

5-30-2017

State v. McGraw Clerk's Record v. 2 Dckt. 44935

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,
Plaintiff-Appellant,
vs.
LACEY KILLEEN,
Defendant-Respondent.

Supreme Court Case No. 44942

CLERK'S RECORD ON APPEAL

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

HONORABLE MICHAEL REARDON

LAWRENCE G. WASDEN
ATTORNEY FOR APPELLANT
BOISE, IDAHO

STATE APPELLATE PUBLIC
DEFENDER
ATTORNEY FOR RESPONDENT
BOISE, IDAHO

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-25070

State of Idaho
Plaintiff,
vs.
LACEY R KILEEN
Defendant.

§
§
§
§
§
§

Location: **Ada County District Court**
Judicial Officer: **Reardon, Michael J.**
Filed on: **08/15/2016**
Case Number History: **PRE-FILE01-16-235**
Prosecutor Control Number: **2016-0000461**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Criminal
Jurisdiction: Boise City Police Department					
1. Controlled Substance-Possession of	I37-2732(c)(1)	FEL	08/14/2016	Case Flags:	Ada County Prosecutor
	{F}				
TCN: ID1150003180 ACN: 1					
Arrest: 08/14/2016					
2. Drug Paraphernalia-Use or Possess With Intent to Use	I37-2734A(1)	MIS	08/14/2016		
TCN: ID1150003180 ACN: 1					
Arrest: 08/14/2016					

Related Cases

CR01-16-25071 (Consolidated Case)
CR01-16-27824 (Consolidated Case)

Bonds

Surety Bond #AC25-7529682 \$15,000.00
2/13/2017 Exonerated
8/15/2016 Posted
Counts: 1, 2

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	CR01-16-25070
Court	Ada County District Court
Date Assigned	09/13/2016
Judicial Officer	Reardon, Michael J.





PARTY INFORMATION

State	State of Idaho	Faulkner, Whitney Anne 208-287-7700(W)
Defendant	KILEEN, LACEY R	

DATE


EVENTS & ORDERS OF THE COURT


INDEX

08/15/2016	Video Arraignment (1:30 PM) (Judicial Officer: Gardunia, Theresa L.)
08/15/2016	 Initiating Document - Pre-File Case
08/15/2016	 Advisement of Rights - Felony Arraignment (Provided to Def.)
08/15/2016	 Application for Public Defender
08/15/2016	 Motion to Consolidate
08/15/2016	


000002


ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-25070


 Order to Consolidate


08/15/2016  Arr. Minutes & Hearing Notice


08/15/2016 Order Appointing Public Defender

08/16/2016  Bond Posted - Surety
15000


08/16/2016  Bond Receipt and Court Date

08/17/2016  Proof of Service
Notice of Hearing 8/26/16


08/25/2016  Motion
Motion for Bond Reduction


08/25/2016  Notice
Notice of Hearing (Motion for Bond Reduction)


08/26/2016 **Preliminary Hearing (8:30 AM) (Judicial Officer: Oths, Michael J.)**

08/26/2016  Court Minutes


08/26/2016 Notice of Hearing

08/30/2016  Response to Request for Discovery
State's Preliminary Response to Discovery

08/30/2016  Request for Discovery
State's Request for Discovery


09/09/2016  Response to Request for Discovery
State's First Supplemental Preliminary Response to Discovery


09/13/2016 **Preliminary Hearing (1:30 PM) (Judicial Officer: Oths, Michael J.)**


09/13/2016  Court Minutes


09/13/2016 Notice of Hearing

09/13/2016 Bound Over (after Prelim)


09/13/2016  Court Minutes

09/13/2016  Order for Commitment


09/13/2016  Exhibit List/Log


09/15/2016  Motion to Consolidate
Motion to Consolidate


ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-25070


09/16/2016  Information Filed
info only (no booking photo)


09/21/2016 **Arraignment (9:00 AM)** (Judicial Officer: Reardon, Michael J.)


09/21/2016  Supplemental Request for Discovery
Supplemental Request for Discovery


09/21/2016  Stipulation
for Substitution of Counsel / Chastain

09/21/2016  Request for Discovery


09/21/2016  Court Minutes

09/26/2016  Notice of Hearing
(10/05/16 @ 10am)


09/28/2016  Stipulation
Stipulation to Consolidate


09/30/2016  Order to Consolidate
(with CV01 16 27824)


10/05/2016 **Entry of Plea (10:00 AM)** (Judicial Officer: Reardon, Michael J.)


10/05/2016  Court Minutes

10/05/2016 **Plea** (Judicial Officer: Reardon, Michael J.)
1. Controlled Substance-Possession of
Not Guilty
TCN: ID1150003180 :
2. Drug Paraphernalia-Use or Possess With Intent to Use
Not Guilty
TCN: ID1150003180 :


10/05/2016  Order
Governing Further Criminal Proceedings and Notice of Trial Setting

10/06/2016  Motion for Disqualification of Judge


10/13/2016  Order
of Disqualification (Copsey as alternate judge)


12/30/2016  Response to Request for Discovery
State's Discovery Response to Court


01/11/2017 **Status Conference (3:00 PM)** (Judicial Officer: Wilper, Ronald J.)

01/11/2017  Court Minutes


ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-25070


01/17/2017  Motion to Suppress


01/17/2017  Memorandum In Support of Motion
to Suppress


01/17/2017  Preliminary Jury Instructions
Defendant's Proposed Jury Instructions


01/18/2017 **Status Conference (3:00 PM)** (Judicial Officer: Reardon, Michael J.)

01/18/2017  Court Minutes


01/19/2017  Notice of Hearing
(02/10/17 @ 2pm)

02/07/2017  Objection
to Defense Motion to Suppress


02/08/2017  Affidavit in Support of Motion
to Suppress

02/09/2017  Memorandum
in Reply to State's Objection to Defendant's Motion to Suppress

02/10/2017 **Motion to Suppress (2:00 PM)** (Judicial Officer: Reardon, Michael J.)

02/10/2017  Court Minutes


02/10/2017 **Disposition** (Judicial Officer: Reardon, Michael J.)
1. Controlled Substance-Possession of
Dismissed by Court
TCN: ID1150003180 :
2. Drug Paraphernalia-Use or Possess With Intent to Use
Dismissed by Court
TCN: ID1150003180 :


02/10/2017  Exhibit List/Log

02/13/2017 Bond Exonerated

02/15/2017 **CANCELED Pre-trial Conference (3:00 PM)** (Judicial Officer: Reardon, Michael J.)
Vacated







02/21/2017 **CANCELED Jury Trial (9:00 AM)** (Judicial Officer: Reardon, Michael J.)
Vacated

03/10/2017  Order
Granting Motion to Suppress

03/20/2017  Notice of Appeal

03/20/2017 Appeal Filed in Supreme Court

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-25070

- 03/23/2017  Motion to Withdraw
as Attorney of Record
- 03/23/2017  Affidavit
of Robert R. Chastain
- 03/23/2017  Motion for Appointment of Public Defender
State Appellate
- 04/06/2017  Notice of Withdrawal of Attorney
(Chastain for defendant)
- 04/07/2017  Order
Appointing SAPD
- 05/30/2017  Notice
of Transcript Lodged - Supreme Court No. 44942

AUG 15 2016

CHRISTOPHER D. RICH, Clerk
By VIOLETA GARCIA
DEPUTY

DR#: 16-619757
Control #: 2016-0000461

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael C. Anderson
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.)
)
LACEY R KILEEN,)
)
Defendant.)
_____)

Case No.

COMPLAINT

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

PERSONALLY APPEARED BEFORE me this 15th day of August, 2016, Michael C. Anderson, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says that: LACEY R KILEEN, on or about the 14th day of August, 2016, in the County of Ada, State of Idaho, did commit the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as follows:

COUNT I

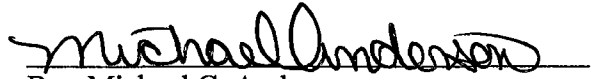
That the defendant, LACEY R. KILEEN, on or about the 14th day of August 2016, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

COUNT II

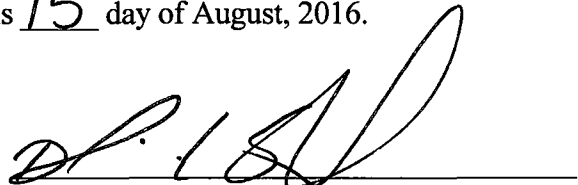
That the defendant, LACEY R. KILEEN, on or about the 14th day of August 2016, in the County of Ada, State of Idaho, did use and/or possess with the intent to use drug paraphernalia, to-wit: a pipe, used to inhale a controlled substance

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


By: Michael C. Anderson
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 15th day of August, 2016.


Magistrate

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

AUG 15 2016

CHRISTOPHER D. RICH, Clerk
By VIOLETA GARCIA
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

Michael Anderson
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.)
)
 LACEY R. KILEEN and BRIAN RAY)
 MCGRAW,)
)
 Defendants.)
 _____)

Case No. CR01-16-25070
CR01-16-25071

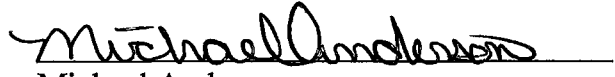
MOTION TO CONSOLIDATE

COMES NOW, Michael Anderson, Deputy Prosecuting Attorney in and for the State of Idaho, County of Ada, and hereby moves this Honorable Court in the above entitled matter for an Order pursuant to Rule 13 of the Idaho Criminal Rules of Practice and Procedure consolidating criminal case _____ with criminal case _____ on the grounds and for the reasons that the facts, evidence and witnesses are the same in each case.

An Order of consolidation would save witness and jury time and the expense for a separate and later trial.

