	Affidavit of Jeremy S. Brown
6/30/2010	ORDR	DCABBOSM	Order Denying Rule 35 Motion for Additional Credit for Time Served
8/2/2010	MOTN	TCRAMISA	Motion and Affidavit for Permission to Proceed on Partial Payment of Court Fees (Prisoner)
	MOTN	TCRAMISA	Motion and Affidavit in Support for Appt of Counsel
	MOTN	TCRAMISA	Motion for Correction or Reduction of Sentence, ICR 35
8/4/2010	MISC	TCBELLHL	State's Opposition to Defendant's Motion for Correction or Reduction of Sentence, ICR 35
8/11/2010	ORDR	DCJOHNSI	Order Appointing Counsel for Rule 35 Motion
8/13/2010	ORDR	DCJOHNSI	Order Releasing PSI
8/23/2010	MOTN	TCRAMISA	Motion for Leave to Supplement Rule 35 Motion
8/27/2010	ORDR	DCJOHNSI	Order Granting Leave to Supplement Rule 35 Motion
9/22/2010	MISC	TCRAMISA	Memorandum in Support of Rule 35 Motion
9/24/2010	ORDR	DCABBOSM	Order Denying Motion for Sentence Reduction
10/12/2010	APSC	TCRAMISA	Appealed To The Supreme Court
10/13/2010	ORDR	DCJOHNSI	Order Appointing SAPD
12/2/2010	TRAN	CCLUNDMJ	Notice of Transcript Lodged
5/31/2011	MISC	CCTHIEBJ	Opinion - Supreme Court Docket No. 38147
7/5/2011	REMT	CCTHIEBJ	Remittitur-Affirmed Supreme Court Docket No. 38147
3/25/2014	CHRT	CCMORRPH	Changed Assigned Judge: Retired (batch process)
12/14/2015	MOTN	TCSHANAA	Motion For Credit For Time Served
	AFFD	TCSHANAA	Affidavit of Defendant
12/15/2015	PROS	PRMORTTF	Prosecutor assigned Ben Harmer
12/21/2015	MOTN	TCWRIGSA	Motion for Credit for Time Served
12/23/2015	HRSC	CCSTOKSN	Hearing Scheduled (Motion 01/15/2016 10:00 AM)
	NOHG	TCMARKSA	Notice Of Hearing (1-15 10:00)

Date: 3/7/2016

Fourth Judicial District Court - Ada County

User: TCWEGEKE

Time: 12:44 PM

ROA Report

Page 4 of 4

Case: CR-FE-2010-0001346 Current Judge: Jason D. Scott

Defendant: Brown, Jeremy

State of Idaho vs. Jeremy Brown

Date	Code	User		Judge
12/23/2015	ORTR	TCSIMOSL	Order To Transport	Jason D. Scott
12/28/2015	RSPN	TCWRIGSA	Response to Defendant's Motion for Credit Time Served	Jason D. Scott
1/5/2016	STIP	TCFRIECT	Stipulation for Credit for Time Served	Jason D. Scott
1/6/2016	ORDR	CCSTOKSN	Preliminary Order on Motion for Credit Time Served	Jason D. Scott
1/15/2016	DCHH	CCSTOKSN	Hearing result for Motion scheduled on 01/15/2016 10:00 AM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: (<50) for Credit Time Served	Jason D. Scott
1/20/2016	ORDR	DCDUMOKA	Order Withdrawing Credit for Time Served	Jason D. Scott
1/22/2016	NOTA	TCOLSOMC	NOTICE OF APPEAL	Jason D. Scott
	APSC	TCOLSOMC	Appealed To The Supreme Court	Jason D. Scott
1/27/2016	ORPD	CCSTOKSN	Order Appointing State Appellate Public Defender on Direct Appeal	Jason D. Scott
3/7/2016	NOTC	TCWEGEKE	Notice of Transcript Lodged - Supreme Court No. 43916	Jason D. Scott

000006

DEC 14 2015

CHRISTOPHER D. RICH, Clerk
By ARIC SHANK
DEPUTY

160
Inmate name Jeremy Brown
IDOC No. 81065
Address P.O. Box 51/IMSI
Boise, Id - 83707

Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

Jeremy Brown

Defendant.

Case No. CRFE-2010-1346

MOTION FOR CREDIT
FOR TIME SERVED

COMES NOW, Jeremy Brown, Defendant in the above-entitled matter, and
pursuant to Idaho Code 18-309 hereby moves the Court for an Order, as follows:

That the Court issue an Order, granting the Defendant credit for all local, county and state
time served in conjunction with this charge, and the resulting sentence imposed by the Court.

Further that all time shall be appropriately credit to the Defendant.

This Motion is further based upon the records and files in this matter.

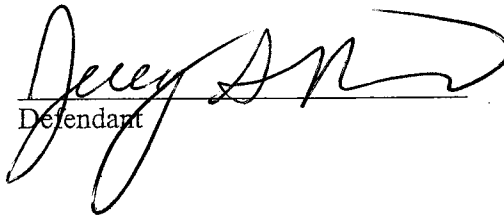
DATED this 7 day of Dec, 2015.

Jeremy Brown
Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 7 day of Dec, 2015, I
mailed a true and correct copy of this **MOTION FOR CREDIT FOR TIME SERVED** 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:

ADA County Prosecuting Attorney
200 W. Front street, Boise, Id 83702


Defendant

NO. _____
A.M. _____ FILED P.M. 12:32

Inmate name Jeremy Brown
IDOC No. 81065
Address P.O. Box 51 / IMSE
Boise Id 83707

DEC 14 2015

CHRISTOPHER D. RICH, Clerk
By ARIC SHANK
DEPUTY

Defendant

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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
Jeremy Brown)
Defendant.)

Case No. CRFE-200-1346

AFFIDAVIT OF
DEFENDANT

STATE OF IDAHO)
) ss
County of ADA)

Jeremy Brown, after first being duly sworn upon his/her oath, deposes
and says as follows: On May 25 ~~2000~~ 2010 I
was sentenced to 6 years in
prison 2 + 4 with 55 days credit
for time served. I was charged on
1-29-2010 and never released, so I
feel I should be granted time served
from that day which is 116 days, or
from the date I made my

AFFIDAVIT OF DEFENDANT - 1
Revised: 10/13/05

#

first appearance which is 2-17-2010 which would be 97 days. Which ever date you feel is appropriate would be appreciated. I filled a motion for credit for time served once and had the wrong dates. So attached is my ROA report showing the correct dates. Thank you for your time. Also your Honor I have an Arrest History from Ada County Jail showing an Arrest on 11/17/09 that I never bailed out on stayed incarcerated, which would give me credit Jail days of 220 days. Thank you for your time.

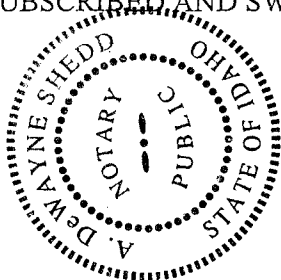
Further your affiant sayeth naught.

DATED This 7 day of Dec, 2015.

Jeremy Shane Brown
Defendant

SUBSCRIBED AND SWORN to before me this 7 day of December, 2015.

(SEAL)



A. DeWayne Shedd
Notary Public for Idaho
Commission expires: 11/06/19



Ada County Sheriff's Office

Arrest History

Public

Page 1 of 1
Printed - 11/30/2015 09:03AM

Printed by SO5184

Name, last, first, m. BROWN JEREMY SHANE				
Date of Birth [REDACTED]	Age 30	SSN	LE # 1031715	
Sex [REDACTED]	Height 0'0"	Weight 0	Hair UNK	Eyes UNK
Street Address				
City, State, Zip				

***** INCIDENTS *****

<u>Case #</u>	<u>Def Cnt</u>	<u>Arrest</u>	<u>Description</u>	<u>DR #</u>
CRFE20100001346	01 000	05/25/2010	STATE OF IDAHO {F} IDOC - JOC Transported	ADA 00-000000
CRFE20100001346	01 001	11/17/2009 <u>210</u>	18-903(a); 18-9 {F} BATTERY-AGGRAVATED (CAUSE GREAT BODILY H Release to Hold	ADA 99-999999

