

5-2-2016

## State v. Richardson Clerk's Record Dckt. 44042

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	SUPREME COURT NO. 44042
	)	
v.	)	
	)	
KYLE ALAN RICHARDSON,	)	
	)	
Defendant-Appellant.	)	

CLERK'S RECORD

Appeal from the District Court of the Second Judicial District  
of the State of Idaho, in and for the County of Nez Perce

BEFORE THE HONORABLE JAY P. GASKILL, DISTRICT JUDGE

Counsel for Respondent

Mr. Lawrence G. Wasden  
Attorney General  
PO Box 83720  
Boise, Idaho 83720-0010

Counsel for Appellant

Ms. Sara B. Thomas  
State Appellate PD  
PO Box 2816  
Boise, ID 83701

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
1/4/2012	NCRF	BDAVENPORT	New Case Filed-Felony
	AFPC	BDAVENPORT	Affidavit Of Probable Cause
	MFPC	BDAVENPORT	Magistrate's Finding Of Probable Cause
	CRCO	BDAVENPORT	Criminal Complaint
	SMIS	BDAVENPORT	Summons Issued
	SMRT	BDAVENPORT	Summons Returned
	STAT	BDAVENPORT	Case Status Changed: Inactive
	STAT	BDAVENPORT	Case Status Changed: Pending
	HRSC	BDAVENPORT	Hearing Scheduled (Initial Appearance Arraignment 01/11/2012 01:15 PM)
	PROS	BDAVENPORT	Prosecutor Assigned Sandra K. Dickerson
		BDAVENPORT	Officer Dammon Served Danny Radakovich in the Lobby with it
1/10/2012	RQDD	JENNY	Request For Discovery-defendant
1/11/2012	ARRN	DONNA	Hearing result for Initial Appearance Arraignment scheduled on 01/11/2012 01:15 PM: Arraignment / First Appearance
	ORPD	DONNA	Defendant: Richardson, Kyle Alan Order Appointing Public Defender Public defender Danny Radakovich PD 2012
	HRSC	DONNA	Hearing Scheduled (Preliminary Hearing 02/01/2012 01:30 PM)
	NTHR	DONNA	Notice Of Hearing
	WAIP	DONNA	Waiver of Speedy Preliminary Hearing
	NOTF	DONNA	Notice Of Bond Forfeiture
	NOTC	DEANNA	Notification of Rights - Felony
1/12/2012	MINE	DONNA	Minute Entry Hearing type: Initial Appearance Arraignment Hearing date: 1/11/2012 Time: 1:23 pm Courtroom: Court reporter: None Minutes Clerk: Evans Tape Number: courtroom2 Defense Attorney: Danny Radakovich PD 2012 Prosecutor: Mia Vowels
	RSDP	JENNY	Response To Request For Discovery-plaintiff
1/13/2012	ORPD	DEANNA	Order Appointing Public Defender
1/31/2012	STIP	SHELLIE	Stipulation to Continue Preliminary Hearing (D)
	ORDR	SHELLIE	Order Continuing Preliminary Hearing (D)
	CONT	SHELLIE	Hearing result for Preliminary Hearing scheduled on 02/01/2012 01:30 PM: Continued
	CHJG	SHELLIE	Change Assigned Judge

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
1/31/2012	HRSC	SHELLIE	Hearing Scheduled (Preliminary Hearing 02/15/2012 01:30 PM)
2/6/2012	RSDP	JENNY	First Supplemental Response To Request For Discovery-plaintiff
2/15/2012	MINE	BEV	Minute Entry Hearing type: Preliminary Hearing Hearing date: 2/15/2012 Time: 3:25 pm Courtroom: Court reporter: Minutes Clerk: BEV Tape Number: ctrm 2 Defense Attorney: Danny Radakovich PD 2012 Prosecutor: Sandra Dickerson
	CONT	BEV	Hearing result for Preliminary Hearing scheduled on 02/15/2012 01:30 PM: Continued
	HRSC	BEV	Hearing Scheduled (Preliminary Hearing 02/22/2012 01:30 PM) specially set
	NTHR	BEV	Notice Of Hearing
2/22/2012	MINE	BEV	Minute Entry Hearing type: Preliminary Hearing Hearing date: 2/22/2012 Time: 1:54 pm Courtroom: Court reporter: Minutes Clerk: BEV Tape Number: ctrm 3 Defense Attorney: Danny Radakovich PD 2012 Prosecutor: Sandra Dickerson
	BOUN	BEV	Hearing result for Preliminary Hearing scheduled on 02/22/2012 01:30 PM: Bound Over (after Prelim) specially set
	HRSC	BEV	Hearing Scheduled (Arrestment 03/01/2012 01:15 PM)
	INFO	TERESA	Information
2/23/2012		BEV	Notice Of Hearing
	ORBO	BEV	Order Binding Over
2/27/2012	MOTN	TERESA	Motion for Preliminary Hearing Transcript at County Expense--def
	ORDR	TERESA	Order for Preparation of Preliminary Hearing Transcript at County Expense---CARLTON
3/1/2012	DCHH	TERESA	Hearing result for Arrestment scheduled on 03/01/2012 01:15 PM: District Court Hearing Hek Court Reporter: Linda Carlton Number of Transcript Pages for this hearing estimated: less than 100 pages

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
3/1/2012	PLEA	TERESA	A Plea is entered for charge: - NG (I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery) Carl B. Kerrick
	PLEA	TERESA	A Plea is entered for charge: - NG (I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery) Carl B. Kerrick
	PLEA	TERESA	A Plea is entered for charge: - NG (I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery) Carl B. Kerrick
	HRSC	TERESA	Hearing Scheduled (Jury Trial 06/04/2012 09:00 AM) Carl B. Kerrick
	HRSC	TERESA	Hearing Scheduled (Final Pretrial 05/24/2012 03:30 PM) Carl B. Kerrick
	HRSC	TERESA	Hearing Scheduled (Pretrial Motions 05/17/2012 02:30 PM) Carl B. Kerrick
	MINE	TERESA	Minute Entry Hearing type: Arraignment Hearing date: 3/1/2012 Time: 1:17 pm Courtroom: Court reporter: Linda Carlton Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich PD 2012 Prosecutor: April Smith Carl B. Kerrick
3/2/2012	ORDR	TERESA	Order Setting Jury Trial and Scheduling Proceedings Carl B. Kerrick
3/27/2012	TRAN	TERESA	Transcript Filed Carl B. Kerrick
4/12/2012	MOTN	TERESA	Motion for Extension of Time to File Pretrial Motions--def Carl B. Kerrick
5/1/2012	MOTN	TERESA	Motion for Continuance---State Carl B. Kerrick
5/3/2012	HRVC	TERESA	Hearing result for Pretrial Motions scheduled on 05/17/2012 02:30 PM: Hearing Vacated---NO MOTIONS FILED Carl B. Kerrick
	CONT	TERESA	Continued (Jury Trial 08/20/2012 09:00 AM) Carl B. Kerrick
	CONT	TERESA	Continued (Final Pretrial 08/09/2012 03:30 PM) Carl B. Kerrick
	ORDR	TERESA	Order for Continuance Carl B. Kerrick
7/31/2012	RQDP	TERESA	Request For Discovery-plaintiff Carl B. Kerrick
	MOTN	TERESA	Motion to Admit Preliminary Hearing Transcript Testimony of Robert Bauer--Deceased---State Carl B. Kerrick
	MISC	TERESA	State's Requested Jury Instructions Jay P. Gaskill DJ
8/1/2012	CONT	TERESA	Continued (Final Pretrial 08/16/2012 01:15 PM) Carl B. Kerrick
		TERESA	Notice Of Hearing Carl B. Kerrick
8/9/2012	MISC	TERESA	Objection to Motion to Admit Preliminary Hearing Testimony at Trial--def Carl B. Kerrick

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
8/16/2012	DCHH	TERESA	Hearing result for Final Pretrial scheduled on 08/16/2012 01:15 PM: District Court Hearing Held Court Reporter: Linda Carlton Number of Transcript Pages for this hearing estimated: less than 100 pages
	HRVC	TERESA	Hearing result for Jury Trial scheduled on 08/20/2012 09:00 AM: Hearing Vacated
	HRSC	TERESA	Hearing Scheduled (Pretrial Motions 09/20/2012 10:30 AM)
	MINE	TERESA	Minute Entry Hearing type: Final Pretrial Hearing date: 8/16/2012 Time: 2:07 pm Courtroom: Court reporter: Linda Carlton Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich PD 2012 Prosecutor: Sandra Dickerson
8/24/2012	MISC	TERESA	State's Response to Defendant's Objection to Admitting Preliminary Hearing Testimony of Now Deceased Witness
9/17/2012	ORDR	TERESA	Order re: Appointment of Public Defenders
9/20/2012	ADVS	TERESA	Hearing result for Pretrial Motions scheduled on 09/20/2012 10:30 AM: Case Taken Under Advisement
	MINE	TERESA	Minute Entry Hearing type: Pretrial Motions Hearing date: 9/20/2012 Time: 10:33 am Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich PD 2012 Prosecutor: Sandra Dickerson
9/24/2012	BATA	SHELLIE	Attorney Reassignment-Batch (batch process) Danny Radakovich PD 2012 removed. Rick Cuddihy PD 2013 assigned.
9/25/2012		TERESA	Notice of Appointment of New Public Defender
10/17/2012	MISC	TERESA	Substitution of Counsel
	ATTR	TERESA	Defendant: Richardson, Kyle Alan Attorney Retained Danny J Radakovich
10/23/2012	OPOR	TERESA	Opinion & Order on Motion to Admit Preliminary Hearing Transcript Testimony of Robert Bauer--Deceased----DENIED
	HRSC	TERESA	Hearing Scheduled (Status/Scheduling Conference 11/01/2012 01:15 PM)

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
10/23/2012		TERESA	Notice Of Hearing Carl B. Kerrick
11/1/2012	DCHH	TERESA	Hearing result for Status/Scheduling Conference scheduled on 11/01/2012 01:15 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages Carl B. Kerrick
	MINE	TERESA	Minute Entry Hearing type: Status/Scheduling Conference Hearing date: 11/1/2012 Time: 1:20 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith Carl B. Kerrick
11/5/2012	MOTN	TERESA	Motion for Permission to Appeal---State Carl B. Kerrick
	HRSC	TERESA	Hearing Scheduled (Status Conference 11/15/2012 01:15 PM) Carl B. Kerrick
		TERESA	Notice Of Hearing Carl B. Kerrick
11/15/2012	DCHH	TERESA	Hearing result for Status Conference scheduled on 11/15/2012 01:15 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages Carl B. Kerrick
11/16/2012	ORDR	TERESA	Order Granting Permissive Appeal Carl B. Kerrick
11/20/2012	MINE	TERESA	Minute Entry Hearing type: Status Conference Hearing date: 11/20/2012 Time: 1:12 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith Carl B. Kerrick
12/28/2012	SCRT	DEANNA	Supreme Court Receipt - Order Withdrawing December 28, 2012 Order Granting Motion for Permissive Appeal Carl B. Kerrick
	SCRT	DEANNA	Supreme Court Receipt - Order Granting Motion for Permissive Appeal Carl B. Kerrick
1/8/2013	SCRT	DEANNA	Supreme Court Receipt - Order Granting Motion for Permissive Appeal Carl B. Kerrick
1/14/2013	APSC	DEANNA	Appealed To The Supreme Court Carl B. Kerrick
	NTAP	DEANNA	Notice Of Appeal Carl B. Kerrick

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
1/22/2013	SCRT	DEANNA	Supreme Court Receipt - Clerk's Record and Reporter's Transcript due at the SC by March 25, 2013
2/20/2013	NTSV	DEANNA	Notice Of Service of Clerk's Record and Reporter's Transcript
2/7/2014	NOTC	BDAVENPORT	Notice of Transcript Lodged
3/14/2014	CHJG	SHELLIE	Change Assigned Judge (batch process)
6/30/2014	SCRT	DEANNA	The DC's Order on the State's Motion in Limine is reversed and the case is remanded for further proceedings consistent with the Opinion.
7/8/2014	HRSC	TERESA	Hearing Scheduled (Status/Scheduling Conference 07/24/2014 01:15 PM)
		TERESA	Notice Of Hearing
7/21/2014	REMT	DEANNA	Remittitur
7/24/2014	DCHH	TERESA	Hearing result for Status/Scheduling Conference scheduled on 07/24/2014 01:15 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages
	WARB	TERESA	Warrant Issued - Bench Bond amount: 25000.00 Failure to Appear at the time and place ordered by this Court. Defendant: Richardson, Kyle Alan
	STAT	TERESA	Case Status Changed: Inactive
	MINE	TERESA	Minute Entry Hearing type: Status/Scheduling Conference Hearing date: 7/24/2014 Time: 1:20 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: Sandra Dickerson
2/2/2015	MISC	TERESA	Demand for Speedy Trial & Final Disposition---def
2/10/2015	HRSC	TERESA	Hearing Scheduled (Status Conference 02/19/2015 01:15 PM)
		TERESA	Notice Of Hearing
2/19/2015	DCHH	TERESA	Hearing result for Status Conference scheduled on 02/19/2015 01:15 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages
	HRSC	TERESA	Hearing Scheduled (Status Conference 03/12/2015 01:15 PM)



State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
2/19/2015	MINE	TERESA	Jay P. Gaskill DJ
			Minute Entry Hearing type: Status Conference Hearing date: 2/19/2015 Time: 1:16 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith
3/12/2015	DCHH	JANET	Jay P. Gaskill DJ
			District Court Hearing Held Court Reporter:towler Number of Transcript Pages for this hearing estimated:less than 100 pgs
	CONT	JANET	Jay P. Gaskill DJ
			Continued (Status Conference 04/09/2015 01:15 PM)
	MINE	JANET	Jay P. Gaskill DJ
			Minute Entry Hearing type: Status Conference Hearing date: 3/12/2015 Time: 1:14 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: JANET Tape Number: 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith
4/9/2015	DCHH	TERESA	Jay P. Gaskill DJ
			District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages
	MINE	TERESA	Jay P. Gaskill DJ
			Minute Entry Hearing type: Status Conference Hearing date: 4/9/2015 Time: 2:23 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 3 Defense Attorney: Danny Radakovich Prosecutor: Justin Coleman
4/14/2015	CONT	TERESA	Jay P. Gaskill DJ
			Continued (Status Conference 04/23/2015 01:15 PM)
		TERESA	Jay P. Gaskill DJ
			Notice Of Hearing
4/23/2015	DCHH	TERESA	Jay P. Gaskill DJ
			Hearing result for Status Conference scheduled on 04/23/2015 01:15 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
4/23/2015	HRSC	TERESA	Hearing Scheduled (Status Conference 06/25/2015 01:15 PM)
	MINE	TERESA	Minute Entry Hearing type: Status Conference Hearing date: 4/23/2015 Time: 2:18 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: Justin Coleman
6/25/2015	DCHH	TERESA	Hearing result for Status Conference scheduled on 06/25/2015 01:15 PM: District Court Hearing Held Court Reporter: Linda Carlton Number of Transcript Pages for this hearing estimated: less than 100 pages
	HRSC	TERESA	Hearing Scheduled (Status Conference 07/30/2015 01:15 PM)
		TERESA	Notice Of Hearing
	MINE	TERESA	Minute Entry Hearing type: Status Conference Hearing date: 6/25/2015 Time: 1:57 pm Courtroom: Court reporter: Linda Carlton Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith
7/21/2015	MISC	TERESA	Notice of Untried Indictment
7/30/2015	DCHH	TERESA	Hearing result for Status Conference scheduled on 07/30/2015 01:15 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages
	HRSC	TERESA	Hearing Scheduled (Status Conference 08/27/2015 01:15 PM)
	MINE	TERESA	Minute Entry Hearing type: Status Conference Hearing date: 7/30/2015 Time: 1:13 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
8/14/2015	MISC	TERESA	Defendant Kyle Richardson's Motion to Dismiss and for Final Disposition Jay P. Gaskill DJ
8/27/2015	DCHH	TERESA	Hearing result for Status Conference scheduled on 08/27/2015 01:15 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages Jay P. Gaskill DJ
	HRSC	TERESA	Hearing Scheduled (Jury Trial 12/07/2015 09:00 AM) Jay P. Gaskill DJ
	HRSC	TERESA	Hearing Scheduled (Final Pretrial 11/12/2015 03:30 PM) Jay P. Gaskill DJ
	HRSC	TERESA	Hearing Scheduled (Pretrial Motions 11/05/2015 03:30 PM) Jay P. Gaskill DJ
	HRSC	TERESA	Hearing Scheduled (Hearing on Motions 09/10/2015 01:15 PM) Motion to Dismiss Jay P. Gaskill DJ
	MINE	TERESA	Minute Entry Hearing type: Status Conference Hearing date: 8/27/2015 Time: 1:20 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith Jay P. Gaskill DJ
9/2/2015	ORDR	TERESA	Order Setting Jury Trial & Scheduling Proceedings Jay P. Gaskill DJ
9/8/2015	MISC	TERESA	Brief in Support of Motion to Dismiss on Speedy Trial Grounds---def Jay P. Gaskill DJ
	MISC	TERESA	State's Brief in Response to Defendant's Motion to Dismiss Jay P. Gaskill DJ
9/10/2015	CONT	TERESA	Continued (Hearing on Motions 09/24/2015 01:15 PM) Motion to Dismiss Jay P. Gaskill DJ
	DCHH	TERESA	District Court Hearing Held Court Reporter: Linda Carlton Number of Transcript Pages for this hearing estimated: less than 100 pages Jay P. Gaskill DJ
	MINE	TERESA	Minute Entry Hearing type: Motion to Dismiss Hearing date: 9/10/2015 Time: 1:17 pm Courtroom: Court reporter: Linda Carlton Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith Jay P. Gaskill DJ

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
9/15/2015	MISC	TERESA	Additional Brief in Support of Motio to Dismiss on Speedy Trial Grounds--def Jay P. Gaskill DJ
9/24/2015	ADVS	TERESA	Hearing result for Hearing on Motions scheduled on 09/24/2015 01:15 PM: Case Taken Under Advisement Motion to Dismiss Jay P. Gaskill DJ
	DCHH	TERESA	District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages Jay P. Gaskill DJ
	MINE	TERESA	Minute Entry Hearing type: Motion to Dismiss Hearing date: 9/24/2015 Time: 1:18 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith Jay P. Gaskill DJ
	AFFD	TERESA	Affidavit of Kyle A. Richardson (unsigned submitted at motion hearing--not filed per Judge Gaskill) Jay P. Gaskill DJ
10/2/2015	OPOR	TERESA	Opinion & Order on Defendant's Motion to Dismiss---DENIED Jay P. Gaskill DJ
	AFFD	MEENA	Affidavit Of Kyle A. Richardson Jay P. Gaskill DJ
10/23/2015	WART	TRISH	Warrant Returned Failure to Appear at the time and place ordered by this Court. Defendant: Richardson, Kyle Alan Jay P. Gaskill DJ
	STAT	TRISH	Case Status Changed: Pending Jay P. Gaskill DJ
11/5/2015	DCHH	TERESA	Hearing result for Pretrial Motions scheduled on 11/05/2015 03:30 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages Jay P. Gaskill DJ
	MINE	TERESA	Minute Entry Hearing type: Pretrial Motions Hearing date: 11/5/2015 Time: 2:40 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith Jay P. Gaskill DJ
11/6/2015		TERESA	Notice Of Hearing Jay P. Gaskill DJ
11/12/2015	ADVS	TERESA	Hearing result for Final Pretrial scheduled on 11/12/2015 01:15 PM: Case Taken Under Advisement Jay P. Gaskill DJ

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
11/12/2015	DCHH	TERESA	District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages
	MINE	TERESA	Minute Entry Hearing type: Final Pretrial Hearing date: 11/12/2015 Time: 2:45 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith
12/1/2015	HRSC	TERESA	Hearing Scheduled (Final Pretrial 12/01/2015 02:30 PM)
		TERESA	Notice Of Hearing
	DCHH	TERESA	Hearing result for Final Pretrial scheduled on 12/01/2015 02:30 PM: District Court Hearing Held Court Reporter: Linda Carlton Number of Transcript Pages for this hearing estimated: less than 100 pages
	MINE	TERESA	Minute Entry Hearing type: Final Pretrial Hearing date: 12/1/2015 Time: 2:46 pm Courtroom: Court reporter: Linda Carlton Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith
12/4/2015		TRISH	Second Supplemental Response to Request for Discovery
	DRJI	MEENA	Defendant's Requested Jury Instructions
	SRJI	MEENA	State's Requested Jury Instructions
	MISC	TERESA	2nd Supplemental Response to Request for Discovery--State
12/7/2015	DCHH	TERESA	Hearing result for Jury Trial scheduled on 12/07/2015 09:00 AM: District Court Hearing Held (2 days December 7 & 8, 2015) Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: 300 pages

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge
12/7/2015	MINE	TERESA	Jay P. Gaskill DJ
			Minute Entry Hearing type: Jury Trial Hearing date: 12/7/2015 Time: 9:05 am Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: Defense Attorney: Danny Radakovich Prosecutor: Justin Coleman
	PROS	TERESA	Jay P. Gaskill DJ
12/8/2015	HRSC	TERESA	Jay P. Gaskill DJ
	HRHD	TERESA	Jay P. Gaskill DJ
	MINE	TERESA	Jay P. Gaskill DJ
			Prosecutor Assigned Justin J Coleman Hearing Scheduled (Jury Trial Continued 12/08/2015 09:00 AM) Hearing result for Jury Trial Continued scheduled on 12/08/2015 09:00 AM: Hearing Held Minute Entry Hearing type: Final Pretrial Hearing date: 12/1/2015 Time: 12:16 am Courtroom: Court reporter: Linda Carlton Minutes Clerk: TERESA Tape Number: Defense Attorney: Danny Radakovich Prosecutor: April Smith
	FOGT	TERESA	Jay P. Gaskill DJ
	HRSC	TERESA	Jay P. Gaskill DJ
	PSIO1	TERESA	Jay P. Gaskill DJ
			Found Guilty After Trial Count 1, 2 & 3 Pre-Sentence Investigation Evaluation Ordered--due 2-11-16 Document sealed
	MISC	TERESA	Jay P. Gaskill DJ
	ORDR	TERESA	Jay P. Gaskill DJ
	MISC	TERESA	Jay P. Gaskill DJ
	MISC	TERESA	Jay P. Gaskill DJ
2/12/2016	PSIE	TERESA	Jay P. Gaskill DJ
			PSI Filed Electronically and Sealed in File Document sealed
2/18/2016	DCHH	TERESA	Jay P. Gaskill DJ
			Hearing result for Sentencing scheduled on 02/18/2016 02:30 PM: District Court Hearing Held Court Reporter: Nancy Towler Number of Transcript Pages for this hearing estimated: less than 100 pages

State of Idaho vs. Kyle Alan Richardson

Date	Code	User	Judge	
2/18/2016	SNIC	TERESA	Sentenced To Incarceration (I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery) Confinement terms: Penitentiary determinate: 5 years. Penitentiary indeterminate: 7 years.	Jay P. Gaskill DJ
	SNIC	TERESA	Sentenced To Incarceration (I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery) Confinement terms: Penitentiary determinate: 5 years. Penitentiary indeterminate: 7 years.	Jay P. Gaskill DJ
	SNIC	TERESA	Sentenced To Incarceration (I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery) Confinement terms: Penitentiary determinate: 5 years. Penitentiary indeterminate: 7 years.	Jay P. Gaskill DJ
	STAT	TERESA	Case Status Changed: closed pending clerk action	Jay P. Gaskill DJ
	MINE	TERESA	Minute Entry Hearing type: Sentencing Hearing date: 2/18/2016 Time: 1:31 pm Courtroom: Court reporter: Nancy Towler Minutes Clerk: TERESA Tape Number: CRTRM 1 Defense Attorney: Danny Radakovich Prosecutor: April Smith	Jay P. Gaskill DJ
	HRSC	TERESA	Hearing Scheduled (Status Conference 03/03/2016 01:30 PM)	Jay P. Gaskill DJ
	MISC	TERESA	Commitment	Jay P. Gaskill DJ
2/23/2016	JDCV	TERESA	Judgment Of Conviction	Jay P. Gaskill DJ
3/3/2016	HRVC	TERESA	Hearing result for Status Conference scheduled on 03/03/2016 01:30 PM: Hearing Vacated	Jay P. Gaskill DJ
3/11/2016	NTAP	BDAVENPORT	Notice Of Appeal	Jay P. Gaskill DJ
	APSC	BDAVENPORT	Appealed To The Supreme Court	Jay P. Gaskill DJ
	MOTN	BDAVENPORT	Verified Motion to Withdraw and for Appointment of Appellate Public Defender	Jay P. Gaskill DJ
	MOTN	TERESA	Motion for Credit for Time Served	Jay P. Gaskill DJ
3/15/2016	ORDR	TERESA	Order re: Credit for Time Served---Court granted credit for time served from 10-23-15	Jay P. Gaskill DJ
	ORDR	BDAVENPORT	Order Re: Withdrawal and for Appointment of Appellate Public Defender	Jay P. Gaskill DJ
	ORPD	BDAVENPORT	Defendant: Richardson, Kyle Alan Order Appointing Public Defender Public defender Sara B. Thomas	Jay P. Gaskill DJ
3/23/2016	HRSC	TERESA	Hearing Scheduled (Restitution Hearing 05/12/2016 01:30 PM)	Jay P. Gaskill DJ

Date: 5/2/2016

**Second Judicial District Court - Nez Perce County**

User: BDAVENPORT

Time: 11:38 AM

ROA Report

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Case: CR-2012-0000082 Current Judge: Jay P. Gaskill DJ

Defendant: Richardson, Kyle Alan

State of Idaho vs. Kyle Alan Richardson

Date	Code	User		Judge
3/23/2016		TERESA	Notice Of Hearing	Jay P. Gaskill DJ
3/31/2016	NOTC	BDAVENPORT	Notice of Transcript Lodged	Jay P. Gaskill DJ



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Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 2923

FILED  
2012 JAN 4 AM 9 54  
PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

CR12-00082

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
KYLE A. RICHARDSON,  
  
Defendant.

CASE NO. \_\_\_\_\_  
  
AFFIDAVIT OF PROBABLE CAUSE

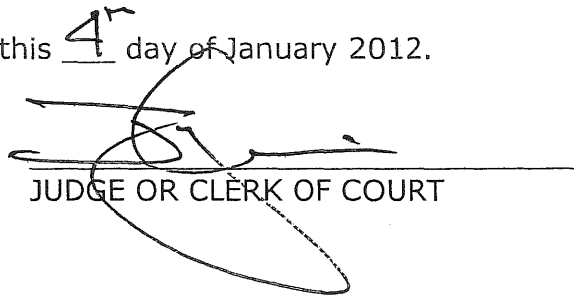
Comes now the undersigned peace officer who on oath deposes and says:

1. Affiant is a duly qualified peace officer serving with the Lewiston Police Department.
2. Affiant desires that a Summons issue for the appearance of the above-named defendant for the crime(s) of: **COUNT I - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony; COUNT II - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony; COUNT III - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony;**
3. Affiant believes probable cause exists that the defendant committed said crime; your affiant has attached to this Affidavit and incorporates by reference herein

an accurate copy of documents on file with the above-referenced law enforcement agency which form the basis for the Complaint against defendant.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

SUBSCRIBED and SWORN to before me this 4<sup>th</sup> day of January 2012.

A handwritten signature in black ink, similar in style to the one above, with a large loop and a horizontal stroke.

JUDGE OR CLERK OF COURT

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
4 Dammon Brett	12:46:56 12/14/2011	LEWISTON POLICE DEPARTMENT CAP SHEET AND CASE DISPOSITION SHEET

DATE: December 14, 2011

IN CUSTODY: [ ] YES  
[ x ] NO

DEFENDANT:

Name: Kyle Alan Richardson  
Address: 2115 Birch Avenue, Lewiston, ID 83501  
Telephone: 208-553-7493 or 208-743-7017  
Date of Birth: [REDACTED]  
Social Security Number: [REDACTED]

LEWISTON POLICE DEPARTMENT CASE NUMBER: 11-L13806

OTHER AGENCIES RELATED CASE NUMBERS:

DATE OF INCIDENT: December 14, 2011

TIME OF INCIDENT: 12:35 Hours

CHARGES:

1. Three (3) counts of Delivery of Methamphetamines, IC 37-2732a1A
- 2.
- 3.

WITNESSES: (NAME, ADDRESS, PHONE)

1. Lewiston Police Department Confidential Informant 11-L02
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

CO-DEFENDANTS:

- 1.
- 2.
- 3.
- 4.

EVIDENCE:

1. Property #145144, Methamphetamines
2. Property #145184, Methamphetamines
3. Property #145326, Methamphetamines
4. Audio Recordings
5. Photographs
- 6.
- 7.

SUMMARY (PROBABLE CAUSE):

During the month of September, 2011, I received narcotics information from Lewiston Police Department Confidential Informant 11-L02. This C.I. told me

that he/she has previously purchased Methamphetamines from a male subject known to the C.I. as Kyle Richardson. The C.I. told me that he/she could purchase further Methamphetamines from Richardson.

Also during the month of September, 2011 with the assistance of the C.I. we made three (3) separate purchases of Methamphetamines from Kyle Richardson. All three of these controlled deliveries were conducted in Lewiston, Idaho. During this investigation I also showed the C.I. a photograph of the subject I believed to be Kyle Richardson and the C.I. identified the male in the photograph as "Kyle Richardson" and the same person the C.I. had purchased Methamphetamines from. The suspected Methamphetamines from each of the controlled deliveries were sent to the Idaho State Crime Lab for analysis and I received results back that each of these items contained Methamphetamines.

It should be noted that a controlled delivery of drugs consists of having a confidential informant identify a person that he or she knows to distribute narcotics and that the informant can purchase these narcotics from. Prior to the controlled delivery under a detective's direction the C.I. will make contact with the suspect to set up the controlled delivery. Prior to the controlled delivery detectives will contact the confidential informant at a location where the C.I.'s person and vehicle are searched for any other drugs, contraband or money. The C.I. is then provided pre-recorded buy funds and a body wire to monitor and record the incident. The C.I. is then surveyed by detectives as he or she goes to the pre-arranged meet location with the suspect. After the exchange occurs detectives then survey the C.I. as he/she goes back to a separate meet location. At that location the C.I. then provides the narcotics purchased to the detective and the detective again post-searches the C.I.'s person and his/her vehicle. A recorded debrief is then conducted with the C.I. about the incident.

=====  
RECOMMENDATION: [ ] WARRANT  
                  [ x ] SUMMONS  
=====

OFFICERS/INVESTIGATORS:  
1. Detective Brett Dammon  
2.  
3.

=====  
PROSECUTOR to POLICE:  
DATE:  
[ ] Charges filed  
[ ] Warrant  
[ ] Referred to Juvenile Services  
[ ] Prosecution delayed for further investigation  
[ ] Prosecution Declined  
[ ] Summons  
Assigned Prosecutor:

=====  
FURTHER INVESTIGATION REQUESTED:  
1.  
2.  
3.  
Police Follow-up due by:  
=====

PROSECUTION DECLINED: (EXPLANATION)

=====

CASE DISPOSITION:

- Guilty plea as charged
- Guilty plea to other charge:
- Guilty verdict
- Not Guilty verdict
- Other:

12/14/2011  
12:42

Lewiston Police Department  
LAW Incident Table:

Page: 562  
1

Incident Number: 11-L13806

Nature: Narcotic Activi Case Number:

Image:

Addr: "Lewiston

Area:

City: Lewiston ST: ID Zip: 83501

Contact:

Complainant& 785 Prefire Plan 162

Lst: LEWISTON POLICE DEPARTMENT Fst: Mid:

DOB: / / SSN: - - Adr= 1224 F ST

Rac: Sx: Tel: (208)746-0171 Cty: Lewiston ST: ID Zip: 83501

Offense Codes: NARC

Reported:

Observed:

Circumstances:

Rspndg Officers: Dammon Brett

Rspnsbl Officer: Dammon Brett

Agency: LPD1

CAD Call ID:

Received By: Dammon Brett

Last RadLog:

How Received: T Telephone

Clearance: RPT Written Incident Repo

When Reported: 12:47:20 09/08/2011

Disposition: ACT Disp Date: 09/08/2011

Occurrd between: 12:47:20 09/08/2011

Judicial Sts:

and: 12:47:20 09/08/2011

Misc Entry:

MO:

Narrative: (See below)

Supplement: (See below)

(See below)

&

=====

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	785	09/08/2011	LEWISTON POLICE DEPARTMENT,	*Complainant
NM	149J	09/08/2011	RICHARDSON, KYLE ALAN	Suspect
VH	138719	09/08/2011	BLK 1998 CHEV C25 ID	Involved
PR	145326	09/16/2011	DRUG-METHAMPHET \$1,200	Evidence
PR	145184	09/09/2011	DRUG-METHAMPHET \$400	Evidence
PR	145144	09/08/2011	DRUG-METHAMPHET \$200	Evidence
EV	36646	09/19/2011	2 pkgs susp Meth 20.2gr TPW	*Evidence Incident
EV	36592	09/15/2011	15.0 g tpw meth	*Evidence Incident
EV	36549	09/09/2011	Methamphetamine	*Evidence Incident

LAW Incident Offenses Detail:

Offense Codes

Seq Code	Amount
1 NARC Narcotic Activity	0.00

LAW Incident Responders Detail

Responding Officers

Seq Name	Unit
1 Dammon Brett	374

Narrative:

Lewiston Police Department

09-08-11

Incident Report 11-L13806

Det. Brett Dammon, #374

Typed by: #267

9/7/11/1652 hours

Controlled Delivery #1 of Methamphetamines

Suspect: Kyle Richardson

Assisted by: Det. Sparks, Det. Ken Yount, Det. Michael Mooney

On September 7, 2011 at approximately 1000 hours I had contact with Lewiston Police Department Confidential Informant 11-L02 to discuss narcotics information. At that time the C.I. told me that he/she could purchase Methamphetamines from a male subject the informant knew as Kyle Richardson. The C.I. stated that he/she has purchased Methamphetamines from Richardson on multiple occasions in the past and has purchased up to one (1) ounce of Methamphetamines from Richardson at one time.

I then directed the C.I. to call Richardson to see if we could possibly set up a controlled delivery later on that same date. The C.I. then called 208-553-7493 where he/she was able to speak with a male subject and agreed to speak with each other again later on the same date.

On the same date at approximately 1652 hours I again contacted the C.I. at an undisclosed location in Lewiston, Idaho. At approximately 1700 hours I again directed the C.I. to call Richardson in attempt to set up a controlled delivery.

At approximately 1734 hours we were then able to speak with Richardson at that phone number where they agreed to meet in approximately 45 minutes from that time. Richardson and the C.I. agreed to contact each other in a parking lot in the 3100 block of Hatwai Road in Lewiston. This conversation with Richardson was recorded, however at that time there was no drug conversation as the Informant stated that it would be uncommon for him/her to speak about drugs over the phone.

At approximately 1735 hours I provided the Informant \$250 of pre-recorded buy money and Detective Sparks searched the C.I.'s person and vehicle, which no drugs or contraband were located. I then provided the Informant a body wire to monitor and record the incident and at 1757 hours Detective Sparks and myself followed the Informant as he/she drove to the location to meet Richardson. At approximately 1802 hours the Informant arrived at this location as Detective Sparks and myself were able to visually observe the Informant at all times. At approximately 1825 hours I directed the C.I. to again call Richardson where I overheard Richardson tell the Informant that he would be there in approximately "20 minutes."

At approximately 1845 hours I observed a black Chevrolet pickup arrive at the location where the Informant was. I also was able to see a male subject exit the vehicle whom I was able to identify as Kyle Richardson from prior contacts with him. In monitoring the body wire I overheard Richardson make contact with the Informant and at approximately 1852 hours they broke contact and Richardson left the area. Other detectives then surveyed Richardson as he left the area.

At approximately 1857 hours Detective Sparks and myself again contacted the Informant. The C.I. then provided me a small clear baggie containing a clear crystalline substance I believed to be Methamphetamines. Detective Sparks post-searched the C.I. and his/her vehicle which no other drugs or contraband were located. The C.I. did return to me \$50 of pre-recorded buy money that was not used during the transaction.

I then conducted a recorded debrief with the Informant where he/she told me that upon having contact with Richardson he exited his vehicle and removed the Methamphetamines from the passenger side of his vehicle. The C.I. stated that Richardson already had an 1/8 ounce of Methamphetamines pre-packaged and that the C.I. exchanged \$200 of the pre-recorded buy money for the Methamphetamines. The C.I. stated that he/she was able to see that Richardson possessed more Methamphetamines and believed it to possibly be another 1/8 ounce. I also showed the C.I. a photograph of the male subject I believed to be Kyle Richardson and the C.I. identified the male subject in the photograph as "Kyle Richardson" and advised this is the same subject he/she had purchased the Methamphetamines from. This concluded my contact with the Informant at that time.

I will include under this case file photographs of the Methamphetamines and audio recordings of the body wire and the debrief. The suspected Methamphetamines were placed into evidence at the Lewiston Police Department and I will request they be sent to the Idaho State Crime Lab for analysis. The total package weight of the product was 4.0 grams.

It should be noted that Lewiston Police Department Confidential Informant 11-L02 has been a signed informant for multiple months. During that time the Informant has provided information on other drug activities occurring in the Lewis-Clark Valley and has assisted on other felony cases. The information that the C.I. has provided has been found to be reliable and credible through independent investigations. It should be noted, however, that during the month of August 2011 I found that this C.I. had set up an exchange of Methamphetamines without my knowledge. I believe that the Informant was not going to advise me of this situation, however when I confronted the Informant with the information he/she was honest with me and disclosed to me what had occurred. The C.I. then assisted in taking steps to resolve this situation. According to the C.I. he/she never received Methamphetamines only conspired to purchase Methamphetamines for a third party. During that time the C.I. also disclosed that he/she does have an addiction problem and has used Methamphetamines on a few occasions while assisting as a Confidential Informant.



End of report.

Detective Brett Dammon, #374

~~\_\_\_\_\_~~  
BTW

4/2/14

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
1 Dammon Brett	11:50:52 09/13/2011	Lewiston Police Supplemental Narrative

September 13, 2011  
Supplement Report 11-L13806  
Det. Brett Dammon, #374  
Typed by: #267

September 9, 2011/1210 Hours  
Controlled Delivery #2 of Methamphetamine  
Suspect: Kyle Richardson  
Assisted by: Det. Tom Sparks, Det. John Coe, Det. Ken Yount, Det. Bryce Scrimsher

On September 9, 2011 at approximately 1210 hours I had contact with Lewiston Police Department Confidential Informant 11-L02 at an undisclosed location in Lewiston, Idaho. At that time it was our intention to set up another controlled delivery of Methamphetamines with Kyle Richardson. At approximately 1218 hours I instructed the C.I. to make a recorded phone call to Richardson at phone number 208-553-7493 to discuss purchasing further Methamphetamines. During that phone conversation I overheard the informant speaking with Richardson about purchasing one (1) ounce of Methamphetamines, however Richardson stated that he only had a "half" or a half an ounce of Methamphetamines. Richardson then stated he would make some phone calls and attempt to find more Methamphetamines for the C.I. and that he would contact the C.I. at a later time.

At approximately 1251 hours we had not heard back from Richardson and I again requested that the informant make a second recorded phone call to Richardson. At that time the informant was able to speak with Richardson again where he stated that he could not find any further Methamphetamines. The C.I. stated that he/she would purchase the half ounce that Richardson currently possessed. The C.I. also told Richardson that he/she needed some time to collect money and that he/she would contact him at a later time. This concluded my contact with the C.I. at that time.

At approximately 1334 hours I again contacted the C.I. at an undisclosed location in Lewiston where we placed a third recorded call to Richardson. During that phone conversation we arranged to meet Richardson in approximately a half hour at a business in the 1400 block of G Street. During that time I also searched the informant's person, which no drugs or contraband were located. I then provided the C.I. with \$400 of pre-recorded buy money and a body wire to monitor and record the incident. I then dropped the C.I. off in a parking lot in the 1400 block of G Street where detectives were able to survey the informant. At approximately 1414 hours I observed Richardson's black Chevrolet pickup arrive in the parking lot and I then saw the informant enter the passenger seat of the vehicle. The vehicle then drove out of the parking lot continuing west bound on F Street before driving onto Main Street, continuing east bound. In monitoring the body wire I overheard the informant exit Richardson's vehicle at approximately 1418 hours and I overheard the informant speaking with an employee of a business in the 1400 block of Main Street. I also was able to observe the informant speaking with this male subject and I did

not notice any items transferred between the two subjects. It should also be noted that shortly after Richardson's vehicle exited the parking lot with the informant, Detectives lost surveillance of the vehicle until the informant was dropped off in the 1400 block of Main Street. In later reviewing the body wire recording I found that during that time the informant only had conversations with Richardson.


At approximately 1419 hours I picked up the informant and drove him/her to a separate undisclosed location. At approximately 1425 hours the C.I. handed me a cigarette carton that contained a clear plastic baggie. I noticed that inside this baggie was a clear crystalline substance that from my prior training and experience I believed to be Methamphetamines. At approximately 1426 hours I post-searched the C.I., which I did not locate any other drugs, contraband or money.

I then conducted a recorded debrief with the informant where the informant stated that upon contacting Richardson he/she got into Richardson's vehicle. The informant stated that as they were driving away from the parking lot Richardson set the cigarette carton containing Methamphetamines on the seat next to the informant. The informant stated that he/she then exchanged the \$400 of pre-recorded buy money for the Methamphetamines. The C.I. also stated that the \$400 of pre-recorded buy money would have only purchased a quarter ounce of Methamphetamines, however the informant believed that Richardson gave him/her a half ounce of Methamphetamines. The C.I. stated that he/she would still owe Richardson \$400. The informant stated he/she discussed this with Richardson and Richardson stated to get him the money as soon as possible. The C.I. stated that after exiting Richardson's vehicle he/she had contact with an employee of a business in the 1400 block of Main Street. The C.I. stated that there was only conversation between he/she and the employee and that there was nothing exchanged between the two of them. This concluded my contact with the C.I. at that time.

I then took the suspected Methamphetamines to the Lewiston Police Department where Detective Sparks tested a portion of the Methamphetamines with a field test kit. The sample tested presumptive positive for Methamphetamines. I then placed the Methamphetamines into evidence to be sent to the Idaho State Crime Lab for analysis. The total package weight of the Methamphetamines was 15.0 grams. Under this case file I will also include photographs of the Methamphetamines and audio recordings of the body wire and phone conversations. I request this case remain active at this time.

End of report.

Detective Brett Dammon, #374

  
374

AM216

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
2 Dammon Brett	14:51:17 09/16/2011	Lewiston Police Supplemental Narrative

September 16, 2011  
Supplement Report 11-L13806  
Det. Brett Dammon, #374  
Typed by: #267

September 14, 2011/ 1100 hrs  
Controlled Delivery #3 of Methamphetamines  
Suspect: Kyle Richardson  
Assisted by: Det. Tom Sparks, Det. Ken Yount, Det. Mike Moony, Det. Rich Adamson, Det. Bryce Scrimsher

On September 14, 2011 at approximately 1100 hours I contacted Lewiston Police Department Confidential Informant 11-L02 to discuss possibly setting up a third controlled delivery of Methamphetamines from a Kyle Richardson. It should be noted that we conducted a second controlled delivery of Methamphetamines from Richardson on September 9, 2011 where we purchased approximately 1/2 ounce of Methamphetamines. From that second delivery we still owed Richardson \$400 as he gave us 1/4 ounce of Methamphetamines in advance.

On September 14, 2011 at approximately 1112 hours I directed the C.I. to make a recorded phone call to Richardson at 208-553-7493. I told the C.I. to ask Richardson if we could purchase one (1) ounce of Methamphetamines on today's date. During the phone conversation the C.I. made contact with Richardson and the C.I. asked if we could purchase a "double" which I know to be one (1) ounce. During that conversation Richardson stated that he could possibly sell the one (1) ounce and that he would like to meet up with the C.I. within the next three (3) to four (4) hours. After this phone conversation I broke contact with the C.I. to make arrangements to set up the controlled delivery.

On the same date at approximately 1322 hours I contacted the C.I. at an undisclosed location in Lewiston, Idaho. At that time I then searched the C.I.'s person which no drugs, contraband or money was located. I then directed the C.I. to call Richardson at the same phone number to set up the controlled delivery. The C.I. was able to make contact with Richardson where Richardson stated he would meet the C.I. in the 700 block of 14th Street in Lewiston in approximately 20 minutes. I then provided the C.I. with a body wire to monitor and record the incident and \$1,200 of pre-recorded buy funds.

At approximately 1334 hours Detective Yount and myself dropped the C.I. off in the 700 block of 14th Street. Other detectives were already set up in the area conducting surveillance and were able to watch the C.I. as he/she stood along 14th Street waiting for Richardson. At approximately 1342 hours Detectives observed a vehicle bearing Idaho plate I41321 pull up next to the C.I. and a male subject began speaking

with the C.I. The C.I. stood outside the vehicle the entire time and at approximately 1344 hours the C.I. broke contact with this subject. I did not believe this male subject was Richardson and in monitoring the body wire it sounded like they only had a verbal contact.

At approximately 1346 hours I overheard the C.I. receive a call from Richardson where Richardson stated he was "almost there." At approximately 1348 hours I observed a black Chevrolet pickup arrive in the area bearing Idaho plate N151807. This is the same vehicle that Richardson arrived in during the two prior controlled deliveries. At approximately 1351 hours I observed the C.I. enter the passenger side of this vehicle and they then drove away from the area. It should be noted that detectives lost visual of the vehicle for several minutes until detectives located it in the parking lot of a business in the 1300 block of Main Street. It should be noted that I later listened to the body wire recording and it seemed the only person the C.I. had contact with was Richardson during that time. At approximately 1355 hours the vehicle left the parking on Main Street. Detectives followed the vehicle as it then drove back into the area of the 700 block of 14th Street where the C.I. then exited the vehicle at approximately 1359 hours. Other detectives surveyed Richardson as he left the area and at approximately 1403 hours Detective Yount and myself picked up the C.I.

I drove the C.I. to an undisclosed location in Lewiston, Idaho where the C.I. then handed me two clear plastic baggies containing what I believed to be Methamphetamines. At approximately 1406 hours I conducted a post-search of the C.I. where I did not locate any other drugs, contraband or money.

I then conducted a recorded debrief with the C.I. where he/she told me that upon Richardson picking him/her up they drove to a parking lot in the 1300 block of Main Street. The C.I. stated that it was at that time while they were in the parking lot that he/she paid Richardson the \$400 still owed and then gave Richardson the remaining \$800 for the Methamphetamines. The C.I. stated that Richardson did not have a full ounce of Methamphetamines that we were planning on purchasing and the C.I. believed that Richardson only gave him/her 3/4 ounce of Methamphetamines. Richardson told the C.I. that he was hoping to obtain more Methamphetamines today and that Richardson would possibly be able to give the C.I. the other 1/4 ounce of Methamphetamines later on the same date. This concluded my contact with the C.I. at that time.

I then took the suspected Methamphetamines to the Lewiston Police Department where I placed it into a secure transfer safe. On September 16, 2011 I then tested a portion of these suspected Methamphetamines with a field test kit where I received a presumptive positive result for Methamphetamines. Also on September 16, 2011 I placed the Methamphetamines into evidence requesting it be sent the Idaho State Crime Lab for analysis. The total package weight of both the baggies were 12.9g and 7.3g. In later speaking with the C.I. about the weight of the Methamphetamines we received from Richardson on this controlled delivery we believe we still owed Richardson approximately \$300 as he gave us Methamphetamines in advance. I also was able to later review the body wire recording where I overheard the C.I. tell Richardson that he/she wanted a "double" or one (1) ounce of Methamphetamines. I overheard Richardson state "I don't have quite that much." I then

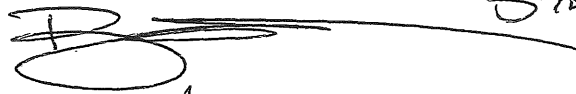

overheard the C.I. give Richardson the \$400 of money that was owed and also tell Richardson that he/she still had \$800 to purchase further Methamphetamines. I then overheard Richardson talk about giving the C.I. one (1) baggie that Richardson stated may be "short" of a 1/2 and a second baggie stating "this is a 1/4." I also overheard Richardson state that he may be able to give the C.I. the other 1/4 ounce of Methamphetamines at a later time to make a full ounce that the C.I. wanted to initially purchase.

I will place under this case file photographs of the methamphetamines and audio recordings of the phone calls, bodywire and debriefing.

No further information at this time. I request this case be listed as active.

End of report.

Detective B. Dammon, #374

 374  


Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
3 Sparks Tom	17:47:56 10/04/2011	Lewiston Police Supplemental Narrative

Incident 11-L13806  
Det. Tom Sparks, #375  
October 4, 2011  
#385

09-23-11/1355 hours

Controlled money exchange between Lewiston Police Department informant and Kyle Richardson Suspect: Kyle Richardson Assisted by: Det. Ken Yount, Det. Bryce Scrimsher, and Det. Sgt. Westbrook

On 09-23-11, at approximately 1355 hours, I met with Lewiston Police Department CI 11-L02 at an undisclosed location in Lewiston, Idaho. At that time it was my intention to set up a controlled meet, and have money given to Kyle Richardson that was owed to him. This meet was being conducted for methamphetamine that were provided to the CI without the exchange of money up front. There was going to be no narcotic exchange during this controlled meet, and this was strictly going to be involving the payment of money owed to Kyle Richardson.

It should be noted that the CI did make several phone calls to Kyle Richardson, per my request, prior to this meet. During these phone calls, the informant discussed with Richardson the money that he/she did in fact owe him. The informant advised Richardson that he/she was going to be able to provide him with the \$300.

At approximately 1400 hours, I searched the CI at the undisclosed location in Lewiston, Idaho. After searching the informant's person and vehicle, I found no evidence of controlled substances, contraband, or any other money. At approximately 1410 hours, the CI was given \$300 of prerecorded money that he/she was going to provide to Kyle Richardson. The informant was also given a wire that was placed on his/her body to record the conversation between him/her and Kyle Richardson.

At approximately 1420 hours, the informant made a telephone call to Richardson advising him that he/she had the \$300. During this phone conversation the informant arranged the meet to be in the mall parking lot in Lewiston, Idaho. Richardson agreed to this, advising the informant that he was going to be there in approximately 20 minutes. At 1421 hours, detectives followed the CI to the mall parking lot where he was continuously surveyed during the entire controlled meet. At 1426 hours, the CI arrived in the mall parking lot and awaited Richardson's arrival. At 1433 hours, Richardson arrived driving the same black Chevy truck, bearing license plate N151807. This truck has been seen on all other narcotic contacts. When Richardson made contact with the CI, I did noticed the CI reached out his drivers side window to Richardson, who was parked next to him, handing him what appeared to be the pre recorded buy money. The CI and Richardson spoke for several minutes and then at 1437 hours, Richardson left in his black pickup. The CI was continuously followed back to the undisclosed location in Lewiston.

It was at this location and time where a post search was conducted of

the CI. During the search of his/her person and vehicle there was no additional contraband, narcotics, or money found. I then conducted a recorded debrief of the events that had occurred. A copy of this recording was placed into the involvements for future reference. Also a copy of the body wire recording was also placed into involvements.

End of report.

Det. Tom Sparks, #375



FILED

2012 JAN 4 AM 9 54

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE COUNTY

CR12-00082

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,


Defendant.

CASE NO. \_\_\_\_\_

MAGISTRATES FINDING OF  
PROBABLE CAUSE UPON  
DEFENDANTS APPEARANCE  
PURSUANT TO SUMMONS (ICR 4)

The undersigned Magistrate having examined the Affidavit of Peace Officer Dammoh, together with the documents attached thereto, and the undersigned Magistrate finding there is substantial evidence with a substantial basis for believing that there is a factual basis for the information furnished, the undersigned Magistrate hereby finds that probable cause exists to believe that an offense has been committed and that the defendant has committed the crime(s) of: **COUNT I - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony; COUNT II - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony; COUNT III - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony.**

DATED this 4<sup>th</sup> day of January 2012.

  
\_\_\_\_\_  
MAGISTRATE JUDGE

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 2923

**FILED**  
2012 JAN 4 AM 9 54  
PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
SEPT

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

CASE NO. **CR12-00082**

Plaintiff,

COMPLAINT - CRIMINAL

vs.

KYLE A. RICHARDSON,  
D.O.B.: 10/04/1970,  
S.S.N.: XXX-XX-1455,

Defendant.

STATE OF I D A H O )  
  : ss.  
County of Nez Perce )

PERSONALLY APPEARED Before me this 4 day of January 2012, in the  
County of Nez Perce, Det. Dammon, who, being first duly sworn,  
complains and says: that KYLE A. RICHARDSON, did commit the following crime(s):

**COUNT I**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a**  
**felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 7th day of  
September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully  
deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II  
controlled substance, to CI11-L02.

**COUNT II**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 9th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

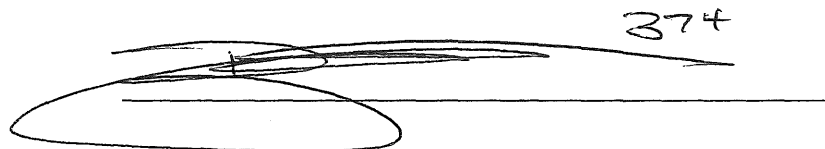
**COUNT III**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 14th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

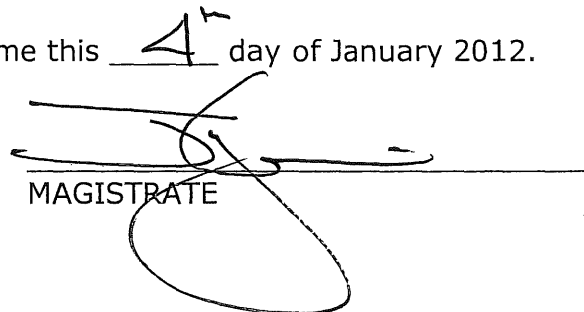
All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

Said Complainant therefore prays that KYLE A. RICHARDSON be dealt with according to law.

374



SUBSCRIBED and SWORN to before me this 4<sup>th</sup> day of January 2012.



MAGISTRATE

FILED

2012 JAN 4 AM 9 59

PATTY O'WEEKS

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

CR12-00082

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,

Defendant.

CASE NO. \_\_\_\_\_

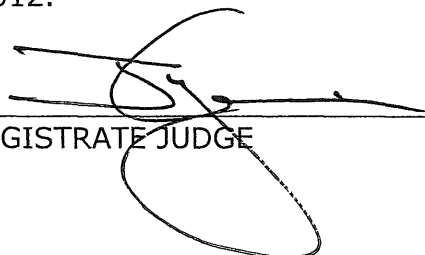
SUMMONS IN CRIMINAL  
PROCEEDING

THE STATE OF IDAHO TO THE ABOVE-NAMED INDIVIDUAL:

You are hereby summoned to appear before a Magistrate of the above-entitled Court at the Courthouse in Lewiston, Nez Perce County, Idaho, located near the intersection of 13th and Main Streets, on the **11th day of January, 2012, at 1:15 p.m.**, for the crime(s) of: COUNT I - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony; COUNT II - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony; COUNT III - DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony.


For your failure to appear at said time and place, a warrant will issue for your arrest.

DATED this 4<sup>th</sup> day of January 2012.

  
\_\_\_\_\_  
MAGISTRATE JUDGE

PEACE OFFICER'S RETURN

I hereby certify that I received the within Summons on the 4 day of January, and served the same upon D. Radkovich by showing the original and providing a copy of the same as well as a copy of a Criminal Complaint to D. Radkovich and by personally informing of their contents on the 4 day of January, at NPC Courthouse in the City of Lowiston, in the County of Nez Perce, State of Idaho.

  
PEACE OFFICER

DANNY J. RADAKOVICH  
Radakovich Law Office  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED  
2012 JAN 10 PM 2 06  
PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*Patty Weeks*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. )  
 )  
 ) KYLE A. RICHARDSON, )  
 )  
 ) Defendant. )

CASE NO. CR12-082  
REQUEST FOR DISCOVERY

TO THE ABOVE-NAMED PLAINTIFF:

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

1. All written and/or recorded statements made by the defendant, and the substance of any relevant oral statements made by the defendant to a peace officer, prosecuting attorney, or the prosecuting attorney's agent.
2. Defendant's prior record.
3. Books, papers, documents, photographs, videotapes, audiotapes, tangible objects, buildings, or places, or copies or portions thereof, which are within the possession or control of the

prosecuting attorney, and which are material to the preparation of the defense, intended for use by the prosecution at trial, or which were obtained from, or belong, to the defendant.

4. All results and/or reports of physical or mental examinations and of scientific tests or experiments made in connection with this particular case, or copies thereof, within the possession, custody, or control of the prosecuting attorney or the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence. For purposes of this Request For Discovery, the term "results and/or reports" shall mean, inclusively, not only the final results and reports of the examinations, tests, or experiments but also: (1) interim results and reports thereof, if any; (2) lab notes of the analyst or analysts performing the examinations, tests, or experiments; (3) photographs showing the results of examinations, tests, or experiments; (4) printouts of instrumental analysis performed during the examinations, tests, or experiments; and (5) any manuals, regulations, or protocols used by the analyst or analysts in performing any examinations, tests, or experiments.

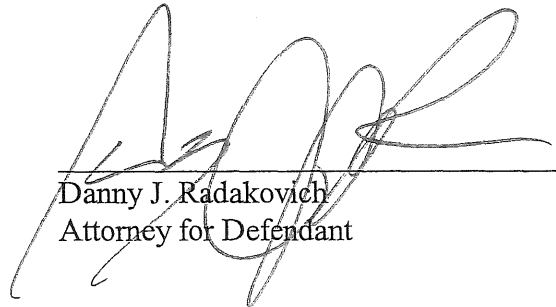
5. A list of names, addresses, and telephone numbers of all persons having knowledge of relevant facts who may be called by the state as witnesses at trial, any record of prior felony convictions of any of such persons, and any statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney, his agents, or to any official involved in the investigatory process of the case.

6. All reports and/or memoranda made by a police officer and/or investigator in connection with the investigation and/or prosecution of the case.

The undersigned hereby requests permission to inspect and copy said information no later than the date of the pretrial conference in said matter. With respect to documentary material, the

furnishing of legible photocopies will constitute compliance with this request. With respect to photographs, the furnishing of photographic copies thereof will constitute compliance with this request. With respect to videotapes and audiotapes, the furnishing of video or audio copies thereof, as the case may be, on video or audio blanks furnished by the defendant shall constitute compliance with this request.

DATED this 10<sup>th</sup> day of January, 2012.



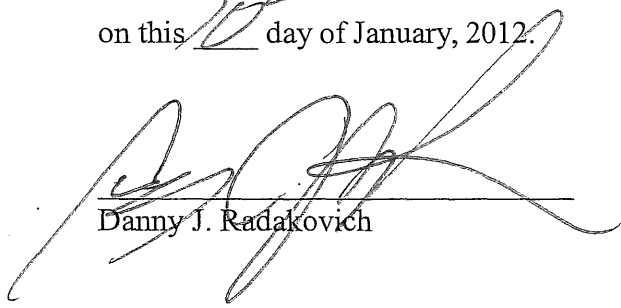
---

Danny J. Radakovich  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing instrument was hand-delivered to:

*Nez Perce County Prosecuting Attorney  
P.O. Box 1267  
Lewiston, Idaho 83501*

on this 10<sup>th</sup> day of January, 2012.



---

Danny J. Radakovich



FILED

2012 JAN 11 PM 4 41

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

CLERK OF THE DISTRICT COURT

DEPUTY  
Donna [Signature]

STATE OF IDAHO,

Plaintiff,

vs.

Kyle Richardson  
Defendant,

CASE NO. CR-12-82

- NOTICE OF PRELIMINARY CONFERENCE
- NOTICE OF PRELIMINARY HEARING
- NOTICE OF SENTENCING
- NOTICE OF HEARING ON

NOTICE IS HEREBY GIVEN TO the above-named Defendant that the following hearing has been set in your case at which you are to appear in the Courtroom of the Nez Perce County Courthouse, as indicated below:

- PRELIMINARY CONFERENCE to begin at \_\_\_\_\_, \_\_.m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- PRELIMINARY HEARING to begin at 1:30 p.m., on the 1 day of FEB, 2012.
- SENTENCING to begin at \_\_\_\_\_, \_\_.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- HEARING to begin at \_\_\_\_\_, \_\_.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

YOU ARE HEREBY NOTIFIED THAT IF YOU DO NOT APPEAR IN COURT AT SAID TIME AND PLACE, ANY BOND POSTED MAY BE FORFEITED BY THE COURT AND A WARRANT MAY BE ISSUED FOR YOUR ARREST WITHOUT FURTHER NOTICE.

DATED this 11 day of Jan, 2012.