DATED this 15th day of August 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney


Michael Anderson
Deputy Prosecuting Attorney

AUG 15 2016

CHRISTOPHER D. RICH, Clerk
By VIOLETA GARCIA
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

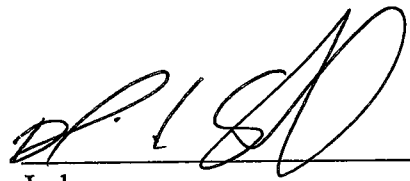
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LACEY R. KILEEN and BRIAN RAY)
 MCGRAW,)
)
 Defendants.)
 _____)

Case No. CR01-16-25070
CR01-16-25071

ORDER TO CONSOLIDATE

This Motion for Consolidation having come before me and good cause being shown,
IT IS HEREBY ORDERED AND THIS DOES ORDER that the Motion to
Consolidate be granted. *A*
DATED this 15 day of August 2016.



Judge

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

State of Idaho vs. LACEY R KILEEN

Case No. CR01-16-25070

JUDGE: Gardunia

DATE: 8/15/2016

CLERK: AT

COURTROOM: 203

HEARING TYPE: ARRAIGNMENT

INTERPRETER: _____

Parties:
Ada County Prosecutor

Prosecutor E. Nielsen
Defense Atty E. Stess

	Charge Description	Charge Code
1.	Controlled Substance-Possession of	I37-2732(c)(1) (F)
2.	Drug Paraphernalia-Use or Possess With Intent to Use	I37-2734A(1)

15152 Case Called: Defendant: Present Not Present In Custody
 PD Appointed PD Denied Waived Attorney Advised of Rights Rights Waived
 Defendant Advised of Charges Defendant Advised of Subsequent Penalties
 Not Guilty Plea Guilty Plea/Admit No Contact Order Issued Pre-Trial Release Order
 Bond 15,000

Prelim. on 8/26/16 at 8:30 am/pm w/ Judge OKS
 Contact the Ada County Public Defender, 200 W. Front St., Rm. 1107, Boise, ID 83702, telephone (208) 287-7400.
 Release Defendant, This Case Only

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

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

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

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

Signature served in custody
Shockley 5565

CHRISTOPHER DIRICH, Clerk of the District Court

By: [Signature]
 Deputy Clerk

DATED 8/15/16

CR01-16-25070
 ARMN
 Arr. Minutes & Hearing Notice
 109978



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

THE STATE OF IDAHO,

Plaintiff,

vs.

Kileen, Lacey

Defendant.

SSN

FILED By: _____ Deputy Clerk
Fourth Judicial District, Ada County
CHRISTOPHER D. RICH, Clerk

Signed: 8/16/2016 02:56 PM

**NOTICE OF COURT DATE
and
BOND RECEIPT**

You are hereby notified that you must appear before the Court Clerk,

on 08-26-16 @ 8:30 AM

Magistrate Court

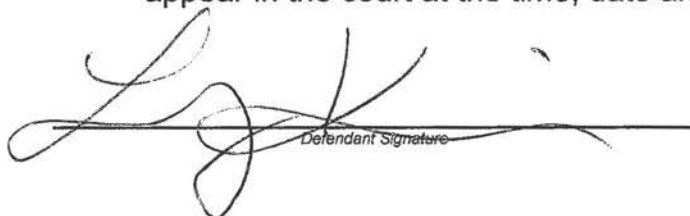
200 W. Front St.
Boise, ID 83702

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.

Charge #1	Pcs	Bond Amount: \$15,000.00	Case Number: CR0116-25070	Bond Number: AC25-7529682	Bond Type: <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Surety
Charge #2	Not Applicable	Bond Amount:	Case Number:	Bond Number:	Bond Type: <input type="checkbox"/> Cash <input type="checkbox"/> Surety
Charge #3	Not Applicable	Bond Amount:	Case Number:	Bond Number:	Bond Type: <input type="checkbox"/> Cash <input type="checkbox"/> Surety
Charge #4	Not Applicable	Bond Amount:	Case Number:	Bond Number:	Bond Type: <input type="checkbox"/> Cash <input type="checkbox"/> Surety
Charge #5	Not Applicable	Bond Amount:	Case Number:	Bond Number:	Bond Type: <input type="checkbox"/> Cash <input type="checkbox"/> Surety
Charge #6	Not Applicable	Bond Amount:	Case Number:	Bond Number:	Bond Type: <input type="checkbox"/> Cash <input type="checkbox"/> Surety

Bonding Agency/Person: Aladdin Bail Bonds			
Address: 80 N Cole Rd			
City: Boise	State: ID	Zip Code: 83704	
Bondsperson: Mcauliffe, Timothy		Bondsperson #: 1098	

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.


Defendant Signature

08/15/2016
Date

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ANN L. COSHO, ISB #3849
Deputy Public Defender
200 West Front Street, Suite 1107
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

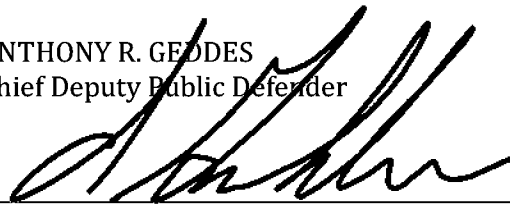
STATE OF IDAHO,
Plaintiff,
vs.
LACEY R KILEEN,
Defendant.

Case No. CR01-16-25070
MOTION FOR BOND REDUCTION

COMES NOW, Lacey R Kileen, the above-named defendant, by and through counsel, Ann L. Cosho, 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 Defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that Defendant has thereby been effectively denied her right to bail.

DATED August 25, 2016.

ANTHONY R. GEODES
Chief Deputy Public Defender



For Ann L. Cosho
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on August 25, 2016, I electronically served a true and correct copy of the within instrument to the Ada County Prosecutor via the iCourt Portal.



Pam Duncan

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ANN L. COSHO, ISB #3849
Deputy Public Defender
200 West Front Street, Suite 1107
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.
LACEY R KILEEN,
Defendant.

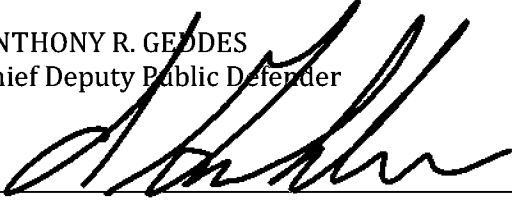
Case No. CR01-16-25070
NOTICE OF HEARING
(MOTION FOR BOND REDUCTION)

TO: THE STATE OF IDAHO, Plaintiff, and to the Ada County Prosecutor:

YOU, AND EACH OF YOU, are hereby notified that Defendant will call on for hearing Motion for Bond Reduction, which is now on file with the Court. Said hearing shall take place at **8:30 am on August 26, 2016**, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED August 25, 2016.

ANTHONY R. GEDDES
Chief Deputy Public Defender


For Ann L. Cosho
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on August 25, 2016, I electronically served a true and correct copy of the within instrument to the Ada County Prosecutor via the iCourt Portal.


Pam Duncan



FILED 8/26/14 AT 9:41 ^{AM}.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY [Signature]
Deputy

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

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 Lacey Kileen)
 Defendant.)

Case Number: CR01-16-25070
Judge: Lacey for OHS
Case Called: 90917 In Chambers
 Ada Special Keole
 PD PD Appointed /Private Cocho
 Interpreter _____

Defendant Present Not Present In Custody Bond \$ 15,000 B/F _____ B/W _____

Posted Bond \$ _____ PTRO NCO Advised of Rights Waive Rights Waive Time

Motion/Stipulation for: Bond Reduction Amended NCO Denied /Granted _____

Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived

Rule11 Plea Agreement w/ DVC Offer Sheet Guilty Plea(s) Entered _____ Accepted _____

State Defense Mutual -- Request for Continuance Pd conflict Objection No Objection

Case continued to 9-13-17 at 1:30 ~~pm~~ pm for PH.

Defendant Waives Preliminary Hearing Hearing Held Commitment Signed

Case Bound Over to Judge _____ on _____ at _____ am/pm

Order for §18-211 Evaluation, requested by: Prosecutor Defense Order §18-212 Commitment

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

Consolidated w/ _____

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 8/26/14

JAN M. BENNETTS
Ada County Prosecuting Attorney

Holly A. Koole
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-25070
)	
vs.	)	PRELIMINARY HEARING
	)	RESPONSE TO REQUEST FOR
LACEY R KILEEN,	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

COMES NOW, Holly A. Koole, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an

open file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

- 3. Defendant's Prior Record:** The Defendant's prior record disclosed in the following:
- a. NCIC report

4A. Documents and Tangible Objects: The State does not have supplemental Police Reports, Witness Statements, Medical Records and/or other tangible documents for disclosure with this Response. Police Reports, Witness Statements, Medical Records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 41, including an NCIC consisting of 10 pages. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R.

16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

The State is providing audio and/or video recordings. The State is providing unredacted digital media for your use pursuant to Idaho Criminal Rule 16(b)(9). The digital media being disclosed contains:

- Protected Information and is marked “Confidential and Unredacted.”** The unredacted digital media has been disclosed to expedite a resolution. Rule 16 provides that unredacted digital media, so disclosed, may not be shared with the defendant absent consent by the State. If you wish to permit the defendant to view the unredacted digital media, marked “Confidential and Unredacted,” please contact the handling attorney to request consent. If you wish to have a redacted copy of the media, please contact the handling attorney, as well.

