

8-30-2016

State v. Downing Clerk's Record Dckt. 44382

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs

Recommended Citation

"State v. Downing Clerk's Record Dckt. 44382" (2016). *Idaho Supreme Court Records & Briefs, All*. 6658.
https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/6658

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ UIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs, All by an authorized administrator of Digital Commons @ UIdaho Law. For more information, please contact annablaine@uidaho.edu.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,
vs.
JASON SCOTT DOWNING,

Defendant-Appellant.

Supreme Court Case No. 44382

CLERK'S RECORD ON APPEAL

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

HONORABLE LYNN G. NORTON

STATE APPELLATE PUBLIC DEFENDER
ATTORNEY FOR APPELLANT
BOISE, IDAHO

LAWRENCE G. WASDEN
ATTORNEY FOR RESPONDENT
BOISE, IDAHO

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

State of Idaho
vs.
Jason Scott Downing

§
§
§
§
§
§

Location: Ada County District Court
Judicial Officer: Norton, Lynn G.
Filed on: 10/07/2015
Case Number History:
Appellate Case Number: 44382
Police Reference Number: 15-523250

CASE INFORMATION

Offense	Deg	Date	Case Type: Criminal
Jurisdiction: Boise City Police Department			
1. Controlled Substance-Possession of TCN: 1110221621	FEL	10/06/2015	

Statistical Closures
06/23/2016 Closed

Bonds
Surety Bond #PC2 01177227 \$2,500.00
11/28/2015 Posted
Counts: 1

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	CR-FE-2015-14295
Court	Ada County District Court
Date Assigned	11/25/2015
Judicial Officer	Norton, Lynn G.

PARTY INFORMATION

State	State of Idaho	<i>Lead Attorneys</i> Faulkner, Whitney Anne <i>Retained</i> 208-287-7700(W)
Defendant	Downing, Jason Scott	Thomson, Ian Hall <i>Public Defender</i> 208-334-2712(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

10/07/2015	New Case Filed - Felony Party: Defendant Downing, Jason Scott <i>New Case Filed - Felony</i>
10/07/2015	Prosecutor Assigned Party: Defendant Downing, Jason Scott <i>Prosecutor assigned Ada County Prosecutor</i>
10/07/2015	Criminal Complaint Party: Defendant Downing, Jason Scott <i>Criminal Complaint</i>
10/07/2015	Hearing Scheduled Party: Defendant Downing, Jason Scott <i>Hearing Scheduled (Video Arraignment 10/07/2015 01:30 PM)</i>
10/07/2015	Arraignment Party: Defendant Downing, Jason Scott

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

Hearing result for Video Arraignment scheduled on 10/07/2015 01:30 PM: Arraignment / First Appearance

10/07/2015	Change Assigned Judge: Administrative Party: Defendant Downing, Jason Scott <i>Judge Change: Administrative</i>
10/07/2015	Order Appointing Public Defender Party: Defendant Downing, Jason Scott <i>Order Appointing Public Defender Ada County Public Defender</i>
10/07/2015	Hearing Scheduled Party: Defendant Downing, Jason Scott <i>Hearing Scheduled (Preliminary 10/20/2015 08:30 AM)</i>
10/07/2015	Bond Set Party: Defendant Downing, Jason Scott <i>BOND SET: at 10000.00 - (137-2732(c)(1) {F} Controlled Substance-Possession of)</i>
10/07/2015	Miscellaneous Party: Defendant Downing, Jason Scott <i>Notice & Order Of Hearing/appointment Of Pd</i>
10/07/2015	Video Arraignment (1:30 PM) (Judicial Officer: Oths, Michael J.)
10/09/2015	Motion for Bond Reduction Party: Defendant Downing, Jason Scott <i>Motion For Bond Reduction</i>
10/09/2015	Notice of Hearing Party: Defendant Downing, Jason Scott <i>Notice Of Hearing</i>
10/20/2015	Amended Complaint Filed Party: Defendant Downing, Jason Scott <i>Amended Complaint Filed</i>
10/20/2015	Continued Party: Defendant Downing, Jason Scott <i>Continued (Preliminary 11/09/2015 08:30 AM)</i>
10/20/2015	Miscellaneous Party: Defendant Downing, Jason Scott <i>Magistrate Minutes & Notice of Hearing</i>
11/09/2015	Continued Party: Defendant Downing, Jason Scott <i>Continued (Preliminary 11/25/2015 08:30 AM)</i>
11/09/2015	Miscellaneous Party: Defendant Downing, Jason Scott <i>Magistrate Minutes & Notice of Hearing</i>
11/25/2015	Preliminary Hearing Waived (Bound Over) Party: Defendant Downing, Jason Scott <i>Hearing result for Preliminary scheduled on 11/25/2015 08:30 AM: Preliminary Hearing Waived (bound Over)</i>
11/25/2015	Preliminary Hearing Waived (Bound Over) Party: Defendant Downing, Jason Scott <i>Hearing result for Preliminary scheduled on 11/25/2015 08:30 AM: Preliminary Hearing</i>

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

Waived (bound Over)

11/25/2015	Hearing Scheduled Party: Defendant Downing, Jason Scott <i>Hearing Scheduled (Arraignment 12/03/2015 09:00 AM)</i>
11/25/2015	Stipulation Party: Defendant Downing, Jason Scott <i>Stipulation to Reduce Bond Granted</i>
11/25/2015	Bond Set Party: Defendant Downing, Jason Scott <i>BOND SET: at 2500.00 - (I37-2732(c)(1) {F} Controlled Substance-Possession of)</i>
11/25/2015	Order for Commitment Party: Defendant Downing, Jason Scott <i>Commitment</i>
11/25/2015	Miscellaneous Party: Defendant Downing, Jason Scott <i>Magistrate Minutes & Notice of Hearing</i>
11/25/2015	CANCELED Preliminary Hearing (8:30 AM) (Judicial Officer: Hawley/Irby, Judge) <i>Vacated</i>
11/30/2015	Prosecutor Assigned Party: Defendant Downing, Jason Scott <i>Prosecutor assigned Whitney A Faulkner</i>
11/30/2015	Information Filed Party: Defendant Downing, Jason Scott <i>Information</i>
12/01/2015	Bond Posted - Surety Party: Defendant Downing, Jason Scott <i>Bond Posted - Surety (Amount 2500.00)</i>
12/03/2015	DC Arraignment: Court Reporter: # of Pages: Party: Defendant Downing, Jason Scott <i>Hearing result for Arraignment scheduled on 12/03/2015 09:00 AM: District Court Arraignment- Court Reporter: Penny Tardiff Number of Pages: Less than 100</i>
12/03/2015	Hearing Scheduled Party: Defendant Downing, Jason Scott <i>Hearing Scheduled (Entry of Plea 12/17/2015 09:00 AM)</i>
12/03/2015	Arraignment (9:00 AM) (Judicial Officer: Norton, Lynn G.)
12/17/2015	DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Downing, Jason Scott <i>Hearing result for Entry of Plea scheduled on 12/17/2015 09:00 AM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100</i>
12/17/2015	Hearing Scheduled Party: Defendant Downing, Jason Scott <i>Hearing Scheduled (Status Conference 03/03/2016 09:00 AM)</i>
12/17/2015	Hearing Scheduled

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

Party: Defendant Downing, Jason Scott
Hearing Scheduled (Pretrial Conference 03/24/2016 09:00 AM)

12/17/2015 Hearing Scheduled
Party: Defendant Downing, Jason Scott
Hearing Scheduled (Jury Trial 04/04/2016 08:30 AM) 2 days

12/17/2015 A Plea is entered for Charge:*
Party: Defendant Downing, Jason Scott
A Plea is entered for charge: - NG (137-2732(c)(1) {F} Controlled Substance-Possession of)

12/17/2015 Notice of Jury Trial & Scheduling Order
Party: Defendant Downing, Jason Scott
Notice Of Jury Trial And Scheduling Order

12/17/2015 **Entry of Plea (9:00 AM)** (Judicial Officer: Norton, Lynn G.)

12/21/2015 Motion to Disqualify
Party: Defendant Downing, Jason Scott
Motion To Disqualify

12/23/2015 Order
Party: Defendant Downing, Jason Scott
Order for Disqualification Without Cause of Judge McKee

02/29/2016 Motion to Enlarge
Party: Defendant Downing, Jason Scott
Motion to Enlarge Time

02/29/2016 Motion
Party: Defendant Downing, Jason Scott
Motion to Shorten Time

02/29/2016 Response to Request for Discovery
Party: Defendant Downing, Jason Scott
State/City Response to Discovery

02/29/2016 Request for Discovery
Party: Defendant Downing, Jason Scott
State/City Request for Discovery

02/29/2016 Notice of Hearing
Party: Defendant Downing, Jason Scott
Notice Of Hearing (3/3/2016 at 9:00 am)

03/03/2016 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Downing, Jason Scott
Hearing result for Status Conference scheduled on 03/03/2016 09:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

03/03/2016 Order
Party: Defendant Downing, Jason Scott
Order Enlarging Time

03/03/2016 **Status Conference (9:00 AM)** (Judicial Officer: Norton, Lynn G.)

03/08/2016 Motion
Party: Defendant Downing, Jason Scott
Motion to Suppress

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

03/08/2016 Notice of Hearing
Party: Defendant Downing, Jason Scott
Notice Of Hearing(3/31@11:00)

03/08/2016 Memorandum
Party: Defendant Downing, Jason Scott
Memorandum in Support of Motion

03/08/2016 Hearing Scheduled
Party: Defendant Downing, Jason Scott
Hearing Scheduled (Hearing Scheduled 03/31/2016 11:30 AM)

03/21/2016 Objection
Party: Defendant Downing, Jason Scott
Objection to Defendant's Motion to Suppress Evidence

03/24/2016 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Downing, Jason Scott
Hearing result for Pretrial Conference scheduled on 03/24/2016 09:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

03/24/2016 **Pre-trial Conference (9:00 AM)** (Judicial Officer: Norton, Lynn G.)

03/31/2016 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Downing, Jason Scott
Hearing result for Hearing Scheduled scheduled on 03/31/2016 11:30 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

03/31/2016 Hearing Vacated
Party: Defendant Downing, Jason Scott
Hearing result for Jury Trial scheduled on 04/04/2016 08:30 AM: Hearing Vacated 2 days

03/31/2016 Hearing Scheduled
Party: Defendant Downing, Jason Scott
Hearing Scheduled (Sentencing 05/26/2016 10:00 AM)

03/31/2016 A Plea is entered for Charge:*
Party: Defendant Downing, Jason Scott
A Plea is entered for charge: - GT (I37-2732(c)(1) {F} Controlled Substance-Possession of)

03/31/2016 Guilty Plea Advisory
Party: Defendant Downing, Jason Scott
Guilty Plea Advisory

03/31/2016 Pre-Sentence Investigation Ordered
Party: Defendant Downing, Jason Scott
Pre-Sentence Investigation Evaluation Ordered

03/31/2016 **Hearing Scheduled (11:30 AM)** (Judicial Officer: Norton, Lynn G.)

03/31/2016 **Plea**
1. Controlled Substance-Possession of
Guilty
TCN: 1110221621 :

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

04/04/2016 **CANCELED Jury Trial (8:30 AM)** (Judicial Officer: Norton, Lynn G.)
Vacated
2 days Hearing result for Jury Trial scheduled on 04/04/2016 08:30 AM: Hearing Vacated

05/26/2016 **DC Hearing Held: Court Reporter: # of Pages:**
Party: Defendant Downing, Jason Scott
Hearing result for Sentencing scheduled on 05/26/2016 10:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

05/26/2016 **Hearing Scheduled**
Party: Defendant Downing, Jason Scott
Hearing Scheduled (Sentencing 06/09/2016 10:00 AM)

05/26/2016 **Sentencing (10:00 AM)** (Judicial Officer: Norton, Lynn G.)

06/09/2016 **DC Hearing Held: Court Reporter: # of Pages:**
Party: Defendant Downing, Jason Scott
Hearing result for Sentencing scheduled on 06/09/2016 10:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

06/09/2016 **Hearing Scheduled**
Party: Defendant Downing, Jason Scott
Hearing Scheduled (Sentencing 06/23/2016 10:00 AM)

06/09/2016 **Sentencing (10:00 AM)** (Judicial Officer: Norton, Lynn G.)

06/23/2016 **Interest Ordered**
Int Start Dt: 06/23/2016

06/23/2016 **DC Hearing Held: Court Reporter: # of Pages:**
Party: Defendant Downing, Jason Scott
Hearing result for Sentencing scheduled on 06/23/2016 10:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

06/23/2016 **Finding of Guilty**
Party: Defendant Downing, Jason Scott
Finding of Guilty (137-2732(c)(1) {F} Controlled Substance-Possession of)

06/23/2016 **Sentenced to Jail or Detention**
Party: Defendant Downing, Jason Scott
Sentenced to Jail or Detention (137-2732(c)(1) {F} Controlled Substance-Possession of)
Confinement terms: Discretionary: 90 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.

06/23/2016 **Confinement Option Recorded**
Party: Defendant Downing, Jason Scott
Confinement Option Recorded: Penitentiary suspended.

06/23/2016 **Status Changed**
Party: Defendant Downing, Jason Scott
STATUS CHANGED: closed pending clerk action

06/23/2016 **Probation Ordered**
Party: Defendant Downing, Jason Scott
Probation Ordered (137-2732(c)(1) {F} Controlled Substance-Possession of) Probation term: 5 years. (Felony Probation & Parole)

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

06/23/2016 Sentenced to Pay Fine
Party: Defendant Downing, Jason Scott
Sentenced To Pay Fine 995.50 charge: 137-2732(c)(1) {F} Controlled Substance-Possession of

06/23/2016 Condition(s) of Probation Entered
Party: Defendant Downing, Jason Scott
Condition(s) of Probation Entered: - 137-2732(c)(1) {F} Controlled Substance-Possession of - Standard terms plus: Complete Level II.I Outpatient Substance Abuse Treatment, and pay for a new substance abuse/alcohol evaluation and provide that to PO to consider level of substance abuse treatment required.

06/23/2016 Other Sentencing Option Ordered
Party: Defendant Downing, Jason Scott
Other Sentencing Option Ordered: Community Service Hours assigned: 100 to be completed by 6/1/2017

06/23/2016 Other Sentencing Option Ordered
Party: Defendant Downing, Jason Scott
Other Sentencing Option Ordered: Alcoholics Anonymous Meetings Terms: 90 AA/NA meetings within first 90 days of release, then 3 afterwards, including obtaining a sponsor.