Date: 11/10/2015

Fourth Judicial District Court - Ada County

User: CCSTOKSN

Time: 08:27 AM

ROA Report

Page 1 of 1

Case: CR-FE-2010-0001346 Current Judge: Jason D. Scott

Defendant: Brown, Jeremy

Selected Items

State of Idaho vs. Jeremy Brown

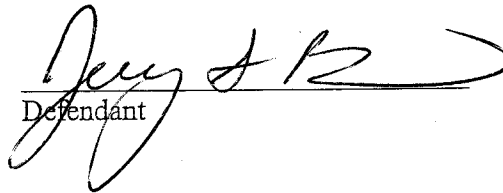
Date	Code	User	Judge
1/29/2010 116	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 02/11/2010 01:30 PM) Cawthon / Irby
2/11/2010	CONT	TCMCCOSL	Continued (Video Arraignment 02/17/2010 01:30 PM) Michael Oths
2/17/2010 117	ARRN	TCGARDKM	Hearing result for Video Arraignment held on 02/17/2010 01:30 PM: Arraignment / First Appearance Michael Oths
		MADAVISM	Notice Of Hearing Daniel L Steckel
3/3/2010	CONT	CCMANLHR	Continued (Preliminary 03/30/2010 08:30 AM) Daniel L Steckel
3/30/2010	PHWV	CCMANLHR	Hearing result for Preliminary held on 03/30/2010 08:30 AM: Preliminary Hearing Waived (bound Over) Daniel L Steckel
	HRSC	CCMANLHR	Hearing Scheduled (Arraignment 04/07/2010 01:30 PM) Daniel L Steckel
4/7/2010	HRVC	TCWEATJB	Hearing result for Arraignment held on 04/07/2010 01:30 PM: Hearing Vacated Cheri C. Copsey
	HRSC	DCJOHNSI	Hearing Scheduled (Arraignment 04/13/2010 09:00 AM) Ronald J. Wilper
4/13/2010	DCAR	DCJOHNSI	Hearing result for Arraignment held on 04/13/2010 09:00 AM: District Court Arraignment- Court Reporter:cromwell Number of Pages:50 Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Entry of Plea 04/27/2010 09:00 AM) Ronald J. Wilper
4/27/2010	DCHH	DCJOHNSI	Hearing result for Entry of Plea held on 04/27/2010 09:00 AM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated:50 Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Sentencing 05/25/2010 10:00 AM) Ronald J. Wilper
5/25/2010	DCHH	DCJOHNSI	Hearing result for Sentencing held on 05/25/2010 10:00 AM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated:50 Ronald J. Wilper

000012

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 7 day of Dec,
2015, I mailed a true and correct copy of the DEFENDANT'S AFFIDAVIT via prison mail
system for processing to the U.S. mail system to:

ADA County Prosecuting Attorney
200 W. Front street
Boise, Id 83702


Defendant

1160

NO. _____ FILED _____
A.M. _____ P.M. 3:30

DEC 21 2015

CHRISTOPHER D. RICH, Clerk
By ARIC SHANK
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorney for Defendant

DANICA M. COMSTOCK, ISB #8165
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff,

vs.

JEREMY BROWN,

Defendant.

CASE NO. CR-FE-2010-0001346

MOTION FOR CREDIT FOR TIME
SERVED

COMES NOW, Jeremy Brown, the above-named Defendant, by and through counsel of the Ada County Public Defender's office, Danica M. Comstock, and moves this Court pursuant to I.C. §§ 18-309, 19-2603, for its order granting the defendant credit for time served for a total of ninety-eight (98) days served in this matter.

On February 17, 2010, Defendant was arraigned and bond was set at \$10,000. Unable to post bond in this matter, Defendant remained in custody and held on this case until sentencing on May 25, 2015, totaling an additional forty-three (43) days, that was not included in the defendant's final order. Please see attached documentation to further support this motion.

Upon the grounds and for the reasons contained herein, Defendant respectfully asks this Court to grant the defendant ninety-eight (98) days total credit for time served in this matter.

DATED this 21st day of December, 2015.


DANICA M. COMSTOCK
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that this 21st day of December, 2015, I mailed (served) a true and correct copy of the within instrument to:

Ben Harmer
Ada County Prosecutor's Office
Interdepartmental Mail



Irene Barrios



Arrest/Booking Detail Display [SHepmF]

Arrest/Booking Details

Suspect: BROWN JEREMY SHANE

SSN: [REDACTED] 30 LE # 1031715

Booking Officer: 4833 COLLINS DAWN ELIZABETH

Booking: 2/17/2010 6:18:35 pm Property Box 0 Status Closed

Housing: OUT COUNTY Block IDOC Cell IDO Bed 0

Current: OUT COUNTY Block IDOC Cell IDO

Note: Detainer IDOC

Refresh Stay Details RDA Print Sort All

Type	CJ Case	Stay	Stay	Arrest	Arrest	Release Code	Release	Release	Location
Visual		2/17/2010	6:23:44 pm	11/17/2009	12:01:00 a	Release to Hold	5/25/2010	2:12:00 pm	A
Hold		5/25/2010	2:11:27 pm	0/0/0000	12:00:00 a	Transported	5/25/2010	2:12:00 pm	

Close

Close

0	BROWN JIM *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	16838	
0	BROWN JIM *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	13817	
0	BROWN JIM ROBERT	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	17753	
0	BROWN JIMMIE KEITH	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	216878	
0	BROWN JIMMY JOE	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	136766	
0	BROWN JIMMY LEE	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	242533	
0	BROWN JIMMY RANDALL	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	297	
0	BROWN JOHN *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	60396	
0	BROWN JOHN *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	94380	
0	BROWN JOHN *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	110223	
0	BROWN JOHN *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	270298	
0	BROWN JOHN A *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	244316	
0	BROWN JOHN ALLEN	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	254451	
100456131	BROWN JOHN CHRISTOPHER	7/5/2010	3:59:26 am	863	0	7/6/2010	4:23:46 pm	ARR	269185	
100531012	BROWN JOHN CURTIS	6/27/2012	7:30:00 am	0	0	6/27/2012	8:51:02 am	ARR	267341	
0	BROWN JOHN GILBERT	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	264541	
0	BROWN JOHN GILBERT *Alias	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	206989	
0	BROWN JOHN H	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	265224	
0	BROWN JOHN M	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	138249	
0	BROWN JOHN MATTHEW	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	186136	
0	BROWN JOHN MICHAEL	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	254231	
0	BROWN JOHN PATRICK	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	17756	
0	BROWN JOHN R	0/0/0000	12:00:00 am	0	0	0/0/0000	12:00:00 a	ARR	20557	

Ready

pdcomsdm

NUM


11:07 AM
12/21/2015

000017

Calculate duration between two dates – results

Start Date


Month: Day: Year: Date:

2 / 17 / 2010 

Today

End Date

Month: Day: Year: Date:

5 / 25 / 2010 

Today

☒ Include end date in calculation (1 day is added)

[Add time fields](#)

[Add time zone conversion](#)

[Count only workdays](#)

Calculate duration

From and including: **Wednesday, February 17, 2010**

To and including: **Tuesday, May 25, 2010**

Result: 98 days

It is 98 days from the start date to the end date, end date included

Or 3 months, 9 days including the end date

Alternative time units

98 days can be converted to one of these units:

- 8,467,200 seconds
- 141,120 minutes
- 2352 hours
- 98 days
- 14 weeks
- 26.85% of 2010

◀ [Make adjustment and calculate again](#)

[Start Again](#) ▶

State of Idaho vs. Jeremy Brown

Date	Code	User		Judge
1/25/2010	NCRF	PRNYEJED	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRNYEJED	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
1/27/2010	PROS	PRJOHNLM	Prosecutor assigned Shawna Dunn	Magistrate Court Clerk
1/28/2010	MOTT	TCBULCEM	Motion To Transport	Magistrate Court Clerk
1/29/2010	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 02/11/2010 01:30 PM)	Cawthon / Irby
2/2/2010	ORDR	TCBULCEM	Order to transport	Magistrate Court Clerk
2/11/2010	CONT	TCMCCOSL	Continued (Video Arraignment 02/17/2010 01:30 PM)	Michael Oths
	MOTT	TCBULCEM	Motion To Transport	Magistrate Court Clerk
	ORDR	TCBULCEM	Order to transport	Magistrate Court Clerk
2/17/2010	ARRN	TCGARDKM	Hearing result for Video Arraignment held on 02/17/2010 01:30 PM: Arraignment / First Appearance	Michael Oths
	CHGA	TCGARDKM	Judge Change: Adminstrative	Daniel L Steckel
	HRSC	TCGARDKM	Hearing Scheduled (Preliminary 03/03/2010 08:30 AM)	Daniel L Steckel
	BSET	TCGARDKM	BOND SET: at 10000.00 - (I18-907 Battery-Aggravated)	Daniel L Steckel
		MADAVISM	Notice Of Hearing	Daniel L Steckel
2/18/2010	NOPE	TCPENAEL	Notification of Penalties for Escape	Daniel L Steckel
2/25/2010	ORMR	CCMANLHR	Order For Delivery of Medical Records	Daniel L Steckel
	MOTT	TCRAMISA	Motion To Transport (Defendant)	Daniel L Steckel
	ORDR	TCRAMISA	Order to Transport	Daniel L Steckel
	MOTT	TCRAMISA	Motion To Transport (Witness)	Daniel L Steckel
	ORDR	TCRAMISA	Order to Transport	Daniel L Steckel
2/26/2010	NOAP	TCBULCEM	Notice Of Appearance/Nona	Daniel L Steckel
	RQDD	TCBULCEM	Defendant's Request for Discovery	Daniel L Steckel
3/3/2010	CONT	CCMANLHR	Continued (Preliminary 03/30/2010 08:30 AM)	Daniel L Steckel
3/5/2010	MOTT	TCBULCEM	Motion To Transport	Daniel L Steckel
	MOTN	TCBULCEM	Motion to Transport a Witness Separately from the ISP	Daniel L Steckel
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	COMT	CCMANLHR	Commitment	Daniel L Steckel
4/1/2010	INFO	TCBULCEM	Information	Cheri C. Oths