The State is providing certain documents, photographs and other items in electronic format, on the attached discs. A redacted copy of these documents has been provided and is clearly marked. If you wish to print the **unredacted copy**, which is on the disc marked, “**Confidential and Unredacted**,” you must do so on **colored paper**, per Idaho Criminal Rule 16 (d)(4). Unredacted discovery is not to be disclosed to the defendant or to the defendant’s family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

- The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.
- These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant’s family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. **Expert Witnesses:** The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

- The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.
- These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. **Police Reports:** The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS


A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

- NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.
- A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.
- Other

RESPECTFULLY SUBMITTED this 30 day of August 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney

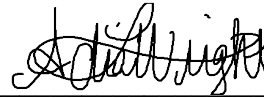

By: Holly A. Koole
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of August 2016, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Ann Largent Cosho, 200 W Front Street Rm 1107 Boise ID 83702

By iCourt eFile & Serve



JAN M. BENNETTS
Ada County Prosecuting Attorney

Holly A. Koole
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No.CR01-16-25070
)	
vs.	)	REQUEST FOR DISCOVERY
)	
LACEY R KILEEN,)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

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

- (1) Documents and Tangible Objects:

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

(2) Reports of Examinations and Tests:

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

(3) Defense Witnesses:

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

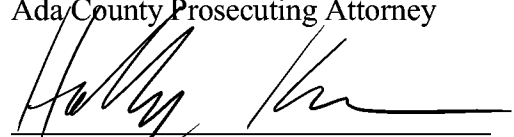
(4) Expert Witnesses:

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

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

DATED this the 30 day of August 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



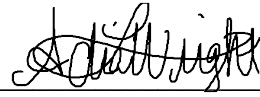
By: Holly A. Koole
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 30 day of August 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:

Ann Largent Cosho, 200 W Front Street Rm 1107 Boise ID 83702

- By iCourt eFile and Serve.



Legal Assistant

JAN M. BENNETTS
Ada County Prosecuting Attorney

Holly A. Koole
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-25070
)	
vs.	)	FIRST SUPPLEMENTAL
	)	PRELIMINARY HEARING
LACEY R KILEEN,	)	RESPONSE TO REQUEST FOR
	)	DISCOVERY AND OBJECTIONS
Defendant.)	
_____)	

COMES NOW, Holly A. Koole, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant’s Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an

open file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

- 3. Defendant's Prior Record:** The Defendant's prior record disclosed in the following:
- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical Records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 42 through 48. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

The State is providing audio and/or video recordings. The State is providing unredacted digital media for your use pursuant to Idaho Criminal Rule 16(b)(9). The digital media being disclosed contains:

- Protected Information and is marked “Confidential and Unredacted.”** The unredacted digital media has been disclosed to expedite a resolution. Rule 16 provides that unredacted digital media, so disclosed, may not be shared with the defendant absent consent by the State. If you wish to permit the defendant to view the unredacted digital media, marked “Confidential and Unredacted,” please contact the handling attorney to request consent. If you wish to have a redacted copy of the media, please contact the handling attorney, as well.

The State is providing certain documents, photographs and other items in electronic format, on the attached discs. A redacted copy of these documents has been provided and is clearly marked. If you wish to print the **unredacted copy**, which is on the disc marked, “**Confidential and Unredacted**,” you must do so on **colored paper**, per Idaho Criminal Rule 16 (d)(4). Unredacted discovery is not to be disclosed to the defendant or to the defendant’s family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

- The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

- These documents are specifically identified in subsection 4A above as State’s pages 44 through 48.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant’s family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

- The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.
- These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

- NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.
- A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.
- Other

RESPECTFULLY SUBMITTED this ____ day of September 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Holly A. Koole
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8TH day of September 2016, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Ann Largent Cosho, 200 W Front Street Rm 1107 Boise ID 83702

By iCourt eFile & Serve

CBright



FILED 9/13/14 AT 2:11 .M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY [Signature]
Deputy

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

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 Lacey Killeen)
 Defendant.)

Case Number: CR01-16-25070
Judge: DMS
Case Called: 14555 In Chambers
 Ada Special A. Koole
 PD PD Appointed /Private A Cosho
 Interpreter

Defendant Present Not Present In Custody Bond \$ ~~5000~~ B/F _____ B/W _____

Posted Bond \$ 15,000 PTRO NCO Advised of Rights Waive Rights Waive Time

Motion/Stipulation for: Bond Reduction Amended NCO Denied /Granted _____

Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived

Rule11 Plea Agreement w/ DVC Offer Sheet Guilty Plea(s) Entered _____ Accepted _____

State Defense Mutual -- Request for Continuance _____ Objection No Objection

Case continued to _____ at _____ am/pm for _____

Defendant Waives Preliminary Hearing Hearing Held Commitment Signed

Case Bound Over to Judge Reardon on 9-21-16 at 9:00 am/pm

Order for §18-211 Evaluation, requested by: Prosecutor Defense Order §18-212 Commitment

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

Consolidated w/ _____

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 9/13/14

Time	Speaker	Note
01:45:54 PM	.	
01:45:55 PM	Case Called	#1 Lacey Kileen CR01-16-25070 On Bond for Prelim HR #2 Brian McGraw CR01-16-27824 In-Custody for Prelim HR
01:46:04 PM	States Attorney	Holly Koole
01:46:06 PM	Defense Attorney #1	Annie Cosho
01:46:08 PM	Defense Attorney #2	Abraham Wingrove
01:46:29 PM	States Attorney	Calls SW #1 Officer Jason Green /Sworn
01:46:49 PM	States Attorney	DX SW #1
01:47:11 PM	Defense Attorney #1	Stipulates to officer training and experience for today's hearing only
01:47:15 PM	Defense Attorney #2	Stipulates to officer training and experience for today's hearing only
01:56:11 PM	Defense Attorney #1	CX SW #1
02:01:43 PM	Defense Attorney #2	CX SW #1
02:04:55 PM	Defense Attorney #1	CX SW #1
02:05:14 PM	Judge	DX SW #1
02:05:33 PM	Judge	Nothing further witness steps down/Excused
02:05:37 PM	States Attorney	Moves to Admit SE #1
02:05:55 PM	Defense Attorney #1	No Objection for this hearing
02:05:57 PM	Defense Attorney #2	No Objection for this hearing
02:06:10 PM	Judge	So orders SE #1 Admitted
02:06:41 PM	States Attorney	Rest
02:06:42 PM	Defense Attorney	Rest
02:06:44 PM	Defense Attorney	Rest
02:06:45 PM	States Attorney	Submit closing argument on evidence presented/reserve rebuttal
02:06:49 PM	Defense Attorney	Submit
02:06:51 PM	Defense Attorney	Submit

CR01 - 16 - 25070
 CMIN
 Court Minutes
 130468



<u>02:06:53 PM</u>	Judge	CT finds that the State has proved there is enough evidence to provide probable cause to sign Commitments and bind cases over to District Court with Judge Reardon on 9/21/2016 @ 9:00 am for AR and further proceedings
<u>02:10:08 PM</u>	States Attorney	State signs for Exhibits
<u>02:10:09 PM</u>		End of Case
<u>02:10:09 PM</u>		



SEP 13 2016

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

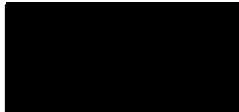
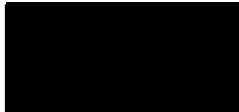
Holly A. Koole
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

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.)
)
LACEY R KILLEEN,)
)
Defendant.)
_____)

Case No. ~~2016-0000460~~; CR01-16-25070

COMMITMENT

Defendant's DOB: 
Defendant's SSN: 

THE ABOVE-NAMED DEFENDANT, LACEY R KILEEN, having been brought before this Court for a Preliminary Examination on the 13 day of September 2016, on a charge that the defendant on or about the 14th day of August 2016, in the County of Ada, State of Idaho, did commit the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as follows:

COUNT I

That the defendant, LACEY R. KILLEEN, on or about the 14th day of August 2016, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

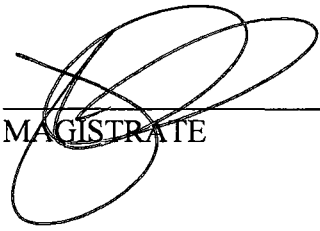
COUNT II

That the defendant, LACEY R. KILLEEN, on or about the 14th day of August 2016, in the County of Ada, State of Idaho, did use and/or possess with the intent to use drug paraphernalia, to-wit: a pipe, used to inhale a 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 \$ 15,000⁰⁰.

DATED this 13 day of SEPTEMBER 2016.



MAGISTRATE

JAN M. BENNETTS
Ada County Prosecuting Attorney

Holly A. Koole
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700

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

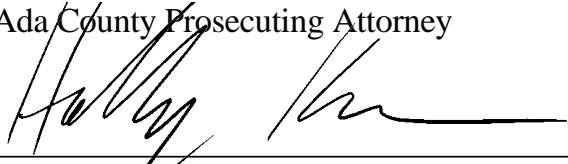
STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-25070
	)	CR-01-16-27824
vs.)	
LACEY R KILEEN and	)	MOTION TO CONSOLIDATE
)	
BRIAN RAY MCGRAW,)	
)	
Defendants.)	
)	

COMES NOW, Holly A. Koole, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and hereby moves this Honorable Court in the above entitled matter for an Order pursuant to Rule 13 of the Idaho Criminal Rules of Practice and Procedure consolidating criminal case CR01-16-25070 with criminal case CR01-16-27824 on the grounds and for the reasons that the facts, evidence and witnesses are the same in

each case. An Order of consolidation would save witness and jury time and the expense for a separate and later trial.