BY ORDER OF:

Clark Hill

Judge

Evans

Clerk

- Copy to Prosecuting Attorney
- Copy handed to Defendant
- Copy mailed to Defendant
- Copy mailed/handed/placed in basket to Defendant's Attorney  
Kadakovich

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE  
MAGISTRATE DIVISION

THE STATE OF IDAHO, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 ) Kyle Richardson )  
 ) Defendant, )

NO. CR12-0082

NOTIFICATION OF RIGHTS  
FELONY

01-11-12 FILED 4:41 AM  
O'CLOCK P.M.  
Patty G. Works  
Clerk of the District Court  
Donna Ward Deputy

The purpose of the initial appearance is to advise you of your rights and the charge(s) against you.

- You have the right to be represented by an attorney at all times.
- If you want an attorney, but cannot pay for one, the court will appoint one to help you. If you are found guilty or plead guilty, you may be ordered to reimburse Nez Perce County for the cost of your defense.
- You have the right to remain silent. Any statement you make could be used against you.
- You have the right to bail.
- You have the right to a preliminary hearing before a judge.
- The purpose of a preliminary hearing is to determine whether probable cause exists to believe you have committed the crime(s) charged. A preliminary hearing is not a trial to decide guilt or innocence.
- You can cross-examine all witnesses who testify against you.
- You can present evidence, testify yourself if you wish, and have witnesses ordered to testify by subpoena.
- If the court finds probable cause exists that you committed the crime(s) charged, or if you waive your preliminary hearing, you will be sent to the District Court for arraignment.

If you have questions about the charge(s), about your rights or the court process, don't hesitate to speak up. It is important that you understand.

**Acknowledgement of Rights**

I have read this entire document, and I understand these rights as set forth above.

Date 1/11/12 Defendant's Signature Kyle Richardson

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

PRELIMINARY HEARING MINUTES

CR-2012-0000082 and CR-2011-8658  
State of Idaho vs. Kyle Alan Richardson  
Hearing type: Initial Appearance Arraignment  
Hearing date: 1/11/2012  
Time: 1:23 pm  
Judge: Jay P. Gaskill  
Courtroom: 2  
Court reporter: None  
Minutes Clerk: Evans  
Tape Number: courtroom2  
Defense Attorney: Danny Radakovich PD 2012  
Prosecutor: Mia Vowels

012337

Danny Radakovich and Kyle Richardson present  
Court advises Def of rights, charges and penalties  
This matter will be taken up at the time of the prelim today in CR-11-8658

013525

---

CR-2011-8658  
State of Idaho vs. Kyle Alan Richardson  
Hearing type: Preliminary Hearing

013252

**BE IT KNOWN THAT THE FOLLOWING PROCEEDINGS WERE HAD, TO WIT:**

Def present  with /  without counsel

Mia Vowels --- present for State

State /  Def requests continuance of **Preliminary Hearing**

---

Court Orders: **Preliminary Hearing** in both cases continued to : 02-01-2012 at 1:30 p. m.

Def waives **Preliminary Hearing** – Court Binds Def over to District Court

Case set for District Court Arraignment at Assigned to:

**Preliminary Hearing held, Proceedings as follows:**

Def waives speedy prelim in both cases.

013252

Second Judicial District Court, State of Idaho  
In and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

FILED

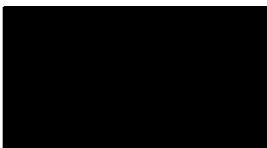
2012 JAN 13 PM 2 48

STATE OF IDAHO  
Plaintiff,  
vs.

Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Defendant.

DOB:  
DL or SSN:



PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*Donna L. Wain*  
DEPUTY

Citation No:

Case No: CR-2012-0000082

**ORDER APPOINTING PUBLIC DEFENDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that:

Danny Radakovich PD 2012  
1624 G St.  
Lewiston, ID 83501  
(208) 746-8162

Public Defender for the County of Nez Perce, State of Idaho, a duly licensed attorney in the State of Idaho, is hereby appointed to represent said Defendant, Kyle Alan Richardson, in all proceedings in the above entitled case.

The Defendant is further advised that he/she may be required to reimburse the Court for all or part of the cost of court appointed counsel.

Date: 1/13/12

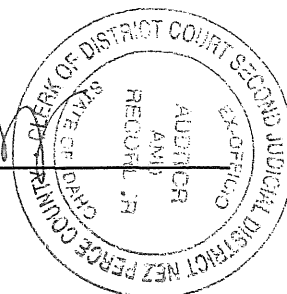
*[Signature]*  
\_\_\_\_\_  
Judge

Copies to:

Public Defender

Prosecutor

*Donna L. Wain*  
\_\_\_\_\_  
Deputy Clerk



DANNY J. RADAKOVICH  
Radakovich Law Office  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED

2012 JAN 31 PM 2 25

PATTY O. W. ...  
CLERK OF THE DIST. COURT  
*[Signature]*  
DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-0082
	)	
Plaintiff,	)	
	)	STIPULATION TO CONTINUE
v.	)	PRELIMINARY HEARING
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COME NOW the parties to the above-entitled matter, by and through their attorneys of record herein, and hereby stipulate that the preliminary hearing set in said matter for 1:30 p.m. on February 1, 2012, be continued to 1:30 p.m. on February 15, 2012.

DATED this 31<sup>st</sup> day of January, 2012.

*[Signature: Sandra Dickerson]*  
Sandra Dickerson  
Deputy Prosecuting Attorney

*[Signature: Danny J. Radakovich]*  
Danny J. Radakovich  
Attorney for Defendant

STIPULATION TO CONTINUE  
PRELIMINARY HEARING

RADAKOVICH LAW OFFICE  
1624 G Street  
Lewiston, ID 83501

DANNY J. RADA KOVICH  
Radakovich Law Office  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED

2012 JAN 31 PM 2 31

PATTY O. WILSON  
CLERK OF THE DISTRICT COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	CASE NO. CR12-0082
	)	
Plaintiff,	)	
	)	ORDER CONTINUING
v.	)	PRELIMINARY HEARING
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

THE PARTIES to the above-entitled matter having stipulated to continue the preliminary hearing in this matter, the court having considered said stipulation, and good cause appearing therefor;

IT IS HEREBY ORDERED that the preliminary hearing in this matter be continued to 1:30 p.m. on the 15<sup>th</sup> day of February, 2012.

DATED this 31<sup>st</sup> day of January, 2012.

*[Signature]*  
Carl B. Kerrick  
Judge

ORDER CONTINUING  
PRELIMINARY HEARING

RADAKOVICH LAW OFFICE  
1624 G Street  
Lewiston, ID 83501

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on the 31<sup>st</sup> day of January, 2012, the undersigned (Deputy) clerk of the above-entitled court hand-delivered true and correct copies of the Order to which this certificate is attached to:

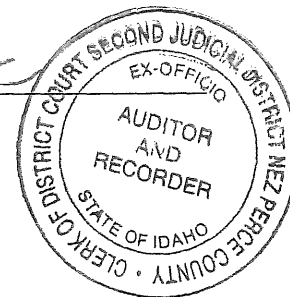
Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501

Danny J. Radakovich  
1624 G Street  
Lewiston, ID 83501

DATED this 31<sup>st</sup> day of January, 2012.

PATTY O. WEEKS, Clerk

By *Melissa Peck*  
Deputy



DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

FILED  
2012 FEB 6 PM 4 19

PATTY DICKERSON  
CLERK OF THE DISTRICT COURT  
*Patty Dickerson*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
KYLE A. RICHARDSON,  
  
Defendant.

CASE NO. CR2012-0000082

**FIRST SUPPLEMENTAL RESPONSE TO  
REQUEST FOR DISCOVERY**

COMES NOW the undersigned, SANDRA K. DICKERSON, Chief Deputy Prosecuting Attorney for Nez Perce County, Idaho, and pursuant to Defendant's Request for Discovery in the case herein, makes the following first supplemental disclosure compliance pursuant to Idaho Criminal Rules, Rule 16.

1. That attached hereto is AMENDED EXHIBIT "B" which sets forth additional reports.

DATED this 6<sup>th</sup> day of February 2012.

*Sandra K. Dickerson*  
SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney



**AFFIDAVIT OF SERVICE**

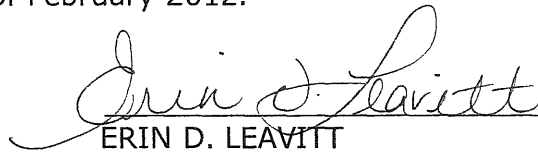
I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY was

- (1)   16   hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

DATED this   16<sup>th</sup>   day of February 2012.

  
ERIN D. LEAVITT  
Senior Legal Assistant

**AMENDED EXHIBIT "B"**  
**AMENDED LIST OF REPORTS**

STATE OF IDAHO vs. KYLE A. RICHARDSON  
NEZ PERCE COUNTY CASE NO. CR2012-0000082

1. A copy of any audio and/or video tapes and/or compact discs and/or floppy discs are available by providing a blank audio/video tape or compact disc or floppy disc to the Nez Perce County Prosecuting Attorney's Office and by making prior arrangements during normal working hours.
2. Lewiston Police Department Cap Sheet and Case Disposition Sheet consisting of three (3) pages. (1-3)
3. Lewiston Police Department LAW Incident Table consisting of one (1) page. (4)
4. Lewiston Police Department Narrative prepared by Brett Dammon consisting of three (3) pages. (5-7)
5. Lewiston Police Department Supplemental Narrative prepared by Brett Dammon dated September 13, 2011, consisting of two (2) pages. (8-9)
6. Lewiston Police Department Supplemental Narrative prepared by Brett Dammon dated September 16, 2011, consisting of three (3) pages. (10-12)
7. Lewiston Police Department Supplemental Narrative prepared by Tom Sparks dated September 23, 2011, consisting of two (2) pages. (13-14)
8. Idaho State Police Forensic Services Criminalistic Analysis Report dated September 13, 2011, consisting of three (3) pages. (15-17)
9. Idaho State Police Forensic Services Evidence Submission Receipt/Form dated September 12, 2011, consisting of one (1) page. (18)
10. Idaho State Police Forensic Services Criminalistic Analysis Report dated September 28, 2011, consisting of three (3) pages. (19-21)
11. Idaho State Police Forensic Services Evidence Submission Receipt/Form dated September 22, 2011, consisting of one (1) page. (22)
12. Lewiston Police Department Main Names Table consisting of four (4) pages. (23-26)
13. Criminal History consisting of eleven (11) pages. (27-37)
14. **One (1) CD containing 5 photographs and 16 audio files:**
  - a. **13806buy1bodywire**
  - b. **13806buy1debrief**

- c. 13806buy1header
- d. 13806buy1phonecall1
- e. 13806buy2bodywire
- f. 13806buy2call1
- g. 13806buy2call2
- h. 13806buy2call3
- i. 13806buy2debrief
- j. 13806buy2header
- k. 13806buy3bodywire
- l. 13806buy3debrief
- m. 13806buy3header
- n. 13806buy3phonecall1
- o. 13806buy3phonecall2

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

CASE TITLE State of Idaho vs. Kyle Alan Richardson JUDGE Kent J. Merica  
HEARING TYPE PRELIMINARY HEARING CLERK Nelson  
PLF ATTORNEY Sandra K. Dickerson TAPE NO. Item 2  
DEF ATTORNEY Danny Radakovich PD 2012 CASE NO. CR-2012-0000082  
OTHERS PRESENT \_\_\_\_\_ DATE 2/15/2012  
TIME 01:30 PM

**BE IT KNOWN THAT THE FOLLOWING PROCEEDINGS WERE HAD, TO WIT:**

<sup>325 34</sup> Def present with / without counsel  
Dickerson present for State

State / Def requests continuance of Preliminary Hearing

Court Orders: Preliminary Hearing continued to : 2-22-12 at 1:30 p. m.

Def waives Preliminary Hearing – Court Binds Def over to District Court

Case set for District Court Arraignment at Assigned to:

Preliminary Hearing held, Proceedings as follows:

Parties agree to continue prelim for one week.  
Judge Merica will stay on this case & will  
do the prelim on the 22<sup>nd</sup>.

<sup>32622</sup> Recess

FILED

2012 FEB 15 P 3:57

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

CLERK OF DISTRICT COURT  
NEZ PERCE COUNTY  
*[Signature]*

STATE OF IDAHO,

Plaintiff,

vs.

Kyle Richardson  
Defendant,

CASE NO. CR12-0082

- ( ) NOTICE OF PRELIMINARY CONFERENCE
- (  ) NOTICE OF PRELIMINARY HEARING
- ( ) NOTICE OF SENTENCING
- ( ) NOTICE OF HEARING ON \_\_\_\_\_

NOTICE IS HEREBY GIVEN TO the above-named Defendant that the following hearing has been set in your case at which you are to appear in the Courtroom of the Nez Perce County Courthouse, as indicated below:

- ( ) PRELIMINARY CONFERENCE to begin at \_\_\_\_\_, \_\_.m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- (  ) PRELIMINARY HEARING to begin at 1:30 p.m., on the 22<sup>nd</sup> day of February, 2012. in front of Judge Merica
- ( ) SENTENCING to begin at \_\_\_\_\_, \_\_.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- ( ) HEARING to begin at \_\_\_\_\_, \_\_.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

YOU ARE HEREBY NOTIFIED THAT IF YOU DO NOT APPEAR IN COURT AT SAID TIME AND PLACE, ANY BOND POSTED MAY BE FORFEITED BY THE COURT AND A WARRANT MAY BE ISSUED FOR YOUR ARREST WITHOUT FURTHER NOTICE.

DATED this 15<sup>th</sup> day of Feb., 2012.

BY ORDER OF:

- (  ) Copy to Prosecuting Attorney
- (  ) Copy handed to Defendant
- ( ) Copy mailed to Defendant
- (  ) Copy mailed/handed/placed in basket to Defendant's Attorney  
Rudakovich

Merica  
Judge

[Signature]  
Clerk

Exhibit Summary

Case: CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Sorted by Exhibit Number

Number	Description	Result	Storage Location Property Item Number	Destroy Notification Date	Destroy or Return Date
1	State's exhibit 1 - ISP Forensic Services Criminalistic Analysis Report for Agency Exhibit No. 145144. Admitted 2/22/12	Admitted			
		Assigned to:	Dickerson, Sandra K.		
2	State's exhibit 2 - ISP Forensic Services Criminalistic Analysis Report for Agency Exhibit No. 145184 and 145326. Admitted 2/22/12	Admitted			
		Assigned to:	Dickerson, Sandra K.		
3	State's exhibit 3 - picture of small baggie containing crystal meth (baggie on right) and baggie containing drug test kit (on left). Admitted 2/22/12	Admitted			
		Assigned to:	Dickerson, Sandra K.		
4	State's exhibit 4 - Picture of small baggie containing crystal meth which was found in the cigarette pack. Admitted 2/22/12	Admitted			
		Assigned to:	Dickerson, Sandra K.		
5	State's exhibit 5 - Picture of two baggies containing crystal meth (on the left) and a baggie containing drug test kit (on right). Admitted 2/22/12	Admitted			
		Assigned to:	Dickerson, Sandra K.		

## COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Preliminary Hearing

Hearing date: 2/22/2012

Time: 1:54 pm

Judge: Kent J. Merica

Courtroom: 3

Minutes Clerk: BEV

Defense Attorney: Danny Radakovich PD 2012

Prosecutor: Sandra Dickerson

- 1:54:21 Sandra Dickerson present for the State  
Danny Radakovich present with defendant
- Parties are ready to proceed.
- Court excludes witnesses.
- 1:54:43 State calls Det. Brett Dammon as a witness – sworn in and examined.
- 1:57:58 Radakovich – Objection, hearsay.
- 1:58:01 Court – Will allow it for background purposes. Not taking it for proof of the case.
- 1:58:15 State continues exam.
- 2:03:02 Radakovich – Objection to anything informant said as hearsay.
- 2:03:14 Court – He hasn't testified to anything informant said. Overruled.
- 2:03:23 State continues exam.
- 2:05:31 State moves to admit exhibit 3.
- 2:05:34 Radakovich – Questions witness in aid of objection. Objects to photo. Contains something which has not been qualified by testimony.

2:06:01 Court informs the State to ask more questions. Sustains objection.

2:06:04 State continues exam.

2:06:49 State moves to admit exhibit 3.

2:06:53 Radakovich – No objection for purposes of prelim.

2:06:56 Court – State’s exhibit 3 is admitted.

2:07:08 State continues exam.

2:08:11 State moves to admit exhibit 1.

2:08:15 Radakovich – Questions witness in aid of objection. For purposes of the prelim, no objection to it being admitted.

2:11:08 Court – State’s exhibit 1 is admitted.

2:11:13 State continues exam.

2:15:56 State moves to admit exhibit 4.

2:15:59 Radakovich – No objection.

2:16:09 Court – State’s exhibit 4 is admitted.

2:16:17 State continues exam.

2:20:35 State – Moves to admit exhibit 5.

2:20:40 Radakovich – Questions witness in aid of objection. Objects to entry of photo. No showing of which of the bags the test kit was used on. Therefore the test kit is not relevant.

2:21:09 Court – Overruled. Exhibit 5 is admitted.

2:21:13 State continues exam.

2:22:31 State moves to admit exhibit 2.

2:22:34 Radakovich – Questions witness in aid of objection. Renews objection to exhibit 5.

2:23:52 Court – Overrules objection. Picture depicts what it purports to depict, the drugs that were tested positive. Detective testified that the bag on the left was the bag tested, the smaller bag. Overrules objection and admits State’s exhibit 2.

2:24:32 State continues exam.



2:26:26 Radakovich cross examines.

2:28:53 State – Objection, relevance.

2:29:00 Radakovich continues cross.

2:42:36 State re-directs.

2:43:28 Radakovich re-cross.

2:44:17 State further questions the witness.

2:44:24 Radakovich – Objection, let’s get a date.

2:44:28 State continues exam.

2:44:54 Radakovich – Nothing further.

2:44:57 Det. Dammon steps down.

2:45:04 State calls Robert Bauer as a witness.

2:45:08 off the record

2:51:59 back on the record

Robert Bauer sworn in and examined by the State.

2:56:37 Radakovich cross examines.

3:06:10 State – Nothing further.

3:06:12 Mr. Bauer steps down and is excused.

3:06:19 State has nothing further.

3:06:21 Radakovich – No witnesses, no argument.

3:06:26 State – No argument.

3:06:27 Court addresses the parties. Based on the testimony presented, Court finds substantial proof that the defendant committed the crimes as charged in the complaint. Binds defendant over to District Court to Judge Kerrick. Arraignment set for 3/01/12 at 1:15 p.m.

3:07:04 recess

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

FILED  
2012 FEB 22 PM 4 14  
PATTY A. WEESE  
CLERK OF THE DISTRICT COURT  
DEPUTY  
*Combs*

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,  
D.O.B.: 10/04/1970,  
S.S.N.: XXX-XX-1455,

Defendant.

CASE NO. CR2012-0000082

INFORMATION

SANDRA K. DICKERSON Chief Deputy Prosecuting Attorney, in and for the County of Nez Perce, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into the District Court of the County of Nez Perce, and states that KYLE A. RICHARDSON is accused by this Information of the following crime(s):

**COUNT I**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 7th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.


**COUNT II**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 9th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

**COUNT III**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 14th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

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

  
\_\_\_\_\_  
SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney

Second Judicial District Court, State of Idaho  
In and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

FILED

2012 FEB 23 A 9:21

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 vs. )  
 Kyle Alan Richardson, )  
 )  
 Defendant. )

Case No: CR-2012-0000082

NOTICE OF HEARING



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

Arraignment Thursday, March 01, 2012 01:15 PM  
Judge: Carl B. Kerrick

at the Nez Perce County Courthouse in Lewiston, Idaho.

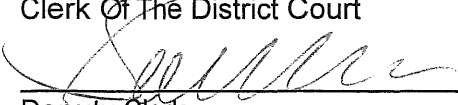
I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Thursday, February 23, 2012.

Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501  
Mailed  Hand Delivered

Private Counsel: Danny Radakovich PD 2012  
1624 G St.  
Lewiston, ID 83501  
Mailed  Hand Delivered

Prosecutor: Sandra K. Dickerson  
Mailed  Hand Delivered

Dated: Thursday, February 23, 2012  
Patty O. Weeks  
Clerk Of The District Court

By:   
Deputy Clerk  
DOC22 7/96

FILED

2012 FEB 23 P 1:38

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE



STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 KYLE ALAN RICHARDSON, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

CASE NO. CR 12-0082

ORDER BINDING OVER

The undersigned Magistrate having **HEARD** the Preliminary hearing in the above-entitled matter on the 22<sup>nd</sup> day of February, 2012, and it appearing to me that the offense set forth in the Complaint theretofore filed herein has been committed, and there is sufficient cause to believe the above-named defendant guilty thereof.

I ORDER that said defendant be held to answer the same, and said defendant is hereby bound over to the District Court for trial on the charges of COUNTS I, II, AND III: DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), felonies.

DATED this 29<sup>th</sup> day of February, 2012.



Magistrate

This case has been assigned to: CARL B. KERRICK, District Judge

DANNY J. RADA KOVICH  
 A Felony Public Defender  
 Attorney for Defendant  
 1624 G Street  
 Lewiston, ID 83501  
 (208) 746-8162  
 Idaho State Bar #1991

FILED  
 2012 FEB 27 PM 4 26  
 PATTY O. WEEKS  
 CLERK OF THE DISTRICT COURT  
*Patty O. Weeks*  
 DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

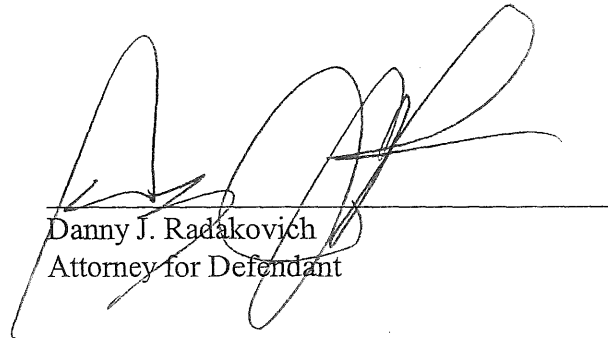
STATE OF IDAHO,	)	CASE NO. CR12-0082
	)	
Plaintiff,	)	MOTION FOR PRELIMINARY
	)	HEARING TRANSCRIPT AT
v.	)	COUNTY EXPENSE
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COMES NOW the defendant in the above-entitled matter, by and through his attorney of record herein, and hereby moves the court for an order for preparation of a preliminary hearing transcript in this matter at County expense.

This motion is based upon Rule 5.2(a)(2), I.C.R., and is made on the grounds that the preparation of a preliminary hearing transcript is necessary for the defendant to receive a proper defense. The transcript should be prepared at County expense because the defendant is a public defender client and cannot afford the transcript.

MOTION FOR PRELIMINARY  
 HEARING TRANSCRIPT AT  
 COUNTY EXPENSE

DATED this 27<sup>th</sup> day of February, 2012.

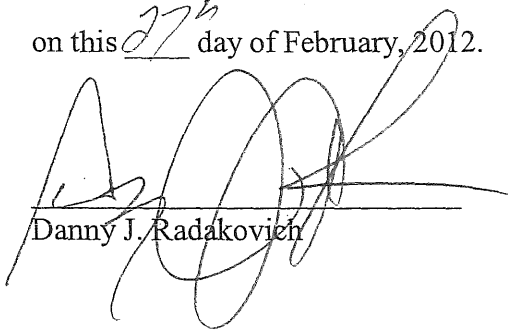


Danny J. Radakovich  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

on this 27<sup>th</sup> day of February, 2012.



Danny J. Radakovich

DANNY J. RADA KOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED  
2012 FEB 27 PM 4 47

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*Patty Weeks*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	CASE NO. CR12-0082
	)	
Plaintiff,	)	ORDER FOR PREPARATION
	)	OF PRELIMINARY HEARING
v.	)	TRANSCRIPT AT COUNTY
	)	EXPENSE
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COUNSEL FOR the defendant in the above-entitled matter having moved the court to order preparation of a preliminary hearing transcript in this matter at County expense, the court having considered said motion, and good cause appearing therefor;

IT IS HEREBY ORDERED that a transcript of the preliminary hearing in this matter be prepared at County expense.

DATED this 27<sup>th</sup> day of February, 2012.

*Carl B. Kerrick*  
\_\_\_\_\_  
Carl B. Kerrick  
District Judge

ORDER FOR PREPARATION OF  
PRELIMINARY HEARING TRANSCRIPT  
AT COUNTY EXPENSE

1

TRANSCRIPT ASSIGNED TO  
 CARLTON  
 TOWLEP  
DATE 2/28/12



CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on the 28<sup>th</sup> day of February, 2012, the undersigned  
(Deputy) clerk of the above-entitled court hand-delivered true and correct copies of the Order to  
which this certificate is attached to:

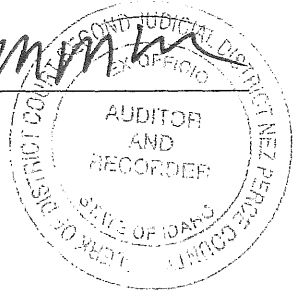
Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501

Danny J. Radakovich  
1624 G Street  
Lewiston, ID 83501

DATED this 28<sup>th</sup> day of February, 2012.

PATTY O. WEEKS, Clerk

By *Patty O. Weeks*  
Deputy



ORDER FOR PREPARATION OF  
PRELIMINARY HEARING TRANSCRIPT  
AT COUNTY EXPENSE

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Arraignment

Hearing date: 3/1/2012

Time: 1:17 pm

Judge: Carl B. Kerrick

Courtroom: 1

Court reporter: Linda Carlton

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich PD 2012

Prosecutor: April Smith

11752 Defendant present with counsel.

11807 Parties request trial setting.

State's Information previously filed in CR11-8658 for the crime of Possession with Intent to Deliver and Unlawful Possession of a Firearm and CR12-0082 for the crime of 3 Counts Delivery of a Controlled Substance.

11909 In CR11-8658 Defendant waives the reading of the Information and understands the charges and penalties.

12032 In CR12-0082 Defendant understands the charges and penalties.

12048 Defendant indicates his name, date of birth and social security number are correct.

12052 Defendant enters not guilty pleas.

12104 Mr. Radakovich addresses the Court and is not consenting these cases be tried together and Mr. Radakovich anticipates filing Motion to Suppress in the possession case.

12146 Court sets jury trial for 6-4-12 at 9 a.m., pretrial motions along with supporting briefs due 4-12-12, responsive briefing due 4-26-12, pretrial motions will be

heard 5-17-12 at 2:30 p.m. if no motions are filed there will not be a hearing and final pretrial conference set for 5-24-12 at 3:30 p.m.

12306      Court recess.

A handwritten signature in black ink, appearing to be "Ces" followed by a long horizontal line.

FILED

2012 MAR 2 PM 1 59

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*P. O. Weeks*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	CASE NO. CR12-00082
	)	
vs.	)	ORDER SETTING JURY TRIAL
	)	AND SCHEDULING PROCEEDINGS
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

The above-entitled case is hereby scheduled as follows:

JURY Trial shall commence on June 4, 2012 at the hour of 9:00 a.m.;

All pre-trial motions shall be filed on or before April 12, 2012;

Supporting Briefs due: April 12, 2012;

Responding Briefs due: April 26, 2012;

All pre-trial motions shall be heard at the hour of 2:30 p.m. on Thursday, May 17, 2012, with the defendant personally present at said hearing. If no motions are filed, there will be no hearing on this date.

Final pre-trial conference and the date and time by which plea bargaining must be completed May 24, 2012, at 3:30 p.m.

Dated this 2<sup>nd</sup> day of March, 2012.

  
\_\_\_\_\_  
CARL B. KERRICK-District Judge

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing ORDER SETTING JURY TRIAL AND SCHEDULING PROCEEDINGS was:

hand delivered via court basket, or

\_\_\_\_\_ mailed, postage prepaid, by the undersigned at Lewiston, Idaho, this 2<sup>nd</sup> day of March, 2012, to:

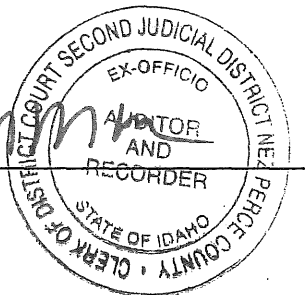
Danny Radakovich  
1624 G Street  
Lewiston ID 83501

Sandra Dickerson  
P.O. Box 1267  
Lewiston, ID 83501

PATTY O. WEEKS, Clerk

By

  
Deputy



ORDER SETTING JURY TRIAL AND  
SCHEDULING PROCEEDINGS

DANNY J. RADA KOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED

2012 APR 12 PM 4 13

PATTY O. WELLS  
CLERK OF THE DISTRICT COURT

*Cindy J. Deampro*  
DEPUTY

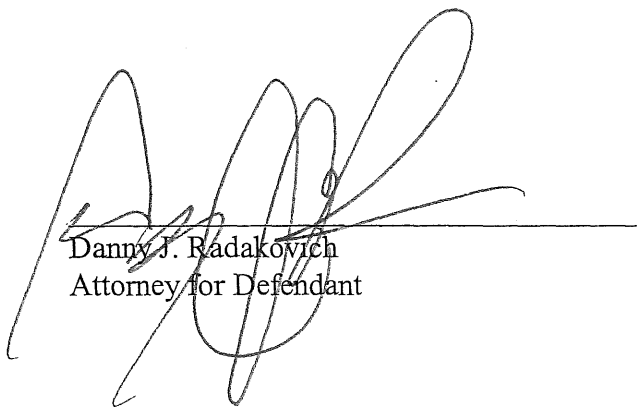
**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	MOTION FOR EXTENSION OF TIME
	)	TO FILE PRE-TRIAL MOTIONS
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COMES NOW the defendant in the above-entitled matter, by and through his attorney of record herein, and hereby moves the court for an order allowing him an additional two (2) weeks, or until April 26, 2012, to file his pre-trial motions herein.

The motion is made on the grounds that the undersigned only received his copy of the preliminary hearing transcript on April 2, 2012, and needed that transcript in order to prepare his motions.

DATED this 12<sup>th</sup> day of April, 2012.

  
\_\_\_\_\_  
Danny J. Radakovich  
Attorney for Defendant

MOTION FOR EXTENSION OF TIME  
TO FILE PRE-TRIAL MOTIONS

I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

on this 12<sup>th</sup> day of April, 2012.

  
\_\_\_\_\_  
Danny J. Radakovich



**ORIGINAL**

**FILED**

2012 MAY 1 AM 12 04

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*[Signature]*  
DEPUTY

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
KYLE A. RICHARDSON,  
  
Defendant.

CASE NO. CR2012-0000082  
  
MOTION FOR CONTINUANCE

COMES NOW, SANDRA K. DICKERSON, Chief Deputy Prosecuting Attorney for Nez Perce County, State of Idaho and moves that the Jury Trial which was scheduled for the 4th day of June, 2012, at the hour of 9:00am, be rescheduled for a time convenient for all parties.

This Motion is made based on a key witness being unavailable from June 4, 2012 through June 8, 2012.

DATED this 1<sup>st</sup> day of May, 2012.

*[Signature]*  
SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney

**AFFIDAVIT OF SERVICE**

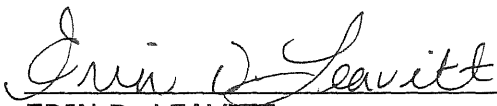
I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing MOTION FOR CONTINUANCE was

- (1)   0   hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

DATED this   1<sup>st</sup>   day of May, 2012.

  
\_\_\_\_\_  
ERIN D. LEAVITT  
Senior Legal Assistant

ORIGINAL

FILED

2012 MAY 3 PM 3 34

PATTY O. WELLS

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

*[Handwritten signature]*

DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,

Defendant.

CASE NO. CR2012-0000082

ORDER FOR CONTINUANCE

Having read and considered the foregoing Motion for Continuance, and being fully advised in this matter,

IT IS HEREBY ORDERED that the Jury Trial scheduled for the 4th day of June, 2012, at the hour of 9:00am, be rescheduled for the 20<sup>th</sup> day of August, at the hour of 9:00 AM.

DATED this 3<sup>rd</sup> day of May, 2012.

*[Handwritten signature]*

JUDGE

**CERTIFICATE OF DELIVERY**

I hereby certify that a true and correct copy of the foregoing, ORDER FOR CONTINUANCE, was

- (1) \_\_\_\_\_ hand delivered, or
- (2)  hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States mail, addressed to the following:

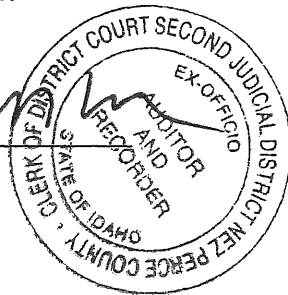
Prosecutor's Office  
P. O. Box 1267  
Lewiston, ID 83501

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

DATED this 3<sup>rd</sup> day of May, 2012.

CLERK OF THE COURT

*[Signature]*  
Deputy



DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

FILED  
2012 JUL 31 AM 11 58  
PATTY O. WEE  
CLERK OF THE DIST. COURT  
DEPUTY  
*James*

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
KYLE A. RICHARDSON,  
  
Defendant.

CASE NO. CR2012-0000082  
  
REQUEST FOR DISCOVERY

TO THE ABOVE-NAMED DEFENDANT:

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

1. Books, papers, documents, photographs, tangible objects or portions thereof, which are within the possession, custody, or control of the defendant, and which the defendant intends to introduce in evidence at trial;
2. All results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this particular case, or copies thereof, within the possession or control of the defendant, which the defendant intends to

introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial, when the results or reports relate to testimony of the witness;

3. A list of names and addresses of witnesses the defendant intends to call at trial.

4. Please provide the State with a written summary or report of any expert witness testimony that the Defendant intends to introduce pursuant to Idaho Criminal Rules 702, 703 and 705 at trial or hearing in the above-captioned matter. Said summary must describe the expert's opinions, the facts and data for those opinions and the expert's qualifications. This request shall also include any expert opinions regarding mental health pursuant to Idaho Code Section 18-207.

The undersigned further requests permission to inspect and copy said information, within 14 days from the date of this request at the Prosecuting Attorney's Office, Lewiston, Idaho.

REQUEST FOR NOTICE OF DEFENSE OF ALIBI

Pursuant to Idaho Code Section 19-519 and Idaho Criminal Rule 12.1, the Prosecuting Attorney requests that you serve upon his office within ten days of your receipts of this request a written notice of the intention of your client to offer a defense of alibi in the above-referenced matter.

Such notice must state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 30 day of July 2012.

  
SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing REQUEST FOR DISCOVERY was

- (1)   *h*   hand delivered, or
- (2)        hand delivered via court basket, or
- (3)        sent via facsimile, or
- (4)        mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

DATED this   31<sup>st</sup>   day of July 2012.

  
\_\_\_\_\_  
ERIN D. LEAVITT  
Senior Legal Assistant

**ORIGINAL**

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

**FILED**

2012 JUL 31 PM 4 29

PATTY O. WEEB  
CLERK OF THE DIST. COURT

*Jerry Gander*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,

Defendant.

CASE NO. CR2012-0000082

MOTION TO ADMIT PRELIMINARY  
HEARING TRANSCRIPT TESTIMONY  
OF ROBERT BAUER - DECEASED

COMES NOW, SANDRA K. DICKERSON, Chief Deputy Prosecuting Attorney for Nez Perce County and moves this court for an order, pursuant to Idaho Rule of Evidence 804(b)(1), to allow the state to introduce the testimony of Robert Bauer, now deceased, through the reading of his preliminary hearing testimony at trial (Transcript is attached hereto as Exhibit A).

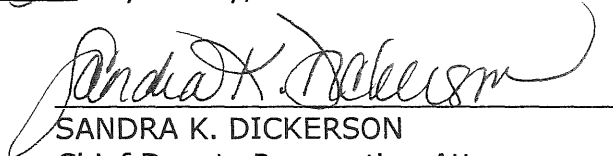
Mr. Bauer was the confidential informant in the matter before the court. He testified, in person, concerning this matter at preliminary hearing on February 22, 2012, where he was subject to full and effective cross examination by Defendant's counsel, Mr. Radakovich. Mr. Bauer is now deceased.



The State also seeks to introduce audio evidence of the actual delivery between the defendant and Mr. Bauer, in addition to monitored telephone conversations between Mr. Bauer and Mr. Richardson setting up the specifics of the deliveries.

Based on the above, the State requests the court enter an order allowing the introduction of the above evidence at trial scheduled for August 20, 2012 or at such time thereafter when the matter goes to trial.

Respectfully submitted this 31<sup>st</sup> day of July, 2012

  
SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing MOTION was

- (1) 4 hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

DATED this 31<sup>st</sup> day of July, 2012.

  
ERIN D. LEAVITT  
Senior Legal Assistant

# EXHIBIT "A"

FILED

THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

2012 MAR 27 AM 8 30

1 STATE OF IDAHO, )  
2 )  
3 Plaintiff, )  
4 )  
5 vs. )  
6 KYLE ALAN RICHARDSON, )  
7 )  
8 Defendant. )  
9 )  
10 )  
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PATTY O. WELLS  
CLERK OF DISTRICT COURT  
TERESA DAUMON  
CASE NO. CR 12-0082  
DEPUTY

PRELIMINARY HEARING TRANSCRIPT  
FEBRUARY 22, 2012  
BEFORE THE HONORABLE KENT MERICA

APPEARANCES:

Ms. Sandra Dickerson, Deputy Prosecuting Attorney,  
Nez Perce County Prosecutor's Office, P.O. Box 1267,  
Lewiston, Idaho 83501, appearing for and on behalf  
of the State of Idaho.

Mr. Danny J. Radakovich, Attorney at Law, 1624 G  
Street, Lewiston, Idaho 83501, appearing for and on  
behalf of the Defendant.

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(February 22, 2012, 1:54 p.m.)

THE COURT: We are on the record in State of Idaho versus Richardson, this is the time set for preliminary hearing.

Is the State ready to proceed?

MS. DICKERSON: Yes, your Honor.

THE COURT: Defense?

MR. RADAKOVICH: Yeah, Judge.

THE COURT: Alright. Court will order the exclusion of witnesses and State can call its first witness.

MS. DICKERSON: State would call Detective Brett Dammon. I'll go get him, your Honor.

THE COURT: Thank you.

DETECTIVE BRETT DAMMON, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, relating to said cause, testifies and says:

DIRECT EXAMINATION

BY MS. DICKERSON:

Q. Good afternoon.

A. Hello.

Q. Would you state your name and spell your last for the record, please.

A. Detective Brett Dammon, D-a-m-m-o-n.

Q. And are you currently assigned a specific case load with LPD?

A. Yes, narcotics investigations.

Q. And how long have you held that position?

A. Approximately a year and a half.

Q. And, in fact, at some point in time were you the representative from Lewiston Police Department to the Quad Cities Drugs Task Force?

A. I was, yes.

Q. Approximately during your career, how many narcotics investigations have you been a party to?

A. I would say probably over three hundred.

Q. And as the detective, the narcotics detective for LPD, approximately how many?

A. Probably over two hundred.

Q. I want to direct your attention to an investigation that you began sometime in September of 2011 involving an individual by the name of Kyle Richardson?

A. Okay.

Q. Do you see Mr. Richardson in court?

A. I do.

Q. Would you point him out and describe what he's wearing for the record?

A. At the defense counsel table with a white

Q. And you say Detective Dammon, what agency are you currently with?

A. The Lewiston Police Department.

Q. How long have you been with LPD?

A. Approximately six years.

Q. And prior to that, any law enforcement experience?

A. Clarkston Police Department and the Nez Perce County Sheriff's Office.

Q. For a total of how many years in law enforcement?

A. Approximately nine years.

Q. And are you currently certified in Idaho to be a police officer?

A. I am.

Q. What level certification do you hold?

A. Intermediate.

Q. And, Detective Dammon, do you have any specialized training that would be of interest to the Court in this case?

A. Yes. Through POST, or the Police Officer's Training, I had drug investigations courses and drug identification courses, and I have also been to the 80-hour DEA Basic Narcotics Investigation School.

shirt.

MS. DICKERSON: May the record reflect that he's identified the Defendant?

THE COURT: It does.

BY MS. DICKERSON:

Q. Tell the Court how your investigation began involving Mr. Richardson.

A. I received information from a confidential informant that Mr. Richardson was selling methamphetamine.

MR. RADAKOVICH: Objection, that's hearsay.

MS. DICKERSON: Your Honor, it's not --

THE COURT: I'm going to allow for background purposes. The Court's not taking it for proof -- affirmative proof of the prima facie case.

BY MS. DICKERSON:

Q. And, Detective Dammon, after receiving this information, how did you proceed? Did you do anything?

A. Yeah, to further investigation we attempted to set up controlled deliveries involving Mr. Richardson and the informant.

Q. And exactly what is a controlled delivery?

A. It's basically having a confidential informant make contact with the target or the

1 suspect and then arrange an exchange of narcotics  
2 under detective's direction.

3 Q. So when the control delivery is set up, do  
4 you make recorded phone calls?

5 A. Yes.

6 Q. Do you provide prerecorded money?

7 A. Yes.

8 Q. And is the confidential source or the  
9 confidential informant a party to the arrangements?

10 A. Yes.

11 Q. And once that is done, is the confidential  
12 source wired?

13 A. Yes.

14 Q. And what about surveillance?

15 A. Yes. We attempt to conduct either visual  
16 or listen to the audio recording or the  
17 surveillance. Either visually or by audio maintain  
18 control of the informant during the operation.

19 Q. And what's the purpose of that?

20 A. Just so we can see who the informant has  
21 contact with, make sure it's only the suspect, and  
22 make sure the confidential informant is only dealing  
23 with that particular person.

24 Q. And so you said that this was what -- how  
25 you began your investigation of Mr. Richardson?

1 made?

2 A. I directed the CI to make phone calls and  
3 I directed the CI to try to make arrangements to  
4 meet at that location with Mr. Richardson.

5 Q. Were those phone calls recorded?

6 A. Yes.

7 Q. Were you monitoring them at the time?

8 A. I could -- I could only overhear one part  
9 of the conversation, the informant's.

10 Q. So the thirty-one hundred block of Hatwai  
11 Road, was there any residence there?

12 A. No residence there, just storage units.

13 Q. And about what time did this occur, do you  
14 recall?

15 A. If I can review my report.

16 Q. If that will help refresh your memory.

17 A. I know that in my report that  
18 approximately 1802 hours or 6:02 hours the informant  
19 arrived at that location.

20 Q. And the informant was checked for  
21 contraband prior to sending him to that --

22 A. Yeah, before these we always search for  
23 drugs, contraband or other money.

24 Q. And how does the informant arrive at the  
25 place where the buy was going to take place?

1 A. That's correct.

2 Q. And you recall when the first date of a  
3 controlled buy was set up?

4 A. Yes, I do.

5 Q. And when was that?

6 A. September 7th, 2011.

7 Q. And did you go through the procedures that  
8 you talked here today about?

9 A. Yes.

10 Q. Confidential informants is wired?

11 A. Yes.

12 Q. Surveillance was maintained on the  
13 confidential informant?

14 A. Yes.

15 Q. And prerecorded buy money was provided?

16 A. Yes.

17 Q. So on September 7th of 2011, where was the  
18 first control buy to take place?

19 A. We made arrangements with Mr. Richardson  
20 to meet at some storage units in the thirty-three  
21 hundred block of Hatwai Road in Lewiston.

22 Q. That's in State of Idaho?

23 A. Yes.

24 Q. And when you say you made arrangements  
25 with Mr. Richardson, how were those arrangements

1 A. On this occasion the informant had a  
2 vehicle which we searched prior as well.

3 Q. No contraband was found?

4 A. Right.

5 Q. And the vehicle was followed to the  
6 location?

7 A. That's correct.

8 Q. And what happened when the confidential  
9 informant arrived at that location?

10 A. The confidential informant waited for a  
11 time, and Mr. Richardson didn't show up so I  
12 directed the informant to make another phone call to  
13 Mr. Richardson, he advised he'd be there in a few  
14 minutes, and a short time later Mr. Richardson  
15 arrived in a black Chevrolet pickup.

16 Q. How do you know it was Mr. Richardson in  
17 the black Chevrolet pickup?

18 A. Prior contacts with Mr. Richardson.

19 Q. And did you recognize the vehicle as being  
20 one that Mr. Richardson drove?

21 A. Yes.

22 Q. Did you check the registration on that  
23 vehicle at any time, do you know?

24 A. Afterwards I did, yes.

25 Q. And so Mr. Richardson arrived, were you

1 able to see him driving the vehicle?

2 **A.** I didn't see him driving the vehicle, but  
3 after he exited the vehicle I had binoculars and I  
4 was able to identify him as Kyle Richardson.

5 **Q.** Did you notice anybody else inside the  
6 vehicle?

7 **A.** I did not.

8 **Q.** After Mr. Richardson exited his car or his  
9 pickup, what did you observe?

10 **A.** I just in listening to the live body wire  
11 recording, I was able to hear the informant make  
12 contact with Mr. Richardson.

13 **Q.** What happened next?

14 MR. RADA KOVICH: Well, I'll object to  
15 anything the -- I guess this is just prefatory,  
16 anything the informant said during that conversation  
17 as being hearsay.

18 THE COURT: He hasn't testified to  
19 anything, so overruled.

20 MR. RADA KOVICH: Pardon.

21 THE COURT: He hasn't testified that the  
22 informant said anything, so overruled.

23 MR. RADA KOVICH: Okay.

24 BY MS. DICKERSON:

25 **Q.** So after the informant made contact with

1 kit and then it's placed into evidence to be sent to  
2 the Idaho State Crime Lab for analysis.

3 **Q.** And it goes up to Coeur d'Alene to the  
4 criminalist?

5 **A.** Right.

6 **Q.** For a chemical test?

7 **A.** Correct.

8 **Q.** Do you receive a report back on that test?

9 **A.** Yes.

10 **Q.** And when you receive the report back, do I  
11 ask you to match it up with what was sent?

12 **A.** Yes, you do.

13 **Q.** And did you do that?

14 **A.** Yes, I did.

15 **Q.** I'm going to have you handed what's been  
16 marked as State's Exhibit No. 3 for purposes of  
17 identification.

18 If I may approach, your Honor.

19 And, Detective, I want you to look at the  
20 photograph marked as State's Exhibit No. 3, tell me  
21 if you recognize that?

22 **A.** I do.

23 **Q.** How do you recognize that?

24 **A.** It appears to be the baggie or the  
25 controlled substance given to me by the confidential

1 Mr. Richardson, what happened?

2 **A.** They had contact, spoke, and then after a  
3 few minutes they broke contact and Mr. Richardson  
4 left the area.

5 **Q.** Okay. And then did you make contact with  
6 the confidential informant at that time?

7 **A.** Yes, afterwards I did.

8 **Q.** And what's -- after a controlled buy has  
9 presumably taken place, what's the procedure next?

10 **A.** Make contact with the confidential  
11 informant, they will give us the product or the  
12 narcotics that was purchased, we will again  
13 post-search the informant for any other drugs,  
14 contraband or moneys left over, and then we will  
15 conduct a recorded debrief with the informant.

16 **Q.** Did you follow that procedure in this  
17 case?

18 **A.** Yes.

19 **Q.** Did the confidential informant, in fact,  
20 provide you with a substance?

21 **A.** Yes.

22 **Q.** And what's done with the substance that  
23 you are provided?

24 **A.** Afterwards I take it to the Lewiston  
25 Police Department where I test it with a field test

1 informant after the exchange.

2 **Q.** Okay. And this is from the controlled buy  
3 that was set up on September the 7th of 2011?

4 **A.** That's correct.

5 **Q.** And did you take the photograph of this?

6 **A.** I did.

7 MS. DICKERSON: Your Honor, we'd move for  
8 the admission of State's Exhibit No. 3.

9 MR. RADA KOVICH: Question in aid of  
10 objection?

11 THE COURT: Uh-huh.

12 BY MR. RADA KOVICH:

13 **Q.** Did you say the CI gave you a bag or more  
14 than one bag?

15 **A.** On this occasion just one bag.

16 **Q.** So doesn't Exhibit 3 show two bags?

17 **A.** Yes, it does.

18 **Q.** Or are my eyes tricking me?

19 **A.** One of them's a field test kit.

20 MR. RADA KOVICH: Well, I'll object to the  
21 photo on the basis it contains something which is  
22 not been qualified by testimony yet.

23 THE COURT: Why don't you ask some more  
24 questions. I'll sustain the objection.

25 BY MS. DICKERSON:



1 Q. When you received the bag from the  
2 confidential informant in State's Exhibit No. 3,  
3 what is next to it is a blue -- what looks like a  
4 blue bag?

5 A. Uh-huh.

6 Q. Can you explain what that is to the Court?

7 A. That's a methamphetamine field test kit to  
8 preliminary test the narcotics, and the blue  
9 indication would mean if tested positive for  
10 methamphetamines.

11 Q. And that's just a presumptive test?

12 A. That's right.

13 Q. That's done prior to you sending it to the  
14 lab for specific testing on the substance; is that  
15 correct?

16 A. That's correct, yes.

17 Q. And that's what we are looking at in  
18 State's Exhibit No. 3?

19 A. That's correct.

20 Q. Are there procedures that you follow on  
21 the NIC test to open it, put the substance in?

22 A. Yes, there is.

23 Q. And did you follow those procedures?

24 A. I did.

25 MS. DICKERSON: Again, your Honor, we'd

1 substance that went up to the lab?

2 A. I did.

3 Q. And it is match?

4 A. Yes.

5 Q. And it pertains to this case and you know  
6 that how?

7 A. Because on the lab report it notes the  
8 exhibit number for the project that was entered into  
9 our Spillman System, the case number, the  
10 Defendant's name is on it as well.

11 MS. DICKERSON: Your Honor, for purposes  
12 of preliminary hearing, we'd move for the admission  
13 of State's Exhibit 1.

14 MR. RADA KOVICH: Question in aid of  
15 objection?

16 THE COURT: Yeah.

17 BY MR. RADA KOVICH:

18 Q. Do you see about two inches down from the  
19 top toward the right, Detective, it says "crime  
20 date"?

21 A. I do.

22 Q. What's that say?

23 A. September 9th, 2011.

24 Q. And you are aware that the Complaint filed  
25 in this case alleges the crime occurred on

1 move for the admission of State's Exhibit No. 3.

2 MR. RADA KOVICH: No objection for purposes  
3 of this prelim.

4 THE COURT: State's 3 is admitted.

5 (Thereupon, State's Exhibit No. 3 was  
6 admitted into evidence.)

7 BY MS. DICKERSON:

8 Q. May the record reflect I'm handing the  
9 witness what's been marked as State's Exhibit No. 1.  
10 Detective Dammon, you had previously testified that  
11 you send up the substance to the forensic lab for  
12 analysis; is that correct?

13 A. That's correct.

14 Q. And you also previously testified that you  
15 get a report back and match that up with the actual  
16 evidence that was submitted?

17 A. That's correct.

18 Q. And I'd ask you to look at State's Exhibit  
19 No. 1 and tell me if you recognize that document?

20 A. I do, I recognize it as the lab result  
21 return back from the crime lab.

22 Q. And this is on the purchase that was  
23 completed on September 7th of 2011?

24 A. That's correct.

25 Q. And did you match this up with the actual

1 September 7th?

2 A. That's correct.

3 Q. And you, in fact, yourself have testified  
4 the allege crime occurred on September 7th?

5 A. That's correct.

6 Q. Then I guess my other question is when I  
7 look at the case number, did you use a separate case  
8 number for each attempted buy allegedly from my  
9 client?

10 A. No, just -- it's all under the same case  
11 number.

12 Q. Okay. So there is nothing about this that  
13 makes -- about this report Exhibit 1 that makes it  
14 unique to the alleged September 7th transaction?

15 A. The Exhibit number when I entered the  
16 property into evidence is the same.

17 Q. Is there something in your report that  
18 shows the exhibit number?

19 A. Not in my report, no.

20 Q. Is there something anywhere that shows  
21 that exhibit number I mean here today other than  
22 this paper Exhibit 1?

23 A. I don't have the piece of evidence with me  
24 but on the face sheet from our Spillman entry it  
25 shows the date I entered it into evidence and the

1 evidence number.

2 Q. Where would that be, is it in this  
3 paperwork?

4 A. The face sheet should be in your  
5 paperwork, I don't know.

6 Q. Can you show me what that looks like so I  
7 can find it.

8 And we are on -- where on that face sheet  
9 would I look?

10 A. Down towards the center where it states  
11 involvements.

12 Q. Yeah.

13 A. The property number noted on the lab  
14 report is 145144, so you should see the Record  
15 No. 145144.

16 Q. I see that, yes.

17 A. Okay.

18 Q. And that's dated the 8th of September?

19 A. Yes, that would be the date that I placed  
20 the item into evidence.

21 Q. Okay.

22 MR. RADAKOVICH: Judge, for purposes of the  
23 prelim. I have no objection.

24 THE COURT: Okay. State's Exhibit I is  
25 admitted.

1 1424 Main Street in Lewiston.

2 Q. That's State of Idaho?

3 A. That's correct.

4 Q. And did you go through the similar  
5 procedures that you earlier testified to, the  
6 confidential informant was searched?

7 A. Yes.

8 Q. Had a body wire?

9 A. Yes.

10 Q. Did he also take his vehicle to this  
11 alleged buy?

12 A. On this particular one, no, we actually  
13 dropped him off at that location.

14 Q. So it wasn't necessary to search the  
15 vehicle?

16 A. Correct.

17 Q. But he was searched?

18 A. Yes.

19 Q. No contraband was found?

20 A. That's correct.

21 Q. Approximately how much money -- control  
22 buy money was given to him on that day?

23 A. Four hundred dollars.

24 Q. And what were you attempting to purchase  
25 as far as the weight was concerned?

1 (Thereupon, State's Exhibit No. 1 was  
2 admitted into evidence.)

3 BY MS. DICKERSON:

4 Q. Now, Detective Dammon, how much money was  
5 paid for the amount of methamphetamine delivered on  
6 9-7, 2011?

7 A. Two hundred dollars.

8 Q. Approximately what was the weight on that?

9 A. When I weighed it, it was -- the total  
10 package including the baggie was four grams.

11 Q. So about an even ounce?

12 A. Uh-huh.

13 Q. Was this the only delivery -- controlled  
14 delivery that was conducted involving  
15 Mr. Richardson?

16 A. No, it was not.

17 Q. When was the next delivery set up?

18 A. On September 9th, 2011.

19 Q. And you are using the same confidential  
20 informant?

21 A. That's correct.

22 Q. And where was this delivery to take place?

23 A. I directed the informant to make  
24 arrangements for the delivery to occur or for the  
25 meet to occur at the community center parking lot at

1 A. In recorded phone calls prior to that to  
2 make arrangements, there was discussion about  
3 purchasing a half ounce of methamphetamine.

4 Q. For four hundred dollars?

5 A. Yes.

6 Q. And so the confidential informant was  
7 taken to this area and dropped off?

8 A. That's correct.

9 Q. And were you able to observe him?

10 A. Yes.

11 Q. And did Mr. Richardson's vehicle arrive?

12 A. Yes.

13 Q. About what time, do you recall?

14 A. If I can review my report.

15 Q. If that will help.

16 A. I noted in my report that approximately  
17 1414 hours or 2:14 I observed Richardson's black  
18 Chevrolet pickup arrive in the parking lot.

19 MR. RADAKOVICH: At what time was that,  
20 Judge?

21 A. 2:14.

22 BY MS. DICKERSON:

23 Q. That's in the afternoon?

24 A. Correct.

25 Q. So you see Mr. Richardson's vehicle

1 arrive, were you able to see Mr. Richardson in the  
2 vehicle?

3 **A.** No, I wasn't able to identify him at that  
4 time.

5 **Q.** This was the same vehicle that had arrived  
6 at the previous controlled buy out on Hatwai Road?

7 **A.** It appeared to be the same vehicle, yes.

8 **Q.** So the vehicle arrives, what does the  
9 confidential informant do?

10 **A.** I observed the confidential informant  
11 enter the passenger seat of Mr. Richardson's  
12 vehicle.

13 **Q.** Was there anyone else in the vehicle that  
14 you could see?

15 **A.** Not that I could see, no.

16 **Q.** And what happened next?

17 **A.** They left the parking lot and went  
18 westbound towards 13th Street -- or towards the  
19 courthouse here, and basically made a loop around  
20 the block and the informant was dropped off on the  
21 Main Street side by Les Schwab.

22 **Q.** Approximately how long were they in the  
23 vehicle?

24 **A.** I would say approximately five minutes.

25 **Q.** So they made a loop around the block,

1 **Q.** For the \$400?

2 **A.** That's correct.

3 **Q.** And there is a cigarette package next to  
4 it, why is that there?

5 **A.** The methamphetamines was initially in the  
6 cigarette carton.

7 **MS. DICKERSON:** Your Honor, we'd move for  
8 the admission of State's Exhibit?

9 **MR. RADA KOVICH:** Did he say that the  
10 alleged drugs were in the cigarette pack?

11 **A.** Yes, when I was given -- when the  
12 informant gave it to me it was in that.

13 **MR. RADA KOVICH:** No objection for purposes  
14 of the prelim.

15 **THE COURT:** Okay. Exhibit 4 is admitted.

16 (Whereupon, State's Exhibit No. 4 was  
17 admitted into evidence.)

18 **BY MS. DICKERSON:**

19 **Q.** Was that the last -- I'm sorry. Was that  
20 suspected substance sent up to the lab as well?

21 **A.** Yes, it was.

22 **Q.** Did you receive a report back?

23 **A.** Yes, I did.

24 **Q.** And did you check that with the actual  
25 drugs that were submitted to make sure that they

1 dropped the confidential informant off at Schwab?

2 **A.** Yes.

3 **Q.** And what did you do?

4 **A.** I had the informant walk back towards the  
5 community center parking lot where I picked the  
6 informant back up.

7 **Q.** And what, if anything, were you provided  
8 on that day?

9 **A.** The informant gave me the suspected  
10 methamphetamines purchased from Mr. Richardson and I  
11 later weighed it and the total package weight was 15  
12 grams.

13 **Q.** If the record would reflect, I'm  
14 approaching the witness with what's been marked as  
15 State's Exhibit No. 4.

16 **Detective Dammon,** do you recognize what's  
17 been marked as State's Exhibit No. 4?

18 **A.** I do.

19 **Q.** How do you recognize it?

20 **A.** It appears the photograph I took of the  
21 methamphetamines given to me by confidential  
22 informant purchased from Mr. Richardson.

23 **Q.** And that was what was purchased on 9-9 of  
24 2011?

25 **A.** That's correct.

1 matched?

2 **A.** Yes, I did.

3 **Q.** Exhibit numbers were the same?

4 **A.** Yes.

5 **Q.** Was that the last controlled buy with  
6 Mr. Richardson?

7 **A.** No, it was not.

8 **Q.** And when was the next buy?

9 **A.** September 14, 2011.

10 **Q.** And where did that take place?

11 **A.** I directed the CI to make arrangements to  
12 be picked up by Mr. Richardson in approximately the  
13 seven hundred block of 14th Street in Lewiston.

14 **Q.** And that's still in the State of Idaho?

15 **A.** That's correct.

16 **Q.** And about what time was that to occur?

17 **A.** If I can refer to my report for the exact  
18 time.

19 **Q.** Sure.

20 **A.** I note in my report I dropped the  
21 informant off at that location at approximately 1334  
22 hours or 1:34 hours.

23 **Q.** That's in the afternoon again?

24 **A.** That's correct.

25 **Q.** And did you observe the same pickup

1 arrive?

2 **A.** Yes, I did.

3 **Q.** And were you able to see who was driving  
4 the pickup at that time?

5 **A.** I was not.

6 **Q.** But it was the same pickup that had been  
7 at the last two controlled buys?

8 **A.** That's correct.

9 **Q.** The one that Mr. Richardson had driven to  
10 the original buy?

11 **A.** That's correct.

12 **Q.** And what happened next?

13 **A.** The CI entered the passenger side of the  
14 vehicle and again they drove northbound towards Main  
15 Street. We did lose surveillance of the vehicle for  
16 a short period, however located it a short time  
17 later in the parking lot of Dairy Queen at 13th and  
18 Main. When it left there it basically went around  
19 the block and the CI exited the vehicle in the same  
20 location he or she was picked up.

21 **Q.** Back towards the thirteen hundred --

22 **A.** Seven hundred blocked of 14th Street,  
23 correct.

24 **Q.** Now, you say that you lost surveillance of  
25 the vehicle for approximately how long?

1 pay back a debt from the September 9th purchase  
2 because we were actually fronted or given an extra  
3 quarter ounce which is \$400. So we paid back our  
4 debt and then we used the remaining \$800 to purchase  
5 the methamphetamines on September 14.

6 **Q.** And how many baggies were you provided of  
7 suspected controlled substance on at that day?

8 **A.** Two.

9 **Q.** If the record would reflect I'm  
10 approaching the witness with what's been marked as  
11 State's Exhibit No. 5.

12 Detective Dammon, can you look at what's  
13 been marked as State's Exhibit No. 5 and tell me if  
14 you recognize that document?

15 **A.** I do. It appears to be the two baggies  
16 given to me by the confidential informant that was  
17 purchased during this exchange.

18 **Q.** There's three baggies in the picture,  
19 what's the blue baggie?

20 **A.** That would be the presumptive field test  
21 kit for methamphetamines.