State of Idaho vs. Jeremy Brown

Date	Code	User		Judge
4/2/2010	PROS	PRBRIGCA	Prosecutor assigned Julianne Meehan	Cheri C. Copsey
4/6/2010	MOTN	DCDANSEL	Motion to Disqualify Pursuant to ICR 25	Cheri C. Copsey
4/7/2010	HRVC	TCWEATJB	Hearing result for Arraignment held on 04/07/2010 01:30 PM: Hearing Vacated	Cheri C. Copsey
	ORDQ	TCWEATJB	Order Granting Disqualification	Cheri C. Copsey
	CJWO	TCWEATJB	Change Assigned Judge: Disqualification w/o Cause	Ronald J. Wilper
		TCWEATJB	Notice of Reassignment	Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Arraignment 04/13/2010 09:00 AM)	Ronald J. Wilper
	ORDR	DCJOHNSI	Order to Transport	Ronald J. Wilper
4/12/2010	PROS	PRMORTTF	Prosecutor assigned Brian Naugle	Ronald J. Wilper
4/13/2010	DCAR	DCJOHNSI	Hearing result for Arraignment held on 04/13/2010 09:00 AM: District Court Arraignment- Court Reporter:cromwell Number of Pages:50	Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Entry of Plea 04/27/2010 09:00 AM)	Ronald J. Wilper
	ORDR	DCJOHNSI	Order to Transport	Ronald J. Wilper
4/27/2010	DCHH	DCJOHNSI	Hearing result for Entry of Plea held on 04/27/2010 09:00 AM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated:50	Ronald J. Wilper
	PLEA	DCJOHNSI	A Plea is entered for charge: - GT (I18-907 Battery-Aggravated)	Ronald J. Wilper
	HRSC	DCJOHNSI	Hearing Scheduled (Sentencing 05/25/2010 10:00 AM)	Ronald J. Wilper
	PSIO1	DCJOHNSI	Pre-Sentence Investigation Evaluation Ordered	Ronald J. Wilper
	ORDR	DCJOHNSI	Order to Transport	Ronald J. Wilper
4/30/2010	GPA	DCJOHNSI	Guilty Plea Advisory	Ronald J. Wilper
5/25/2010	DCHH	DCJOHNSI	Hearing result for Sentencing held on 05/25/2010 10:00 AM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated:50	Ronald J. Wilper
	FIGT	DCJOHNSI	Finding of Guilty (I18-907 Battery-Aggravated)	Ronald J. Wilper
	JAIL	DCJOHNSI	Sentenced to Jail or Detention (I18-907 Battery-Aggravated) Confinement terms: Credited time: 55 days. Penitentiary determinate: 2 years. Penitentiary indeterminate: 4 years.	Ronald J. Wilper
	STAT	DCJOHNSI	STATUS CHANGED: closed pending clerk action	Ronald J. Wilper
5/26/2010	JDMT	DCABBOSM	Judgment of Conviction	Ronald J. Wilper
	ORDR	DCABBOSM	Order for DNA Sample	Ronald J. Wilper

State of Idaho vs. Jeremy Brown

Date	Code	User	Judge
5/27/2010	STAT	CCTOMPMA	STATUS CHANGED (batch process)
6/16/2010	MOTN	TCPETEJS	Motion for Restitution
6/18/2010	RESR	DCJOHNSI	Restitution Recommended by the Prosecutor's office. 17010.03 victim # 1
	STAT	DCJOHNSI	STATUS CHANGED: Closed pending clerk action
	ORDR	DCJOHNSI	Order for Restitution and Judgment
6/22/2010	MISC	TCRAMISA	Rule 35 Motion
	AFFD	TCRAMISA	Affidavit of Jeremy S. Brown
6/30/2010	ORDR	DCABBOSM	Order Denying Rule 35 Motion for Additional Credit for Time Served
8/2/2010	MOTN	TCRAMISA	Motion and Affidavit for Permission to Proceed on Partial Payment of Court Fees (Prisoner)
	MOTN	TCRAMISA	Motion and Affidavit in Support for Appt of Counsel
	MOTN	TCRAMISA	Motion for Correction or Reduction of Sentence, ICR 35
8/4/2010	MISC	TCBELLHL	State's Opposition to Defendant's Motion for Correction or Reduction of Sentence, ICR 35
8/11/2010	ORDR	DCJOHNSI	Order Appointing Counsel for Rule 35 Motion
8/13/2010	ORDR	DCJOHNSI	Order Releasing PSI
8/23/2010	MOTN	TCRAMISA	Motion for Leave to Supplement Rule 35 Motion
8/27/2010	ORDR	DCJOHNSI	Order Granting Leave to Supplement Rule 35 Motion
9/22/2010	MISC	TCRAMISA	Memorandum in Support of Rule 35 Motion
9/24/2010	ORDR	DCABBOSM	Order Denying Motion for Sentence Reduction
10/12/2010	APSC	TCRAMISA	Appealed To The Supreme Court
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12/2/2010	TRAN	CCLUNDMJ	Notice of Transcript Lodged
5/31/2011	MISC	CCTHIEBJ	Opinion - Supreme Court Docket No. 38147
7/5/2011	REMT	CCTHIEBJ	Remittitur-Affirmed Supreme Court Docket No. 38147
3/25/2014	CHRT	CCMORRPH	Changed Assigned Judge: Retired (batch process)
12/14/2015	MOTN	TCSHANAA	Motion For Credit For Time Served
	AFFD	TCSHANAA	Affidavit of Defendant
12/15/2015	PROS	PRMORTTF	Prosecutor assigned Ben Harmer

160
1/15
1060
HS

NO. _____ FILED _____
A.M. _____ P.M. 3 45

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

DEC 23 2015

CHRISTOPHER D. RICH, Clerk
By CHRISTOPHER D. RICH
CLERK

DANICA M. COMSTOCK, ISB #8165
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff,

vs.

JEREMY BROWN,

Defendant.

Case No. CR-FE-2010-0001346

NOTICE OF HEARING
(Motion for Credit for Time Served)

TO: THE STATE OF IDAHO, Plaintiff, and to Ben Harmer, Ada County Prosecutor's Office:

YOU, AND EACH OF YOU, ARE HEREBY NOTIFIED that the above-named Defendant will call on for hearing Motion for Credit for Time Served, now on file with the Court. Said hearing shall take place on January 15, 2016, at 10:00 a.m., in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Wednesday, December 23, 2015.



DANICA M. COMSTOCK
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Wednesday, December 23, 2015, I mailed (served) a true and correct copy of the within instrument to:

Ben Harmer
Ada County Prosecutor's Office
Interdepartmental Mail



Irene Barrios

FILED
12/23/2015 at 09:55 AM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: _____
Deputy Clerk

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

STATE OF IDAHO

Plaintiff,

vs.

JEREMY BROWN,

DOB: [REDACTED]

SSN.: [REDACTED]

Defendant.

CASE NO. CR-FE-2010-0001346

ORDER TO TRANSPORT

It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that JEREMY BROWN be brought before this Court for:

MOTION FOR CREDIT TIME SERVED.....Friday, January 15, 2016 @ 10:00 AM

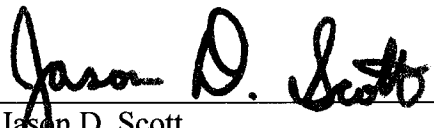
IT IS THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff return said Defendant to the custody of the Idaho State Penitentiary;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and retake him into custody from the Sheriff upon his return to the Penitentiary.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho Department of Corrections and the Ada County Sheriff forthwith and certify to the same.

Dated this 23rd day of December, 2015.



Jason D. Scott
DISTRICT JUDGE

11/15
HS
1-15
10:00

DEC 28 2015

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

Ben Harmer
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Id. 83702
Telephone: (208) 287-7700

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


THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
JEREMY SHANE BROWN,)
)
Defendant.)
_____)

Case No. CR-FE-2010-0001346
RESPONSE TO DEFENDANT'S
MOTION FOR CREDIT TIME
SERVED

COMES NOW, the State of Idaho, by and through its counsel of record, Ben Harmer, Deputy Prosecuting Attorney, and responds to the defendant's Motion for Credit Time Served, filed December 21, 2015. In reviewing Ada County Jail records, the State concurs that the Defendant should have been awarded credit for time served at the Ada County Jail for a total of ninety-nine (99) days. The Defendant had a bond set by Judge Oths on the 17th of February, 2010, and remained incarcerated on that bond until the time of sentencing.