06/23/2016 Restitution Recommended by the Prosecutor's Office
Party: Defendant Downing, Jason Scott
Restitution Recommended by the Prosecutor's office. 478.50 victim # 1


06/23/2016 Restitution Recommended by the Prosecutor's Office
Party: Defendant Downing, Jason Scott
Restitution Recommended by the Prosecutor's office. 100.00 victim # 2

06/23/2016 **Sentencing (10:00 AM) (Judicial Officer: Norton, Lynn G.)**

06/23/2016 **Disposition**
1. Controlled Substance-Possession of
Guilty
TCN: 1110221621 :

06/23/2016 **Sentence (Judicial Officer: Norton, Lynn G.)**
1. Controlled Substance-Possession of
Felony Sentence
Confinement
Type: State Prison
Facility: Idaho Department of Corrections
Discretionary: 90 Days
Effective Date: 06/23/2016
Determinate: 1 Year
Indeterminate: 4 Years
Penitentiary Suspended
Converted Disposition:
Program: Community Service
Complete By: 06/01/2017
Hours Assigned: 100
Hours Completed: 0
Program: Alcoholics Anonymous Meetings
Hours Assigned: 0
Hours Completed: 0
Terms: 90 AA/NA meetings within first 90 days of release, then 3 afterwards, including obtaining a sponsor.
Condition - Adult:
1. Conversion Probation Court Orders/Conditions, 5Y 0M 0D, 06/23/2016 - 06/23/2021, Active 06/23/2016

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2015-14295

06/28/2016	Judgment Party: Defendant Downing, Jason Scott <i>Judgment of Conviction and Order of Probation</i>
06/28/2016	Order Party: Defendant Downing, Jason Scott <i>Order for Restitution</i>
07/29/2016	Notice of Appeal Party: Defendant Downing, Jason Scott <i>NOTICE OF APPEAL</i>
07/29/2016	Appeal Filed in Supreme Court Party: Defendant Downing, Jason Scott <i>Appealed To The Supreme Court</i>
08/01/2016	Order Party: Defendant Downing, Jason Scott <i>Order Appointing State Appellate Public Defender on Direct Appeal</i>
08/30/2016	 Notice <i>of Transcript Lodged - Supreme Court No. 44382</i>

DATE	FINANCIAL INFORMATION
------	-----------------------

Defendant Downing, Jason Scott	
Total Charges	1,581.88
Total Payments and Credits	25.00
Balance Due as of 8/30/2016	1,556.88

OCT 07 2015

CHRISTOPHER D. RICH, Clerk
By STORMY McCORMACK
DEPUTY

DR # 15-523250

JAN M. BENNETTS
Ada County Prosecuting Attorney

Kari L. Higbee
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
JASON SCOTT DOWNING,)
)
Defendant.)
_____)

Case No. CR-FE-2015-0014295

C O M P L A I N T

Downing's DOB: [REDACTED]
Downing's SSN: [REDACTED]


PERSONALLY APPEARED Before me this 7th day of October 2015, Kari L. Higbee, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that JASON SCOTT DOWNING, on or about the 6th day of October, 2015, in the County of Ada, State of Idaho, did commit the crime of POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) as follows:

SM

That the Defendant, JASON SCOTT DOWNING, on or about the 6th day of October, 2015, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine and/or Amphetamine, a Schedule II controlled substance.

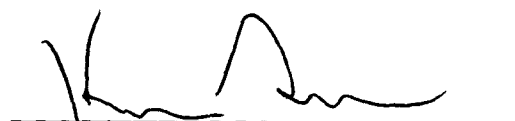
All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

JAN M. BENNETTS
Ada County Prosecutor



Kari L. Higbee
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 7 day of October 2015.



Magistrate

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

PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO. FE-15-14295

vs

Jason S. Downing

CLERK C. HO

PROSECUTOR: KARI HIGBEE DOUG VARIE

DATE 10 / 07 / 2015 TIME 10:45

CASE ID SWAIN BEG. 112250

COURTROOM 204 END 112353

COMPLAINING WITNESS _____

INTOX _____

JUDGE

STATUS

- BERECZ
- BIETER
- CAWTHON
- COMSTOCK
- ELLIS
- FORTIER
- GARDUNIA
- HARRIGFELD
- HAWLEY
- HICKS
- KIBODEAUX
- _____
- _____

- MacGREGOR-IRBY
- MANWEILER
- McDANIEL
- MINDER
- OTHS
- REARDON
- SCHMIDT
- STECKEL
- SWAIN
- WATKINS

STATE SWORN

- PC FOUND _____
- COMPLAINT SIGNED
- AMENDED COMPLAINT SIGNED
- AFFIDAVIT SIGNED
- JUDICIAL NOTICE TAKEN
- NO PC FOUND _____
- EXONERATE BOND _____
- SUMMONS TO BE ISSUED
- WARRANT ISSUED
- BOND SET \$ _____
- NO CONTACT

DR# _____

- MOTION TO REVOKE OR INCREASE BOND FOR NON-COMPLIANCE W/PT RELEASE CONDITIONS
- SET HEARING AT AR DATE ON MOTION TO REVOKE OR INCREASE BOND
- DISMISS CASE
- IN CUSTODY

COMMENTS

AGENTS WARRANT w/ JUDGE PV AR set

OUT OF COUNTY -RULE 5(B) _____ COUNTY _____ BOND \$ _____

FUGITIVE (STATE) _____

MOTION & ORDER TO CONSOLIDATE W/ _____

ADA COUNTY MAGISTRATE MINUTES

Jason Scott Downing

CR-FE-2015-0014295

DOB



Scheduled Event: Video Arraignment Wednesday, October 07, 2015 01:30 PM

Judge: Michael Oths

Clerk: KG

Interpreter:

Prosecuting Agency: AC BC EA GC MC

Pros: E. Sonniaksen

PD Attorney: M Counts

• 1 I37-2732(c)(1) F Controlled Substance-Possession of F

3409 Case Called Defendant: X Present Not Present X In Custody

X Advised of Rights Waived Rights X PD Appointed Waived Attorney

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

X Bond \$ 10,000 ROR Pay / Stay Payment Agreement

In Chambers PT Memo Written Guilty Plea No Contact Order

PH 10/20/15 @ 8:30 w/ Hawley / Tracy

Finish () Release Defendant

FILED
 AM _____ P.M. 10
 Wednesday, October 07, 2015
 CHRISTOPHER D. RICH, CLERK OF THE COURT
 BY: _____
 DEPUTY CLERK

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

STATE OF IDAHO,
 Plaintiff.

vs.

Jason Scott Downing
 970 E. River Park Lane
 Boise, ID 83706

Defendant.

)
) Case No: CR-FE-2015-0014295
) **NOTICE OF APPOINTMENT OF PUBLIC DEFENDER**
) **AND SETTING CASE FOR HEARING**
) Ada Boise Eagle Garden City Meridian
)
)

TO: Ada County Public Defender

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

Preliminary Tuesday, October 20, 2015 08:30 AM
 Judge: Hawley/lrby

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

TO: The above named defendant

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

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

I hereby certify that copies of this Notice were served as follows on this date of Wednesday, October 07, 2015.

Defendant: Mailed _____ Hand Delivered ll Signature Quil 5507
 Clerk / date _____ / _____ Phone () _____

Prosecutor: Interdepartmental Mail Clerk / date SANDRA BURCH/10-8

Public Defender: Interdepartmental Mail Clerk / date SANDRA BURCH/10-8

B
 Deputy Clerk

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

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

NO. _____ FILED _____
A.M. _____ P.M. 21

OCT 09 2015

CHRISTOPHER D. RICH, Clerk
By CHRIS FRIES
DEPUTY

202
PH
10/20
8:30

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

STATE OF IDAHO,
Plaintiff

vs.


JASON SCOTT DOWNING,
Defendant.

Case No. CR-FE-2015-0014295

MOTION FOR BOND REDUCTION

COMES NOW, JASON SCOTT DOWNING, the above-named defendant, by and through counsel HEIDI K KOONCE, Ada County Public Defender's office, and moves this Court for its ORDER reducing bond in the above-entitled matter upon the grounds that the bond is so unreasonably high that the defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that the defendant has thereby been effectively denied their right to bail.

DATED, Friday, October 09, 2015.

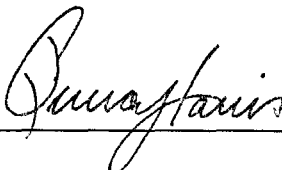

HEIDI K KOONCE
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Friday, October 09, 2015, I mailed a true and correct copy of the within instrument to:

KATELYN M FARLEY
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



MOTION FOR BOND REDUCTION

000015

MO

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

NO. _____ FILED _____
A.M. _____ P.M. *4*
OCT 09 2015
CHRISTOPHER D. RICH, Clerk
By CHRIS FRIES
DEPUTY

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

STATE OF IDAHO,
Plaintiff
vs.
JASON SCOTT DOWNING,
Defendant.

Case No. CR-FE-2015-0014295

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to KATELYN M FARLEY:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Tuesday, October 20, 2015, at the hour of 08:30 AM , in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Friday, October 09, 2015.



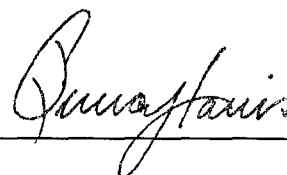
HEIDI K KOONCE
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Friday, October 09, 2015, I mailed a true and correct copy of the within instrument to:

KATELYN M FARLEY
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



NOTICE OF HEARING

000016

mo

DR # 15-523250

OCT 20 2015

CHRISTOPHER D. RICH, Clerk
By KYLE MEREDITH
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

Katelyn M. Farley
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 JASON SCOTT DOWNING,)
)
 Defendant.)
 _____)

Case No. CR-FE-2015-0014295

**A M E N D E D
C O M P L A I N T**

Downing's DOB [REDACTED]
Downing's SSN [REDACTED]

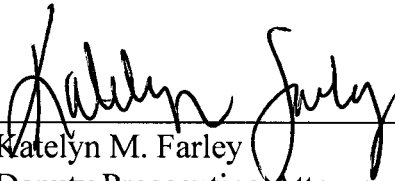
PERSONALLY APPEARED Before me this 10 day of October 2015, Katelyn M. Farley, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that JASON SCOTT DOWNING, on or about the 6th day of October, 2015, in the County of Ada, State of Idaho, did commit the crime of POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) as follows:

K

That the Defendant, JASON SCOTT DOWNING, on or about the 6th day of October, 2015, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

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

JAN M. BENNETTS
Ada County Prosecutor



Katelyn M. Farley
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 20 day of October 2015.



Magistrate

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

FILED 10/20/15 AT 9:29 A.M. CHRISTOPHER D. RICH, CLERK OF THE DISTRICT COURT BY [Signature] Deputy

STATE OF IDAHO, Plaintiff, vs. Jason Downing Defendant.

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: CR FE 2015-14295 Case Called: Boomer For IRby 92811e Ada Special Farley PD / Private Koonce

- Defendant: Present In Custody PD Appointed Waived Attorney Advised of Rights Waived Rights In Chambers Interpreter Bond \$ 10,000 Pre-Trial Release Order Motion for Bond Reduction Denied / Granted Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived State / Defense Mutual Request for Continuance Report State Defense Objection / No Objection to Continuance Case continued to 11/9/2015 at 8:30 am pm for PIH Defendant Waives Preliminary Hearing Hearing Held Commitment Signed Case Bound Over to Judge on at am/pm Case Dismissed after Preliminary Hearing / On State's Motion Release Defendant, This Case Only

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

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

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

- Defendant: Hand Delivered Via Counsel Defense Atty: Hand Delivered Intdept Mail Prosecutor: Hand Delivered Intdept Mail

Signature [Signature]

By: [Signature] Deputy Clerk

DATED 10/20/15

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

FILED 11/09/15 AT 9:15A.M. CHRISTOPHER D. RICH, CLERK OF THE DISTRICT COURT BY CDR Deputy

STATE OF IDAHO, Plaintiff, vs. Jason Downing Defendant.

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: FE-15-14295 Case Called: Taisey for Hawley 91337 Ada Special Farley PD Private Koonce

Defendant: Present Not Present In Custody PD Appointed Waived Attorney

Advised of Rights Waived Rights In Chambers Interpreter

Bond \$ 10,000 Pre-Trial Release Order Motion for Bond Reduction Denied / Granted

Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived

State / Defense / Mutual Request for Continuance Waiting for P.O. Report.

State / Defense Objection / No Objection to Continuance

Case continued to 11-25-15 at 8:30 am/pm for PH.

Defendant Waives Preliminary Hearing Hearing Held Commitment Signed

Case Bound Over to Judge on at am/pm

Case Dismissed after Preliminary Hearing / On State's Motion Release Defendant, This Case Only

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

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

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

Defendant: Hand Delivered Via Counsel

Defense Atty: Hand Delivered Intdept Mail

Prosecutor: Hand Delivered Intdept Mail

Signature [Handwritten Signature]

By: CDR Deputy Clerk

DATED 11/09/15

CDR

NOV 25 2015

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION
Criminal Court - Traffic Division
200 W. Front St.
Boise, Idaho 83702

Order

~~MEMO~~ FOR THE RECORD

Date: 11-25-2015

Case Number: FE-1514295

Defendant: Jason Downing

Subject: _____

Reduce Bond TO \$ 2,500 ⁰⁰²

JUDGE: *Rich*

11/25/15
Date

Order

~~MEMO~~ FOR THE RECORD

WTO

NOV 25 2015

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 JASON SCOTT DOWNING,)
)
 Defendant.)
 _____)

Case No. CR-FE-2015-0014295

COMMITMENT

Defendant's DOB: [REDACTED]
Defendant's SSN: [REDACTED]

THE ABOVE NAMED DEFENDANT, JASON SCOTT DOWNING, having been brought before this Court for a Preliminary Examination on the 25 day of Apr, 2015, on a charge that the Defendant on or about the 6th day of October 2015, in the County of Ada, State of Idaho, did commit the crime(s) of: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) as follows:


Handwritten mark

That the Defendant, JASON SCOTT DOWNING, on or about the 6th day of October, 2015, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

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

WHEREFORE, IT IS ORDERED that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 2500 (PER STIP)

DATED this 25 day of Nov, 2015.


MAGISTRATE

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

FILED 11/25/15 AT 9:51 M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY [Signature]
Deputy

STATE OF IDAHO,)
)
) Plaintiff,)
)
 vs.)
)
 Jason Downing)
) Defendant.)

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: CR FE 2015 14295
Case Called: Hawley / Taisey 94605
 Ada Special Farley
 PD / Private Koonce

- Defendant: Present Not Present In Custody PD Appointed Waived Attorney
 Advised of Rights Waived Rights In Chambers Interpreter _____
 Bond \$ _____ Pre-Trial Release Order Motion for Bond Reduction Denied Granted \$2,500
 Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived
 State / Defense / Mutual Request for Continuance _____
 State / Defense Objection / No Objection to Continuance _____
 Case continued to _____ at _____ am/pm for _____

- Defendant Waives Preliminary Hearing Hearing Held Commitment Signed
 Case Bound Over to Judge Norton on 12-03-15 at 9:00 am/pm
 Case Dismissed after Preliminary Hearing / On State's Motion Release Defendant, This Case Only

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

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

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

- Defendant: Hand Delivered Via Counsel
Defense Atty: Hand Delivered Intdept Mail
Prosecutor: Hand Delivered Intdept Mail

Signature [Signature]

By: [Signature]
Deputy Clerk

DATED 11/25/15

[Handwritten mark]

NO. 1015
A.M. _____ FILED _____ P.M. _____

NOV 30 2015

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

104
Arr
12/3
9:00

JAN M. BENNETTS
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 JASON SCOTT DOWNING,)
)
 Defendant.)
 _____)

Case No. CR-FE-2015-0014295

INFORMATION

Defendant's DOB: [REDACTED]
Defendant's SSN: [REDACTED]

JAN M. BENNETTS, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that JASON SCOTT DOWNING is accused by this Information of the crime(s) of: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) which crime(s) were committed as follows:

MA

That the Defendant, JASON SCOTT DOWNING, on or about the 6th day of October, 2015, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