DATED this the _____ September 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



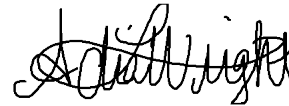
By: Holly A. Koole
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 15 day of September 2016, I caused to be served, a true and correct copy of the foregoing Motion to Consolidate upon the individual(s) named below in the manner noted:

Ann Largent Cosho, 200 W Front Street Rm 1107 Boise ID 83702

- By iCourt eFile and Serve



JAN M. BENNETTS
Ada County 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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LACEY R KILLEEN,)
)
Defendant.)
_____)

Case No. CR01-16-25070

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 LACEY R KILLEEN is accused by this Information of the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A, which crime(s) were committed as follows:


COUNT I

That the defendant, LACEY R KILLEEN, on or about the 14th day of August 2016, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

COUNT II

That the defendant, LACEY R KILLEEN, on or about the 14th day of August 2016, in the County of Ada, State of Idaho, did use and/or possess with the intent to use drug paraphernalia, to-wit: a pipe, used to inhale a 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

ROBERT R. CHASTAIN
ATTORNEY AT LAW
300 Main, Suite 158
Boise, ID 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765
Attorney for Defendant


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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Plaintiff,)	
	)	SUPPLEMENTAL REQUEST
vs.	)	FOR UNREDACTED
	)	DISCOVERY
LACEY R. KILEEN,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Lacey R. Kileen, and pursuant to ICR 16 requests the Prosecuting Attorney to produce, or permit the Defendant, by and through her attorney of record, Robert R. Chastain, to inspect and copy or photograph the following:

- Copy of any and all officer Audio, Video and Body Cam Recordings

DATED this 21 day of September, 2016.



ROBERT R. CHASTAIN
Attorney for Defendant

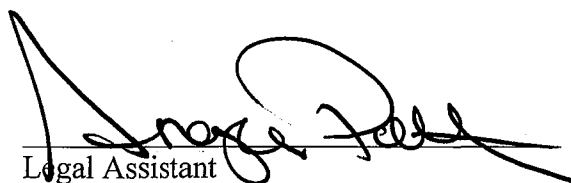
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of September, 2016, I served a true and correct copy of the within and foregoing document upon the attorney named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class.
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

By Odyssey E-File and Serve

Ada County Prosecuting Attorney


Legal Assistant

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, ID 83702-7728
(208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

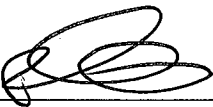
**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Plaintiff,)	
vs.	)	STIPULATION FOR SUBSTITUTION
	)	OF COUNSEL
LACEY R. KILEEN,)	
)	
Defendant.)	
_____)	

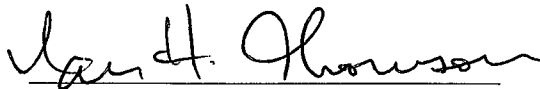
COMES NOW Robert R. Chastain, Attorney at Law, and Ann Cosho, Ada County Public Defender, and hereby stipulate Robert R. Chastain will be substituted in as attorney of record for the Defendant, Lacey R. Kileen.

Robert R. Chastain hereby appears on behalf of Lacey R. Kileen, as her attorney of record.

DATED this 21st day of September, 2016.




Robert R. Chastain
Attorney for Defendant


for _____
Ann Cosho
Ada County Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 21 day of September, 2016, I served a true and correct copy of the within and foregoing document upon the attorney named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class.
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.
- By Odyssey E-File and Serve.

 Ada County Prosecuting Attorney, 200 W. Front Street, Boise, ID, 83702-7300


Legal Assistant

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, ID 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Plaintiff,)	
	)	REQUEST FOR
vs.	)	UNREDACTED DISCOVERY
)	
LACEY R. KILEEN,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, and pursuant to ICR 16 requests the Prosecuting Attorney to produce, or permit the Defendant, by and through Robert R. Chastain, attorney, to inspect and copy or photograph the following:

1. Any unredacted written or recorded statements made by the Defendant within the possession, custody or control of the State, the existence of which is known or is available to the Prosecuting Attorney by the exercise of due diligence.
2. Any unredacted writings relating to or the substance of any relevant oral statements made by the Defendant, whether before or after arrest, to a peace officer, the complaining witness in the above entitled case, the Prosecuting Attorney or any of his agents or employees.
3. Any unredacted written or recorded statements of a co-defendant or the substance of any oral statement made by a co-defendant whether before or after arrest, in any way pertaining to the charge stated in the above case, which statements, or substances thereof, are known by the Prosecuting Attorney, the complaining witness, or any peace officer.
4. A copy of the Defendant's prior criminal record which is presently available, or which may become available prior to trial to the Prosecuting Attorney.

5. Any books, unredacted documents, photographs, tangible objects, buildings, or places, or unredacted copies or portions thereof, which are in the possession, custody or control of the Prosecuting Attorney and which are material to the preparations of the defense, or intended for use by the Prosecutor as evidence at trial, or obtained from or belonging to the Defendant.

6. Any result or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with the particular case, or copies thereof, within the possession, custody, or control of the Prosecuting Attorney by the exercise of due diligence, or which may hereafter become available and which will or may be used by the Prosecuting Attorney at the trial of the above entitled case.

7. An unredacted written list of the names and addresses of all persons having knowledge of relevant facts pertaining to the above entitled case including, but not limited to, those witnesses who may be called by the State as witnesses at the trial of the above entitled cause, together with any record of prior felony convictions of any such persons which is within the knowledge of the Prosecuting Attorney.

8. Any unredacted statements made by other witnesses, prosecution witnesses, prospective witnesses to the Prosecuting Attorney or his agents or to any person involved in the prosecution or investigation process of the case.


9. All unredacted reports, memoranda and notes which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

10. Any material or statement of information which tends to negate the guilt of the Defendant, per se or which when used by the Defendant might tend to negate the guilt of the Defendant or which would tend to reduce the punishment thereof.

11. Any and all reports, memoranda, charts, graphs, sketches, photographs, raw data, descriptions of tools of measure, whether manual or automated, written opinions, or writings of any kind relating to or resulting from an attempted accident reconstruction related to this incident.

Discovery should be complied with at the office of the Prosecuting Attorney or by mail to the undersigned attorney at 300 Main, Suite 158, Boise, Idaho, 83702-7728.

DATED this 20 day of September, 2016.



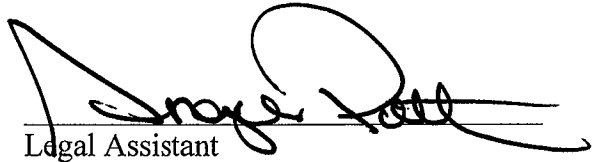
ROBERT R. CHASTAIN
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of September, 2016, I served a true and correct copy of the within and foregoing document upon the attorney named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class.
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.
- By Odyssey E-File and Serve.

Ada County Prosecutor, 200 W. Front Street, Boise, ID, 83702-7300


Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>09:22:18 AM</u>		LACEY KILLEEN CR 01 16 25070 ARRAIGNMENT
<u>09:22:36 AM</u>		Present: Kai Wittwer for the State, Rob Chastain for the defense, defendant on bond
<u>09:22:49 AM</u>	Chastain	I was just retained yesterday, I'll get a Substitution of Counsel filed.
<u>09:23:03 AM</u>	Court	I'll recall case so she can watch the Advice of Rights.
<u>09:40:07 AM</u>		LACEY KILLEEN case recalled; all parties present
<u>09:40:43 AM</u>	Defendant	I've reviewed the video Advice of Rights. Read, write, understand English. Waive formal reading. True name, spelled correctly.
<u>09:41:10 AM</u>	Court	Advice of charges, maximum possible penalties.
<u>09:42:03 AM</u>	Chastain	Ask for 5 Oct.
<u>09:42:14 AM</u>	Court	10/05/16 @ 10am.
<u>09:42:38 AM</u>	Chastain	We don't anticipate opposing the Mo/Consolidate.
<u>09:42:59 AM</u>		End of case

JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney A. 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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LACEY R KILLEEN,)
)
Defendant.)
_____)

Case No's. CR01-16-25070

NOTICE OF HEARING

TO: Robert Chastain, Attorney of Record, you will please take notice that on the October 5, 2016 at the hour of 10:00 am of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Whitney A. Faulkner, will move this Honorable Court regarding the State's Motion to Consolidate in the above-entitled action.

DATED this 22nd day of September 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Whitney A. Faulkner
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this the 26th day of September, 2016 I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted

Robert Chastain, Attorney at Law, PO Box 756, Boise, ID 83701

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



JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney Faulkner
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

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No's. CR01-16-25070
	)	CR01-16-27824
vs.)	
	)	STIPULATION TO
LACEY R. KILEEN and BRIAN RAY	)	CONSOLIDATE
MCGRAW,)	
)	
Defendants.)	
_____)	

COMES NOW, Whitney Faulkner, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and Rob Chastain, Attorney for LACEY R. KILEEN, and Mark Coonts, Attorney for BRIAN RAY MCGRAW, move and stipulate this Honorable Court in the above entitled matter for an Order pursuant to Rule 13 of the Idaho Criminal Rules of Practice and Procedure consolidating criminal case CR01-16-25070 with criminal case CR01-16-27824 on the grounds and for the reasons that the facts, evidence and witnesses are the same in each case.

An Order of consolidation would save witness and jury time and the expense for a separate and later trial.

DATED this 27 day of September 2016.

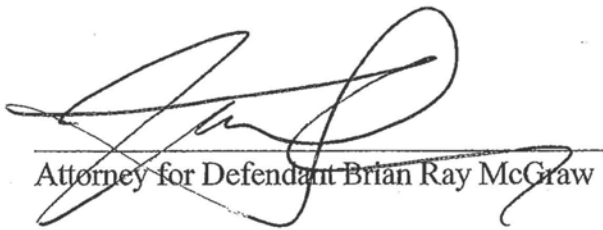
JAN M. BENNETTS
Ada County Prosecuting Attorney



Attorney for Defendant Lacey R. Kileen



Whitney Faulkner
Deputy Prosecuting Attorney



Attorney for Defendant Brian Ray McGraw

FILED By: Beth Martin Deputy Clerk
Fourth Judicial District, Ada County
CHRISTOPHER D. RICH, Clerk

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.)
)
LACEY R. KILEEN and BRIAN RAY)
MCGRAW,)
)
Defendants.)
_____)


Case No. **CR01-16-25070**
CR01-16-27824

ORDER TO CONSOLIDATE

This Stipulation for Consolidation having come before me and good cause being shown,

IT IS HEREBY ORDERED AND THIS DOES ORDER that the Motion to Consolidate be granted.