RESPECTFULLY SUBMITTED This 23 day of December, 2015.

JAN M. BENNETTS
Ada County Prosecuting Attorney


By: Ben Harmer
Deputy Prosecuting Attorney

SW

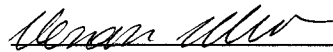
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of December 2015, I caused to be served, a true and correct copy of the foregoing Response to Defendant's Motion for Credit Time Served, upon the individual(s) named below in the manner noted:

Jeremy Brown, IDOC No. 81065, P.O. Box 51/IMSI, Boise, ID 83707

Danica M. Comstock, Ada County Public Defender, 200 W. Front Street, Boise, ID 83702

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



Legal Assistant

160
HS
1/15
10:00

NO. _____
A.M. 1:45 FILED P.M. _____

JAN 05 2016

CHRISTOPHER D. RICH, Clerk
By CHRIS FRIES
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

DANICA M. COMSTOCK, ISB #8165
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

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

STATE OF IDAHO,

Plaintiff,

vs.

JEREMY BROWN,

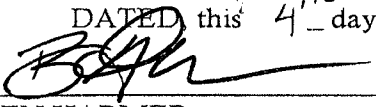
Defendant.


Criminal No. CR-FE-2010-0001346

STIPULATION FOR CREDIT FOR
TIME SERVED

COMES NOW, the parties, Danica M. Comstock, Attorney of Record for Jeremy Brown, and Ben Harmer, Deputy Prosecuting Attorney, and hereby stipulate and agree to grant the defendant ninety-nine (99) days total credit for time served in the above matter, for the reasons that on November 17, 2009, Defendant was held on warrant for the above matter. On February 17, 2010 Defendant was arraigned and was unable to post bond. Defendant remained in custody and held on this case until sentencing on May 24, 2015, totaling an additional forty-three (44) days, that were not included in the defendant's final order. Please see attached documentation to further support this stipulation.

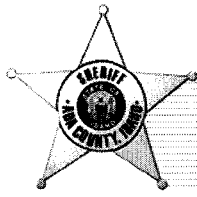
DATED this 4th day of January, 2016.


BEN HARMER
Deputy Prosecuting Attorney


DANICA M. COMSTOCK
Attorney for Defendant

STIPULATION FOR CREDIT FOR TIME SERVED

000027



Ada County Sheriff's Office

Arrest History

Page 1 of 1
Printed - 01/04/2016 10:54AM

Printed by PDBARRIB

<i>Name, last, first, m.</i> BROWN JEREMY SHANE				
<i>Date of Birth</i> [REDACTED]	<i>Age</i> 30	<i>SSN</i>	<i>LE #</i> 1031715	
<i>Sex</i> M	<i>Height</i> 0'0"	<i>Weight</i> 0	<i>Hair</i> UNK	<i>Eyes</i> UNK
<i>Street Address</i>				
<i>City, State, Zip</i>				

***** INCIDENTS *****

<u>Case #</u>	<u>Def</u> <u>Cnt</u>	<u>Arrest</u>	<u>Description</u>	<u>DR #</u>
CRFE20100001346	01 000	05/25/2010	STATE OF IDAHO {F} IDOC - JOC Transported	ADA 00-000000
CRFE20100001346	01 001	11/17/2009	18-903(a); 18-9 {F} BATTERY-AGGRAVATED (CAUSE GREAT BODILY H Release to Hold	ADA 99-999999



Calculate duration between two dates – results

From and including: **Wednesday, February 17, 2010**

To and including: **Tuesday, May 25, 2010**

Result: 98 days

It is **98 days** from the start date to the end date, end date included

Or 3 months, 9 days including the end date

Alternative time units

98 days can be converted to one of these units:

- 8,467,200 seconds
- 141,120 minutes
- 2352 hours
- 98 days
- 14 weeks
- 26.85% of 2010

February 2010						
12 days included						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

March 2010						
31 days included						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April 2010						
30 days included						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

May 2010						
25 days included						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

☐ = First day included (Feb 17, 2010) ☐ = Last day included (May 25, 2010)

Make a New Calculation

- Make adjustment and calculate again
- Start again with a new calculation between two other dates
- New calculation, with both date and time included



Copyright © Time and Date AS 1995–2015. All rights reserved.

State of Idaho vs. Jeremy Brown

Date	Code	User	Judge
1/25/2010	NCRF	PRNYEJED	New Case Filed - Felony
	PROS	PRNYEJED	Prosecutor assigned Ada County Prosecutor
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	RQDD	TCBULCEM	Defendant's Request for Discovery
3/3/2010	CONT	CCMANLHR	Continued (Preliminary 03/30/2010 08:30 AM)
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	COMT	CCMANLHR	Commitment

State of Idaho vs. Jeremy Brown

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	JAIL	DCJOHNSI	Sentenced to Jail or Detention (I18-907 Battery-Aggravated) Confinement terms: Credited time: 55 days. Penitentiary determinate: 2 years. Penitentiary indeterminate: 4 years.	Ronald J. Wilper
	STAT	DCJOHNSI	STATUS CHANGED: closed pending clerk action	Ronald J. Wilper

000031

State of Idaho vs. Jeremy Brown

Date	Code	User	Judge
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7/5/2011	REMT	CCTHIEBJ	Remittitur-Affirmed Supreme Court Docket No. 38147
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12/15/2015	PROS	PRMORTTF	Prosecutor assigned Ben Harmer
12/21/2015	MOTN	TCWRIGSA	Motion for Credit for Time Served

000032

Date: 1/4/2016

Fourth Judicial District Court - Ada County

User: PDBARRIB

Time: 10:09 AM

ROA Report

Page 4 of 4

Case: CR-FE-2010-0001346 Current Judge: Jason D. Scott

Defendant: Brown, Jeremy

State of Idaho vs. Jeremy Brown

Date	Code	User		Judge
12/23/2015	HRSC	CCSTOKSN	Hearing Scheduled (Motion 01/15/2016 10:00 AM)	Jason D. Scott
	NOHG	TCMARKSA	Notice Of Hearing (1-15 10:00)	Jason D. Scott
12/28/2015	RSPN	TCWRIGSA	Response to Defendant's Motion for Credit Time Served	Jason D. Scott

000033

JAN 06 2016

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

CHRISTOPHER D. RICH, Clerk
By SABRINA STOKES
DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

JEREMY BROWN,

Defendant.

Case No. CR-FE-2010-0001346

PRELIMINARY ORDER ON MOTION
FOR CREDIT FOR TIME SERVED

On May 25, 2010, Jeremy Brown was sentenced by the then-presiding judge to serve six years in prison (two years fixed followed by four years indeterminate) for committing aggravated battery in violation of I.C. §§ 18-903(b) and 18-907(a). The Court understands from a review of the record that Brown committed that crime against another inmate, while in the course of serving a prison sentence in another case. The then-presiding judge determined at the time of sentencing that Brown was entitled under I.C. § 18-309 to credit for fifty-five days of time served prior to sentencing, despite that Brown apparently was serving prison time in that other case during those same fifty-five days anyway.

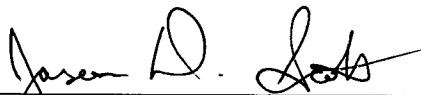
PRELIMINARY ORDER ON MOTION FOR CREDIT FOR TIME SERVED

On December 21, 2015, Brown filed a motion for additional credit for time served, contending the correct figure is ninety-eight days, not fifty-five days. The motion is scheduled for hearing on January 15, 2016. The State of Idaho has responded it by agreeing that Brown is entitled to ninety-eight days of credit for time served.

The Court nevertheless is concerned that the motion may not be well taken. In fact, the Court is concerned that Brown may not be entitled under I.C. § 18-309 to any credit for time served at all, given that, regardless of this case's filing, he apparently would have been imprisoned in connection with the other case throughout the time frame at issue here. In light of that concern, the parties are directed to review the order attached as Exhibit A, which the Court issued in a somewhat similar case, and be prepared to address during the January 15 hearing whether its legal rationale is correct and should be applied to this case.

IT IS SO ORDERED.

Dated this 6th day of January 2016.