22 **Q.** And this is similar to the same type of  
23 presumptive test that you utilized on the buy on 9-7  
24 of 2011; is that correct?

25 **A.** That's correct.

1 **A.** I would say approximately one or two  
2 minutes.

3 **Q.** So not enough time for the vehicle to go  
4 from Lewiston to Clarkston?

5 **A.** No.

6 **Q.** And after the CI was dropped off at the  
7 seven hundred block again, what did you do?

8 **A.** I again picked the informant up, took him  
9 back to what we call the debriefing location, the CI  
10 provided me with the suspected methamphetamines  
11 purchased, again the CI was post-searched for any  
12 other drugs, contrabands or money, and a recorded  
13 debrief was conducted with the informant.

14 **Q.** And how -- how much methamphetamine were  
15 you attempting to buy on that day?

16 **A.** We -- I directed the CI during the  
17 recorded phone calls to attempt to purchase one  
18 ounce of methamphetamines; however, we didn't  
19 receive that much.

20 **Q.** And how much money was he provided on that  
21 day?

22 **A.** I provided him with twelve hundred dollars  
23 of prerecorded buy money.

24 **Q.** Twelve hundred dollars?

25 **A.** Yes. Four hundred dollars of it was to

1 **Q.** I believe that's shown in State's Exhibit  
2 No. 3; correct?

3 **A.** Correct.

4 **MS. DICKERSON:** Your Honor, we'd move for  
5 the admission of State's Exhibit No. 5.

6 **MR. RADAKOVICH:** Question in aid of  
7 objection.

8 **BY MR. RADAKOVICH:**

9 **Q.** Did you test one or both bags with this  
10 test kit, Officer?

11 **A.** Just one.

12 **Q.** So which one was tested?

13 **A.** I don't recall.

14 **MR. RADAKOVICH:** Well, I'll object to the  
15 entry of this photograph, there's no showing which  
16 of these bags the test kit was used on, therefore  
17 the test kit to me is irrelevant. There's just no  
18 way to identify what was tested.

19 **THE COURT:** Okay. Overruled, 5 will be  
20 admitted.

21 (Thereupon, State's Exhibit No. 5 was  
22 admitted into evidence.)

23 **BY MS. DICKERSON:**

24 **Q.** Now, Detective Dammon, were both of these  
25 bags also submitted to the forensic lab in

1 Coeur d'Alene?

2 **A.** Yes, they were.

3 **Q.** And did you receive a report back on that  
4 as well?

5 **A.** I did.

6 **Q.** And did you match the item numbers up with  
7 what was tested?

8 **A.** Yes, I did.

9 **Q.** Is it procedure that they test both bags  
10 if there is not enough weight to pop it over into a  
11 trafficking offense?

12 **A.** I don't really know.

13 **Q.** That's fair. Did you receive back a  
14 report?

15 **A.** Yes, I did.

16 **Q.** Let the record reflect I'm handing the  
17 witness what's been marked as State's Exhibit No. 2.

18 Detective Dammon, would you look at what's  
19 been marked as State's Exhibit No. 2 and tell me if  
20 you recognize the document?

21 **A.** I do. It's a lab report -- lab results  
22 report back from the Idaho State Crime Lab.

23 **Q.** And this lab results contains the results  
24 for both the buy on 9-9 and 9-14 as well?

25 **A.** That's correct.

1 report relates to these two bags?

2 **A.** That's correct.

3 **Q.** Do you know which of these two bags was  
4 tested?

5 **A.** Analyzed one was 6.75 grams, I believe the  
6 one on the left would be the one with the smaller  
7 quantity, the 6.75 grams.

8 **MR. RADA KOVICH:** Well, Judge, I'm going to  
9 go back and renew my objection to 5 as there being  
10 no proof that the other bag shown in 5 contains  
11 methamphetamine, and therefore the exhibit is  
12 inappropriate.

13 **THE COURT:** Well, I'm going to overrule  
14 the objection. It depicts -- what it purports to  
15 depict the drugs that were tested positive and  
16 that's what it -- he's testified --

17 **MR. RADA KOVICH:** Well --

18 **THE COURT:** No, I'm making my ruling.

19 **MR. RADA KOVICH:** Alright.

20 **THE COURT:** He's testified that the drugs  
21 on the left which I assume is as he views them,  
22 would be the smaller of the two bags is the bag that  
23 was -- was the bag that was tested, so I'm going to  
24 overrule and admit State's Exhibit 2.

25 (Thereupon, State's Exhibit No. 2 was

1 **Q.** And how do you know that?

2 **A.** By looking at the case number, the  
3 suspect's name, and the exhibit numbers.

4 **Q.** And the exhibit numbers match up to the  
5 exhibit numbers from the buys on those days?

6 **A.** That's correct.

7 **MS. DICKERSON:** Your Honor, we'd move for  
8 the admission of State's Exhibit 2.

9 **MR. RADA KOVICH:** Question in aid of  
10 objection.

11 **THE COURT:** Okay.

12 **BY MR. RADA KOVICH:**

13 **Q.** Item 2, Officer, relates to Exhibit 4;  
14 correct?

15 **A.** Yes, that's correct.

16 **Q.** So you didn't send in Exhibit 4 in  
17 immediately?

18 **A.** I don't send anything to the lab, so I  
19 don't know when they would send it.

20 **Q.** Okay. And then item 3 appears to say that  
21 that was a plastic bag with two plastic bags within  
22 and only one was analyzed; Correct?

23 **A.** That's what it states. Analyzed one was  
24 6.75 grams, that's correct.

25 **Q.** That relates -- that item on the lab

1 admitted into evidence.)

2 **BY MS. DICKERSON:**

3 **Q.** Detective Dammon, during the time that you  
4 were monitoring the body wires on the buy on 9-7, on  
5 9-9, and 9-14, at any time did the confidential  
6 informant make contact with any other individual?

7 **A.** Yes.

8 **Q.** What was that?

9 **A.** On September 9th, the informant -- after  
10 the informant was dropped off at Les Schwab after  
11 the exchange, the informant did have contact with a  
12 employee of the business where there was a brief  
13 conversation.

14 **Q.** Okay. Were you able to observe that  
15 contact?

16 **A.** Yes.

17 **Q.** And did you see anything exchange hands?

18 **A.** No.

19 **Q.** And what about any other time, was there  
20 any other time that you while monitoring the body  
21 wire heard anyone else's voice other than your  
22 confidential informant and the other male?

23 **A.** On September 14 prior to Mr. Richardson  
24 arriving, the informant did have contact or verbally  
25 talk with another male subject in a vehicle that

1 passed by.

2 Q. And did you observe that contact as well?

3 A. I did not.

4 Q. So you don't know whether on the 14th  
5 whether anything could have exchanged hands?

6 A. I do not.

7 Q. Okay. And other than that, any other  
8 contact?

9 A. No.

10 Q. So the only contact with the exception of  
11 the two that you have testified to today was with  
12 the individual that you originally identified on  
13 9-7, 2011, arriving in the black pickup truck at the  
14 Hatwai Road set-up meeting?

15 A. That's correct.

16 Q. And that's the individual that you  
17 identified in court today as Mr. Richardson?

18 A. That's correct.

19 MS. DICKERSON: I don't have anything  
20 further.

21 CROSS EXAMINATION

22 BY MR. RADAKOVICH:

23 Q. Let me understand this, Officer. On the  
24 9th you never observed -- personally observed  
25 Mr. Richardson?

1 exchange of money for alleged drugs?

2 A. That's correct.

3 Q. And this time the CI had contact with  
4 someone in a car apparently driving by where the CI  
5 was?

6 A. That's correct.

7 Q. And if I understand it right, you weren't  
8 able -- you didn't observe that contact?

9 A. I did not.

10 Q. Why did you not observe that?

11 A. I wasn't in a location to observe it.

12 There was other detectives assisting with  
13 surveillance --

14 Q. But you didn't see it?

15 A. Correct.

16 Q. It's not uncommon, is it, for people  
17 allegedly in the drug culture to borrow each other's  
18 vehicle, is it? You have seen that?

19 A. I don't know -- I mean, I don't know. I  
20 guess at times people borrow vehicles, yes.

21 Q. Okay. Let me ask you this, let's go back  
22 to the first alleged delivery, that one was at a set  
23 of storage units at thirty-one hundred Hatwai Road?

24 A. Thirty-three hundred, yes.

25 Q. Thirty-three hundred?

1 A. I did not.

2 Q. Never laid eyes on him in the flesh?

3 A. I couldn't identify him, no.

4 Q. Did that pickup have tinted windows?

5 A. I do not believe so.

6 Q. But you still couldn't see in there and  
7 identify him as the driver?

8 A. That's correct.

9 Q. And whoever was driving that vehicle never  
10 got out of the pickup?

11 A. That's correct.

12 Q. And you then never observed an exchange  
13 with your eyes, observed an exchange of drugs for  
14 money on the 9th?

15 A. That's correct.

16 Q. And that was the same day that informant  
17 briefly made contact with someone at Les Schwab  
18 after the alleged buy?

19 A. That's correct.

20 Q. Well, I'll come back to that in a minute.  
21 Now the 14th of September, once again you never  
22 physically laid eyes on Mr. Richardson; is that  
23 right?

24 A. That's correct.

25 Q. And you never with your eyes observed an

1 A. Yeah.

2 Q. I have seen both numbers but it's  
3 thirty-three hundred?

4 A. Yeah, I believe the exact address is 3303  
5 Hatwai Road.

6 Q. Okay. And you met with the confidential  
7 informant beforehand to search this person?

8 A. Correct.

9 Q. Is this person still working for you?

10 MS. DICKERSON: Objection, relevance.

11 MR. RADAKOVICH: Well, it's prefatory.

12 THE COURT: How is it relevant?

13 BY MR. RADAKOVICH:

14 Q. Okay. Well, who is the confidential  
15 informant?

16 A. The confidential informant in this case  
17 is Robert Bauer.

18 Q. Robert Bauer?

19 A. Yes.

20 Q. Mr. Bauer doing this work to work off a  
21 crime?

22 A. Yes.

23 Q. What kind of crime?

24 A. Drug crime.

25 Q. Okay. Felony?

1 **A.** Yes.  
 2 **Q.** And were these his three buys that he  
 3 needed to make in order to do that or did he make  
 4 more than three?  
 5 **A.** This would have gave him consideration on  
 6 those charges, yes.  
 7 **Q.** Did they get dismissed?  
 8 **A.** The charges?  
 9 **Q.** Uh-huh.  
 10 **A.** They have never been filed.  
 11 **Q.** Oh, okay. So this is one of these if you  
 12 help us, we won't file?  
 13 **A.** You can potentially gain consideration on  
 14 the charges, yes.  
 15 **Q.** And have they still never been filed?  
 16 **A.** Not as of yet, no.  
 17 **Q.** So based on your involvement with  
 18 Mr. Bauer, you are aware that he's to some extent a  
 19 member of the criminal milieu?  
 20 **A.** I know he does have a prior criminal  
 21 history, yes.  
 22 **Q.** Including felonies?  
 23 **A.** Yes.  
 24 **Q.** So, you met him at 6:02 hours, that's  
 25 p.m., this is on --

1 did Sparks do it?  
 2 **A.** Detective Sparks did, yes.  
 3 **Q.** And how is that searched, you look in the  
 4 trunk, you look under the seats?  
 5 **A.** Yes.  
 6 **Q.** Do you look in every possible orifice in  
 7 that car?  
 8 **A.** Yes.  
 9 **Q.** You don't run a drug dog over it, right?  
 10 **A.** No.  
 11 **Q.** And you would agree with me this baggie  
 12 that we are talking about here is pretty small?  
 13 **A.** Yes.  
 14 **Q.** Would you say that's a two by three  
 15 baggie?  
 16 **A.** Yes.  
 17 **Q.** And so when the CI left, Mr. Bauer left  
 18 that location to go toward the meet, you and Sparks  
 19 would have followed him?  
 20 **A.** Yes, or one of the other detectives  
 21 assisting, yes.  
 22 **Q.** So you don't remember who was with you  
 23 when you took off?  
 24 **A.** Detective Sparks would have been with me  
 25 on that date.

1 **A.** Which date?  
 2 **Q.** On the 7th.  
 3 **A.** In my -- in my report initially I had  
 4 contact with him at 10:00 o'clock.  
 5 **Q.** Okay. When did you meet him to search  
 6 him?  
 7 **A.** If I can review my report I can give you  
 8 the time.  
 9 **Q.** Sure. Any time you want to look at your  
 10 report, you don't even have to ask me. You might  
 11 have to ask the judge but not me.  
 12 **A.** I know at approximately 1735 or 5:35 hours  
 13 on that date I had contact with the informant where  
 14 he was searched.  
 15 **Q.** Okay. And was anyone with you when that  
 16 happened other than him?  
 17 **A.** Detective Sparks was with me, yes.  
 18 **Q.** And where did that search take place?  
 19 **A.** I don't recall where we met. We meet in a  
 20 lot of different locations.  
 21 **Q.** Sure. And then that would have been the  
 22 one where he would have had his own car?  
 23 **A.** That's correct.  
 24 **Q.** And at that point then you would have  
 25 searched him and then you searched his vehicle or

1 **Q.** Okay. And you don't know whether you or  
 2 one of the other detectives actually surveilled  
 3 Mr. Bauer on the way to the meet?  
 4 **A.** I don't recall if it was me or not.  
 5 **Q.** Okay. That would be in your report?  
 6 **A.** It potentially could be, yes.  
 7 **Q.** And whoever was following him, would they  
 8 have had a dash cam in their car?  
 9 **A.** No.  
 10 **Q.** So those were available but not used?  
 11 **A.** In -- no detective I know in an unmarked  
 12 car has a dash cam.  
 13 **Q.** Okay. But you didn't have a hand-held  
 14 video camera?  
 15 **A.** No.  
 16 **Q.** And once he got to the storage units, then  
 17 he parked where you could see him or not?  
 18 **A.** Yes, he did park where I could see him.  
 19 **Q.** And you saw the black pickup arrive?  
 20 **A.** That's correct.  
 21 **Q.** And that's the occasion where you saw  
 22 Mr. Richardson get out of the black pickup?  
 23 **A.** That's correct.  
 24 **Q.** Now from where you were, did you see the  
 25 confidential informant hand anything to

1 Mr. Richardson?  
 2 **A.** I do not recall that, no.  
 3 **Q.** And did you see Mr. Richardson hand  
 anything to the confidential informant?  
 5 **A.** No.  
 6 **Q.** So you did not observe an exchange?  
 7 **A.** No.  
 8 **Q.** When you got the bag, did you fingerprint  
 9 it?  
 10 **A.** I did not.  
 11 **Q.** So you have no idea whether  
 12 Mr. Richardson's prints are on that bag?  
 13 **A.** I do not.  
 14 **Q.** Okay. Let me ask you this, this money,  
 15 this two hundred dollars, was -- you call it  
 16 reported, what you do in your procedure, is it not  
 17 correct, is you take photocopies of it on a  
 18 photocopier?  
 19 **A.** That's correct.  
 20 **Q.** And did you ever find this money in the  
 21 possession of Mr. Richardson?  
 22 **A.** No, I did not.  
 23 **Q.** Did you ever find this money in the  
 24 possession of anybody?  
 25 **A.** No, I have not.

1 **Q.** And you wouldn't have tested him when he  
 2 got back to see if he had substances in his system?  
 3 **A.** No.  
 4 **Q.** Did you test him before he took off?  
 5 **A.** No.  
 6 **Q.** Okay. Let's go to Count 2 which is the  
 7 alleged delivery on the 9th of September. It was  
 8 the same confidential informant, right?  
 9 **A.** That's correct.  
 10 **Q.** Same search procedure?  
 11 **A.** That's correct.  
 12 **Q.** In my notes I missed where was the alleged  
 13 buy, where did that occur?  
 14 **A.** The informant and Mr. Richardson initially  
 15 contacted each other, met with each other in the  
 16 parking lot of the community center.  
 17 **Q.** Okay. So parking lot of community center,  
 18 and you never saw -- physically laid eyes on  
 19 Mr. Richardson, I think you told us that day?  
 20 **A.** Just his vehicle, yes.  
 21 **Q.** Okay. And -- but anybody could have been  
 driving that vehicle, right?  
 23 **A.** In listening to the body wire recording --  
 24 **Q.** I didn't ask you what the body wire said.  
 25 Anybody could have been driving it, correct?

1 **Q.** And when you searched the confidential  
 2 informant afterwards, you had searched him after the  
 3 alleged delivery, right?  
 4 **A.** That's correct.  
 5 **Q.** He had no money of any kind on him at all?  
 6 **A.** On this occasion he had fifty dollars that  
 7 was not used in the transaction, it was prerecorded  
 8 buy money but he did not use it.  
 9 **Q.** Okay. But when you searched him  
 10 beforehand, he had no money on him at all?  
 11 **A.** That's correct.  
 12 **Q.** Now, from where you were observing this  
 13 alleged buy, could you see Mr. Richardson's hands?  
 14 **A.** Probably not very well.  
 15 **Q.** But you were using by binoculars, right,  
 16 or did I get that wrong?  
 17 **A.** That's correct.  
 18 **Q.** Could you see whether he had gloves on?  
 19 **A.** I could not see that, no.  
 20 **Q.** How far away would you say you were?  
 21 **A.** I would say maybe a hundred yards.  
 22 **Q.** Do you know whether the confidential  
 23 informant did any drugs at the time of that alleged  
 24 exchange?  
 25 **A.** That I do not know.

1 **A.** Yes.  
 2 **Q.** And, again, you saw no exchange that day?  
 3 **A.** That's correct.  
 4 **Q.** Did you fingerprint the baggie?  
 5 **A.** I did not.  
 6 **Q.** Not having seen Mr. Richardson, you have  
 7 no idea whether he was wearing gloves that day?  
 8 **A.** I don't know, no.  
 9 **Q.** So when you got there, the confidential  
 10 informant got into the pickup and the vehicle drove  
 11 toward the courthouse, drove around a little bit,  
 12 ultimately the guy was dropped off at Les Schwab?  
 13 **A.** That's correct.  
 14 **Q.** And that was the one where he did have  
 15 some conversation with another person before  
 16 Mr. Richardson arrived?  
 17 **A.** No, actually he had conversation after the  
 18 exchange, after he was dropped off.  
 19 **Q.** Oh, okay. That was in the Les Schwab  
 20 parking lot?  
 21 **A.** That's correct.  
 22 **Q.** How far away were you when the informant  
 23 was dropped off in the parking lot? Were you inside  
 24 when he was dropped off?  
 25 **A.** Inside of --



1 Q. Of the informant?  
 2 A. Inside of the informant?  
 3 Q. Yeah.  
 4 A. Yeah, actually I pulled up in a parking  
 5 lot just west of Les Schwab.  
 6 Q. Would that be like what, like the Eagles,  
 7 Dairy Queen?  
 8 A. No, that would be like the Any Time.  
 9 Q. Oh, the Any Time, okay. And were you  
 10 using binoculars to observe the informant?  
 11 A. No.  
 12 Q. So when he had this contact with this  
 13 person in the Les Schwab parking lot, you really  
 14 weren't able to have a definite view of whether  
 15 there was anything exchanged between them?  
 16 A. I think I was. I wasn't that far away I  
 17 could have seen some exchange between the two of  
 18 them.  
 19 Q. Oh, the same distance away or closer than  
 20 when you allegedly observed the first?  
 21 A. Much closer, yes.  
 22 Q. Okay. But you weren't in the Les Schwab  
 23 parking lot?  
 24 A. No.  
 25 Q. And where was the confidential informant

1 Q. And never fingerprinted the bag?  
 2 A. No, I have not.  
 3 Q. And then the last alleged delivery, again  
 4 you couldn't see who was driving the vehicle?  
 5 A. That's correct.  
 6 Q. And you never physically laid eyes on  
 7 Mr. Richardson?  
 8 A. That's correct.  
 9 Q. Let me ask you this, I forgot, the second  
 10 alleged buy, you said you thought there wasn't  
 11 anybody else in the pickup but you really weren't  
 12 able to tell that by observing, were you?  
 13 A. That's correct.  
 14 Q. Could have been someone else in there?  
 15 A. Sure.  
 16 Q. Now the same on the third alleged buy?  
 17 A. Correct.  
 18 Q. And then was this the one where there was  
 19 four hundred in buy money or there was eight hundred  
 20 and four of it was for a previous delivery?  
 21 A. That's correct.  
 22 Q. But you never observed the informant give  
 23 any of that money to Mr. Richardson; right?  
 24 A. I did not.  
 25 Q. Now, that's the one where you lost

1 dropped off at Les Schwab?  
 2 A. In the front of the store, in the parking  
 3 lot in the front of the store on the north side next  
 4 to Main Street.  
 5 Q. So right next to the building?  
 6 A. Yeah, in - right of the building,  
 7 correct.  
 8 Q. Okay. So the way as I recollect, there's  
 9 the parking lot in front and then there's the  
 10 street, and then there's their axillary parking lot  
 11 to the west and then there's other property?  
 12 A. Yes.  
 13 Q. So there was at least whatever distance  
 14 from that parking lot where he was in front of the  
 15 building, the width of the street, and then the  
 16 width of the axillary parking lot, at least that  
 17 much between you and these two people when they  
 18 talked?  
 19 A. That's correct.  
 20 Q. Now, did you ever find any of this money  
 21 that was the recorded buy money from this occasion?  
 22 A. No, I did not.  
 23 Q. You have never found any of it in the  
 24 possession of my client?  
 25 A. I have not.

1 surveillance, and I'm a little confused was it while  
 2 he was on the way to the meet or it was after he was  
 3 picked up by the pickup?  
 4 A. Yes.  
 5 Q. And you lost surveillance for, did you  
 6 say, a minute to two minutes?  
 7 A. Yes.  
 8 Q. And how did you lose surveillance?  
 9 A. Just the nature of doing these kind of  
 10 operations, you know, our surveillance vehicles will  
 11 get backed up in traffic or not able to make the  
 12 turn, catch up with them, it just happens.  
 13 Q. Where did that meet originate?  
 14 A. Seven hundred block of 14th Street.  
 15 Q. What was that close to?  
 16 A. It's a block north of the high school.  
 17 Q. Oh, okay, okay. Back this direction from  
 18 the high school?  
 19 A. Correct.  
 20 Q. And so there was some driving around in  
 21 there and you lost sight of the pickup?  
 22 A. That's correct.  
 23 Q. Counsel asked you, well, gee, was that  
 24 enough time for the vehicle to go to Clarkston, and  
 25 you said no, but it certainly was time enough for

1 the vehicle to stop and this informant to meet  
2 somebody on the street and get drugs from them for  
3 all you knew?

4 **A.** I don't believe so. I don't believe that  
5 occurred.

6 **Q.** Well, I'm not asking if you think it  
7 occurred. You lost sight of your CI?

8 **A.** But I still had audio of the contact  
9 between my informant and Mr. Richardson.

10 **Q.** Well, let me ask you this. As far as your  
11 visual was concerned, leaving aside the audio for a  
12 moment, you -- that pickup could have stopped and  
13 your CI could have physically done something with  
14 someone else in the minute to two minutes you were  
15 out of sight?

16 **A.** Yes, potentially.

17 **Q.** Okay. Then you just never recovered any  
18 of this buy money from anybody; right?

19 **A.** That's correct.

20 **Q.** And this was the one where the  
21 confidential informant had contact with someone else  
22 before the black pickup arrived?

23 **A.** That's correct.

24 **Q.** Did you ever identify the other person?

25 **A.** Yes.

1 MR. RADAKOVICH: I think that's all. Thank  
2 you.

3 THE COURT: Ms. Dickerson.

4 REDIRECT EXAMINATION

5 BY MS. DICKERSON:

6 **Q.** During the time that you were monitoring  
7 the body wire while the Defendant and the CI were in  
8 the vehicle, were in his pickup, did you ever hear  
9 any other voices other than those two males?

10 **A.** No.

11 **Q.** You said earlier that you had recognized  
12 Mr. Richardson from prior contacts?

13 **A.** That's correct.

14 **Q.** Were you able to identify Mr. Richardson's  
15 voice when you were listening to it?

16 **A.** Yes.

17 **Q.** How is that?

18 **A.** I have had prior contacts with  
19 Mr. Richardson, I have personally talked to him  
20 previously, and I was able to recognize his voice.

21 **Q.** And so during the buy on the 7th, the 9th  
22 and the 14th while you were monitoring the body  
23 wire, the voices you heard were your confidential  
24 informant and Mr. Richardson?

25 **A.** That's correct.

1 **Q.** Who was that?

2 **A.** I don't remember -- recall the  
3 individual's name. I would have to review in my  
4 report to see if it's in there but I know during the  
5 recorded debrief with the informant, the informant  
6 told me who the person was.

7 **Q.** And you must have that written down  
8 somewhere; right?

9 **A.** It's either in the recorded debrief or  
10 it's written down, yes.

11 **Q.** Was that person driving a car?

12 **A.** Yes.

13 **Q.** So this is the one where you dropped the  
14 informant off and he was standing around and some  
15 guy drove by and he had a conversation with them?

16 **A.** Correct.

17 **Q.** On any of these occasions did you have any  
18 electronic interference with the wire?

19 **A.** Not that I recall, no.

20 **Q.** And your recollection is the wire  
21 recordings are clear as to what was said, a hundred  
22 percent of it can be heard?

23 **A.** I wouldn't say a hundred percent of it,  
24 but I have listened to the recordings in this  
25 instance and they are above normal.

1 MS. DICKERSON: Nothing further.

2 RE-CROSS EXAMINATION

3 BY MR. RADAKOVICH:

4 **Q.** In listening to those recordings, and I'm  
5 not asking you what the informant said, I'm asking  
6 you what Mr. Richardson said, did Mr. Richardson  
7 say, "Here are your drugs," anything like that?

8 **A.** There was drug conversation, not  
9 necessarily "here are your drugs," but there was  
10 conversation about drugs.

11 **Q.** Okay. Well, I mean I carry on  
12 conversations about drugs. What I'm saying is did  
13 anyone say -- Mr. Richardson say, "here's your  
14 stuff"?

15 **A.** I don't recall that, no.

16 **Q.** Would you agree with me if there was  
17 someone else in the pickup who didn't speak, you  
18 didn't observe them and they could have been  
19 involved in something and you would have never known  
20 it?

21 **A.** Potentially, yes.

22 MR. RADAKOVICH: That's all I have, Judge.  
23 Thank you.

24 THE COURT: Thank you.  
25 Anything in light of that?

## FURTHER DIRECT EXAMINATION

BY MS. DICKERSON:

**Q.** In fact, Mr. Richardson at one point told the CI that it was short, that one of the baggies was short?

**A.** During --

MR. RADAKOVICH: Well. Objection. Let's get a date. That's lacking in foundation.

THE COURT: Sustained.

BY MS. DICKERSON:

**Q.** On Buy No. 2 -- I'm sorry, buy No. 3, September 14, some of the conversation involved Mr. Richardson indicating that one of the baggies was short?

**A.** Correct.

**Q.** He had wanted a half an ounce and he only had a quarter?

**A.** On that occasion Mr. Richardson stated this is short a half and this one should be a quarter.

MS. DICKERSON: Nothing further.

MR. RADAKOVICH: Nothing.

THE COURT: You may step down.

MS. DICKERSON: We have Mr. Bauer here, your Honor. I believe he's waiting across the

street if we could take five minutes.

THE COURT: We are going to take a few minutes.

(Thereupon, a recess was taken.)

THE COURT: Back on the record. State has another witness.

ROBERT BAUER,

having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, relating to said cause, testifies and says:

## DIRECT EXAMINATION

BY MS. DICKERSON:

**Q.** Good afternoon, sir. Would you state your name spelling your last for the record?

**A.** Robert Lee Bauer, B-a-u-e-r.

**Q.** Mr. Bauer, are you currently a resident of Nez Perce County?

**A.** I am.

**Q.** And, sir, I'm going to get right to the point, I'm going to direct your attention to an individual by the name of Kyle Richardson; do you know such a person?

**A.** Yes, I do.

**Q.** And how do you know Mr. Richardson?

**A.** Through -- oh, gosh I used to work with

him a long time ago and then through drug.

**Q.** Approximately how long have you known Mr. Richardson?

**A.** Oh, gosh, twenty years.

**Q.** And do you see him in court today?

**A.** Yes.

**Q.** Would you point him out and describe what he's wearing?

**A.** He's sitting right over there.

MS. DICKERSON: May the record reflect that he's identified the Defendant?

THE COURT: It does.

BY MS. DICKERSON:

**Q.** Mr. Bauer, would it be fair to say that you have had an issue with drug addiction?

**A.** Yes.

**Q.** And what's your drug of choice, sir?

**A.** Methamphetamine.

**Q.** And during the course of the early fall of 2011, did you, in fact, become a confidential informant for the Lewiston Police Department?

**A.** I did.

**Q.** And was Mr. Richardson a target of one of those investigations that you participated in?

**A.** Yes, he was.

**Q.** And I want to direct your attention to September 7th of 2011, did you meet with Mr. Richardson on that day?

**A.** Dates -- to be honest with you I don't remember dates. I know sometimes --

MR. RADAKOVICH: Excuse me, excuse me, Judge, one second.

MR. RADAKOVICH: Sorry, I didn't mean to interrupt, Judge. I just couldn't hear my client.

BY MS. DICKERSON:

**Q.** Sometime early in --

**A.** In September.

**Q.** In early September that you met with. How many times in September did you meet with Mr. Richardson?

**A.** Actually four times, I believe.

**Q.** Four times?

**A.** Yes.

**Q.** And how many times did you purchase drugs in September?

**A.** Three times.

**Q.** What was the fourth time for, sir?

**A.** Fourth time was to pay him some money that was owed for one of those transactions.

**Q.** And those four times that you met with

1 Mr. Richardson, the three that you purchased drugs,  
2 can we talk about where the first occurred. Do you  
3 recall where you purchased drugs the first time from  
Mr. Richardson?

5 **A.** Yes, it was just off of Hatwai Road in  
6 North Lewiston at the storage units.

7 **Q.** And that was at one of the purchases in  
8 September?

9 **A.** Yes, ma'am.

10 **Q.** And then when was the second purchase, do  
11 you know?

12 **A.** The second purchase was on the south side  
13 of the community center down here by Les Schwab  
14 Tire.

15 **Q.** And the third time?

16 **A.** In front of my house up on 706 14th  
17 Street.

18 MR. RADAKOVICH: 706 --

19 **A.** 14th Street.

20 BY MS. DICKERSON:

21 **Q.** And, Mr. Bauer, do you recall the amounts  
22 that you purchased the first time how much did you  
23 purchase?

24 **A.** An eight ball the first time, I believe,  
25 for two hundred dollars.

1 that?

2 **A.** Well, I had twelve hundred dollars, four  
3 of it went towards what I owed previously, so I  
4 think I paid -- I think it was eleven hundred  
5 dollars. I'm not positive but I think.

6 **Q.** Okay. And during the time that you made  
7 these purchases, all three in September, at any time  
8 did you purchase methamphetamine from anyone else  
9 when Mr. -- when you were purchasing from  
10 Mr. Richardson?

11 **A.** No.

12 **Q.** And since that time have you had contact  
13 with Mr. Richardson?

14 **A.** Yes.

15 **Q.** And when was that contact?

16 **A.** He came by my house and also I had a  
17 storage shed and I let him take it over (inaudible)

18 **Q.** When he came by your house, was there a  
19 purpose for coming by?

20 **A.** He wanted to talk to me about this.

21 **Q.** So he knew you were the confidential  
22 informant?

23 **A.** No, I don't believe he did, no.

24 **Q.** Did you tell him?

25 **A.** Yes, I did.

1 **Q.** And what's an eight ball?

2 **A.** An eight ball is three and a half grams.

3 **Q.** So about a fourth of an ounce kind of or  
4 an eighth of an ounce?

5 **A.** Eighth of an ounce.

6 **Q.** That's why they call it an eight ball.

7 The second time do you remember how much you  
8 purchased?

9 **A.** I believe it was a half ounce.

10 **Q.** Okay. And do you remember how much you  
11 paid for that?

12 **A.** Yeah, I only give him \$400 at a time. And  
13 then on the next transaction I give him another \$400  
14 towards that.

15 **Q.** And so he fronted you a certain portion  
16 of --

17 **A.** Yes, half of it.

18 **Q.** Okay. And then you said the next time you  
19 paid back the \$400 that you owed him?

20 **A.** Correct.

21 **Q.** And did you also purchase more  
22 methamphetamine on that --

23 **A.** Yes, three quarters of an ounce, I  
24 believe.

25 **Q.** And do you recall how much you paid for

1 **Q.** And how did he react?

2 **A.** I was really surprised he didn't -- I  
3 don't know if maybe (inaudible) me or not but he  
4 didn't seem real surprised.

5 MS. DICKERSON: I don't have anything  
6 further, your Honor.

7 THE COURT: Mr. Radakovich.

8 CROSS EXAMINATION

9 BY MR. RADAKOVICH:

10 **Q.** Mr. Bauer, you are how old?

11 **A.** I'm 55.

12 **Q.** And in September of 2011 you became  
13 involved with the drug detectives to do some  
14 confidential informant work?

15 **A.** Yes, sir.

16 **Q.** Did you have a confidential informant  
17 number?

18 **A.** I believe I did, yes.

19 **Q.** Do you know what it is?

20 **A.** I don't.

21 **Q.** Okay. Could it have been 11-L02?

22 **A.** That's very possible.

23 **Q.** Okay. So at this time in September 2011,  
24 Mr. Bauer, would it have been fair to say you were  
25 addicted to methamphetamine?

- 1 **A.** Yes, I'm addicted to it to this day.  
 2 **Q.** Sure. I understand. And you began  
 3 working as a confidential informant for the police  
 4 because you were trying to work off some criminal  
 5 charges they were going to bring against you?  
 6 **A.** That's correct.  
 7 **Q.** How many charges were there that you were  
 8 trying to work off?  
 9 **A.** I honestly don't know.  
 10 **Q.** Did they ever tell you and you just can't  
 11 remember?  
 12 **A.** No, they didn't because I know (inaudible)  
 13 think they told me.  
 14 **Q.** Let me ask it this way then, and I'm not  
 15 trying to confuse you, I'm just trying to get to it.  
 16 Would it have been that they had you for some sales  
 17 of drugs?  
 18 **A.** I don't believe so, I think it was just  
 19 possession and maybe intent to deliver.  
 20 **Q.** Okay. So they popped you and they found  
 21 some drugs?  
 22 **A.** Yes.  
 23 **Q.** And that would have been methamphetamine?  
 24 **A.** Yes, sir.  
 25 **Q.** Now, you -- I think if I heard you and I

- 1 **Q.** Had you used any at all on the day that  
 2 the alleged first buy occurred?  
 3 **A.** No.  
 4 **Q.** Had you used any the week before that?  
 5 **A.** Gosh, it's possible, it's possible.  
 6 **Q.** When I saw "drugs," I don't mean just  
 7 meth, had you used anything?  
 8 **A.** No, it would just be meth.  
 9 **Q.** Okay. Meth would be your drug? You  
 10 wouldn't be out messing around with marijuana or  
 11 anything?  
 12 **A.** No.  
 13 **Q.** Then at the time of the second alleged  
 14 buy, do you know how long after the first alleged  
 15 buy that would have been?  
 16 **A.** I don't, I just know it was all in the  
 17 month of September.  
 18 **Q.** So you don't presently have a recollection  
 19 of how many days between?  
 20 **A.** I have no idea.  
 21 **Q.** Okay. We have heard testimony that when  
 22 the second buy was getting lined up, and I'm not  
 23 sure I'm having this right, after the alleged buy,  
 24 you were dropped off at Les Schwab; does that sound  
 25 familiar?

- 1 don't have the best hearing, and you speak fairly  
 2 low, if I did something wrong, I hope you will  
 3 understand I'm not trying to trick you and you will  
 4 correct me --  
 5 **A.** I understand.  
 6 **Q.** So did you say you probably known  
 7 Mr. Richardson about twenty years?  
 8 **A.** I'm guessing pretty close to it.  
 9 **Q.** And you worked with him where?  
 10 **A.** At Zirbel Transport, Richardson Trucking.  
 11 **Q.** Okay. And at the time of these alleged  
 12 buys in September of 2011, you were still actively  
 13 using drugs?  
 14 **A.** Yes, sir.  
 15 **Q.** Okay. These buys did not occur early in  
 16 the morning or late at night, did they?  
 17 **A.** I don't believe so, no.  
 18 **Q.** Let's take the first alleged buy, and I  
 19 understand you to say you weren't good on dates, I  
 20 understand that, and at that time of the first buy,  
 21 whatever date that was, you were actively using  
 22 drugs during that time period?  
 23 **A.** Not during that time, I was trying really  
 24 hard not to use any at all, but I have slipped and  
 25 used some, yes.

- 1 **A.** Yes.  
 2 **Q.** And that you had some contact with  
 3 somebody at Les Schwab?  
 4 **A.** Yes, they were rotating the tires on my  
 5 truck at the time.  
 6 **Q.** So your vehicle was at Les Schwab?  
 7 **A.** Yes, it was.  
 8 **Q.** But you didn't drive it there to the buy?  
 9 **A.** No, I just drove it to Les Schwab and they  
 10 were rotating the tires for me.  
 11 **Q.** Okay. And did the detectives then pick  
 12 you up from there and take you to where they  
 13 searched you?  
 14 **A.** No, actually I believe I walked behind the  
 15 community center and they searched me back there.  
 16 **Q.** Okay. So you basically told them you were  
 17 taking your truck into Schwab and they met you at  
 18 the community center; is that fair?  
 19 **A.** Yes.  
 20 **Q.** And then they took you to the buy site?  
 21 **A.** Which is right in the parking lot at the  
 22 community center there.  
 23 **Q.** So not very far at all?  
 24 **A.** No.  
 25 **Q.** Okay. And on that occasion you hadn't

- 1 used any drugs that day?  
 2 **A.** No.  
 3 **Q.** Well, let me ask you this, at the time of  
 4 any of these three alleged buys, did you do a line  
 5 of meth while you were with my client?  
 6 **A.** No, I did not.  
 7 **Q.** You sure?  
 8 **A.** Positive.  
 9 **Q.** Couldn't have forgotten it?  
 10 **A.** No, absolutely not.  
 11 **Q.** Okay. Alright. Do you know whether the  
 12 packages weighed out for what you expected to  
 13 receive?  
 14 **A.** I believe they were fairly close, yes, or  
 15 they probably would have said something to me.  
 16 **Q.** Okay. Now, since these three alleged -  
 17 well, okay, then I guess we were told by a previous  
 18 witness that while you were waiting to meet my  
 19 client before the third alleged buy, someone drove  
 20 by and you talked to them?  
 21 **A.** Yes, my next-door neighbor actually gave  
 22 me a can of pop.  
 23 **Q.** Who was that?  
 24 **A.** Chris - I don't know his last name though  
 25 but -

- 1 **Q.** How many times would you say you have used  
 2 drugs since -  
 3 **A.** I could not tell you -  
 4 **Q.** - these alleged buys?  
 5 **A.** I couldn't tell you how many times.  
 6 **Q.** More than once?  
 7 **A.** Oh, yeah.  
 8 **Q.** And it would be meth?  
 9 **A.** Yes.  
 10 **Q.** Are you in drug treatment right now?  
 11 **A.** No, I'm not.  
 12 **Q.** Were you in drug treatment on any of these  
 13 occasions?  
 14 **A.** No, I was not.  
 15 **Q.** And I understand, and tell me if I'm  
 16 wrong, that you have a prior felony record?  
 17 **A.** Yes, I do.  
 18 **Q.** What does that consist of?  
 19 **A.** Possession of meth.  
 20 **Q.** Just one?  
 21 **A.** 2001, I believe it was.  
 22 **Q.** In Nez Perce County?  
 23 **A.** Yes, sir.  
 24 **Q.** So that's it, your whole felony record is  
 25 one possession case?

- 1 **Q.** He lives next to your house?  
 2 **A.** Yes, I believe it's Schaff, I believe is  
 3 his last -  
 4 **Q.** Shock?  
 5 **A.** Shop.  
 6 **Q.** Shop, okay. And he just still lives next  
 7 to you?  
 8 **A.** Yes.  
 9 **Q.** And that's 706 14th Street is where you  
 10 live?  
 11 **A.** Yes, and he lives in the house just above  
 12 me. Not in the apartment complex but in the houses  
 13 above it.  
 14 **Q.** Now, you say that since these alleged buys  
 15 you have come back to using drugs somewhat?  
 16 **A.** No, I haven't, I'm trying very hard to  
 17 stay away from it and nobody will even talk to me so  
 18 it makes it pretty hard -  
 19 **Q.** I know but I thought you said you had  
 20 slipped, did I miss understand you?  
 21 **A.** Oh, yes, I have, but I haven't gone back  
 22 to using like I was, no.  
 23 **Q.** How many times would you say you have used  
 24 drugs since -  
 25 **A.** I'm sorry.

- 1 **A.** Yes, sir.  
 2 **Q.** Nothing else? And I don't mean just drug  
 3 crimes, I mean any crimes?  
 4 **A.** No, no felonies, no.  
 5 **Q.** Before these alleged buys, would it be  
 6 correct that you, in fact, provided some meth to  
 7 Mr. Richardson?  
 8 **A.** Yes.  
 9 **Q.** In fact you used to sell to him?  
 10 **A.** Yes.  
 11 **Q.** Okay. Let me ask you this, are any of  
 12 those activities what resulted in you being popped  
 13 by the police?  
 14 **A.** No.  
 15 **Q.** Okay. How long would you say you sold to  
 16 him?  
 17 **A.** Gosh, I have no idea, honestly don't.  
 18 **Q.** Now, the first alleged buy you took your  
 19 vehicle?  
 20 **A.** Yes.  
 21 **Q.** And did the police search you?  
 22 **A.** Yes, in my vehicle.  
 23 **Q.** How did they do that, can you describe  
 24 that?  
 25 **A.** Myself, they made me take my shoes off, my

1 hat off, patted me down. And my vehicle, I didn't  
2 really watch them.

3 Q. Let's do you first. So do they - the  
4 only clothing they remove or had you remove were  
5 your hat and your shoes?

6 A. My hat and my shoes. They didn't strip  
7 search me, no.

8 Q. Sure, that's what I'm asking you. And did  
9 you have a wallet?

10 A. Yes.

11 Q. And did they look inside your wallet?

12 A. Yeah, all the contents of my pockets they  
13 took out and looked.

14 Q. Okay. And were you wearing a coat that  
15 day?

16 A. No, not when they searched me. They  
17 searched my coat or my sweater separate from myself.

18 Q. And then how do they go about searching  
19 your car, did you see that?

20 A. I didn't pay too much attention. I didn't  
21 pay a whole lot of attention. I knew they weren't  
22 going to find anything, so I didn't worry about it.

23 Q. Okay. So you knew they were searching it  
24 but you didn't watch them?

25 A. Oh, yeah.

1 searched me to be honest with you, but I know it was  
2 just before they dropped me off at the house.

3 Q. Okay. Now the first alleged buy, was  
4 Mr. Richardson wearing gloves?

5 A. I don't believe so.

6 Q. How about the second alleged buy?

7 A. I don't believe so.

8 Q. How about the third alleged buy?

9 A. I don't believe so.

10 Q. Okay.

11 A. I can't tell you positively but I don't  
12 believe so.

13 Q. But you certainly don't remember him  
14 wearing gloves?

15 A. No, I don't.

16 MR. RADA KOVICH: I think that's all. Thank  
17 you, Mr. Bauer.

18 THE COURT: Anything else?

19 MS. DICKERSON: Nothing further.

20 THE COURT: Alright. You may step down.

21 MS. DICKERSON: Thank you, sir. May this  
22 witness be excused?

23 MR. RADA KOVICH: Certainly, Judge.

24 THE COURT: You are free to go, Mr. Bauer.

25 MS. DICKERSON: State doesn't have

1 Q. And then second time they didn't search  
2 your vehicle because you didn't drive it to the  
3 meet?

4 A. Well, I drove it down to Les Schwab.

5 Q. Right, but then you walked away and then  
6 that's when they searched you?

7 A. Correct.

8 Q. And you were never in your vehicle in  
9 between when they searched you and when you met up  
10 with them again afterwards?

11 A. No, I was not.

12 Q. And was the search of you the same, were  
13 you wearing a hat, shoes, et cetera?

14 A. Yes.

15 Q. And this was all - this search was  
16 occurring out in the parking lot of the community  
17 center?

18 A. Between two vehicles, yes.

19 Q. Okay. And then the third time where do  
20 you think they searched you?

21 A. They searched me before they dropped me  
22 off at my house and then they watched me.

23 Q. So what, like a block from your house,  
24 what?

25 A. Yeah, I can't remember exactly where they

1 anything further, your Honor.

2 MR. RADA KOVICH: We have no witnesses,  
3 your Honor. I don't have argument.

4 MS. DICKERSON: No argument.

5 THE COURT: Based on the testimony that's  
6 been presented, the Court finds substantial proof  
7 that the Defendant committed the crimes as charged  
8 in the Complaint, and therefore he will be bound  
9 over to District Court to Judge Kerrick's court.

10 And we will set that for the first of March for  
11 arraignment and that will be at 1:15.

12 We will be in recess.

13 (Thereupon, the hearing was concluded at  
14 3:07 p.m.)

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C E R T I F I C A T E

I, Linda L. Carlton, C.S.R., certify that I reported in stenotype off an electronic recording and thereafter transcribed into the foregoing record the proceedings in the above-entitled cause, and that the said transcript is a full, true and correct copy of the above-entitled cause to the best of my ability, held in Lewiston, Idaho, on the \_\_\_ day of February, 2012.

D A T E D this \_\_\_ day of M a r c h , 2 0 1 2 .

.....  
Linda L. Carlton, C.S.R.  
Certified Shorthand Reporter  
Second Judicial District  
of the State of Idaho  
I D A H O C . S . R . N O . 3 3 6



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FILED  
2012 JUL 31 AM 11 58

PATTY C. STEEN  
CLERK OF THE DISTRICT COURT  
*Patty C. Steen*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,

Defendant.

CASE NO. CR2012-0000082

STATES REQUESTED JURY  
INSTRUCTIONS

Herewith submitted are STATE'S REQUESTED INSTRUCTIONS numbered  
consecutively ONE through SIX.

DATED this 31<sup>st</sup> day of July, 2012.

*Sandra K. Dickerson*  
SANDRA K. DICKERSON  
Chief Deputy Prosecutor

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing STATE'S REQUESTED JURY INSTRUCTIONS was

- (1) 4 hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston, Idaho 83501

DATED this 31<sup>st</sup> day of July 2012.

  
\_\_\_\_\_  
ERIN D. LEAVITT  
Senior Legal Assistant

INSTRUCTION NO. 1

The defendant, KYLE A. RICHARDSON, is charged by Information with the crime(s) of **COUNT I – DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony, COUNT II – DELIVER OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony, and COUNT III – DELIVERY OF A CONTROLLED SUBSTANCE, I.C. 37-2732(a)(1)(A), a felony**, alleged to have been committed in Nez Perce County, State of Idaho, the charging part of the Information being:

**COUNT I  
DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 7th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

**COUNT II  
DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 9th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

**COUNT III  
DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 14th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

To this information, the defendant pled "not guilty."

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JUDGE

## INSTRUCTION NO. 2

In order for the defendant to be guilty of Count I - Delivery of a Controlled Substance, the state must prove each of the following:

1. On or about September 7, 2011
2. in the state of Idaho
3. the defendant KYLE A. RICHARDSON delivered any amount of METHAMPHETAMINE to another, and
4. the defendant either knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

### **ICJI 404**

#### Comment

I.C. § 37-2732(a). See ICJI 428 for the definition of "deliver." If the charge is delivery of a controlled substance by an inmate, see ICJI 604.

If the defendant is charged with "second offense" drug delivery, I.C. § 37-2739, that issue should be presented in a bifurcated proceeding.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JUDGE

### INSTRUCTION NO. 3

In order for the defendant to be guilty of Count II - Delivery of a Controlled Substance, the state must prove each of the following:

1. On or about September 9, 2011
2. in the state of Idaho
3. the defendant KYLE A. RICHARDSON delivered any amount of METHAMPHETAMINE to another, and
4. the defendant either knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

#### **ICJI 404**

#### Comment

I.C. § 37-2732(a). See ICJI 428 for the definition of "deliver." If the charge is delivery of a controlled substance by an inmate, see ICJI 604.

If the defendant is charged with "second offense" drug delivery, I.C. § 37-2739, that issue should be presented in a bifurcated proceeding.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JUDGE



#### INSTRUCTION NO. 4

In order for the defendant to be guilty of Count III - Delivery of a Controlled Substance, the state must prove each of the following:

1. On or about September 14, 2011
2. in the state of Idaho
3. the defendant KYLE A. RICHARDSON delivered any amount of METHAMPHETAMINE to another, and
4. the defendant either knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

#### **ICJI 404**

#### Comment

I.C. § 37-2732(a). See ICJI 428 for the definition of "deliver." If the charge is delivery of a controlled substance by an inmate, see ICJI 604.

If the defendant is charged with "second offense" drug delivery, I.C. § 37-2739, that issue should be presented in a bifurcated proceeding.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JUDGE

INSTRUCTION NO. 5

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

**ICJI 428**

Comment

I.C. § 37-2701(g).

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JUDGE

INSTRUCTION NO. 6

Under Idaho law, METHAMPHETAMINE is a controlled substance.

**ICJI 422**

Comment

I.C. §§ 37-2705 to 37-2713A.

The question whether a substance is designated in the Act as a controlled substance is a question of law for the court, not the jury. State v. Hobbs, 101 Idaho 262, 263, 611 P.2d 1047, 1048 (1980).

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JUDGE

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

THE STATE OF IDAHO,            )  
  Plaintiff,            )  
  vs.                            )  
KYLE A. RICHARDSON,         )  
  Defendant.            )

CASE NO. CR2012-0000082  
VERDICT

We, the jury, duly sworn and empaneled to try the issues in the above-entitled cause, find the defendant, KYLE A. RICHARDSON,  
(Check One Only)

**COUNT I**

(MARK ONLY ONE OF THE FOLLOWING COUNT I VERDICTS)

\_\_\_\_\_ NOT GUILTY of Count I

\_\_\_\_\_ GUILTY of DELIVERY OF A CONTROLLED SUBSTANCE,  
I.C. § 37-2732(a)(1)(A), a felony

Please proceed to the Count II portion of this verdict form.

**COUNT II**

(MARK ONLY ONE OF THE FOLLOWING COUNT II VERDICTS)

\_\_\_\_\_ NOT GUILTY of Count II

\_\_\_\_\_ GUILTY of DELIVERY OF A CONTROLLED SUBSTANCE,  
I.C. § 37-2732(a)(1)(A), a felony

Please proceed to the Count III portion of this verdict form.

**COUNT III**

(MARK ONLY ONE OF THE FOLLOWING COUNT II VERDICTS)

\_\_\_\_\_ NOT GUILTY of Count II

\_\_\_\_\_ GUILTY of DELIVERY OF A CONTROLLED SUBSTANCE,  
I.C. § 37-2732(a)(1)(A), a felony

Please sign the verdict form and advise the bailiff.

\_\_\_\_\_  
Presiding Juror

Second Judicial District Court, State of Idaho  
and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

STATE OF IDAHO,

Plaintiff,

vs.

Kyle Alan Richardson,

Defendant.

FILED  
2012 AUG 1 AM 9 19  
PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*P. O. Weeks*  
DEPUTY

Case No: CR-2012-0000082  
AMENDED  
NOTICE OF HEARING

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

Final Pretrial  
Judge:

Thursday, August 16, 2012 01:15 PM  
Carl B. Kerrick

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Wednesday, August 01, 2012.

Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Mailed  Hand Delivered

Private Counsel: Danny Radakovich PD 2012  
1624 G St.  
Lewiston, ID 83501

Mailed  *faxed*  
Hand Delivered

Prosecutor: Sandra K. Dickerson

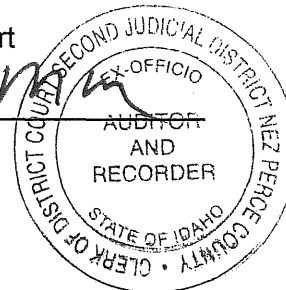
Mailed  *faxed*  
Hand Delivered

Dated: Wednesday, August 01, 2012

Patty O. Weeks  
Clerk Of The District Court

By:

*P. O. Weeks*  
Deputy Clerk  
DOC22 7/96



DANNY J. RADAKOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED  
2012 AUG 9 AM 11 51

PATTY O. WEAVER  
CLERK OF THE DISTRICT COURT  
*Patty Weaver*  
DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	OBJECTION TO MOTION TO ADMIT
	)	PRELIMINARY HEARING TESTIMONY
v.	)	AT TRIAL
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COMES NOW the defendant in the above-entitled matter, by and through his attorney of record herein, and hereby objects to the motion by the State to admit the testimony of Robert Lee Bauer via preliminary hearing transcript at the trial of this matter. The record before the court will show that the preliminary hearing took place on February 22, 2012, and Mr. Bauer died on March 23, 2012, according to the obituary in The Lewiston Tribune, of which a copy is attached hereto as Exhibit A.

As noted in the State's motion, Mr. Bauer was called as a witness at the preliminary hearing in this case but, before that, his identity was concealed by the State in accordance with their long-standing procedure. See the State's January 11, 2012, Response to Request for Discovery, page 5,

OBJECTION TO MOTION TO ADMIT  
PRELIMINARY HEARING TESTIMONY  
AT TRIAL



wherein Mr. Bauer is identified as CII1-L02, 41 days prior to the preliminary hearing. As a result of the decision by the State to conceal the identity of Mr. Bauer, counsel for the defendant was denied an adequate opportunity to investigate Mr. Bauer and his background prior to the preliminary hearing and thereby perform a more penetrating examination of Mr. Bauer at that preliminary hearing. Had Mr. Bauer been properly named, counsel could have been prepared with a clearer understanding of Mr. Bauer's criminal history, his drug background, and his drug use.

Moreover, to the best of the knowledge of the undersigned, he was never informed of Mr. Bauer's heart condition which, according to the obituary, evidently led to his death. Counsel for the defendant, therefore, had no awareness that there was any significant chance that Mr. Bauer would no longer be among the living and testifying at trial as this case developed.

The issue raised by the State's motion is governed by Rule 804(b)(1), I.R.E., which states:

"The following are not excluded by the hearsay rule of the declarant is unavailable as a witness:

(1) Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered . . . had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination."

In addition to Rule 804(b)(1), this issue is also governed by Idaho Code §9-336, which provides as follows:

"Prior to admitting into evidence testimony from a preliminary hearing, the court must find that the testimony offered is:

1. Offered as evidence of a material fact and that the testimony is more probative on the point for which it is offered than

OBJECTION TO MOTION TO ADMIT  
PRELIMINARY HEARING TESTIMONY  
AT TRIAL

any other evidence which the proponent can procure through reasonable efforts; and

2. That the witness is, after diligent and good faith attempts to locate, unavailable for the hearing; and

3. That at the preliminary hearing, the party against whom the admission of the testimony is sought *had an adequate opportunity to prepare and cross-examine the proffered testimony.*" (Emphasis ours)

The appellate courts have dealt with this issue several times but the decisions don't really provide a lot which is definitive over and above the above-quoted statute and rule. The one thing in the case law which may be useful is to be found in the case of State v. Ricks, 122 Idaho 856, 840 P.2d 400 (Ct. App., 1992), wherein the court noted at page 863 that a case-by-case approach would be taken in determining whether or not preliminary hearing testimony would be admissible at trial in a particular case.

Where we take issue with the State's request to use the preliminary hearing testimony of Mr. Bauer at the trial of this matter lies exclusively in the lack of an "adequate" opportunity for defense counsel to "prepare and cross-examine the proffered testimony". As noted at the beginning of this objection, in this case the State followed its usual predilection for hiding the identity of confidential informants by simply identifying the confidential in its discovery response by his confidential informant number. If the undersigned is not mistaken, the reason that Mr. Bauer was called as a live witness at the preliminary hearing in this case is that all of the alleged deliveries occurred within a pickup which have heavily tinted windows and, therefore, the police were not able to visually identify the person allegedly delivering the alleged drugs to Mr. Bauer. Consequently, the State had

OBJECTION TO MOTION TO ADMIT  
PRELIMINARY HEARING TESTIMONY  
AT TRIAL

to know well in advance of the preliminary hearing that it would need to use Mr. Bauer as a witness. The defendant propounded his discovery request via hand-delivery on January 10, 2012, and the defendant received the State's response on January 13, 2012, which was apparently completed and sent out on January 12, 2012. In the 41 days between the service of that discovery response and the preliminary hearing, the State had more than adequate opportunity to identify Mr. Bauer. The prosecuting attorney appears to have a very uniform policy of not identifying confidential informants and uses the criminal rules as a shield in being able to successfully do so. That is certainly their prerogative, but the State should not be heard to complain and want to use preliminary hearing testimony when its decision not to disclose the name of the confidential informant backfires and ends up harming the defendant's ability to adequately defend himself on the charges brought against him.

The simple fact is that Mr. Bauer, as it turns out, was a long-time drug user and drug provider and a criminal to boot. To be sure, counsel for defendant did attempt, with no advance notice of who the confidential informant was, to attempt to diligently question Mr. Bauer on his drug use and criminal history so as to attack his credibility. Had we known the name of the confidential informant in advance, however, we could have made a concerted effort to obtain information about Mr. Bauer. Just as an example of what could have been located had we known the name of the informant in advance, Exhibit B, attached hereto, shows what we have located thus far about Mr. Bauer's criminal activities in the Idaho Repository. There have been worse criminal records, but the man was pretty clearly a scofflaw. What crimes he may have committed in other states is not yet known. Moreover, had we known who the confidential informant was before the preliminary hearing, we could have checked around for information which would have contradicted his statements about his alleged lack

OBJECTION TO MOTION TO ADMIT  
PRELIMINARY HEARING TESTIMONY  
AT TRIAL

of drug use the days of the alleged drug deliveries, what benefit he was receiving for his testimony and, therefore, his propensity to perjure himself for personal benefit, etc.

Now, the State may argue that we could try to present all of this sort of evidence at the trial, but some of the evidence which could have been submitted under the looser evidentiary standards of the preliminary hearing may not be admissible at the trial. Moreover, having the ability to more thoroughly cross-examine Mr. Bauer and break down his story at the preliminary hearing may well have allowed the defendant to avoid being bound over at all. Finally, there is also the chance that the jury may react negatively to an effort to attack a dead man who is not there to defend himself. We do, after all, live in Marlboro County.

The ability to effectively cross-examine witnesses at the preliminary hearing implicates the Confrontation Clause and, while the use of preliminary hearing testimony at trial is not *per se* prohibited by the law, it will not be allowed when the case-by-case circumstances are such that the use of the preliminary hearing testimony at trial *will* be banned where the Confrontation Clause is violated under the circumstances of a particular case.

The hearing on the State's motion will require some short testimony.

DATED this 9<sup>th</sup> day of August, 2012.



Danny J. Radakovich  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

OBJECTION TO MOTION TO ADMIT  
PRELIMINARY HEARING TESTIMONY  
AT TRIAL

Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501

on this 9<sup>th</sup> day of August, 2012.

  
Danny J. Kadakovich

OBJECTION TO MOTION TO ADMIT  
PRELIMINARY HEARING TESTIMONY  
AT TRIAL

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## Robert L. Bauer, Lewiston

Posted: Tuesday, April 3, 2012 12:00 am

Robert Lee Bauer, 55, died Friday, March 23, 2012, at St. Joseph Regional Medical Center in Lewiston, due to heart problems.

He was born [REDACTED] in Lewiston.

Bob was a very caring person; he will be greatly missed.

He is survived by his son, Jonathan Bauer of Coeur d'Alene; stepdaughters Justina Ball and Cassie Ball, both of Colfax; and stepson Jimmy Ball of Coeur d'Alene.

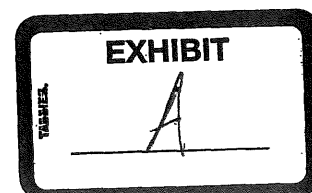
A memorial service will be conducted at a later date.