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



JAN M. BENNETTS
Ada County Prosecuting Attorney

Ada County Mugshot - Prosecutor's Office



User: PRBARKKA

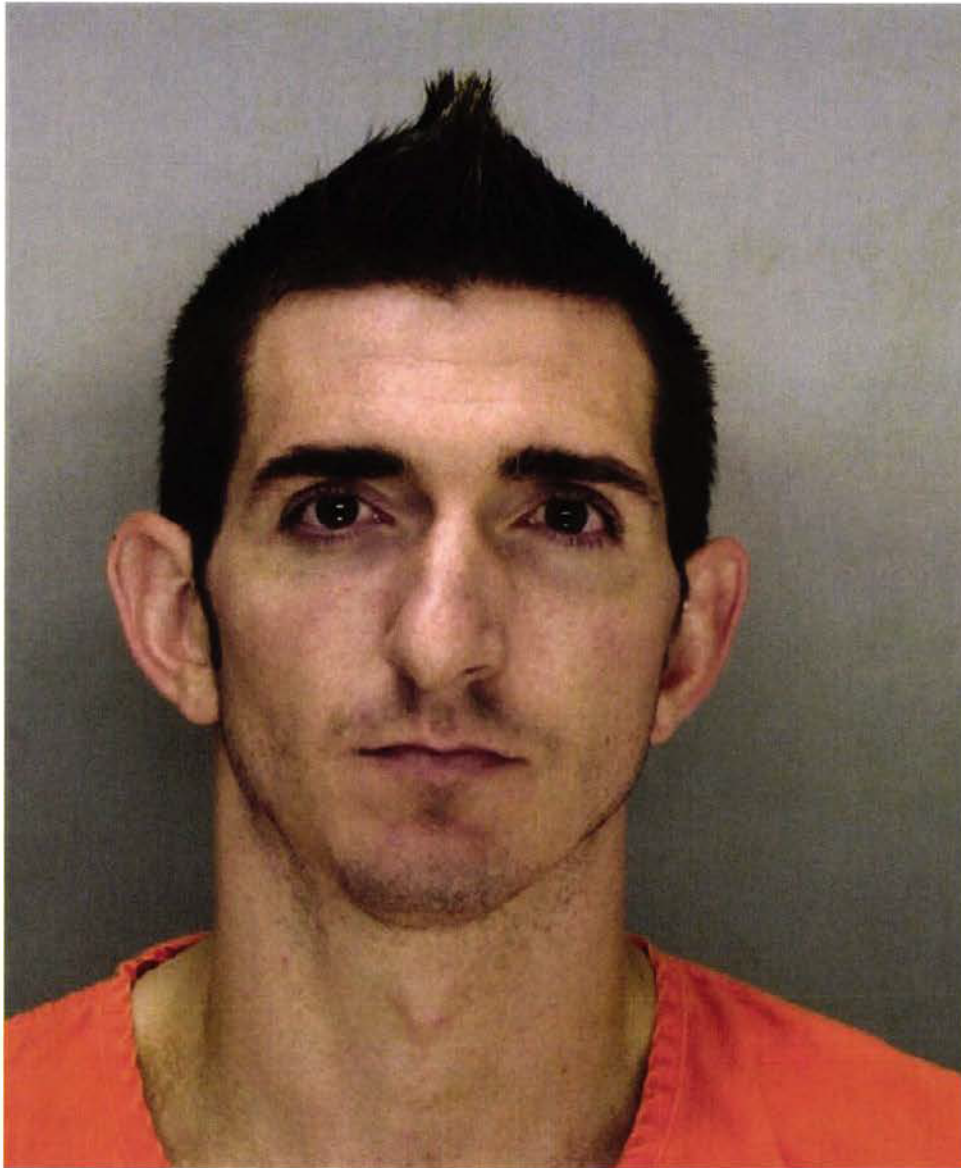


Photo Taken: 2015-10-06 22:09:32

Name: DOWNING, JASON SCOTT

Case #: CR-FE-2015-0014295

LE Number: 677226

DOB: [REDACTED]

SSN: [REDACTED]

Height: 608

Weight: 180

Drivers License Number:

Drivers License State:

Sex: M **Race:** W **Eye Color:** BRO **Hair Color:** BRO **Facial Hair:**

Marks:

Scars:

Tattoos:

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

NOV 28 2015
A.M. 1:31 P.M.

THE STATE OF IDAHO,
Plaintiff,
vs.
DOWNING JASON SCOTT
Defendant

NOV 30 2015

NOTICE OF COURT DATE. RICH, Clerk
AND By COURTNEY PACKER
BOND RECEIPT DEPUTY

YOU ARE HEREBY NOTIFIED that you must appear in Court
on 03 December 2015 at 09:00AM hrs, at the:

✓
Ada County Courthouse
200 West Front Street
Boise, 83702

If you have been arrested for a Citation, This Notice of Court Date Supersedes any other Court Date for this case. If you have been given a date by the court you must keep those appearances, failing to do so will cause a warrant for arrest and forfeiture of bond.

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

If you are on supervised probation, you must notify your probation officer of your arrest within 24 hours or one business day.

BOND RECEIPT No: 1507442

Charge: 37-2732(c) {F} CONTROLLED SUBSTANCE-POSSESSION OF
Bond Amount: \$ 2,500.00
Case # CRFE20150014295
Bond # PC2 01177227
Bond Type: Surety
Warrant #:
Agency: Guardian Bail Bonds
Insurance: Continental Heritage Insurance Company
Bondsman: STGEORGE STEPHENE
Address: 4285 S. Tindaris Ave
Meridian, ID 83642

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

CP

DATED: 11/28/2015


DEFENDANT

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
10:56:43 AM		St. v. Jason Downing Arraignment
		CRFE15-14295 Bond
10:56:45 AM	Defendant	Defendant is present on bond.
10:56:50 AM	State Attorney - Whitney Faulkner	
10:56:52 AM	Public Defender - Ian Thomson	
10:56:56 AM	Judge Norton	True Copy of Information. Waive Reading. True Name.
10:57:31 AM	Defendant	previously advised of and understands rights.
10:57:35 AM	Judge Norton	Ct reviews the file. Ct advises Defendant of the possible penalties.
10:58:21 AM	Public Defender -	requests two weeks continuance.
10:58:26 AM	Judge Norton	continues the matter to Dec. 17 at 9:00 for an entry of plea.

Time	Speaker	Note
10:51:07 AM		St. v. Jason Downing Entry of Plea CRFE15-14295 Bond
10:51:08 AM	Defendant	Defendant is present on bond.
10:51:11 AM	State Attorney - Whitney Faulkner	
10:51:15 AM	Public Defender - Ian Thomson	
10:51:17 AM	Judge Norton	inquires.
10:51:24 AM	Public Defender -	enters a not guilty plea.
10:51:28 AM	Judge Norton	continues the matter to April 4 at 8:30 for a 2 day JT and to March 24 at 9:00 for a PTC and sets discovery cutoff date on Feb. 29 and sets a status conference on March 3 at 9:00.
10:54:34 AM	Public Defender -	advises he will be filing a Motion to Suppress in this case and it very well could settle after that hearing.

DEC 17 2015

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

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

THE STATE OF IDAHO,
Plaintiff,

vs.

Jason Downing
Defendant.

Case No. CRFE 15-14295

NOTICE OF JURY TRIAL
AND ORDER GOVERNING PROCEEDINGS

Appearances:

Prosecuting Attorney

Counsel for the State

Public Defender or _____

Counsel for Defendant

THIS IS YOUR NOTICE OF TRIAL SETTING

THE ABOVE ENTITLED MATTER HAS BEEN SET FOR TRIAL BEFORE THE COURT AND A JURY ON April 4, 2016 TO COMMENCE AT THE HOUR OF 8:30 A.M. THIS TRIAL WILL CONTINUE DAILY THEREAFTER UNTIL COMPLETED, SKIPPING THURSDAYS.

A PRE-TRIAL CONFERENCE IS SET FOR March 24, 2016 AT 9:00 A.M. THE DEFENDANT WILL BE AVAILABLE PERSONALLY WITH COUNSEL AT THIS PRE-TRIAL CONFERENCE UNLESS EXCUSED BY THE COURT. A STATUS CONFERENCE IS SET FOR March 3, 2016 AT 9:00 A.M.

A mutual discovery compliance date is ordered on or before Feb. 29, 2016

File all pretrial motions governed by I.C.R. 12 no later than 14 days after the compliance date set for discovery or otherwise show good cause, upon formal motion, why such time limits should be enlarged. Motions in limine shall be in writing and filed 5 days prior to the pretrial conference.

Jury instructions, exhibit and witness lists must be submitted to the Court prior to pretrial conference.

Alternate judge panel under I.C.R. 25(a)(6)

Hon. George D. Carey	Hon. Gerald Schroeder
Hon. Dennis Goff	Hon. Kathryn A. Sticklen
Hon. Daniel C Hurlbutt, Jr.	Hon. Renae Hoff
Hon. James Judd	Hon. Hon James Morfitt
Hon. Duff McKee	Hon. William Woodland
Hon. Darla Williamson	Hon. Ronald Wilper
Hon. Thomas Neville	<u>Hon. Cheri Corsey</u>
	Any sitting Fourth District Judge

Copies hand-delivered in court to above counsel.


LYNN G. NORTON, District Judge

DEC 21 2015

CHRISTOPHER D. RICH, Clerk
By WENDY MALONE
DEPUTY

Handwritten mark resembling a large '9' or '5' with a diagonal slash.

JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney Faulkner
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

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

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
JASON SCOTT DOWNING,)
)
Defendant.)
_____)

Case No. CR-FE-2015-0014295
MOTION FOR
DISQUALIFICATION
WITHOUT CAUSE

COMES NOW, Whitney Faulkner, Deputy Prosecuting Attorney for Ada County, State of Idaho, and moves this Court to disqualify the Honorable Judge McKee in the above entitled matter, without cause, pursuant to Idaho Criminal Rule 25(a).

DATED this 18th day of December 2015.

JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney Faulkner
Deputy Prosecuting Attorney

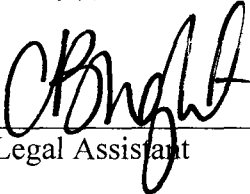
Handwritten mark resembling a stylized 'W' or 'J'.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21 day of December 2015, I caused to be served, a true and correct copy of the foregoing Motion for Disqualification upon the individual(s) named below in the manner noted:

Ian Thomson, 200 W. Front St., Room 1107, Boise, ID 83702

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



Legal Assistant

104

NO. _____ FILED _____
A.M. _____ P.M. 4:40

RECEIVED

DEC 23 2015

DEC 21 2015

CHRISTOPHER D. RICH, Clerk
By **JANINE KORSEN**
DEPUTY

Ada County Clerk

JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney Faulkner
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700

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

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
JASON SCOTT DOWNING,)
)
Defendant.)
_____)

Case No. CR-FE-2015-0014295

**ORDER FOR
DISQUALIFICATION
WITHOUT CAUSE**

The above entitled matter having come before this Court and good cause appearing;
IT IS HEREBY ORDERED that the Honorable Judge McKee be disqualified from the
above entitled case pursuant to Idaho Criminal Rule 25(a), without cause.

DATED this 23rd day of December 2015.



District Judge

JM cc: PA, PD

FEB 29 2016

CHRISTOPHER D. RICH, Clerk
By WENDY MALONE
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorney for Defendant

IAN H. THOMSON, ISB #8327
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

104
status
3/3
9-

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

STATE OF IDAHO,

Plaintiff,

vs.

JASON SCOTT DOWNING,

Defendant.

Case No. CR-FE-2015-0014295

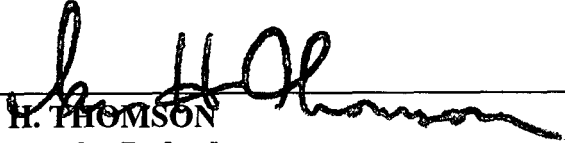
MOTION TO ENLARGE TIME

COMES NOW the defendant, JASON SCOTT DOWNING, by and through his attorney of record, IAN H. THOMSON, Ada County Public Defender's Office, and moves this Court for an Order enlarging the time for the defendant's filing of pre-trial motions to suppress pursuant to Idaho Criminal Rule 12(b),(c).

Said Motion is made pursuant to good cause for the following reasons. The defendant's 28-day deadline was January 14, 2016. Counsel subsequently met with the defendant on January 28, 2016, and realized that the defendant's file was missing audio recordings that had originally been provided to the defense by the State back on October 14, 2015. Counsel contacted the State to see if a second copy could be provided. That discovery was received on February 2, 2016. Because of counsel's trial schedule and absence out of the country, counsel was not able to meet with the defendant to review the audio recordings until the week of February 22, 2016. This motion to enlarge follows.

mm

DATED, this 20 day of February 2016.

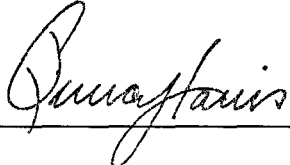


IAN H. THOMSON
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 20 day of February 2016, I mailed (served) a true and correct copy of the within instrument to:

**WHITNEY FAULKER
Ada County Prosecutors Office
Interdepartmental Mail**



Quincy K. Harris

104
Status
3/3
9-

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

NO. _____
A.M. 10:35 FILED P.M. _____

FEB 29 2016

CHRISTOPHER D. RICH, Clerk
By WENDY MALONE
DEPUTY

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

STATE OF IDAHO,

Plaintiff,

vs.

JASON SCOTT DOWNING,

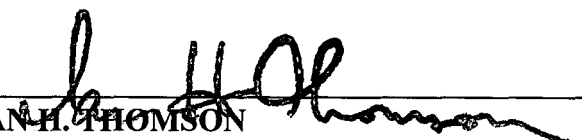
Defendant.

Case Nos. CR-FE-2015-0014295

MOTION TO SHORTEN TIME

COMES NOW, JASON SCOTT DOWNING by and through his attorney Ian H. Thomson and hereby asks this court to shorten time pursuant to ICR 46(c) for the hearing of defendant's Motion to Enlarge Time and set the hearing for March 3, 2016, which is a previously scheduled Status Conference.

DATED, this 20 day of February 2016.

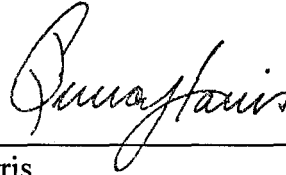

IAN H. THOMSON
Attorney for Defendant

mm

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 20 day of February 2016, I mailed (served) a true and correct copy of the within instrument to:

**WHITNEY A. FAULKNER
Ada County Prosecutor's Office
Interdepartmental Mail**



Quincy K Harris

104
HS
3/3
9

NO. _____
AM. _____ FILED PM _____

FEB 29 2016

CHRISTOPHER D. RICH, Clerk
By CHRIS FRIES
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

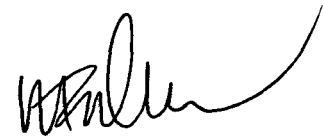
THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
JASON SCOTT DOWNING,)
)
Defendant.)
_____)

Case No. CR-FE-2015-01014295
DISCOVERY
RESPONSE TO COURT

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

RESPECTFULLY SUBMITTED this 29th day of February 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



Whitney Faulkner
Deputy Prosecuting Attorney

SW

FEB 29 2016

CHRISTOPHER D. RICH, Clerk
By CHRIS FRIES
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 JASON SCOTT DOWNING,)
)
 Defendant.)
 _____)

Case No. CR-FE-2015-0014295
REQUEST FOR DISCOVERY

TO THE ABOVE NAMED DEFENDANT:

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

- (1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

Handwritten initials

(2) Reports of Examinations and Tests:

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

(3) Defense Witnesses:

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

(4) Expert Witnesses:

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

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

DATED this 29 day of February 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



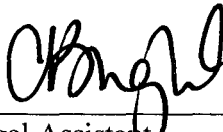
Whitney Faulkner
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29 day of February 2016, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Ian Thomson, 200 W. Front St., Room 1107, Boise, ID 83702

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



Legal Assistant

104
Status
3/3
9-

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

NO. _____
A.M. 11:35 FILED P.M. _____

FEB 29 2016

CHRISTOPHER D. RICH, Clerk
By WENDY MALONE
DEPUTY

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

STATE OF IDAHO,

Plaintiff

vs.

JASON SCOTT DOWNING,

Defendant.

Case No. CR-FE-2015-0014295

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to WHITNEY A FAULKNER:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION TO ENLARGE TIME, now on file in the above-entitled matter, on Thursday, March 03, 2016, at the hour of 09:00 AM , in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.


DATED, Friday, February 26, 2016.



IAN H THOMSON
Attorney for Defendant

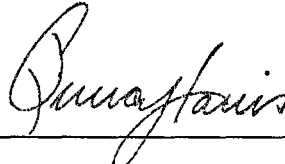
CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Friday, February 26, 2016, I mailed a true and correct copy of the within instrument to:


WHITNEY A FAULKNER
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.