Jason D. Scott
DISTRICT JUDGE

PRELIMINARY ORDER ON MOTION FOR CREDIT FOR TIME SERVED

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of January 2016, I mailed (served) a true and correct copy of the within instrument to:

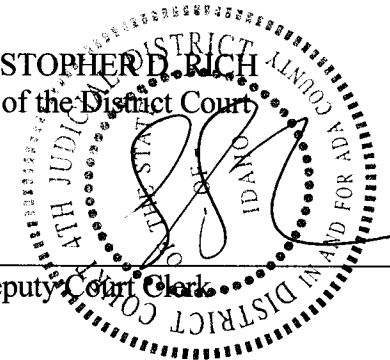
ADA COUNTY PROSECUTING ATTORNEY
ATTN: BEN HARMER
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENER
ATTN: DANICA COMSTOCK
INTERDEPARTMENTAL MAIL

CHRISTOPHER D. RICH
Clerk of the District Court

By: _____

Deputy Court Clerk



PRELIMINARY ORDER ON MOTION FOR CREDIT FOR TIME SERVED

JUL 09 2015

CHRISTOPHER D. RICH, Clerk
By LUCILLE DANSEREAU
DEPUTY

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

STATE OF IDAHO,

Plaintiff,

vs.

GILBERTO GARZA, JR.

Defendant.

Case No. CR-FE-2014-0018183

ORDER CORRECTING CREDIT FOR TIME
SERVED

On February 24, 2015, Gilberto Garza pleaded guilty to possession of a controlled substance with intent to deliver in violation of I.C. § 37-2732(a). He was sentenced the same day to five years in prison (one year fixed and four years indeterminate), consecutive to (i) a sentence imposed that day in Ada County Case No. CR-FE-2014-09960, and (ii) a sentence imposed on November 24, 2014, in Ada County Case No. CR-FE-2013-06554. The sentence in that latter case was a 14-year prison sentence (seven years fixed and seven years indeterminate). It is reflected in a Judgment of Conviction & Order of Commitment entered on December 2, 2014. A copy of that judgment is Exhibit A to this order. Judicial notice of it is taken under I.R.E. 201.

At the time of sentencing in this case, Garza was awarded 29 days of credit for time served under I.C. § 18-309. The credit awarded was for the period from January 27, 2015—the date on which the Court determined the arrest warrant in this case was served—through the date of sentencing.

A few months later, Garza filed a petition for post-conviction relief (initiating Ada County Case No. CV-PC-2015-10589). A copy of the petition is Exhibit B to this order.

Judicial notice of it is taken under I.R.E. 201. In the petition, Garza contended he had been awarded too little credit for time served. Consequently, the Court reexamined whether 29 days of credit for time served is the correct amount. Having done so, the Court concludes the award was not correct. Garza should have received no award of credit for time served at all.

When Garza was sentenced, the controlling statute provided as follows:

In computing the term of imprisonment, the person against whom the judgment was entered shall receive credit in the judgment for any period of incarceration prior to entry of judgment, if such incarceration was for the offense or an included offense for which the judgment was entered. The remainder of the term commences upon the pronouncement of sentence and if thereafter, during such term, the defendant by any legal means is temporarily released from such imprisonment and subsequently returned thereto, the time during which he was at large must not be computed as part of such term.

I.C. § 18-309 (emphasis added). The underscored clause is key here. It is “a mandatory directive that specifically conditions credit for time served on the fact that the incarceration was for ‘the offense’ for which the judgment was entered.” *State v. Owens*, 158 Idaho 1, 343 P.3d 30, 33 (2015).

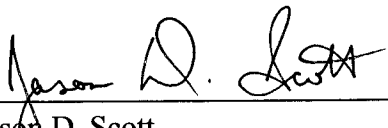
Because of that mandatory directive, “the right to credit [for time served] is conferred only if the prejudgment incarceration is a *consequence* of or *attributable* to the charge or conduct for which the sentence is imposed.” *State v. Vasquez*, 142 Idaho 67, 68, 122 P.3d 1167, 1168 (Ct. App. 2005) (emphasis in original). In other words, “there must be a causal effect between the offense and the incarceration in order for the incarceration to be ‘for’ the offense, as the term is used in I.C. § 18–309.” *Id.* Consequently, a defendant already serving time in one case when he is served with an arrest warrant in a second case isn’t entitled to credit under I.C. § 18-309 for time served in the second case from the date the arrest warrant was served, as his incarceration simply was not a consequence of or attributable to the second case. *Id.*; *State v. Horn*, 124 Idaho 849, 850-51, 865 P.2d 176, 177-78 (Ct. App. 1993).

When Garza was served with the arrest warrant in this case, he was already committed to the custody of the Idaho Department of Correction in Ada County Case No. CR-FE-2014-06554. He remained so committed throughout the 29-day period for which he was (mistakenly) awarded credit for time served. It is clear, then, that Garza's arrest in this case had no effect on his liberty. He was imprisoned, regardless. His prejudgment incarceration in this case therefore was not a consequence of or attributable to the offense for which he was sentenced in this case. As a result, he is not entitled to any credit for time served in this case. The Court erred by awarding him 29 days of credit for time served.

"When credit [for time served] has been erroneously granted, courts may withdraw the credit to correct the sentence." *State v. Mace*, 157 Idaho 885, 887, 341 P.3d 602, 604 (Ct. App. 2015). The Court corrects its own error here. An amended judgment will be issued, *nunc pro tunc*, rescinding Garza's award of 29 days of credit for time served.

IT IS SO ORDERED.

Dated this 9th day of July, 2015.



Jason D. Scott
DISTRICT JUDGE

CERTIFICATE OF MAILING

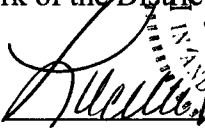
I hereby certify that on the 9th day of July, 2015, I mailed a true and correct copy of the
within instrument to:

ADA COUNTY PROSECUTOR'S OFFICE
VIA INTERDEPARTMENTAL MAIL

Paul Taber
Attorney at Law
250 S. 5th Street, Suite 850
Boise, ID 83702

Department of Corrections
VIA-Email

CHRISTOPHER D. RICH
Clerk of the District Court of -

By: 
Deputy Clerk

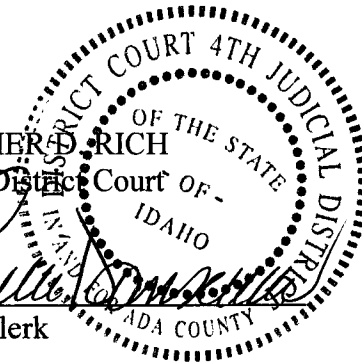


EXHIBIT A

DEC 02 2014

CHRISTOPHER D. HICH, Clerk
By KIERSTEN HOUST
CLERK

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

THE STATE OF IDAHO,

Plaintiffs,

-vs-

GILBERTO GARZA JR.,

DOB: [REDACTED]
SSN: [REDACTED]

Defendant.

Case No. CR FE 2013-0006554

**JUDGMENT OF CONVICTION
AND COMMITMENT**

On November 24, 2014, Jason Spillman, from the Idaho Attorney General's Office, and the defendant, Gilberto Garza Jr., with his attorney, Paul Taber, appeared before this Court for sentencing.

The defendant was duly informed of the Amended Information filed against him, and the defendant entered a guilty plea on August 28, 2014 to the crime of COUNT II: GRAND THEFT, FELONY, I.C. § 18-2403(1) and/or (4), -2407(1)(b), -2409, committed on or about March 17, 2013. Count I was dismissed pursuant to plea negotiations.

The defendant, and defendant's counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the defendant, and if the defendant, or defendant's counsel, wished to offer any evidence or to make a statement on behalf of the defendant, or to present any information to the Court in mitigation of punishment; and the Court, having accepted such statements, and having found no legal cause or reason why

judgment and sentence should not be pronounced against the defendant at this time; does render its judgment of conviction as follows, to-wit:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant is guilty of the crime of COUNT II: GRAND THEFT, FELONY, I.C. § 18-2403(1) and/or (4), - 2407(1)(b), -2409, and that he be sentenced pursuant to the Uniform Sentence Law of the State of Idaho, I.C. § 19-2513, to the custody of the State of Idaho Board of Correction for an aggregate term of fourteen (14) years: with the first seven (7) years of the term to be FIXED, and with the remaining seven (7) years of the term to be INDETERMINATE, with such sentence to commence immediately.

Pursuant to I.C. § 18-309, the defendant shall be given credit for the time already served upon the charge specified herein, which is one hundred sixty-three (163) days as of the date of sentencing.

The defendant shall submit a DNA sample and right thumbprint impression to authorities pursuant to I.C. § 19-5506 within ten (10) days of this judgment.

Pursuant to I.C. § 31-3201A, the Defendant shall pay court costs in the amount of \$17.50; County Administrative Surcharge Fee in the amount of \$10.00 pursuant to I.C. § 31-4602; P.O.S.T. Academy fees in the amount of \$15.00 pursuant to I.C. § 31-3201B; ISTARs technology fee in the amount of \$10.00 pursuant to I.C. § 31-3201(5); \$75.00 to the Victims Compensation Fund pursuant to I.C. § 72-1025; \$3.00 for the Peace Officer Temporary Disability Fund pursuant to I.C. § 72-1105; \$10.00 victim notification fee pursuant to I.C. § 31-3204; and \$100.00 emergency surcharge fee pursuant to I.C. § 31-3201H, to be paid through the Clerk of the District Court.