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**Case History**

Nez Perce

28 Cases Found.

**State of Idaho vs. Robert Lee Bauer**  
 No hearings scheduled

Case: **CR-2011-0005595** Magistrate Judge: **Magistrate Court Clerks** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	07/03/2011	I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit Arresting Officer: Frary, Levi, NPCSO	37345	Finding: Guilty Disposition date: 07/15/2011 Fines/fees: \$150.00

Register of actions:

- 07/07/2011 New Case Filed-Infraction
- 07/07/2011 Prosecutor Assigned Erik L. Johnson
- 07/07/2011 Complaint & Summons
- 07/07/2011 Hearing Scheduled (Arraignment 07/15/2011 04:00 PM)
- 07/15/2011 Hearing result for Arraignment scheduled on 07/15/2011 04:00 PM: Hearing Vacated
- 07/15/2011 A Plea is entered for charge: - GT (I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit)
- 07/15/2011 Guilty Plea Or Admission Of Guilt (I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit)
- 07/15/2011 Change Plea To Guilty Before H/t (I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit)
- 07/15/2011 Case Status Changed: closed pending clerk action
- 07/15/2011 Infraction Deferred Payment Agreement
- 10/17/2011 Case Status Changed: closed

**Nez Perce County Prosecuting Attorney vs. \$4,570.00 In US Currency**

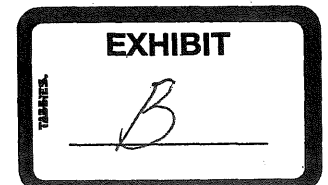
Case: **CV-2011-0001126** Magistrate Filed: **06/01/2011** Subtype: **Other Claims** Judge: **Jay P. Gaskill** Status: **Closed 07/18/2011**

Defendants: **\$4,570.00 In US Currency**  
 Plaintiffs: **Nez Perce County Prosecuting Attorney**  
 Other Parties: **Bauer, Robert Lee**

Disposition:	Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
	07/18/2011	Default Judgment			Nez Perce County Prosecuting Attorney (Plaintiff), Bauer, Robert Lee (Other Party)	Plaintiff
Comment:					The State will keep \$4570.00 in US Currency	

Register of actions:

- 06/01/2011 Plaintiff: Nez Perce County Prosecuting Attorney Attorney Retained Nance Ceccarelli
- 06/01/2011 Complaint Filed
- 06/01/2011 Summons Filed
- Moton for Order Entering Default and Default Judgment Against



06/30/2011 Robert Lee Bauer  
 06/30/2011 Affidavit of Nance Ceccarelli in Support of Default Against Robert Lee Bauer  
 06/30/2011 Affidavit of Brett Dammon in Support of Default Judgment Against Robert Lee Bauer  
 07/07/2011 No proof of service filed. I sent e-mail to Nance. FILE WENT BACK TO THE VAULT.  
 07/08/2011 Proof of Service--6-2-11  
 07/18/2011 Order entering default against Robert Lee Bauer  
 07/18/2011 Default judgment against Robert Lee Bauer  
 07/18/2011 Disposition Without Trial Or Hearing  
 07/18/2011 Case Status Changed: Closed  
 07/18/2011 Civil Disposition entered for: Bauer, Robert Lee, Other Party; Nez Perce County Prosecuting Attorney, Plaintiff. Filing date: 7/18/2011

**State of Idaho vs. Robert Lee Bauer  
 No hearings scheduled**

Case: **CR-2011-0002321** Magistrate Judge: **Magistrate Court Clerks** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	03/13/2011	I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit Arresting Officer: KOOPMAN, ED, ISP	ISP0039401	Finding: Guilty Disposition date: 03/28/2011 Fines/fees: \$85.00

Register of actions:

Register of actions:	Date	Description
	03/23/2011	New Case Filed-Infraction
	03/23/2011	Prosecutor Assigned Erik L. Johnson
	03/23/2011	Complaint & Summons
	03/23/2011	Hearing Scheduled (Arraignment 03/28/2011 04:00 PM)
	03/28/2011	Hearing result for Arraignment held on 03/28/2011 04:00 PM: Hearing Vacated
	03/28/2011	A Plea is entered for charge: - GT (I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit)
	03/28/2011	Guilty Plea Or Admission Of Guilt (I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit)
	03/28/2011	Change Plea To Guilty Before H/t (I49-654(2) Driving-Speed-(1-15 MPH) Exceeding the Maximum Posted Speed Limit)
	03/28/2011	Case Status Changed: closed pending clerk action
	03/28/2011	Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer  
 No hearings scheduled**

Case: **CR-2010-0004336** Magistrate Judge: **Jay P. Gaskill** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	05/22/2010	Original: I18-2403(1) {M} Theft-Petit Amended: I18-4626 Wilful Concealment of Goods, Wares or Merchandise Arresting Officer: Reese, C., LPD	125761	Finding: Guilty Disposition date: 06/22/2010 Fines/fees: \$337.50



Register of actions:

Date

- 05/24/2010 New Case Filed-Misdemeanor
- 05/24/2010 Prosecutor Assigned Jamie C. Shropshire
- 05/24/2010 Hearing Scheduled (Arraignment 06/04/2010 04:00 PM)
- 05/24/2010 Criminal Complaint
- 05/24/2010 Change Assigned Judge
- 06/03/2010 Notification Of Rights-misdemeanor
- 06/03/2010 Hearing result for Arraignment held on 06/04/2010 04:00 PM: Hearing Vacated
- 06/03/2010 A Plea is entered for charge: - NG (I18-2403(1) {M} Theft-Petit)
- 06/03/2010 Change Assigned Judge
- 06/03/2010 Hearing Scheduled (Pretrial - City 06/22/2010 10:45 AM)
- 06/03/2010 Notice Of Hearing
- 06/22/2010 Hearing result for Pretrial - City held on 06/22/2010 10:45 AM: Hearing Held
- 06/22/2010 Charge Reduced Or Amended
- 06/22/2010 Pretrial Motion And Order
- 06/22/2010 Guilty Plea Or Admission Of Guilt (I18-4626 Wilful Concealment of Goods, Wares or Merchandise)
- 06/22/2010 Case Status Changed: closed pending clerk action
- 06/22/2010 Misdemeanor Deferred Payment Agreement
- 12/28/2010 Affidavit and Notice of Failure to Pay- multi. chg - Step 1, Failure to Pay Fines and Fees - Charge # 1, Wilful Concealment of Goods, Wares or Merchandise Appearance date: 12/28/2010
- 01/27/2011 Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-2008-0007177** Magistrate Judge: **Magistrate Court Clerks** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	08/21/2008	I49-654(2) Speed-exceed Maximum Speed Limit Arresting Officer: Gobbi, David A, LPD	114604	Finding: Guilty Disposition date: 09/10/2008 Fines/fees: \$75.00

Register of actions:

Date

- 08/25/2008 New Case Filed-Infraction
- 08/25/2008 Prosecutor Assigned Jamie C. Shropshire
- 08/25/2008 Complaint & Summons
- 08/25/2008 Hearing Scheduled (Arraignment 09/10/2008 04:00 PM)
- 09/10/2008 Hearing result for Arraignment held on 09/10/2008 04:00 PM: Hearing Vacated
- 09/10/2008 A Plea is entered for charge: - GT (I49-654(2) Speed-exceed Maximum Speed Limit)
- 09/10/2008 Guilty Plea Or Admission Of Guilt (I49-654(2) Speed-exceed Maximum Speed Limit)
- 09/10/2008 Change Plea To Guilty Before H/t (I49-654(2) Speed-exceed Maximum Speed Limit)
- 09/10/2008 Case Status Changed: closed pending clerk action
- 09/10/2008 Infraction Deferred Payment Agreement

12/09/2008 Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-2008-0001722** Magistrate Judge: **Jay P. Gaskill** Amount due: **\$0.00** **Closed**

Charges:	Violation Date	Charge	Citation	Disposition
	03/03/2008	Original: I49-1232 Insurance-fail To Provide Proof Of Insurance Amended: I49-1403 Driving-offense By Person Owing/controlling Veh Arresting Officer: Augello, Sam, NPCSO	31144	Finding: Dismissed By Prosecutor Disposition date: 07/08/2008 Fines/fees: \$116.50

Register of actions:

- 03/05/2008 New Case Filed-Infraction
- 03/05/2008 Prosecutor Assigned April A Smith
- 03/05/2008 Complaint & Summons
- 03/05/2008 Hearing Scheduled (Arraignment 03/21/2008 04:00 PM)
- 03/21/2008 Hearing result for Arraignment held on 03/21/2008 04:00 PM: Hearing Vacated
- 03/21/2008 A Plea is entered for charge: - NG (I49-1232 Insurance-fail To Provide Proof Of Insurance)
- 03/21/2008 Hearing Scheduled (Pretrials-County (Infractions) 04/01/2008 08:30 AM)
- 03/21/2008 Notice Of Hearing
- 04/01/2008 Continued (Pretrials-County (Infractions) 05/27/2008 08:30 AM)
- 04/01/2008 Notice Of Hearing
- 04/01/2008 Pretrial Motion And Order
- 05/27/2008 Continued (Pretrials-County (Infractions) 07/08/2008 08:30 AM)
- 05/27/2008 Notice Of Hearing
- 05/27/2008 Pretrial Motion And Order
- 07/08/2008 Hearing result for Pretrials-County (Infractions) held on 07/08/2008 08:30 AM: Hearing Held
- 07/08/2008 Amended Complaint Filed (I49-1403 Driving-offense By Person Owing/controlling Veh)
- 07/08/2008 Charge Reduced Or Amended
- 07/08/2008 Pretrial Motion And Order
- 07/08/2008 Dismissed by Prosecutor (I49-1403 Driving-offense By Person Owing/controlling Veh)
- 07/08/2008 Case Status Changed: closed pending clerk action
- 07/08/2008 Bond Posted - Cash (Receipt 316885 Dated 7/8/2008 for 116.50)
- 07/08/2008 Bond Converted (Receipt number 316886 dated 7/8/2008 amount 116.50)
- 07/08/2008 Case Status Changed: closed
- 07/08/2008 Pretrial Motion And Order
- 07/08/2008 Final Judgement, Order Or Decree Entered

**Credit Bureau of Lewiston-Clarkston Inc vs. Robert Lee Bauer**

Case: **CV-2007-0000168** Magistrate Filed: **01/23/2007** Subtype: **Other Claims** Judge: **Jay P. Gaskill** Status: **Closed 02/26/2007**  
 Defendants: **Bauer, Robert Lee**  
 Plaintiffs: **Credit Bureau of Lewiston-Clarkston Inc**

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
02/26/2007	Default Judgment			Bauer, Robert Lee (Defendant), Credit Bureau of Lewiston-Clarkston Inc (Plaintiff)	Plaintiff
	Comment:			\$1,077.46 + interest	

Register of actions: Date

- 01/23/2007 New Case Filed-Other Claims  
Filing: B1 - Civil Complaint, More Than \$300, Not \$1000 No Prior Appearance Paid by: Credit Bureau of Lewiston-Clarkston Inc (plaintiff) Receipt number: 0290323 Dated: 1/24/2007 Amount: \$68.00 (Check)
- 01/23/2007 Plaintiff: Credit Bureau of Lewiston-Clarkston Inc Attorney Retained Richard M Cuddihy
- 01/23/2007 Complaint Filed
- 01/23/2007 Summons Filed
- 02/22/2007 Affidavit Of Service 1/27/2007
- 02/22/2007 Application For Default
- 02/22/2007 Affidavit For Default
- 02/22/2007 Affidavit Of Non-military Service
- 02/22/2007 Affidavit Of Attorney Fees And Costs
- 02/22/2007 Cost Bill
- 02/26/2007 Order For Default
- 02/26/2007 Judgment
- 02/26/2007 Certificate Of Mailing
- 02/26/2007 Disposition Without Trial Or Hearing
- 02/26/2007 Final Judgement, Order Or Decree Entered
- 02/26/2007 Case Status Changed: Closed
- 02/26/2007 Civil Disposition entered for: Bauer, Robert L, Defendant; Credit Bureau of Lewiston-Clarkston Inc, Plaintiff. order date: 2/26/2007  
Filing: K6 - Renewing a judgment Paid by: Cuddihy, Richard M (attorney for Credit Bureau of Lewiston-Clarkston Inc) Receipt number: 0003072 Dated: 2/22/2012 Amount: \$9.00 (Check) For: Credit Bureau of Lewiston-Clarkston Inc (plaintiff)
- 02/21/2012 Motion To Renew Judgment
- 02/23/2012 Renewed Judgment

**State of Idaho Department of Health and Welfare vs. Cheryl Marie Wormell, etal.**

Case:CV-2002-0002860 Magistrate Filed: 12/24/2002 Subtype: Other Claims Judge: Jay P. Gaskill Status: Closed 02/20/2003

Defendants: Bauer, Robert Lee Wormell, Cheryl Marie  
Plaintiffs: State of Idaho Department of Health and Welfare

Register of actions: Date

- 12/24/2002 New Case Filed
- 12/24/2002 Plaintiff: State Of Idaho Department Of H & W Attorney Retained Marcy J Spilker
- 12/24/2002 Complaint Filed
- 12/24/2002 Summons Filed
- 12/24/2002 Summons Filed
- 01/21/2003 Acceptance of Service--Served Robert Bauer: 1-15-03
- 01/22/2003 Order For Continuous Writ

01/27/2003 Affidavit Of Service - 1/16/2003  
 01/28/2003 Writ Issued  
 02/14/2003 Application For Default  
 02/14/2003 Affidavit For Default  
 02/14/2003 Stipulation for child support and medical support  
 02/20/2003 Order For Default  
 02/20/2003 Judgment and order for child support  
 02/20/2003 Final Judgement, Order Or Decree Entered  
 02/20/2003 Case Status Changed: Closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-2002-0000313** District Judge: **Jeff M. Brudie** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	01/25/2002	I37-2732(A)(1)(A)-DEL Controlled Substance-delivery Arresting Officer: Grotjohn, Vernon, IDLE		Finding: Dismissed By Prosecutor Disposition date: 12/04/2002 Fines/fees: \$0.00

**Register of actions:**

Date	actions:
01/25/2002	New Case Filed
01/25/2002	Affidavit Of Probable Cause
01/25/2002	Magistrate's Finding Of Probable Cause
01/25/2002	Criminal Complaint
01/25/2002	Summons Issued
01/25/2002	Hearing Scheduled - Arraignment (02/13/2002) Kent J. Merica
02/01/2002	Summons Returned - Served
02/13/2002	Arraignment / First Appearance
02/13/2002	Notification Of Rights
02/13/2002	Affidavit Of Financial Status
02/13/2002	Order Appointing Public Defender
02/13/2002	Notice Of Hearing
02/13/2002	Hearing Scheduled - Preliminary (02/25/2002) Greg Kalbfleisch
02/14/2002	Hearing Scheduled - Preliminary (02/27/2002) Greg Kalbfleisch
02/27/2002	Preliminary Hearing Waived (bound Over)
02/27/2002	Transfer In (from Idaho Court Or County)
02/27/2002	Change Assigned Judge
02/27/2002	Def Has Judge Brudie On Felony Pv Case
02/27/2002	Order Binding Over
02/27/2002	Notice Of Hearing
02/27/2002	Hearing Waived - Preliminary
02/27/2002	Hearing Scheduled - District Ct (03/06/2002) Jeff M. Brudie
03/01/2002	Information
03/06/2002	Arraignment / First Appearance - District Ct
03/06/2002	Hearing Scheduled - Change Of Plea (04/24/2002) Jeff M. Brudie
04/24/2002	Hearing Held - Change Of Plea
04/24/2002	Continued - Change Of Plea
04/24/2002	Hearing Scheduled - Change Of Plea (05/22/2002) Jeff M. Brudie
05/22/2002	Hearing Held - Change Of Plea

05/22/2002 Defendant Enters Not Guilty Plea - Case Set  
 05/22/2002 For Jury Trial  
 05/22/2002 Hearing Scheduled - Pretrial Motions (07/10/2002) Jeff M. Brudie  
 05/22/2002 Hearing Scheduled - Final Pretrial (07/10/2002) Jeff M. Brudie  
 05/22/2002 Jury Trial Scheduled - (07/22/2002) Jeff M. Brudie  
 05/24/2002 Amended Order Setting Jury Trial & Scheduling  
 05/24/2002 Request For Discovery-defendant  
 05/30/2002 Response To Request For Discovery-plaintiff  
 07/09/2002 Stipulation To Continue Final-Pretrial  
 07/10/2002 Hearing Held - Pretrial Motion  
 07/10/2002 Order Granting Stipulation To Continue Final  
 07/10/2002 Pretrial Conference  
 07/10/2002 Hearing Scheduled - Final Pretrial (07/17/2002) Jeff M. Brudie  
 07/17/2002 Hearing result for Jury Trial Scheduled held on 07/22/2002 09:00 AM:  
 Continued  
 07/17/2002 Hearing result for Hearing Scheduled held on 07/17/2002 11:00 AM:  
 Hearing Held  
 07/17/2002 Hearing Scheduled (Jury Trial 12/16/2002 09:00 AM)  
 07/17/2002 Hearing Scheduled (Final Pretrial 12/04/2002 11:00 AM)  
 07/18/2002 Order Setting Jury Trial and Scheduling  
 12/04/2002 Hearing result for Final Pretrial held on 12/04/2002 11:00 AM: Hearing  
 Held  
 12/04/2002 Hearing result for Jury Trial held on 12/16/2002 09:00 AM: Hearing  
 Vacated  
 12/04/2002 Dismissed by Prosecutor (137-2732(A)(1)(A)-DEL Controlled Substance-  
 delivery)  
 12/04/2002 Case Status Changed: closed pending clerk action  
 12/04/2002 Final Judgement, Order Or Decree Entered  
 12/04/2002 Case Status Changed: closed  
 12/04/2002 Case Status Changed: Closed  
 12/05/2002 Motion to Dismiss - State  
 12/05/2002 Order to Dismiss

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-2001-0001375** Magistrate Judge: **Kent J. Merica** Amount due: **\$0.00** **Closed**

Charges:	Violation Date	Charge	Citation	Disposition
	04/27/2001	I18-8001 Driving Without Privileges Arresting Officer: Whipple, Steve, LPD	62279	Finding: Guilty Disposition date: 06/05/2001 Fines/fees: \$0.00

**Register of actions:**

Date  
 04/30/2001 New Case Filed  
 04/30/2001 Criminal Complaint  
 04/30/2001 Affidavit Of Probable Cause  
 04/30/2001 Initial Determination Of Probable Cause  
 04/30/2001 Hearing Scheduled - Arraignment (04/30/2001) Greg Kalbfleisch  
 04/30/2001 Bond Posted - Surety  
 05/07/2001 Hearing Vacated  
 05/07/2001 Notification Of Rights-misdemeanor

05/07/2001 Appear & Plead Not Guilty  
 05/07/2001 Notice Of Hearing  
 05/07/2001 Change Assigned Judge  
 05/07/2001 Hearing Scheduled - Pre-trial Conference (05/29/2001) Greg Kalbfleisch  
 05/29/2001 Continued  
 05/29/2001 Pretrial Motion And Order  
 05/29/2001 Notice Of Hearing  
 05/29/2001 Hearing Scheduled - Pre-trial Conference (06/05/2001) Kent J. Merica  
 05/29/2001 Change Assigned Judge  
 06/04/2001 Affidavit Of Financial Status \*granted\*  
 06/05/2001 Change Plea To Guilty Before H/t  
 06/05/2001 Pretrial Motion And Order  
 06/05/2001 Sentenced To Fine And Incarceration  
 06/05/2001 Order Suspending Driver's License  
 06/05/2001 Deferred Payment Agreement  
 06/05/2001 Final Judgement, Order Or Decree Entered  
 06/05/2001 Bond Exonerated  
 06/05/2001 Case Status Closed But Pending  
 07/11/2001 Amended Commitment  
 08/20/2001 Amended Commitment-to Serve The Remaining  
 08/20/2001 6 Days In A Row Starting 9-15-01-no More  
 08/20/2001 Extensions On Serving Jail Time!!!!!!!  
 09/19/2001 Amended Commitment-to Serve Remaining 6 Days  
 09/19/2001 In A Row Beginning 9-24-01 @ 6 Pm-he's No  
 09/19/2001 Longer Contagious Per His Doctor - No More  
 09/19/2001 Extensions To Serve Jail Time  
 12/04/2001 Deferred Payment Agreement  
 \*\*\*\*\* Account is in Collections\*\*\*\*\* - Step 1, Failure to Pay Fines and  
 06/23/2005 Fees - Charge # 1, Driving Without Privileges Appearance date:  
 6/23/2005  
 07/28/2005 \*\*\*IN HARD COLLECT - PAYMENTS NEED TO BE SENT TO  
 ALLIANCEONE\*\*\*  
 \*\*\*\*ACCOUNT IS IN COLLECTIONS W/CBLC\*\*\*\* - Step 2, Failure to  
 10/06/2008 Pay Fines and Fees - Charge # 1, Driving Without Privileges  
 Appearance date: 10/6/2008  
 04/11/2012 Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: CR-2001-0006606 Magistrate Judge: Magistrate Court Clerks Amount due: \$0.00 Closed  
 Charges: Violation Date Charge Citation Disposition  
 04/05/2001 I49-673 Safety Restraint-fail To Use 61931 Finding: Guilty  
 Arresting Officer: Kjorness, Eric, LPD Disposition date: 01/11/2002  
 Fines/fees: \$5.00

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: CR-2000-0004250 Magistrate Judge: Kent J. Merica Amount due: \$0.00 Closed  
 Charges: Violation Date Charge Citation Disposition

11/01/2000 I37-2732(D) Controlled Substance-frequenting Place Used,etc  
 Arresting Officer: Whipple, Steve, LPD  
 58295  
 Finding: Guilty  
 Disposition date: 12/19/2000  
 Fines/fees: \$234.50

Register of actions:

Date  
 11/29/2000 New Case Filed  
 11/29/2000 Criminal Complaint  
 11/29/2000 Appear & Plead Not Guilty  
 11/29/2000 Notification Of Rights-misdemeanor  
 11/29/2000 Notice Of Pretrial  
 11/29/2000 Hearing Scheduled - Pre-trial Conference (12/19/2000) Kent J. Merica  
 11/29/2000 Change Assigned Judge  
 12/19/2000 Failure To Appear For Hearing Or Trial  
 12/19/2000 Failure To Appear Warrant Issued  
 12/19/2000 Change Plea To Guilty Before H/t  
 12/19/2000 Sentenced To Pay Fine  
 12/19/2000 Final Judgement, Order Or Decree Entered  
 01/31/2001 Warrant Quashed  
 01/31/2001 Warrant Recalled  
 03/13/2001 Disposition With Hearing  
 03/13/2001 Deferred Payment Agreement  
 03/13/2001 Final Judgement, Order Or Decree Entered  
 03/13/2001 Case Status Closed But Pending  
 09/13/2001 Deferred Payment Agreement  
 03/08/2002 Final Deferred Payment Agreement  
 \*\*\*\*\* Account is in Collections\*\*\*\*\* - Step 1, Failure to Pay Fines and  
 11/04/2005 Fees - Charge # 1, Controlled Substance-frequenting Place Used,etc  
 Appearance date: 11/4/2005  
 12/13/2005 \*\*\*IN HARD COLLECT - PAYMENTS NEED TO BE SENT TO CREDIT BUREAU OF LEWISTON-CLARKSTON\*\*\*  
 02/28/2006 Assignment Of Judgment To Collections  
 \*\*\*\*ACCOUNT IS IN COLLECTIONS W/CBLC\*\*\*\* - Step 2, Failure to  
 10/06/2008 Pay Fines and Fees - Charge # 1, Controlled Substance-frequenting Place Used,etc Appearance date: 10/6/2008  
 04/11/2012 Case Status Changed: closed

State of Idaho vs. Robert Lee Bauer

No hearings scheduled

Case: CR-2000-0002570 District Judge: Jeff M. Brudie Amount due: \$0.00 Closed

Charges:	Violation Date	Charge	Citation	Disposition
	07/03/2000	Original: I37-2732(A)(1)(A)-DEL Controlled Substance-delivery Amended: I37-2732(C)(1) Controlled Substance-possession Of Arresting Officer: Lutes, Steven G, NPCSO		Finding: Guilty Disposition date: 05/23/2001 Fines/fees: \$1,088.50 Jail: 90 days Suspended Jail: 86 days Discretionary: 6 days Det Penitentiary: 18 months Indet Penitentiary: 5 years

Probation: 5 years

Register  
of  
actions:

Date

07/03/2000 New Case Filed  
 07/03/2000 Affidavit Of Probable Cause  
 07/03/2000 Initial Determination Of Probable Cause  
 07/03/2000 Criminal Complaint  
 07/03/2000 Hearing Scheduled - Arraignment (07/03/2000) Greg Kalbfleisch  
 07/03/2000 Change Assigned Judge  
 07/03/2000 Arraignment / First Appearance  
 07/03/2000 Notification Of Rights  
 07/03/2000 Affidavit Of Financial Status  
 07/03/2000 Order Appointing Public Defender  
 07/05/2000 Bond Posted - Surety  
 07/05/2000 Hearing Scheduled - Preliminary (07/12/2000) Greg Kalbfleisch  
 07/12/2000 Continued - Preliminary  
 07/13/2000 Hearing Scheduled - Preliminary (09/06/2000) Kent J. Merica  
 07/13/2000 Notice Of Hearing  
 07/20/2000 Sheriff's Cert Of Surrender Of Def By Bondsm  
 07/26/2000 Sheriff's Certificate Of Surrender Of  
 07/26/2000 Defendant By Bondsman  
 07/31/2000 Bond Exonerated  
 08/10/2000 Bond Posted - Surety  
 09/06/2000 Failure To Appear For Hearing Or Trial - Preliminary  
 09/11/2000 Failure To Appear Warrant Issued  
 09/11/2000 Notice Of Bond Forfeiture  
 10/02/2000 Warrant Returned  
 10/02/2000 Hearing Scheduled - Preliminary (10/11/2000) Greg Kalbfleisch  
 10/02/2000 Bond Exonerated  
 10/11/2000 Hearing Waived - Preliminary  
 10/11/2000 Preliminary Hearing Waived (bound Over)  
 10/11/2000 Transfer In (from Idaho Court Or County)  
 10/12/2000 Hearing Scheduled - Arraignment (10/25/2000) Ron Schilling  
 10/12/2000 Arraignment Notice  
 10/12/2000 Order Binding Over  
 10/12/2000 Information  
 10/25/2000 Arraignment / First Appearance  
 10/25/2000 Hearing Scheduled - Change Of Plea (12/13/2000) Ron Schilling  
 12/13/2000 Hearing Held - Change Of Plea  
 12/13/2000 Continued - Change Of Plea  
 12/13/2000 Hearing Scheduled - Change Of Plea (01/31/2001) Ron Schilling  
 01/31/2001 Hearing Held - Change Of Plea  
 01/31/2001 \*defendant Moves To Reset Case For Jury Trial  
 01/31/2001 \*court Resets Case For Trial  
 01/31/2001 Hearing Scheduled - Final Pretrial (04/18/2001) Ron Schilling  
 01/31/2001 Jury Trial Scheduled - (04/23/2001) Ron Schilling  
 02/01/2001 Request For Discovery-defendant  
 02/06/2001 Order Setting Jury Trial & Scheduling  
 02/08/2001 Request For Discovery-plaintiff  
 02/12/2001 Discovery Compliance - Defendant  
 02/13/2001 Response To Request For Discovery-plaintiff



04/05/2001 1st Supp. Response To Request For Discovery-p  
04/18/2001 Hearing Held - Final Pretrial  
04/18/2001 Hearing Vacated - Jury Trial  
04/18/2001 Hearing Scheduled - Change Of Plea (04/25/2001) Ron Schilling  
04/25/2001 Hearing Held - Change Of Plea  
04/25/2001 Idaho Criminal Rule 11 Plea Agreement  
04/25/2001 Charge Reduced Or Amended To Possession Of  
04/25/2001 \*\*of A Controlled Substance Ic 37-2732(c)(1)  
04/25/2001 Change Plea To Guilty Before H/t  
04/25/2001 Hearing Scheduled - Sentencing (05/23/2001) Ron Schilling  
04/25/2001 Presentence Investigation Ordered By 5-21-01  
04/30/2001 Information  
05/21/2001 Received: Psi Report  
05/23/2001 Hearing Held - Sentencing  
05/23/2001 Withheld Judgment Entered - 5 Years  
05/23/2001 Probation Ordered - See File For Terms  
05/23/2001 Sentenced To Pay Fine  
05/23/2001 \*ordered To Pay \$1000.00 Fine + Cc (\$88.50)  
05/23/2001 \*to Begin Paying \$50.00 On 7-10-01  
05/23/2001 \*court Orders \$200.00 For Vict. Restitution  
05/23/2001 \*for Isp Drug Account-to Be Paid After Court  
05/23/2001 Presentence Investigation Sealed In File  
05/23/2001 Case Status Closed But Pending  
05/29/2001 Order Withholding Judgment And  
05/29/2001 \*\*order Of Probation  
05/30/2001 Lodged: Agreement Of Supervision  
05/30/2001 Lodged: Intensive Supervision Agreement  
06/14/2001 Order For Restitution & Judgment-isp Drug Acc  
06/29/2001 Administrative Order Assigning Judge Brudie  
06/29/2001 Change Assigned Judge  
10/30/2001 Motion For Extension Of Time To Make Court  
10/30/2001 \*\*\*ordered Payments - Defendant  
11/02/2001 Order Granting Motion For Extension Of Time  
11/02/2001 \*\*\*to Make Court Ordered Payments  
12/19/2001 Reopen (case Previously Closed)  
12/19/2001 Arrested On Agent's Warrant  
12/19/2001 Hearing Scheduled - P V Initial App (01/02/2002) Jeff M. Brudie  
12/19/2001 Report Of Probation Violation  
12/21/2001 Bond Posted - Surety  
12/21/2001 Motion For Summons  
12/24/2001 Summons On Felony (felony Only)  
01/02/2002 Hearing Held - P V Initial App  
01/02/2002 \*denials Entered To Probation Violations  
01/02/2002 Hearing Scheduled - P.v. Merit (02/01/2002) Jeff M. Brudie  
01/04/2002 Summons Returned - Served  
02/01/2002 Hearing Held - P.v. Merit  
02/01/2002 \*admissions Entered To Sum. #2,#6,10 & #12  
02/01/2002 \*state Withdraws Remaining Allegations  
02/01/2002 Hearing Scheduled - P V Disposition (03/06/2002) Jeff M. Brudie  
02/01/2002 Court Orders Special Progress Report From  
02/01/2002 \*p&p By 3-1-02

02/22/2002 Received: Special Progress Report From P&p  
03/06/2002 Hearing Held - P V Disposition  
03/06/2002 Continued - P V Disposition  
03/06/2002 Hearing Scheduled - P V Disposition (04/24/2002) Jeff M. Brudie  
04/24/2002 Hearing Held - P V Disposition  
04/24/2002 Continued - P V Disposition  
04/24/2002 Hearing Scheduled - P V Disposition (05/22/2002) Jeff M. Brudie  
05/22/2002 Disposition With Hearing - P V Disposition  
05/22/2002 Court Revokes Withheld Judgment  
05/22/2002 Sentenced To Incarceration  
05/22/2002 \*sentenced To The Isbofc For  
05/22/2002 \*18 Months To 5 Years - Court Suspends  
05/22/2002 \*sentence & Places Defendant On Probation  
05/22/2002 \*under The Same Terms And Condition As  
05/22/2002 \*previously Ordered.  
05/22/2002 Court Adds Additional Term - Court Orders  
05/22/2002 30 Days Jail To Be Imposed At The  
05/22/2002 Discretion Of The Probation Officer  
05/22/2002 Final Judgement, Order Or Decree Entered  
05/22/2002 Court revokes withheld judgment, enters judgment of conviction and places defendant on probation for 5 years beginning 5-22-02.  
05/28/2002 Order Revoking Withheld Judgment, Judgment  
05/28/2002 Of Conviction And Order Suspending  
05/28/2002 Sentence (filed)  
05/28/2002 Bond Exonerated  
05/28/2002 Case Status Closed But Pending  
01/16/2003 Late Payment Letter to Dept of Probation and Parole  
05/14/2003 Voided Receipt (Receipt# 224681 dated 05/14/2003)  
01/06/2004 Late payment letter sent to Dept. of Probation and Parole  
12/15/2005 Case Status Changed: reopened  
12/15/2005 Motion For Order To Show Cause  
12/15/2005 Affidavit of Joyce Kaufman  
12/23/2005 Order To Show Cause  
12/23/2005 Hearing Scheduled (Order to Show Cause 01/11/2006 09:00 AM)  
01/11/2006 Hearing result for Order to Show Cause held on 01/11/2006 09:00 AM:  
Continued  
01/11/2006 Hearing Scheduled (Order to Show Cause 01/25/2006 09:00 AM)  
01/23/2006 Motion to Vacate OTSC Hearing - Filed by State (Victim's Restitution has been paid in full)  
01/24/2006 Order to Vacate OTSC Hearing  
01/24/2006 Hearing result for Order to Show Cause held on 01/25/2006 09:00 AM:  
Hearing Vacated  
01/24/2006 Disposition Without Trial Or Hearing  
01/24/2006 Final Judgement, Order Or Decree Entered  
01/24/2006 Case Status Changed: closed pending clerk action  
02/15/2006 Request for Discretionary Jail Time  
02/15/2006 Order for Discretionary Jail Time (Defendant to serve 2 days discretionary jail time)  
05/03/2006 Report Of Probation Violation  
05/04/2006 Motion for Summons  
05/05/2006 Summons Issued  
05/05/2006 Case Status Changed: Inactive

05/05/2006 Hearing Scheduled (Initial Appearance on P.V. 05/17/2006 09:00 AM)  
05/16/2006 Summons Returned - UNSERVED  
05/16/2006 Case Status Changed: Activate (previously inactive)  
05/17/2006 Hearing Scheduled (Initial Appearance on P.V. 05/31/2006 09:00 AM)  
05/17/2006 Drug Court Participation Form  
05/17/2006 Hearing result for Initial Appearance on P.V. held on 05/17/06 09:00 AM:  
Continued  
05/31/2006 Hearing result for Initial Appearance on P.V. held on 05/31/2006 09:00  
AM: Hearing Held  
05/31/2006 Admissions entered to probation violations  
05/31/2006 Hearing Scheduled (P.V Disposition 06/14/2006 10:00 AM)  
06/14/2006 Hearing result for P.V Disposition held on 06/14/2006 10:00 AM:  
Continued  
06/14/2006 Hearing Scheduled (P.V Disposition 06/28/2006 10:00 AM)  
06/28/2006 Hearing result for P.V Disposition held on 06/28/2006 10:00 AM:  
Disposition With Hearing  
06/28/2006 Sentenced Modified Sentence modified on 6/28/2006. (I37-2732(C)(1)  
Controlled Substance-possession Of)  
Sentenced To Incarceration - Court orders additional term of 90 days in  
06/28/2006 NPC Jail - Court holds 90 day jail sentence in abeyance on condition  
defendant comply with counseling and terms of probation.  
06/28/2006 Hearing Scheduled (Review Hearing 07/26/2006 09:00 AM)  
06/28/2006 Case Status Changed: closed pending clerk action  
06/29/2006 Order Reinstating Probation  
07/21/2006 Hearing result for Review Hearing held on 07/26/2006 09:00 AM:  
Continued  
07/21/2006 Hearing Scheduled (Review Hearing 07/28/2006 09:00 AM)  
07/21/2006 Notice Of Hearing  
07/26/2006 Continued (Review Hearing 7-28-06 1:30 PM)  
07/28/2006 Hearing result for Review Hearing held on 07/28/2006 01:30 PM:  
Hearing Held  
07/28/2006 Hearing Scheduled (Review Hearing 08/30/2006 09:00 AM)  
08/30/2006 Hearing result for Review Hearing held on 08/30/2006 09:00 AM:  
Hearing Held  
08/30/2006 Hearing Scheduled (Review Hearing 09/27/2006 09:00 AM)  
09/27/2006 Hearing result for Review Hearing held on 09/27/2006 09:00 AM:  
Hearing Held  
09/27/2006 Hearing Scheduled (Review Hearing 11/01/2006 09:00 AM)  
11/01/2006 Hearing result for Review Hearing held on 11/01/2006 09:00 AM:  
Hearing Held  
11/01/2006 Hearing Scheduled (Review Hearing 12/06/2006 09:00 AM)  
12/06/2006 Hearing result for Review Hearing held on 12/06/2006 09:00 AM:  
Hearing Held  
12/06/2006 Hearing Scheduled (Review Hearing 01/10/2007 09:00 AM)  
01/10/2007 Hearing result for Review Hearing held on 01/10/2007 09:00 AM:  
Hearing Held  
01/10/2007 Hearing Scheduled (Review Hearing 02/14/2007 09:00 AM)  
02/14/2007 Hearing result for Review Hearing held on 02/14/2007 09:00 AM:  
Hearing Held  
02/14/2007 Hearing Scheduled (Review Hearing 03/21/2007 09:00 AM)  
03/13/2007 Request for Discretionary Jail Time  
03/14/2007 Order for Discretionary Jail Time - 4 days Discretionary Jail Time  
03/21/2007 Hearing result for Review Hearing held on 03/21/2007 09:00 AM:  
Hearing Held  
03/21/2007 Hearing Scheduled (Review Hearing 05/02/2007 09:00 AM)

05/02/2007 Hearing result for Review Hearing held on 05/02/2007 09:00 AM:  
Hearing Held  
05/02/2007 Hearing Scheduled (Review Hearing 06/13/2007 09:00 AM)  
06/13/2007 Hearing result for Review Hearing held on 06/13/2007 09:00 AM:  
Hearing Held  
08/10/2007 Case End Summary  
09/05/2007 Request for Discharge  
09/20/2007 Order for Discharge  
09/20/2007 Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-2000-0000745** Magistrate Judge: **Greg K. Kalbfleisch** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	02/21/2000	I18-8001 {M} Driving Without Privileges Arresting Officer: Koeper, Terry, LPD	49457	Finding: Guilty Disposition date: 04/04/2000 Fines/fees: \$50.00
	02/21/2000	I49-1232 Insurance-fail To Provide Proof Of Insurance Arresting Officer: Koeper, Terry, LPD	49456	Finding: Dismissed By Prosecutor Disposition date: 04/04/2000 Fines/fees: \$0.00
	02/21/2000	I49-673 Safety Restraint-fail To Use Arresting Officer: Koeper, Terry, LPD	49456	Finding: Dismissed By Prosecutor Disposition date: 04/04/2000 Fines/fees: \$0.00

Register of actions:

Date  
02/22/2000 New Case Filed  
02/22/2000 Affidavit Of Probable Cause  
02/22/2000 Initial Determination Of Probable Cause  
02/22/2000 Criminal Complaint  
02/22/2000 Hearing Scheduled - Arraignment (03/01/2000) Gary Elliott  
02/22/2000 Bond Posted - Surety  
02/22/2000 Hearing Vacated  
02/22/2000 Notification Of Rights-misdemeanor  
02/22/2000 Notice Of Hearing  
02/22/2000 Hearing Scheduled - Pre-trial Conference (03/14/2000) Greg Kalbfleisch  
02/22/2000 Change Assigned Judge  
03/14/2000 Continued  
03/14/2000 Pretrial Motion And Order  
03/14/2000 Notice Of Hearing  
03/14/2000 Hearing Scheduled - Pre-trial Conference (04/04/2000) Greg Kalbfleisch  
04/04/2000 Change Plea To Guilty Before H/t  
04/04/2000 Pretrial Motion And Order  
04/04/2000 Sentenced To Fine And Incarceration  
04/04/2000 Order Suspending Driver's License  
04/04/2000 Deferred Payment Agreement  
04/04/2000 Final Judgement, Order Or Decree Entered  
04/05/2000 Bond Exonerated

08/30/2000 Deferred Payment Agreement  
 03/05/2001 Affidavit Of Ftp Processed  
 03/13/2001 Deferred Payment Agreement  
 05/07/2001 Case Status Closed But Pending  
 09/13/2001 Deferred Payment Agreement  
 03/08/2002 Final Deferred Payment Agreement  
 \*\*\*\*\* Account is in Collections\*\*\*\*\* - Failure to Pay Fines and Fees -  
 05/12/2006 Charge # 1, Driving Without Privileges Step 1, Failure to Pay Fines and  
 Fees - Charge # 1, Driving Without Privileges Appearance date:  
 5/12/2006  
 06/19/2006 \*\*\*IN HARD COLLECT - PAYMENTS NEED TO BE SENT TO  
 ALLIANCEONE\*\*\*  
 \*\*\*\*ACCOUNT IS IN COLLECTIONS W/CBLC\*\*\*\* - Step 2, Failure to  
 10/06/2008 Pay Fines and Fees - Charge # 1, Driving Without Privileges  
 Appearance date: 10/6/2008  
 04/11/2012 Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-1999-0003337** Magistrate Judge: **Kent J. Merica** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	08/24/1999	Original: I18-8001 {M} Driving Without Privileges Amended: I49-301 Drivers License-fail To Purchase/invalid Arresting Officer: Henderson, Richard, NPCSO	15349	Finding: Guilty Disposition date: 12/07/1999 Fines/fees: \$0.00 Other Confinement: 25 days Probation: 30 days
	08/24/1999	I49-654 Speed-maximum Speed Limitations And Basic Rule Vio Arresting Officer: Henderson, Richard, NPCSO	13947	Finding: Dismissed By Prosecutor Disposition date: 03/08/2000 Fines/fees: \$0.00
	08/25/1999	I19-3901A Failure To Appear For Misdemeanor Citation Arresting Officer: Henderson, Richard, NPCSO		Finding: Dismissed By Prosecutor Disposition date: 02/02/1999 Fines/fees: \$0.00

Register of actions:

Date  
 08/25/1999 New Case Filed  
 08/25/1999 Affidavit Of Probable Cause  
 08/25/1999 Initial Determination Of Probable Cause  
 08/25/1999 Criminal Complaint  
 08/25/1999 Hearing Scheduled - Arraignment (09/02/1999) Kent J. Merica  
 08/25/1999 Bond Posted - Surety  
 09/07/1999 Continued  
 09/07/1999 Hearing Scheduled - Arraignment (09/15/1999) Kent J. Merica  
 10/15/1999 Fta Opened  
 10/15/1999 Failure To Appear Warrant Issued  
 10/15/1999 Notice Of Bond Forfeiture  
 11/22/1999 Warrant Returned  
 11/22/1999 Arraignment / First Appearance  
 11/22/1999 Notification Of Rights

11/22/1999 Affidavit Of Financial Status  
11/22/1999 Order Appointing Public Defender  
11/22/1999 Hearing Scheduled - Pre-trial Conference (12/07/1999) Kent J. Merica  
11/23/1999 Bond Exonerated  
11/23/1999 Bond Posted - Surety  
12/07/1999 Charge Reduced Or Amended  
12/07/1999 Guilty Plea  
12/07/1999 Pretrial Motion And Order  
12/07/1999 Sentenced To Pay Fine  
12/07/1999 Deferred Payment Agreement  
12/07/1999 Final Judgement, Order Or Decree Entered  
12/07/1999 Bond Exonerated  
12/07/1999 25 Days Of In-home Monitoring In Place By  
12/07/1999 12-14-1999.  
12/07/1999 Fta Closed  
12/07/1999 Case Status Closed But Pending  
12/07/1999 Probation Ordered (149-301 Drivers License-fail To Purchase/invalid)  
Probation term: 30 days. (Supervised)  
02/04/2000 Reopen (case Previously Closed)  
02/04/2000 Affidavit Of Probation Violation/otsc  
02/14/2000 Order To Show Cause  
02/15/2000 Hearing Scheduled - (03/07/2000) Kent J. Merica  
03/07/2000 Failure To Appear For Hearing Or Trial  
03/08/2000 Failure To Appear Warrant Issued  
04/05/2000 Warrant Returned  
04/05/2000 Hearing Scheduled - (04/18/2000) Kent J. Merica  
04/05/2000 Hearing Scheduled - (04/18/2000) Kent J. Merica  
04/18/2000 Disposition With Hearing  
04/18/2000 Dphr Entered In Error  
04/18/2000 Should've Been Hrhd  
04/18/2000 Hearing Scheduled - (05/22/2000) Kent J. Merica  
05/08/2000 Deferred Payment Agreement  
05/22/2000 Failure To Appear For Hearing Or Trial  
05/22/2000 Failure To Appear Warrant Issued  
07/03/2000 Warrant Returned  
07/03/2000 Hearing Scheduled - (08/14/2000) Kent J. Merica  
07/05/2000 Bond Posted - Surety  
07/26/2000 Sheriff's Certificate Of Surrender Of  
07/26/2000 Defendant By Bondsman  
07/31/2000 Bond Exonerated  
08/10/2000 Bond Posted - Surety  
08/14/2000 Disposition With Hearing  
08/14/2000 Probation Extended 30 Days  
08/14/2000 Final Judgement, Order Or Decree Entered  
08/14/2000 Pay Elec. Mon. By 8-28-00.  
08/14/2000 Sentenced Modified  
08/16/2000 Bond Exonerated  
08/16/2000 Case Status Closed But Pending  
11/13/2000 Affidavit Of Ftp Processed  
12/19/2000 Deferred Payment Agreement  
03/13/2001 Deferred Payment Agreement  
09/13/2001 Deferred Payment Agreement

03/08/2002 Final Deferred Payment Agreement  
 Affidavit and Notice of Failure to Pay- multi. chg - Step 1, Failure to Pay  
 10/06/2008 Fines and Fees - Charge # 1, Drivers License-fail To Purchase/invalid  
 Appearance date: 10/6/2008  
 \*\*\*\*ACCOUNT IS IN COLLECTIONS W/CBLC\*\*\*\* - Step 2, Failure to  
 11/10/2008 Pay Fines and Fees - Charge # 1, Drivers License-fail To  
 Purchase/invalid Appearance date: 11/10/2008  
 04/11/2012 Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: CR-1999-0001412 Magistrate Judge: Greg K. Kalbfleisch Amount due: \$0.00 Closed

Charges:	Violation Date	Charge	Citation	Disposition
	04/03/1999	I18-8001 Driving Without Privileges Arresting Officer: Petrie, Jon, LPD	46010	Finding: Guilty Disposition date: 06/29/1999 Fines/fees: \$14.40
	04/03/1999	I49-1232 Insurance-fail To Provide Proof Of Insurance Arresting Officer: Petrie, Jon, LPD	46009	Finding: Dismissed By Prosecutor Disposition date: 06/29/1999 Fines/fees: \$0.00
	04/03/1999	I49-654(2) Speed-exceed Maximum Speed Limit Arresting Officer: Petrie, Jon, LPD	46009	Finding: Dismissed By Prosecutor Disposition date: 06/29/1999 Fines/fees: \$0.00

Register of actions:

Date  
 04/05/1999 New Case Filed  
 04/05/1999 Affidavit Of Probable Cause  
 04/05/1999 Initial Determination Of Probable Cause  
 04/05/1999 Criminal Complaint  
 04/05/1999 Hearing Scheduled - Arraignment (04/05/1999) Gary Elliott  
 04/05/1999 Bond Posted - Surety  
 04/13/1999 Hearing Scheduled - Arraignment Cont. (04/19/1999) Gary Elliott  
 04/19/1999 Appear & Plead Not Guilty  
 04/19/1999 Notice Of Rights  
 04/19/1999 Notice Of Pre Trial  
 04/19/1999 Affidavit Of Financial Status  
 04/19/1999 Hearing Scheduled - Pre-trial Conference (05/11/1999) Kent J. Merica  
 04/19/1999 Change Assigned Judge  
 05/11/1999 Continued  
 05/11/1999 Pretrial Motion And Order  
 05/11/1999 Hearing Scheduled - Pre-trial Conference (06/29/1999) Gary Elliott  
 05/12/1999 Hearing Scheduled - Pre-trial Conference (06/29/1999) Gary Elliott  
 06/29/1999 Pretrial Motion And Order  
 06/29/1999 Change Plea To Guilty Before H/t  
 06/29/1999 Order Suspending Driver's License  
 06/29/1999 Community Service Order  
 06/29/1999 Sentenced To Pay Fine  
 06/29/1999 Deferred Payment Agreement

06/29/1999 Final Judgement, Order Or Decree Entered  
 06/29/1999 Bond Exonerated  
 06/29/1999 Case Status Closed But Pending  
 07/02/1999 Application For Restricted License  
 07/07/1999 Temporary Restricted License Issued  
 12/29/1999 Deferred Payment Agreement  
 04/03/2000 Affidavit Of Ftp Processed  
 10/10/2000 Affidavit Of Ftp Processed  
 11/24/2000 Reopen (case Previously Closed)  
 11/24/2000 Warrant Issued - Ftp  
 12/14/2000 Warrant Returned  
 12/14/2000 Disposition With Hearing  
 12/14/2000 Sat Out Fine In Jail (4 Days @ \$35 A Day)  
 12/14/2000 Deferred Payment Pd Fee And Costs Only  
 12/14/2000 Final Judgement, Order Or Decree Entered  
 12/14/2000 Case Status Closed But Pending  
 03/13/2001 Deferred Payment Agreement  
 09/13/2001 Deferred Payment Agreement  
 03/08/2002 Final Deferred Payment Agreement  
 Affidavit and Notice of Failure to Pay- multi. chg - Step 1, Failure to Pay  
 10/06/2008 Fines and Fees - Charge # 1, Driving Without Privileges Appearance  
 date: 10/6/2008  
 \*\*\*\*ACCOUNT IS IN COLLECTIONS W/CBLC\*\*\*\* - Step 2, Failure to  
 11/10/2008 Pay Fines and Fees - Charge # 1, Driving Without Privileges  
 Appearance date: 11/10/2008  
 04/11/2012 Case Status Changed: closed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: CR-1998-0001870 Magistrate Judge: Jay P. Gaskill Amount due: \$0.00 Closed

Charges:	Violation Date	Charge	Citation	Disposition
	05/14/1998	I49-1428 Insurance-operate Mv Without Liability Insurance Arresting Officer: Nelson, Ron, LPD	38713	Finding: Dismissed By Prosecutor Disposition date: 06/09/1998 Fines/fees: \$0.00
	05/14/1998	I49-602 Vehicle-leave Motor Veh Unattended Arresting Officer: Nelson, Ron, LPD	38714	Finding: Dismissed By Prosecutor Disposition date: 06/09/1998 Fines/fees: \$0.00

Register of actions:

Date  
 05/20/1998 New Case Filed  
 05/20/1998 Appear & Plead Not Guilty  
 05/20/1998 Hearing Scheduled - Pre-trial Conference (06/09/1998) Gary Elliott  
 06/09/1998 Dismissed Before Trial Or Hearing  
 06/09/1998 Pretrial Motion And Order  
 06/09/1998 Final Judgement, Order Or Decree Entered

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**



Case: **CR-1998-0001803** Magistrate Judge: **Kent J. Merica** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	05/15/1998	<b>I18-8001 {F} Driving Without Privileges</b> <b>Arresting Officer: Meyers, David, LPD</b>		<b>Finding: Dismissed By Prosecutor</b> <b>Disposition</b> <b>date: 05/20/1998</b> <b>Fines/fees: \$0.00</b>

Register of actions:

Register of actions:	Date
	05/15/1998 New Case Filed
	05/15/1998 Affidavit Of Probable Cause
	05/15/1998 Initial Determination Of Probable Cause
	05/15/1998 Complaint - Criminal
	05/15/1998 Hearing Scheduled - Arraignment (05/15/1998) Greg Kalbfleisch
	05/15/1998 Arraignment / First Appearance
	05/15/1998 Affidavit Of Financial Status
	05/15/1998 Order Appointing Public Defender
	05/15/1998 Hearing Scheduled - Preliminary (05/20/1998) Carl Kerrick
	05/15/1998 Bond Set @ \$1000.00
	05/18/1998 Bond Posted - Surety
	05/20/1998 Dismissed During/after Trial/hearing - Preliminary
	05/20/1998 Court Abstract Filed
	05/20/1998 Final Judgement, Order Or Decree Entered
	05/20/1998 Bond Exonerated
	05/21/1998 Motion To Dismiss - Filed
	05/26/1998 Order To Dismiss - Filed
	06/09/1998 Order Of Bond Release

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-1997-0001243** Magistrate Judge: **Kent J. Merica** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	04/22/1997	<b>Original: I18-8001 {F} Driving Without Privileges</b> <b>Amended: I49-301 Drivers License-fail To Purchase/invalid</b> <b>Arresting Officer: Meyers, David, LPD</b>		<b>Finding: Guilty</b> <b>Disposition</b> <b>date: 07/16/1997</b> <b>Fines/fees: \$363.50</b>

Register of actions:

Register of actions:	Date
	04/22/1997 New Case Filed
	04/22/1997 Affidavit Of Probable Cause
	04/22/1997 Magistrate's Finding Of Probable Cause
	04/22/1997 Criminal Complaint
	04/22/1997 Summons Issued
	04/22/1997 Hearing Scheduled - Arraignment (05/05/1997) Carl Kerrick
	04/23/1997 Amended Summons Issued
	04/23/1997 Hearing Scheduled - Arraignment (05/07/1997) Carl Kerrick
	05/07/1997 Arraignment / First Appearance

05/07/1997 Hearing Scheduled - Preliminary Hrg (05/28/1997) Carl Kerrick  
 05/28/1997 Continued - Preliminary Hrg  
 05/28/1997 Defendant Asked In Court To Give Correct Mail  
 05/28/1997 Address - He Gave Address Of General Delivery  
 05/28/1997 Lewiston  
 05/30/1997 Hearing Scheduled - Preliminary Hrg (06/25/1997) Carl Kerrick  
 06/25/1997 Continued - Preliminary Hrg  
 06/25/1997 Hearing Scheduled - Preliminary Hrg (07/16/1997) Carl Kerrick  
 07/16/1997 Charge Reduced Or Amended - Preliminary Hrg  
 07/16/1997 Change Plea To Guilty Before H/t - Preliminary Hrg  
 07/16/1997 Sentenced To Pay Fine  
 07/16/1997 Deferred Payment Agreement  
 07/16/1997 Final Judgement, Order Or Decree Entered  
 07/16/1997 Case Status Closed But Pending  
 08/04/1997 Amended Complaint  
 10/16/1997 Affidavit Of Ftp Processed  
 01/26/1998 Reopen (case Previously Closed)  
 01/26/1998 Warrant Issued - Ftp  
 02/17/1998 Warrant Returned  
 02/17/1998 Disposition With Hearing  
 02/17/1998 Deferred Payment Agreement  
 02/17/1998 Final Judgement, Order Or Decree Entered  
 02/17/1998 Case Status Closed But Pending  
 02/26/1998 Affidavit Of Ftp Processed  
 03/21/2003 Case Status Changed (batch process)

**State of Idaho vs. Robert Lee Bauer**

**No hearings scheduled**

Case: **CR-1995-0001324** Magistrate Judge: **Greg K. Kalbfleisch** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	05/25/1995	Original: 118-2403 {F} Theft-grand Amended: 118-2403(1) {M} Theft-petit Arresting Officer: Pedersen, Mike, LPD		Finding: Guilty Disposition date: 07/05/1995 Fines/fees: \$622.00 Jail: 30 days Suspended Jail: 28 days Probation: 6 months

**Register of actions:**

05/25/1995 New Case Filed  
 05/25/1995 Affidavit For Out Of County Subpoena  
 05/25/1995 Criminal Complaint  
 05/25/1995 Summons Filed  
 05/25/1995 Hearing Scheduled - Arraignment (06/14/1995) William Stellmon  
 06/14/1995 Preliminary Hearing Held  
 06/14/1995 Affidavit Of Financial Status  
 06/14/1995 Order Appointing Public Defender  
 06/14/1995 Hearing Scheduled - Preliminary Hrg (07/05/1995) William Stellmon  
 07/05/1995 Charge Reduced Or Amended - Preliminary Hrg  
 07/05/1995 Court Abstract Filed

07/05/1995 Change Plea To Guilty Before H/t  
 07/05/1995 Sentenced To Fine And Incarceration  
 07/05/1995 Probation Ordered  
 07/05/1995 \*\*must Pay Restitution To Victim By 1-8-96  
 07/05/1995 Deferred Payment Agreement  
 07/05/1995 Final Judgement, Order Or Decree Entered  
 07/05/1995 Case Status Closed But Pending  
 07/13/1995 Amended Complaint Filed  
 08/03/1995 Reopen (case Previously Closed)  
 08/03/1995 Failure To Appear Warrant Issued  
 01/11/1996 Affidavit Of Ftp Processed  
 01/22/1996 Warrant Issued - Ftp  
 05/24/1996 Warrant Returned  
 05/24/1996 Warrant Returned  
 05/24/1996 Disposition With Hearing  
 05/24/1996 Def To Sit Out Fine In Jail (\$401.50)  
 05/24/1996 Final Judgement, Order Or Decree Entered  
 03/21/2003 Case Status Changed (batch process)

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-1995-0000322** Magistrate Judge: **Kent J. Merica** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	02/06/1995	Original: I18-8001 {F} Driving Without Privileges Amended: I18-8001 {M} Driving Without Privileges Arresting Officer: Pedersen, Mike, LPD		Finding: Guilty Disposition date: 04/12/1995 Fines/fees: \$50.00 Jail: 45 days

Register of actions:

Date

02/06/1995 New Case Filed  
 02/06/1995 Magistrates Finding  
 02/06/1995 Affidavit Of Probable Cause  
 02/06/1995 Criminal Complaint  
 02/06/1995 Summons Filed  
 02/06/1995 Hearing Scheduled - Arraignment (02/22/1995) Carl Kerrick  
 02/16/1995 Summons Returned  
 02/22/1995 Arraignment / First Appearance  
 02/22/1995 Affidavit Of Financial Status  
 02/22/1995 Order Appointing Public Defender  
 02/22/1995 Hearing Scheduled - Preliminary Hng (03/08/1995) Carl Kerrick  
 03/08/1995 Continued - Preliminary Hng  
 03/08/1995 Hearing Scheduled - Preliminary (03/29/1995) Carl Kerrick  
 03/29/1995 Continued - Preliminary  
 03/29/1995 Hearing Scheduled - Preliminary Hng (04/12/1995) Carl Kerrick  
 04/12/1995 Charge Reduced To Misdemeanor  
 04/12/1995 Guilty Plea Or Admission Of Guilt  
 04/13/1995 Sentenced To Fine And Incarceration  
 04/13/1995 Court Abstract Filed

04/13/1995 Order Suspending License 1 Yr Eff 7-26-95  
 04/13/1995 Deferred Payment Agreement  
 04/13/1995 Final Judgement, Order Or Decree Entered  
 04/13/1995 Case Status Closed But Pending  
 04/24/1995 Reopen (case Previously Closed)  
 04/24/1995 Failure To Appear Warrant Issued  
 04/26/1995 Warrant Returned  
 04/26/1995 Disposition Without Trial Or Hearing  
 04/26/1995 Final Judgement, Order Or Decree Entered  
 04/26/1995 Case Status Closed But Pending  
 05/25/1995 Judgment Of Conviction Filed  
 07/14/1995 Deferred Payment Agreement  
 08/31/1995 Affidavit Of Ftp Processed  
 09/11/1995 Reopen (case Previously Closed)  
 09/11/1995 Warrant Issued - Ftp  
 05/24/1996 Warrant Returned  
 05/24/1996 Disposition With Hearing  
 05/24/1996 Def To Sit Out Fine In Jail (\$220.50)  
 05/24/1996 Final Judgement, Order Or Decree Entered  
 03/21/2003 Case Status Changed (batch process)

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-1995-0000045** Magistrate Judge: **Jay P. Gaskill** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	01/05/1995	118-8001 {M}{2} Driving Without Privileges (second Offense) Arresting Officer: Hurd, Budd J, LPD	13839	Finding: Dismissed By Prosecutor Disposition date: 07/24/1995 Fines/fees: \$0.00
	01/05/1995	I37-2734A(1) Drug Paraphernalia-use Or Possess W/intent To Use Arresting Officer: Hurd, Budd J, LPD	13839	Finding: Dismissed By Prosecutor Disposition date: 01/17/1995 Fines/fees: \$0.00

**Register of actions:**

Date  
 01/06/1995 New Case Filed  
 01/06/1995 Affidavit Of Probable Cause  
 01/06/1995 Criminal Complaint  
 01/06/1995 Hearing Scheduled - Arraignment (01/06/1995) Gary Elliott  
 01/06/1995 Bond Posted - Surety  
 01/06/1995 Bond Posted - Surety  
 01/06/1995 Arraignment / First Appearance  
 01/06/1995 Hearing Scheduled - Pre-trial Conference (01/17/1995) Gary Elliott  
 01/17/1995 Hearing Held - Pre-trial Conference  
 01/17/1995 Order Of Dismissal (count 2)  
 01/17/1995 State To File Felony On Count 1  
 01/17/1995 Bond Exonerated (count 2)  
 07/24/1995 Dismissed Before Trial Or Hearing  
 07/24/1995 Final Judgement, Order Or Decree Entered

07/25/1995 Bond Exonerated

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-1994-0001431** Magistrate Judge: **Jay P. Gaskill** Amount due: **\$0.00** Closed

Charges: Violation Date	Charge	Citation	Disposition
06/26/1994	118-8001 {M} Driving Without Privileges Arresting Officer: Nelson, Ron, LPD	11694	Finding: Guilty Disposition date: 07/26/1994 Fines/fees: \$268.50 Home Confinement: 20 days

Register of actions:

Date

- 06/28/1994 New Case Filed
- 06/28/1994 Criminal Complaint
- 06/28/1994 Hearing Scheduled - Arraignment (07/08/1994) Gary Elliott
- 07/08/1994 Continued
- 07/08/1994 Hearing Scheduled - Arraignment (07/15/1994) Gary Elliott
- 07/18/1994 Arraignment / First Appearance
- 07/18/1994 Affidavit Of Financial Status
- 07/18/1994 Order Appointing Public Defender
- 07/18/1994 Hearing Scheduled - Pre-trial Conference (07/26/1994) Gary Elliott
- 07/26/1994 Change Plea To Guilty Before H/t
- 07/26/1994 Notification Of Subsequent Penalties
- 07/26/1994 Order Suspending Driver's License-1 Year
- 07/26/1994 Sentenced To Fine And Incarceration
- 07/26/1994 Certificate Of Acceptance Of In-home Detention
- 07/26/1994 Deferred Payment Agreement
- 07/26/1994 Final Judgement, Order Or Decree Entered
- 07/26/1994 Case Status Closed But Pending
- 01/26/1995 Affidavit Of Ftp Processed
- 01/31/1995 Reopen (case Previously Closed)
- 01/31/1995 Warrant Issued - Ftp
- 02/16/1995 Warrant Returned
- 02/16/1995 Disposition With Hearing
- 02/16/1995 Deferred Payment Agreement
- 02/16/1995 Final Judgement, Order Or Decree Entered
- 02/16/1995 Case Status Closed But Pending
- 03/02/1995 Affidavit Of Ftp Processed