NOTICE OF HEARING



000043

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>10:10:01 AM</u>		St. v. Jason Downing CRFE15-14295 Status Conference Bond
<u>10:10:03 AM</u>	Defendant	Defendant is present on bond.
<u>10:10:06 AM</u>	State Attorney - Whitney Faulkner	
<u>10:10:11 AM</u>	Public Defender - Ian Thomson	
<u>10:10:15 AM</u>	Judge Norton	inquires as to the status of this case.
<u>10:10:44 AM</u>	Public Defender -	advises of a Motion to Shorten Time.
<u>10:11:06 AM</u>	Judge Norton	advises that didn't make it into the file.
<u>10:11:14 AM</u>	Public Defender -	argues the Motion to Enlarge Time to file a Motion to Suppress.
<u>10:11:22 AM</u>	Judge Norton	inquires if objection.
<u>10:11:25 AM</u>	State Attorney -	has no objection to it.
<u>10:11:30 AM</u>	Judge Norton	will grant the motion enlarging time until close of business on March 8th.
<u>10:11:42 AM</u>	Public Defender -	comments regarding the Jury Trial and advises they do not intend to proceed to trial and any pending motions will be dispositive at this point.
<u>10:12:31 AM</u>	Judge Norton	advises to file the Motion and a Notice of Hearing.
<u>10:12:42 AM</u>	State Attorney -	advises there will be one witness.
<u>10:12:51 AM</u>	Judge Norton	comments regarding a hearing date and advises to contact the clerk for a date and time.
<u>10:13:48 AM</u>	Judge Norton	comments to the Defendant.

NO. _____ FILED 2:45
A.M. _____ P.M.

ADA COUNTY PUBLIC DEFENDER
Attorney for Defendant

IAN H. THOMSON, ISB #8327
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

RECEIVED

FEB 29 2016

Ada County Clerk

MAR 03 2016

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

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

STATE OF IDAHO,

Plaintiff,

vs.

JASON SCOTT DOWNING,

Defendant.

Case No. CR-FE-2015-0014295

ORDER ENLARGING TIME

Pursuant to Idaho Criminal Rule 12(b), and good cause appearing, this Court hereby grants the defendant's Motion to Enlarge Time. *Can file mtn to suppress by March 8, 2016 at 5pm.*

SO ORDERED AND DATED, this 3rd ^{March} ~~day of February~~ 2016.



LYNN NORTON
District Judge

3/24
9:00

NO. _____
A.M. _____ FILED P.M. 4:15

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

MAR 08 2016

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

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

STATE OF IDAHO,

Plaintiff,

vs.

JASON SCOTT DOWNING,

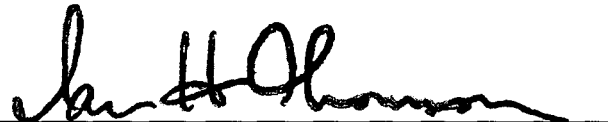
Defendant.

Case No. CR-FE-2015-0014295

MOTION TO SUPPRESS

COMES NOW, JASON SCOTT DOWNING, the defendant, by and through counsel IAN H. THOMSON, Ada County Public Defender's Office, and moves this Court pursuant to ICR 12(b)(3) for its ORDER suppressing any and all evidence seized from the defendant, and statements made by him, as a result of an unlawful search conducted by law enforcement officials. In support of this motion, Defendant offers a brief, which is filed together with the instant motion.

DATED, this 8 day of March 2016.



Ian H. Thomson
Attorney for Defendant

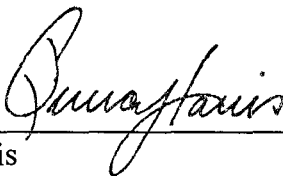
5

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 8 day of March 2016, I mailed a true and correct copy of the within instrument to:

**Whitney Faulkner
Ada County Prosecutor's Office**

by placing the same in Interdepartmental Mail.



Quincy K. Harris

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

NO. _____ FILED _____
AM. _____ P.M. *4:15*

MAR 08 2016

CHRISTOPHER D. RICH, Clerk
By CHRIS FRIES
DEPUTY

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

STATE OF IDAHO,
Plaintiff
vs.
JASON SCOTT DOWNING,
Defendant.

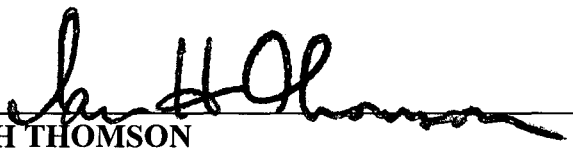
Case No. CR-FE-2015-0014295

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to WHITNEY A FAULKNER:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION TO SUPPRESS, now on file in the above-entitled matter, on Thursday, March 31, 2016, at the hour of 11:00 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Tuesday, March 08, 2016.

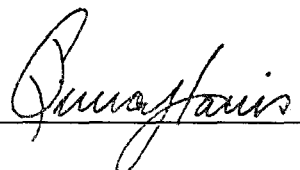

IAN H THOMSON
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Tuesday, March 08, 2016, I mailed a true and correct copy of the within instrument to:

WHITNEY A FAULKNER
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



NOTICE OF HEARING

000048

8

NO. _____
A.M. _____ FILED P.M. 415

MAR 08 2016

CHRISTOPHER D. RICH, Clerk
By CHRIS FRIES
DEPUTY

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

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

STATE OF IDAHO,

Plaintiff,

vs.

JASON SCOTT DOWNING,

Defendant.

Case No. CR-FE-2015-0014295

MEMORANDUM IN SUPPORT OF
MOTION TO SUPPRESS

COMES NOW, JASON SCOTT DOWNING, the defendant above-named, by and through his attorney of record, the Ada county Public Defender's Office, Ian H. Thomson, handling attorney, and hereby submits the following Memorandum in support of his Motion to Suppress evidence and any statements discovered as a result of the questioning of Defendant due to law enforcement officer's unconstitutional seizure and detention of the defendant. The search and subsequent questioning of Jason Downing was without warrant, probable cause, or reasonable suspicion in violation of Defendant's rights under the Fourth and Fourteenth Amendments of the United States Constitution and Article I, sections 17 of the Idaho Constitution.

OF

I. STATEMENT OF FACTS

At approximately 7:20pm on October 6, 2014, Ada County Probation and Parole officers Hurst and Severson went to the known address of one of their assigned probationer's, James Cooke, in order to conduct a residence verification. Upon their arrival, Mr. Downing answered the door and spoke with the officers. There was no indication that Mr. Downing lived at the address. Mr. Downing also allowed the officers access to the property and was otherwise cooperative.

Upon entering the property, Officers Hurst and Severson saw Mr. Cooke ducking behind a couch in the front room. Mr. Downing was placed on the couch in the front room by the officers. Another individual, Dennis Canales-Enamorado, was found in a back bedroom and asked to come to the front room as well. Upon further inspection of the property, Officer Severson saw drug paraphernalia on a table in Mr. Cooke's garage. At that point, the officers called Boise Police Department. Although Mr. Cooke was the only individual on probation, all three of the occupants were held until an officer from the Boise Police Department arrived on the scene.

When Police Officer Kevin Holtry arrived on the scene, all three individuals were seated in the front room and Mr. Cooke had already been placed in hand cuffs. Officer Holtry pulled Mr. Downing out to the front steps and read him his Miranda Rights. At that point, Officer Holtry performed an "exterior pat search" of Mr. Downing. During that search Officer Holtry felt a small object in his right front pocket and asked Mr. Downing what it was. At that point, Mr. Downing admitted that it was "meth," and Officer Holtry removed a small nylon pouch that contained a screw-top key chain. Inside the container, he found a baggie with 1.27 grams of methamphetamine. After Officer Holtry recovered the drugs from inside his pocket, Mr.

Downing made subsequent admissions to Officer Holtry and gave an explanation about where he had obtained it. After his arrest, Mr. Downing was subsequently charged with possession of a controlled substance.

Mr. Downing contends that the officers illegally detained, frisked, and searched him because they lacked reasonable articulable suspicion to believe that he had committed or was about to commit a crime or was armed and dangerous. He also asserts that any questioning was the result of an already illegal arrest. He herein moves for suppression of the items obtained as a result of the illegal detention, frisk, and search, along with any subsequent statements made to law enforcement officers.

II. ISSUE PRESENTED FOR REVIEW

Did law enforcement officers lack a lawful justification for seizing the defendant and detaining him against his will?

III. ARGUMENT

A) Law Enforcement Officers Lacked A Lawful Justification For Seizing The Defendant And Detaining Him Against His Will

1. The Fourth Amendment and Article I, section 17

The Idaho Supreme Court has held that a “seizure” occurs when an officer, by means of physical force or show of authority, in some way restrains the liberty of a citizen. *State v. Page*, 140 Idaho 841, 103 P.3d 454 (2004). Although the Fourth Amendment to the United States Constitution and Article I, section 17 of the Idaho Constitution prohibit “unreasonable” searches and seizures by government officials, not every police/citizen encounter triggers constitutional scrutiny. *Id.* A warrantless search is presumptively unreasonable, though, unless it falls within certain special and well-delineated exceptions to the warrant requirement. *Id.*

When a defendant seeks to suppress evidence allegedly obtained as a result of an illegal seizure, the burden of proving that a seizure occurred is on the defendant. *State v. Reynolds*, 143 Idaho 911 (Ct. App. 2007) (citation omitted). Therefore, the proper inquiry in determining whether a seizure occurred is “whether, under all the circumstances surrounding the encounter, a reasonable person would have felt free to leave or otherwise decline the officer’s requests and terminate the encounter.” *Id.* This rule has otherwise been stated that “so long as a reasonable person would feel free to disregard the police and go about his business, an encounter between police and an individual is consensual. *Id.* (citations omitted).

Idaho appellate courts have not recognized an exception to the warrant requirement for an investigatory detention of a person on the premises of a probation search without independent reasonable suspicion that the person is involved in criminal activity. *Reynolds, supra.*¹ In *Reynolds*, probation officers and a police officer conducted a search of a business owned by a probationer because they suspected drug activity at the business. The defendant’s residence and his business, in separate buildings, were both located within fifteen feet of the probationer’s business. The police officer noticed the defendant walking inside the fifteen-foot area that separated the three structures and recognized him from prior police work. The officer ordered the defendant to stop but the defendant proceeded to enter his shop without stopping. The officer did not pursue the defendant at that time, but, when the defendant emerged from his shop a few minutes later, the officer immediately ordered him to put his hands on a nearby vehicle and submit to a “pat-down search.” During the pat-down search, the officer located a glass pipe in the defendant’s pocket. The pipe apparently contained methamphetamine residue and the defendant was handcuffed and placed in a police car. The police officer later testified that, after

¹ After making this observation, the *Reynolds* court held that it need not decide that issue one way or the other. 143 Idaho at 916.

the nearby probation search had concluded, the defendant consented to the search of his shop. Inside the defendant's shop, the officer found additional drugs and drug paraphernalia. The defendant was charged with several drug-related felonies. The district court denied the defendant's motion to suppress but the Idaho Court of Appeals reversed that decision, holding that the officer's stop of the defendant was "unreasonable."

In *Reynolds*, the Idaho Court of Appeals distinguished between situations where officers execute a valid search warrant and cases where officers conduct a warrantless probation search. In the former category, police are entitled to detain certain individuals even without independent reasonable suspicion that they are involved in criminal activity. When a warrant exists, it is also reasonable for police to detain individuals who are occupants of the residence. *Id.*, citing, *Michigan v. Summers*, 452 U.S. 692, 705, 101 S.Ct. 2587, 2595, 69 L.Ed.2d 340, 351 (1981), *et al*². Also, when a warrant exists, it is reasonable to detain individuals found on the premises at the inception of the search whose identity and connection to the premises are unknown. Such persons may be detained for the time necessary to determine those facts and to protect the safety of those present during the detention. *Id.* These conclusions are supported by the fact that when police detain certain individuals in the execution of a search warrant, the articulable and individualized suspicion to support the detention is found in the issuance of a search warrant by a judicial officer and is based upon probable cause. *Id.* In the case of a warrantless probation search, though, law enforcement officers lack such justifications for detaining individuals other than the probationer.

In *Reynolds*, the State relied on the California case of *People v. Matelski*, 82 Cal.App.4th 837, 98 Cal.Rptr.2d 453 (2000), as justification for extending the *Summers* rationale to hold that

² In *Summers*, the Court noted that the fact the police had a warrant to search the home of the detained individual in that case did not preclude the possibility that comparable police conduct may be justified by exigent circumstance in the absence of a warrant. 452 U.S. at 702, n. 17.

an officer acted reasonably in detaining individuals leaving a residence that was the focus of a warrantless probation search. In *Matelski*, the search was prompted by the fact that a probationer had failed a drug test. As officers approached the residence, they noticed the defendants leaving the premises and ordered them back inside. The California court upheld the search, noting that the extent of the fifteen-minute intrusion was minimal and occurred at a residence in a remote area out of public view. The Court held that the government was reasonably interested in protecting officer safety and determining the defendants' connection to the probationer. An officer testified that one defendant was considerably larger than the officer and was also upset at being detained. The officer did not know whether the defendants were armed but the California court noted that persons using or dealing in drugs are frequently armed. Additionally, the California court held, the officers had an interest in identifying the defendants because the probationer was prohibited from consorting with convicted felons. The California court held that the detention was reasonable because the government interest in enforcing a valid term of probation outweighed the "brief and minimally intrusive" detention of the defendants "for purposes of learning their identity." *State v. Reynolds*, 143 Idaho 911, 915 (Ct. App. 2007).

The *Reynolds* court, though, noting the "clearly distinguishable" facts of *Matelski*, declined to adopt the California court's holding. In *Reynolds*, the Court noted that the arresting officer knew that the defendant was on his own property and at oral argument the State conceded that the officer had no justification to stop the defendant when he initially ordered him to stop. *Id.* In short, the Court held that the record "does not establish any nexus between [the defendant] and the criminal activity giving rise to the probation search at the time that the officer stopped him." *Id.* The *Reynolds* Court did allow, though, that "when an individual is found on the premises being searched *pursuant to a valid warrant*, there is a nexus between the individual and

the criminal activity giving rise to the search that justifies a brief investigative detention if the individual's identity and connection to the premises are unknown." *Id.* (*emphasis added*). Ultimately, the *Reynolds* Court concluded that the stop in that case was unconstitutional "because it did not fall within any well-delineated exception to the warrant requirement." *Id.*

Police are also allowed to conduct a limited self-protective pat down search of a detainee in order to remove any weapons without first securing a warrant. *State v. Wright*, 134 Idaho 79, 82 (2000). "Such a search is allowed to permit a police officer to conduct [an] inquiry without fear of violence being inflicted upon the officer's person." *State v. Rawlings*, 121 Idaho 930, 933 (1992). In determining the reasonableness of such a search, courts should employ an objective standard. *State v. Henage*, 143 Idaho 655, 660 (2007). The officer does not have to be absolutely certain the individual is armed; the issue is whether a reasonable prudent man in the same circumstances would be validated in the belief that his safety, or that of others, was in danger. *Id.*

In *Henage*, the Court found that the combination of nervous behavior by a detainee and his admission that he had a knife in his pocket did not warrant a frisk search. *Id.* Instead the Court determined that there must be "an objectively reasonable belief that the person poses a danger." *Id.* at 663 (2007) (J. Schroeder, concurring.).

In the instant case, officers did not possess an objectively reasonable belief that Mr. Downing was a danger before searching him. In fact, Mr. Downing was calm, cooperative, and compliant. He obeyed the probation officers' commands and remained on the couch in the front room until Boise Police arrived. The proof that Mr. Downing did not pose a threat or danger to the officers is exhibited by the fact that the probation officers did not conduct a frisk of Mr. Downing in order to assure their own safety. That search only happened after Mr. Downing was

effectively arrested, detained and held until police officers arrived. There are no facts suggesting that Mr. Downing posed any safety risk to any of the officers that night.