The parties were not prepared to stipulate to restitution. The state is directed to notice restitution for hearing if the parties cannot stipulate to an amount within 60 days.

The defendant shall pay an amount to be determined by the Department of Correction, not to exceed one hundred dollars (\$100), for the cost of conducting the pre-sentence investigation and preparing the pre-sentence investigation report. The amount will be determined by the Department and paid by the defendant in accordance with the provisions of I.C. § 19-2516.

The defendant shall be remanded to the custody of the Sheriff of Ada County, to be delivered FORTHWITH by him into the custody of the Director of the State Board of Correction of the State of Idaho.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment and Commitment to the said Sheriff, which shall serve as the commitment of the defendant.

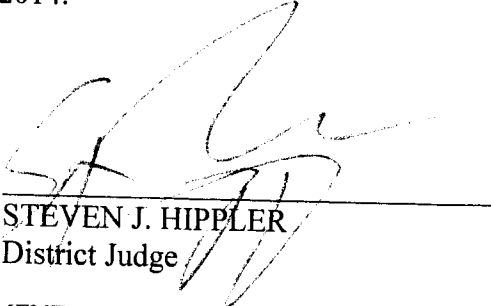
NOTICE OF RIGHT TO APPEAL

You, Gilberto Garza Jr., are hereby notified that you have the right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days from the entry of this judgment.

You are further notified that you have the right to be represented by an attorney in any appeal, that if you cannot afford to retain an attorney, one may be appointed at public expense. Further, if you are a needy person, the costs of the appeal may be paid for by the State of Idaho. If you have questions about your appeal rights, you should consult your present lawyer.

IT IS SO ORDERED.

Dated this 15th day of December 2014.


STEVEN J. HIPPLER
District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of December ~~November~~ 2014, I mailed (emailed) a true and correct copy of the within instrument to:

JASON S. SPILLMAN
IDAHO ATTORNEY GENERAL'S OFFICE
PO BOX 83720
BOISE, ID 83720-0010

PAUL R. TABER III
ATTORNEY AT LAW
250 S 5TH ST, STE 850
BOISE, ID 83702

ADA COUNTY JAIL
VIA EMAIL

IDAHO DEPARTMENT OF CORRECTION
VIA EMAIL

PSI DEPARTMENT
VIA EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court


By: 
Deputy Clerk

EXHIBIT B

RECEIVED
JUN 22 2015
Ada County Clerk

NO. _____ FILED _____
A.M. _____ P.M. 2-28

Inmate Name GILBERTO GARZA JR
IDOC No. 76602
Address P.O. Box 51
BOISE, IDAHO 83707

JUN 22 2015

CHRISTOPHER D. RICH, Clerk
By SEAN MURPHY
DEPUTY

Petitioner

IN THE DISTRICT COURT OF THE FURRY JUDICIAL DISTRICT

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

GILBERTO GARZA JR

Petitioner,

vs.

STATE OF IDAHO

Respondent.

CV DO 15-0589

Case No. _____

PETITION AND AFFIDAVIT
FOR POST CONVICTION
RELIEF

The Petitioner alleges:

1. Place of detention if in custody: IDAHO MAXIMUM SECURITY
2. Name and location of the Court which imposed judgement/sentence: ADA
COUNTY COURTHOUSE BOISE, IDAHO
3. The case number and the offense or offenses for which sentence was imposed:
 - (a) Case Number: CR-E-2014-001813
 - (b) Offense Convicted: PROSECUTED 3RD W INTER
4. The date upon which sentence was imposed and the terms of sentence:
 - a. Date of Sentence: FEBRUARY 24, 2015
 - b. Terms of Sentence: 1 YEAR FIXED 4 TO 10 CUSTODY

PETITION FOR POST CONVICTION RELIEF - 1

Revised: 10/13/05

000047

Exhibit B

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? N/A

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

(a) IN-EFFECTIVENESS OF COUNSEL

(b) INVOLUNTARY PLEA

(c) WAS ARRESTED AND CHARGED. INCARCERATED FOR 7 MONTHS AND ONLY GIVEN CREDIT FOR 2 DAYS.

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? NO

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

N/A

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) FAILED TO FILE AN APPEAL OF
SENTENCE WITHIN 42 DAY LIMIT.

(b) NEVER FILED A MOTION TO SUPPRESS
EVIDENCE UPON MY REQUEST

(c) FAILED TO ENTER INTO EVIDENCE
THREATS OF MY LIFE FROM LEADING DETECTIVE

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:

I WOULD LIKE MY CONSECUTIVE SENTENCE
TO BE RAN CONCURRENT TO MY
OTHER TWO CASES.

13. This Petition may be accompanied by affidavits in support of the petition. (Forms for this are available.)

DATED this 31 day of MAY, 2015.

GILBERTO GARZA JR
Petitioner

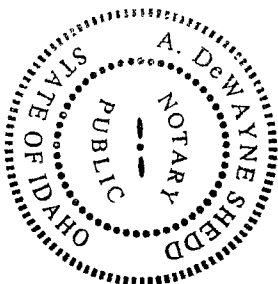
STATE OF IDAHO)
) ss
County of ADA)

GILBERTO GARZA JR, being sworn, deposes and says 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 or her knowledge and belief.

GILBERTO GARZA JR
Petitioner

SUBSCRIBED AND SWORN and AFFIRMED to before me this 21 day of May, 2015.

(SEAL)



A. Dewayne Shedd
Notary Public for Idaho
Commission expires: 11/06/19

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 21 day of MAY, 2015, 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:

ADA County Prosecuting Attorney
200 W FRONT ST.
BOISE, IDAHO 83702


GILBERTO GALZA JR
Petitioner

STATE OF IDAHO)
) ss
COUNTY OF ADA)

ATTORNEY WAS INEFFECTIVE FOR FAILING TO DISCOVER OR RAISE ISSUES AT APPROPRIATE DURING MY CRIMINAL CASE AND FOR MY APPEAL. I CONTINUOUSLY ASKED MY ATTORNEY TO FILE MOTIONS DURING MY CASE SUCH AS: SUPPRESSION, ADMITT TO THE COURT'S HARRASSMENT AND THREATS FROM THE LEADING DETECTIVE OF THIS CASE, AND FILING AN APPEAL WITHIN 42 DAY LIMIT. THE STATE PROSECUTOR USED FALSE TESTIMONY THAT SHE HAD REASON TO BELIEVE WAS FALSE. THE POLICE AND PROSECUTOR WITHHELD FAVORABLE INFORMATION FROM THE DEFENSE. I WAS PERSUADED TO PLEAD GUILTY BY THE PROSECUTING ATTORNEY WHICH WERE NOT KNOWINGLY VOLUNTARILY. I WAS ARRESTED ON THIS CHARGE I COMMITTED ON OR ABOUT JULY 11TH 2014

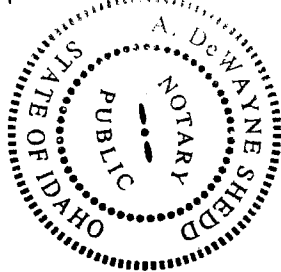
AND SENTENCED ON FEBRUARY OF
2015, BUT ONLY GIVEN 29 DAYS
OF CREDIT.

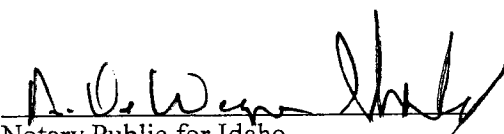
Further your affiant sayeth not.


Signature of Affiant

SUBSCRIBED AND SWORN AND AFFIRMED TO before me this 21 day of

May, 2015.




Notary Public for Idaho
My Commission Expires: 11/06/19

Time	Speaker	Note
10:30:33 AM		
10:30:33 AM		
10:30:33 AM		
10:30:35 AM		ST v JEREMY BROWN CRFE10-01346 CTS CUST
10:30:37 AM		Counsel: Harmer/Comstock
10:32:53 AM	Comstock	Argues motion.
10:36:32 AM	Harmer	Responds. Agrees with counsel.
10:40:16 AM	Comstock	Reply argument.
10:40:43 AM	Judge Scott	Will take the matter under advisement. Kootenai County
10:41:12 AM		End of Case
10:41:12 AM		
10:41:12 AM		
10:41:12 AM		

JAN 20 2016

CHRISTOPHER D. RICH, Clerk
By KRISTI DUMON
DEPUTY

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

STATE OF IDAHO,)	
)	
Plaintiff,)	Case No. CR-FE-2010-01346
)	
vs.)	ORDER WITHDRAWING CREDIT FOR
)	TIME SERVED
JEREMY BROWN)	
)	
Defendant.)	