DATED _____ Signed: 9/29/2016 02:13 PM



Judge

CLERK'S CERTIFICATE OF MAILING

The undersigned, a Deputy Clerk of the Court of Ada County, hereby certifies that s/he caused a true and correct copy of the within and foregoing document to be sent to the following:

Rob Chastain
Attorney at Law
PO Box 756
Boise, ID 83701

U.S. Mail, postage prepaid
 Facsimile
 Email
admin@chastainlaw.net

Mark Coonts
Ada County Public Defender's Office
200 W. Front St. Rm 1107
Boise, ID 83702

U.S. Mail, postage prepaid
 Facsimile
 Email
public.defender@adacounty.id.gov

Whitney Faulkner
Ada County Prosecutor's Office
200 W Front St., R3191
Boise, ID 83702

U.S. Mail, postage prepaid
 Facsimile
 Email
acpocourtdocs@adaweb.net

CHRISTOPHER D. RICH
Ada County Clerk of the Court

Bob Menter Signed: 9/30/2016 08:03 AM
Deputy Clerk

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>10:48:33 AM</u>		BRIAN McGRAW CR01 16 27824 ENTRY OF PLEA
<u>10:48:48 AM</u>		Present: Whitney Faulkner for the State, Mark Coonts for the defense, defendant in custody
<u>10:49:09 AM</u>		LACEY KILLEEN CR01 16 25070 ENTRY OF PLEA
<u>10:49:19 AM</u>		Present: Whitney Faulkner for the State, Rob Chastain for the defense, defendant on bond
<u>10:49:42 AM</u>	Coonts	Not Guilty.
<u>10:49:55 AM</u>	Chastain	Same
<u>10:51:42 AM</u>	Court	2d JT 02/21/17 @ 9am. PTC 02/15/17 @ 3pm. SC 01/11/17 @ 3pm. Discovery cut-off 12/30/16.
<u>10:54:12 AM</u>		End of case

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

FILED 10-576 10-50 M
CHRISTOPHER D. RICCI
CLERK OF THE DISTRICT COURT
BY B. M. [Signature] Deputy Clerk

THE STATE OF IDAHO,)
)
) Plaintiff,)
_____)
)
vs.)
)
Lacey Killeen)
)
_____) Defendant.)

Case No. CR- 01 16 25070

**ORDER GOVERNING FURTHER
CRIMINAL PROCEEDINGS AND
NOTICE OF TRIAL SETTING**

IT IS HEREBY ORDERED as follows:

- (1) Compliance date for discovery is set on or before 30 December, 2016.
- (2) Status conference will be held on 11 January, 2017 at 3 p.m. wherein defendant(s) must be personally present in court.
- (3) Pretrial conference will be held on 15 February, 2017 at 3 p.m. wherein defendant(s) must be personally present in court.
- (4) Jury trial will be held on 21 February, 2017 at 9 a.m. and shall be scheduled for 2 days. The order of the jury panel will be drawn by lot the afternoon before the day of trial in chambers. Counsel may be present for the drawing of the names.
- (5) Notice is hereby given, pursuant to Rule 25(a)(6), I.C.R. that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

- | | | |
|-----------------------|-----------------------|---|
| Hon. G.D. Carey | Hon. Cheri Copsey | Hon. Dennis Coffey <u>Michael McLaughlin</u> |
| Hon. Renee Hoff | Hon. James Judd | Hon. Duff McKee |
| Hon. Thomas Neville | Hon. Gerald Schroeder | Hon. Kathryn Sticklen |
| Hon. Darla Williamson | Hon. Ronald Wilper | |

ALL SITTING FOURTH DISTRICT JUDGES

(6) **Defendant shall file all pretrial motions governed by Rule 12 of the Idaho Criminal Rules no later than fourteen (14) days after the compliance date set for discovery or otherwise show good cause, upon formal motion, why such time limits should be extended.** All such motions must be brought on for hearing within fourteen (14) days after filing or forty-eight (48) hours before trial, whichever is earlier. All motions *in limine* shall be in writing and filed no later than five (5) days prior to the pretrial conference. **All Motions to Suppress Evidence must be accompanied by a brief setting forth the factual basis and legal basis for the suppression of evidence.**

IT IS SO ORDERED this 5th day of February, 2016.
[Signature]
Defendant's Signature
[Signature]
MICHAEL REARDON
District Judge

cc: Hand delivered to Defendant and Counsel

ORDER GOVERNING FURTHER CRIMINAL PROCEEDINGS AND NOTICE OF TRIAL SETTING

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, ID 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Plaintiff,)	
	)	MOTION FOR
vs.	)	DISQUALIFICATION OF JUDGE
	)	WITHOUT CAUSE PURSUANT
LACEY KILEEN,	)	TO ICR 25(a)(1)
)	
Defendant.)	
)	

COMES NOW, Robert R. Chastain, attorney of record for the Defendant, Lacey Kileen, and pursuant to ICR 25(a)(1) moves the Court for its Order for the disqualification, without cause, of the Hon. Cheri Copsey, from this case.

This Motion is not made to hinder, delay or obstruct the administration of justice.

DATED this 6 day of October, 2016.



Robert R. Chastain
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 0 day of October, 2016, I served a true and correct copy of the within and foregoing document upon the individual(s) named below in the manner noted:

By depositing copies of the same in the United States Mail, postage prepaid, first class.

By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

By Odyssey E-File and Serve.

Ada County Prosecutor, 200 W. Front Street, Boise, ID 83702


Legal Assistant

FILED By: Berk Munter Deputy Clerk
Fourth Judicial District, Ada County
CHRISTOPHER D. RICH, Clerk

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, ID 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-25070
)	
vs.	)	ORDER OF DISQUALIFICATION
)	
LACEY KILEEN,)	
)	
Defendant.)	
_____)	

The matter having come before the Court in chambers upon Defendant's **Motion for Disqualification Without Cause:**

IT IS HEREBY ORDERED, pursuant to ICR 25(a)(1), the Hon. Cheri Copsey is disqualified in the above matter.

DATED this _____ day of _____, 2016.

Signed: 10/9/2016 05:48 PM



District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 14th day of October, 2016, I served a true and correct copy of the within and foregoing document upon the individual(s) named below in the manner noted:

 By depositing copies of the same in the United States Mail, postage prepaid, first class.

 By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

 X By Odyssey E-File and Serve

- Ada County Prosecuting Attorney, 200 W. Front Street, Boise, ID 83702
- Robert R. Chastain, 300 Main, Suite 158, Boise, ID 83702

CHRISTOPHER D. RICH,
Clerk of the Court

By: Berk Merten Signed: 10/13/2016 02:11 PM
Deputy Clerk

JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney A. 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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-25070
)	
vs.	)	DISCOVERY RESPONSE
	)	TO COURT
LACEY R. KILLEEN,)	
)	
Defendant.)	
_____)	

COMES NOW, Whitney A. 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 the 29th day of December, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Whitney A. Faulkner
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 30th day of December, 2016 I caused to be served, a true and correct copy of the foregoing Discovery Response to Court upon the individual(s) named below in the manner noted

Robert Chastain, Attorney at Law, 300 Main Street #158, Boise, ID

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



<u>Time</u>	<u>Speake</u>	<u>Note</u>
<u>03:12:30 PM</u>		LACEY KILEEN CR01 16 25070 STATUS CONFERENCE
<u>03:12:40 PM</u>		Present: Tanner Stellmon for the State, Rob Chastain for the defense, defendant on bond
<u>03:12:42 PM</u>		BRIAN McGRAW CR01 16 27824 STATUS CONFERENCE
<u>03:12:55 PM</u>		Present: Tanner Stellmon for the State, Mark Coonts for the defense, defendant in custody
<u>03:13:14 PM</u>	Chastain	Want to ask to continue the trial - significant issues that need to be addressed. At least, ask for another Status Conference to be set.
<u>03:15:04 PM</u>	Coonts	My client won't waive speedy at this point.
<u>03:15:13 PM</u>	Court	I won't take up question of a continuance right now - will leave up to J. Reardon. SC 01/18/17 @ 3pm.
<u>03:16:42 PM</u>	Coonts	I've filed a Mo/Suppress.
<u>03:17:22 PM</u>	Court	Make sure you notice that up for hearing.
<u>03:17:30 PM</u>	Chastain	I just became aware of that today.
<u>03:17:43 PM</u>	Court	Back on both cases next week.
<u>03:17:50 PM</u>		End of case

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, Idaho 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
)	
Plaintiff,	)	MOTION TO SUPPRESS
)	
vs.)	
)	
LACEY KILLEEN,)	
)	
)	
Defendant.)	
_____)	

COMES NOW, the above Defendant, by and through above counsel, and pursuant to Idaho Criminal Rule 12(b)(3), hereby moves this Court to suppress all evidence resulting from Ms. Killeen's illegal seizure and detention by the Boise Police and the subsequent unconstitutional search and seizure of evidence from her vehicle, as described in the memorandum filed contemporaneously with this motion.

This motion is made pursuant to Article I § 17 of the Idaho Constitution, and the Fourth Amendment to the U.S. Constitution, applicable to this state as a result of its incorporation into the Fourteenth Amendment by *Mapp v. Ohio*, 367 U.S. 643 (1961).

It is further supported by the audio/video of the police contact, as well as any evidence and testimony to be adduced at the hearing to be set in this matter. The affidavit of the Defendant will also be filed in support of this motion.