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-1994-0000033** Magistrate Judge: **Jay P. Gaskill** Amount due: **\$0.00** Closed

Charges: Violation Date	Charge	Citation	Disposition
12/19/1993	Original: 118-901 Assault Amended: 118-6409 Disturbing The Peace Arresting Officer: Mabey, J	7621	Finding: Guilty Disposition date: 01/18/1994 Fines/fees: \$149.50

**Adam, LPD**

Register  
of  
actions:

Date  
01/05/1994 New Case Filed  
01/05/1994 Arraignment / First Appearance  
01/05/1994 Hearing Scheduled - Pre-trial Conference (01/18/1994) Gary Elliott  
01/18/1994 Charge Reduced Disturbing The Peace  
01/18/1994 Change Plea To Guilty Before H/t  
01/18/1994 Sentenced To Pay Fine  
01/18/1994 Deferred Payment Agreement  
01/18/1994 Final Judgement, Order Or Decree Entered  
01/18/1994 Case Status Closed But Pending  
03/07/1994 Affidavit Of Ftp Processed  
03/09/1994 Reopen (case Previously Closed)  
03/09/1994 Warrant Issued - Ftp  
06/03/1994 Warrant Returned  
06/03/1994 Disposition Without Trial Or Hearing  
06/03/1994 Final Judgement, Order Or Decree Entered  
06/07/1994 Case Status Closed But Pending  
03/21/2003 Case Status Changed (batch process)

**State of Idaho vs. Robert Lee Bauer**  
**No hearings scheduled**

Case: **CR-1993-0000860** Magistrate Judge: **Greg K. Kaibfleisch** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Disposition
	04/19/1993	I18-8001 {M} Driving Without Privileges Arresting Officer: Nelson, Ron, LPD	8455	Finding: Guilty Disposition date: 05/18/1993 Fines/fees: \$197.50 Jail: 2 days
	04/19/1993	I49-456(2) Registration-fictitious Display Card Or Plates Arresting Officer: Nelson, Ron, LPD	8455	Finding: Dismissed By Prosecutor Disposition date: 05/18/1993 Fines/fees: \$0.00
	04/19/1993	I49-1229 Insurance-fail To Maintain Liability Insurance Arresting Officer: Nelson, Ron, LPD	8456	Finding: Dismissed By Prosecutor Disposition date: 05/18/1993 Fines/fees: \$0.00

Register  
of  
actions:

Date  
04/20/1993 New Case Filed  
04/20/1993 Hearing Scheduled - Arraignment (04/30/1993) William Stellmon  
04/30/1993 Continued  
04/30/1993 Hearing Scheduled - Arraignment (05/07/1993) William Stellmon  
05/10/1993 Arraignment / First Appearance  
05/10/1993 Hearing Scheduled - Pre-trial Conference (05/18/1993) William Stellmon  
05/18/1993 Order Of Dismissal (counts 2 & 3)  
05/18/1993 Change Plea To Guilty Before H/t  
05/18/1993 Notification Of Subsequent Penalties

05/18/1993 Sentenced To Fine And Incarceration  
 05/18/1993 Order Suspending Driver's License  
 05/18/1993 Deferred Payment Agreement  
 05/18/1993 Final Judgement, Order Or Decree Entered  
 05/18/1993 Case Status Closed But Pending  
 05/24/1993 \*\*defendant Failed To Report To Jail On  
 05/24/1993 \*\*5-21-93 By 6:00 Pm To Serve 2 Days.  
 05/24/1993 Reopen (case Previously Closed)  
 05/24/1993 Failure To Appear Warrant Issued  
 06/30/1993 Warrant Returned  
 06/30/1993 Def. Arrested--to Serve 2 Days Jail  
 06/30/1993 Warrant Issued - Ftp  
 07/01/1993 Warrant Returned  
 07/01/1993 Case Status Closed But Pending

**Coeur d'Alene Credit Bureau vs. Robert Lee Bauer**

Case: CV-1993-0000293 Magistrate Filed: 03/04/1993 Subtype: Other Claims Judge: J. Kent Merica Status: Closed 04/06/1993

Defendants: **Bauer, Robert Lee**  
 Plaintiffs: **Coeur d'Alene Credit Bureau**

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
03/18/2008	Renewed Judgment			Bauer, Robert Lee (Defendant), Coeur d'Alene Credit Bureau (Plaintiff)	Plaintiff

**Register of actions:**

03/04/1993 New Case Filed  
 03/04/1993 Civil Complaint, More Than \$300, Not More Than \$1000, No Prior Appearance  
 03/04/1993 Summons Filed  
 03/04/1993 Order Assigning Judge  
 03/10/1993 Affidavit Of Service  
 04/05/1993 Affidavit Of Non Mil Service  
 04/05/1993 Affidavit Re: Cost & Fees  
 04/05/1993 Summary Of Judgment  
 04/05/1993 Application For Default  
 04/06/1993 Motion For Default  
 04/06/1993 Order For Default  
 04/06/1993 Default  
 04/06/1993 Default Judgment Entered Without Hearing  
 04/06/1993 Final Judgement, Order Or Decree Entered  
 04/21/1993 Affidavit Of True Balance  
 04/21/1993 Application For Continuous Writ  
 04/21/1993 Order For Continuous Writ  
 04/22/1993 Writ Issued  
 05/06/1993 Writ Returned  
 03/13/1998 Motion To Renew Judgment  
 03/17/1998 Order For Renewed Judgment  
 03/12/2003 Motion for renewal of judgment

Filing: J3B - Special Motions Pet. To Vacate/renew/ Reopen - W/ Prior  
 03/12/2003 App Paid by: Coeur D'alene Credit Bureau Inc (plaintiff) Receipt  
 number: 0221748 Dated: 03/13/2003 Amount: \$9.00 (Check)  
 03/13/2008 Motion To Renew Judgment  
 Filing: J3B - Special Motions Pet. To Vacate/renew/ Reopen - W/ Prior  
 03/13/2008 App Paid by: Coeur d'Alene Credit Bureau (plaintiff) Receipt number:  
 0311012 Dated: 3/17/2008 Amount: \$9.00 (Check) For: Coeur d'Alene  
 Credit Bureau (plaintiff)  
 03/18/2008 Renewed Judgment  
 03/18/2008 Civil Disposition entered for: Bauer, Robert Lee, Defendant; Coeur  
 d'Alene Credit Bureau, Plaintiff. order date: 3/18/2008

State of Idaho vs. Robert Lee Bauer

No hearings scheduled

Case: CR-1991-0005975 Magistrate Judge: Magistrate Jay P. Gaskill Amount due: \$0.00 Closed

Charges:	Violation Date	Charge	Citation	Disposition
	03/31/1991	149-1232 {I} Insurance-fail To Provide Proof Of Insurance Arresting Officer: Jenkins, Steven, LPD	91463	Finding: Guilty Disposition date: 04/16/1991 Fines/fees: \$75.00

State of Idaho vs. Robert Lee Bauer

No hearings scheduled

Case: CR-1991-0000355 Magistrate Judge: Jay P. Gaskill Amount due: \$0.00 Closed

Charges:	Violation Date	Charge	Citation	Disposition
	02/17/1991	123-1023 Beer-procuring For/consumption Under Age Arresting Officer: Gearing, Roy, ISP	961822	Finding: Guilty Disposition date: 04/02/1991 Fines/fees: \$132.50
	02/17/1991	137-2732(C)(3) Controlled Substance-possession Of Arresting Officer: Gearing, Roy, ISP	961823	Finding: Dismissed By Prosecutor Disposition date: 04/02/1991 Fines/fees: \$0.00

Register of actions:

Date	Action
02/19/1991	New Case Filed
02/19/1991	Bond Posted - Cash
02/19/1991	Bond Posted - Cash
02/22/1991	Notice Of Appearance
02/22/1991	Written Plea Of Not Guilty
02/22/1991	Request For Discovery-defendant
02/22/1991	Arraignment / First Appearance
02/22/1991	Hearing Scheduled - Pre-trial Conference (03/05/1991) Gary Elliott
03/05/1991	Continued
03/05/1991	Hearing Scheduled - Pre-trial Conference (04/02/1991) Gary Elliott
03/26/1991	Response To Request For Discovery-plaintiff
04/02/1991	Order Of Dismissal (count 2)
04/02/1991	Change Plea To Guilty Before H/t
04/02/1991	Sentenced To Pay Fine
04/02/1991	Final Judgement, Order Or Decree Entered



04/02/1991 Bond Exonerated

*Connection: Public*

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Final Pretrial

Hearing date: 8/16/2012

Time: 2:07 pm

Judge: Carl B. Kerrick

Courtroom: 1

Court reporter: Linda Carlton

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich PD 2012

Prosecutor: Sandra Dickerson

- 20729 Defendant present with counsel.
- 20752 Mr. Radakovich addresses the Court and in CR12-0082 Defendant objects to the use of the prelim transcript.
- 20829 Ms. Dickerson addresses the Court and the State has not had time to respond in writing but is prepared to present oral argument.
- 20840 Mr. Radakovich responds.
- 20910 Court and counsel meet in chambers.
- 22126 Court addresses counsel.
- 22204 Court vacates 8-20-12 trial date and will hear pending motions in both cases on 9-20-12 at 10:30 a.m.
- 22412 Court recess.

**ORIGINAL**

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

**FILED**

2012 AUG 24 PM 12 06

PATTY  
*Patty Dickerson*

DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,  
  
                                Plaintiff,  
  
vs.  
  
KYLE A. RICHARDSON,  
  
                                Defendant.

CASE NO. CR2012-0000082

STATE'S RESPONSE TO DEFENDANT'S  
OBJECTION TO ADMITTING  
PRELIMINARY HEARING TESTIMONY  
OF NOW DECEASED WITNESS.

COMES NOW, SANDRA K. DICKERSON, Chief Deputy Prosecuting Attorney for  
Nez Perce County and hereby makes the following response to Defendant's  
Objection to Admitting Preliminary Hearing Testimony of Now Deceased Witness.

Idaho Rule of Evidence 804(b)(1) reads in part:

The following are not excluded by the hearsay rule if the declarant is  
unavailable as a witness:

Former testimony. Testimony given as a witness at another hearing of the  
same or a different proceeding, . . . if the party against whom the testimony is now  
offered, . . . had an opportunity and similar motive to develop the testimony by  
direct, cross, or redirect examination.

Idaho Code §9-336 also addresses the issue, and pursuant to the Idaho Court of Appeals is not inconsistent with the IRE 804(b)(1). State v. Ricks, 122 Idaho 856 (Ct.App. 1992), and reads in part:

Prior to admitting into evidence recorded testimony from a preliminary hearing, the court must find that the testimony offered is:

1. Offered as evidence of a material fact and that the testimony is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and
2. That the witness is, after diligent and good faith attempts to locate, unavailable for the hearing; and
3. That at the preliminary hearing, the party against whom the admission of the testimony is sought had an adequate opportunity to prepare and cross-examine the proffered testimony.

In the case before the Court the state seeks to admit the taped testimony of the witness at preliminary hearing along with the transcript of that witness's testimony.

The witness was the confidential informant who participated in the controlled deliveries of methamphetamine by the defendant to the confidential informant, the very basis of the charges against the defendant. There is no other evidence of this direct nature that can be procured by the State.

The witness, Robert Bauer, is deceased.

And finally, item number three (3) of Idaho Code §9-336, which based on Defendant's brief in objection, seems to be where the parties differ in their perception of what occurred at the preliminary hearing on February 22, 2012, four (4) months after the defendant's arrest. The initial preliminary hearing was

scheduled for November 2, 2011. Six continuances later, it was finally held on February 22, 2012.

After plea negotiations didn't result in a resolution, the state disclosed ALL audio files of the body wires, phone calls, and debriefs involving these controlled buys to defendant's counsel on February 6, 2012 (see Attached State's Amended Exhibit B), over two weeks prior to the preliminary hearing. Two weeks prior to the preliminary hearing, defendant and counsel knew the identity of the confidential informant through the tapes supplied by the State, providing counsel with adequate opportunity to prepare for cross examination of Mr. Bauer at the preliminary hearing.

Defense counsel is being modest. Defense counsel has thirty-five (35) plus years of experience. His strength is in his thorough use of preliminary hearing as a discovery tool. In this case, counsel conducted a thorough and effective cross examination of Mr. Bauer. (Preliminary Hearing transcript previously attached as Exhibit A in State's Motion to Admit Preliminary Hearing Transcript).

- He made inquiry of the witness's criminal history. (PHT pg 70 and 71)
- Elicited that witness was a drug user. (PHT pg 63-66)
- Elicited that witness had previously sold controlled substances to the defendant. (PHT pg 71)
- Thoroughly inquired into the search procedure utilized by the law enforcement officers upon the person and vehicle of the witness. (PHT pg 71-74)

In addition, on direct examination the witness stated defendant had visited him (after charges were filed), and the witness told the defendant HE was the confidential informant. (PHT - pg 62, Ln 20-25), and further, the defendant did not seem surprised by that fact (PHT- pg 63, Ln 1-4).


Counsel's cross examination was not curtailed or limited in any manner, either by the court or the State. Counsel had an opportunity and motive to develop the testimony through cross examination of the witness, which is what Rule 804 (b) (1) and Idaho Code §9-336 requires. State v. Ricks, 122 Idaho 856 (Ct.App. 1992).

Counsel argues he did not have adequate time to prepare for cross examination as the State had not disclosed the confidential informant's identity prior to the preliminary hearing. And while the State did not list the name of the confidential informant, defense counsel had the audio tapes of the controlled buys, the monitored phone calls, and the debriefing tapes over two weeks prior to preliminary hearing. Also, as noted above, the defendant had the knowledge of confidential informant's identity from the confidential informant himself.

### **Conclusion**

All of the requirements of both Idaho Code §9-336 and Idaho Rule of Evidence 804(b)(1) have been satisfied. The State respectfully requests the Court grant the State's motion to admit the preliminary hearing taped testimony and transcript of Robert Bauer at trial.

RESPECTFULLY submitted this 24<sup>th</sup> day of August, 2012.

  
SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing Response was

- (1)   1   hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

DATED this   24<sup>th</sup>   day of August, 2012.

  
\_\_\_\_\_  
ERIN D. LEAVITT  
Senior Legal Assistant

**AMENDED EXHIBIT "B"**  
**AMENDED LIST OF REPORTS**

STATE OF IDAHO vs. KYLE A. RICHARDSON  
NEZ PERCE COUNTY CASE NO. CR2012-0000082

1. A copy of any audio and/or video tapes and/or compact discs and/or floppy discs are available by providing a blank audio/video tape or compact disc or floppy disc to the Nez Perce County Prosecuting Attorney's Office and by making prior arrangements during normal working hours.
2. Lewiston Police Department Cap Sheet and Case Disposition Sheet consisting of three (3) pages. (1-3)
3. Lewiston Police Department LAW Incident Table consisting of one (1) page. (4)
4. Lewiston Police Department Narrative prepared by Brett Dammon consisting of three (3) pages. (5-7)
5. Lewiston Police Department Supplemental Narrative prepared by Brett Dammon dated September 13, 2011, consisting of two (2) pages. (8-9)
6. Lewiston Police Department Supplemental Narrative prepared by Brett Dammon dated September 16, 2011, consisting of three (3) pages. (10-12)
7. Lewiston Police Department Supplemental Narrative prepared by Tom Sparks dated September 23, 2011, consisting of two (2) pages. (13-14)
8. Idaho State Police Forensic Services Criminalistic Analysis Report dated September 13, 2011, consisting of three (3) pages. (15-17)
9. Idaho State Police Forensic Services Evidence Submission Receipt/Form dated September 12, 2011, consisting of one (1) page. (18)
10. Idaho State Police Forensic Services Criminalistic Analysis Report dated September 28, 2011, consisting of three (3) pages. (19-21)
11. Idaho State Police Forensic Services Evidence Submission Receipt/Form dated September 22, 2011, consisting of one (1) page. (22)
12. Lewiston Police Department Main Names Table consisting of four (4) pages. (23-26)
13. Criminal History consisting of eleven (11) pages. (27-37)
14. **One (1) CD containing 5 photographs and 16 audio files:**
  - a. **13806buy1bodywire**
  - b. **13806buy1debrief**



- c. 13806buy1header**
- d. 13806buy1phonecall1**
- e. 13806buy2bodywire**
- f. 13806buy2call1**
- g. 13806buy2call2**
- h. 13806buy2call3**
- i. 13806buy2debrief**
- j. 13806buy2header**
- k. 13806buy3bodywire**
- l. 13806buy3debrief**
- m. 13806buy3header**
- n. 13806buy3phonecall1**
- o. 13806buy3phonecall2**

FILED

2012 SEP 17 AM 10 47

PATTY C. [unclear]  
CLERK OF THE COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE  
COUNTY OF NEZ PERCE

---

) ORDER RE APPOINTMENT OF  
) PUBLIC DEFENDERS

Robert J. Kwate, Richard Cuddihy, JoAnna McFarland and  
Paige Nolta are now the holders of the Public Defender Contracts with  
Nez Perce County commencing October 1, 2012;

Danny J. Radakovich is hereby relieved of the responsibility  
of representing the Defendant in this case, effective October 1, 2012.

Dated this 17<sup>th</sup> day of September, 2012.

*[Signature]*  
\_\_\_\_\_  
Jay Gaskill, Trial Court Administrator

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Pretrial Motions

Hearing date: 9/20/2012

Time: 10:33 am

Judge: Carl B. Kerrick

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich PD 2012

Prosecutor: Sandra Dickerson

- 103351 Defendant present with counsel.
- 103406 Court addresses counsel.
- 103446 Ms. Dickerson addresses the Court re: motion to use preliminary hearing transcript at trial, witness passed away.
- 103559 Mr. Radakovich addresses the Court re: objection to motion to use preliminary hearing transcript.
- 104306 Ms. Dickerson has nothing further to add.
- 104312 Court addresses counsel. Court takes matter under advisement and will issue written decision. Court will meet with counsel after decision has been issued and will reset this matter for trial.
- 104356 Court recess.

Second Judicial District Court, State of Idaho  
in and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

FILED

2012 SEP 25 AM 11 51

STATE OF IDAHO  
Plaintiff,

vs.

Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Defendant.

DOB: [REDACTED]  
DL or SSN: [REDACTED]

Citation No. *PATTY G...  
[Signature]*

Case No: CR-2012-0000082

**NOTICE OF APPOINTMENT OF NEW  
PUBLIC DEFENDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that:

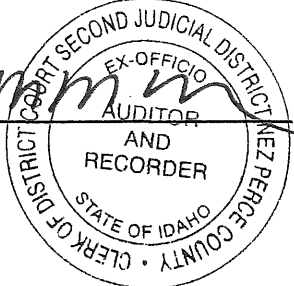
Rick Cuddihy PD 2013  
P.O. Drawer 717  
Lewiston, ID 83501  
(208) 746-0103

Public Defender for the County of Nez Perce, State of Idaho, a duly licensed attorney in the State of Idaho, is hereby appointed to represent said Defendant, Kyle Alan Richardson, in all proceedings in the above entitled case.

The Defendant is further advised that he/she may be required to reimburse the Court for all or part of the cost of court appointed counsel.

Date: 9/25/12

*[Signature]*  
Deputy Clerk



Copies to:

- Public Defender
- Prosecutor
- Danny Kadakovich*
- Defendant*

Notice of Appointment of Public Defender

Doc 30 OANPD

DANNY J. RADA KOVICH  
Radakovich Law Office  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED  
2012 OCT 17 PM 4 27  
PATTY O. WELLS  
CLERK OF THE DISTRICT COURT  
*P. O. Williams*  
DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-0082
	)	
Plaintiff,	)	SUBSTITUTION OF COUNSEL
	)	
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

NOTICE IS HEREBY GIVEN that Danny J. Radakovich is hereby substituted for Rick Cuddihy as the attorney for the defendant in the above-entitled matter. All further pleadings and correspondence should be served upon said Danny J. Radakovich.

DATED this 17<sup>th</sup> day of October, 2012.

*Rick Cuddihy*  
\_\_\_\_\_  
Rick Cuddihy  
Withdrawing Attorney

*Danny J. Radakovich*  
\_\_\_\_\_  
Danny J. Radakovich  
Substituting Attorney

SUBSTITUTION OF COUNSEL

RADAKOVICH LAW OFFICE  
1624 G Street  
Lewiston, ID 83501

I hereby certify that a true  
and correct copy of the foregoing  
instrument was hand-delivered to:

*Nez Perce County Prosecuting Attorney  
P.O. Box 1267  
Lewiston, Idaho 83501*

on this 17<sup>th</sup> day of October, 2012.



Danny J. Radakovich

10/23/12

FILED

2012 OCT 23 AM 11 12

FATY O. W. ...  
CLERK OF THE DISTRICT COURT  
*Spynolds*  
DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
v. )  
)  
KYLE A. RICHARDSON, )  
)  
Defendant. )  
\_\_\_\_\_ )

CASE NO. CR 2012-0082

**OPINION AND ORDER ON  
MOTION TO ADMIT  
PRELIMINARY HEARING  
TRANSCRIPT TESTIMONY OF  
ROBERT BAUER—DECEASED**

This matter came before the Court on pretrial motions filed by the State of Idaho. Danny Radakovich, attorney at law, represented the Defendant, Kyle Richardson. The State of Idaho was represented by Sandra Dickerson, Nez Perce County Chief Deputy Prosecuting Attorney. The Court heard oral argument on this matter on September 20, 2012. The Court, having heard the argument of counsel and being fully advised in the matter, hereby renders its decision.

**FACTS AND PROCEDURAL HISTORY**

A preliminary hearing was held in this matter on February 22, 2012. Mr. Bauer was a confidential informant who worked with law enforcement in order to set up controlled buys and

gather evidence regarding the charges which have been filed against the Defendant. Bauer testified in open court at the preliminary hearing and cross-examination was conducted by counsel on behalf of the defense. Bauer died approximately one month after the preliminary hearing was held. The State has motioned to present the transcript of Bauer's testimony to the jury in the upcoming trial on this matter. The Defendant has objected on the basis that the Defendant did not know Bauer's identity until the day of the hearing. As a result, the Defendant was denied an adequate opportunity to investigate Bauer, and thus unable to adequately cross-examine the witness at the preliminary hearing.

#### ANALYSIS

I.R.E. 804(b)(1) sets forth a hearsay exception when a declarant is unavailable, but has testified in a former proceeding.

Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

I.R.E. 804(b)(1). In addition, I.C. § 9-336 must be considered in conjunction with the rule of evidence. *See State v. Ricks*, 122 Idaho 856, 840 P.2d 400 (Ct. App. 1992).

Prior to admitting into evidence recorded testimony from a preliminary hearing, the court must find that the testimony offered is:

1. Offered as evidence of a material fact and that the testimony is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and
2. That the witness is, after diligent and good faith attempts to locate, unavailable for the hearing; and
3. That at the preliminary hearing, the party against whom the admission of the testimony is sought had an adequate opportunity to prepare and cross-examine the proffered testimony.



I.C. § 9-336.

This issue has also been more recently considered in *State v. Mantz*, 148 Idaho 303, 222 P.3d 471 (Ct. App. 2009). The analysis in *Mantz* is on point, and considers this issue in light of *Crawford v. Washington*, 541 U.S. 36, 124 S. Ct. 1354, 158 L.Ed.2d 177 (2004). Ultimately, the *Mantz* Court determined that the admission of preliminary hearing testimony did not violate the defendant's right to confrontation in light of *Crawford*.

The facts from *Mantz* are as follows:

*Mantz* was charged by criminal complaint with aggravated assault. The complaint alleged that *Mantz* intentionally fired a handgun near the head of Karl Hoidal and verbally threatened him. Hoidal testified at the preliminary hearing; however, prior to trial Hoidal died in an unrelated accident. The State filed a motion in limine requesting admission of Hoidal's preliminary hearing testimony at trial asserting that the testimony met the requirements for admission under I.C. § 9-336, Idaho Rule of Evidence 804(b)(1), and the Confrontation Clause of the Sixth Amendment. *Mantz* filed a cross-motion objecting to admission of Hoidal's preliminary hearing testimony. The district court granted the State's motion. At trial, an audio recording of Hoidal's preliminary hearing testimony was played for the jury and a written transcript was provided. However, the jury was not permitted to take the recording or the transcript to the jury room. The jury found *Mantz* guilty of aggravated assault, and the district court subsequently entered a judgment of conviction and imposed sentence.

*Id.* at 304-305, 222 P.3d at 473. The *Mantz* Court provides a thorough analysis of the Idaho Rule of Evidence, as well as I.C. § 9-336. Next the Court discusses in detail how other states have addressed this issue. Ultimately, the *Mantz* Court determined that a blanket prohibition of preliminary hearing testimony of an unavailable witness is not warranted. Instead, a case-by case approach is best.

The majority of courts do not condone a blanket prohibition of preliminary hearing testimony of an unavailable witness. Rather, preliminary hearing testimony is admissible as long as the defendant had an adequate opportunity to cross-examine, which is determined on a case-by-case basis. Similarly, this Court

in *Ricks*, albeit in the context of applying I.C. § 9-336 and I.R.E. 804(b)(1), held that “a case-by-case approach is the better way to determine whether the district court was correct in ruling that the preliminary hearing testimony was admissible.” *Ricks*, 122 Idaho at 863, 840 P.2d at 404. We conclude, as have the majority of courts addressing this issue, that the case-by-case approach should also apply to the Confrontation Clause analysis.

*Id.* at 309, 222 P.3d at 477.

The case at hand is distinguishable from *Mantz* on the basis that the Defendant was not informed of the name of the confidential witness until he testified at the preliminary hearing. While the State suggests the Defendant may have known who the confidential informant was prior to the hearing, this suggestion is speculative in nature. Further, access to the recordings of the confidential buys does not identify the confidential informant, nor does it provide the Defendant enough information to investigate this witness for purposes of cross-examination. In the case at hand, the Defendant did not have an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination, as contemplated by I.R.E. 804(b)(1). In this case, the Defendant was placed in a position of using cross-examination at the preliminary hearing as an investigatory tool. This is not the same opportunity or motive to develop testimony that counsel would employ at the trial on this matter. The Defendant did not have an adequate opportunity to impeach the witness because the Defendant was not provided the opportunity to investigate the witness prior to the hearing. This Court cannot find, in these circumstances, that the Defendant had an adequate opportunity for cross-examination pursuant to I.R.E. 804(b)(1), nor was there an adequate opportunity for cross-examination in light of the Confrontation Clause analysis as set forth in *Crawford v. Washington*. Thus, the State’s motion seeking to present the preliminary hearing transcript at the trial is denied.

## CONCLUSION

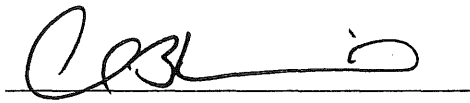
The State is seeking to admit the preliminary hearing transcript of the testimony of a witness who worked as a confidential informant who set up controlled buys with the Defendant. The witness died shortly after he testified at the preliminary hearing. The Defendant objected to the presentation of the transcript on the basis that the Defendant was denied the opportunity to adequately cross-examine the witness. Based upon the facts of this case, the State's motion is denied.

## ORDER

The State's Motion to Admit Preliminary Hearing Transcript Testimony is hereby DENIED.

IT IS HEREBY ORDERED.

Dated this 23<sup>rd</sup> day of October, 2012.



CARL B. KERRICK - District Judge

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing OPINION AND ORDER ON MOTION TO ADMIT PRELIMINARY HEARING TRANSCRIPT TESTIMONY OF ROBERT BAUER--DECEASED was:

X FAXED and hand delivered via court basket, or

\_\_\_\_\_ mailed, postage prepaid, by the undersigned at Lewiston, Idaho, this \_\_\_\_\_ day of October, 2012, to:

Danny Radakovich  
1624 G Street  
Lewiston ID 83501

Sandra Dickerson  
P O Box 1267  
Lewiston ID 83501

PATTY O. WEEKS, CLERK

By OR Reynolds  
Deputy



Second Judicial District Court, State of Idaho  
In and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

STATE OF IDAHO,

Plaintiff,

vs.

Kyle Alan Richardson,

Defendant.

FILED )

2012 OCT 23 PM 1 38 )

PATTY O. WEEKS )

CLERK OF THE DIST. COURT )

DEPUTY )

Case No: CR-2012-0000082

NOTICE OF HEARING

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

Status/Scheduling Conference Thursday, November 01, 2012 01:15 PM  
Judge: Carl B. Kerrick

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Tuesday, October 23, 2012.

Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Mailed  Hand Delivered

Private Counsel: Danny J Radakovich  
1624 G Street  
Lewiston, ID 83501

Mailed  Hand Delivered  *faxed*

Prosecutor: Sandra K. Dickerson

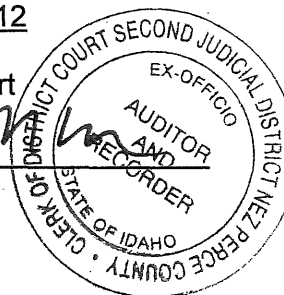
Mailed  Hand Delivered  *faxed*

Dated: Tuesday, October 23, 2012

Patty O. Weeks  
Clerk Of The District Court

By: *[Signature]*

Deputy Clerk  
DOC22 7/96



COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status/Scheduling Conference

Hearing date: 11/1/2012

Time: 1:20 pm

Judge: Carl B. Kerrick

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 12045 Defendant not present.
- 12059 Ms. Smith addresses the Court and Defendant is in the Asotin County Jail.
- 12108 Mr. Radakovich addresses the Court and would have liked to be heard on the State's Motion to Revoke Bond in CR11-8658.
- 12141 Court addresses Mr. Radakovich and Robin Elliot from Above All Bail Bonds filed a notice and motion for exoneration of bail. Court set this case again for status conference once Defendant has been brought back to the Nez Perce County Jail.
- 12248 Court recess.

**ORIGINAL**

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

**FILED**

2012 NOV 5 PM 12 02

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,

Defendant.

CASE NO. CR2012-0000082

MOTION FOR PERMISSION TO  
APPEAL

COMES NOW, SANDRA K. DICKERSON, Chief Deputy Prosecuting Attorney for  
Nez Perce County and pursuant to Idaho Appellate Rule 12, the State moves for  
permission to appeal the Court's Order dated October 23, 2012, denying State's  
Motion to Admit Preliminary Hearing Transcript Testimony of Robert Bauer -  
Deceased.

Respectfully submitted this 5th day of November, 2012

*[Signature]*

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney

**AFFIDAVIT OF SERVICE**

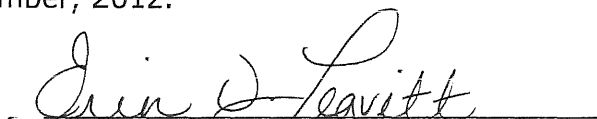
I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing MOTION was

- (1)   4   hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

DATED this 5th day of November, 2012.

  
ERIN D. LEAVITT  
Senior Legal Assistant



Second Judicial District Court, State of Idaho  
and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

STATE OF IDAHO,

Plaintiff,

vs.

Kyle Alan Richardson,

Defendant.

FILED  
2012 NOV 5 PM 2:14

Case No: CR-2012-0000082

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
DEPUTY )  
NOTICE OF HEARING

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

Status Conference Thursday, November 15, 2012 01:15 PM  
Judge: Carl B. Kerrick

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Monday, November 05, 2012.

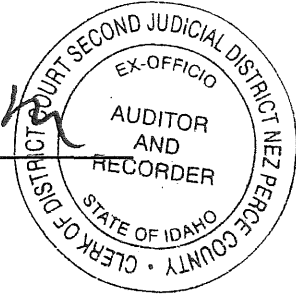
Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501  
Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_

Private Counsel: Danny J Radakovich  
1624 G Street  
Lewiston, ID 83501  
Mailed \_\_\_\_\_ Hand Delivered fixed x \_\_\_\_\_

Prosecutor: Sandra K. Dickerson  
Mailed \_\_\_\_\_ Hand Delivered fixed x \_\_\_\_\_

Dated: Monday, November 05, 2012  
Patty O. Weeks  
Clerk Of The District Court

By: Patty O. Weeks  
Deputy Clerk  
DOC22 7/96



**ORIGINAL**

FILED

2012 NOV 16 AM 7 49

*Paul J. Damm*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,

Defendant.

CASE NO. CR2012-0000082

ORDER GRANTING PERMISSIVE  
APPEAL

Having read and considered the State's Motion for Permission to Appeal pursuant to Idaho Appellate Rule 12, and being fully advised in this matter,

The Court hereby Grants State's Motion for Permissive Appeal.

DATED this 15<sup>th</sup> day of November, 2012

*CEB*

District Judge

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing ORDER was

- (1) \_\_\_\_\_ hand delivered, or
- (2)  hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

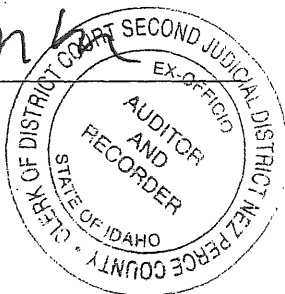
Sandra K. Dickerson  
Chief Deputy Prosecutor  
1221 "F" Street  
Lewiston, ID 83501

DATED this 16<sup>th</sup> day of November, 2012.

CLERK OF THE COURT

*[Handwritten Signature]*

Clerk



COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status Conference

Hearing date: 11/20/2012

Time: 1:12 pm

Judge: Carl B. Kerrick

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 11238 Defendant not present.
- 11249 Mr. Radakovich addresses the Court and Defendant is still incarcerated in Asotin County.
- 11257 Ms. Smith addresses the Court and the State has filed a Motion for Permissive Appeal.
- 11300 Court addresses counsel.
- 11332 Ms. Smith will prepare order.
- 11338 Mr. Radakovich addresses the Court.
- 11448 Court recess.



FILED

2012 DEC 28 PM 3:32

# In the Supreme Court of the State of Idaho

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT

*Stephen W. Kenyon*  
DEPUTY

IN THE MATTER OF THE MOTION FOR  
PERMISSIVE APPEAL.

-----  
STATE OF IDAHO,

Plaintiff,

v.

KYLE ALAN RICHARDSON,

Defendant.

ORDER GRANTING MOTION FOR  
PERMISSIVE APPEAL

Supreme Court Docket No. 40507-2012  
Nez Perce County District Court No.  
2012-82

Ref. No. 12-627

A MOTION FOR PERMISSIVE APPEAL with Appendixes A, B, and C attached was filed by counsel for Plaintiff on November 26, 2012, requesting permission to file an appeal from the OPINION AND ORDER ON MOTION TO ADMIT PRELIMINARY HEARING TRANSCRIPT TESTIMONY OF ROBERT BAUER—DECEASED filed in the district court on October 23, 2012. Thereafter, an ORDER GRANTING PERMISSIVE APPEAL was entered in the district court on November 16, 2012. Subsequently, an OBJECTION TO MOTION FOR PERMISSIVE APPEAL was filed by counsel for Defendant on December 20, 2012. This Court being fully advised; therefore, good cause appearing,

IT HEREBY IS ORDERED that Plaintiff's MOTION FOR PERMISSIVE APPEAL be, and hereby is, GRANTED and the Plaintiff SHALL BE GRANTED LEAVE TO APPEAL BY PERMISSION, pursuant to Idaho Appellate Rule 12, from the district court's OPINION AND ORDER ON MOTION TO ADMIT PRELIMINARY HEARING TRANSCRIPT TESTIMONY OF ROBERT BAUER—DECEASED filed in the district court on October 23, 2012.

IT FURTHER IS ORDERED that counsel for the Plaintiff shall file a NOTICE OF APPEAL with the Clerk of the District Court ON OR BEFORE TWENTY-ONE (21) DAYS FROM THE DATE OF THIS ORDER, which appeal shall proceed as if from a final judgment or order entered by the District Court.

DATED this 28<sup>th</sup> day of December, 2012.

By Order of the Supreme Court

*Stephen W. Kenyon*  
Stephen W. Kenyon, Clerk

cc: Counsel of Record  
District Court Clerk  
District Judge Carl B. Kerrick

ORDER GRANTING MOTION FOR PERMISSIVE APPEAL – Docket No. 40507-2012

**FILED**  
**In the Supreme Court of the State of Idaho**

2012 DEC 28 PM 3 32

IN THE MATTER OF THE MOTION FOR  
PERMISSIVE APPEAL. PATTY O. WEEKS  
CLERK OF THE DIST. COURT

STATE OF IDAHO,

Plaintiff,

v.

KYLE ALAN RICHARDSON,

Defendant.

DEPUTY

ORDER WITHDRAWING  
DECEMBER 28, 2012 ORDER  
GRANTING MOTION FOR  
PERMISSIVE APPEAL

Supreme Court Docket No. 40507-2012

Nez Perce County District Court No.

2012-82

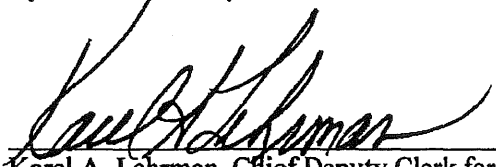
Ref. No. 12-627

On December 28, 2012, an ORDER GRANTING MOTION FOR PERMISSIVE APPEAL was issued by this Court. Soon thereafter, it was determined that this ORDER GRANTING MOTION FOR PERMISSIVE APPEAL *was improvidently granted* and, therefore, issued in error. This Court being fully advised; therefore, good cause appearing,

IT HEREBY IS ORDERED that the ORDER GRANTING MOTION FOR PERMISSIVE APPEAL be, and hereby is, WITHDRAWN and the Motion for Permissive Appeal with Appendixes attached filed November 26, 2012, along with the Objection to Motion for Permissive Appeal filed December 20, 2012, SHALL REMAIN PENDING FURTHER ORDER OF THIS COURT.

DATED this 28<sup>th</sup> day of December, 2012.

By Order of the Supreme Court

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

cc: Counsel of Record  
District Court Clerk  
District Judge Carl B. Kerrick

ORDER WITHDRAWING DECEMBER 28, 2012 ORDER GRANTING MOTION FOR PERMISSIVE APPEAL

FILED

In the Supreme Court of the State of Idaho

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*Patty O. Weeks*  
DEPUTY

IN THE MATTER OF THE MOTION FOR )  
PERMISSIVE APPEAL. )  
----- )  
STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KYLE ALAN RICHARDSON, )  
 )  
Defendant. )

ORDER GRANTING MOTION FOR  
PERMISSIVE APPEAL  
Supreme Court Docket No. 40507-2012  
Nez Perce County Docket No. 2012-82  
Ref. No. 12-627

A MOTION FOR PERMISSIVE APPEAL with Appendixes A, B, and C attached was filed by counsel for Plaintiff on November 26, 2012, requesting permission to file an appeal from the OPINION AND ORDER ON MOTION TO ADMIT PRELIMINARY HEARING TRANSCRIPT TESTIMONY OF ROBERT BAUER – DECEASED filed in Nez Perce County case number CR 2012-0082 on October 23, 2012. An ORDER GRANTING PERMISSIVE APPEAL was entered by the district court on November 16, 2012. Subsequently, an OBJECTION TO MOTION FOR PERMISSIVE APPEAL was filed by counsel for Defendant on December 20, 2012. Thereafter, on December 28, 2012, this Court entered an ORDER GRANTING MOTION FOR PERMISSIVE APPEAL and an ORDER WITHDRAWING DECEMBER 28, 2012 ORDER GRANTING MOTION FOR PERMISSIVE APPEAL. The Court is fully advised; therefore, good cause appearing,

IT HEREBY IS ORDERED that Plaintiff's MOTION FOR PERMISSIVE APPEAL be, and hereby is, GRANTED and the Plaintiff SHALL BE GRANTED LEAVE TO APPEAL BY PERMISSION, pursuant to Idaho Appellate Rule 12, from the district court's OPINION AND ORDER ON MOTION TO ADMIT PRELIMINARY HEARING TRANSCRIPT TESTIMONY OF ROBERT BAUER – DECEASED filed in the district court in Nez Perce County case number CR 2012-0082.

IT FURTHER ORDERED that counsel for the Plaintiff shall file a NOTICE OF APPEAL with the Clerk of the District Court ON OR BEFORE TWENTY-ONE (21) DAYS FROM THE DATE OF THIS ORDER, which appeal shall proceed as if from a final judgment or order entered by the district court.

DATED this 8<sup>th</sup> day of January, 2013.

By Order of the Supreme Court

Stephen Kenyon  
Stephen W. Kenyon, Clerk

cc: Counsel of Record  
District Court Clerk  
District Judge Carl B. Kerrick



LAWRENCE G. WASDEN  
Attorney General  
State of Idaho

PAUL R. PANTHER  
Deputy Attorney General  
Chief, Criminal Law Division

KENNETH K. JORGENSEN  
Idaho State Bar # 4051  
Deputy Attorney General  
P. O. Box 83720  
Boise, Idaho 83720-0010  
(208) 334-4534

**FILED**  
2013 JAN 14 PM 12:06  
PATLY O. WEEB  
CLERK OF THE DISTRICT COURT  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR NEZ PERCE COUNTY

STATE OF IDAHO	)	
	)	
Plaintiff-Appellant,	)	District Court No. CR-2012-82
	)	Supreme Court No. 40507-2012
vs.	)	
	)	NOTICE OF APPEAL
KYLE A. RICHARDSON,	)	
	)	
Defendant-Respondent.	)	
	)	

TO: KYLE A. RICHARSON, THE ABOVE-NAMED RESPONDENT,  
DANNY RADAKOVICH, ATTORNEY AT LAW, 1624 G STREET, LEWISTON, ID  
83501 AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant, State of Idaho, appeals against the above-named respondent to the Idaho Supreme Court from the OPINION AND ORDER ON MOTION TO ADMIT PRELIMINARY HEARING TRANSCRIPT

TESTIMONY OF ROBERT BAUER - DECEASED, entered in the above-entitled action on the 23rd day of October 2012, the Honorable Carl B. Kerrick 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 12, I.A.R., and the Order Granting Motion for permissive Appeal entered by the Idaho Supreme Court on January 8, 2012.

3. Preliminary statement of the issue on appeal: Whether the district court erred by excluding transcribed testimony of a deceased witness.

4. To undersigned's knowledge, no part of the record has been sealed.

5. Appellant requests the preparation of the following portions of the reporter's transcript: The hearing on the state's motion *in limine* heard September 20, 2012 (Nancy Towler, court reporter; estimated pages: unknown). Appellant requests that the previously prepared transcript of the preliminary hearing, held February 22, 2012, be included in the record as an exhibit.

6. Appellant requests the normal clerk's record pursuant to Rule 28, I.A.R.

7. I certify:

(a) That a copy of this notice of appeal is being served on each reporter of whom a transcript has been requested as named below at the address set out below:

LINDA CARLTON  
Court Reporter  
Nez Perce Courthouse  
P.O. Box 896  
Lewiston, Idaho 83501

NANCY TOWLER  
Court Reporter  
Nez Perce Courthouse  
P.O. Box 896  
Lewiston, Idaho 83501

(b) That arrangements have been made with the Nez Perce County Prosecuting Attorney who will be responsible for paying for the reporter's transcript;

(c) That the appellant is exempt from paying the estimated fee for the preparation of the record because the State of Idaho is the appellant (Idaho Code § 31-3212);

(d) That there is no appellate filing fee since this is an appeal in a criminal case (I.A.R. 23(a)(8));

(e) That service is being made upon all parties required to be served pursuant to Rule 20, I.A.R.

DATED this 14th day of January 2013.



KENNETH K. JORGENSEN  
Deputy Attorney General  
Attorney for the Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 14th day of January 2013, caused a true and correct copy of the attached NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

THE HONORABLE CARL B. KERRICK  
Nez Perce County Courthouse  
P.O. Box 896  
Lewiston, Idaho 83501

SANDRA DICKERSON  
Nez Perce County Prosecutor's Office  
P.O. Box 1267  
Lewiston, Idaho 83501

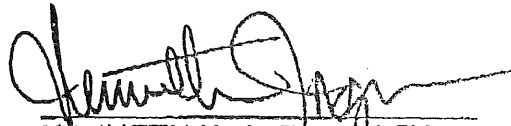
DANNY RADA KOVICH  
Attorney at Law  
1624 G Street  
Lewiston, ID 83501

LINDA CARLTON  
Court Reporter  
Nez Perce Courthouse  
P.O. Box 896  
Lewiston, Idaho 83501

NANCY TOWLER  
Court Reporter  
Nez Perce Courthouse  
P.O. Box 896  
Lewiston, Idaho 83501

HAND DELIVERY

MR. STEPHEN W. KENYON  
CLERK OF THE COURTS  
P.O. Box 83720  
Boise, Idaho 83720-0101

  
KENNETH K. JORGENSEN  
Deputy Attorney General

KKJ/pm

IDAHO SUPREME COURT



FILED IDAHO COURT OF APPEALS

2013 JAN 22 AM 8 23

Clerk of the Courts  
(208) 334-2210

P.O. Box 83720

Boise, Idaho 83720-0101

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT

DEPUTY  
NOTICE OF APPEAL FILED (T)

Docket No. 40507-2012

STATE OF IDAHO v. KYLE  
ALAN RICHARDSON

Nez Perce County District Court  
#2012-82

A NOTICE OF APPEAL in the above-entitled matter was filed in this office on JANUARY 17, 2013. The DOCKET NUMBER shown above will be used for this appeal regardless of eventual Court assignment.

The CLERK'S RECORD and REPORTER'S TRANSCRIPT(S) must be filed in this office on or before MARCH 25, 2013.

The REPORTER'S TRANSCRIPT(S) MUST BE LODGED with the District Court Clerk or Agency \*\*35 DAYS PRIOR\*\* to the date of filing in this office.

THE REPORTER SHALL FILE A NOTICE OF LODGING WITH THIS COURT.

THE FOLLOWING TRANSCRIPTS (PURSUANT TO I.A.R. 25) SHALL BE LODGED:

MOTION IN LIMINE 9-20-12

Please Note: All notices from the Supreme Court will be served via email to the district court clerk, the court reporter, the district judge, and counsel of record. The Court's email notices to counsel will be sent to the current email address of record according to the Idaho State Bar. If you would like others to receive additional electronic notices of the proceedings in this appeal please call the Supreme Court Clerk's Office at 334-2210. Pro se without a valid email address will be sent via U.S. Mail.

For the Court:  
Stephen W. Kenyon  
Clerk of the Courts

01/17/2013 DB

TO: Clerk of the Court  
Idaho Supreme Court  
P.O. Box 83720  
Boise, ID 83720-0101

DOCKET NO. 40507-2012

(  
( State of Idaho,  
(  
( vs.  
(  
(  
( Kyle Alan Richardson

**NOTICE OF TRANSCRIPT LODGED**

Notice is hereby given that on February 7, 2013, I, Nancy K. Towler, C.S.R., lodged an electronic transcript of 15 pages in length for the above-referenced appeal with the District Court Clerk of the County of Nez Perce in the Second Judicial District.

Included therein: Motion Hearing, September 20, 2012.

I also filed an electronic copy with the Supreme Court of the State of Idaho on the same date.

---

Nancy K. Towler, C.S.R. #623

FILED

2013 FEB 20 AM 9 13

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*Alan Richardson*

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,  
  
Plaintiff-Appellant,  
  
vs.  
  
KYLE ALAN RICHARDSON,  
  
Defendant-Respondent.

Supreme Court Case No. 40507

NOTICE OF SERVICE OF CLERK'S RECORD

NOTICE IS HEREBY GIVEN that one (1) CD-R entitled CR12-82, State vs. Kyle Alan Richardson, Clerk's Record and Reporter's Transcript in PDF format was hand delivered or mailed postage prepaid by priority mail to the following: Mr. Danny J. Radakovich, 1624 G Street, Lewiston, ID 83501 and Mr. Lawrence G. Wasden, P O Box 83720, Boise, ID 83502-0010.

Dated this 20 day of February 2013.

PATTY O. WEEKS, Clerk

By *Alan Richardson*  
Deputy



COPIES TO:

Mr. Stephen W. Kenyon  
Clerk of the Supreme Court

Mr. Danny J. Radakovich  
1624 G Street  
Lewiston, ID 83501

Mr. Lawrence G. Wasden  
Attorney General  
P.O. Drawer 83720  
Boise, ID 83702-0010



IN THE SUPREME COURT OF THE STATE OF IDAHO

**FILED** Docket No. 40507

2014 JUN 30 AM 10 05

STATE OF IDAHO, )

PATTY O. WEEKS )

Plaintiff-Appellant, )  
CLERK OF THE DIST. COURT )

*Stephen W. Kenyon* )  
DEPUTY )

v. )

KYLE ALAN RICHARDSON, )

Defendant-Respondent. )

Coeur d'Alene, April 2014 Term

2014 Opinion No. 63

Filed: June 24, 2014

Stephen W. Kenyon, Clerk

Appeal from the district court of the Second Judicial District of the State of Idaho, Nez Perce County. Hon. Carl B. Kerrick, District Judge.

The order of the district court is reversed and the case is remanded for proceedings consistent with this Opinion.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, attorney for appellant. Kenneth K. Jorgensen argued.

Danny J. Radakovich, Lewiston, attorney for respondent.

W. JONES, Justice

**I. NATURE OF THE CASE**

The State charged Kyle A. Richardson with three counts of delivery of a controlled substance in violation of I.C. § 37-2732(a)(1)(A). After a preliminary hearing in which a confidential informant testified for the State, the State filed a motion requesting that the district court allow the State to admit into evidence at trial a transcript of the confidential informant's preliminary hearing testimony. The State sought admission of the confidential informant's testimony because the confidential informant had died and thus was unavailable as a witness for trial. The district court issued an opinion and order denying the State's motion. The State filed a motion for a permissive appeal of the district court's order. This Court granted the State's motion and the State appealed. We reverse the district court.

**II. FACTUAL AND PROCEDURAL BACKGROUND**

On January 4, 2012, the State filed a criminal complaint charging Richardson with three counts of delivery of a controlled substance in violation of I.C. § 37-2732(a)(1)(A). The State alleged that on or about September 7, September 9, and September 14, 2011, Richardson unlawfully delivered methamphetamine, a schedule II controlled substance, to "CI11-L02."<sup>1</sup>

On February 22, 2012, the magistrate court held a preliminary hearing. The State called Detective Brett Dammon of the Lewiston Police Department (LPD) and Robert Bauer, a confidential informant for LPD, to testify. Dammon explained that LPD had Bauer arrange and conduct three controlled deliveries in which Bauer purchased methamphetamine from Richardson with prerecorded money under LPD's surveillance.

Bauer testified that he participated in a LPD investigation targeting Richardson. He explained that he purchased methamphetamine from Richardson three times in early September as a confidential informant for LPD. Bauer also testified that he had contact with Richardson after the three controlled deliveries. According to Bauer, Richardson came by Bauer's house because "[h]e wanted to talk to me about this." Bauer then testified that he told Richardson he was the confidential informant and that he was "really surprised" that Richardson "didn't seem real surprised." Bauer had known Richardson for about twenty years, first from working together and then from "drug[s]."

Richardson's attorney then cross-examined Bauer. Bauer admitted that he was addicted to methamphetamine around the time of the deliveries, but claimed that he did not consume any methamphetamine on the day of each purchase. He agreed that he began working as a confidential informant "to work off some criminal charges they ['the drug detectives'] were going to bring against" him. He testified that he did not know how many charges he might have been facing, but he thought that they were "just possession and maybe intent to deliver" methamphetamine. Bauer was asked about his ability to remember the three controlled deliveries and some specifics about them. He was also asked if he had any felony convictions and Bauer admitted to one prior felony conviction for possession of methamphetamine in 2001. He also admitted to selling methamphetamine to Richardson prior to the three controlled deliveries.

---

<sup>1</sup> On January 10, 2012, Richardson filed a request for discovery. According to Richardson, the State responded to his request for discovery on January 12, 2012. He claims that the State's response listed "CI11-L02" as a witness and that the State did not provide him with the name, address, or contact information of "CI11-L02." The State's response is not in the record. Richardson moved to augment the record with the State's discovery response, but the Court denied Richardson's motion to augment the record without prejudice. Richardson did not renew his motion.

Based on the testimony of Dammon and Bauer, the magistrate court found substantial proof that Richardson committed the crimes charged in the complaint and bound him over to district court. On February 22, 2012, the State filed an information. On March 2, 2012, the district court set a jury trial for June 4, 2012. On May 1, 2012, the State moved for a continuance of the jury trial “based on a key witness being unavailable from June 4, 2012, through June 8, 2012.” The district court granted the State’s motion and rescheduled the jury trial for August 20, 2012.

On July 31, 2012, the State moved to admit a transcript of the preliminary hearing testimony of Bauer because Bauer was now deceased. The State requested that the district court enter an order allowing the introduction of a transcript of his preliminary hearing testimony at trial. Richardson objected to the State’s motion.

On October 23, 2012, the district court entered an opinion and order denying the State’s motion. The State filed a motion for a permissive appeal of the district court’s order on November 5, 2012. The district court granted the State’s motion and the State appealed. This Court granted the State’s permissive appeal.

### III. ISSUE ON APPEAL

1. Whether the district court erred by denying the State’s motion to admit a transcript of the preliminary hearing testimony of a witness unavailable to testify at trial.

### IV. STANDARD OF REVIEW

“Trial courts have broad discretion when ruling on a motion in limine so we review the district court’s decision to grant or deny a motion in limine for abuse of discretion.” *Cramer v. Slater*, 146 Idaho 868, 878, 204 P.3d 508, 518 (2009) (quoting *Puckett v. Verska*, 144 Idaho 161, 167, 158 P.3d 937, 943 (2007)). “A trial court does not abuse its discretion if it (1) recognizes the issue as one of discretion, (2) acts within the boundaries of its discretion and applies the applicable legal standards, and (3) reaches the decision through an exercise of reason.” *State v. Guess*, 154 Idaho 521, 528, 300 P.3d 53, 60 (2013) (quoting *Johannsen v. Utterbeck*, 146 Idaho 423, 429, 196 P.3d 341, 347 (2008)). The Court freely reviews questions of law. *State v. Meister*, 148 Idaho 236, 239, 220 P.3d 1055, 1058 (2009).

### V. ANALYSIS

- A. **Richardson’s Rights Under The Confrontation Clause Are Not Violated By The Admission Of A Transcript Of Bauer’s Preliminary Hearing Testimony At Trial.**

“The Sixth Amendment’s Confrontation Clause provides that, “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him.” *Crawford v. Washington*, 541 U.S. 36, 42 (2004) (alternation in original) (quoting U.S. CONST. amend. VI). “[T]his provision bars ‘admission of testimonial statements of a witness who did not appear at trial unless he was unavailable to testify, and the defendant had had a prior opportunity for cross-examination.’” *Davis v. Washington*, 547 U.S. 813, 821 (2006) (quoting *Crawford*, 541 U.S. at 53–54). The Confrontation Clause’s reach is limited to “testimonial statements” and “in order for testimonial evidence to be admissible, the Sixth Amendment ‘demands what the common law required: unavailability and a prior opportunity for cross-examination.’” *Michigan v. Bryant*, 131 S. Ct. 1143, 1153 (2011) (quoting *Crawford*, 541 U.S. at 68). The term “testimonial . . . applies at a minimum to prior testimony at a preliminary hearing, before a grand jury, or at a former trial; and to police interrogations.” *Crawford*, 541 U.S. at 68. The Confrontation Clause “is made obligatory on the States by the Fourteenth Amendment.” *Pointer v. Texas*, 380 U.S. 400, 403 (1965).

There is no dispute in this case that Bauer’s statements at the preliminary hearing were testimonial. There also is no dispute that Bauer is unavailable to testify at trial. As such, the only issue is whether Richardson had a prior opportunity for cross-examination of Bauer.

The defendant must have had “a prior opportunity for cross-examination” to admit the preliminary hearing testimony of an unavailable witness without violating the defendant’s constitutional right to confrontation. *Crawford*, 541 U.S. at 53–54. The U.S. Supreme Court in *Crawford* did not define this phrase, but the U.S. Supreme Court recognized that its prior cases held that “preliminary hearing testimony is admissible only if the defendant had an *adequate* opportunity to cross-examine.” 541 U.S. at 57 (emphasis added) (citing *Mancusi v. Stubbs*, 408 U.S. 204, 213–16 (1972); *California v. Green*, 399 U.S. 149, 165–68 (1970); *Pointer*, 380 U.S. at 406–08).

The district court concluded that Richardson did not have an adequate opportunity for cross-examination of Bauer pursuant to the Confrontation Clause. The district court found that Richardson was not informed of the name of the confidential informant until the confidential informant testified at the preliminary hearing and that any claim by the State that Richardson knew the identity of the confidential informant prior to the preliminary hearing was speculative. The district court also noted that the audio recordings of the controlled deliveries did not identify

the confidential informant. Based on these reasons, the district court concluded that Richardson's attorney used his cross-examination of Bauer as an investigatory tool. Due to Richardson's apparent inability to investigate Bauer prior to the preliminary hearing, the district court determined that Richardson did not have an adequate opportunity for cross-examination. We hold that the district court erred in concluding that Richardson was denied an adequate opportunity to cross-examine Bauer at the preliminary hearing.

"*Crawford* did not specifically address what constitutes an 'adequate' opportunity for cross-examination, but the cases the [U.S. Supreme] Court cited, *Pointer*, *Green*, and *Mancusi*, do provide some guidance in assessing whether an adequate opportunity has been afforded." *State v. Mantz*, 148 Idaho 303, 306, 222 P.3d 471, 474 (Ct. App. 2009). There are three indicators of an adequate opportunity for cross-examination based on U.S. Supreme Court case law. "The first indication of an adequate opportunity to cross-examine is representation by counsel." *Id.* (citing *Pointer*, 380 U.S. at 401-02, 407.) A second indication is no significant limitation "in any way in the scope or nature" of counsel's cross-examination. *Id.* (quoting *Green*, 399 U.S. at 166). The third indication is counsel's failure to "show any new and significantly material line of cross-examination that was not at least touched upon" in the preliminary hearing. *Id.* at 307, 222 P.3d at 475 (quoting *Mancusi*, 408 U.S. at 215). These three factors are "illustrative and not meant to be exhaustive or exclusive in the determination of the adequacy of cross-examination under the Confrontation Clause." *Id.* Whether a party had an adequate opportunity to cross-examine is determined on a case-by-case basis. *Id.* at 309, 222 P.3d at 477.

In this case there is no evidence to suggest that Richardson would have introduced any new and material line of cross-examination at trial. Richardson claimed in his objection to the State's motion that it was "not yet known" if Bauer had any criminal convictions in other states. He also claimed that he would have "checked around" for information to contradict Bauer's claim that he was not under the influence of drugs during the controlled deliveries and for information on the benefit Bauer received from the State for his testimony. These claims are nothing more than speculation and conjecture. Richardson presented no evidence, such as an affidavit, to substantiate his claims. Moreover, if any of Richardson's claims come to fruition, Richardson can present those claims as evidence at trial through means other than cross-examination of Bauer. Pursuant to Idaho Rule of Evidence (I.R.E.) 806, Richardson may attack

Bauer's credibility at trial "by any evidence which would be admissible for those purposes if declarant had testified as a witness." I.R.E. 806. "This rule provides that when a hearsay statement has been admitted in evidence, 'the credibility of the declarant may be attacked.'" *State v. Bingham*, 116 Idaho 415, 420, 776 P.2d 424, 429 (1989) (quoting I.R.E. 806). Thus, upon the admission of Bauer's preliminary hearing testimony at trial, Richardson can impeach Bauer within the confines of the rules of evidence.

Further, the magistrate court imposed no limitation in any way in the scope or nature of Richardson's cross-examination of Bauer. Richardson questioned Bauer on all relevant issues for cross-examination at trial: Bauer's recollection of the events in question, his agreement with the State to be a confidential informant in exchange for non-prosecution, his prior felony conviction, his drug addiction, and his relationship with Richardson. With these questions, Richardson inquired into Bauer's potential bias, his motive to testify falsely, the reliability and accuracy of his recollection of the controlled deliveries, and his credibility. There is no claim or finding that Bauer was untruthful or evasive during his testimony and thus his behavior in some way restricted Richardson's ability to impeach Bauer. "Where the defendant has had the opportunity to cross-examine a witness at a preliminary hearing, probing into areas such as bias and testing the veracity of the testimony, cross-examination, and thus confrontation, within the meaning of the Sixth Amendment has been accomplished." *Commonwealth v. Wholaver*, 989 A.2d 883, 904 (Pa. 2010). Based on a review of the preliminary hearing transcript, this Court concludes that Richardson had an adequate opportunity to cross-examine Bauer at the preliminary hearing.