2. Mere Proximity To Contraband Is Not Enough To Establish A Nexus Between A Suspect And Criminal Activity

The fact that officers located suspected drug paraphernalia in a garage connected to the home where the defendant and two other individuals were also found is not enough to justify the detention of the defendant in this case. Such circumstances do not adequately establish a nexus between the defendant and any criminal activity. In *State v. Garza*, 112 Idaho 776, 778 (Ct. App. 1987), the Idaho Court of Appeals considered facts where, pursuant to a search warrant, law enforcement officers discovered marijuana and drug paraphernalia in several bedrooms of a married couple's home. Both husband and wife were charged with possession of marijuana and possession of a controlled substance with the intent to deliver. The wife was convicted of both charges and she appealed, challenging the sufficiency of the evidence. *Id.* at 777. Specifically, she contended that the State's evidence was insufficient to prove her possession of the marijuana. *Id.*

The *Garza* Court began by noting that possession can be either actual or constructive and that where the question is one of constructive possession, the State must prove that the defendant had both "knowledge and control" of the item in question. *Id.* at 778. Ultimately, the Court held, where a suspect is in "non-exclusive possession" of the premises where contraband is found, there can be "no legitimate inference" that the suspect knew of the contraband or had control of it in the absence of "other circumstances such as incriminating statements which tend to support such inference." *Id.* The Court also held that in order to establish that a suspect has constructive possession of contraband under such circumstances, there must be "substantial evidence," either direct or circumstantial, that establishes the guilt of that specific suspect as

opposed to “the collective guilt of two or more persons.” *Id.* When the State fails to establish that a specific suspect “individually exercised control” over specific contraband, the contraband may not be properly attributed to that suspect. *Id.* In short, “[m]ere proximity cannot establish constructive possession.” *Id.*³

B) Fruit of the Poisonous Tree

All evidence obtained from Mr. Downing, whether the result of an illegal search or illegal questioning, should be suppressed as unlawful fruits of the illegal search. *See Wong Sun v. United States*, 371 U.S. 471, 484 (1963). If evidence is not seized pursuant to a recognized exception to the warrant requirement, the evidence must be excluded as “fruit of the poisonous tree.” *State v. Reynolds, supra*, 143 Idaho 911, 916 (citations omitted). Consent to search does not expunge the taint of unlawful police activity where the events are irrevocably intertwined. *Id.* If a Court finds that evidence is discovered through a consensual act of the suspect, the consent will not purge from the discovered evidence the taint of unlawful police conduct. *Id.* In *Reynolds*, the methamphetamine pipe was seized from the defendant’s back pocket during, and as a result of, an unreasonable (and therefore unlawful) stop. *Id.* at 916-17. The *Reynolds* Court held that the evidence of the pipe was fruit of the poisonous tree and should have been suppressed. *Id.* Because any questioning of the defendant, occurred subsequent to the illegal arrest, Mr. Downing argues that the statements made by him should also be suppressed.

Here, the officers do not note any suspicious behavior by Mr. Downing and have no reasonable or articulable suspicion that Mr. Downing was involved in committing a crime. Under the circumstances, any reasonable person would believe that Mr. Downing was not free to leave, as he was seated on a couch next to Mr. Cooke, who had already been placed in hand cuffs. His

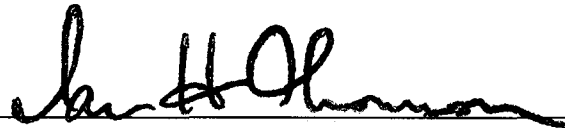
³ *See also, State v. Midland*, 124 Idaho 537, 542 (Ct. App. 1993): “Where several people occupy the same place where contraband has been found, mere proximity to the contraband, even coupled with the accused’s knowledge of the contraband, is not sufficient in itself to show control.”

detention was further extended as they waited for a police officer to arrive. Given the fact that Mr. Downing was subsequently moved by Officer Holtry for the search and questioning, he had reason to believe that he was already under arrest and was not free to leave.

IV. CONCLUSION

In this case, probation officers unreasonably, unlawfully seized and detained Mr. Downing against his will. The officers did not have a search warrant or arrest warrant, Mr. Downing was not on probation or parole, and Mr. Downing did not reside at the residence that was the subject of the officers' warrantless probation search. At the time of the unreasonable detention of Mr. Downing, officers knew of no nexus between him and the suspected drug paraphernalia found in the garage. Officers were quickly able to ascertain Mr. Downing's identity. The fact that Mr. Downing was cooperative with Officer Holtry, and that he admitted that drugs were in his pocket, did not purge the taint of the probation officers' prior unlawful conduct and the police officers continued unlawful detention of Mr. Downing. For these reasons, the defendant respectfully requests that this Honorable Court grant his Motion to Suppress any and all evidence and statements discovered as a result of the officers' conduct.

DATED, this 8 day of March 2016.



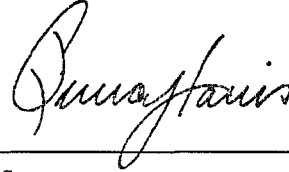
Ian H. Thomson
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 8 day of March 2016, I mailed a true and correct copy of the within instrument to:

**Whitney Faulkner
Ada County Prosecutor's Office**

by placing the same in Interdepartmental Mail.



Quincy K. Harris

1004
PTC
3/24
9A

NO. 10 FILED
A.M. _____ P.M. _____

MAR 21 2016

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

THE STATE OF IDAHO,)	
)	
Plaintiff,)	Case No. CR-FE-2015-0014295
vs.)	
)	OBJECTION TO DEFENDANT'S
JASON SCOTT DOWNING)	MOTION TO SUPPRESS EVIDENCE
)	
Defendant)	
_____)	

COMES NOW, Whitney Faulkner, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and objects to Defendant's Motion to Suppress.

FACTS

On October 6, 2015 Officer Holtry of the Boise Police Department was dispatched to assist Probation and Parole (P&P) Officers at 6016 W. Dorian Court. Officer Holtry had been informed that the P&P Officers had seen drug paraphernalia in plain view in a home where one of their offenders lived. He further received information that one of the suspects had been acting erratically. While one person was in handcuffs, there were two others that were not. The person in handcuffs was the parolee, Cooke, and Cooke was in an uncontrollable emotional state.

Officer Holtry inquired of the P&P Officers as to whether the subjects had been pat searched for safety. He learned that they had not been and he asked Downing to come out on the front step with him. Officer Holtry read Downing his Miranda rights and he agreed to speak to

MO

him. Based on the totality of the circumstances, Officer Holtry conducted an exterior pat search of Downing's person. Officer Holtry felt a hard object and asked Downing what it was. Downing told Officer Holtry that he could "take it out". He was again asked what it was and Downing replied that it was "meth". Officer Holtry removed the item and determined it was a nylon pouch that contained a screw top keychain that contained 1.5 grams of white crystalline substance. That substance later NIK tested positive for amphetamines.

While Downing didn't deny having the methamphetamine in his pocket, he did tell Officer Holtry that it belonged to someone else. He further admitted to Officer Holtry that he had been smoking meth with the Parolee when the P&P Officers arrived and that he knew meth was often used in the residence. Downing was then cited and arrested for Frequenting and Possession of a Controlled Substance.

ARGUMENT

Warrantless searches by law enforcement officials are presumptively unreasonable, and therefore, in violation of the Fourth Amendment. In order to overcome this presumption, the burden of proof is on the state to show that the search fell within one of the well-delineated *exceptions* to the general warrant requirement or was otherwise reasonable under the circumstances. See California v. Acevedo, 500 U.S. 565, 111 S.Ct. 1982, (1991); Coolidge v. New Hampshire, 403 U.S. 443, 91 S.Ct. 2022 (1971); Katz v. United States, 389 U.S. 347, 88 S.Ct. 507 (1967); State v. Weaver, 127 Idaho 288, 900 P.2d 196 (1995); State v. Woolery, 116 Idaho 368, 775 P.2d 1210 (1989), cert. denied, 511 U.S. 1057, 114 S.Ct. 1623 (1994); and State v. Bottelson, 102 Idaho 90, 625 P.2d 1093 (1981). In addition, a warrantless search or seizure is not subject to Fourth Amendment scrutiny, if under the circumstances, it is the type of activity that is *excluded* from the warrant requirement.

Frisk for Weapons

The Fourth Amendment to the United States Constitution, and Article I, section 17 of the Idaho Constitution, protect the right of the people to be free from unreasonable search and seizure. A limited frisk for weapons constitutes a search for the purpose of constitutional analysis. Terry v. Ohio, 392 U.S. 1, 16-17 (1968). However, an officer does not need probable cause to conduct such a frisk for weapons. *Id.* at 27; Adams v. Williams, 407 U.S. 143, 146 (1972). During a lawful stop or investigatory detention, a police officer may conduct a limited

frisk of a suspect for weapons when the officer reasonably believes that the person stopped is armed and presently dangerous, and the officer has an immediate concern for his or others' safety. *Terry*, 392 U.S. at 27; *Adams*, 407 U.S. at 146; *State v. Muir*, 116 Idaho 565, 567 (Ct. App. 1989).

The reasonableness of a frisk for weapons "is evaluated in light of the 'facts known to the officers on the scene and the inference of the risk of danger reasonably drawn from the totality of the circumstances.'" *State v. Wright*, 134 Idaho 79, 82 (2000) (citing *State v. Simmons*, 120 Idaho 672, 676 (Ct. App. 1991)). The officer does not need to be absolutely certain that the suspect is armed and dangerous. *Terry*, 392 U.S. at 27. However, to justify the frisk, "the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." *Id.* at 21. In determining the reasonableness of the officer's actions, "due weight must be given . . . to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience." *Id.* at 27. The inquiry into the reasonableness of the frisk utilizes an objective standard. The question is whether "the facts available to the officer at the moment of the . . . search 'warrant a man of reasonable caution in the belief' that the action taken was appropriate?" *Id.* at 21-22 (citations omitted).

The purpose of the frisk for weapons "is not to discover evidence of crime, but to allow the officer to pursue his investigation without fear of violence" *Adams v. Williams*, 407 U.S. 143, 146 (1972). The scope of the frisk for weapons must be reasonably related to the purpose of locating potential weapons that may threaten the safety of the officer or others. *Terry*, 392 U.S. at 19.

In this case, Officer Holtry was given information that there were multiple suspects on scene, that there was one suspect who was out of control and two others seated and that none of them had been pat searched to assure officer safety. When Officer Holtry pulled Downing out to speak with him, Cooke was still sobbing and acting out despite being in handcuffs. Officer Holtry knew that drug paraphernalia had been seen by the P&P officers and because of that he had reason to think all subjects on scene were possibly on drugs. Taking into account the totality of the circumstances, Officer Holtry was justified in his pat search for weapons.

Inevitable Discovery

“Under this doctrine, if it is *certain* that the evidence seized illegally would have otherwise been discovered legally, it need not be suppressed. *Crews v. United States*, 389 A.2d 277 (D.C.1978), *rev'd on other grounds*, 445 U.S. 463, 100 S.Ct. 1244, 63 L.Ed.2d 537 (1980). *Cf. United States v. Miller, supra*, (requiring only that it be "reasonably probable" that the evidence seized would have otherwise been discovered -- *Miller* represents the majority view, but the stricter standard appears to better preserve the constitutional protections).” *State v. Cook*, 106 Idaho 209, 217 (Ct. App. 1984). The State must establish two things before the Inevitable Discovery doctrine applies. “The state must show first that "certain proper and predictable investigatory procedures would have been utilized." Second, the state must demonstrate that "those procedures would have inevitably resulted in the discovery of the evidence in question." LaCount and Girese, *The "Inevitable Discovery Rule," An Evolving Exception To The Constitutional Exclusionary Rule*, 40 ALB.L.REV. 483, 491 (1976). *State v. Cook*, 106 Idaho 209, 217 (Ct. App. 1984)


Certain proper and predictable investigatory procedures were utilized in this case. Specifically, the defendant, Downing was arrested for Frequenting a place where Drugs are Used in violation of I.C. 37-2732(d) in addition to the Possession of a Controlled Substance. Search incident to arrest is another applicable exception to the warrant requirement. An officer may, contemporaneously incident to a lawful custodial arrest, search the arrestee’s person. *Chimel v. California*, 395 U.S. 752, 89 S.Ct. 2034 (1969). That arrest would have inevitably subjected Downing to a search of his person and the evidence in question would have been discovered.

CONCLUSION

Defendant provides no valid basis for suppression of evidence in this case. The State respectfully requests that the Court DENY Defendant's Motion.

DATED this 18th day of March 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



Whitney Faulkner
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of March 2016, a true and correct copy of the foregoing Objection to Defendant's Motion to Suppress Evidence was served to: Ian Thomson, 200 W. Front St., Room 1107, Boise, ID 83702 in the manner noted below:

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



Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>10:10:09 AM</u>		St. v. Jason Downing CRFE15-14295 Pre-Trial Conference Bond
<u>10:10:10 AM</u>	Defendant	Defendant is present on bond.
<u>10:10:17 AM</u>	State Attorney - Kai Wittwer	
<u>10:10:21 AM</u>	Public Defender - Ian Thomson	
<u>10:10:23 AM</u>	Judge Norton	reviews the file and inquires as to the trial.
<u>10:10:55 AM</u>	Public Defender -	advises this will not be going to trial but does want to pursue that motion to suppress for next week.
<u>10:11:28 AM</u>	Judge Norton	does want to go ahead with the PTC today so she can do Jury Instructions early just in case something happens next week.
<u>10:11:53 AM</u>	Judge Norton	inquires as to witnesses.
<u>10:12:06 AM</u>	State Attorney -	advises he does not know because it is not his case.
<u>10:12:13 AM</u>	Public Defender -	does not have witness lists because it is not going to trial.
<u>10:12:27 AM</u>	State Attorney -	advises roughly two for the state.
<u>10:13:14 AM</u>	Judge Norton	will see them next Thursday then.
<u>10:13:22 AM</u>	Public Defender -	inquires if she rules from the bench, can they enter a plea that day or will she do a decision.
<u>10:13:44 AM</u>	Judge Norton	advises if she rules from the bench that's fine but doesn't know if she will or not.

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>11:45:07 AM</u>		St. v. Jason Downing CRFE15-14295 Motion to Suppress Bond
<u>11:45:09 AM</u>	Defendant	Defendant is present on bond.
<u>11:45:13 AM</u>	State Attorney - Whitney Faulkner	
<u>11:45:16 AM</u>	Public Defender - Ian Thomson	
<u>11:45:23 AM</u>	Judge Norton	inquires.
<u>11:45:37 AM</u>	Public Defender -	responds and requests the officer be excluded.
<u>11:45:56 AM</u>	State Attorney -	has no objection.
<u>11:45:59 AM</u>	Judge Norton	excludes the officer.
<u>11:46:01 AM</u>	Public Defender -	makes one correction.
<u>11:46:40 AM</u>	Public Defender -	makes an opening statement and wants to call his client.
<u>11:48:20 AM</u>	State Attorney -	does not want to make an opening statement.
<u>11:48:29 AM</u>	Judge Norton	comments.
<u>11:48:31 AM</u>	Public Defender -	comments.
<u>11:49:07 AM</u>	Judge Norton	comments and questions the Defendant regarding his rights.
<u>11:49:47 AM</u>	Defendant	is sworn by the Clerk.
<u>11:50:07 AM</u>	Public Defender -	begins direct examination.
<u>12:06:31 PM</u>	State Attorney -	begins cross examination.
<u>12:08:19 PM</u>	Public Defender -	objects, irrelevant.
<u>12:08:25 PM</u>	State Attorney -	comments.
<u>12:08:27 PM</u>	Public Defender -	comments.
<u>12:08:30 PM</u>	Judge Norton	overrules the objection.
<u>12:08:33 PM</u>	State Attorney -	continues cross examination.
<u>12:09:32 PM</u>	Defendant	steps down.
<u>12:09:34 PM</u>	Public Defender -	wishes to make a short statement now.
<u>12:09:39 PM</u>	Judge Norton	advises with that testimony, it established there was no warrant so the burden actually shifts to the State.
<u>12:10:04 PM</u>	State Attorney -	comments and calls her first witness.
<u>12:10:52 PM</u>	Witness - Kevin Holtry	is sworn by the Clerk.
<u>12:11:31 PM</u>	State Attorney -	requests to exclude witnesses.
<u>12:11:41 PM</u>	Judge Norton	inquires if all the other witnesses that just came need to be excluded.
<u>12:11:56 PM</u>	Public Defender -	does request that.
<u>12:11:58 PM</u>	Judge Norton	excludes all witnesses but advises if they are not witnesses and they just want to watch, that is fine with her.