DATED this 17 day of January, 2017.



ROBERT R. CHASTAIN
Attorney for the Defendant

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on the 17 day of January, 2017, I served a true and correct copy of the within and foregoing document upon the individual named below in the manner noted:

Ada County Prosecuting Attorney

By depositing copies of the same in the United States Mail, postage prepaid, first class

By hand delivering copies of the same to the office(s) of the attorney(s) indicated

By Odyssey E-file and Serve


Legal Assistant

ROBERT R. CHASTAIN
CONFLICT ADA COUNTY PUBLIC DEFENDER
300 Main, Suite 158
Boise, Idaho 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Plaintiff,)	
	)	MEMORANDUM IN SUPPORT OF
vs.	)	MOTION TO SUPPRESS
)	
LACEY KILLEEN,)	
)	
Defendant.)	
_____)	

COMES NOW, the above defendant, by and through her attorney of record Robert R. Chastain, and hereby submits the following memorandum in support of her motion to suppress.

MEMORANDUM

I. Factual Background

The following facts are based on the discovery materials provided by the state.

On August 14, 2016, Officer Green was following the defendant and her passenger Brian McGraw as they drove on Interstate-84 in Boise. Officer Green stated that, prior to changing lanes, the defendant failed to signal for the required duration. On that basis, Officer Green conducted a traffic stop. After seizing the vehicle, Officer Green approached the vehicle and commenced a line of questioning that bore no relation to the initial basis for the seizure. He

asked whether either the defendant or Mr. McGraw was on probation or parole. Mr. McGraw responded that he was on parole. Officer Green then informed them that he would be conducting a dog sniff around the vehicle. Prior to doing so, however, he asked the vehicle occupants whether the dog would be likely to detect anything within the vehicle. After that question, Officer Green requested consent to search the vehicle, a request that was denied.

Officer Plaisted then took over the citation-writing responsibilities while Officer Green conducted the dog sniff. Officer Green claimed that the dog alerted, and a full-blown vehicle search followed. All evidence in this case resulted from that search, and therefore all evidence resulted from the dog sniff.

II. Legal Framework

A. General Search and Seizure Principles

The Fourth Amendment provides that “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]” The Fourth Amendment’s protections were incorporated into the Fourteenth Amendment by *Wolf v. Colorado*, 338 U.S. 25 (1949) and *Mapp v. Ohio*, 367 U.S. 643 (1961).

A seizure without a warrant is unreasonable *per se*, “subject only to a few specifically established and well-delineated exceptions.” *Katz v. United States*, 389 U.S. 347, 357 (1967). “The seizure of an individual requires, at a minimum, reasonable and articulable suspicion.” *State v. Willoughby*, 147 Idaho 482, 490 (2009) (emphasis added). “A seizure occurs — and the fourth amendment is implicated — when an officer, by means of physical force or show of authority, has in some way restrained a citizen's liberty.” *State v. Fry*, 122 Idaho 100, 102 (Ct. App. 1992) (emphasis added). “The critical inquiry is whether, taking into account all of the circumstances surrounding the encounter, the police conduct would have communicated to a

reasonable person that he was not at liberty to ignore the police presence and go about his business.” *Id.* (quotations omitted). Thus, the test is an objective test requiring an evaluation of the totality of the circumstances. *Willoughby*, 147 Idaho at 486.

“It is the State’s burden to establish that the seizure was based on reasonable suspicion and sufficiently limited in scope and duration to satisfy the conditions of an investigative seizure.” *State v. Bordeaux*, 148 Idaho 1, 8 (Ct. App. 2009) (emphasis added). It is the defendant’s “burden [to] prov[e] that a seizure occurred.” *Willoughby*, 147 Idaho at 486. “[A]ll evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court.” *Mapp*, 367 U.S. at 655. “Any evidence seized pursuant to an unlawful stop or an unreasonable detention is ‘fruit of the poisonous tree’ and is, therefore, inadmissible.” *Bordeaux*, 148 Idaho at 6.

B. Extensions of Traffic Stops

“A traffic stop constitutes a seizure of the driver and passengers of a vehicle and is therefore subject to Fourth Amendment strictures[.]” *State v. Johnson*, 152 Idaho 56, 60 (Ct. App. 2011); accord *United States v. Cortez*, 449 U.S. 411, 417 (1981), *Delaware v. Prouse*, 440 U.S. 648, 653-54 (1979), *State v. Haworth*, 106 Idaho 405, 406 (1984). When the purpose of the detention is to investigate a possible traffic offense or other crime, it must be based upon reasonable, articulable suspicion of criminal activity. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *Florida v. Royer*, 460 U.S. 491, 498 (1983); *State v. Schumacher*, 136 Idaho 509 (Ct. App. 2001). The passengers of a vehicle have standing to contest the reasonableness of the detention, because they are detained as a result of the stop. *State v. Luna*, 1265 Idaho 235, 237 (Ct. App. 1994).

An investigative detention must be temporary and last no longer than is necessary to

effectuate the purpose of the stop. *Royer*, 460 U.S. at 498. To determine whether a detention lasted longer than allowed, a court must consider the scope of the detention, the law enforcement purposes served, and the duration of the stop. *United States v. Sharpe*, 470 U.S. 675, 685-86 (1985). “[T]he tolerable duration of police inquires in the traffic-stop context is determined by the seizure’s ‘mission’—to address the traffic violation that warranted the stop, *Caballes*, 543 U. S., at 407 125 S. Ct. 834, 160 L. Ed. 2d 842, and attend to related safety concerns.” *Rodriguez v. United States*, 135 S.Ct. 1609, 1614 (2015) (emphasis added). “Because addressing the infraction is the purpose of the stop, it may last no longer than is necessary to effectuate that purpose.” *Id.* (quotations, alterations removed). “Authority for the seizure thus ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.” *Id.* Thus, “in determining the reasonable duration of a stop, it is appropriate to examine whether the police diligently pursued the investigation” *Id.* (quotations, alterations removed).

Law enforcement may conduct unrelated investigations if they do not lengthen the detention. *Id.* However, law enforcement’s *extension* of a traffic stop must be supported by reasonable articulable suspicion of criminal activity, which may have been acquired after initiating the traffic stop. *Id.* at 1615 (“An officer . . . may conduct certain unrelated checks during an otherwise lawful traffic stop. But . . . **he may not do so in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual.**”) (emphasis added); *State v. Brumfield*, 136 Idaho 913, 916 (Ct. App. 2001).

Where a person is detained, the scope of the detention must be carefully tailored to its underlying justification. *State v. Roe*, 140 Idaho 176, 181 (Ct. App. 2004); *State v. Parkinson*, 135 Idaho 357, 361 (Ct. App. 2000). “Beyond determining whether to issue a traffic ticket, an

officer's mission includes ordinary inquiries incident to the traffic stop. Typically such inquiries involve checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance." *Rodriguez*, 135 S.Ct. at 1615 (quotations, alterations removed). Those "checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly." *Id.* However, a "dog sniff, by contrast, is a measure aimed at detecting evidence of ordinary criminal wrongdoing." *Id.* (quotations, alterations removed).

Thus, *Rodriguez* held that "a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures." *Id.* at 1614. This holding is "broad and inflexible." *State v. Linze*, __ Idaho __ (2016). Therefore, it applies even to so-called *de minimus* extensions of traffic stops. "[A] deviation from the original purpose of a traffic stop will inevitably lengthen the time needed to complete the original purpose of the seizure, and, accordingly, will result in a stop that 'exceed[s] the time needed to handle the matter for which the stop was made.'" *Id.* (emphasis added). "[W]hen an officer abandons his or her original purpose, the officer has for all intents and purposes initiated a new seizure with a new purpose; one which requires its own reasonableness under the Fourth Amendment." *Id.* The critical question is whether conducting a dog sniff prolongs the stop. *Id.*

III. Analysis

Suppression is required if the stop's duration was extended for any purpose unrelated to the mission of the stop. As explained in *Rodriguez*, the purpose of a traffic stop includes verifying compliance with the rules of the road, but it does not include an independent narcotics investigation or any other so-called *de minimus* unrelated extension. Thus, the stop is

impermissibly extended by any non-traffic related issues addressed by law enforcement during the stop, including general inquiries about narcotics or narcotics-related discussion between officers. Here, law enforcement committed numerous acts unrelated to the traffic stop that thereby extended the stop in violation of the constitution. Because the rule is “broad and inflexible,” *Linze, supra*, any one of the following acts constituted an illegal seizure of the defendant.

First, Officer Green inquired whether either the defendant or her passenger was on probation or parole. That inquiry is unrelated to a traffic stop for failing to maintain a lane. The passenger’s status is especially unrelated because he was not even the driver. However, because the passenger was on parole, his response to the irrelevant question extended the stop even further.

Second, Officer Green explained that he was going to run a dog around the vehicle and then inquired whether the defendant or her passenger possessed anything illegal within the vehicle. This statement and question stand in direct violation of the *Rodriguez* Court’s explicit holding that narcotics investigations are unrelated to traffic stops. It extended the stop and was not related to the stop. That alone is enough to require suppression.

Third, after this explanation and inquiry, Officer Green further departed from the stop’s purpose when he requested consent to search the vehicle. This request was unrelated to the traffic stop and constitutes a *per se* violation of the Fourth Amendment under the “broad and inflexible” rule announced in *Rodriguez*. It cannot be reasonably disputed that that request bore no relation to the mission of the stop. All resulting evidence must be suppressed, including the fruits of the dog sniff.

IV. Conclusion

For the foregoing reasons, this Court should grant the defendant's motion to suppress the evidence against her.

DATED this 17th day of January, 2017.