Richardson may have preferred to be more aggressive or thorough with his cross-examination at the preliminary hearing had he known that Bauer would become unavailable, but the Confrontation Clause requires only an adequate opportunity for cross-examination of a witness, not a perfect one. *See Delaware v. Fensterer*, 474 U.S. 15, 20 (1985) ("Generally speaking, the Confrontation Clause guarantees an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish."); *Chambers v. Mississippi*, 410 U.S. 284, 295 (1973) ("[T]he right to confront and to cross-examine is not absolute and may, in appropriate cases, bow to accommodate other legitimate interests in the criminal process.").

In summary, Richardson's failure to offer any evidence of new and material information that he would have confronted Bauer with at trial together with the absence of any other reason

to believe that his cross-examination of Bauer at the preliminary hearing was deficient precludes a finding that Richardson was denied an adequate opportunity to cross-examine Bauer. Based on these reasons, the district court erred by concluding that Richardson's Sixth Amendment right to confrontation would be violated by admission of a transcript of Bauer's preliminary hearing testimony at trial.

**B. Idaho Law Governing The Admission Of Preliminary Hearing Transcripts Permits The Admission Of A Transcript Of Bauer's Preliminary Hearing Testimony At Trial.**

In addition to the Confrontation Clause's requirement of an "adequate" opportunity for cross-examination, I.R.E. 804 imposes requirements to admit preliminary hearing testimony of an unavailable witness at trial. As an exception to the hearsay rule, I.R.E. 804(b)(1) allows the admission of former testimony of an unavailable witness "if the party against whom the testimony is now offered . . . had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination." I.R.E. 804(b)(1). "[S]imilar motive" does not mean "identical motive" . . . [T]he similar-motive inquiry . . . is inherently a *factual* inquiry depending in part on the similarity of the underlying issues and on the context of the . . . questioning." *United States v. Salerno*, 505 U.S. 317, 326 (1992) (Blackmun, J., concurring).

While this Court's opinion in *State v. Elisondo*, 114 Idaho 412, 757 P.2d 675 (1988), may have supported the conclusion that the defendant generally would not have a similar motive at the preliminary hearing to develop the testimony as he would at trial, any such conclusion from *Elisondo* has been overridden by the Legislature's enactment of I.C. § 9-336 in 1989. Ch. 51, § 2, 1989 Idaho Sess. Laws 63, 64; see *Elisondo*, 114 Idaho at 414-15, 757 P.2d at 677-78 (discussing the defense's motive at the preliminary hearing). That statute permits the admission of preliminary hearing testimony of an unavailable witness at trial subject to three findings by the district court. It states in its entirety:

Prior to admitting into evidence recorded testimony from a preliminary hearing, the court must find that the testimony is:

1. Offered as evidence of a material fact and that the testimony is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and
2. That the witness is, after diligent and good faith attempts to locate, unavailable for the hearing; and

3. That at the preliminary hearing, the party against whom the admission of the testimony is sought had an adequate opportunity to prepare and cross-examine the proffered testimony.

I.C. § 9-336. In enacting this legislation, the Legislature stated, “[I]t is the opinion of the legislature that the admission of previously recorded preliminary hearing testimony should be admitted under the safeguards contained within [I.C. § 9-336]. . . . It is the policy of this state that all relevant and admissible evidence should be usable in criminal proceedings.” Ch. 51, § 1, 1989 Idaho Sess. Laws at 64.

In this case there are two issues regarding Idaho’s rules pertaining to admission of preliminary hearing testimony. First, the parties contest whether Richardson had an adequate opportunity to prepare pursuant to I.C. § 9-336. Second, the parties contest whether Richardson had a similar motive to develop the testimony pursuant to I.R.E. 804(b)(1). The similar motive issue is examined first.

The district court concluded that Richardson did not have the same motive to develop Bauer’s testimony at the preliminary hearing as he would have had at trial by reasoning that Richardson had to use his cross-examination of Bauer “as an investigatory tool.” This Court notes that the district court seemed to require that Richardson have the same motive at the preliminary hearing and trial to satisfy I.R.E. 804(b)(1), but this requirement of the same motive is incorrect. The motives must only be similar, not the same or identical. *Salerno*, 505 U.S. at 326 (Blackmun, J., concurring).

Even though Richardson may have used his cross-examination of Bauer for investigatory purposes, Richardson’s motive to develop Bauer’s testimony would have been similar to his motive to develop Bauer’s testimony at trial. The distinction between the fact that Richardson was gathering unknown information at the preliminary hearing and, in contrast, he would be eliciting known information at trial has little significance when examining Richardson’s motive. At the preliminary hearing and at trial, Richardson would possess a similar motive of challenging the State’s evidence against him and discrediting Bauer’s testimony. *Mantz*, 148 Idaho at 311, 222 P.3d at 479 (similar motive at preliminary hearing and trial to prove the defendant’s innocence of the charges by discrediting the witness’s testimony); *see also State v. Lopez*, 258 P.3d 458, 462 (N.M. 2011) (similar motive at preliminary hearing and trial to discredit the State’s case and to argue that the evidence did not establish the defendant’s guilt); *State v. Stano*, 159 P.3d 931, 945 (Kan. 2007) (defendant’s motive at the preliminary hearing and at his trial



were similar: to prove his innocence by discrediting the witness); *State v. Mohamed*, 130 P.3d 401, 405–06 (Wash. Ct. App. 2006) (defendant had similar motive in regard to witness’s credibility and reliability and defendant’s claim that he would have questioned witness further on bias had he known the witness would be unavailable is speculation and “in hindsight”); *People v. Zapfen*, 846 P.2d 704, 729 (Cal. 1993) (similar motive at preliminary hearing and trial to discredit the witness’s testimony that established defendant’s guilt). Richardson’s questions at the preliminary hearing pertained to Bauer’s ability to recall the events in question, his agreement with the State, his prior felony conviction, his drug addiction, and his relationship with Richardson. By asking these kinds of questions, Richardson’s motive was to display Bauer as unreliable, dishonest, and biased, and also to weaken the State’s case. Richardson would have had a similar motive when questioning Bauer at trial. Richardson would seek to probe into Bauer’s motive to lie, his reliability, and his credibility as well as challenge the State’s evidence against him. Although Richardson’s motives at trial and at the preliminary hearing are not necessarily identical, they are similar and thus satisfy I.R.E. 804(b)(1).

The second and final issue is whether Richardson’s cross-examination satisfies the requirement for “an adequate opportunity to prepare” in I.C. § 9-336. This issue turns on whether Richardson knew Bauer was the confidential informant prior to the preliminary hearing. Richardson submits that his lack of knowledge that Bauer was the confidential informant prior to the preliminary hearing denied him an adequate opportunity to prepare. The district court agreed with Richardson, finding that any claim by the State that Richardson knew Bauer was the confidential informant prior to the preliminary hearing was speculative. The State challenges the district court’s finding on appeal.

The district court’s factual finding must be supported by substantial and competent evidence. *See State v. Almaraz*, 154 Idaho 584, 593, 301 P.3d 242, 251 (2013) (requiring substantial evidence to support trial court’s factual findings for ruling on motion to suppress). Here the evidence in the record does not support the district court’s finding that Richardson did not know Bauer was the confidential informant. Richardson provided no evidence to support his claim that he did not know who was “CI11-L02.” Upon seeing Bauer called to the witness stand to testify for the State at the preliminary hearing, Richardson did not ask the district court for more time to prepare or otherwise object for lack of discovery. Richardson did not offer a sworn statement, testimony, or other admissible evidence claiming that he did not know Bauer’s

identity. The statements and oral argument submitted by Richardson's counsel after the preliminary hearing do not constitute evidence. See *Barcamerica Int'l USA Trust v. Tyfield Imps., Inc.*, 289 F.3d 589, 593 n.4 (9th Cir. 2002). Thus, there is simply no evidence in the record showing that Richardson did not know Bauer's identity as the confidential informant.

The only evidence in the record supports the opposite conclusion. Bauer testified that he told Richardson he was the confidential informant and that Richardson was not surprised to learn this information. Richardson provided no evidence to refute Bauer's testimony, such as an affidavit stating that he did not anticipate that Bauer was the confidential informant. In addition, Richardson was provided with the audio recordings of the controlled deliveries. Although the district court determined that "access to the recordings . . . does not identify the confidential informant" or provide Richardson with "enough information to investigate th[e] witness for purposes of cross-examination," there is no reason to believe that Richardson was unable to listen to those recordings and recall the other individual in the conversation with him. Richardson had several previous dealings with Bauer and knew him for twenty years. Hence, the evidence in the record shows that Richardson knew Bauer was the confidential informant or had the means to determine Bauer's identity as the confidential informant. This Court concludes that the district court's finding that Richardson did not know Bauer was the confidential informant was not supported by substantial and competent evidence.

This Court finds it necessary to clarify that these statutory protections in I.C. § 9-336 are for the defendant. The same goes for the constitutional right to confront witnesses: the defendant—not his attorney—has the right to be confronted with the witnesses against him. The attorney merely exercises the right of the defendant through his legal representation. In this case the evidence shows that Richardson knew or had the ability to know prior to the preliminary hearing that Bauer was the confidential informant. If Richardson failed to inform his attorney of this fact, Richardson cannot later claim that he was unable to adequately prepare simply because he failed to communicate with his counsel.

Without this factual finding, Richardson's claim that he was unable to adequately prepare for the cross-examination of Bauer falls apart. Richardson offers no basis for his cross-examination's insufficiency other than his assertion that he was unprepared to cross-examine Bauer at the preliminary hearing because he did not know Bauer would be a witness. We hold

that the district court erred in concluding that either I.R.E. 804(b)(1) or I.C. § 9-336 precluded the admission of a transcript of Bauer's preliminary hearing testimony into evidence at trial.

Based on the above reasons, this Court concludes that the district court erred by determining that a transcript of Bauer's preliminary hearing testimony was inadmissible. If Richardson finds additional information that would be relevant, he can bring a motion in limine before trial to exclude this evidence based on that additional information.

#### **VI. CONCLUSION**

The district court's order on the State's motion in limine is reversed and the case is remanded for further proceedings consistent with this Opinion.

Chief Justice BURDICK, Justices EISMANN, J. JONES and HORTON CONCUR.

Second Judicial District Court, State of Idaho  
and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

FILED )

2014 JUL 8 PM 3 07 )

PATTY O. WEEKS )  
CLERK OF THE DIST. COURT )  
*P. O. Weeks* )  
DEPUTY )

STATE OF IDAHO,  
Plaintiff,  
vs.  
Kyle Alan Richardson,  
Defendant.

Case No: CR-2012-0000082

NOTICE OF HEARING

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

Status/Scheduling Conference Thursday, July 24, 2014 01:15 PM  
Judge: Jay P. Gaskill DJ

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Tuesday, July 08, 2014.

Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_

Private Counsel: Danny J Radakovich  
1624 G Street  
Lewiston, ID 83501

Mailed \_\_\_\_\_ *faxed*  
Hand Delivered  x

Prosecutor: Sandra K. Dickerson

Mailed \_\_\_\_\_ *faxed*  
Hand Delivered  x

Dated: Tuesday, July 08, 2014  
Patty O. Weeks  
Clerk Of The District Court

By: *P. O. Weeks*  
Deputy Clerk  
DOC22 7/96



In the Supreme Court of the State of Idaho

2014 JUL 21 AM 9 32

PATTY O. WEEKS  
CLERK OF THE DIST. COURT.

*William Blum*

STATE OF IDAHO,

Plaintiff-Respondent,

v.

KYLE ALAN RICHARDSON,

Defendant-Appellant.

DEPUTY )

REMITTITUR )

Supreme Court Docket No. 40507 )

Nez Perce County No. 2012-82 )

TO: SECOND JUDICIAL DISTRICT, COUNTY OF NEZ PERCE.

The Court having announced its Opinion in this cause June 24, 2014, which has now become final; therefore,

IT IS HEREBY ORDERED that the District Court shall forthwith comply with the directive of the Opinion, if any action is required.

DATED this 16<sup>th</sup> day of July, 2014.

*William Blum*  
Clerk of the Supreme Court  
STATE OF IDAHO

cc: Counsel of Record  
District Court Clerk  
District Judge  
Publisher(s)

Second Judicial District Court, State of Idaho  
In and For the County of Nez Percé  
1230 Main St.  
Lewiston, Idaho 83501

COPY

STATE OF IDAHO

Plaintiff,

vs.

Kyle Alan Richardson

2115 Birch Ave  
Lewiston, ID 83501

Defendant.

DOB:  
DL:



Case No: CR-2012-0000082

**BENCH WARRANT**

TO ANY SWORN PEACE OFFICER IN THE STATE OF IDAHO:

The Defendant in the above captioned case, having failed to appear for the following court hearing:

Status/scheduling conference 7-24-14 at 1:15 p.m.

Judge: Jay P. Gaskill DJ

Courtroom: 1

Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery  
I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL

**NOW, THEREFORE, THIS IS TO COMMAND YOU** to forthwith arrest the above named Defendant and bring him/her before this Court.

Dated: 7/24/2014

Judge: \_\_\_\_\_

May be served:

Day Only  
 Day or Night

Bond Amount: \$25000.00 Surety

RETURN OF SERVICE

*Fed'l Custody*

*3/2017*

*B.W.*

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the a  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Officer: \_\_\_\_\_

Agency: \_\_\_\_\_

AUTHORIZED FOR TELETYPE  
OR TELEGRAPH SERVICE

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status/Scheduling Conference

Hearing date: 7/24/2014

Time: 1:20 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: Sandra Dickerson

- 12024 Defendant not present. Mr. Radakovich not present.
- 12153 Court will try to get a hold of Mr. Radakovich.
- 12207 Court recess.
- 13003 Mr. Radakovich present. Defendant not present and is in Federal custody with a projected release date of March 2017. State requests bench warrant.
- 13041 Mr. Radakovich addresses the Court re: getting Defendant back here to try these cases.
- 13108 Ms. Smith addresses the Court and Defendant needs to initiate that in Federal Court.
- 13150 Mr. Radakovich addresses the Court and needs to discuss with Defendant whether he will continue with representation in this matter.
- 13224 Court issues bench warrant with bond set at \$25,000.00.
- 13226 Court recess.



Kyle Alan Richardson  
Reg. No: 14759-085  
FCI Terre Haute  
P.O. Box 33  
Terre Haute, IN

FILED  
2015 FEB 2 AM 10 03

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*Patty O. Weeks*  
DEPUTY

Clerk of the Court  
Nez Perce County 47808  
1230 Main Street  
P.O. Box 896  
Nezperce, ID 83501

Re: State v. Richardson, CR-2012-0000082; CR-2011-008658

**DEMAND FOR SPEEDY TRIAL AND FINAL DISPOSITION**

**SIRS:**

PLEASE TAKE NOTICE that the undersigned Kyle A. Richardson pro se, hereby makes demand, pursuant to the 6<sup>th</sup> and 14<sup>th</sup> Amendment to the United States, the Idaho State Constitution, and Idaho Speedy Trial Statutes \_\_\_\_\_ for a speedy trial of the untried criminal charge of PWITD, Possess Wpn, PCS.

Please be further advised that Defendant is presently incarcerated in the Federal Bureau of Prisons (BOP), serving a sentence of 60 months, imposed in the United States District Court, Eastern District of Washington.

That BOP has notified defendant of the pendency of such charge, See above, and same inures to his deficit. Specifically, the pendency thereof causes defendant to be held in a higher security level which otherwise obtains, and serves to deny Defendant participation in rehabilitative and early-release programs.

Trial as to such offenses has not been commenced, nor has any extension been consented to, stipulated, or allowed by court order. No plea of guilty has been entered.



Wherefore, Defendant Kyle Richardson demands a Speedy Trial and final Disposition herein, together with such other and further relief as the court may deem just and proper.

Kyle Richardson  
Kyle Alan Richardson  
Defendant

Pro se

Sworn to before me this 26

Day of January, 2015

Notary Public

CERTIFICATE OF SERVICE

I, Kyle A. Richardson, being duly sworn, depose and say; I am the Defendant herein, on the 26 Day January, 2015 I mailed a true and exact copy of this demand to the prosecuting Attorney Nez Perce County, Idaho via First Class United States Mail.

Nez Perce County  
Prosecuting Attorney  
1221 F. Street  
Lewiston, ID 83501

Kyle Richardson  
Kyle Alan Richardson  
Defendant

Pro se

Sworn to before me this 26

Day of January, 2015

Notary Public

Authorized by the Act  
July 7, 1955 to Administer  
Oaths (18 U.S.C. 4004)  
D. [Signature]  
Case Man.

REGNO...: 14759-085 NAME: RICHARDSON, KYLE ALAN

FBI NO.....: 826439VA8                      DATE OF BIRTH: [REDACTED]                      AGE: 44  
ARS1.....: THA/A-DES  
UNIT.....: 2                                      QUARTERS.....: F02-086U  
DETAINERS.....: NO                                NOTIFICATIONS: NO

HOME DETENTION ELIGIBILITY DATE: 09-02-2016

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.  
THE INMATE IS PROJECTED FOR RELEASE: 03-02-2017 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: WASHINGTON, EASTERN DISTRICT  
DOCKET NUMBER.....: 2:13CR02045-EFS-002  
JUDGE.....: SHEA  
DATE SENTENCED/PROBATION IMPOSED: 05-14-2014  
DATE COMMITTED.....: 09-10-2014  
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT  
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED..:	\$100.00	\$00.00	\$00.00	\$00.00

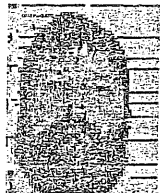
RESTITUTION...: PROPERTY: NO SERVICES: NO                      AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 391  
OFF/CHG: 21:846 CONSPIRACY TO DISTRIBUTE A CONTROLLED SUBSTANCE-  
METHAMPHETAMINE (CT.1)

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE  
SENTENCE IMPOSED/TIME TO SERVE.: 60 MONTHS  
TERM OF SUPERVISION.....: 5 YEARS  
DATE OF OFFENSE.....: 12-01-2012

G0002                      MORE PAGES TO FOLLOW



**Name:** RICHARDSON, KYLE ALAN  
**Register Number:** 14759-085  
**Security/Custody:** MEDIUM/IN  
**Projected Release:** 03-02-2017 / GCT REL

**Institution:** TERRE HAUTE FCI  
 4200 BUREAU ROAD  
 NORTH  
 TERRE HAUTE, IN 47808  
**Telephone:** (812) 238-1531  
**Fax:** 812-238-3301

**Next Review Date:** 01-04-2015  
**Next Custody Review Date:** 01-05-2016  
**Age/DOB/Sex:** [REDACTED]  
**CIM Status:** If yes, reconciled: N

**Driver's License/State:** /  
**FBI Number:** 826439VA8  
**DCDC Number:**  
**INS Number:**  
**PDID Number:**  
**Other IDs:**

**Release Residence:** Alan Richardson, Father  
 2115 BIRCH AVENUE  
 LEWISTON, ID 83501  
**Telephone:** (208) 743-7017

**Release Employer:** [Name]  
 [Address]  
**Contact:** [POC]  
**Telephone:**

**Primary Emergency Contact:** Alan Richardson, Father  
 2115 Birch Avenue  
 Lewiston, ID 83501  
**Telephone:** (208) 743-7017

**Secondary Emergency Contact:** [POC]  
 [Address]  
**Telephone:**

**Mentor Information:**

**Controlling Sentence Information:**

Offense(s)/Violator Offenses	Sentence	Sentencing Procedure	Supervision Term
	60 MONTHS	3559 PLRA SENTENCE	5 YEARS

Controlling Sentence Began	Time Served/Jail Credit/Inoperative Time	Days GCT/EGT/SGT	Days FSGT/WSGT/DGCT	Parole Status
05-14-2014	2 YEARS 2 MONTHS 13 DAYS / 567 / 0	235 / 0 / 0	0 / 0 / 0	Hearing Date: NOT ENTERED Hearing Type: Last USPC Action:

**Detainers:** N

**Special Parole Term:** NOT ENTERED

**Pending Charges:** Yes- DCS, #CR-2012-0000082; PWITD, Possess Wpn, PCS #CR-2011-008658, both Nez Perce County Court, Lewiston, ID

**Cim Status:** Y **Cim Reconciled:** N

Financial Responsibility	Imposed	Balance	Case No./Court of Jurisdiction	Assgn/Schedule Payment
ASSESSMENT USDC	\$100.00	\$50.00	2:13CR02045-EFS-002/ Washington Eastern District	FINANC RESP-PARTICIPATES \$25.00 QUARTERLY

**Financial Plan Active:** Y  
**Financial Plan Date:** 12-11-2014  
**Comm Dep-6 mos:** \$805.72  
**Commissary Balance:** \$177.61

**Payments**

**Commensurate:** Y  
**Missed:** N

**Judicial Recommendations:** Sheridan / IFRP/RDAP/ None

**Special Conditions of** Submit person, res, office, or vehicle to search by USPO; Undergo substance abuse eval, 210

Second Judicial District Court, State of Idaho  
 in and For the County of Nez Perce  
 1230 Main St.  
 Lewiston, Idaho 83501

FILED

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 Kyle Alan Richardson, )  
 )  
 Defendant. )

2015 FEB 10 PM 2 35

PATTY O. WEEKS  
 CLERK OF THE DIST. COURT  
 DEPUTY

Case No: CR-2012-0000082

NOTICE OF HEARING

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

Status Conference Thursday, February 19, 2015 01:15 PM  
 Judge: Jay P. Gaskill DJ

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Tuesday, February 10, 2015.

Defendant: Kyle Alan Richardson #14759-085  
 FCI Terre Haute  
 P O Box 33  
 Terre Haute IN 47808  
 Mailed  Hand Delivered

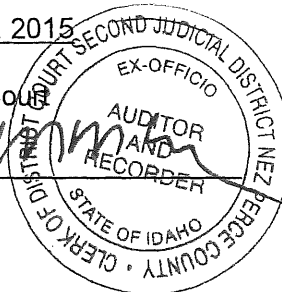
Private Counsel: Danny J Radakovich  
 1624 G Street  
 Lewiston, ID 83501  
 Mailed  Faxed  Hand Delivered

Prosecutor: Sandra K. Dickerson  
 Mailed  Faxed  Hand Delivered

Dated: Tuesday, February 10, 2015

Patty O. Weeks  
 Clerk Of The District Court

By: *[Signature]*  
 Deputy Clerk  
 DOC22 7/96



COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status Conference

Hearing date: 2/19/2015

Time: 1:16 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 11639 Defendant not present.
- 11650 Mr. Radakovich addresses the Court and Defendant is incarcerated in federal prison.
- 11657 Court received demand for speedy trial and disposition.
- 11705 Mr. Radakovich requests the Court set a trial date.
- 11734 Ms. Smith addresses the Court and is working with the Attorney General's Office to get him transported.
- 11800 Mr. Radakovich addresses the Court re: drug treatment program but these matters need to be taken care of before Defendant can participate.
- 11903 Court sets another status conference for 3-12-15 at 1:15 p.m.
- 11920 Court recess.



COURT MINUTES

CR-2011-0008658, CR 12-82  
State of Idaho vs. Kyle Alan Richardson  
Hearing type: Status Conference  
Hearing date: 3/12/2015  
Time: 1:14 pm  
Judge: Jay P. Gaskill DJ  
Courtroom: 1  
Court reporter: Nancy Towler  
Minutes Clerk: JANET  
Tape Number: 1  
Defense Attorney: Danny Radakovich  
Prosecutor: April Smith

11451 Def not present for status conf.  
State is still planning on bring def back from Fed prison.  
Mr. Radakovich q State on time frame.  
State no information yet.

Crt sets another status conf 4/9 at 1:15.

JANET L. KOUGH

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status Conference

Hearing date: 4/9/2015

Time: 2:23 pm

Judge: Jay P. Gaskill DJ

Courtroom: 3

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 3

Defense Attorney: Danny Radakovich

Prosecutor: Justin Coleman

22320 Mr. Radakovich not present. Defendant not present in Federal prison.  
22344 Court resets this matter for 4-23-15 at 1:15 p.m.  
22358 Court recess.

**TERESA DAMMON**

Second Judicial District Court, State of Idaho  
and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

STATE OF IDAHO,

Plaintiff;

vs.

Kyle Alan Richardson, 2015 APR 14 AM 8 50

Defendant. PATTY O. WEEKS

*P. O. Weeks*  
CLERK OF THE DISTRICT COURT

FILED

Case No: CR-2012-0000082

NOTICE OF HEARING

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

Status Conference Thursday, April 23, 2015 01:15 PM  
Judge: Jay P. Gaskill DJ

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Tuesday, April 14, 2015.

Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_

Private Counsel: Danny J Radakovich  
1624 G Street  
Lewiston, ID 83501

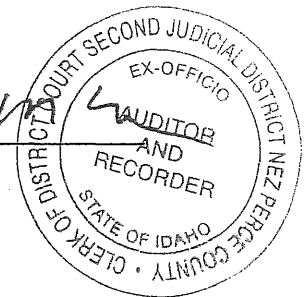
Mailed \_\_\_\_\_ *faxed*  
Hand Delivered  X

Prosecutor: Sandra K. Dickerson

Mailed \_\_\_\_\_ *faxed*  
Hand Delivered  X

Dated: Tuesday, April 14, 2015  
Patty O. Weeks  
Clerk Of The District Court

By: *P. O. Weeks*  
Deputy Clerk  
DOC22 7/96





COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status Conference

Hearing date: 4/23/2015

Time: 2:18 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: Justin Coleman

- 21808 Defendant not present (in Federal custody).
- 21827 Court addresses Mr. Coleman re: getting Defendant back here.
- 21840 Mr. Radakovich addresses the Court.
- 21918 Court will leave it up to the State to get Defendant back here.
- 21928 Mr. Radakovich addresses the Court re: speaking with Ms. Dickerson re: plea agreement.
- 21957 Court sets another status conference for 6-25-15 at 1:15 p.m.
- 22027 Court recess.

Second Judicial District Court, State of Idaho  
and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

FILED

2015 JUN 25 PM 4 41

STATE OF IDAHO,  
Plaintiff,  
vs.  
Kyle Alan Richardson,  
Defendant.

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
DEPUTY

Case No: CR-2012-0000082

NOTICE OF HEARING

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

Status Conference Thursday, July 30, 2015 01:15 PM  
Judge: Jay P. Gaskill DJ

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Thursday, June 25, 2015.

Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Mailed \_\_\_\_\_ Hand Delivered \_\_\_\_\_

Private Counsel: Danny J Radakovich  
1624 G Street  
Lewiston, ID 83501

Mailed \_\_\_\_\_ *faxed*  
Hand Delivered

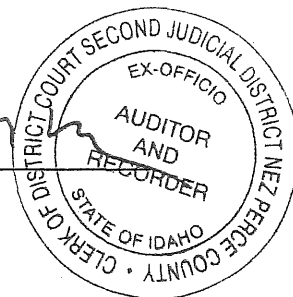
Prosecutor: Sandra K. Dickerson

Mailed \_\_\_\_\_ *faxed*  
Hand Delivered

Dated: Thursday, June 25, 2015

Patty O. Weeks  
Clerk Of The District Court

By: *[Signature]*  
Deputy Clerk  
DOC22 7/96



COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status Conference

Hearing date: 6/25/2015

Time: 1:57 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Linda Carlton

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

15717 Defendant not present, Mr. Radakovich not present and Ms. Smith is present.

15724 Ms. Smith addresses the Court and Defendant is still in prion in Indiana and the NPC Sheriff's Department is working with the prison to get him here. Ms. Smith requests Court set another status conference in 1 month.

15757 Court sets status conference for 7-30-15 at 1:15 p.m.

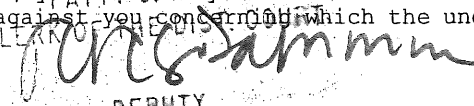
15820 Court recess.

**FILED**

Inmate RICHARDSON, Kyle	Register No. 14759-085	Institution FCI Terre Haute
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2015 JUL 21 AM 11 46

Pursuant to the Interstate Agreement on Detainers Act, you are hereby informed that the following are the untried indictments, informations, or complaints against you concerning which the undersigned has knowledge, and the source and contents of each.

0 WEEKS  
 CLEARANCE  
  
 DEPUTY

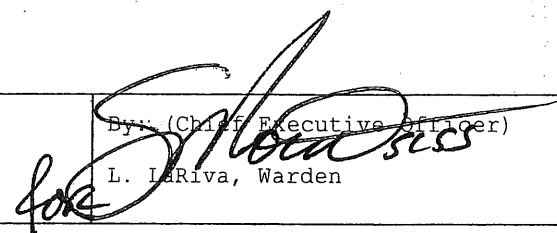
**CR2012-000082 & CR2011-008658  
 POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DISTRIBUTE**

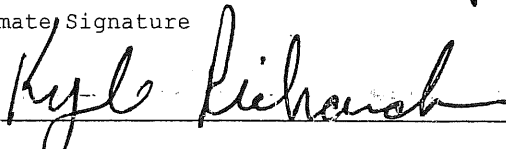
You are hereby further advised that by the provisions of said Agreement you have the right to request the appropriate prosecuting officer of the jurisdiction in which any such indictment, information or complaint is pending and the appropriate court that a final disposition be made thereof. You shall then be brought to trial within 180 days, unless extended pursuant to provisions of the Agreement. After you have caused to be delivered to said prosecuting officer and said court written notice of the place of your imprisonment and your said request, together with a certificate of the custodial authority as more fully set forth in said Agreement. However, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

Your request for final disposition will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against you from the state to whose prosecuting official your request for final disposition is specifically directed. Your request will also be deemed to be a waiver of extradition to the state of trial to serve any sentence there imposed upon you, after completion of your term of imprisonment in this state. Your request will also constitute consent by you to the production of your body in any court where your presence may be required in order to effectuate the purposes of Agreement on Detainer and a further consent voluntarily to be returned to the institution in which you are now confined.

Should you desire such a request for final disposition of any untried indictment, information or complaint, you are to notify the Inmate Systems Manager of the institution in which you are confined.

You are also advised that under provisions of said Agreement the prosecuting officer of a jurisdiction in which any such indictment, information or complaint is pending may institute proceedings to obtain a final disposition thereof. In such event, you may oppose the request that you be delivered to such prosecuting officer or court. You may request the Warden to disapprove any such request for your temporary custody but you cannot oppose delivery on the grounds that the Warden has not affirmatively consented to or ordered such delivery.

Dated July 1, 2015	Name and Title of Custodial Authority Charles E. Samuels Jr, Director	By: (Chief Executive Officer)  L. LaRiva, Warden
-----------------------	---	--

Dated June 1, 2015	Inmate Signature 
-----------------------	--

Original - Inmate, Copy - J&C, Copy - Central File (Section 1)

(This form may be replicated via WP)

Replaces BP-235(58) of OCT 88

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

To: April A. Smith  
 County Prosecutor  
 1221 F Street  
 P.O. Box 1267  
 Lewiston, ID 83501-1267

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, informations or complaints are pending, you are hereby notified that the undersigned is now imprisoned in:

Institution Federal Correctional Institution	Town and State Terre Haute, Indiana
---	--

and I hereby request that a final disposition be made of the following indictments, informations or complaints now pending against me:

**POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DISTRIBUTE**

Failure to take action in accordance with the Interstate Agreement on Detainers Act, to which your state is committed by Law, will result in the invalidation of the indictments, informations or complaints.

I hereby agree that this request will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against me from your state. I also agree that this request shall be deemed to be my waiver of extradition with respect to any charge or proceedings contemplated hereby or included herein, and a waiver of extradition to your state to serve any sentence there imposed upon me, after completion of my term of imprisonment in this state. I also agree that this request shall constitute consent by me to the production of my body in any court where my presence may be required in order to effectuate the purposes of the Interstate Agreement on Detainers Act and a further consent voluntarily to be returned to the institution in which I am now confined.

If jurisdiction over this matter is properly in another agency, court or officer, please designate the proper agency, court or officer and return this form to the sender.

Forms BP-S238(51), Certificate of Inmate Status, and BP-S239(51), Offer of To-Deliver Temporary Custody, are attached.

Dated July 1, 2015	Inmate's Name and Register No. RICHARDSON, Kyle 14759-085
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The inmate must indicate below whether he has counsel or wishes the court in the receiving state to appoint counsel for purposes of any proceedings preliminary to trial in the receiving state which may take place before his delivery to the jurisdiction in which the indictment, information or complaint is pending. Failure to list the name and address of counsel will be construed to indicate the Inmate's consent to the appointment of counsel by the appropriate court in the receiving state.

A. My counsel is (give name) <b>DANNY RADOVICH</b>	whose address is (Street, City State, ZIP)
---	---

B. I request the court to appoint counsel. (Inmate's Signature)

Record Copy - State IAD Administrator; Copy: J&C File; Copy: Central File (Section 1), Copy - Prosecuting Official (Mail Certified Return Receipt), Copy - Clerk of Court (Mail Certified Return Receipt); Copy - Inmate

DATE: July 7, 2015

To: April A. Smith, County Attorney  
1221 F Street  
P.O. Box 1267  
Lewiston, ID 83501-1267

Jurisdiction:

Nez Perce County

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, information or complaints are pending.

re:

Register No:

RICHARDSON, Kyle

14759-085

Pursuant to the provisions of Article V of the Interstate Agreement on Detainers Act between this state and your state, the undersigned hereby offers to deliver temporary custody of the above-named prisoner to the appropriate authority in your state in order that speedy and efficient prosecution may be had of the indictment, information or complaint which is described in the attached inmate's request dated: N/A.

If proceedings under Article IV(d) of the Interstate Agreement on Detainers Act are indicated, an explanation is attached.

Indictments, informations or complaints charging the following offenses also are pending against the inmate in your state and you are hereby authorized to transfer the inmate to custody of appropriate authorities in these jurisdictions for purposes of these indictments, informations or complaints.

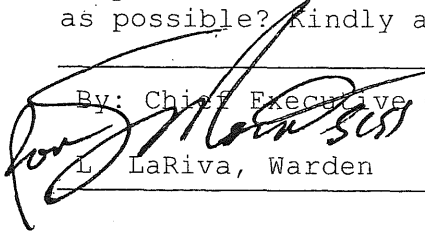
Offense

N/A

County or other Jurisdiction

N/A

If you do not intend to bring the inmate to trial, will you please inform us as soon as possible? Kindly acknowledge.

By:  L. LaRiva, Warden	Institution and Address FCI Terre Haute	Name/Title Custodial Authority Charles E. Samuels Jr, Director
---	--	---

Record Copy - State IAD Administrator; Copy - J & C File; Copy - Central File (Section 1); Copy Prosecuting Official (Mail Certified Return Receipt); Copy - Clerk of Court (Mail Certified Return Receipt); Copy - Inmate

(This form may be replicated via WP)

Replaces BP-239(58) October 88

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate's Name: <b>RICHARDSON, Kyle</b>	Register No: <b>14759-085</b>	Institution: <b>FCI Terre Haute</b>
---	----------------------------------	--

Institution's Address:

**FCI Terre Haute, 4700 Bureau Road South, Terre Haute, IN 47802**

The (Custodial Authority) hereby certifies:

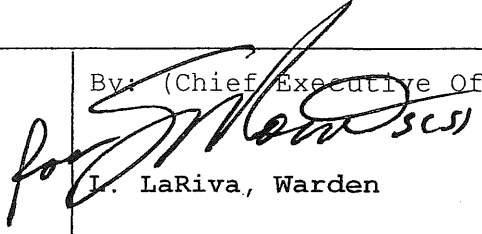
1. The term of commitment under which the prisoner above named is being held:  
**60 MONTHS**

2. The Time Already Served <b>2 Years 8 Months 13 Days</b>	3. Time Remaining to be Served on the Sentence <b>1 Year 7 Months 25 Days</b>
4. The Amount of Good Time Earned <b>108 Days</b>	5. The Date of Parole Eligibility of the Prisoner <p style="text-align: center;"><b>N/A</b></p>

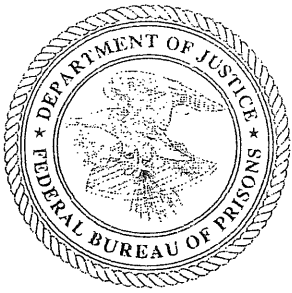
6. The decisions of the U.S. Parole Commission relating to the Prisoner **N/A**

7. Maximum expiration date under present sentence: **10-23-2017**

8. Detainers currently on file against this inmate from your state are as follows:  
**April A. Smith, County Attorney**  
**1221 F Street**  
**P.O. Box 1267**  
**Lewiston, ID 83501-1267**

Dated  <b>July 7, 2015</b>	Name and Title of Custodial Authority  <b>Charles E. Samuels Jr, Director</b>	By: (Chief Executive Officer)  <b>I. LaRiva, Warden</b>
----------------------------------	---	---

Record Copy - State IAD Administrator; Copy - J & C File; Copy - Central File (Section 1); Copy - Prosecuting Official (Mail Certified Return Receipt); Copy - Clerk of Court (Mail Certified Return Receipt); Copy - Inmate



U.S. Department of Justice  
Federal Bureau of Prisons  
Federal Correctional Institution  
4700 Bureau Road South  
Terre Haute, IN 47802  
(812)238-1531 ext 3416  
(812)238-3316 (fax)

July 7, 2015

April A. Smith  
County Attorney  
1221 F Street  
P.O. Box 1267  
Lewiston, ID 83501-1267

RE: RICHARDSON, Kyle  
Reg. No: 14759-085  
Your: CR2012-000082, CR2011-008658

Dear April A Smith:

The above referenced defendant has requested disposition of pending charges in your jurisdiction pursuant to the Interstate Agreement on Detainers Act (IADA). Necessary forms are enclosed.

We request action be taken under Article III of the IADA. IADA Forms VI, "Evidence of Agents' Authority to Act for Receiving State" and VII, "Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer" should be submitted to us, as necessary. The persons who are the designated agents to return the prisoner to your State must also be the persons whose signatures appear on the Form VI. It would be advisable to designate alternate agents whose signatures must also appear on the IADA Form VI, in the event the primary agents are unable to make the trip. Also be advised that the designated agents must have in their possession a copy of the IADA Form VI, proper identification, and a certified copy of the warrant when assuming custody of the prisoner. Any questions regarding this procedure may be directed to the individual listed below or the Agreement Administrator for your State.

Inmates who are temporarily transferred pursuant to the IADA remain under the primary jurisdiction of federal authorities. **Should you accept temporary custody of this inmate, we wish to remind you that under Article V(e) of the IADA, you are required to return the above named inmate to this institution after prosecution on all pending charges.**



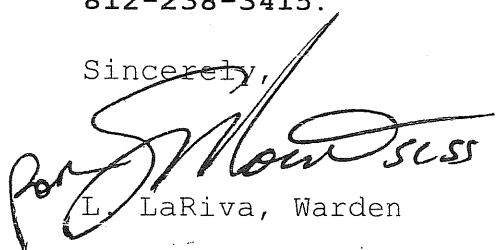
While this inmate is in your temporary custody, he will be held in a suitable jail that meets the level of security required by the Bureau of Prisons. Inmate RICHARDSON is IN custody, and requires a minimum of 2 staff escorts, handcuffs, martin chain, leg irons, and a black box at all times while outside the confines of the jail or court. Any problems associated with this inmate must be reported to the individual listed below.

This inmate may not be released on bail or bond while in your custody. Additionally, this inmate is not to be committed to a state correctional institution for service of any state sentence(s) that may be imposed because of your prosecution.

To help us with processing, please fill out the enclosed certification form and return to us before scheduling a date for assuming custody. Upon completion of the State proceedings contact this office to schedule a date for the inmate's return to federal custody.

If you have any questions on this matter, please call:  
Steve Morin, Supervisory Correctional Systems Specialist, at  
812-238-3415.

Sincerely,



L. LaRiva, Warden

cc: Clerk of Court  
State IADA Administrator  
J&C File  
Central File  
Prosecutor

Five copies. All copies, with original signatures by the Prosecutor and the Agents, should be sent to the Administrator in the RECEIVING State. After signing all copies, the Administrator should retain one copy for his file, send one copy to the Warden, Superintendent or Director of the Institution in which the prisoner is located and return two copies to the Prosecutor who will give one to the Agents for use in establishing their authority and place one in his file. One copy should also be forwarded to the Agreement Administrator in the sending file.

Evidence of Agent's Authority to Act for Receiving State

To: (Administrator and Address)

Inmate (Name and Register No.)  
RICHARDSON, Kyle 14759-085

is confined in (Institution and address)  
FCI Terre Haute  
4700 Bureau Road South  
Terre Haute, IN 47802

and will be taken into custody at said Institution on (date) \_\_\_\_\_ for return to the County of Nez Perce, State of Idaho for trial. In accordance with Article V(b), of said Agreement, I have designated:

Agent's Name and Department Represented

Agent's Name and Department Represented

Agent's Name and Department Represented

whose signatures appear below as Agents to return the prisoner.

(Agent's Signature)

(Agent's Signature)

Dated

Prosecuting Official's Signature

- a. Title -
- b. County -
- c. Address -

- d. City/State -
- e. Telephone No -

Evidence of Agent's Authority Continued

To: (Warden-Superintendent-Director)

L. LaRiva, Warden

In accordance with the above representations and the provisions of the Agreement on Detainers, the persons listed above are hereby designated as Agents for the State of Idaho to return RICHARDSON, Kyle 14759-085 to the county of Nez Perce, State of Idaho, for trial.

At the completion of the trial (Inmate) RICHARDSON, Kyle 14759-085 shall be returned to the (Institution and Address):

FCI Terre Haute  
4700 Bureau Road South  
Terre Haute, IN 47802

Dated

Detainer Administrator's Signature

a. Name -

c. City/State

b. Address -

d. Telephone No.

(This form may be replicated via WP)

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

IMPORTANT: This form should only be used when an offer of temporary custody has been received as the result of a prisoner's request for disposition of a detainer. If the offer has been received because another prosecutor in your state has initiated the request, use Form VIII. Copies of IAD VII (BP-S566(51)) should be sent to the warden, the prisoner, the other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrator of both the sending and receiving states. Copies should be retained by the person filing the acceptance and the judge who signs it.

Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer

To: (Warden-Superintendent-Director) - Institution and Address

L. LaRiva, Warden  
USP Terre Haute  
4700 Bureau Road South  
Terre Haute, IN 47802

In response to your letter of July 7, 2015, and offer of temporary custody regarding RICHARDSON, Kyle 14759-085, who is presently under indictment, information or complaint in the county of Nez Perce, state of Idaho, of which I am the County Attorney, please be advised that I accept temporary custody and that I propose to bring this person to trial on the indictment, information or complaint named in the offer within the time specified in Article III(a) of the Agreement on Detainers.

Comments: (If your jurisdiction is the only one named in the offer of temporary custody, use the space below to indicate when you would like to send your agents to transfer the prisoner to your jurisdiction. If the offer of temporary custody has been sent to other jurisdiction in your state, use the space below to make inquiry as to the order in which you will receive custody, or to indicate any arrangements you have already made with other jurisdictions in your state in this regard).

## Special Arrangements

Dated	Printed Name and Signature	
Name/Title	Address	
City/State	Telephone No.	

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request, I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainers.

Dated	Judge's Printed Name and Signature	
Court	Judicial District	Address
City/State	Telephone No.	

(This form may be replicated via WP)

This is to certify that I, April A. Smith, County Attorney, hereby request temporary custody of RICHARDSON, Kyle 14759-085 via: IAD State Writ (check one), and do hereby agree to the following conditions in connection with the request for custody of said inmate.

**Conditions**

- a. Agree that said inmate will be provided safekeeping, custody, and care and will assume responsibility for that custody to include providing the inmate with the same level of security required by Bureau of Prisons Policy.
- b. Agree to report to the Bureau of Prisons any problems associated with said inmate, to include disciplinary problems, medical emergencies, suicide attempt, escape or attempted escape or any other problem arising during commitment.
- c. Agree not to release said inmate on bail or bond or to commit them to an institution for service of any sentence imposed in connection with our prosecution.
- d. Agree to return said inmate to the federal institution from which they were obtained at the conclusion of the inmate's appearance in the proceeding for which obtained.
- e. Agree to notify the local jail authority of the responsibility to return the inmate to federal custody.

As the Prosecuting Official for the County of Nez Perce, State of Idaho, I, April A Smith, Title, County Attorney, hereby submit the following information in connection with my request for temporary custody of RICHARDSON, Kyle 14759-085.

**Information**

1. Name of facility, location, contact person, and phone number where the inmate will be confined during legal proceedings.

2. Scheduled date for trial.

3. Projected date of return of the prisoner to federal custody:

4. Name and phone number of the state agency, specific name of agent(s) who will transport the inmate at direction of the court and whether a private carrier, contractor (if permitted by Bureau of Prisons policy), state agency, or the USMS, will be transporting the inmate for the state.

5. Need for appearance of inmate and nature of action.

6. For State Writ cases only (not required for IAD):

a. Name and address of court issuing writ, name of the judge, and name, address, and phone number of clerk of the court.

b. Reason production on writ is necessary and reason another alternative is not available (for civil cases).

7. Signature and Title of Prosecutor

Date

Subscribed and sworn before (Date): \_\_\_\_\_

Signature of Notary Public:

Date

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status Conference

Hearing date: 7/30/2015

Time: 1:13 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

11347 Defendant not present is in Federal prison.

11400 Ms. Smith addresses the Court and the State was missing 1 form to get Defendant in our custody and that has now been provided. Ms. Smith requests 4 week continuance so transport can be worked out.

11427 Mr. Radakovich addresses the Court and indicates he saw an order by a Federal Judge allowing transport.

11505 Court sets another status conference for 8-27-15 at 1:15 p.m.

11523 Court recess.

IN THE JUDICIAL CIRCUIT COURT

COUNTY OF NEZ PERCE

: STATE OF IDAHO

**FILED**

2015 AUG 14 AM 9 45

PEOPLE OF THE STATE OF IDAHO

) No. CR 2012-000082  
CLERK OF THE DIST. COURT

Plaintiff,

2011-008658

VS.

*Richardson*

KYLE ALAN RICHARDSON,

Defendant.

**DEFENDANT KYLE RICHARDSON'S MOTION TO DISMISS AND FOR FINAL DISPOSITION**

COMES NOW, defendant Kyle A. Richardson (Defendant), pro se, and respectfully moves this Court for a Final Disposition by Dismissal of the above-entitled and numbered grounds, upon the grounds as set forth below.

In support thereof, Defendant respectfully shows this Court that:

8-14-15  
Copies to  
Counsel

## STATEMENT OF THE CASE

**Defendant** was arrested and charged with the Conspiracy with Intent to distribute Mehtamphetamine, 21 U.S.C. § 841 (a)(1),

in the United States District Court for the District of Idaho, on 12-01-2012. Thereafter, and on 5-14-2014, Defendant was sentenced before the Honorable United States Judge to a term of 60 months in the Federal Bureau of Prisons (BOP). Defendant has been continuously imprisoned upon such conviction since 12-1-2012. Defendant is presently confined in the BOP, and is located at Terre Haute FCI, P.O. Box 33, Terre Haute, IN 47808.

While so confined at Terre Haute FCI, and on or about 01-6-2015, Defendant was served with a warrant for his arrest issued by this Court, charging him in Docket # 082/8658, with the offenses, inter alia. PWITD, Possession of Firearm. As said warrant was in fact filed as a detainer against the person of defendant, defendant did, on like date, file a Demand for Speedy Trial and Final Disposition of the said charges, by way of written demand, and request for Speedy Trial and Final Disposition under this State's statutory Speedy Trial provisions, and State and Federal constitutional provisions.

Upon due execution of these said Demands, such were properly served by the BOP, via First Class United States Mail upon the Clerk of this Court and the prosecuting Attorney, on February 2, 2015.

Notwithstanding such due demand and proper filing of the Demands, Defendant has not been hailed into Court, no hearing has been commenced therein,



no plea of guilty has been entered into or made, no extension or enlargement of time has been consented to, stipulated, or granted by Court Order.

As such, as of August 5, 2015, more than 184 days have elapsed, and no action has been taken to secure Defendant's appearance before this Court.

Further, during the entire pendency of this matter, the warrant serves to inure to the Defendant's deficit, in that it results in a denial of Defendant's ability to participate in certain early-release programs, denies him the ability to earn extra-good time, results in a higher security level placement that which would otherwise attain, and causes anxiety and uncertainty insofar as Defendant's release planning and possible placement into transitional programming.

Accordingly, as all statutory time periods have been exceeded, whereby the State of Idaho was required to afford Defendant a speed trial, this matter must be dismissed, sine die.

## DISCUSSION

### DEFENDANT HAS BEEN DENIED A SPEEDY TRIAL

It is axiomatic that a Defendant's right to a speedy trial is "as fundamental as any of the rights secured by the Sixth Amendment. "Klopper v. North Carolina, 386 U.S. 213. The right to a speedy trial is one of the most basic rights ingrained in the Constitution. Id.

Under this State's Statute, the Uniform Mandatory Disposition of Detainers Law, a statutory time frame for a speedy trial is 150 days, whether through demand for a speedy trial or by invoking the constitution. Both the constitution and state statute [Speedy trial] are in par materia, both provide for a defendant to be brought to trial within a prescribed time limit, they are construed in harmony with each other, and the principles of one may be applied to the other.

More plainly stated, as the time limits under both the State statutes and constitution have been clearly exceeded, so has the requirement under the Uniform Mandatory Disposition of Detainers Law (UMDDL), requiring dismissal herein.

Moreover, the Defendant's Federal Constitutional Right to a Speedy trial has been derogated. The Sixth Amendment to the United States Constitution guarantees an accused a speedy trial, and such is enforced against the State of Missouri under the Fourteenth Amendment. See: Klopper v. North Carolina, supra ID @ 386 U.S. 223. Upon Defendant's demand, the state has a "constitutional duty to make diligent, good-faith effort to bring him before the circuit court for trial. "Smith v. Hooey, 393 U.S. 374 (1969).

The United States Supreme Court has identified four factors the lower court should assess and balance in determining whether a particular defendant has been

deprived of his speedy trial right: "Length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to defendant." Barker v. Wingo, 407 U.S. 530 (1972). See, also: Stewart v. Nix, 972 F.2d 970 (8<sup>th</sup> Cir. 1985).

Herein, the length of delay is over 184\* days, which is presumptively prejudicial. The reason for the delay is solely due to the lack of diligence by the State, insomuch as Defendant has been continuously imprisoned, and therefor at all times available to the State authorities. As well, Defendant did file all waivers and requests attendant to this request for disposition under the Statute, the State and Federal constitution. Likewise, the demand was duly filed, and Defendant has been asserting his speedy trial rights for well in excess of 184 days.

Finally, prejudice to the Defendant is manifest. As a prefatory matter, the fact that this matter is extant has caused significant obstruction of Defendant's rehabilitative planning, programming needs, and placement into recidivist reducing programs. Moreover, this charge itself has been pending for 1000 days, and the likelihood that witnesses would still be available, or the Defendant may be able to mount a defense is most probably impossible.

In effect, Defendant's right to a speedy trial under State Speedy trial Statutes, and the State and Federal Constitution rubric has been derogated.

---

\* The instant charges have been pending since not later than 2012.

**CONCLUSION**

Because the defendant's right to a speedy trial has been violated, under this State's statute, under the UMDDL, and under the Federal and State Constitution, Defendant prays that this court grant a dismissal of the above-entitled and numbered action, upon the grounds that defendant has been denied a speedy trial; and that the court grant such other and further relief as the court may deem just and proper.

Authorized by the Act  
July 7, 1955 to Administer  
Oaths (18 U.S.C. 4004)

Date: August 5 2015.



Case Manager

Terre Haute, Indiana



Kyle Alan Richardson  
Pro Se

Terre Haute FCI

P.O. Box 33

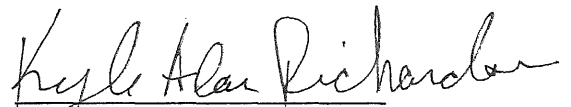
Terre Haute, IN 47808

Sworn to before me this 5 Day  
of August, 2015.

---

**CERTIFICATE OF SERVICE**

On 5 day of August, 2015, I mailed a true copy of this motion to Dismiss to the Prosecuting Attorney at 1221 F Street, Lewiston, ID Via First Class United States Mail.



Kyle Alan Richardson

Sworn to before me this 5 day of  
August, 2015.

---

Kyle Alan Richardson  
Reg. No: 14759-085

FCI Terre Haute

P.O. Box 33

Terre Haute, IN

47808

FILED

2015 FEB 2 AM 10 03

PATTY O. WEEKS

**TERESA DAMMON** COURT.

DEPUTY

Clerk of the Court  
Nez Perce County  
1230 Main Street  
P.O. Box 896  
Nezperce, ID 83501

Re: State v. Richardson, CR-2012-0000082; CR-2011-008658

**DEMAND FOR SPEEDY TRIAL AND FINAL DISPOSITION**

SIRS:

PLEASE TAKE NOTICE that the undersigned Kyle A. Richardson pro se, hereby makes demand, pursuant to the 6<sup>th</sup> and 14<sup>th</sup> Amendment to the United States, the Idaho State Constitution, and Idaho Speedy Trial Statutes \_\_\_\_\_ for a speedy trial of the untried criminal charge of PWITD, Possess Wpn, PCS

Please be further advised that Defendant is presently incarcerated in the Federal Bureau of Prisons (BOP), serving a sentence of 60 months, imposed in the United States District Court, Eastern District of Washington.

That BOP has notified defendant of the pendency of such charge, See above, and same inures to his deficit. Specifically, the pendency thereof causes defendant to be held in a higher security level which otherwise obtains, and serves to deny Defendant participation in rehabilitative and early-release programs.

Trial as to such offenses has not been commenced, nor has any extension been consented to, stipulated, or allowed by court order. No plea of guilty has been entered.

Wherefore, Defendant Kyle Richardson demands a Speedy Trial and final Disposition herein, together with such other and further relief as the court may deem just and proper.

Kyle Richardson  
Kyle Alan Richardson  
Defendant

Pro se

Sworn to before me this 26

Day of January, 2015

Notary Public

CERTIFICATE OF SERVICE

I, Kyle A. Richardson, being duly sworn, depose and say; I am the Defendant herein, on the 26 Day January, 2015 I mailed a true and exact copy of this demand to the prosecuting Attorney Nez Perce County, Idaho via First Class United States Mail.

Nez Perce County  
Prosecuting Attorney  
1221 F. Street  
Lewiston, ID 83501

Kyle Richardson  
Kyle Alan Richardson  
Defendant

Pro se

Sworn to before me this 26

Day of January, 2015

Notary Public

Authorized by the Act  
July 7, 1955 to Administer  
Oaths (18 U.S.C. 604)

[Signature]  
Case Manager

REGNO...: 14759-085 NAME: RICHARDSON, KYLE ALAN

FBI NO.....: 826439VA8                      DATE OF BIRTH: [REDACTED]                      AGE: 44  
ARS1.....: THA/A-DES  
UNIT.....: 2                                      QUARTERS.....: F02-086U  
DETAINERS.....: NO                                NOTIFICATIONS: NO

HOME DETENTION ELIGIBILITY DATE: 09-02-2016

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.  
THE INMATE IS PROJECTED FOR RELEASE: 03-02-2017 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: WASHINGTON, EASTERN DISTRICT  
DOCKET NUMBER.....: 2:13CR02045-EFS-002  
JUDGE.....: SHEA  
DATE SENTENCED/PROBATION IMPOSED: 05-14-2014  
DATE COMMITTED.....: 09-10-2014  
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT  
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$100.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO                      AMOUNT: \$00.00

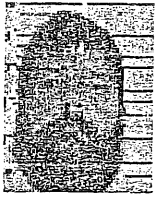
-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 391  
OFF/CHG: 21:846 CONSPIRACY TO DISTRIBUTE A CONTROLLED SUBSTANCE-  
METHAMPHETAMINE (CT.1)

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE  
SENTENCE IMPOSED/TIME TO SERVE.: 60 MONTHS  
TERM OF SUPERVISION.....: 5 YEARS  
DATE OF OFFENSE.....: 12-01-2012

**INMATE SKILLS DEVELOPMENT PLAN**

**Current Program Review: 01-06-2015**



**Name:** RICHARDSON, KYLE ALAN  
**Register Number:** 14759-085  
**Security/Custody:** MEDIUM/IN  
**Projected Release:** 03-02-2017 / GCT REL

**Institution:** TERRE HAUTE FCI  
 4200 BUREAU ROAD  
 NORTH  
 TERRE HAUTE, IN 47808  
**Telephone:** (812) 238-1531  
**Fax:** 812-238-3301

**Next Review Date:** 01-04-2015  
**Next Custody Review Date:** 01-05-2016  
**Age/DOB/Sex:** [REDACTED]  
**CIM Status:** If yes, reconciled: N  
**Driver's License/State:** [REDACTED]  
**FBI Number:** 826439VA8  
**DCDC Number:**  
**INS Number:**  
**PDID Number:**  
**Other IDs:**

**Release Residence:** Alan Richardson, Father  
 2115 BIRCH AVENUE  
 LEWISTON, ID 83501  
**Telephone:** (208) 743-7017  
**Release Employer:** [Name]  
 [Address]  
**Contact:** [POC]  
**Telephone:**

**Primary Emergency Contact:** Alan Richardson, Father  
 2115 Birch Avenue  
 Lewiston, ID 83501  
**Telephone:** (208) 743-7017  
**Secondary Emergency Contact:** [POC]  
 [Address]  
**Telephone:**

**Mentor Information:**

**Controlling Sentence Information:**

Offense(s)/Violator Offenses	Sentence	Sentencing Procedure	Supervision Term
	60 MONTHS	3559 PLRA SENTENCE	5 YEARS

Controlling Sentence Began	Time Served/Jail Credit/Inoperative Time	Days GCT/EGT/SGT	Days FSGT/WSGT/DGCT	Parole Status
05-14-2014	2 YEARS 2 MONTHS 13 DAYS / 567 / 0	235 / 0 / 0	0 / 0 / 0	Hearing Date: NOT ENTERED Hearing Type: Last USPC Action:

**Detainers:** N

**Special Parole Term:** NOT ENTERED

**Pending Charges:** Yes- DCS, #CR-2012-0000082; PWITD, Possess Wpn, PCS #CR-2011-008658, both Nez Perce County Court, Lewiston, ID

**Cim Status:** Y **Cim Reconciled:** N

Financial Responsibility	Imposed	Balance	Case No./Court of Jurisdiction	Assign/Schedule Payment
ASSESSMENT USDC	\$100.00	\$50.00	2:13CR02045-EFS-002/ Washington Eastern District	FINANC RESP-PARTICIPATES \$25.00 QUARTERLY

**Financial Plan Active:** Y  
**Financial Plan Date:** 12-11-2014  
**Comm Dep-6 mos:** \$805.72  
**Commissary Balance:** \$177.61

**Payments**

**Commensurate:** Y  
**Missed:** N

**Judicial Recommendations:** Sheridan / IFRP/RDAP / None

**Special Conditions of:** Submit person, res, office, or vehicle to search by USPO; Undergo substance abuse eval, [REDACTED]



COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Status Conference

Hearing date: 8/27/2015

Time: 1:20 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 12026 Defendant not present (in Federal prison).
- 12046 Ms. Smith addresses the Court.
- 12101 Mr. Radakovich addresses the Court and would like time to file a brief.
- 
- 12135 Ms. Smith addresses the Court and request the Court set a trial date.
- 12201 Mr. Radakovich responds.
- 12356 Jury trial set for 12-7-15 at 9 a.m., pretrial motions along with supporting briefs due 10-1-15, responsive briefing due 10-22-15, pretrial motions will be heard 11-5-15 at 3:30 p.m. if no motions are filed there will not be a hearing and final pretrial conference set for 11-12-15 at 3:30 p.m.
- 12530 Defendant's Motion to Dismiss will be heard 9-10-15 at 1:15 p.m. briefing by either party due no later than 9-8-15.
- 12600 Court recess.

FILED

2015 SEP 2 PM 3 17

PATTY O. WEERS  
CLERK OF THE DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO, )

Plaintiff, )

vs. )

KYLE A. RICHARDSON, )

Defendant. )

CASE NO. CR12-00082

ORDER SETTING JURY TRIAL  
AND SCHEDULING PROCEEDINGS

The above-entitled case is hereby scheduled as follows:

Defendant's Motion to Dismiss will be heard September 10, 2015 at 1:15 p.m.

Briefing by either party is due no later than September 8, 2015.

JURY Trial shall commence on December 7, 2015 at the hour of 9:00 a.m.;

All pre-trial motions shall be filed on or before; October 1, 2015;

Supporting Briefs due: October 1, 2015;

Responding Briefs due: October 22, 2015;

All pre-trial motions shall be heard at the hour of 3:30 p.m. on Thursday, November 5, 2015, with

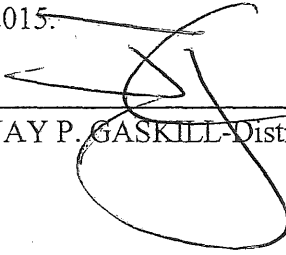
ORDER SETTING JURY TRIAL AND  
SCHEDULING PROCEEDINGS

the defendant personally present at said hearing. If no motions are filed, there will be no hearing on this date.

Final pre-trial conference and the date and time by which plea bargaining must be completed November 12, 2015 at 3:30 p.m.