On May 25, 2010, Jeremy Brown was sentenced to serve six years in prison for aggravated battery in violation of I.C. §§ 18-903(b) and 18-907(a). The then-presiding judge determined, at the time of sentencing, that Brown was entitled under I.C. § 18-309 to credit for fifty-five days of time served prior to sentencing. More than five years later (on December 21, 2015), Brown filed a motion for additional credit for time served. The motion was argued and taken under advisement on January 15, 2016. It is now ready for decision.

According to an order entered on June 30, 2010, credit was granted for time served from March 30, 2010—when the then-presiding judge understood Brown was first required to post a \$10,000 bond in this case—through sentencing on May 25, 2010. That period actually equals fifty-seven days, though it was miscalculated as fifty-five days. The State contends fifty-seven days is the correct amount of credit for time served.

Brown observes that the \$10,000 bond requirement actually was first imposed on February 17—not March 30—of 2010. Ninety-eight days passed from February 17 through sentencing on May 25. Thus, Brown says ninety-eight days of credit is the correct amount.

The States agree that a \$10,000 bond requirement was first imposed on February 17, 2010. The State contends, however, that the bond requirement did not immediately trigger an entitlement to credit for time served. This is so, the State argues, because the bond requirement was invalid when first imposed, as, in its understanding, no probable-cause finding had been made by then. A probable-cause finding is, of course, necessary before a bond requirement may be imposed. I.C.R. 4(d). According to the State, a probable-cause finding was not made until March 30, 2010, when the commitment was filed. At that point, the State argues, the bond requirement became valid, triggering entitlement to credit for time served. The State contends Brown is not entitled to credit for time served while being held based on a supposedly invalid bond requirement because he was in custody during that period of time irrespective of this case, serving a prison sentence that had already been imposed against him in Kootenai County Case No. CR-2005-12124. In fact, Brown committed the instant crime against another inmate while serving the Kootenai County prison sentence. It is undisputed that he continued to serve that sentence throughout the prejudgment phase of this case.

According to magistrate court minutes, Magistrate Hicks found probable cause on January 25, 2010—the date on which the criminal complaint was filed. As such, the \$10,000 bond requirement was valid, under I.C.R. 4(d), upon its imposition on February 17, 2010. Consequently, if Brown began accumulating credit for time served once a bond requirement was validly imposed, his entitlement to credit for time served would equal ninety-eight days.

That said, in an order entered more than a week before the hearing, the Court notified the parties of its concern that Brown should not have been awarded any credit for time served at all. The Court's concern arises from the fact that Brown was serving his prison sentence in the Kootenai County case throughout the period in which he was nominally held on a \$10,000 bond

requirement in this case. The Court directed the parties to prepare to address that concern during the hearing. During the hearing, the parties agreed that the Kootenai County prison sentence does not negate Brown's entitlement to credit for time served, despite that neither this case in general nor the \$10,000 bond requirement in particular had any practical effect on his liberty during the prejudgment phase of this case.

Unconvinced the parties' shared view accords with the case law applying I.C. § 18-309, the Court took Brown's motion under advisement to study the issue further. Having done so, the Court now renders its decision.

I.C.R. 35(c) grants the Court jurisdiction to decide Brown's motion, despite that his prison sentence was imposed several years ago. Brown having made the motion, the Court has the "duty to determine the accurate credit for time served as reflected by the record and award that time accordingly." *State v. Moore*, 156 Idaho 17, 21, 319 P.3d 501, 505 (Ct. App. 2014). That duty extends to withdrawing erroneously granted credit for time served. *State v. Mace*, 157 Idaho 885, 887, 341 P.3d 602, 604 (Ct. App. 2015) ("When credit [for time served] has been erroneously granted, courts may withdraw the credit to correct the sentence.").

A defendant's right to credit for time served before the entry of judgment is governed by I.C. § 18-309. *E.g., State v. Bitkoff*, 157 Idaho 410, 413, 336 P.3d 817, 820 (Ct. App. 2014). At the time Brown was sentenced, I.C. § 18-309 provided as follows:

In computing the term of imprisonment, the person against whom the judgment was entered, shall receive credit in the judgment for any period of incarceration prior to entry of judgment, if such incarceration was for the offense ... for which the judgment was entered. The remainder of the term commences upon the pronouncement of sentence and if thereafter, during such term, the defendant by any legal means is temporarily released from such imprisonment and subsequently returned thereto, the time during which he was at large must not be computed as part of such term.

I.C. § 18-309 (emphasis added). The underscored clause is key. It is a qualifier. Put differently, it is “a mandatory directive that specifically conditions credit for time served on the fact that the incarceration was for ‘the offense’ for which the judgment was entered.” *State v. Owens*, 158 Idaho 1, 343 P.3d 30, 33 (2015).

The “for the offense” qualifier was included in I.C. § 18-309 upon its enactment in 1972. A few years later, the Idaho Supreme Court determined that, under I.C. § 18-309, credit for prejudgment incarceration must not be awarded to a defendant who, during the prejudgment phase of the case, was imprisoned based on an earlier conviction. *State v. Beer*, 97 Idaho 684, 551 P.2d 971 (1976) (directing the trial court that “credit be given appellant for any time spent in pretrial confinement which is found attributable to his being held awaiting trial on the homicide charge, as distinguished from being then confined by the terms of a previous conviction”). *Beer* has never been explicitly questioned, much less overruled, in any subsequent Idaho Supreme Court decision. Its holding plainly applies here. Because, during the prejudgment phase of this case, Brown was serving the prison sentence that had already been imposed against him in the Kootenai County case, his prejudgment incarceration was not, under *Beer*, “for the offense” at issue in this case. The result is that Brown is not entitled to any credit for time served. To hold otherwise would be to depart from *Beer*, which the Court lacks authority to do.

The result for which *Beer* provides is also the result for which a line of Idaho Court of Appeals cases provides. Under those cases, in light of I.C. § 18-309’s “for the offense” qualifier, “the right to credit [for time served] is conferred only if the prejudgment incarceration is a *consequence* of or *attributable* to the charge or conduct for which the sentence is imposed.” *State v. Vasquez*, 142 Idaho 67, 68, 122 P.3d 1167, 1168 (Ct. App. 2005) (emphasis in original). In other words, “there must be a causal effect between the offense and the incarceration in order

for the incarceration to be ‘for’ the offense, as the term is used in I.C. § 18-309.” *Id.* The requisite “causal effect” is lacking when a case does not affect the defendant’s liberty because he was incarcerated in connection with other cases anyway. *Id.* at 68-69, 122 P.3d at 1168-69 (“Vasquez . . . was already serving time in one county (Payette) when he was served with an arrest warrant from another county (Washington) on unrelated charges. The Washington [County] charges, therefore, had no effect upon Vasquez’s liberty because he was already subject to confinement for charges arising in Payette County. Accordingly, Vasquez was not entitled to credit on his Washington County sentences for time served in Payette County.”); *State v. Horn*, 124 Idaho 849, 850-51, 865 P.2d 176, 177-78 (Ct. App. 1993) (“Only if the presentence incarceration was caused by the charge for which a sentence is being imposed should credit be granted. That test is not met here. When the Ada County arrest warrant was served, Horn was already being detained as a consequence of charges in other counties. The Ada County warrant had no effect upon his liberty . . .”).

Brown nominally was held on a \$10,000 bond requirement in this case from February 17 through May 25 of 2010. But, post the bond or not, he would be spending that period serving his already-imposed prison sentence in the Kootenai County case. Thus, during the prejudgment phase of this case, Brown’s liberty was unaffected by the existence of either (i) this case in general, or (ii) the \$10,000 bond requirement in particular. As a result, under *Vasquez* and *Horn*, he is not entitled under I.C. § 18-309 to any credit for time served.

In its recent *Owens* decision, the Idaho Supreme Court may have signaled disagreement with the “causation test” the Idaho Court of Appeals has been applying in cases like *Vasquez* and *Horn*. Regardless, *Owens* does not overrule *Beer*, nor did *Owens* present an occasion for doing so because the context is so different. *Owens* holds that a defendant who is given consecutive

sentences on multiple counts in a single case is entitled to credit for time served on each count, not just on the first count. 158 Idaho at 3-6, 343 P.3d at 33-36. The interplay among multiple cases was not involved. More importantly, a prior case in which the defendant was serving an already-imposed prison sentence was not involved. The outcome in *Owens* is readily reconcilable with the outcome in *Beer*, as follows: Owens's prejudgment incarceration was "for" each of the eight offenses at issue because not one of them affected his liberty differently than any other, whereas Beer's prejudgment incarceration was not "for" the one offense at issue if, regardless of his having committed it, he was imprisoned on an unrelated sentence. *Beer* survives *Owens*. Unless and until it is overruled by the Idaho Supreme Court, it is controlling law that is directly applicable here.