ROBERT R. CHASTAIN
Attorney for Defendant

CERTIFICATE OF SERVICE

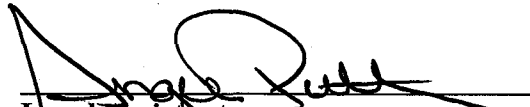
I HEREBY CERTIFY that on the 17th day of January, 2017, I served a true and correct copy of the within and foregoing document upon the individual named below in the manner noted:

Ada County Prosecuting Attorney
200 W. Front St. Rm 3191
Boise, ID 83702

By depositing copies of the same in the United States Mail, postage prepaid, first class

By hand delivering copies of the same to the office(s) of the attorney(s) indicated

By Odyssey E-file and Serve


Legal Assistant

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, Idaho 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
)	
Plaintiff,	)	DEFENDANT'S PROPOSED JURY
	)	INSTRUCTIONS
vs.)	
)	
LACEY KILLEEN,)	
)	
)	
Defendant.)	
_____)	

COMES NOW, the above defendant, by and through her attorney of record Robert R. Chastain, and hereby submits the following proposed jury instructions and legal authorities in support thereof.

The defendant is charged with possession of a controlled substance (I.C. § 37-2732(c)) and possession of paraphernalia (I.C. § 37-2734A). The defendant requests that the ICJI preliminary instructions and pre-proof instructions be provided. The instructions specific to the relevant charge are discussed and provided below.

PROPOSED INSTRUCTIONS

I. POSSESSION OF A CONTROLLED SUBSTANCE

INSTRUCTION NO. ___

In order for the defendant to be guilty of Possession of a Controlled Substance, the state

must prove each of the following:

1. On or about August 14, 2016
2. In the state of Idaho
3. The defendant Lacey Killeen possessed any amount of methamphetamine, and
4. The defendant either knew it was methamphetamine or believed it was a controlled

substance.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

ICJI 403.

INSTRUCTION NO. ___

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it.

ICJI 421.

INSTRUCTION NO. ___

Under Idaho law, methamphetamine is a controlled substance.

ICJI 422.

II. POSSESSION OF DRUG PARAPHERNALIA

INSTRUCTION NO. ___

In order for the defendant to be guilty of Possession of Drug Paraphernalia, the state must prove each of the following:

1. On or about August 14, 2016
2. in the state of Idaho

3. the defendant Lacey Killeen possessed a pipe,
4. used to inhale a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

ICJI 408.

INSTRUCTION NO. __

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it.

ICJI 421.

INSTRUCTION NO. __

“Drug Paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing a controlled substance into the human body.

ICJI 427.

DATED this 17 day of January, 2017.



ROBERT R. CHASTAIN
Attorney for Defendant

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on the 17 day of January, 2017, I served a true and correct copy of the within and foregoing document upon the individual named below in the manner noted:

Ada County Prosecuting Attorney
200 W. Front St. Rm 3191
Boise, ID 83702

By depositing copies of the same in the United States Mail, postage prepaid, first class

By hand delivering copies of the same to the office(s) of the attorney(s) indicated

By Odyssey E-file and Serve



Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>03:17:19 PM</u>		BRIAN McGRAW CR01 16 27824 STATUS CONFERENCE
<u>03:17:37 PM</u>		Present: Tanner Stellmon for the State, Mark Coonts for the defense, defendant in custody
<u>03:18:17 PM</u>		LACEY KILEEN CR01 16 25070 STATUS CONFERENCE
<u>03:18:31 PM</u>		Present: Tanner Stellmon for the State, Rob Chastain for the defense, defendant on bond
<u>03:18:34 PM</u>	Chastain	McGraw is insisting on the trial going forward. So I've filed a Mo/Suppress, and I believe Mr. Coonts has filed one and noticed it for 10 Feb @ 2pm.
<u>03:20:50 PM</u>	Court	We'll take it up then.
<u>03:21:28 PM</u>		End of case

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, ID 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

LACEY KILLEEN,

Defendant.

Case No. CR01-16-25070

NOTICE OF HEARING

TO: The Ada County Prosecutor and the Clerk of the Court.

NOTICE IS HEREBY GIVEN on **February 10, 2017, at 2:00 p.m.**, or as soon thereafter as counsel may be heard, before the above entitled Court, the Defendant's **Motion to Suppress** will be called up for hearing at the Ada County Courthouse, Boise, ID.

DATED this 18 day of January, 2017.



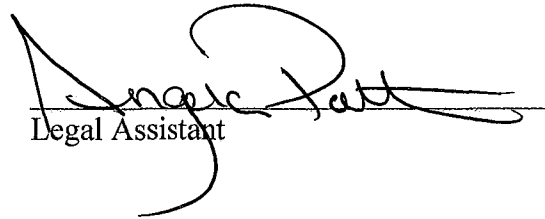
ROBERT R. CHASTAIN
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of January, 2017, I served a true and correct copy of the within and foregoing document upon the attorney named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class.
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.
- By Odyssey E-file and Serve.

Ada County Prosecutor, 200 W. Front Street, Boise, ID, 83702-7300


Legal Assistant

JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney Faulkner
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
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,)	
	)	Case No. CR-01-16-25070
Plaintiff,)	
vs.	)	STATE’S OBJECTION TO DEFENSE
	)	MOTION TO SUPPRESS
LACEY R. KILLEEN,)	
)	
Defendant.)	
_____)	

COMES NOW, Whitney Faulkner, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho and requests this Court to deny the motion to suppress.

I. FACTS

On August 14, 2016 Boise Police K9 Officer Jason Green was travelling eastbound on Interstate 84 just past the Vista exit in Boise, Ada County, Idaho. He saw a white Mazda 6 in the outside lane. The vehicle signaled appropriately to change lanes into the middle lane and it did so. The Mazda then signaled a lane change simultaneously with its lane change into the inside lane which was not a signal for 100 feet. The vehicle then appropriately signaled a lane change back into the middle lane. The Mazda then signaled a lane change back into the outside lane but instead drifted into the inside lane. With its signal still initiated, the Mazda then moved into the outside

lane and exited on the Broadway ramp. Officer Green initiated a traffic stop on the vehicle for the observed infractions.

A female was driving the Mazda and a male was the passenger. The driver was identified by her Idaho driver's license as Lacey Killeen. She did have valid insurance for the vehicle, however, she did not have a valid registration for the vehicle. The male verbally identified himself as Brian McGraw. Officer Green explained the reasons that he had stopped them and the driver nodded her head up and down. Officer Green inquired of their probation and parole status and the passenger, McGraw, indicated that he was on parole for Delivery of Marijuana. Officer Green informed Ms. Killeen that he was going to issue her a citation for the failure to signal and asked her to step out of the car. Once she was out of the car, Officer Green told her that he was going to run his drug detecting K9 around the car. Officer Green asked Killeen if there was anything illegal in her vehicle and she said there was not. She denied to give consent to a search of her vehicle. Officer Green went to retrieve his citation book from his car.

Boise Police Officer Plaisted had arrived on scene during this conversation and was removing Mr. McGraw from the vehicle. McGraw denied that there was anything illegal in the vehicle. Officer Green at this time gave the citation book to Officer Plaisted so that he could work on the citation while Officer Green retrieved his drug detecting K9, Jackson, from his car. Jackson is a certified drug detecting K9. He was deployed around the Mazda and gave a positive alert to the presence of drugs. Subsequent to that alert, Officer Green, Officer Hofmann and Officer Brady searched the Mazda. They found a red container with a screw top in the center console, on the top. Officer Green noted that it smelled of unburnt marijuana. Inside of the container there was a small bit of green leafy residue. Additionally in the glove compartment was a small feminine style sock containing a glass pipe coated with white residue that appeared to be methamphetamine. In Ms. Killeen's purse was a gum container that contained small crystalline shards in a small plastic bag.

When Officers informed Ms. Killeen of the items found and the charges she would be arrested for Mr. McGraw began yelling that everything found was his including the gum package. He denied knowledge of the red canister.

Officer Marsh arrived on scene to transport Killeen and McGraw. Post Miranda, McGraw again claimed that "everything in the car was his." Officer Marsh transported Killeen and McGraw to the Ada County Jail.

II. ISSUES PRESENTED

1. Was Officer Green's stop and investigative detention of the Defendant a lawful seizure under the United States and Idaho Constitutions?
2. Was there an undue time delay from the time of the stop to the time of the K9 investigation?

III. LEGAL ANALYSIS AND ARGUMENT

Stop and investigatory detention is a recognized exception to the warrant requirement. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968). An officer may stop and detain an individual if, based on the totality of the circumstances, the officer has a reasonable suspicion, based on specific and articulable facts, that the suspect has been, is, or is about to engage in criminal activity. United States v. Brignoni-Ponce, 422 U.S. 873, 95 S.Ct. 2574 (1975); Adams v. Williams, 407 U.S. 143, 92 S.Ct. 1921 (1972); Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968); State v. Rawlings, 121 Idaho 930, 829 P.2d 520 (1992); State v. Gallegos, 120 Idaho 894, 821 P.2d 949 (1991); State v. Johns, 112 Idaho 873, 736 P.2d 1327 (1987); and State v. Hobson, 95 Idaho 920, 523 P.2d 523 (1974).

An officer does *not* need probable cause to justify a stop. Rather, a stop is an intermediate response that allows an officer to maintain the status quo, identify the suspect and investigate possible criminal activity, even though the officer does not have sufficient information to establish probable cause to make an arrest. See Brignoni-Ponce; Adams; and Terry.