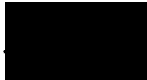
<u>12:12:54 PM</u>	State Attorney -	begins direct examination.
<u>12:14:25 PM</u>	Public Defender -	objects.
<u>12:14:28 PM</u>	Judge Norton	comments.
<u>12:14:33 PM</u>	State Attorney -	continues direct examination.
<u>12:21:47 PM</u>	Public Defender -	objects.
<u>12:21:49 PM</u>	Judge Norton	comments.
<u>12:22:05 PM</u>	State Attorney -	continues direct examination.
<u>12:22:47 PM</u>	Public Defender -	begins cross examination.
<u>12:30:51 PM</u>	Witness - Kevin Holtry	steps down and is excused.
<u>12:30:58 PM</u>	State Attorney -	calls her next witness.
<u>12:31:14 PM</u>	Witness - Steven Hurst	is sworn by the Clerk.
<u>12:32:00 PM</u>	State Attorney -	begins direct examination.
<u>12:36:11 PM</u>	Public Defender -	objects, hearsay; overruled.
<u>12:36:26 PM</u>	State Attorney -	continues direct examination.
<u>12:38:21 PM</u>	Public Defender -	objects.
<u>12:38:23 PM</u>	Judge Norton	advises to lay a foundation.
<u>12:38:28 PM</u>	State Attorney -	continues direct examination.
<u>12:40:30 PM</u>	Public Defender -	begins cross examination.
<u>12:41:00 PM</u>	Witness - Steven Hurst	steps down and is excused.
<u>12:41:08 PM</u>	State Attorney -	has no other witnesses.
<u>12:41:13 PM</u>	Public Defender -	has no other witnesses.
<u>12:41:25 PM</u>	State Attorney -	makes a closing statement.
<u>12:44:09 PM</u>	Public Defender -	argues the Motion to Suppress.
<u>12:52:25 PM</u>	Judge Norton	comments and will suppress statements to the p.o. but finds that the pat down search of the Defendant by the officer was reasonable and will not suppress the statements made to the officer.
<u>01:18:38 PM</u>	Public Defender -	comments and will not go to trial then but requests a continuance for a conditional guilty plea.
<u>01:19:29 PM</u>	Judge Norton	inquires if there are any outstanding offers.
<u>01:19:38 PM</u>	State Attorney -	advises there are not now but they will probably make one.
<u>01:20:03 PM</u>	Public Defender -	advises the trial is set for Monday.
<u>01:20:13 PM</u>	Judge Norton	advises we are in the middle of a murder trial so can do it later today.
<u>01:21:30 PM</u>	Public Defender -	does request that.
<u>01:21:52 PM</u>	Judge Norton	will re-set it for 4:00 pm today then.
<u>01:22:19 PM</u>	Judge Norton	PASS CASE.

01:22:19 PM

Time	Speaker	Note
04:21:11 PM		St. v. Jason Downing CRFE15-14295 Motion to Suppress Bond
04:21:13 PM	Defendant	Defendant is present on bond.
04:21:18 PM	State Attorney - Whitney Faulkner	
04:21:22 PM	Public Defender - Ian Thomson	
04:21:26 PM	Judge Norton	recalls the case and inquires if there is a resolution in this case.
04:21:47 PM	Public Defender -	advises there is.
04:22:25 PM	State Attorney -	submits the settlement sheet to the Court.
04:22:31 PM	Public Defender -	advises this will be a conditional guilty plea and they will reserve the right to appeal.
04:22:55 PM	State Attorney -	is fine with that.
04:22:59 PM	Judge Norton	advises conditional pleas have to be in writing.
04:23:32 PM	Public Defender -	was not aware of that.
04:23:36 PM	Judge Norton	reads Rule 11 to the Counsel.
04:24:20 PM	State Attorney -	inquires if it can be added to the settlement sheet.
04:24:50 PM	Judge Norton	is fine with that but advises that Mr. Downing has to sign it.
04:24:58 PM	Public Defender -	advises the last page has a spot for that and inquires if that is fine.
04:26:13 PM	Judge Norton	advises it just has to be in writing so that is fine.
04:28:19 PM	Judge Norton	questions the Defendant and Counsel for the Defendant regarding the plea & the plea agreement. (Guilty to Ct I, conditional under Rule 11 that he reserves the right to appeal the Ct's ruling on the suppression issue and in exchange, St will limit recs to a JOC of 2+5 with probation for any term up to the maximum, St may argue for jail and any open term, open fine, open restitution, cooperate with PSI and evaluators, other standard conditions and Defense free to ask for less.)
04:31:44 PM	Defendant	is sworn by the Clerk.
04:32:00 PM	Judge Norton	questions the Defendant regarding the guilty plea form.
04:35:19 PM	Judge Norton	reviews the elements of the offense with the Defendant.
04:36:48 PM	Defendant	pleads guilty.

<u>04:36:51 PM</u>	Judge Norton	finds factual basis and accepts the Defendant's guilty plea.
<u>04:37:01 PM</u>	Judge Norton	vacates the Jury Trial set for Monday.
<u>04:37:20 PM</u>	Judge Norton	orders a PSI and continues the matter for sentencing to May 26 at 10:00.
<u>04:39:29 PM</u>	Judge Norton	orders both 19-2524 evaluations.

SETTLEMENT SHEET

1. Defendant DOWNING JASON SCOTT Case # CRFE20150014295 DOB 

2. Prior Record	Felony	Misdemeanor
<input type="checkbox"/> NCIC <input type="checkbox"/> ISTARs		PT from GT '14x2, '08 MIC '08, '08 (PV 08), '06 Disorderly Conduct '13 DUI from DUI Ex '12 (PV '13, '15)

3. Filed Charge/s:

I. CONTROLLED SUBSTANCE-POSSESSION OF

4. Offer: (Date _____ Amended _____ by _____)

Plead to: PCS Dismiss: _____

WHJ (_____ years probation)

J/C (2 + 5 = 7)

Probation with open ACJ **and** State may argue for special probation terms (including in-custody jail classes).

ACJ to commence at time of sentencing in district court

Jail options available. Restrictions on options, if any: _____

Retained Jurisdiction

Other case(s)/charge(s) affected: _____

Special Terms: A ~~man~~ reserves the right to appeal the Court's ruling on the motion to suppress on 3/31/16.

- The State may recommend any fine, driver's license suspension, no contact order, public defender reimbursement, or other statutorily permitted sentencing terms it determines to be appropriate.
- The State may use as aggravating factors as part of its sentencing argument all facts of all charged or dismissed cases or counts and/or any crimes/cases not filed.

Defendant may recommend a lesser sentence.

Restitution/Property Release Stipulations as part of this offer:

Defendant agrees to pay restitution for all charged, uncharged, and dismissed conduct in this case or in any case dismissed by the terms of this offer in an amount to be determined or in the amount of \$ TBD.

Defendant additionally agrees to pay for all losses referenced in DR #s: _____.

Defendant agrees to pay drug restitution for costs of investigation and/or prosecution pursuant to I.C. § 37-2732(k) in an amount to be determined or in the amount of \$ TBD.

Defendant agrees that all sums of cash currently held for evidentiary purposes will be released by law enforcement to the Court to be applied to all fines, costs, and restitution in this case.

Defendant stipulates to the confiscation and police disposal of contraband or firearms possessed during this crime pursuant to I.C. § 19-3807 and waives all notice and hearing requirements.

Unless the plea is rejected or revoked, the Defendant gives up any and all motions, defenses, or objections to the Court's entry of judgment and conviction that results from the Defendant's acceptance of this plea agreement.

5. By accepting this agreement, the Defendant acknowledges and agrees to the following conditions outlined below. The State's offer is conditioned upon the following:

- Defendant's prior criminal record being limited to the crimes set forth above in Section #2; and,
- Defendant's cooperation with the presentence investigation process, including cooperation with any evaluator the court orders after plea and prior to sentencing; and,
- Defendant obtains all required evaluations ordered by the Court after plea and prior to sentencing, including a waiver of any claimed privilege for the PSI and evaluation process; and,
- Defendant's timely appearance for all further court proceedings and court-ordered evaluations and/or investigations in preparation for sentencing in this case; and,
- Defendant not acquiring a new criminal charge or charges between the date of this offer and sentencing, even if the charge or charges are not yet conviction(s); and,
- Defendant appears sober for sentencing; and,
- Defendant further agrees that any victims associated with this case may make Victim Impact Statements at sentencing, including victims of dismissed charges or charges not filed as part of this agreement.

If the Defendant does not meet ANY one or more of these conditions outlined above in Section #5, the State is not bound to make the sentencing recommendation as outlined above and the State is not bound to any of the terms as set forth on this Offer Sheet as outlined above, which also means that the State may reinstate any dismissed counts and seek the maximum penalty allowed by Idaho law and any sentences imposed could be imposed consecutively as to all of the counts.

6. This offer is AUTOMATICALLY REVOKED if any one or more of the following occurs:

- i. Defendant rejects the offer by signing the offer sheet and asserting the Defendant's rejection below; and/or,
- ii. A preliminary hearing is held; and/or,
- iii. Defendant pleads not guilty, stands silent, or has the case set for trial in District Court.

Handling Prosecutor: /S/: Katelyn Farley Dated 10/16/2015

DEFENDANT'S ACKNOWLEDGMENT OF RECEIPT OF STATE'S OFFER

The Defendant, by signing below, you acknowledge that you have read and understand the above State's Offer and its terms. The Defendant also hereby acknowledges by signing below that you have reviewed this State's Offer with your attorney; that your attorney has answered your questions about the offer and that no one has threatened you or promised you anything to accept or reject this offer. The Defendant, by signing below, you further acknowledge that this State's Offer is AUTOMATICALLY REVOKED if any one of the events listed in Section #6 above occur. If the State's offer is automatically revoked, the State may reinstate any dismissed counts and seek the maximum penalty allowed by Idaho law and any sentences imposed could be imposed consecutively as to all of the counts. The defendant also hereby acknowledges and understands that if you should accept the State's offer, but for some reason you later withdraw your guilty plea, the State may reinstate any dismissed counts and seek the maximum penalty allowed by Idaho law and any sentences imposed could be imposed consecutively as to all of the counts.

Defendant's Acknowledgement of Receipt of State's Offer*: *Jason Down* Dated 3/31/2016

The Defense Attorney representing the above-named Defendant, by signing below, hereby acknowledges that you have communicated this State's Offer in its entirety to the Defendant and answered any questions the Defendant may have had about this offer.

Defense Attorney*: *Jan H. Housa* Dated 3/31/16

* * * * *

DEFENDANT'S REJECTION OF STATE'S OFFER

The Defendant, by signing below, you acknowledge that you have read and understand the above State's Offer and its terms. The Defendant also hereby acknowledges that you have reviewed this offer with your attorney; that your attorney has answered your questions about this offer and that no one has threatened you or promised you anything to reject this offer. By rejecting the State's offer, you acknowledge and understand by signing below that the State may reinstate any dismissed counts and seek the maximum penalty allowed by Idaho law and any sentences imposed could be imposed consecutively as to all of the counts.

Offer Rejected by Defendant*: _____ Dated _____

The Defense Attorney representing the above-named Defendant, by signing below, hereby acknowledges that you have communicated this State's Offer in its entirety to the Defendant and answered any questions the Defendant may have had about this offer. You further acknowledge that the Defendant has chosen to reject the State's Offer and its terms as outlined above.

Defense Attorney*: _____ Dated _____

* In lieu of the Defendant and/or Defense Attorney signatures, the Court may deem it appropriate to make an additional record regarding receipt and/or rejection of the State's Offer.

MAR 31 2016

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT IN AND FOR THE COUNTY OF ADA IN AND FOR THE STATE OF IDAHO
By JANIE KORSEN DEPUTY

GUILTY PLEA ADVISORY AND FORM (JUDGE LYNN NORTON)

TO BE FILLED OUT BY THE DEFENDANT

Defendant's Name: Jason Downing Signature: [Signature]

Date: 3/31/2016 Case Number: CRFE20150014205

Age: 28 Date of Birth: [Redacted]

Nature of Charge(s): B7-2732 PCS Minimum & Maximum Possible Penalty: 7 years \$15,000 fine

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

- 1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you choose to have a trial, the State cannot require you to testify. If you do decide to testify, however, the State will be permitted to ask you questions on cross examination and anything you say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent before and during trial. [Signature]

- 2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case. Even after pleading guilty, you will still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). You can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. [Signature]

Jh

3. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the judge for an attorney who will be paid by the county. JD.

4. You are presumed to be innocent. You would be found guilty if: 1) you plead guilty in front of the judge, or 2) you are found guilty at a jury trial.

I understand that by pleading guilty I am waiving my right to be presumed innocent. JD.

5. You have the right to a speedy and public jury trial. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. The state must convince each and every one of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am waiving my right to a speedy and public jury trial. JD.

6. You have the right to confront the witnesses called against you. This occurs during a jury trial where the state must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call your own witnesses of your choosing to testify concerning your guilt or innocence. If you do not have the funds to bring those witnesses to court, the state will pay the cost of bringing your witnesses to court.

I understand that by pleading guilty, I am waiving my right to confront the witnesses against me, to present witnesses on my own behalf and to present evidence in my defense. JD.

7. The State has the burden of proving you guilty beyond a reasonable doubt.

I understand that by pleading guilty, I am waiving my right to require the State to prove my guilt beyond a reasonable doubt. JD.

QUESTIONS REGARDING PLEA

(Please answer every question. If you do not understand a question consult your attorney before answering.)

PLEASE CIRCLE ONE

1. Do you read and write the English language?
If not, have you been provided with an interpreter to help you fill out this form?

YES NO

YES NO N/A

2. What is your true and legal name? Jason Scott Downing
3. What was the highest grade you completed? 12+

If you did not complete high school, have you received either a GED or HSE?

YES NO N/A

4. Are you currently under the care of a mental health professional? YES NO

If you answered "yes," what is the mental health professional's name? Scott Hoopes

5. Have you ever been diagnosed with a mental health disorder? YES NO

If you answered "yes," what was the diagnosis and when was it made?

ADHD, Bi-Polar 2011 PTSD, 2014 Extreme Anxiety/Panic Attack - 2008
2004

6. Are you currently prescribed any medication? YES NO

If you answered "yes," what medications are you taking at this time? Stibuild, Depexote, Valium, Addorall, Marinol, Klonopin, Zyprexa

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

7. In the last 24 hours, have you taken any medications or drugs, *INCLUDING over the counter drugs*, or drunk any alcoholic beverages?

YES NO

If "yes," what have you taken? Only what is prescribed.

Do you believe this affects your ability to understand these questions, and make a reasoned and informed decision in this case? YES NO N/A

8. Is there any other reason that you would be unable to make a reasoned and informed decision in this case? YES NO

If "yes," what is the reason? _____

9. Is your guilty plea the result of a plea agreement? YES NO

If you answered "yes," what are the terms of that plea agreement? (If available, a written plea agreement should be attached as "Addendum 'A'")

The state will not recommend more than 2+5=7
suspended with probation. We can ask for
less

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

a. I understand that the court is NOT bound by the plea agreement or any sentencing recommendations, and may impose any sentence authorized by law, including the maximum sentence stated above. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. JD

b. I understand that my plea agreement is a binding plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty pursuant to Rule 11(d)(4) of the Idaho Criminal Rules and proceed to a jury trial. ~~JD~~ JD

11. As a term of your plea agreement, are you pleading guilty to more than one crime?
YES NO

If you answered "yes," do you understand that your sentence for each crime could be ordered to be served either concurrently (at the same time) or consecutively (one after the other)?
YES NO N/A

12. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues?
YES NO

If you answered "yes," on which issue are you reserving the right to appeal?