The Court uses the following instructions from ICJI and it is not necessary for counsel to submit them: 102, 103, 104, 105, 106, 202, 204, 206, 207, 208 and 301.

Dated this 2nd day of September, 2015.

  
\_\_\_\_\_  
JAY P. GASKILL-District Judge

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing ORDER SETTING JURY TRIAL AND SCHEDULING PROCEEDINGS was:

hand delivered via court basket, or

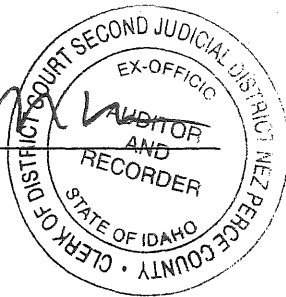
\_\_\_\_\_ mailed, postage prepaid, by the undersigned at Lewiston, Idaho, this 2nd day of September, 2015, to:

Danny Radakovich  
1624 G Street  
Lewiston ID 83501

April Smith  
P.O. Box 1267  
Lewiston, ID 83501

PATTY O. WEEKS, Clerk

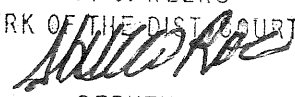
By *[Signature]*  
Deputy



FILED

2015 SEP 8 PM 4 24

PATTY O. WEEKS  
CLERK OF THE DIST. COURT

  
DEPUTY

DANNY J. RADAKOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-000082
	)	
Plaintiff,	)	BRIEF IN SUPPORT OF MOTION
	)	TO DISMISS ON SPEEDY TRIAL
v.	)	GROUND
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

The defendant has filed two (2) motion to dismiss on the basis of a lack of speedy trial. The repository on this matter reflects that the first such motion was filed on February 2, 2015. The second was filed on August 14, 2015. We will now proceed with a statements of the facts of the case, as they relate to this issue, and then set forth relevant law and argument to show that the court should dismiss these charges.

**STATEMENT OF THE FACTS**

This matter commenced with the filing of a criminal complaint on January 4, 2012, more than three (3) years ago. The defendant was charged with three (3) felonies in this matter. The

BRIEF IN SUPPORT OF MOTION TO  
DISMISS ON SPEEDY TRIAL GROUNDS 1

preliminary hearing was held on February 22, 2012, at which time the defendant was bound over. The criminal information was filed on February 22, 2012. The district court arraignment took place on March 1, 2012, more than three and a half (3½) years ago. A jury trial was scheduled for June 4, 2012. On May 1, 2012, the State moved to continue the trial, which motion was granted and the trial was reset for August 20, 2012. Thereafter, do to the death of their informant, the State moved to use the preliminary hearing transcript of his testimony at trial, which motion was denied on October 23, 2012. The State appealed that denial, with permission, and after proceedings in the appellate court, the appellate court reversed the denial of the motion to use the preliminary hearing transcript and issued a remittitur, which remittitur was filed with the district court on July 21, 2014. Three (3) days later, on July 24, 2014, a warrant was issued for the defendant's arrest. Since then, up until the defendant filed his speedy trial motion on February 2, 2015, there is nothing in the record to show that the State took any action to afford the defendant a speedy trial in this matter.

### **LEGAL AUTHORITY AND ARGUMENT**

It appears that, in the first instance, this issue is governed by the provisions of Idaho Code §19-3501 which states, in salient part, as follows:

“The court, unless good cause to the contrary is shown, must order the prosecution or indictment to be dismissed in the following cases:

\* \* \*

(5) If a defendant, charged with both a felony or multiple felonies and a misdemeanor or multiple misdemeanors together in the same action or charging document, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the information is filed with the court.”

On the fact of it, therefore, it would appear that the defendant has made out a case whereby he can ask the court to dismiss the matter. This case is fairly egregious because not only has this case been pending for well more than three and a half (3½) years since the filing of the complaint, more than three and a half (3½) years since the filing of the information, more than a year since the filing of the remittitur, which clarified the evidentiary issue which the State claimed was keeping them from taking the case to trial, and more than a seven (7) months since the defendant filed his first speedy trial motion. Under any standard, the record before the court is devoid of any justification for not giving this man his right to a speedy trial.

In addition to the statutory authority set forth above, there is a fair amount of case law on the particular issue and we will focus on one of those.

A recent case which deals with the issue of speedy trial is the case of State v. Livas, 147 Idaho 547, 211 P.3d 792 (Ct. App., 2009). This case speaks to several points which are relevant to the issue at hand.

First, Livas, supra, notes at page 549 of the Idaho reports version of the case:

“When a defendant who invokes his statutory speedy trial rights is not brought to trial within six months and the trial was not postponed at his request, the burden then shifts to the state to demonstrate *good cause* for the court to decline to dismiss the action.” (Emphasis ours)

As we have noted above, this case is one, on its face, which shows a failure to bring the defendant to trial in a speedy fashion. The Livas, supra, case goes on to note:

““Good cause” means that there was a substantial reason for the delay that rises to the level of a legal excuse. State v. Young, 136 Idaho 112, 116, 29 P.3d 949, 952 (2001); Clark, 135 Idaho at 260, 16 P.3d at 936. Analysis of whether there was good cause for a statutory speedy trial violation is not simply a determination of who was responsible for the delay and how long the case has

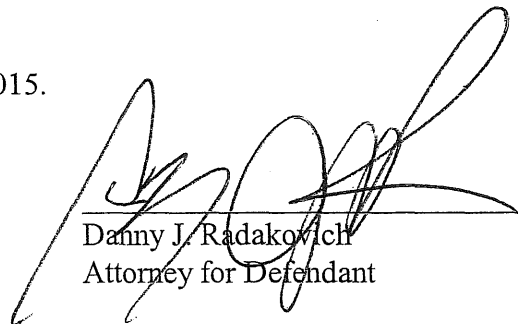
been pending. Young, 136 Idaho at 116, 29 P.3d at 952. Rather the analysis should focus upon the reason for the delay. *Id.* But the reason for the delay cannot be evaluated entirely in a vacuum and a good cause determination may take into account the additional factors in Barker v. Wingo, 407 U.S. 514, 530, 92 S.Ct. 2182, 33 L.Ed. 2d 101, 116 (1972) *See Clark*, 135 Idaho at 260, 16 P.3d at 936. Thus, insofar as they bear on the sufficiency or strength of the reason for the delay, a court may consider (1) the length of the delay; (2) whether the defendant asserted the right to a speedy trial; and (3) the prejudice to the defendant. However, the reason for the delay lies at the heart of a good cause determination under I.C. §19-3501, *Id.*”

Now, it is correct that there were some delays in dealing with pre-trial motions, but the simple fact is that there was little effort, or not, effort thereafter to place the matter back on the trial calendar at get the case tried. The State has an obligation to bring the matter to trial within six (6) months.

Moreover, the defendant affirmatively put the State on notice that he wanted his case speedily disposed of when he filed his first speedy trial motion on February 2, 2015. In our view, even if the previous delays are somehow excusable, the filing of the defendant’s motion had the effect of resetting the clock and informing the State, unequivocally, that he believed his speedy trial rights had been violated. Even after being put on notice in that fashion, the State did not, on the record, take any action to bring this case to trial within six (6) months of the filing to the speedy trial motion.

These charges must be dismissed.

DATED this 8 day of September, 2015.

  
\_\_\_\_\_  
Danny J. Radakovich  
Attorney for Defendant



I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

on this 8 day of September, 2015.

  
\_\_\_\_\_  
Danny J. Radakowich

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

APRIL A. SMITH  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N.: 7009

FILED  
ORIGINAL 2015 SEP 8 PM 4 28

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,  
  
Plaintiff,

vs.

KYLE A. RICHARDSON,  
  
Defendant.

CASE NO. CR2012-0000082  
CR2011-0008658

STATE'S BRIEF IN RESPONSE TO  
DEFENDANT'S MOTION TO DISMISS

APRIL A. SMITH, Chief Deputy Prosecuting Attorney for Nez Perce County, State of Idaho, and submits the following in response to defendant's motion to dismiss:

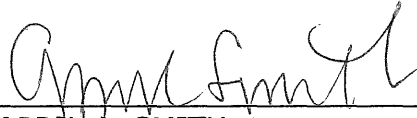
Defendant is currently incarcerated in FCI Terre Haute, a federal prison in Indiana. On May 18, 2015, a letter with the required documentation was submitted to FCI Terre Haute pursuant to Idaho Code §19-5001, the Interstate Agreement on Detainers (hereinafter IAD). *Attached as Exhibit A.* After receiving that information, the officials at FCI Terre Haute requested a letter from the Prosecutor's Office specifying whether we were officially lodging a detainer on the defendant. A letter was submitted to FCI Terre Haute on June 24, 2015 requesting a detainer be lodged against the defendant. *Attached as Exhibit B.* The Prosecutor's Office

received a demand for speedy trial from the defendant on July 22, 2015. *Attached as Exhibit C.*

The State respectfully requests the Court deny the defendant's motion to dismiss. The defendant's request for speedy trial is not valid until he makes a request after a detainer has been lodged against him. *I.C. §19-5001* and *State v. Mangum*, 153 Idaho 705, 291 P.3d 44 (Ct. App. 2012). The defendant did not make that request until July 2015, which was received by the Prosecutor's office on July 22, 2015. The IAD requires strict compliance by the defendant with the statutory requirements. It also requires there be a detainer lodged against a defendant prior to the defendant's request for speedy trial being valid. A detainer was not lodged against the defendant until May or June 2014, therefore defendant's request for speedy trial was not valid until he requested it in July 2015. The defendant's request was not received by the prosecutor's office until July 22, 2015. Defendant's timeframe for speedy trial begins July 22, 2015.

Based on the foregoing, the State requests the Court deny the defendant's motion to dismiss.

DATED this 8 day of September 2015.

  
\_\_\_\_\_  
APRIL A. SMITH  
Chief Deputy Prosecuting Attorney

**AFFIDAVIT OF SERVICE**

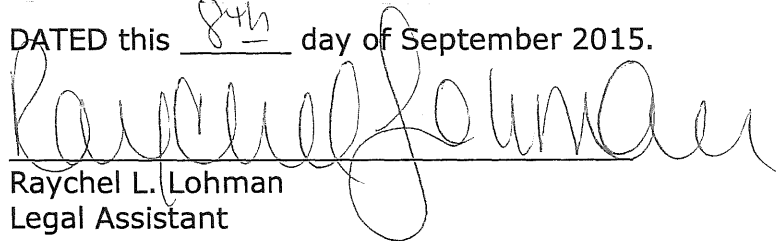
I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing STATE'S BRIEF IN RESPONSE TO DEFENDANT'S MOTION TO DISMISS was

- (1) \_\_\_\_\_ hand delivered, or
- (2)   X   hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston, ID 83501

DATED this   8<sup>th</sup>   day of September 2015.

  
Raychel L. Lohman  
Legal Assistant

# EXHIBIT A

May 18, 2015

FCI Terre Haute  
P.O. Box 33  
Terre Haute, IN 47808

Re: Extradition Proceedings  
State of Idaho vs. Kyle A. Richardson  
Nez Perce County Case No. CR2012-000082 & CR2011-008658

Dear Sir or Madam:

Enclosed are five (5) copies of the following documents:

IAD Prosecutor's Certification  
Certified Copy of Bench Warrant (CR2011-8658)  
Certified Copy of Information (CR2011-008658)  
Certified Copy of Complaint with two Amendments (CR2011-008658)  
Certified Copy of Bench Warrant (CR2012-000082)  
Certified Copy of Information (CR2012-000082)  
Certified Copy of Complaint (CR2012-000082)

Kelsey Felton with the Nez Perce County jail is awaiting the go ahead for transport. His contact information is:

Nez Perce County Jail  
1150 Wall Street  
Lewiston, Idaho 83501  
(208) 799-3132  
[kelseyf@co.nezperce.id.us](mailto:kelseyf@co.nezperce.id.us)

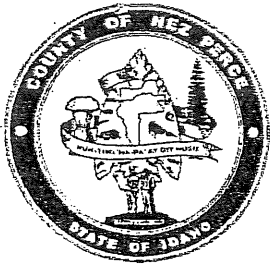
If you find this paperwork to be in order, we will appreciate your cooperation in connection with this extradition proceeding.

Sincerely,

RAYCHEL LOHMAN  
Legal Assistant  
Nez Perce County Prosecutor's Office

Enclosures

# EXHIBIT B



# Nez Perce County

## OFFICE OF THE PROSECUTING ATTORNEY

1221 F Street, P.O. Box 1267, Lewiston, ID 83501-1267, Phone: (208) 799-3073, Fax: (208) 799-3080

**Daniel L. Spickler**  
Prosecutor  
e-mail:  
danspickler@co.nezperce.id.us

**Sandra K. Dickerson**  
Chief Deputy

**Nance Ceccarelli**  
Civil Deputy

**Joyce G. Kaufman**  
Victim/Witness Coordinator

June 24, 2015

Attn: Officer Meneely  
FCI Terre Haute  
P.O. Box 33  
Terre Haute, IN 47808  
Fax No. (812-238-3316)

Re: State of Idaho vs. Kyle A. Richardson  
Nez Perce County Case No. CR2012-000082 & CR2011-008658

Dear Officer Meneely:

Per our conversation on the phone, here is a letter asking for you to please lodge a detainer on Mr. Richardson.

Kelsey Felton with the Nez Perce County jail is awaiting the go ahead for transport. His contact information is:

Nez Perce County Jail  
1150 Wall Street  
Lewiston, Idaho 83501  
(208) 799-3132  
[kelseyf@co.nezperce.id.us](mailto:kelseyf@co.nezperce.id.us)

Thank you for your time and assistance in this matter. If you need anything other than what I have sent you or you have any questions, please contact, Raychel Lohman at (208) 799-3073.

Sincerely,

APRIL A. SMITH  
Nez Perce County Prosecutor

Enclosure



# EXHIBIT C

RECEIVED

JUL 22 2015

BP-S236.051 IAD - PLACE OF IMPRISONMENT CDFRM FEB 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

To: April A. Smith  
County Prosecutor  
1221 F Street  
P.O. Box 1267  
Lewiston, ID 83501-1267

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, informations or complaints are pending, you are hereby notified that the undersigned is now imprisoned in:

Institution: Federal Correctional Institution  
Town and State: Terre Haute, Indiana

and I hereby request that a final disposition be made of the following indictments, informations or complaints now pending against me:

POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DISTRIBUTE

Failure to take action in accordance with the Interstate Agreement on Detainers Act, to which your state is committed by Law, will result in the invalidation of the indictments, informations or complaints.

I hereby agree that this request will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against me from your state. I also agree that this request shall be deemed to be my waiver of extradition with respect to any charge or proceedings contemplated hereby or included herein, and a waiver of extradition to your state to serve any sentence there imposed upon me, after completion of my term of imprisonment in this state. I also agree that this request shall constitute consent by me to the production of my body in any court where my presence may be required in order to effectuate the purposes of the Interstate Agreement on Detainers Act and a further consent voluntarily to be returned to the institution in which I am now confined.

If jurisdiction over this matter is properly in another agency, court or officer, please designate the proper agency, court or officer and return this form to the sender.

Forms BP-S238 (51), Certificate of Inmate Status, and BP-S239 (51), Offer of To Deliver Temporary Custody, are attached.

Dated: July 1, 2015  
Inmate's Name and Register No.: RICHARDSON, Kyle 14759-085

The inmate must indicate below whether he has counsel or wishes the court in the receiving state to appoint counsel for purposes of any proceedings preliminary to trial in the receiving state which may take place before his delivery to the jurisdiction in which the indictment, information or complaint is pending. Failure to list the name and address of counsel will be construed to indicate the Inmate's consent to the appointment of counsel by the appropriate court in the receiving state.

A. My counsel is (give name) whose address is (Street, City State, ZIP)

DAUNY RADOVICH

B. I request the court to appoint counsel. (Inmate's Signature)

Record Copy - State IAD Administrator; Copy: J&C File; Copy: Central File (Section 1), Copy - Prosecuting Official (Mail Certified Return Receipt), Copy - Clerk of Court (Mail Certified Return Receipt); Copy - Inmate

(This form may be replicated via WP)

(Replaces BP-236(58) OCT 88

DATE: July 7, 2015

To: April A. Smith, County Attorney  
1221 F Street  
P.O. Box 1267  
Lewiston, ID 83501-1267

Jurisdiction:

Nez Perce County

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, information or complaints are pending.

re:

RICHARDSON, Kyle

Register No:

14759-085

Pursuant to the provisions of Article V of the Interstate Agreement on Detainers Act between this state and your state, the undersigned hereby offers to deliver temporary custody of the above-named prisoner to the appropriate authority in your state in order that speedy and efficient prosecution may be had of the indictment, information or complaint which is described in the attached inmate's request dated: N/A.

If proceedings under Article IV(d) of the Interstate Agreement on Detainers Act are indicated, an explanation is attached.

Indictments, informations or complaints charging the following offenses also are pending against the inmate in your state and you are hereby authorized to transfer the inmate to custody of appropriate authorities in these jurisdictions for purposes of these indictments, informations or complaints.

Offense  
N/A

County or other Jurisdiction  
N/A

If you do not intend to bring the inmate to trial, will you please inform us as soon as possible? Kindly acknowledge.

By: Chief Executive Officer

Institution and Address

Name/Title Custodial

L. LaRiva, Warden

FCI Terre Haute

Authority Charles E. Samuels Jr, Director

Record Copy - State IAD Administrator; Copy - J & C File; Copy - Central File (Section 1); Copy Prosecuting Official (Mail Certified Return Receipt); Copy - Clerk of Court (Mail Certified Return Receipt); Copy - Inmate

(This form may be replicated via WP)

Replaces BP-239(58) October 88

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate's Name: RICHARDSON, Kyle	Register No: 14759-085	Institution: FCI Terre Haute
------------------------------------	---------------------------	---------------------------------

Institution's Address:

FCI Terre Haute, 4700 Bureau Road South, Terre Haute, IN 47802

The (Custodial Authority) hereby certifies:

1. The term of commitment under which the prisoner above named is being held:

60 MONTHS

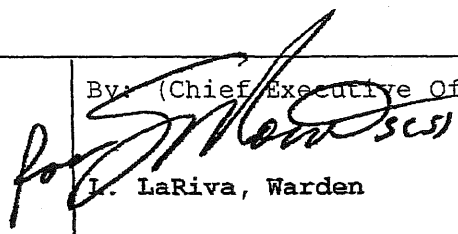
2. The Time Already Served 2 Years 8 Months 13 Days	3. Time Remaining to be Served on the Sentence 1 Year 7 Months 25 Days
4. The Amount of Good Time Earned 108 Days	5. The Date of Parole Eligibility of the Prisoner N/A

6. The decisions of the U.S. Parole Commission relating to the Prisoner N/A

7. Maximum expiration date under present sentence: 10-23-2017

8. Detainers currently on file against this inmate from your state are as follows:

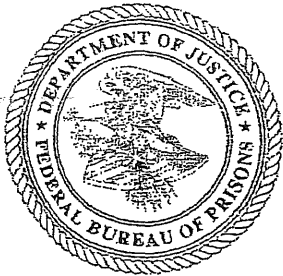
April A. Smith, County Attorney  
1221 F Street  
P.O. Box 1267  
Lewiston, ID 83501-1267

Dated	Name and Title of Custodial Authority	By: (Chief Executive Officer)
July 7, 2015.	Charles E. Samuels Jr, Director	 J. LaRiva, Warden

Record Copy - State IAD Administrator; Copy - J & C File; Copy - Central File (Section 1); Copy - Prosecuting Official (Mail Certified Return Receipt); Copy - Clerk of Court (Mail Certified Return Receipt); Copy - Inmate

(This form may be replicated via WP)

Replaces BP-238(58) OF OCT 88



U.S. Department of Justice  
Federal Bureau of Prisons  
Federal Correctional Institution  
4700 Bureau Road South  
Terre Haute, IN 47802  
(812)238-1531 ext 3416  
(812)238-3316 (fax)

July 7, 2015

April A. Smith  
County Attorney  
1221 F Street  
P.O. Box 1267  
Lewiston, ID 83501-1267

RE: RICHARDSON, Kyle  
Reg. No: 14759-085  
Your: CR2012-000082, CR2011-008658

Dear April A Smith:

The above referenced defendant has requested disposition of pending charges in your jurisdiction pursuant to the Interstate Agreement on Detainers Act (IADA). Necessary forms are enclosed.

We request action be taken under Article III of the IADA. IADA Forms VI, "Evidence of Agents' Authority to Act for Receiving State" and VII, "Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer" should be submitted to us, as necessary. The persons who are the designated agents to return the prisoner to your State must also be the persons whose signatures appear on the Form VI. It would be advisable to designate alternate agents whose signatures must also appear on the IADA Form VI, in the event the primary agents are unable to make the trip. Also be advised that the designated agents must have in their possession a copy of the IADA Form VI, proper identification, and a certified copy of the warrant when assuming custody of the prisoner. Any questions regarding this procedure may be directed to the individual listed below or the Agreement Administrator for your State.

Inmates who are temporarily transferred pursuant to the IADA remain under the primary jurisdiction of federal authorities. **Should you accept temporary custody of this inmate, we wish to remind you that under Article V(e) of the IADA, you are required to return the above named inmate to this institution after prosecution on all pending charges.**

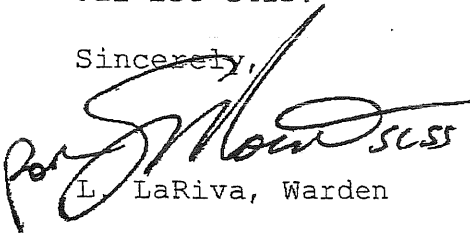
While this inmate is in your temporary custody, he will be held in a suitable jail that meets the level of security required by the Bureau of Prisons. Inmate RICHARDSON is IN custody, and requires a minimum of 2 staff escorts, handcuffs, martin chain, leg irons, and a black box at all times while outside the confines of the jail or court. Any problems associated with this inmate must be reported to the individual listed below.

This inmate may not be released on bail or bond while in your custody. Additionally, this inmate is not to be committed to a state correctional institution for service of any state sentence(s) that may be imposed because of your prosecution.

To help us with processing, please fill out the enclosed certification form and return to us before scheduling a date for assuming custody. Upon completion of the State proceedings contact this office to schedule a date for the inmate's return to federal custody.

If you have any questions on this matter, please call:  
Steve Morin, Supervisory Correctional Systems Specialist, at  
812-238-3415.

Sincerely,



L. LaRiva, Warden

cc: Clerk of Court  
State IADA Administrator  
J&C File  
Central File  
Prosecutor

Five copies. All copies, with original signatures by the Prosecutor and the Agents, should be sent to the Administrator in the RECEIVING State. After signing all copies, the Administrator should retain one copy for his file, send one copy to the Warden, Superintendent or Director of the Institution in which the prisoner is located and return two copies to the Prosecutor who will give one to the Agents for use in establishing their authority and place one in his file. One copy should also be forwarded to the Agreement Administrator in the sending file.

Evidence of Agent's Authority to Act for Receiving State

To: (Administrator and Address)

Inmate (Name and Register No.)  
RICHARDSON, Kyle 14759-085

is confined in (Institution and address)  
FCI Terre Haute  
4700 Bureau Road South  
Terre Haute, IN 47802

and will be taken into custody at said Institution on (date) \_\_\_\_\_ for  
return to the County of Nez Perce, State of Idaho for trial.  
In accordance with Article V(b), of said Agreement, I have designated:

Agent's Name and Department Represented

Agent's Name and Department Represented

Agent's Name and Department Represented

whose signatures appear below as Agents to return the prisoner.  
(Agent's Signature) (Agent's Signature)

Dated

Prosecuting Official's Signature

a. Title -

d. City/State -

b. County -

e. Telephone No -

c. Address -

This is to certify that I, April A. Smith, County Attorney, hereby request temporary custody of RICHARDSON, Kyle 14759-085 via:        IAD        State Writ (check one), and do hereby agree to the following conditions in connection with the request for custody of said inmate.

**Conditions**

- a. Agree that said inmate will be provided safekeeping, custody, and care and will assume responsibility for that custody to include providing the inmate with the same level of security required by Bureau of Prisons Policy.
- b. Agree to report to the Bureau of Prisons any problems associated with said inmate, to include disciplinary problems, medical emergencies, suicide attempt, escape or attempted escape or any other problem arising during commitment.
- c. Agree not to release said inmate on bail or bond or to commit them to an institution for service of any sentence imposed in connection with our prosecution.
- d. Agree to return said inmate to the federal institution from which they were obtained at the conclusion of the inmate's appearance in the proceeding for which obtained.
- e. Agree to notify the local jail authority of the responsibility to return the inmate to federal custody.

As the Prosecuting Official for the County of Nez Perce, State of Idaho, I, April A Smith, Title, County Attorney, hereby submit the following information in connection with my request for temporary custody of RICHARDSON, Kyle 14759-085.

**Information**

1. Name of facility, location, contact person, and phone number where the inmate will be confined during legal proceedings.

2. Scheduled date for trial.

3. Projected date of return of the prisoner to federal custody:

4. Name and phone number of the state agency, specific name of agent(s) who will transport the inmate at direction of the court and whether a private carrier, contractor (if permitted by Bureau of Prisons policy), state agency, or the USMS, will be transporting the inmate for the state.

5. Need for appearance of inmate and nature of action.

6. For State Writ cases only (not required for IAD):

a. Name and address of court issuing writ, name of the judge, and name, address, and phone number of clerk of the court.

b. Reason production on writ is necessary and reason another alternative is not available (for civil cases).

7. Signature and Title of Prosecutor

Date

Subscribed and sworn before (Date): \_\_\_\_\_

Signature of Notary Public:

Date



Inmate RICHARDSON, Kyle	Register No. 14759-085	Institution FCI Terre Haute
----------------------------	---------------------------	--------------------------------

Pursuant to the Interstate Agreement on Detainers Act, you are hereby informed that the following are the untried indictments, informations, or complaints against you concerning which the undersigned has knowledge, and the source and contents of each.

**CR2012-000082 & CR2011-008658  
 POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DISTRIBUTE**

You are hereby further advised that by the provisions of said Agreement you have the right to request the appropriate prosecuting officer of the jurisdiction in which any such indictment, information or complaint is pending and the appropriate court that a final disposition be made thereof. You shall then be brought to trial within 180 days, unless extended pursuant to provisions of the Agreement. After you have caused to be delivered to said prosecuting officer and said court written notice of the place of your imprisonment and your said request, together with a certificate of the custodial authority as more fully set forth in said Agreement. However, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

Your request for final disposition will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against you from the state to whose prosecuting official your request for final disposition is specifically directed. Your request will also be deemed to be a waiver of extradition to the state of trial to serve any sentence there imposed upon you, after completion of your term of imprisonment in this state. Your request will also constitute consent by you to the production of your body in any court where your presence may be required in order to effectuate the purposes of Agreement on Detainer and a further consent voluntarily to be returned to the institution in which you are now confined.

Should you desire such a request for final disposition of any untried indictment, information or complaint, you are to notify the Inmate Systems Manager of the institution in which you are confined.

You are also advised that under provisions of said Agreement the prosecuting officer of a jurisdiction in which any such indictment, information or complaint is pending may institute proceedings to obtain a final disposition thereof. In such event, you may oppose the request that you be delivered to such prosecuting officer or court. You may request the Warden to disapprove any such request for your temporary custody but you cannot oppose delivery on the grounds that the Warden has not affirmatively consented to or ordered such delivery.

Dated July 1, 2015	Name and Title of Custodial Authority Charles E. Samuels Jr, Director	By: (Chief Executive Officer) L. L. Riva, Warden <i>[Signature]</i>
Dated June 1, 2015	Inmate Signature <i>[Signature: Kyle Richardson]</i>	

Original - Inmate, Copy - J&C, Copy - Central File (Section 1)

(This form may be replicated via WP)

Replaces BP-235(58) of OCT 88

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Motion to Dismiss

Hearing date: 9/10/2015

Time: 1:17 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Linda Carlton

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

11704 Defendant not present (in custody federal prison).  
11717 Court addresses counsel.  
11722 Mr. Radakovich addresses the Court.  
11836 Court continues this matter until 9-24-15 at 1:15 p.m.  
11842 Court addresses counsel re: current position on the motion.  
11854 Mr. Radakovich responds.  
11928 Court recess.

DANNY J. RADAKOVICH  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED

2015 SEP 15 PM 4 10

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	CASE NO. CR12-000082
	)	
Plaintiff,	)	ADDITIONAL BRIEF IN SUPPORT OF
	)	MOTION TO DISMISS ON SPEEDY
v.	)	TRIAL GROUNDS
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

The State has taken the position that the defendant's motion to dismiss on speedy trial grounds must fail because of the holding in the case of State v. Mangum, 153 Idaho 705, 291 P.3d 44 (Ct. App. 2012) and Idaho Code §19-5001, the Interstate Agreement on Detainers (IAD). Swe see a couple of problems with that position.

First, the IAD appears to function on a system whereby nothing really starts happening until a State files a detainer on a prisoner held in another state or by the Federal government. The difficulty with that position is that it leaves it entirely in the discretion of the prosecuting agency to decide when to file the detainer. The undersigned is informed that the detainer in this case was filed in about June or July 2015. The remittitur from the appellate court on the permissive appeal was received by this court on July 21, 2014, so the case was ripe for trial then. It very much

ADDITIONAL BRIEF IN SUPPORT OF  
MOTION TO DISMISS ON SPEEDY TRIAL  
GROUNDS

strains credulity to say that the Nez Perce County prosecutor can sit on his hands for a year after the case is in a position to be tried before finally filing the detainer. That makes a mockery of the system and of the defendant's speedy trial rights.

Second, The Idaho and United States Constitution both provide for the right to a speedy trial. That *Constitutional* right to a speedy trial is independent of, and superior to, the provisions of Idaho Code §§19-3501 and 19-5001, et seq.

As was noted in our initial brief in this matter, a recent case which deals with the issue of speedy trial is the case of State v. Livas, 147 Idaho 547, 211 P.3d 792 (Ct. App., 2009). This case speaks to several points which are relevant to the issue at hand.

First, Livas, supra, notes at page 549 of the Idaho reports version of the case:

“When a defendant who invokes his statutory speedy trial rights is not brought to trial within six months and the trial was not postponed at his request, the burden then shifts to the state to demonstrate *good cause* for the court to decline to dismiss the action.” (Emphasis ours)

As we have noted above, this case is one, on its face, which shows a failure to bring the defendant to trial in a speedy fashion. The Livas, supra, case goes on to note:

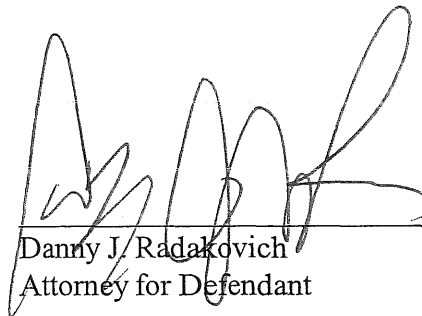
“‘Good cause’ means that there was a substantial reason for the delay that rises to the level of a legal excuse. State v. Young, 136 Idaho 112, 116, 29 P.3d 949, 952 (2001); Clark, 135 Idaho at 260, 16 P.3d at 936. Analysis of whether there was good cause for a statutory speedy trial violation is not simply a determination of who was responsible for the delay and how long the case has been pending. Young, 136 Idaho at 116, 29 p.3d at 952. Rather the analysis should focus upon the reason for the delay. *Id.* But the reason for the delay cannot be evaluated entirely in a vacuum and a good cause determination may take into account the additional factors in Barker v. Wingo, 407 U.S. 514, 530, 92 S.Ct. 2182, 33L.Ed. 2d 101, 116 (1972) *See Clark*, 135 Idaho at 260, 16 P.3d at 936. Thus, insofar as they bear on the sufficiency or strength of the reason for the delay, a court may consider (1) the length of the delay; (2) whether the defendant asserted

the right to a speedy trial; and (3) the prejudice to the defendant. However, the reason for the delay lies at the heart of a good cause determination under I.C. §19-3501, *Id.*”

The analysis set forth in Barker v. Wingo, 407 U.S. 514, 530, 92 S.Ct. 2182, 33L.Ed. 2d 101, 116 (1972) appears to focus on a more Constitutional aspect of speedy trial. In that analysis, which is more than a rote recitation of the IAD, the determination focuses on the more basic issues, i.e. the length of the delay, whether the defendant asserted his speedy trial rights, and the prejudice to the defendant. The defendant’s affidavit which will be filed herein makes it clear that this shillyshallying by the State has caused him to lose his chance at an excellent drug treatment program in prison, which he very much needs.

These charges should be dismissed.

DATED this 15<sup>th</sup> day of September, 2015.

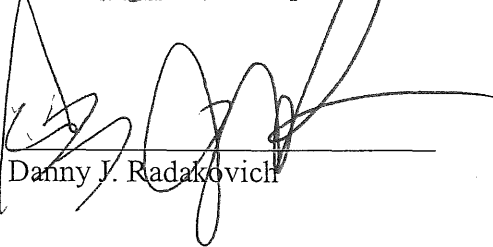


Danny J. Radakovich  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

on this 15<sup>th</sup> day of September, 2015.



Danny J. Radakovich

ADDITIONAL BRIEF IN SUPPORT OF  
MOTION TO DISMISS ON SPEEDY TRIAL  
GROUNDS

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Motion to Dismiss

Hearing date: 9/24/2015

Time: 1:18 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 11843 Defendant not present (in Federal prison).
- 11858 Court addresses counsel and has reviewed the briefs.
- 11906 Mr. Radakovich addresses the Court re: unsigned affidavit has sent it twice to the federal prison and has not heard anything.
- 12040 Mr. Radakovich submits unsigned affidavit.
- 12131 Mr. Radakovich addresses the Court re: Motion to Dismiss.
- 
- 12209 Ms. Smith submits.
- 12218 Court will notify Mr. Radakovich if he needs to get a signed affidavit. Court takes under advisement and will issue written decision.
- 12239 Court recess.

DANNY J. RADAKOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	AFFIDAVIT OF KYLE A.
	)	RICHARDSON
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

KYLE A. RICHARDSON, being first duly sworn, on oath deposes and says:

1. That your affiant is the defendant in the above-entitled matter;
2. That, while the charges were pending in the above-entitled matter, your affiant was charged with Federal offenses, convicted, and sent to a Federal prison in Sheridan, Oregon;
3. That, at the time of his incarceration in said Federal prison, your affiant was heavily addicted to methamphetamine; that part of the benefit to your affiant from being incarcerated in the facility in Sheridan, Oregon, is that this prison has a very intense drug treatment program and your affiant was to enter said program;
4. That, because there were still charges pending against your affiant in the Nez Perce

County court in Idaho, however, the rules governing the drug program in the Sheridan, Oregon, Federal prison prohibited your affiant from entering that very good drug treatment program as long as the State charges were outstanding, with result that your affiant was transferred to the Federal prison in Terra Haute, Indiana;

5. That your affiant and his attorney tried to work out an agreement to resolve the Idaho charges but were never able to do so; that your affiant believes that he has been severely prejudiced, and his Constitutional rights violated, by the fact that the Idaho charges have remained pending long after the time for speedy trial on those charges, which is why your affiant filed his speedy trial motions;

6. Further your affiant saith not.

DATED this \_\_\_\_ day of September, 2015.

\_\_\_\_\_  
Kyle A. Richardson

STATE OF INDIANA )  
  : ss.  
County of Vigo             )

On this \_\_\_\_ day of September, 2015, before me, \_\_\_\_\_, a notary public, personally appeared Kyle A. Richardson, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Indiana  
Residing at \_\_\_\_\_, herein.  
My commission expires on \_\_\_\_\_



I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

on this \_\_\_\_ day of September, 2015.



Danny J. Radakovich

FILED

2015 OCT 2 AM 7 28

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*[Signature]*  
DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 KYLE A. RICHARDSON, )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_ )

CASE NO. CR 2012-00082

**OPINION AND ORDER  
ON DEFENDANT'S MOTION  
TO DISMISS**

This matter came before the Court on the Defendant's Motion to Dismiss. The State of Idaho was represented by April Smith, Nez Perce County Deputy Prosecuting Attorney. The Defendant was represented by Danny Radakovich, attorney at law. Oral argument on the motion was heard on September 24, 2015. The Court, having considered the argument of counsel and being fully advised in the matter, finds the Interstate Agreement on Detainers, I.C. § 19-5001, *et seq.*, is applicable to the case at hand. A detainer was lodged on June 24, 2015; therefore speedy trial was not invoked until that date. *See also State v. Mangum*, 153 Idaho 705, 291 P.3d 44 (Ct. App. 2012). The motion to dismiss is hereby DENIED.

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

*[Signature]*  
JAY P. GASKILL - District Judge

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing OPINION AND ORDER ON DEFENDANT'S MOTION TO DISMISS was:

FAXED and hand delivered via court basket, or

\_\_\_\_\_ mailed, postage prepaid, by the undersigned at Lewiston, Idaho, this 2nd day of October, 2015, to:

Danny Radakovich  
1624 G Street  
Lewiston ID 83501

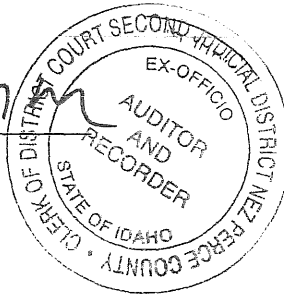
April Smith  
P O Box 1267  
Lewiston ID 83501

PATTY O. WEEKS, CLERK

By



Deputy



FILED

2015 OCT 2 PM 4 28

PATTY O. WEEKS  
CLERK OF THE DIST. COURT

*McCall*  
DEPUTY

DANNY J. RADA KOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	AFFIDAVIT OF KYLE A.
	)	RICHARDSON
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

KYLE A. RICHARDSON, being first duly sworn, on oath deposes and says:


1. That your affiant is the defendant in the above-entitled matter;
2. That, while the charges were pending in the above-entitled matter, your affiant was charged with Federal offenses, convicted, and sent to a Federal prison in Sheridan, Oregon;
3. That, at the time of his incarceration in said Federal prison, your affiant was heavily addicted to methamphetamine; that part of the benefit to your affiant from being incarcerated in the facility in Sheridan, Oregon, is that this prison has a very intense drug treatment program and your affiant was to enter said program;
4. That, because there were still charges pending against your affiant in the Nez Perce

County court in Idaho, however, the rules governing the drug program in the Sheridan, Oregon, Federal prison prohibited your affiant from entering that very good drug treatment program as long as the State charges were outstanding, with result that your affiant was transferred to the Federal prison in Terra Haute, Indiana;

5. That your affiant and his attorney tried to work out an agreement to resolve the Idaho charges but were never able to do so; that your affiant believes that he has been severely prejudiced, and his Constitutional rights violated, by the fact that the Idaho charges have remained pending long after the time for speedy trial on those charges, which is why your affiant filed his speedy trial motions;


6. Further your affiant saith not.

DATED this 30 day of September, 2015.

  
 \_\_\_\_\_  
 Kyle A. Richardson

STATE OF INDIANA )  
                                   : ss.  
 County of Vigo        )

On this \_\_\_\_ day of September, 2015, before me, \_\_\_\_\_, a notary public, personally appeared Kyle A. Richardson, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

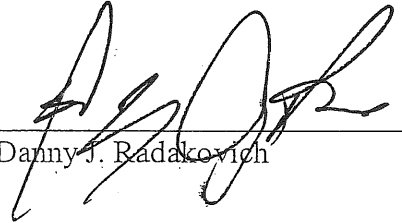
**Authorized by the Act  
 July 7, 1955 to Administer  
 Oaths (18 U.S.C. 4004)**  
  
 \_\_\_\_\_  
 Case Manager

\_\_\_\_\_  
 Notary Public in and for the State of Indiana  
 Residing at \_\_\_\_\_, herein.  
 My commission expires on \_\_\_\_\_

I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

on this 22 day of October, 2015.

  
\_\_\_\_\_  
Danny J. Radakovich

U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS

IMPORTANT: This form should only be used when an offer of temporary custody has been received as the result of a prisoner's request for disposition of a detainee. If the offer has been received because another prosecutor in your state has initiated the request, use Form VIII. Copies of IAD VII (BP-S566(51)) should be sent to the warden, the prisoner, the other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrator of both the sending and receiving states. Copies should be retained by the person filing the acceptance and the judge who signs it.

Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainee

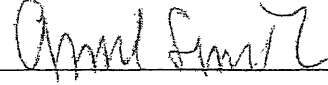
To: (Warden-Superintendent-Director) - Institution and Address

L. LaRiva, Warden  
 USP Terre Haute  
 4700 Bureau Road South  
 Terre Haute, IN 47802

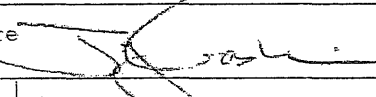
In response to your letter of July 7, 2015, and offer of temporary custody regarding RICHARDSON, Kyle 14759-085, who is presently under indictment, information or complaint in the county of Nez Perce, state of Idaho, of which I am the County Attorney, please be advised that I accept temporary custody and that I propose to bring this person to trial on the indictment, information or complaint named in the offer within the time specified in Article III (a) of the Agreement on Detainees.

Comments: (If your jurisdiction is the only one named in the offer of temporary custody, use the space below to indicate when you would like to send your agents to transfer the prisoner to your jurisdiction. If the offer of temporary custody has been sent to other jurisdiction in your state, use the space below to make inquiry as to the order in which you will receive custody, or to indicate any arrangements you have already made with other jurisdictions in your state in this regard).

Special Arrangements

Dated <u>July 29, 2015</u>	Printed Name and Signature <u>APRIL SMITH</u> 	
Name/Title <u>APRIL SMITH, DEPUTY PROSECUTOR</u>	Address <u>1221 F STREET, P.O. BOX 1267</u>	
City/State <u>LEWISTON, IDAHO 83501</u>	Telephone No. <u>(208) 799-3073</u>	

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request, I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainees.

Dated <u>July 30, 2015</u>	Judge's Printed Name and Signature <u>JAY GASKILL</u> 	
Court <u>District</u>	Judicial District <u>Idaho 2<sup>ND</sup> District</u>	Address <u>PO Box 896</u>
City/State <u>Lewiston ID 83501</u>	Telephone No. <u>(208) 799-3141</u>	

(This form may be replicated via WP)

Five copies. All copies, with original signatures by the Prosecutor and the Agents, should be sent to the Administrator in the RECEIVING State. After signing all copies, the Administrator should retain one copy for his file, send one copy to the Warden, Superintendent or Director of the Institution in which the prisoner is located and return two copies to the Prosecutor who will give one to the Agents for use in establishing their authority and place one in his file. One copy should also be forwarded to the Agreement Administrator in the sending file.

Evidence of Agent's Authority to Act for Receiving State

To: (Administrator and Address)

Inmate (Name and Register No.)  
RICHARDSON, Kyle 14759-085

is confined in (Institution and address)  
FCI Terre Haute  
4700 Bureau Road South  
Terre Haute, IN 47802

and will be taken into custody at said Institution on (date) 10/21/2015 for return to the County of Nez Perce, State of Idaho for trial. In accordance with Article V(b), of said Agreement, I have designated:

Agent's Name and Department Represented

CAMERON A. WITGENSTEIN NORTH STAR

Agent's Name and Department Represented

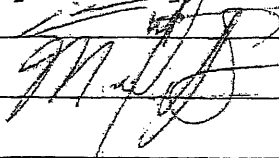
MICHAEL J. SIMS NORTH STAR

Agent's Name and Department Represented

whose signatures appear below as Agents to return the prisoner.

(Agent's Signature)

(Agent's Signature)



\_\_\_\_\_

Dated

Prosecuting Official's Signature

10-16-2015

David L Spiller

a. Title -

d. City/State -

b. County -

e. Telephone No -

c. Address -



Evidence of Agent's Authority Continued

---

To: (Warden-Superintendent-Director)

L. LaRiva, Warden

---

In accordance with the above representations and the provisions of the Agreement on Detainers, the persons listed above are hereby designated as Agents for the State of Idaho to return RICHARDSON, Kyle 14759-085 to the county of Nez Perce, State of Idaho, for trial.

At the completion of the trial (Inmate) RICHARDSON, Kyle 14759-085 shall be returned to the (Institution and Address):

FBI Terre Haute  
4700 Bureau Road South  
Terre Haute, IN 47802

---

Dated

Detainer Administrator's Signature

---

a. Name -  
b. Address -

c. City/State  
d. Telephone No.

(This form may be replicated via WP)

Second Judicial District Court, State of Idaho

In and For the County of Nez Perce

1230 Main St.  
Lewiston, Idaho 83501

RECEIVED  
HOUR 1035 A.M. PM.  
JUL 25 2014  
NEZ PERCE COUNTY SHERIFFS OFFICE  
LEWISTON, IDAHO 83501

FILED  
2015 OCT 23 AM 6 51

PATTY A. NEEDS  
CLERK OF THE COURT

DEPUTY  
)  
)  
)  
)  
)  
)

Case No: CR-2012-0000082

**BENCH WARRANT**

STATE OF IDAHO

Plaintiff,

vs.

Kyle Alan Richardson

2115 Birch Ave  
Lewiston, ID 83501

Defendant.

DOB: [REDACTED]  
DL: [REDACTED]

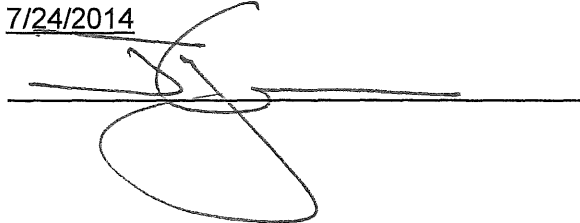
TO ANY SWORN PEACE OFFICER IN THE STATE OF IDAHO:

The Defendant in the above captioned case, having failed to appear for the following court hearing:

Status/scheduling conference 7-24-14 at 1:15 p.m.  
Judge: Jay P. Gaskill DJ  
Courtroom: 1

Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery  
I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL

**NOW, THEREFORE, THIS IS TO COMMAND YOU** to forthwith arrest the above named Defendant and bring him/her before this Court.

Dated: 7/24/2014  
Judge: 

May be served:  Day Only  
 Day or Night

Bond Amount: \$25000.00 Surety

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the above named Defendant on this 23 day of October 2015.

Officer: Cpl Brian Bonds 222  
Agency: NPCSO

AUTHORIZED FOR TELETYPE  
OR TELEGRAPH SERVICE

Second Judicial District Court, State of Idaho  
In and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

COPY

STATE OF IDAHO

Plaintiff,

vs.

Kyle Alan Richardson

2115 Birch Ave  
Lewiston, ID 83501

Defendant.

DOB:   
DL: 

)  
)  
)  
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)  
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)  
)  
)  
)  
)

Case No: CR-2012-0000082

BENCH WARRANT

TO ANY SWORN PEACE OFFICER IN THE STATE OF IDAHO:

The Defendant in the above captioned case, having failed to appear for the following court hearing:

Status/scheduling conference 7-24-14 at 1:15 p.m.

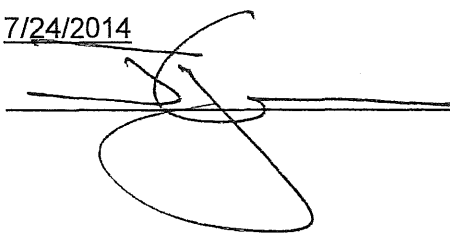
Judge: Jay P. Gaskill DJ

Courtroom: 1

Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery  
I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL

**NOW, THEREFORE, THIS IS TO COMMAND YOU** to forthwith arrest the above named Defendant and bring him/her before this Court.

Dated: 7/24/2014

Judge: 

May be served:

Day Only  
 Day or Night

Bond Amount: \$25000.00 Surety

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the above named Defendant on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Officer: \_\_\_\_\_

Agency: \_\_\_\_\_

AUTHORIZED FOR TELETYPE  
OR TELEGRAPH SERVICE

Second Judicial District Court, State of Idaho  
In and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

COPY

STATE OF IDAHO

Plaintiff,

vs.

Kyle Alan Richardson

2115 Birch Ave  
Lewiston, ID 83501

Defendant.

DOB: [REDACTED]  
DL: [REDACTED]

Case No: CR-2012-0000082

**BENCH WARRANT**

TO ANY SWORN PEACE OFFICER IN THE STATE OF IDAHO:

The Defendant in the above captioned case, having failed to appear for the following court hearing:

Status/scheduling conference 7-24-14 at 1:15 p.m.

Judge: Jay P. Gaskill DJ

Courtroom: 1

Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery  
I37-2732(A)(1)(A)-DEL Controlled Substance-Delivery I37-2732(A)(1)(A)-DEL

**NOW, THEREFORE, THIS IS TO COMMAND YOU** to forthwith arrest the above named Defendant and bring him/her before this Court.

Dated: 7/24/2014

Judge: \_\_\_\_\_

May be served:

Day Only  
 Day or Night

Bond Amount: \$25000.00 Surety

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the above named Defendant on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Officer: \_\_\_\_\_

Agency: \_\_\_\_\_

AUTHORIZED FOR TELETYPE  
OR TELEGRAPH SERVICE

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

FILED  
2012 FEB 22 PM 4 14

PATTY L. PEELE  
CLERK OF THE DISTRICT COURT  
**PAMELA SCHNEIDER**  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,  
D.O.B.: 10/04/1970,  
S.S.N.: XXX-XX-1455,

Defendant.

CASE NO. CR2012-0000082

INFORMATION

SANDRA K. DICKERSON Chief Deputy Prosecuting Attorney, in and for the County of Nez Perce, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into the District Court of the County of Nez Perce, and states that KYLE A. RICHARDSON is accused by this Information of the following crime(s):

**COUNT I**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 7th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.


**COUNT II**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 9th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

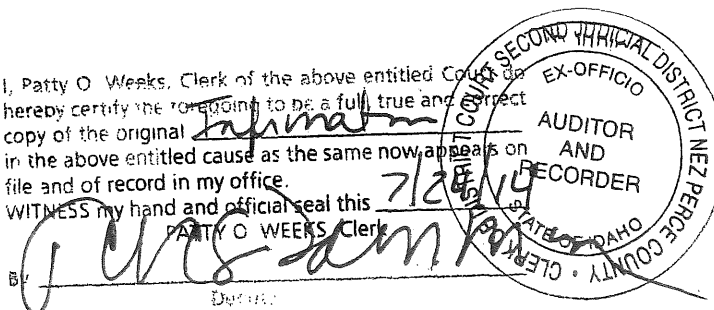
**COUNT III**  
**DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 14th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

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

  
\_\_\_\_\_  
SANDRA K. DICKERSON  
Chief Deputy Prosecuting Attorney

I, Patty O Weeks, Clerk of the above entitled Court do hereby certify the foregoing to be a full, true and correct copy of the original Indictment in the above entitled cause as the same now appears on file and of record in my office.  
WITNESS my hand and official seal this 7/26/14 day of July, 2014.  
PATTY O WEEKS, Clerk



COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Pretrial Motions

Hearing date: 11/5/2015

Time: 2:40 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 24058 Defendant present, in custody, with counsel.
- 24119 Court addresses Mr. Radakovich re: renewed motion to suppress.
- 24127 Mr. Radakovich addresses the Court re: 4 witnesses.
- 24230 Mr. Radakovich addresses the Court re: renewed motion to suppress.
- 24330 Court addresses counsel and this matter is set for final pretrial next Thursday. The Court will review the file and determine if it needs to hear from the witnesses and will hopefully let counsel know by Monday.
- 24419 Court recess.

Second Judicial District Court, State of Idaho  
and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

FILED

2015 NOV 6 AM 8 47

STATE OF IDAHO,  
Plaintiff,  
vs.  
Kyle Alan Richardson,  
Defendant.

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*P. O. Weeks*  
DEPUTY

Case No: CR-2012-0000082  
NOTICE OF HEARING

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

Final Pretrial Thursday, November 12, 2015 01:15 PM  
Judge: Jay P. Gaskill DJ

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Friday, November 06, 2015.

Defendant: Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Mailed \_\_\_\_\_ *emailed* Hand Delivered \_\_\_\_\_ *NPC/jail*

Private Counsel: Danny J Radakovich  
1624 G Street  
Lewiston, ID 83501

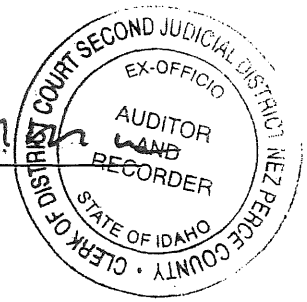
Mailed \_\_\_\_\_ *faxed* Hand Delivered \_\_\_\_\_

Prosecutor: Sandra K. Dickerson

Mailed \_\_\_\_\_ *faxed* Hand Delivered \_\_\_\_\_

Dated: Friday, November 06, 2015  
Patty O. Weeks  
Clerk Of The District Court

By: *P. O. Weeks*  
Deputy Clerk  
DOC22 7/96





COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Final Pretrial

Hearing date: 11/12/2015

Time: 2:45 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 24523 Defendant present, in custody, with counsel.
- 24546 Court addresses the parties and the Court does not need to hear additional witness testimony.
- 24613 Mr. Radakovich addresses the Court.
- 24916 Ms. Smith submits.
- 24924 Court takes matter under advisement and will issue written decision.
- 24934 Mr. Radakovich addresses the Court.
- 25211 Court recess.

Second Judicial District Court, State of Idaho  
and For the County of Nez Perce  
1230 Main St.  
Lewiston, Idaho 83501

FILED

2015 DEC 1 AM 7 50

STATE OF IDAHO,  
Plaintiff,  
vs.  
Kyle Alan Richardson,  
Defendant.

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*[Signature]*  
DEPUTY

Case No: CR-2012-0000082

NOTICE OF HEARING

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

Final Pretrial                                      Tuesday, December 01, 2015                                      02:30 PM  
Judge:    Jay P. Gaskill DJ

at the Nez Perce County Courthouse in Lewiston, Idaho.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Tuesday, December 01, 2015.

Defendant:                                      Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501

Mailed \_\_\_\_\_ *emailed* Hand Delivered \_\_\_\_\_ *npc jail*

Private Counsel:                                      Danny J Radakovich  
1624 G Street  
Lewiston, ID 83501

Mailed \_\_\_\_\_ *faxed* Hand Delivered \_\_\_\_\_ ✓

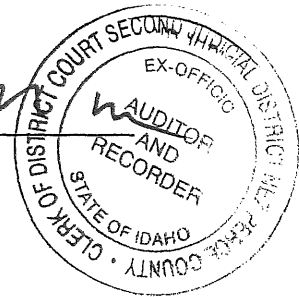
Prosecutor:                                      Sandra K. Dickerson

Mailed \_\_\_\_\_ *faxed* Hand Delivered \_\_\_\_\_ ✓

Dated: Tuesday, December 01, 2015

Patty O. Weeks  
Clerk Of The District Court

By: *[Signature]*  
Deputy Clerk  
DOC22 7/96



COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Final Pretrial

Hearing date: 12/1/2015

Time: 2:46 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Linda Carlton

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: April Smith

- 24609 Defendant present, in custody, with counsel.
- 24627 Ms. Smith indicates trial remains set.
- 24659 Mr. Radakovich addresses the Court re: objection to prelim transcript being admitted at trial.
- 24829 Court will review.
- 24921 Mr. Radakovich addresses the Court re: civilian clothing.
- 24935 Court grants that motion.
- 24947 Court recess.

FILED

2015 DEC 4 PM 4 20

DANNY J. RADA KOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

PATTY O. WEEKS  
CLERK OF THE DIST. COURT

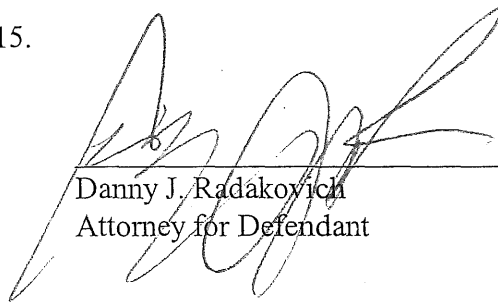


IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	DEFENDANT'S REQUESTED
	)	JURY INSTRUCTIONS
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COMES NOW the defendant in the above-entitled matter, by and through his attorney of record herein, and hereby request his Instructions Nos. 1 through 4 in this matter.

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

  
\_\_\_\_\_  
Danny J. Radakovich  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

*Nez Perce County Prosecutor*

DEFENDANT'S REQUESTED  
JURY INSTRUCTIONS

P.O. Box 1267  
Lewiston, ID 83501

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

  
\_\_\_\_\_  
Danny J. Radakovich

DEFENDANT'S REQUESTED  
JURY INSTRUCTIONS

INSTRUCTION NO. 1

In this case, Danny J. Radakovich, the attorney for the defendant, timely filed a request for discovery requiring the State to, among other things, provide "a list of names, addresses, and telephone numbers of all persons having knowledge of relevant facts who may be called by the state as witnesses at trial".

Rule 16, I.C.R.

Given \_\_\_\_\_

Refused \_\_\_\_\_ ✓

Modified \_\_\_\_\_

Covered \_\_\_\_\_

Other \_\_\_\_\_

INSTRUCTION NO. 2

That, in the State's response to the defendant's discovery request, the State only identified Robert Bauer by his confidential informant number of CI11-L02.

Rule 16, I.C.R.

Given \_\_\_\_\_

Refused  \_\_\_\_\_

Modified \_\_\_\_\_

Covered \_\_\_\_\_

Other \_\_\_\_\_

INSTRUCTION NO. 3

That it was not until the actual preliminary hearing in this matter that the State, for the first time, identified Robert Bauer by name when it called him as a live witness at that preliminary hearing.

Rule 16, I.C.R.

Given \_\_\_\_\_

Refused  \_\_\_\_\_

Modified \_\_\_\_\_

Covered \_\_\_\_\_

Other \_\_\_\_\_



INSTRUCTION NO. 4

You are to give no special consideration to expert testimony, but you consider it as you would any other evidence submitted in this matter. Even if you find that witness is specially qualified to render an opinion, you are not bound by such opinion, but may give it the weight to which you deem it to be entitled. Evidence of a chemical analysis of alleged drugs is expert testimony and is subject to impeachment on the same basis as any other expert testimony. Therefore, my instructions to you concerning expert witnesses apply to both live witnesses and to evidence of a chemical analysis of the alleged drugs.

Strosheim v. Shay, 63 Idaho 360, 120 P.2d 267

Given \_\_\_\_\_

Refused  \_\_\_\_\_

Modified \_\_\_\_\_

Covered \_\_\_\_\_

Other \_\_\_\_\_

FILED

2015 DEC 4 PM 4 17

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

PATTY O. WEEKS  
CLERK OF THE DIST. COURT



JUSTIN J. COLEMAN  
Senior Deputy Prosecutor  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 8023

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

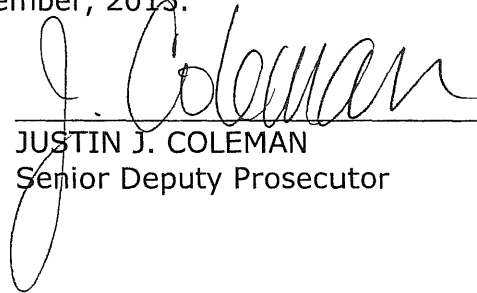
STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
KYLE A. RICHARDSON,  
  
Defendant.

CASE NO. CR2012-0000082

STATES REQUESTED JURY  
INSTRUCTIONS

Herewith submitted are STATE'S REQUESTED INSTRUCTIONS numbered  
consecutively ONE through SIX.

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



JUSTIN J. COLEMAN  
Senior Deputy Prosecutor

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing STATE'S REQUESTED JURY INSTRUCTIONS was

- (1)   1   hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) \_\_\_\_\_ sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston, Idaho 83501

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

  
ERIN D. LEAVITT  
Senior Legal Assistant

INSTRUCTION NO. 1

The defendant, KYLE A. RICHARDSON, is charged by Information with the crime(s) of **COUNT I – DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a felony, COUNT II – DELIVERY OF A CONTROLLED SUBSTANCE, I.C. §37-2732(a)(1)(A), a felony, and COUNT III – DELIVERY OF A CONTROLLED SUBSTANCE, I.C. 37-2732(a)(1)(A), a felony**, alleged to have been committed in Nez Perce County, State of Idaho, the charging part of the Information being:

**COUNT I  
DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 7th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

**COUNT II  
DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 9th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

**COUNT III  
DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony**

That the Defendant, KYLE A. RICHARDSON, on or about the 14th day of September, 2011 in the County of Nez Perce, State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

To this information, the defendant pled "not guilty."

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of December, 2015.

\_\_\_\_\_  
JUDGE

## INSTRUCTION NO. 2

In order for the defendant to be guilty of Count I - Delivery of a Controlled Substance, the state must prove each of the following:

1. On or about September 7, 2011
2. in the state of Idaho
3. the defendant KYLE A. RICHARDSON delivered any amount of METHAMPHETAMINE to another, and
4. the defendant either knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

### **ICJI 404**

#### Comment

I.C. § 37-2732(a). See ICJI 428 for the definition of "deliver." If the charge is delivery of a controlled substance by an inmate, see ICJI 604.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of December, 2015.