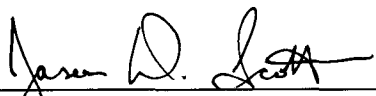
As a result, it was error to award Brown fifty-five days of credit for time served. The Court has a duty to grant a defendant neither more nor less than the amount of credit for time served to which the law entitles him. Consequently, the Court must withdraw the fifty-five days of credit for time served that were granted to Brown in error.

Accordingly,

IT IS ORDERED that Brown's motion for credit for time served is denied.

IT IS FURTHER ORDERED that the grant of fifty-five days of credit for time served in the Judgment of Conviction entered on May 26, 2010, is withdrawn. Brown is entitled to no credit for time served in this case prior to the imposition of sentence on May 25, 2010.

Dated this 20th day of January, 2016.



Jason D. Scott
DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of January, 2016, I mailed a true and correct copy of

the within instrument to:

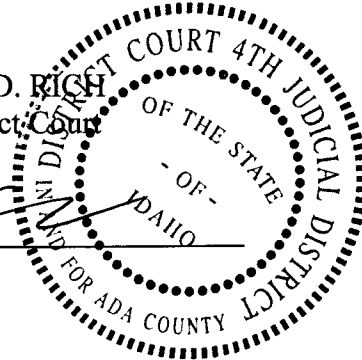
ADA COUNTY PROSECUTOR'S OFFICE
VIA INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER'S OFFICE
VIA INTERDEPARTMENTAL MAIL

IDAHO DEPARTMENT OF CORRECTION
VIA E-MAIL

CHRISTOPHER D. RICH
Clerk of the District Court

By: 
Deputy Clerk



JAN 22 2016

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

160
ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

DANICA M. COMSTOCK, ISB #8165
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY BROWN,

Defendant-Appellant.

Case No. CR-FE-2010-0001346

NOTICE OF APPEAL


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

NOTICE IS HEREBY GIVEN THAT:

- 1) The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the final decision and order entered against him in the above-entitled action on January 20, 2016, the Honorable Jason D. Scott, District Judge presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-10).
- 3) A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal are:
 - a) Did the District Court err in denying the defendant's motion for credit for time served?

- b) Did the District Court err by withdrawing credit for time served previously ordered in the case?
- 4) There is a portion of the record that is sealed. That portion of the record that is sealed is the pre-sentence investigation report (PSI).
- 5) Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
- a) Credit for Time Served Hearing held January 15, 2016 (Court Reporter: Dianne Cromwell. Estimated pages: 50).
- 6) Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any materials relating to his motion, and any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
- 7) I certify:
- a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) mentioned in paragraph 5 above.
- b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
- c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, IAR 23(a)(8)).
- d) Ada County will be responsible for paying for the reporter's transcript, as the client is indigent (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
- e) That service has been made upon all parties required to be served pursuant to IAR 20.

DATED this 22nd day of January 2016.



DANICA M. COMSTOCK
Attorney for Defendant

CERTIFICATE OF MAILING


I HEREBY CERTIFY, that on this 22nd day of January 2016, I mailed (served) a true and correct copy of the within instrument to:

Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Idaho Appellate Public Defender
P.O. Box 2816
Boise, ID 83701

Dianne Cromwell
Court Reporter
Interdepartmental Mail

Ben Harmer
Ada County Prosecutor's Office
Interdepartmental Mail



Irene Barrios

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

DANICA M. COMSTOCK, ISB #8165
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

RECEIVED
JAN 22 2016
ADA COUNTY CLERK

FILED
A.M. 11:20 P.M.

JAN 27 2016

CHRISTOPHER D. RICH, Clerk
By SABRINA STOKES
DEPUTY

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY BROWN,


Defendant-Appellant.

Case No. CR-FE-2010-0001346

ORDER APPOINTING STATE
APPELLATE PUBLIC DEFENDER ON
DIRECT APPEAL

Defendant has elected to pursue a direct appeal in the above-entitled matter. Defendant being indigent and having heretofore been represented by the Ada County Public Defender's office in the District Court, the Court finds that, under these circumstances, appointment of appellate counsel is justified. The Idaho State Appellate Public Defender shall be appointed to represent the above-named Defendant in all matters pertaining to the direct appeal.

SO ORDERED AND DATED this 27th day of January, 2016.



JASON D. SCOTT
District Judge

CERTIFICATE OF MAILING

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have mailed one copy of the Order Appointing State Appellate Public Defender on Direct Appeal as notice pursuant to the Idaho Rules to each of the parties of record in this case in envelopes addressed as follows:

Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Idaho Appellate Public Defender
P.O. Box 2816
Boise, ID 83701

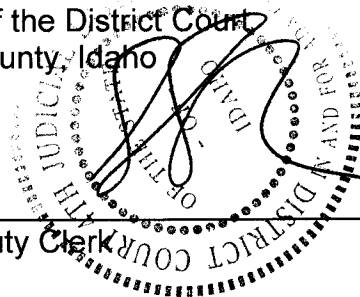
Ben Harmer
Ada County Prosecutor's Office
Interdepartmental Mail

Ada County Public Defender
Attn: Irene Barrios
Interdepartmental Mail

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

Date: JAN 27 2016

By [Signature]
Deputy Clerk

The seal is circular with a dotted border. Inside the border, the text "DISTRICT COURT" is at the top, "IDAHO" is at the bottom, and "CLERK OF THE DISTRICT COURT" is on the right. The words "JAN 27 2016" are stamped across the center of the seal. A signature is written over the seal.

NO. _____
A.M. _____ P.M. 12:43

MAR 07 2016

CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

Stephen W. Kenyon
Clerk of Supreme Court
451 W State Street
Boise, Idaho 83720

In re: State of Idaho v. Jeremy Brown, Docket No. 43916

Notice is hereby given that on Tuesday, February 16, 2016, I lodged a transcript of 12 pages in length for the above-referenced appeal with the district court clerk of Ada County in the Fourth Judicial District.

The following files were lodged:

Proceeding 01/15/2016

David Cromwell
Tucker & Associates

cc: sctfilings@idcourts.net
PDF format of completed files emailed to Supreme Court

kw

000067

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY BROWN,

Defendant-Appellant.

Supreme Court Case No. 43916

CERTIFICATE OF EXHIBITS

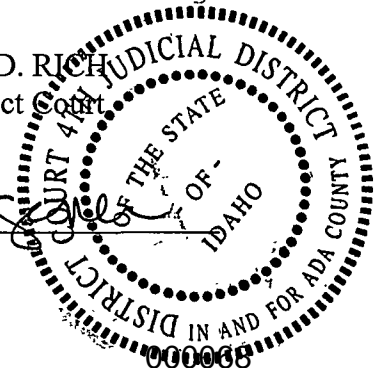
I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

There were no exhibits offered for identification or admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 7th day of March, 2016.

CHRISTOPHER D. RICH
Clerk of the District Court

By K. W. [Signature]
Deputy Clerk



CERTIFICATE OF EXHIBITS

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY BROWN,

Defendant-Appellant.

Supreme Court Case No. 43916

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

LIMITED CLERK'S RECORD AND REPORTER'S TRANSCRIPT

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

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

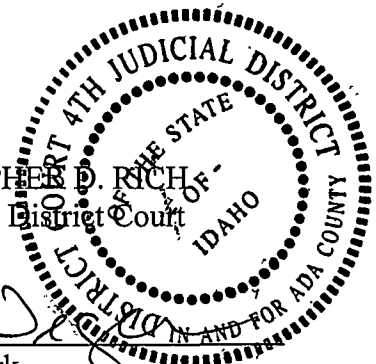
ATTORNEY FOR RESPONDENT

BOISE, IDAHO

Date of Service: MAR 07 2016

CHRISTOPHER D. RICH
Clerk of the District Court

By K. Wasden
Deputy Clerk



CERTIFICATE OF SERVICE

000069

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY BROWN,

Defendant-Appellant.

Supreme Court Case No. 43916

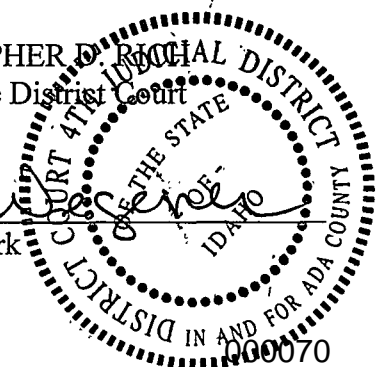
CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 22nd day of January, 2016.

CHRISTOPHER D. RICH
Clerk of the District Court

By K. J. Jensen
Deputy Clerk



CERTIFICATE TO RECORD