Motion to suppress

13. Have you waived your right to appeal your judgment of conviction as part of your plea agreement?
YES NO

14. Have any other promises been made to you which have influenced your decision to plead guilty?
YES NO

If you answered "yes," what are those promises?

15. Do you feel you have had sufficient time to discuss your case with your attorney?
YES NO

16. Have you told your attorney everything you know about the crime? YES NO

17. Is there anything you have requested your attorney to do that has not been done?

YES NO

If you answered "yes," please explain. _____

18. Your attorney can get various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called discovery. Have you reviewed the evidence provided to your attorney during discovery?

YES NO

19. Are there any witnesses who could show your innocence?

YES NO

If you answered "yes," have you told your attorney who those witnesses are?

YES NO N/A

20. Do you understand that by pleading guilty you waive any defenses, both factual and legal, that you believe you may have in this case?

YES NO

21. Are there any motions or other requests for relief that you believe should still be filed in this case?

YES NO

If you answered "yes," what motions or requests? _____

22. Do you understand that if you enter an unconditional guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including:

- 1) any searches or seizures that occurred in your case,
- 2) any issues concerning the method or manner of your arrest, and
- 3) any issues about any statements you may have made to law enforcement?

YES NO

23. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty?

YES NO

24. Are you currently on probation or parole?

YES NO

If you answered "yes," do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole and additional punishment?

YES NO N/A

25. As a result of your plea in this case, have you been advised that you may be required pay restitution to any victim in this case pursuant to I.C. §19-5304?

YES NO *JD*

If "yes," to whom? State of Idaho

26. As a result of your plea in this case, have you been advised that you may be required to pay restitution to any other party as a condition of your plea agreement?

YES NO

If "yes," to whom? _____

27. As a result of your plea in this case, will you be required to pay the costs of prosecution and investigation? (I.C. § 37-2732(k))

YES NO

28. As a result of your plea in this case, will you be required to submit a DNA sample and a right thumbprint impression to the state? (I.C. § 19-5506)

YES NO

29. As a result of your plea in this case, can the court impose a fine for a crime of violence of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307)

YES NO

30. As a result of your plea in this case, is there a mandatory driver's license suspension?

YES NO

If "yes," for how long must your license be suspended? _____

31. As a result of your plea in this case, is there a mandatory domestic violence, substance abuse, or alcohol evaluation? (I.C. §§ 18-918(7)(a), 18-8005(11), 37-2738(2))

YES NO *AD*

32. As a result of your plea in this case, may the court order a psychosexual evaluation? (I.C. §§ 18-8316, 18-8318)

YES NO

33. As a result of your plea in this case, may the court order a substance abuse or mental health assessment and treatment pursuant to that assessment? (I.C. § 19-2524)

YES NO

34. As a result of your plea in this case, will you be required to register as a sex offender? (I.C. § 18-8304)

YES NO

If you answered "yes" to this question, do you understand that if you are found guilty or plead guilty to another charge that requires you to register as a sex offender in the future, you could be charged in the new crime under I.C. § 19-2520G requiring a mandatory sentence of fifteen (15) years to run consecutive to any other sentence imposed by the court?

YES NO N/A

35. Have you discussed with your attorney the fact the Court may order a pre-sentence investigation, psychosexual evaluation, anger evaluation and/or domestic violence

evaluation and that anything you say during any of those examinations may be used against you in sentencing? YES NO

Has your attorney explained that you have a constitutional right to remain silent during that examination but that you may give up that right and participate in that examination? YES NO

Did your attorney explain that only you can make the decision to give up that right to remain silent during that examination? YES NO

36. Do you understand that if the Court orders a presentence investigation report you shall be ordered to pay an amount to be determined by the Department of Correction not to exceed \$100? (I.C. § 19-2516) YES NO

37. Do you understand that by pleading guilty to a felony, you run the risk that if you have new felony charges in the future, you could be charged as a Persistent Violator? (I.C. § 19-2514) YES NO

Do you understand that if you are convicted as a Persistent Violator, the court in that new case could sentence you to an enhanced sentence which could include life imprisonment? YES NO

38. Do you understand that if you plead guilty to a felony, you will lose your right to vote in Idaho during the period of your sentence? (ID. CONST. art. 6, § 3) YES NO

39. Do you understand that if you plead guilty to a felony, you will lose your right to hold public office in Idaho during the period of your sentence? (ID. CONST. art. 6, § 3) YES NO

40. Do you understand that if you plead guilty to a felony, you will lose your right to perform jury service in Idaho during the period of your sentence? (ID. CONST. art. 6, § 3) YES NO

41. Do you understand that if you plead guilty to a felony you will lose your right to purchase, possess, or carry firearms? (I.C. § 18-310) YES NO

42. Do you understand that no one, *including your attorney*, can force you to plead guilty in this case? YES NO

43. Are you pleading guilty freely and voluntarily? YES NO

44. Are you pleading guilty because you committed the acts alleged in the information or indictment? YES NO

45. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES NO N/A

46. Has *any* person (including a law enforcement officer or police office) threatened you or done anything to make you enter this plea against your will?

YES NO

If your answer is "yes," what threats have been made and by whom?

47. Other than in the plea agreement, has any person promised you that you will receive any special sentence, reward, favorable treatment, or leniency with regard to the plea you are about to enter?

YES NO

If your answer is "yes," what promises have been made and by whom?

48. Do you understand that the only person who can promise what sentence you will actually receive is the Judge?

YES NO

49. Are you satisfied with your attorney?

YES NO

50. Have you answered all questions on this Questionnaire truthfully and of your own free will?

YES NO

51. Have you had any trouble answering any of the questions in this form which you could not work out by discussing the issue with your attorney?

YES NO

52. IF YOU ARE NOT A CITIZEN OF THE UNITED STATES, do you understand that by pleading guilty you could be deported or removed from the United States, lose your ability to obtain legal status in the United States, or be denied an application for United States citizenship?

YES NO N/A

53. Do you swear under penalty of perjury that your answers to these questions are true and correct?

YES NO

I have answered the questions on pages 1-8 of this Guilty Plea Advisory form truthfully. I understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this form freely and voluntarily. Furthermore, no one has threatened me to do so.

Dated this 31 day of March, 2016


DEFENDANT

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


DEFENDANT'S ATTORNEY

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>10:22:22 AM</u>		St. v. Jason Downing Sentencing CRFE15-14295 Bond
<u>10:35:58 AM</u>	Defendant	Defendant is present on bond.
<u>10:36:01 AM</u>	State Attorney - Kai Wittwer	
<u>10:36:04 AM</u>	Public Defender - Ian Thomson	
<u>10:36:09 AM</u>	Judge Norton	inquires.
<u>10:36:11 AM</u>	Public Defender -	requests more time.
<u>10:36:19 AM</u>	Judge Norton	advises she just received an Addendum to the PSI during the recess also.
<u>10:36:32 AM</u>	Public Defender -	requests two weeks.
<u>10:36:35 AM</u>	Judge Norton	continues the matter to June 9 at 10:00 for sentencing.

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
09:53:50 AM		St. v. Jason Downing Sentencing
		CRFE15-14295 Bond
09:53:51 AM	Defendant	Defendant is present on bond.
09:53:54 AM	State Attorney - Whitney Faulkner	
09:53:58 AM	Public Defender - Ian Thomson	
09:54:02 AM	Judge Norton	advises the Defendant is very ill today and received documentation to that.
09:54:18 AM	Judge Norton	continues the matter to June 23 at 10:00 for sentencing.

Time	Speaker	Note
11:54:29 AM		St. v. Jason Downing CRFE15-14295 Bond Sentencing
11:54:30 AM	Defendant	Defendant is present on bond.
11:54:33 AM	State Attorney - Whitney Faulkner	
11:54:42 AM	Public Defender - Ian Thomson	
11:54:48 AM	Judge Norton	reviews the file and the PSI report.
11:55:40 AM	Public Defender -	submits documents to the Court and requests they be appended to the PSI.
11:55:51 AM	Judge Norton	will append them to the PSI report then.
11:56:05 AM	State Attorney -	submits an Order of Restitution for \$578.50.
11:56:31 AM	Public Defender -	has no objection.
11:56:37 AM	State Attorney -	argues sentencing, recommending 2+5, suspended for probation, 30 days ACJ, 90 days discretionary jail, 100 hours of community service, complete any and all treatment, Level 2.1 outpatient treatment, court costs and PD reimbursement.
11:58:18 AM	Public Defender -	argues sentencing, requesting probation and credit for time served.
12:09:58 PM	Defendant	declines making a statement on his own behalf.
12:10:10 PM	Judge Norton	comments and enters a JOC of 1+4, suspended for 5 years probation. Probation terms are attached.
12:15:33 PM	Judge Norton	advises the Defendant of the right to appeal within 42 days.

JUN 28 2016

CHRISTOPHER D. RICH, Clerk
By SHARY ABBOTT
DEPUTY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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

THE STATE OF IDAHO,

Plaintiff,

vs.

JASON SCOTT DOWNING,

Defendant.

SSN: [REDACTED]
DOB [REDACTED]

Case No. CRFE-2015-14295

JUDGMENT OF CONVICTION
AND
ORDER OF PROBATION

The Prosecuting Attorney, with the Defendant, JASON SCOTT DOWNING, and his
counsel, Ian Thompson, came into Court this 23rd day of June 2016.

This being the time fixed by the Court to pronounce sentence upon the said
Defendant; said Defendant was duly informed by the Court of the nature of the Information
filed against him for the crime of POSSESSION OF A CONTROLLED SUBSTANCE,
FELONY, I.C. § 37-2732(c); committed on or about October 6, 2015.

IT IS ADJUDGED that the Defendant has been convicted upon a plea of guilty to the
offense of POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. § 37-
2732(c), as charged in the Information; and the Court having asked whether the Defendant
had any legal cause to show why judgment should not be pronounced against him, and no
sufficient cause to the contrary having been shown or appearing to the Court;

IT IS FURTHER ADJUDGED that the Defendant is guilty as charged and convicted.

1 IT IS FURTHER ADJUDGED that the Defendant is sentenced pursuant to Idaho
2 Code §19-2513 to the custody of the Idaho State Board of Correction, to be held and
3 incarcerated by said Board in a suitable place for a period of time as follows:
4

5 For a minimum fixed and determinate period of confinement of one (1) year;
6 followed by an indeterminate term not to exceed four (4) years, for a total of not to exceed
7 five (5) years; provided, however, that this judgment shall be and is hereby suspended and
8 Defendant placed on probation for five (5) years, to commence June 23, 2016, under the
9 conditions listed in the attached Probation Agreement, read and accepted by the Defendant
10 this day in open Court.
11
12

13 Pursuant to Idaho Code §18-309, the Defendant shall be given credit for the time
14 already served in this case in the amount of fifty-four (54) days.
15

16 The probation agreement is attached hereto and by reference made a part hereof.
17 Defendant shall comply with the probation agreement.


18 IT IS FURTHER ORDERED that the Defendant shall submit a DNA sample and
19 right thumbprint impression to the State of Idaho database, as required under Idaho law.
20

21 IT IS FURTHER ORDERED that the probationer shall pay restitution in the amount
22 of five hundred seventy-eight dollars and fifty cents (\$578.50); restitution for DNA analysis,
23 pursuant to I.C. §19-5506(7), in the amount of one hundred dollars (\$100.00); and shall remit
24 court costs of seventeen and 50/100 dollars (\$17.50); Criminal Justice Fee of ten dollars
25 (\$10.00); P.O.S.T. fees of fifteen dollars (\$15.00); Victim Notification Fee (VINE), pursuant
26 to I.C. §31-3204, in the amount of fifteen dollars (\$15.00); ISTARs Fee of ten dollars
27 (\$10.00); three dollars (\$3.00) Peace Officer Temporary Disability Fee; and shall pay the
28 Victim's Compensation Fund in the amount of seventy-five dollars (\$75.00); six hundred fifty
29

1 dollars (\$650.00) for reimbursement of public defender fees, pursuant to I.C. §19-854(c); ten
2 dollars (\$10.00) for the drug hotline fee, pursuant to I.C. §37-2735A; and community service
3 fee of sixty dollars (\$60.00) (100 hours x \$.60 per hour) as required by I.C. §31-3201C; thirty
4 dollars (\$30.00) domestic violence fee; and one hundred dollars (\$100.00) emergency surcharge
5 fee.
6

7
8 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment
9 to the said Sheriff, which shall serve as a commitment of the Defendant.

10 Done in open Court this 23rd day of June 2016.

11
12
13 
14 LYNN G. NORTON
15 District Judge
16
17
18
19
20
21
22
23
24
25
26
27
28
29

1 This is to certify that I have read or had read to me and fully understand and accept all
2 the conditions, regulations and restrictions under which I am being granted probation. I will
3 abide by and conform to them strictly and fully understand that my failure to do so may result
4 in the revocation of my probation.
5

6
7
8 _____
9 Probationer

_____ Date of Acceptance

10
11 _____
12 Probation Officer
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 28th day of June 2015, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA — EMAIL

ADA COUNTY PUBLIC DEFENDER
VIA — EMAIL

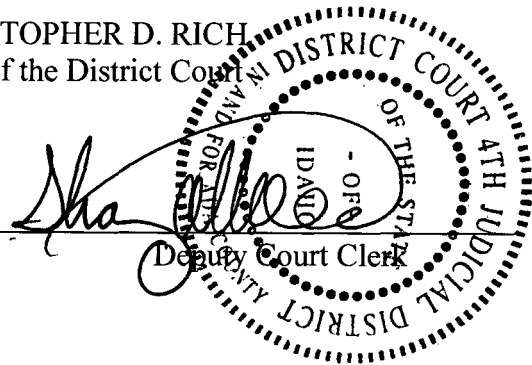
ADA COUNTY JAIL
VIA — EMAIL

CCD SENTENCING TEAM
VIA — EMAIL

PROBATION & PAROLE-PSI DEPARTMENT
VIA — EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court

By: _____



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

STATE OF IDAHO

Plaintiff,

vs.

Jason Scott Downing
Defendant.

Case No. CR-FE-2015-14295

CONDITIONS OF PROBATION

TERM OF PROBATION: 5 years beginning June 23, 2016. PROBATION EXPIRES AT MIDNIGHT ON June 22, 2021, UNLESS OTHERWISE ORDERED BY THE COURT.

Probation is granted to and accepted by the defendant, subject to all its terms and conditions, and with the understanding that the Court may, at any time, in case of the violation of the terms of probation, cause the probationer to be returned to the Court for up to the imposition of sentence as prescribed by law. The Defendant shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court, with supervised probation. **The Defendant shall follow all of the rules in these special conditions and the attached agreement of supervision.**

 The Defendant is to report to the Probation and Parole office located at 10221 W. Emerald Street, Boise, Idaho, on the next business day after release from incarceration, and submit DNA sample.

ADA A. Defendant shall serve:

- days in the Ada County Jail, with days suspended. Defendant (shall)(shall not) have options to serve jail time subject to eligibility determined by the Sheriff. Jail time is to be completed by , 201 and may be arranged through the probation officer.
- Defendant shall complete the substance abuse (SATP) and / or the active behavioral change (ABC) program in the jail, and with proof of completion may apply to court for early release.
- An additional 90 days in the jail at the discretion of the probation officer**, without prior approval of the Court. The probation officer has the discretion and authority to immediately deliver Defendant to the Sheriff for incarceration in the county jail for the purpose of having Defendant serve this discretionary time and the Sheriff shall commit the Defendant to serve this time on request of the probation officer without further order from the Court. The probation officer shall immediately file with the Court a written statement of the reasons Defendant has been placed in custody for review by the Court, with copies of the report to all parties. The probation officer, at his or her discretion, shall have all options available including work release, Sheriff Inmate Labor Detail, or electronic monitoring, subject to eligibility determined by the Sheriff, and the Defendant shall pay any fees required for options.