\_\_\_\_\_  
JUDGE

### INSTRUCTION NO. 3

In order for the defendant to be guilty of Count II - Delivery of a Controlled Substance, the state must prove each of the following:

1. On or about September 9, 2011
2. in the state of Idaho
3. the defendant KYLE A. RICHARDSON delivered any amount of METHAMPHETAMINE to another, and
4. the defendant either knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

#### **ICJI 404**

#### Comment

I.C. § 37-2732(a). See ICJI 428 for the definition of "deliver." If the charge is delivery of a controlled substance by an inmate, see ICJI 604.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.



STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of December, 2015.

\_\_\_\_\_  
JUDGE

#### INSTRUCTION NO. 4

In order for the defendant to be guilty of Count III - Delivery of a Controlled Substance, the state must prove each of the following:

1. On or about September 14, 2011
2. in the state of Idaho
3. the defendant KYLE A. RICHARDSON delivered any amount of METHAMPHETAMINE to another, and
4. the defendant either knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

#### **ICJI 404**

#### Comment

I.C. § 37-2732(a). See ICJI 428 for the definition of "deliver." If the charge is delivery of a controlled substance by an inmate, see ICJI 604.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of December, 2015.

\_\_\_\_\_  
JUDGE

INSTRUCTION NO. 5

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

**ICJI 428**

Comment

I.C. § 37-2701(g).

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of December, 2015.

\_\_\_\_\_  
JUDGE

INSTRUCTION NO. 6

Under Idaho law, METHAMPHETAMINE is a controlled substance.

**ICJI 422**

Comment

I.C. §§ 37-2705 to 37-2713A.

The question whether a substance is designated in the Act as a controlled substance is a question of law for the court, not the jury. State v. Hobbs, 101 Idaho 262, 263, 611 P.2d 1047, 1048 (1980).

STATE'S REQUESTED INSTRUCTION NO. \_\_\_\_\_

\_\_\_\_\_ GIVEN

\_\_\_\_\_ REFUSED

\_\_\_\_\_ COVERED

DATED this \_\_\_\_\_ day of December, 2015.

\_\_\_\_\_  
JUDGE

DANIEL L. SPICKLER  
Nez Perce County Prosecuting Attorney

JUSTIN J. COLEMAN  
Senior Deputy Prosecutor  
Post Office Box 1267  
Lewiston, Idaho 83501  
Telephone: (208) 799-3073  
I.S.B.N. 4968

FILED

2015 DEC 4 PM 2 02

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*Patty O. Weeks*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff,

vs.

KYLE A. RICHARDSON,

Defendant.

CASE NO. CR2012-0000082

**SECOND SUPPLEMENTAL RESPONSE  
TO REQUEST FOR DISCOVERY**

COMES NOW the undersigned, JUSTIN J. COLEMAN, Senior Deputy Prosecutor for Nez Perce County, Idaho, and pursuant to Defendant's Request for Discovery in the case herein, makes the following second supplemental disclosure compliance pursuant to Idaho Criminal Rules, Rule 16.

1. That attached hereto is AMENDED EXHIBIT "B" which sets forth additional reports.

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

*J. Coleman*  
\_\_\_\_\_  
JUSTIN J. COLEMAN  
Senior Deputy Prosecutor

**AFFIDAVIT OF SERVICE**

I declare under penalty of perjury that a full, true, complete and correct copy of the foregoing SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY was

- (1) \_\_\_\_\_ hand delivered, or
- (2) \_\_\_\_\_ hand delivered via court basket, or
- (3) 4 sent via facsimile, or
- (4) \_\_\_\_\_ mailed, postage prepaid, by depositing the same in the United States Mail.

ADDRESSED TO THE FOLLOWING:

Danny Radakovich  
Attorney at Law  
1624 G Street  
Lewiston Idaho 83501

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

  
ERIN D. LEAVITT  
Senior Legal Assistant

**AMENDED EXHIBIT "B"**  
**AMENDED LIST OF REPORTS**

STATE OF IDAHO vs. KYLE A. RICHARDSON  
NEZ PERCE COUNTY CASE NO. CR2012-0000082

1. A copy of any audio and/or video tapes and/or compact discs and/or floppy discs are available by providing a blank audio/video tape or compact disc or floppy disc to the Nez Perce County Prosecuting Attorney's Office and by making prior arrangements during normal working hours.
2. Lewiston Police Department Cap Sheet and Case Disposition Sheet consisting of three (3) pages. (1-3)
3. Lewiston Police Department LAW Incident Table consisting of one (1) page. (4)
4. Lewiston Police Department Narrative prepared by Brett Dammon consisting of three (3) pages. (5-7)
5. Lewiston Police Department Supplemental Narrative prepared by Brett Dammon dated September 13, 2011, consisting of two (2) pages. (8-9)
6. Lewiston Police Department Supplemental Narrative prepared by Brett Dammon dated September 16, 2011, consisting of three (3) pages. (10-12)
7. Lewiston Police Department Supplemental Narrative prepared by Tom Sparks dated September 23, 2011, consisting of two (2) pages. (13-14)
8. Idaho State Police Forensic Services Criminalistic Analysis Report dated September 13, 2011, consisting of three (3) pages. (15-17)
9. Idaho State Police Forensic Services Evidence Submission Receipt/Form dated September 12, 2011, consisting of one (1) page. (18)
10. Idaho State Police Forensic Services Criminalistic Analysis Report dated September 28, 2011, consisting of three (3) pages. (19-21)
11. Idaho State Police Forensic Services Evidence Submission Receipt/Form dated September 22, 2011, consisting of one (1) page. (22)
12. Lewiston Police Department Main Names Table consisting of four (4) pages. (23-26)
13. Criminal History consisting of eleven (11) pages. (27-37)
14. One (1) CD containing 5 photographs and 16 audio files:
  - a. 13806buy1bodywire
  - b. 13806buy1debrief



- c. 13806buy1header
- d. 13806buy1phonecall1
- e. 13806buy2bodywire
- f. 13806buy2call1
- g. 13806buy2call2
- h. 13806buy2call3
- i. 13806buy2debrief
- j. 13806buy2header
- k. 13806buy3bodywire
- l. 13806buy3debrief
- m. 13806buy3header
- n. 13806buy3phonecall1
- o. 13806buy3phonecall2

- 15. Idaho State Police Incident Report prepared by Ken Yount dated September 20, 2011, consisting of two (2) pages. (38-39)**

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Jury Trial

Hearing date: 12/7/2015

Time: 9:05 am

Judge: Jay P. Gaskill DJ

Courtroom: 3 & 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 3 & 1

Defense Attorney: Danny Radakovich

Prosecutor: Justin Coleman

35 JURORS PREVIOUSLY DRAWN: Sharelle Cree, John Oatman, Monte Ruschert, Roy Busch, Sharon Kaschmitter, Judy Lupinacci, Randel Martin, Mark Condrey, Kristin Fountain, Kimberly Jackson, Joshua Dunlap, Richard Odonnell, John Silflow, Joan Agee, Rebecca Williams, Andrew King, Rodney Wallace, Brenda McKenzie, Terry Roth, Deana Price, Michael Gruben, Brice Barnes, Richard Jackson, Jeanne DePaul, Michael Martin, Ronald Colpitts, Cameron Hartshorn, Shari Hottinger, Debra Conover, Bradley Whitcomb, Patricia Young, Kimberly Henderson, Gary Dickerson, Daniel Borders and Gregory Howard.

**COURTROOM 3**

90524 Mr. Coleman and Defendant present with counsel. Jury not present.

90535 Court addresses Defendant re: potential penalties if convicted of these 3 charges. Court will allow Defendant time to discuss further with Mr. Radakovich.

90649 Court recess.

**COURTROOM 1**

91625 Court addresses perspective jurors. Defendant not present.

91653 Mr. Coleman, Mr. Radakovich and Defendant now present.

91727 Clerk calls roll of jurors.

92000 Court calls Corinne Kammers, Jean Manau, Amanda S. Lindt and Thomas Flowers.

92141 Court addresses juror Gary Dickerson.

92154 Court excuses Mr. Dickerson and calls Linda Wallace.

92235 Mr. Radakovich has no challenges to the panel.

92256 Mr. Coleman has no challenges to the panel.

92303 Clerk administers jury voir dire oath.

92337 Court addresses perspective jurors.

92433 Court makes introductions.

92516 Mr. Coleman makes introduction, lists other attorneys in his office, support staff in his office and witnesses he intends to call.

92624 Mr. Radakovich makes introduction, lists support staff in his office and has no witnesses he intends to call.

92655 Court addresses perspective jurors re: charges.

92729 Court begins voir dire questioning.

93454 Court excuses Rebecca Williams and calls Janet Kaufman.

93543 Court addresses juror Janet Kaufman. Ms. Kaufman responds.

93550 Court continues voir dire questioning.

93800 Court excuses Randel Martin. Court calls Lenna Nesbitt.

93846 Court continues voir dire questioning.

94032 Court excuses Judy Lupinacci. Court calls James Marshall.

94059 Court addresses Ms. Nesbitt and Mr. Marshall. Ms. Nesbitt and Mr. Marshall respond.

94117 Court continues voir dire questioning.

94430 Mr. Coleman begins voir dire questioning.

102505 Mr. Coleman passes panel for cause.

102515 Mr. Radakovich begins voir dire questioning.

103748 Mr. Radakovich challenges juror Brice Barnes for cause.

- 103803 Court addresses Mr. Barnes. Mr. Barnes responds.
- 103908 Mr. Coleman leaves in the Court's discretion.
- 103927 Court addresses Mr. Barnes. Mr. Barnes responds.
- 103946 Court denies challenge for cause.
- 104010 Mr. Radakovich passes panel for cause.
- 104019 Court addresses perspective jurors.
- 104040 Peremptory challenges off the record.

State	Defense
1. Jean Manau	1. Roy Busch
2. Sharon Kaschmitter	2. Andrew King
3. Thomas Flowers	3. Richard Odonnell
4. Amanda Schmidt	4. Kristin Fountain
5. Monte Ruchert	5. Brice Barnes
6. Lenna Nesbitt	6. Jeanne DePaul
7. Pass	7. Richard Jackson
8. Ronald Colpitts	8. Michael Martin
9. Pass	9. Pass
10. Pass	10. Pass
11. Pass	11. Pass

- 110130 Court addresses perspective jurors.
- 110122 The jury is constituted as follows: Corinne Kammers, Joan Agee, Cameron Hartshorn, Janet Kaufman, Rodney Wallace, James Marshall, Shari Hottinger, Deana Prine, Michael Gruben, Kimberly Jackson, Brenda McKenzie, Terry Roth and John Silflow.
- 110348 Clerk administers oath to try the case.
- 110411 Court addresses remaining jurors and excuses them from the courtroom.
- 110700 Court addresses jurors. Court admonishes jurors. Court recess until 12:30 p.m.
- 110750 Court recess.
- 123137 All parties present and ready to proceed.
- 123140 Court addresses the parties.
- 123206 Mr. Radakovich moves to exclude witnesses.
- 123223 Court grants motion.

- 123236 Bailiff brings in the jury, all members present.
- 123401 Court addresses the jury re: how alternate juror is chosen.
- 123458 Court reads preliminary instructions to the jury.
- 123926 Court reads the Information.
- 124115 Mr. Coleman presents opening statement.
- 124408 Mr. Radakovich presents opening statement.
- 125542 Mr. Coleman calls Officer Brett Dammon, sworn, Mr. Coleman begins direct examination.
- 13140 Mr. Coleman has witness handed State's exhibit #1.
- 13157 Mr. Coleman continues direct examination Officer Brett Dammon.
- 13234 Mr. Coleman offers State's exhibit #1.
- 13239 Mr. Radakovich addresses the Court.
- 13306 Court admits State's exhibit #1.
- 13324 Mr. Coleman has witness handed State's exhibit #4.
- 13407 Mr. Coleman continues direct examination Officer Brett Dammon.
- 13725 Mr. Coleman has witness handed State's exhibit #7.
- 13744 Mr. Coleman continues direct examination Officer Brett Dammon.
- 13802 Mr. Coleman offers State's exhibit #7.
- 13810 Mr. Radakovich addresses the Court.
- 13835 Mr. Coleman responds.
- 13845 Court admits State's exhibit #7.
- 13943 Mr. Radakovich addresses the Court and stipulates the 1<sup>st</sup> 26 minutes need not be played.
- 14118 Mr. Coleman plays State's exhibit #7 for the jury fast forwarding through the 1<sup>st</sup> 26 minutes.
- 14656 Mr. Coleman continues direct examination Officer Brett Dammon.
- 14720 Mr. Radakovich objects.

14738 Mr. Coleman responds.

14804 Mr. Radakovich responds.

14822 Mr. Coleman continues direct examination Officer Brett Dammon.

15135 Mr. Radakovich objects.

15146 Court sustains objection and orders answer stricken.

15149 Mr. Coleman continues direct examination Officer Brett Dammon.

15750 Mr. Radakovich objects. Objection sustained.

15800 Mr. Coleman continues direct examination Officer Brett Dammon.

20029 Mr. Coleman has witness handed State's exhibit #2.

20043 Mr. Coleman continues direct examination Officer Brett Dammon.

20105 Mr. Coleman offers State's exhibit #2.

20110 Mr. Radakovich addresses the Court.

20116 Court admits State's exhibit #2.

20127 Mr. Coleman continues direct examination Officer Brett Dammon.

20223 Mr. Coleman has witness handed State's exhibit #5.

20253 Mr. Coleman continues direct examination Officer Brett Dammon.

20430 Mr. Radakovich no questions in aid of an objection.

20448 Mr. Coleman continues direct examination of Officer Brett Dammon.

20505 Mr. Coleman has witness handed State's exhibit #8.

20529 Mr. Coleman continues direct examination Officer Brett Dammon.

20548 Mr. Coleman offers State's exhibit #8.

20552 Mr. Radakovich has no objection.

20605 Court admits State's exhibit #8.

20650 Mr. Coleman will start 22 minutes in on the recording. Mr. Radakovich no objection.

20722 Mr. Coleman begins playing State's exhibit #8 for the jury fast forwarding through the 1<sup>st</sup> 22 minutes.

- 21010 Mr. Coleman continues direct examination Officer Brett Dammon.
- 22009 Mr. Coleman has witness handed State's exhibit #3.
- 22023 Mr. Coleman continues direct examination Officer Brett Dammon.
- 22046 Mr. Coleman offers State's exhibit #3.
- 22049 Mr. Radakovich questions witness in aid of an objection.
- 22107 Mr. Radakovich objects.
- 22118 Court overrules objection and admits State's exhibit #3.
- 22130 Mr. Coleman continues direct examination Officer Brett Dammon.
- 22146 Mr. Coleman has witness handed State's exhibit #6.
- 22206 Mr. Coleman continues direct examination Officer Brett Dammon.
- 22329 Mr. Coleman has witness handed State's exhibit #9.
- 22353 Mr. Coleman continues direct examination Officer Brett Dammon.
- 22410 Mr. Coleman offers State's exhibit #9.
- 22415 Mr. Radakovich has no objection.
- 22417 Court admits State's exhibit #9.
- 22441 Mr. Radakovich addresses the Court and Mr. Coleman will begin playing 17 minutes 41 seconds in.
- 22541 Mr. Coleman begins playing State's exhibit #9 fast forwarding 17 minutes and 41 seconds in.
- 23448 Mr. Coleman continues direct examination Officer Brett Dammon.
- 23815 Court admonishes the jury.
- 23846 Court recess 15 minutes.
- 25433 All parties present and ready to proceed.
- 25447 Bailiff brings in the jury, all members present.
- 25550 Mr. Coleman continues direct examination Officer Brett Dammon.
- 25607 Mr. Radakovich objects.
- 25615 Court restate question.

25625 Mr. Coleman continues direct examination Officer Brett Dammon.

25734 Mr. Radakovich begins cross examination Officer Brett Dammon.

31246 Mr. Radakovich has witness handed State's exhibit #1.

31259 Mr. Radakovich continues cross examination Officer Brett Dammon.

32321 Mr. Radakovich has witness handed State's exhibit #2.

32330 Mr. Radakovich continues cross examination Officer Brett Dammon.

33505 Mr. Radakovich has witness handed State's exhibit #3.

33515 Mr. Radakovich continues cross examination Officer Brett Dammon.

34053 Mr. Coleman begins redirect examination Officer Brett Dammon.

34543 Mr. Radakovich begins recross examination Officer Brett Dammon.

35059 Witness steps down.

35228 Court admonishes the jury.

35239 Court recess.

35343 Mr. Radakovich addresses the Court re: objection to prelim transcript being read to the jury.

35407 Court will allow prelim transcript to be read to the jury.

35502 Trae Turner, Jessica Uhrig and Zach Battles will be reading the transcript.

35722 All parties present and ready to proceed. Bailiff brings in the jury, all members present.

35819 Court addresses the jury re: preliminary hearing transcript testimony of Robert Bower. *Bauer.*

35858 Court administers oath to read transcript.

35925 Reading of transcript begins by Trae Turner, Jessica Uhrig and Zach Battles.

41359 Reading of transcript ends.

41424 Court admonishes the jury.

41458 Court recess until December 8, 2015 at 9 a.m.

41503 Court recess.



DECEMBER 8, 2015

- 85907 Mr. Coleman, Mr. Radakovich and Defendant present.
- 85920 Court addresses counsel re: jury instructions 1-20.
- 85939 Mr. Coleman no objection.
- 85942 Mr. Radakovich addresses the Court re: corrections.
- 90224 Mr. Radakovich addresses the Court re: objections.
- 90351 Mr. Coleman addresses the Court re: objections.
- 90505 Court addresses counsel.
- 90609 Mr. Radakovich addresses the Court re: police report he just received on Friday and objects to Officer Ken Yount testifying.
- 90737 Mr. Coleman responds.
- 90847 Court addresses counsel. Court will allow Officer Ken Yount to testify today.
- 90920 Court addresses Mr. Radakovich and will check instruction 20 and verdict form to see if they are in the correct order.
- 90950 Bailiff brings in the jury, all members present.
- 91054 Mr. Coleman calls David Sincerbeaux, sworn, Mr. Coleman begins direct examination.
- 91419 Mr. Coleman has witness handed State's exhibit #4.
- 91441 Mr. Coleman continues direct examination David Sincerbeaux.
- 92047 Mr. Coleman has witness handed State's exhibit #10.
- 92058 Mr. Coleman continues direct examination David Sincerbeaux.
- 92128 Mr. Coleman offers State's exhibit #10.
- 92133 Mr. Radakovich addresses the Court.
- 92136 Court admits State's exhibit #10.
- 92139 Mr. Coleman continues direct examination David Sincerbeaux.
- 92155 Mr. Coleman offers State's exhibit #4.
- 92204 Mr. Radakovich addresses the Court.

92206 Court admits State's exhibit #4.

92212 Mr. Coleman has witness handed State's exhibit #5.

92237 Mr. Coleman continues direct examination David Sincerbeaux.

92404 Mr. Coleman has witness handed State's exhibit #11.

92419 Mr. Coleman continues direct examination David Sincerbeaux.

92518 Mr. Coleman has witness handed State's exhibit #6.

92534 Mr. Coleman continues direct examination David Sincerbeaux.

92641 Mr. Radakovich questions David Sincerbeaux in aid of an objection.

92705 Mr. Radakovich objects.

92724 Mr. Coleman continues direct examination David Sincerbeaux.

92919 Mr. Coleman offers State's exhibit #6.

92926 Mr. Radakovich addresses the Court.

92950 Court admits State's exhibit #6.

92953 Mr. Coleman offers State's exhibit #11.

93005 Mr. Radakovich addresses the Court.

93038 Court admits State's exhibit #11.

93046 Mr. Coleman offers State's exhibit #5.

93051 Mr. Radakovich addresses the Court.

93054 Court admits State's exhibit #5.

93057 Mr. Coleman continues direct examination David Sincerbeaux.

93224 Mr. Radakovich begins cross examination David Sincerbeaux.

93348 Witness steps down.

93401 Mr. Coleman calls Sergeant Ken Yount, sworn, Mr. Coleman begins direct examination.

94732 Mr. Radakovich begins cross examination Sergeant Ken Yount.

95314 Witness steps down.

95352 Mr. Coleman indicates State rests.

95407 Court admonishes the jury.

95419 Court excuses jury from the courtroom.

95507 Court addresses counsel re: final instructions.

95604 Mr. Radakovich no objection.

95610 Mr. Coleman no objection.

95620 Mr. Radakovich does not have any witnesses and Defendant will not testify.

95634 Court addresses Defendant re: right not to testify.

95644 Defendant indicates he will not testify.

95800 Bailiff brings in the jury, all members present.

95915 Mr. Radakovich indicates Defense rests.

95923 Court addresses the jury.

95942 Court admonishes the jury.

100018 Court recess until 10:30 a.m.

103012 All parties present and ready to proceed.

103033 Bailiff brings in the jury, all members present.

103142 Court addresses the jury.

103214 Court begins reading final instructions to the jury.

104932 Mr. Coleman presents closing argument.

110742 Mr. Radakovich presents closing argument.

112828 Mr. Coleman presents rebuttal argument.

113355 Court addresses the jury.

113408 Clerk draws alternate juror, Brenda McKenzie.

113459 Clerk administers oath of bailiff.

113537 Court addresses jury. All exhibits will go in with exception of 4, 5 & 6 (controlled substances) and the jury will be provided with a listening device.

- 113623 Court excuses jury from the courtroom to begin deliberating.
- 113731 Court recess.
- 125054 All parties present and ready to proceed.
- 125106 Bailiff brings in the jury, all members present.
- 125152 Presiding juror hands verdict to the bailiff.
- 125222 Clerk reads verdict (guilty 3 counts Delivery of a Controlled Substance).
- 125311 All jurors indicate this is their verdict.
- 125323 Court addresses jurors.
- 125423 Court excuses jurors from the courtroom.
- 125445 Court sets sentencing for 2-18-16 at 2:30 p.m. PSI due 2-11-16.
- 125536 Court recess.

12-8-15

FILED

12:52

o'clock PM A.M.

*J. W. Hamm*  
Deputy

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 KYLE A. RICHARDSON, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**CASE NO. CR 2012-00082**

**JURY VERDICT FORM**

We, the Jury, unanimously find the defendant KYLE A. RICHARDSON:

**COUNT I**

**(MARK ONLY ONE OF THE FOLLOWING COUNT I VERDICTS)**

**GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

**NOT GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

Proceed to the Count II portion of this verdict form.

**COUNT II**

**(MARK ONLY ONE OF THE FOLLOWING COUNT II VERDICTS)**

**GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

**NOT GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

Proceed to the Count III portion of this verdict form.

**COUNT III**

**(MARK ONLY ONE OF THE FOLLOWING COUNT III VERDICTS)**

**GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

**NOT GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

Please sign the verdict form and advise the bailiff.

DATED this 8<sup>th</sup> day of December 2015.

Kimberly Jackson  
Presiding Juror

RESET (Clerk, check if applicable)

ORIGINAL OF THIS DOCUMENT TO IDOC

Assigned to: \_\_\_\_\_  
Assigned: \_\_\_\_\_

Second Judicial District Court, State of Idaho  
In and For the County of Nez Perce  
ORDER FOR PRESENTENCE REPORT AND EVALUATIONS

2015 DEC 8 PM 1 24

Case No: CR-2012-0000082

STATE OF IDAHO  
Plaintiff,

vs.

Kyle Alan Richardson  
2115 Birch Ave  
Lewiston, ID 83501  
Defendant.

PATTY O WFEKS  
CLERK OF THE DISTRICT COURT  
DEPUTY

CHARGE(s):  
) 137-2732(A)(1)(A)-DEL Controlled Substance-Delivery  
) 137-2732(A)(1)(A)-DEL Controlled Substance-Delivery  
) 137-2732(A)(1)(A)-DEL Controlled Substance-Delivery

REQUIRED ROA CODES: (Enter the appropriate code)  
) PSIO1- Order for Presentence Investigation Report (only)  
) PSMH1- Order for Presentence Investigation Report and Mental Health Assessment  
) PSSA1- Order for Presentence Investigation Report and Substance Abuse Assessment

On this Tuesday, December 08, 2015, a Pre-sentence Investigation Report was ordered by the Honorable Jay P. Gaskill DJ to be completed by 2-11-16 for Court appearance on Wednesday, February 18, 2016 at: 02:30 PM at the above stated courthouse.

Waiver under IC 19-2524 2(e) allowing assessment and treatment services by the same person or facility.  
 Behavioral Health Assessments waived by the Court (PSIO1 ROA Code)  
Other non-§19-2524 evaluations/examinations ordered for use with the PSI:  
 Sex Offender  Domestic Violence  Other \_\_\_\_\_ Evaluator: \_\_\_\_\_

DEFENSE COUNSEL: Danny J Radakovich

PROSECUTOR: Sandra K. Dickerson

THE DEFENDANT IS IN CUSTODY:  YES  NO If yes where: NPC Jail

PLEA AGREEMENT: State recommendation

WHJ/JOC  Probation  PD Reimb  Fine  ACJ  Restitution  Retained Jurisdiction

Other: \_\_\_\_\_

Date: 12/8/15 Signature: \_\_\_\_\_

Judge

DANNY J. RADAKOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED

2015 DEC 8 PM 2 07

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT



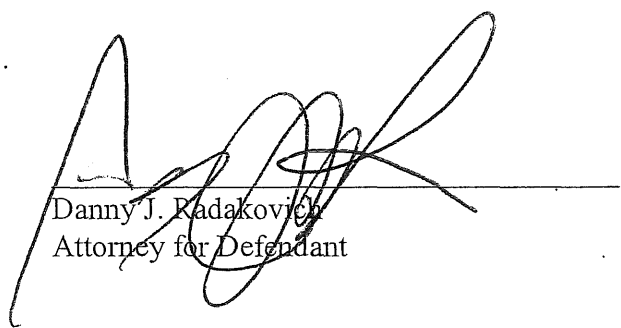
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	DEFENDANT'S ADDITIONAL
	)	REQUESTED JURY INSTRUCTION
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COMES NOW the defendant in the above-entitled matter, by and through his attorney of record herein, and hereby requests his Instruction Nos. 5 in this matter.

DATED this 7<sup>th</sup> day of December, 2015.



Danny J. Radakovich  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing was hand-delivered to:

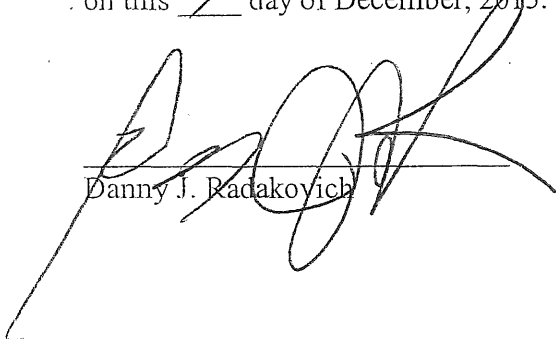
*Nez Perce County Prosecutor*

DEFENDANT'S ADDITIONAL  
REQUESTED JURY INSTRUCTION



P.O. Box 1267  
Lewiston, ID 83501

on this 7<sup>th</sup> day of December, 2015.



Danny J. Radakovich

INSTRUCTION NO. 5

In you find that the three (3) criminal counts with which the defendant is charged constitute a single, ongoing course of conduct, then you may only find him guilty of one offense.

State v. Moffat, 154 Idaho 529, 300 P.3d 61 (Ct. App., 2013)

Brown v. Ohio, 432 U.S. 161 (1977)

Given \_\_\_\_\_

Refused  \_\_\_\_\_

Modified \_\_\_\_\_

Covered \_\_\_\_\_

Other \_\_\_\_\_

FILED

2015 DEC 8 PM 2 05

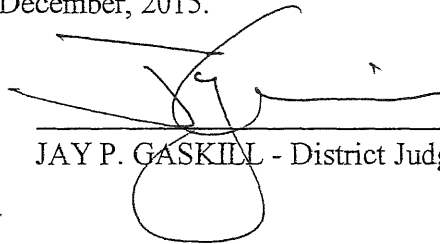
PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*P. O. Weeks*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	CASE NO. CR 12-00082
	)	
vs.	)	INSTRUCTIONS SUBMITTED
	)	TO THE JURY
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

The attached instructions No. 1 through No. 20 were given to the jury this 8th day of  
December, 2015.

DATED this 8<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
JAY P. GASKILL - District Judge

INSTRUCTION NO. 1

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

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

## INSTRUCTION NO. 2

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

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

During the trial I may have talked with the parties about the rules of law which should apply in this case. Sometimes we talked here at the bench. At other times I excused you from the courtroom so that you could be comfortable while we worked out any problems. You are not

to speculate about any such discussions. They were necessary from time to time to help the trial run more smoothly.

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

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

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

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

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

INSTRUCTION NO. 3

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

The evidence you are to consider consists of:

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

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

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

INSTRUCTION NO. 4

YOU ARE INSTRUCTED THAT the Defendant, Kyle A. Richardson, is charged by

Information with the following:

COUNT I

DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony

That the Defendant, Kyle A. Richardson, on or about the 7th day of September, 2011 in the County of Nez Perce State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

COUNT II

DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony

That the Defendant, Kyle A. Richardson, on or about the 9th day of September, 2011 in the County of Nez Perce State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

COUNT III

DELIVERY OF A CONTROLLED SUBSTANCE, I.C. § 37-2732(a)(1)(A), a  
felony

That the Defendant, Kyle A. Richardson, on or about the 14th day of September, 2011 in the County of Nez Perce State of Idaho, did unlawfully deliver a controlled substance, to-wit: METHAMPHETAMINE, a Schedule II controlled substance, to CI11-L02.

To these charges, the Defendant pled "not guilty."

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



INSTRUCTION NO. 5

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

INSTRUCTION NO. 6

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

## INSTRUCTION NO. 7

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

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

Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

INSTRUCTION NO. 8

In order for the defendant to be guilty of COUNT I—DELIVERY OF A CONTROLLED SUBSTANCE the State must prove each of the following:

1. On or about September 7, 2011,
2. in the state of Idaho,
3. the defendant, Kyle A. Richardson, delivered METHAMPHETAMINE to another, AND
4. the Defendant knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

INSTRUCTION NO. 9

In order for the defendant to be guilty of COUNT II—DELIVERY OF A CONTROLLED SUBSTANCE the State must prove each of the following:

1. On or about September 9, 2011;
2. in the state of Idaho,
3. the defendant, Kyle A. Richardson, delivered METHAMPHETAMINE to another, AND
4. the Defendant knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

INSTRUCTION NO. 10

In order for the defendant to be guilty of COUNT III—DELIVERY OF A CONTROLLED SUBSTANCE the State must prove each of the following:

1. On or about September 14, 2011,
2. in the state of Idaho,
3. the defendant, Kyle A. Richardson, delivered METHAMPHETAMINE to another, AND
4. the Defendant knew it was METHAMPHETAMINE or believed it was a controlled substance.

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

INSTRUCTION NO. 11

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

INSTRUCTION NO. 12

Under Idaho law, METHAMPHETAMINE is a controlled substance.



INSTRUCTION NO. 13

The law does not require a defendant in a criminal case to take the witness stand and testify or to present any evidence, witnesses, or exhibits. The decision as to whether the defendant testifies or presents evidence is left to the defendant, acting with the advice and assistance of the defendant's attorney.

No presumption of guilt may be raised and no inference of any kind may be drawn if the defendant decides not to testify or present any evidence, witnesses, or exhibits. This fact should not enter into your deliberations in any way.

INSTRUCTION NO. 14

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

INSTRUCTION NO. 15

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

INSTRUCTION NO. 16

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

## INSTRUCTION NO. 17

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

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

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

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

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

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

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

## INSTRUCTION NO. 18

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or write or mark on them in any way. If you have any questions about the handling or use of the exhibits, submit those questions in writing to me through the bailiff.

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

INSTRUCTION NO. 19

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

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

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

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

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



INSTRUCTION NO. 20

In this case you will return a verdict, consisting of a series of questions. Although the explanations on the verdict form are self-explanatory, they are part of my instructions to you. I will now read the verdict form to you. It states:

We, the Jury, unanimously find the defendant KYLE A. RICHARDSON:

**COUNT I**

**(MARK ONLY ONE OF THE FOLLOWING COUNT I VERDICTS)**

**GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

**NOT GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

Proceed to the Count II portion of this verdict form.

**COUNT II**

**(MARK ONLY ONE OF THE FOLLOWING COUNT II VERDICTS)**

**GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

**NOT GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

Proceed to the Count III portion of this verdict form.

**COUNT III**

**(MARK ONLY ONE OF THE FOLLOWING COUNT III VERDICTS)**

**GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

**NOT GUILTY OF DELIVERY OF A CONTROLLED SUBSTANCE**

The verdict form then has a place for it to be dated and signed. You should sign the verdict form as explained in another instruction.

COURT MINUTES

CR-2012-0000082

State of Idaho vs. Kyle Alan Richardson

Hearing type: Sentencing

Hearing date: 2/18/2016

Time: 1:31 pm

Judge: Jay P. Gaskill DJ

Courtroom: 1

Court reporter: Nancy Towler

Minutes Clerk: TERESA

Tape Number: CRTRM 1

Defense Attorney: Danny Radakovich

Prosecutor: Justin Coleman

13102 Defendant present, in custody, with counsel.

13202 Mr. Radakovich and Defendant have reviewed the PSI this morning. Mr. Radakovich notes corrections.

13316 Mr. Radakovich makes statement.

14039 Mr. Coleman makes statement.

14530 Defendant addresses the Court.

14700 Court addresses Defendant.

14926 Department of Correction 5-12 years as to each count to run concurrent. Sentence will also run concurrent with Federal sentence Defendant is currently serving beginning today 2-18-16, court costs as to each count in the amount of \$265.50 for a total of \$796.50, restitution \$200.00. Mr. Radakovich addresses the Court re: Defendant not be liable for costs until release from custody as he has no way to pay while in custody. State requests \$2100.00 for investigative costs, State to provide documentation to Court and defense counsel and court will set status conference for 3-3-16 at 1:30 p.m.

15213 Court recess.

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,

Plaintiff

FILED

2016 FEB 18 PM 2:37

CASE NO. CR12-00082

vs.

Kyle A. Richardson

PATTY O. WEEKS  
CLERK OF THE DIST. COURT

Defendant

DEPUTY

TO THE SHERIFF OF NEZ PERCE COUNTY, STATE OF IDAHO:

The above-named Defendant, appearing before this Court this day, being informed by the

Court of the nature of the charge against him/her, to wit:

3 Counts Delivery of a Controlled Substance

committed on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, in said county,

and having been duly arraigned before the Court and having been duly found to be guilty and

having stated that no legal cause existed why judgment should not be pronounced against him/her

and no sufficient cause appearing to the Court.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant is guilty of  
said crime and that he/she be punished as follows: Imprisonment in the Idaho State Board of

Correction for a period of 5-12 years as to each  
Count to run concurrently.

NOW, THEREFORE, YOU, THE SAID SHERIFF OF NEZ PERCE COUNTY, STATE  
OF IDAHO, are hereby commanded to receive the said Defendant and detain him/her in the Idaho  
State Board of Correction, until this sentence is complied with.

DONE IN OPEN COURT this 18<sup>th</sup> day of February, 20 16.

District Judge

Sentence to run concurrently  
with Federal Sentence  
Defendant is currently serving  
beginning today 2-18-16.



The defendant was charged by Information with the crime of 3 COUNTS DELIVERY OF A CONTROLLED SUBSTANCE, Idaho Code § 37-2732(a)(1)(A), felonies, committed on or about September 7, 2011, September 9, 2011 and September 14, 2011; and, a verdict of guilty to the crime of was rendered by the jury on December 8, 2015, and thereafter, a presentence investigation was submitted to the Court, and the Court having considered the same, and being fully advised in the premises;

On February 18, 2016, the Court asked the defendant if there existed any legal cause why judgment should not be pronounced, and Defendant replied that there was none, and no sufficient cause being shown or appearing to the Court, thereupon, the Court rendered its judgment as follows:

IT IS HEREBY, ORDERED, ADJUDGED AND DECREED that Defendant is guilty of the crime of 3 COUNTS DELIVERY OF A CONTROLLED SUBSTANCE, Idaho Code § 37-2732(a)(1)(A), felonies, and that defendant is SENTENCED to the custody of the IDAHO STATE BOARD OF CORRECTION, Boise, Idaho for a period of not less than FIVE (5) years nor more than TWELVE (12) years, consisting of a minimum period of confinement of FIVE (5) years during which the defendant shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct (except as provided by Section 20-101D, Idaho Code) and a subsequent indeterminate period of custody not exceeding SEVEN (7) years as to each count to run concurrent.

The sentence in this matter shall run concurrent with the Federal sentence Defendant is currently serving beginning today, February 18, 2016.

That Defendant shall pay court costs in the amount of \$265.50 as to each count, for a total of \$796.50. That payments shall be mailed to Clerk of the Court, P O Box 896, Lewiston, Idaho 83501; and,

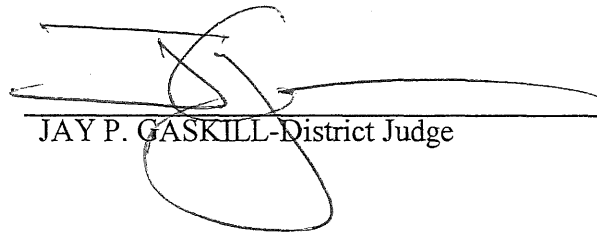
That Defendant shall next make restitution to the victim(s), in an amount to be determined.

That all restitution payments for victims as set forth above MUST be paid in the form of a CASHIERS CHECK or MONEY ORDER, made payable to: NEZ PERCE COUNTY VICTIM'S FUND and mailed to the NEZ PERCE COUNTY DISTRICT COURT, Post Office Box 896, Lewiston, Idaho 83501. There will be NO exceptions to the above requirements; and,

**NOTICE OF RIGHT TO APPEAL**

YOU, **KYLE A. RICHARDSON**, ARE HEREBY NOTIFIED that you have a right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within the time provided by law.

DATED this 23<sup>rd</sup> day of February, 2016, nunc pro tunc for February 18, 2016.

  
\_\_\_\_\_  
JAY P. GASKILL-District Judge

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing JUDGMENT OF CONVICTION was:

hand delivered via court basket, or

\_\_\_\_\_ mailed, postage prepaid, by the undersigned at Lewiston, Idaho, this 23<sup>rd</sup> day of February, 2016, to:

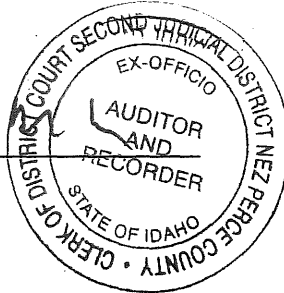
Rick Cuddihy  
P O Drawer 717  
Lewiston ID 83501

Prosecuting Attorney  
P.O. Box 1267  
Lewiston ID 83501

EMAILED TO: [CCDSentencingD2@idoc.idaho.gov](mailto:CCDSentencingD2@idoc.idaho.gov); [centralrecords@idoc.idaho.gov](mailto:centralrecords@idoc.idaho.gov) and [rhayward@idoc.idaho.gov](mailto:rhayward@idoc.idaho.gov)

PATTY O. WEEKS, CLERK

By   
Deputy



DANNY J. RADAKOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

**FILED**  
2016 MAR 11 PM 3 05

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT  
*[Signature]*  
DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	NOTICE OF APPEAL
	)	
v.	)	FILING FEE: EXEMPT
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND ITS ATTORNEYS, NEZ PERCE COUNTY PROSECUTOR'S OFFICE, P.O. BOX 1267, LEWISTON, ID 83501, AND LAWRENCE WASDEN, ATTORNEY GENERAL, ATTN: CRIMINAL DEPARTMENT, P. O. BOX 83720, BOISE, IDAHO 83720-0010, AND TO THE CLERK OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named defendant, Kyle A. Richardson, hereby appeals against the above-named respondent to the Idaho Supreme Court, from the Judgment of Conviction entered in the above-entitled matter on February 23, 2016, and from the October 2, 2015, Opinion and Order on Defendant's Motion to Dismiss;



2. That the party has a right to appeal to the Idaho Supreme Court and the Orders described in paragraph 1, above, are appealable orders under and pursuant to Rule 11(c)(1 & 6), I.A.R.;

3. A preliminary statement of the issues which the appellant may assert on appeal is as follows:

- a. The jury verdict was not supported by adequate evidence;
- b. The court erred in its instructions to the jury;
- c. The court erred in admitting testimony at trial, to the defendant's detriment;
- d. The court erred in denying the defendant's motion to dismiss for lack of a speedy trial;
- e. The sentence was excessive;
- f. This preliminary statement shall not preclude the appellant from asserting other issues on appeal.

4. No order has been entered sealing all or any portion of the record.

5. a. Is a reporter's transcript requested? Yes.

b. The appellant requests the preparation of the following portions of the reporter's transcript in addition to the standard reporter's transcript per Rule 25(c), I.A.R., which is requested in both hard copy and electronic format;

(1) The voir dire of the jury;

(2) Opening statements and closing arguments of counsel;

(3) The conference on requested instructions, the objections of the parties to the instructions, and the court's ruling thereon;

(4) The oral presentation by the court of written instructions given to the jury;

(5) A transcript of the sentencing held on February 18, 2016, estimated at less than 100 pages;

6. The appellant requests the following documents to be included in the Clerk's record in addition to those automatically included under Rule 28, I.A.R.: Copies of jury instructions requested by the State and the defendant; copies of the instructions given by the district court;

7. That the following documents be copied and sent to the Idaho Supreme Court: Copy of transcript of February 22, 2012, preliminary hearing; copies of all exhibits submitted and admitted at trial; and a copy of the presentence investigation report;

8. I certify:

a. That service of a copy of this notice of appeal has been made upon the each court reporter from whom a transcript has been requested, i.e.: Nancy Towler, P.O. Box 896, Lewiston, ID 83501;

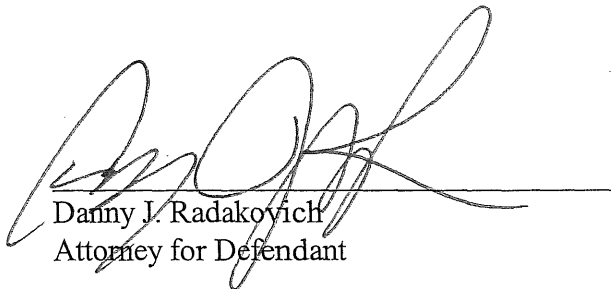
b. The estimated fee for preparation of the transcripts requested has not been paid because the appellant has requested the appointment of the Appellate Public Defender and, therefore, preparation of transcript at public expense;

c. That the estimated fee for preparation of the clerk's record has not been paid because the appellant has requested the appointment of the Appellate Public Defender and, therefore, preparation of the clerk's record at public expense;

d. That no appellate filing fee need be paid, since this is a criminal proceeding.

e. That service has been made on all parties required to be served pursuant to Rules 17 and 20, I.A.R.

DATED this 11<sup>th</sup> day of March, 2016.

  
\_\_\_\_\_  
Danny J. Radakovich  
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing instrument was mailed, first-class postage prepaid, to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

*Nancy Towler  
P.O. Box 896  
Lewiston, ID 83501*

*Lawrence Wasden, Attorney  
General,  
Attn: Criminal  
Department  
P. O. Box 83720  
Boise, Idaho 83720-0010*

on this 11<sup>th</sup> day of March, 2016.

  
\_\_\_\_\_  
Danny J. Radakovich

FILED

2016 MAR 11 PM 3 05

DANNY J. RADAKOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

PATTY O. WEEKS  
CLERK DISTRICT COURT  
*[Signature]*  
DEPUTY.

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	VERIFIED MOTION TO WITHDRAW
	)	AND FOR APPOINTMENT OF
v.	)	APPELLATE PUBLIC DEFENDER
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

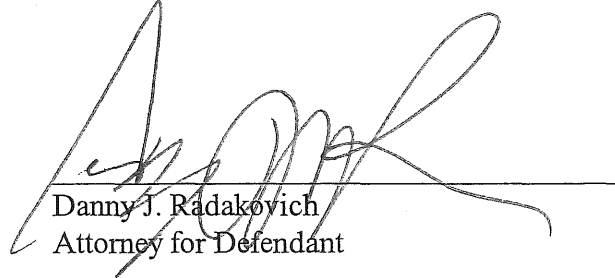
COMES NOW Danny J. Radakovich, the attorney for the above-named defendant, and hereby moves, pursuant to Rule 44.1(a), I.C.R., to allow said attorney to withdraw as counsel for the defendant in said matter.

This motion is based upon the statements herein and upon the papers and pleadings in filed in said matter and the motion is made on the grounds that the defendant wishes to appeal to the Idaho Supreme Court/Court of Appeals in said matter. When the defendant first retained the undersigned as counsel, following the end of the undersigned's term as public defender, the defendant was free on bond and able to pay for his legal services at that time. Subsequently, the defendant has been federally incarcerated and has no funds to pay for counsel, resulting in his

VERIFIED MOTION TO WITHDRAW  
AND APPOINT APPELLATE  
PUBLIC DEFENDER

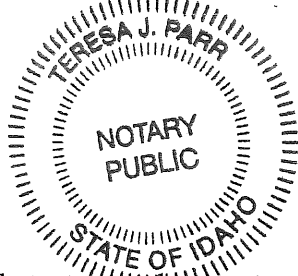
father funding the legal work through this point. At this time, the father is unwilling/unable to finance the appeal and, therefore, the defendant requires the services of the appellate public defender, since the undersigned is not willing to pursue the appeal without remuneration and, further, the defendant does not have the funds to pay for the transcript and clerk's record.

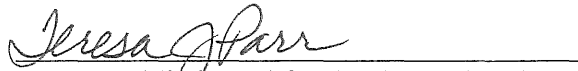
DATED this 11<sup>th</sup> day of March, 2016.

  
\_\_\_\_\_  
Danny J. Radakovich  
Attorney for Defendant

STATE OF IDAHO )  
                          : ss.  
County of Nez Perce )

On this 11<sup>th</sup> day of March, 2016, before me, Teresa J. Parr, a notary public, personally appeared Danny J. Radakovich, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

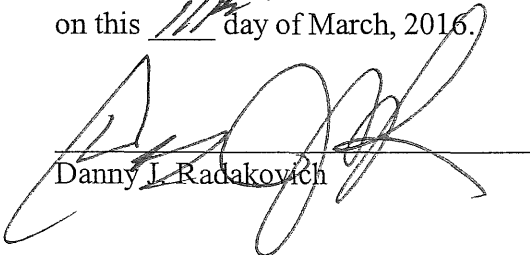


  
\_\_\_\_\_  
Notary Public in and for the State of Idaho,  
residing at Clarkston, Washington.  
My commission expires on 07/31/21.

I hereby certify that a true and correct copy of the foregoing instrument was mailed, first-class postage prepaid, to:

*Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501*

on this 11<sup>th</sup> day of March, 2016.

  
\_\_\_\_\_  
Danny J. Radakovich

VERIFIED MOTION TO WITHDRAW  
AND APPOINT APPELLATE  
PUBLIC DEFENDER

DANNY J. RADAKOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED

2016 MAR 11 PM 3 05

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*[Handwritten Signature]*  
DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE**

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	MOTION FOR CREDIT
	)	FOR TIME SERVED
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COMES NOW the defendant in the above-entitled matter, by and through his attorney of record herein, and moves the court for credit for time served in this matter from October 23, 2015, the date that he arrived in Nez Perce County from the Federal penitentiary.

DATED this 11<sup>th</sup> day of March, 2016.

*[Handwritten Signature]*  
\_\_\_\_\_  
Danny J. Radakovich  
Attorney for Defendant

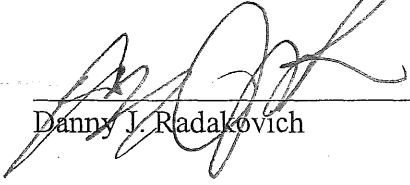
I hereby certify that a true and correct copy of the foregoing instrument was mailed, first-class postage prepaid, to:

*Nez Perce County Prosecutor*

MOTION FOR CREDIT  
FOR TIME SERVED

P.O. Box 1267  
Lewiston, ID 83501

on this 11<sup>th</sup> day of March, 2016.



---

Danny J. Radakovich

DANNY J. RADA KOVICH  
A Felony Public Defender  
Attorney for Defendant  
1624 G Street  
Lewiston, ID 83501  
(208) 746-8162  
Idaho State Bar #1991

FILED

2016 MAR 15 AM 10 08

PATTY O. WEEKS  
CLERK OF THE DIST. COURT  
*[Signature]*  
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	
Plaintiff,	)	ORDER RE: CREDIT
	)	FOR TIME SERVED
v.	)	
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

COUNSEL FOR the defendant in the above-entitled matter having moved the court to order credit for time served in this matter from October 23, 2015, the date that he arrived in Nez Perce County from the Federal penitentiary, the court having considered said motion, and good cause appearing therefor;

IT IS HEREBY ORDERED that defendant is granted credit for time served in this matter from October 23, 2015.

DATED this 15<sup>th</sup> day of March, 2016.

*[Signature]*  
Jay Gaskill  
District Judge

ORDER RE: CREDIT  
FOR TIME SERVED



**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that on the 15<sup>th</sup> day of March, 2016, the undersigned  
(Deputy) clerk of the above-entitled court ~~hand-delivered~~ <sup>Faxed</sup> true and correct copies of the Order to  
which this certificate is attached to:

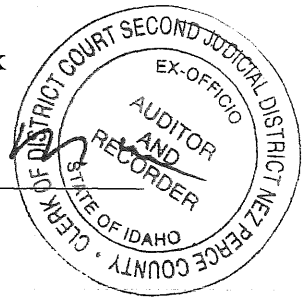
Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501

Danny J. Radakovich  
1624 G Street  
Lewiston, ID 83501

DATED this 15<sup>th</sup> day of March, 2016.

PATTY O. WEEKS, Clerk

By *Patty O. Weeks*  
Deputy



3-15-16 emailed to: CCDsentencingDz@idoc.idaho.gov  
& centralrecords@idoc.idaho.gov  
& NPC Jail

DANNY J. RADAKOVICH  
 A Felony Public Defender  
 Attorney for Defendant  
 1624 G Street  
 Lewiston, ID 83501  
 (208) 746-8162  
 Idaho State Bar #1991

FILED

2019 MAR 15 AM 10 08  
 BATTY C. GILBERT  
 CLERK OF THE DIST. COURT

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF  
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

STATE OF IDAHO,	)	CASE NO. CR12-082
	)	DEPUTY
Plaintiff,	)	ORDER RE: WITHDRAWAL
	)	AND FOR APPOINTMENT OF
v.	)	APPELLATE PUBLIC DEFENDER
	)	
KYLE A. RICHARDSON,	)	
	)	
Defendant.	)	

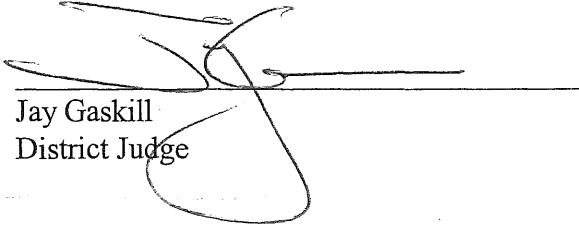
COUNSEL FOR the defendant in the above-entitled matter having moved the court to allow said attorney to withdraw as counsel for the defendant in said matter, the court having considered said motion, and good cause appearing therefor;

IT IS HEREBY ORDERED that Danny J. Radakovich be, and he hereby is, granted leave to withdraw as the attorney for defendant Kyle A. Richardson in this matter and he is hereby deemed withdrawn, effective the date of this order;

IT IS FURTHER ORDERED that an Appellate Public Defender be appointed to represent defendant in the appeal of this matter.

ORDER RE: WITHDRAWAL  
 AND APPOINTMENT OF APPELLATE  
 PUBLIC DEFENDER

DATED this 15<sup>th</sup> day of March, 2016.

  
Jay Gaskill  
District Judge

**CERTIFICATE OF SERVICE**

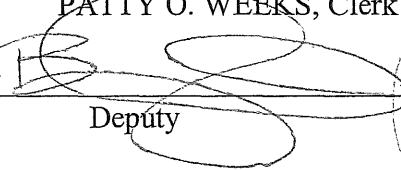
IT IS HEREBY CERTIFIED that on the 15<sup>th</sup> day of March, 2016, the undersigned  
(Deputy) clerk of the above-entitled court hand-delivered true and correct copies of the Order to  
which this certificate is attached to:

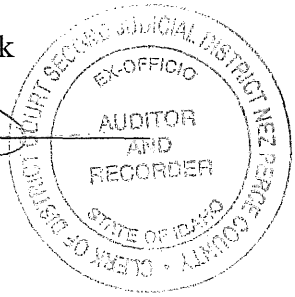
Nez Perce County Prosecutor  
P.O. Box 1267  
Lewiston, ID 83501

Danny J. Radakovich  
1624 G Street  
Lewiston, ID 83501

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

DATED this 15<sup>th</sup> day of March, 2016.

PATTY O. WEEKS, Clerk  
By   
Deputy



TO: Clerk of the Court  
Idaho Supreme Court  
P.O. Box 83720  
Boise, ID 83720-0101

FILED

2016 MAR 31 PM 1 12

~~PATTY O. WEEKS  
CLERK OF THE DIST COURT  
DEPUTY~~

DOCKET NO. 44042

(  
( State of Idaho  
(  
( vs.  
(  
( Kyle A. Richardson

**NOTICE OF TRANSCRIPT LODGED**

Notice is hereby given that on March 30, 2016, I, Nancy K. Towler, C.S.R.,  
lodged an electronic transcript of 367 pages in length for the above-referenced  
appeal with the District Court Clerk of the County of Nez Perce in the Second Judicial  
District.

Included therein: Jury Trial, December 7-8, 2015.  
Sentencing Hearing, February 18, 2016.

I also filed an electronic copy with the Supreme Court of the State of Idaho on the  
same date.

Nancy K. Towler  
Nancy K. Towler, C.S.R. #623

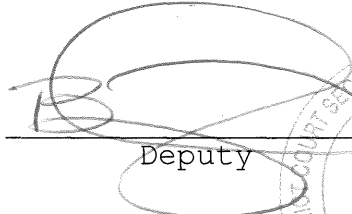
IN THE SUPREME COURT OF THE STATE OF IDAHO

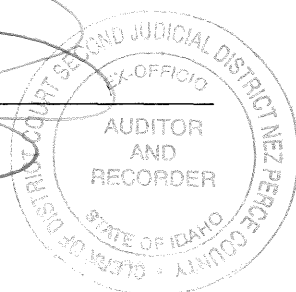
THE STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	SUPREME COURT NO. 44042
	)	
v.	)	CERTIFICATE OF EXHIBITS
	)	
KYLE ALAN RICHARDSON,	)	
	)	
Defendant-Appellant.	)	

I, Patty O. Weeks, Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for Nez Perce County, do hereby certify that the following is a list of the exhibits offered or admitted and which have been lodged with the Supreme Court or retained as indicated (see attached).

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of the Court this 2nd day of May 2016.

PATTY O. WEEKS, Clerk

By  Deputy



CERTIFICATE OF EXHIBITS

Number	Description	Result	Storage Location Property Item Number	Destroy Notification Date	Destroy or Return Date
1	State's exhibit 1 - ISP Forensic Services Criminalistic Analysis Report for Agency Exhibit No. 145144. Admitted 2/22/12	Admitted	Exhibit Vault		
		Assigned to:	Dickerson, Sandra Kay, 4968		
2	State's exhibit 2 - ISP Forensic Services Criminalistic Analysis Report for Agency Exhibit No. 145184 and 145326. Admitted 2/22/12	Admitted	Exhibit Vault		
		Assigned to:	Dickerson, Sandra Kay, 4968		
3	State's exhibit 3 - picture of small baggie containing crystal meth (baggie on right) and baggie containing drug test kit (on left). Admitted 2/22/12	Admitted	Exhibit Vault		
		Assigned to:	Dickerson, Sandra Kay, 4968		
4	State's exhibit 4 - Picture of small baggie containing crystal meth which was found in the cigarette pack. Admitted 2/22/12	Admitted	Exhibit Vault		
		Assigned to:	Dickerson, Sandra Kay, 4968		
5	State's exhibit 5 - Picture of two baggies containing crystal meth (on the left) and a baggie containing drug test kit (on right). Admitted 2/22/12	Admitted	Exhibit Vault		
		Assigned to:	Dickerson, Sandra Kay, 4968		
6	State's exhibit #1 photo meth with NIK test ADMITTED AT JURY TRIAL 12-7-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		
7	State's exhibit #2 photo meth buy #2 ADMITTED AT JURY TRIAL 12-7-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		
8	State's exhibit #3 photo meth buy #3 ADMITTED AT JURY TRIAL 12-7-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		
9	State's exhibit #4 meth buy #1 ADMITTED AT JURY TRIAL 12-8-15 ISP #C20112091-1, LPD #11-L13806, 36549	Admitted	Drug Vault B - box ISP C20112091-1		
		Assigned to:	Coleman, Justin J., 8023		
10	State's exhibit #5 meth buy #2 ADMITTED AT JURY TRIAL 12-8-15 ISP #C20112091-2, LPD #11-L13806, 36592	Admitted	Drug Vault B - box ISP #C20112091-2		
		Assigned to:	Coleman, Justin J., 8023		
11	State's exhibit #6 meth buy #3 ADMITTED AT JURY TRIAL 12-8-15 ISP #C20112091-3, LPD #11-L13806, 36646	Admitted	Drug Vault B - box ISP #C20112091-3		
		Assigned to:	Coleman, Justin J., 8023		

State's Exhibits  
#4, 5 & 6 -  
Photograph of  
Exhibit Included

Number	Description	Result	Storage Location Property Item Number	Destroy Notification Date	Destroy or Return Date
12	State's exhibit #7 body wire buy #1 CD ADMITTED AT JURY TRIAL 12-7-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		
13	State's exhibit #8 body wire buy #2 CD ADMITTED AT JURY TRIAL 12-7-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		
14	State's exhibit #9 body wire buy #3 CD ADMITTED AT JURY TRIAL 12-7-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		
15	State's exhibit #10 lab report buy #1 ADMITTED AT JURY TRIAL 12-8-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		
16	State's exhibit #11 lab report buy #2 and #3 ADMITTED AT JURY TRIAL 12-8-15	Admitted	Drug Vault B - box		
		Assigned to:	Coleman, Justin J., 8023		

*State's Exhibits  
#7, 8 & 9  
Submitted on  
separate CD's*

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, ) SUPREME COURT NO. 44042  
 )  
 vs. )  
 ) CLERK'S CERTIFICATE  
 KYLE ALAN RICHARDSON, )  
 )  
 )  
 Defendant-Appellant. )

I, Patty O. Weeks, Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for the County of Nez Perce, do hereby certify that the foregoing Clerk's Record in the above-entitled cause was compiled and bound by me and contains true and correct copies of all pleadings, documents, and papers designated to be included under Rule 28, Idaho Appellate Rules, the Notice of Appeal, any Notice of Cross-Appeal, and additional documents that were requested.

I further certify:

1. That all documents, x-rays, charts, and pictures offered or admitted as exhibits in the above-entitled cause, if any, will be duly lodged with the Clerk of the Supreme Court with any Reporter's Transcript and the Clerk's Record (except for State's exhibit #4-Meth buy #1, State's Exhibit #5-Meth from buy #2, and State's Exhibit #6-Meth from buy #3, of which photographs of the exhibits are submitted.) The above exhibits will be retained in the possession of the

CLERK'S CERTIFICATE



undersigned, as required by Rule 31 of the Idaho Appellate Rules.

2. That the following will be submitted as a confidential exhibit to the record:

PSI Report dated February 11, 2016

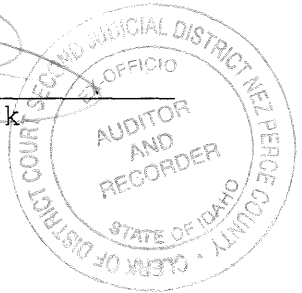
3. That the following will be submitted as an exhibit to the record:

Preliminary Hearing Transcript filed March 27, 2012

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said court this 2nd day of May 2016.

PATTY O. WEEKS, Clerk

By  Deputy Clerk



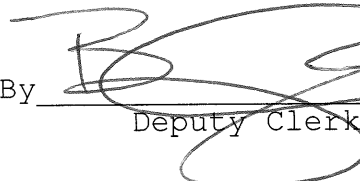
IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
	)	SUPREME COURT NO. 44042
Plaintiff-Respondent,	)	
	)	CERTIFICATE OF SERVICE
	)	
v.	)	
	)	
	)	
KYLE ALAN RICHARDSON,	)	
	)	
	)	
Defendant-Appellant.	)	

I, Patty O. Weeks, Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for the County of Nez Perce, do hereby certify that copies of the Clerk's Record and Reporter's Transcript were placed in the United States mail and addressed to Lawrence G. Wasden, Attorney General, P. O. Box 83720, Boise, Idaho 83720-0010 and Sara B. Thomas, SAPD, P. O. Box 2816, Boise, ID 83701 this 2nd day of June, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 2nd day of June, 2016.

PATTY O. WEEKS  
CLERK OF THE DISTRICT COURT

By   
Deputy Clerk