JD B. Defendant shall pay:

- a fine of \$.00 to be paid through the Clerk of the District Court;
- \$ 578.50 restitution for lab costs/law enforcement costs/ ;
- \$ victim restitution which shall bear interest at the judgment rate for I.C. §28-22-104 until paid in full. The restitution amount is joint and several with ;
- \$ 650.00 public defender / appointed counsel reimbursement pursuant to I.C. §19-854(7);
- court costs as ordered in the Judgment of Conviction;
- up to \$100.00 for Presentence Investigation Report pursuant to I.C. §19-2516;
- \$100.00 restitution and submit sample for DNA analysis pursuant to I.C. §19-5506.
- Defendant is to make the first payment of \$.00 to the Clerk of the District Court by , 201 , and then pay \$.00 per month each month unless the Defendant comes back to this Court for modification.
- Defendant is to set up a payment agreement with his/her probation officer and comply with the terms of that payment agreement as a condition of this probation.

C. Defendant shall perform 100 (100) hours of community service and pay any community service fee required, as arranged through the probation officer, which must be completed by June 1, 2017.

D. Defendant waives his/her Fourth Amendment rights in Item 5 of the attached agreement of supervision. Defendant shall not reside with any person who does not consent to such a search.

E. Defendant shall waive his/her Fifth Amendment rights to the extent that he/she must answer truthfully all questions of a probation officer reasonably related to compliance or non-compliance with the conditions of probation. Upon request of his/her probation officer, Defendant agrees to submit to polygraph examinations administered by qualified examiners and limited in scope to those matters calculated to determine whether Defendant is complying with the lawful conditions of his/her probation.

F. Defendant shall participate in any and all programs of rehabilitation treatment recommended by his/her probation officer, including but not limited to any inpatient or outpatient programs of mental health, substance abuse, criminal thinking errors, anger management, domestic violence treatment, or vocational rehabilitation. The Defendant's compliance will be monitored by his/her probation officer. The Defendant is to provide the probation officer written documentation of treatment, classes, AA/NA, educational programs, and/or employment. **Absence of documentation will be considered as a failure to complete the requirement.** The Defendant shall execute any documents or waivers necessary to comply with this condition. **The Defendant shall enroll in and successfully complete all treatment as recommended in the I.C. §19-2524 or other court-ordered evaluations in this case.** The Defendant shall contact any agency directed by probation officer to apply for funding.

Specifically, this Court will require the Defendant to enroll in and successfully complete:

- the retained jurisdiction aftercare program;
- obtain his or her GED or HSE;
- Level II, Outpatient Substance Abuse Treatment;
- a dual diagnosis program;
- Cognitive Self Change, MRT, or other thinking errors class as approved by probation officer
- 90 AA/NA/other similar meetings at the probation officer's discretion within first 90 days of release including obtaining a sponsor;
- (Then) 3 AA/NA/other similar meetings at the probation officer's discretion per week, including obtaining a sponsor, for the period of time specified by the probation officer;
- Defendant can pay for a new substance abuse/alcohol evaluation and provide that to PO to consider level of substance abuse treatment required.
-
-

G. Defendant shall not refuse any tests of blood, breath, saliva or urine, other chemical tests, or transdermal monitoring, for the detection of alcohol and/or drugs at the request of his/her probation officer or any law enforcement officer, to be administered at Defendant's own expense.

H. Defendant shall not associate with _____ (unless specifically approved by his/her probation officer). No contact means **NO CONTACT**. No contact directly, no contact indirectly, no contact through third persons, no contact by mail, no contact by phone, no contact over the internet – no contact.

I have read, or had read to me, this Probation Agreement and the attached Agreement of Supervision. I fully understand and accept all the conditions and restrictions under which I am being granted probation. I am responsible for complying with them strictly, and understand that my failure to do so may result in probation being revoked, and incarceration to serve the original sentence.

Dated: 6/23/16

[Signature]
Probationer's Signature

Idaho Department of Correction Agreement of Supervision – Revised 2015

1. JD **Laws and Conduct:** I will obey all municipal, county, state and federal laws. I will cooperate with the requests of my probation/parole officer. Cooperation includes being truthful. If I am detained by law enforcement, I will tell the officer(s) that I am on felony supervision, and the name of my probation/parole officer. I will notify my probation/parole officer of any such contact within 24 hrs.
2. JD **Reporting:** I will report as directed to my probation/parole officer.
3. JD **Residence:** I will reside in a location approved by my probation/parole officer. I will not change my approved place of residence without first obtaining permission from my probation/parole officer.
4. JD **Firearms and Weapons:** I will not purchase, carry, possess or have control of any firearms, chemical weapons, electronic weapons, explosives or other weapons. Any weapons or firearms seized may be forfeited to the Idaho Department of Correction (IDOC) for disposal. I will not reside at any location where firearms are present.
5. JD **Search:** I consent to the search of my person, residence, vehicle, personal property, and other real property or structures owned or leased by me, or for which I am the controlling authority, conducted by any agent of IDOC or law enforcement officer. I hereby waive my rights under the Fourth Amendment and the Idaho constitution concerning searches.
6. JD **Employment:** I will seek and maintain employment, or a program, to include a stay at home parent, approved by my probation/parole officer, and will not change employment or program without first obtaining permission from my supervising officer.
7. JD **Associations:** I will not knowingly be in the presence of or communicate with person(s) prohibited by any IDOC agent.
8. JD **Travel:** I will not leave the State of Idaho or the assigned district without first obtaining permission from my probation/parole officer.
9. JD **Alcohol:** I will not purchase, possess, or consume alcoholic beverages in any form, will not enter any establishment where alcohol is a primary source of income, and will not work in an establishment where alcohol is the primary source of income unless otherwise ordered by the Court/Commission or my probation/parole officer.
10. JD **Controlled Substances:** I will only purchase, possess or consume controlled substances lawfully prescribed for me, and then, only in the manner prescribed. I will not use or possess any substance my probation/parole officer forbids me from using or possessing.
11. JD **Substance Abuse Testing:** I will submit to any test for alcohol or controlled substances as requested and directed by any IDOC agent or other law enforcement officer. A dilute or adulterated sample, or a failure to provide a sample, will be deemed a positive test. I agree that I may be required to obtain tests at my own expense. I hereby waive any objection to the admission of those blood, urine, or breath test results presented in the form of a certified affidavit.

12. JD **Evaluation and Program Plan:** I will obtain any treatment evaluation deemed necessary as ordered by the Court/Commission or requested by any agent of IDOC. I will meaningfully participate in and successfully complete any treatment, counseling or other programs deemed beneficial and as directed by the Court/Commission or any agent of IDOC. I understand I may be required to attend treatment, counseling or other programs at my own expense.

13. JD **Absconding Supervision:** I will not leave or attempt to leave the state or the assigned district in an effort to abscond or flee supervision. I will be available for supervision as instructed by my probation/parole officer and will not actively avoid supervision.

14. JD **Intrastate/Interstate Violations:** I waive any objection to the admission into evidence of any probation/parole violation documents submitted by the agency or my supervising officer in another district or state at any probation/parole violation hearing.

15. JD **Extradition:** I waive extradition to the State of Idaho and will not contest any effort to return to the State of Idaho. I will pay for the cost of extradition as ordered by the Court/Commission.

16. JD **Court Ordered Financial Obligations:** I will pay all costs, fees, fines and restitution in the amount ordered by the Court/Commission, in the manner designated by the Court/Commission or my Probation/Parole Officer.

17. JD **Cost of Supervision:** I will comply with Idaho Code 20-225 which authorizes the IDOC to collect a cost of supervision fee. I will pay supervision fees as directed by the department.

JD I have read or have had read to me the above agreement. I understand and accept these conditions of supervision. I agree to abide by and conform to them and understand that my failure to do so may result in the submission of a report of violation to my sentencing/paroling authority.
(At sentencing)

[Signature]
Defendant Signature
6/23/16
Date

[Signature] #805
Witness Signature
RAILEY
Witness Name (printed)

(With Probation and Parole) I have been provided a copy of the Idaho Response Matrix. Reviewed.

Defendant Signature

Witness Signature

Date

Witness Name (printed)

NO. _____
A.M. 10:41 FILED P.M. _____

JUN 28 2016

CHRISTOPHER D. RICH, Clerk
By SHARY ABBOTT
DEPUTY

Jan M. Bennetts
Ada County Prosecuting Attorney

Whitney A. Faulkner
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208)-287-7709

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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
Jason Scott Downing,)
)
Defendant.)
_____)

Case No. CR-FE-2015-0014295
ORDER FOR RESTITUTION
AND JUDGMENT

WHEREAS, on the 23rd day of June 2016, a Judgment of Conviction was entered against the Defendant, Jason Scott Downing; and therefore pursuant to Idaho Code §37-2732(k) and based on evidence presented to this Court;

IT IS HEREBY ORDERED, that the Defendant, Jason Scott Downing, shall make restitution to the victim(s) and/or law enforcement agency(ies) in the following amounts of:

ACPO DRUG PROSECUTION RESTITUTION
DRUG ENFORCEMENT DONATION ACCOUNT

\$478.50
\$100.00

TOTAL:

\$578.50

Post judgment interest on said restitution amount will accrue from the date of this Order and Judgment at the rate specified in Idaho Code §28-22-104.

FURTHER, pursuant to I.C. 19-5305 this Order may be recorded as a judgment against the Defendant, Jason Scott Downing, and the listed victim(s) may execute as provided by law for civil judgments.

FURTHER, it is the responsibility of the Defendant to notify the Restitution Department (208-287-7700) if at any time a victim collects by means of the civil judgment.

IT IS SO ORDERED.

DATED this 23rd day of June 2016.



Judge

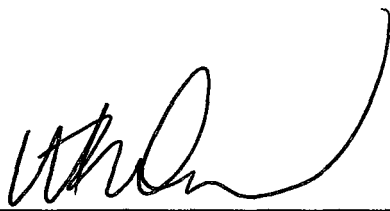
**STATEMENT OF COSTS AND
REQUEST FOR RESTITUTION IN A DRUG CASE**

Defendant: Jason Downing

Case: CR-FE-2015-0014295

I, Whitney Faulkner, Deputy Prosecuting Attorney for State of Idaho, County of Ada, am aware that the Ada County Prosecutor's Office keeps records regarding the attorney time spent prosecuting drug cases in anticipation of submitting a request for restitution pursuant to I.C. §37-2732(k). I have reviewed the time log in this case, which documents the prosecutor time spent prosecuting the above referenced drug case. The Ada County Prosecutor's Office spent 3.3 hours at an attorney rate of \$145.00 per hour prosecuting this case, not including preparation and argument for the sentencing hearing. Pursuant to Idaho Code §37-2732(k), the State requests restitution in the amount of \$478.50

Dated this 12th day of April 2016.



Deputy Prosecuting Attorney

1004

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant
IAN H. THOMSON, ISB #8327
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. _____ FILED 347
A.M. _____ P.M. _____

JUL 29 2016

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JASON SCOTT DOWNING,

Defendant-Appellant.

Case No. CR-FE-2015-0014295

NOTICE OF APPEAL

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

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the final decision and order entered against him in the above-entitled action on June 23, 2016, the Honorable Lynn G. Norton, District Judge presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-10).
3. A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal is:
 - a) Did the District Court err by denying Defendant's Motion to Suppress?
4. There is a portion of the record that is sealed. That portion of the record that is sealed is the pre-sentence investigation report (PSI).
5. Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:

MO

5. Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
 - a) Sentencing hearing held June 23, 2016 (Court Reporter: Penny Tardiff. Estimated pages: 100).
 - b) Motion to Suppress hearing held March 31, 2016 (Court Reporter: Penny Tardiff. Estimated pages: 100).
6. Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
7. I certify:
 - a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) mentioned in paragraph 5 above.
 - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, IAR 23(a)(8)).
 - d) Ada County will be responsible for paying for the reporter's transcript, as the client is indigent (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - e) That service has been made upon all parties required to be served pursuant to IAR 20.

DATED this 29th day of July 2016.



Ian H. Thomson
Attorney for Defendant

CERTIFICATE OF MAILING

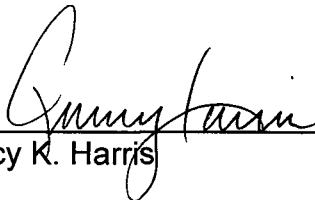
I HEREBY CERTIFY, that on this 21 day of July 2016, I mailed (served) a true and correct copy of the within instrument to:

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

Idaho Appellate Public Defender
PO Box 2816
Boise, ID 83701-2860

Penny Tardiff
Court Reporter
Interdepartmental Mail

Whitney A. Faulkner
Ada County Prosecutor's Office
Interdepartmental Mail



Quincy K. Harris

RECEIVED
JUL 29 2016
ADA COUNTY CLERK

NO. _____
A.M. _____ FILED P.M. 3:00

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant
IAN H. THOMSON, ISB #8327
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

AUG 01 2016

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JASON SCOTT DOWNING,

Defendant-Appellant.

Case No. CR-FE-2015-0014295

ORDER APPOINTING STATE
APPELLATE PUBLIC DEFENDER ON
DIRECT APPEAL

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

SO ORDERED AND DATED this 1st day of August ~~July~~ 2016.



Lynn G. Norton
District Judge

W

NO. _____ FILED
A.M. 11:49 P.M.

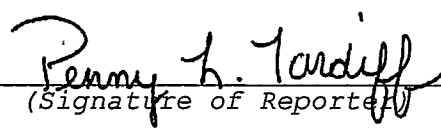
AUG 30 2016
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
Plaintiff-Respondent,)	Supreme Court Docket
)	44382
vs.)	
)	
JASON SCOTT DOWNING,)	
Defendant-Appellant.)	

NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on August 29, 2016, I lodged a transcript 113 pages in length for the above-referenced appeal with the District Court Clerk of Ada County in the Fourth Judicial District.


(Signature of Reporter)

Penny L. Tardiff CSR

8-29-2016

Hearing Dates: 3/31 & 6/23/15

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JASON SCOTT DOWNING,

Defendant-Appellant.

Supreme Court Case No. 44382

CERTIFICATE OF EXHIBITS

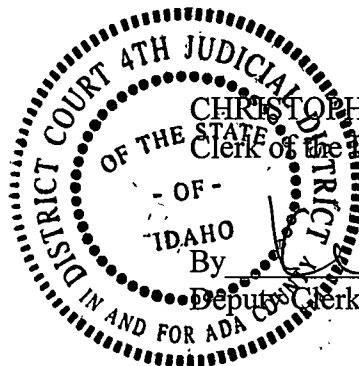
I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

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

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

1. Presentence Investigation Report.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 30th day of August, 2016.



CHRISTOPHER D. RICH
Clerk of the District Court

By *[Signature]*
Deputy Clerk

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

STATE OF IDAHO,

Plaintiff-Respondent,
vs.

JASON SCOTT DOWNING,

Defendant-Appellant.

Supreme Court Case No. 44382

CERTIFICATE OF SERVICE

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

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

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

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

Date of Service: AUG 30 2016

DISTRICT COURT 4TH JU.
OF THE STATE OF IDAHO
- OF -
IDAHO
By Christopher D. Rich
Deputy Clerk

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

STATE OF IDAHO,

Plaintiff-Respondent,
vs.
JASON SCOTT DOWNING,

Defendant-Appellant.

Supreme Court Case No. 44382
CERTIFICATE TO RECORD

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

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 29th day of July, 2016.

DISTRICT COURT 4TH JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR ADA COUNTY
CHRISTOPHER D. RICH
Clerk of the District Court
- OF -
IDAHO
By Christopher D. Rich
Deputy Clerk