Although reasonable suspicion requires a lower quantum of proof than probable cause, the information underlying the stop must have some indicia of reliability. In other words, the stop must be based on more than mere speculation, inarticulate hunches or instinct. See Terry; State v. Flowers, 131 Idaho 205, 953 P.2d 645 (Ct.App.1998); State v. Emory, 119 Idaho 661, 664, 809 P.2d 522, 525 (Ct.App.1991); and Hobson. The validity of the stop is reviewed against an *objective* standard. Terry and Hobson. Therefore, the *subjective* thoughts of the officer and any grounds previously relied on by the State to justify the stop are not relevant. In re Deen, 131 Idaho 435, 958 P.2d 592 (1998). See also State v. Myers, 118 Idaho 608, 798 P.2d 453 (Ct.App. 1990); and State v. Law, 115 Idaho 769, 769 P.2d 1141 (Ct.App. 1989).

An Officer is permitted to expand the scope of the inquiry if during the encounter the Officer discovers information or evidence indicating that additional criminal activity may be afoot. As the Idaho Court of Appeals indicated in the traffic stop context, “[w]e wish to make clear that any routine traffic stop might turn up suspicious circumstances which could justify an officer asking questions unrelated to the stop. The officer’s observations, general inquiries, and events succeeding the stop may—and often do—give rise to legitimate reasons for particularized lines of inquiry and further investigation by an officer. Myers, 118 Idaho at 613, 798 P.2d at 458. See also State v. Brumfield, 136 Idaho 913, 42 P.3d 706 (Ct. App. 2001); and State v. Pabillore, 133 Idaho 650, 991 P.2d 375 (Ct. App. 1999).

“A traffic stop by an officer constitutes a seizure of the vehicle's occupants and implicates the Fourth Amendment's prohibition against unreasonable searches and seizures. Delaware v. Prouse, 440 U.S. 648, 653, 99 S. Ct. 1391, 59 L. Ed. 2d 660 (1979); State v. Atkinson, 128 Idaho 559, 561, 916 P.2d 1284, 1286 **[**1287]** **[*424]** (Ct. App. 1996). Under the Fourth Amendment, an officer may stop a vehicle to investigate possible criminal behavior if there is a reasonable and articulable suspicion that the vehicle is being driven contrary to traffic laws. United States v. Cortez, 449 U.S. 411, 417, 101 S. Ct. 690, 66 L. Ed. 2d 621 (1981); State v. Flowers, 131 Idaho 205, 208, 953 P.2d 645, 648 (Ct. App. 1998). The reasonableness of the suspicion must be evaluated upon the totality of the circumstances at the time of the stop. State v. Ferreira, 133 Idaho 474, 483, 988 P.2d 700, 709 (Ct. App. 1999). The reasonable suspicion standard requires less than probable cause but more than mere speculation or instinct on the part of the officer. *Id.* An officer may draw reasonable inferences from the facts in his or her possession, and those inferences may be drawn from the officer's experience and law enforcement training. State v. Montague, 114 Idaho 319, 321, 756 P.2d 1083, 1085 (Ct. App. 1988). Investigative detentions must be temporary and last no longer than necessary to effectuate the purpose of the stop. State v. Roe, 140 Idaho 176, 181, 90 P.3d 926, 931 (Ct. App. 2004); State v. Gutierrez, 137 Idaho 647, 651, 51 P.3d 461, 465 (Ct. App. 2002). The scope of the intrusion permitted will vary to some extent with the particular facts and circumstances of each case. Roe, 140 Idaho at 181, 90 P.3d at 931; State v. Parkinson, 135 Idaho 357, 361, 17 P.3d 301, 305 (Ct. App. 2000). The investigation following a stop generally must be reasonably related in scope to the circumstances that justified the interference in the first place. Roe, 140 Idaho at 181,

90 P.3d at 931; Parkinson, 135 Idaho at 361, 17 P.3d at 305. Suspicious circumstances may arise out of a routine traffic stop that could justify an officer asking further questions unrelated to the stop. State v. Myers, 118 Idaho 608, 613, 798 P.2d 453, 458 (Ct. App. 1990). Thus, brief inquiries not otherwise related to the initial purpose of the stop do not necessarily violate a detainee's Fourth Amendment rights. Roe, 140 Idaho at 181, 90 P.3d at 931. The officer's observations, general inquiries, and events succeeding the stop may--and often do--give rise to legitimate reasons for particularized lines of inquiry and further investigation. *Id.* Accordingly, the length and scope of an investigatory detention may be lawfully expanded if there exist objective and specific articulable facts that justify suspicion of criminal activity in addition to that which prompted the detention. *Id.*

A drug dog sniff may be performed during a traffic stop without violating the Fourth Amendment if the duration of the stop is not extended or if any extension of the stop is justified by reasonable suspicion. See Illinois v. Caballes, 543 U.S. 405, 409, 125 S. Ct. 834, 160 L. Ed. 2d 842 (2005) (use of a well-trained narcotics-detection dog during a lawful traffic stop does not rise to the level of a constitutionally cognizable infringement); State v. Ramirez, 145 Idaho 886, 890, 187 P.3d 1261, 1265 (Ct. App. 2008) (stop was not extended to allow a drug dog sniff); State v. Brumfield, 136 Idaho 913, 917, 42 P.3d 706, 710 (Ct. App. 2001) (extending the stop to allow for a drug dog sniff was justified).

When gauging whether information known to an officer justified reasonable suspicion, we consider the totality of the circumstances rather than viewing individual facts in isolation. Roe, 140 Idaho at 180, 90 P.3d at 930. Even where any individual factor "is not by itself proof of any illegal conduct and is quite consistent with innocent" conduct, a court may nonetheless conclude that the factors amount to reasonable suspicion when taken together. United States v. Sokolow, 490 U.S. 1, 9-10, 109 S. Ct. 1581, 104 L. Ed. 2d 1 (1989). In other words, the whole may be greater than the sum of its parts because the officer may consider the import of one fact in light of another fact." State v. Kelly, 159 Idaho 417, 424, 361 P.3d 1280 (Ct. App. 2015) .

The permissible scope of a warrantless automobile search "is defined by the object of the search and the places in which there is probable cause to believe it will be found." United States v. Ross, 456 U.S. 798, 824, 102 S. Ct. 2157, 72 L. Ed. 2d 572 (1982). Probable cause is a flexible, common sense standard. A practical, nontechnical probability that incriminating

evidence is present is all that is required. *Texas v. Brown*, 460 U.S. 730, 742, 103 S. Ct. 1535, 75 L. Ed. 2d 502 (1983); *State v. Johnson*, 152 Idaho 56, 61, 266 P.3d 1161, 1166 (Ct. App. 2011). When a reliable drug dog indicates that a lawfully stopped automobile contains the odor of a controlled substance, the officer has probable cause to believe that there [***22] are drugs in the automobile and may search it without a warrant. *Gallegos*, 120 Idaho at 898, 821 P.2d at 953; *State v. Gibson*, 141 Idaho 277, 281, 108 P.3d 424, 428 (Ct. App. 2005). The United States Supreme Court has held that probable cause to believe a vehicle contains evidence of criminal activity authorizes a search of any area of the vehicle in which the evidence might be found. *Arizona v. Gant*, 556 U.S. 332, 347, 129 S. Ct. 1710, 173 L. Ed. 2d 485 (2009); *Ross*, 456 U.S. at 820-21. *State v. Kelley*, 159 Idaho 417, 427, 361 P.3d 1280, 1290 (Ct. App. 2015)

In this case, Officer Green observed several traffic infractions committed by Ms. Killeen. Upon stopping the vehicle for those infractions he learned that she did not have a valid registration for the vehicle and that her passenger was a parolee on a drug crime. There was no delay on “getting a K9” to the scene because Officer Green is a K9 Officer. He worked efficiently to contact the driver and passenger, inform them of the reasons for the stop, get his citation book, hand it off to Officer Plaisted, retrieve his K9 from his vehicle and conduct the sniff of the car. In fact, this was an exceptionally efficient stop and there was no delay involved.

IV. CONCLUSION

Officer Green had a reasonable, articulable suspicion that traffic laws were violated in his stop of Ms. Killeen’s vehicle. His deployment of his drug detecting K9 resulted in no delay during the traffic stop. In summary, the State respectfully requests this Court to deny the motion to suppress filed in this case.

RESPECTFULLY SUBMITTED this 7th day of February, 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



Whitney Faulkner
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 7th day of February, 2017, a true and correct copy of the foregoing State's Objection to Defense Motion to Suppress was served to the following in the manner noted below: **Robert Chastain, PO Box 756, Boise, Idaho 83701**
admin@chastainlaw.net

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

Kendra Volk

ROBERT R. CHASTAIN
CONFLICT ADA COUNTY PUBLIC DEFENDER
300 Main, Suite 158
Boise, Idaho 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

vs.

LACEY KILLEEN,

Defendant.

)
) **Case No. CR01-16-25070**

)
) **AFFIDAVIT IN SUPPORT OF**
) **MOTION TO SUPPRESS**

STATE OF IDAHO)
) **ss.**
COUNTY OF ADA)

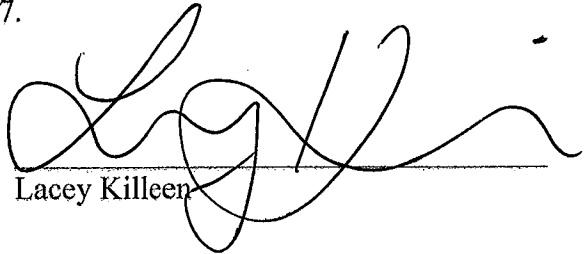
Lacey Killeen, being first duly sworn upon oath, deposes and says:

1. I am over the age of eighteen, of sound mind, and am competent to testify to the facts herein.
2. That I am the Defendant in the above-entitled matter and make the following statements based on personal knowledge, information, or belief.
3. That I was the owner and driver of the Mazda automobile when I was stopped by the Boise Police on August 14, 2016.
4. That I do not believe the officer had any reason to stop my vehicle, much less conduct a search of my vehicle.

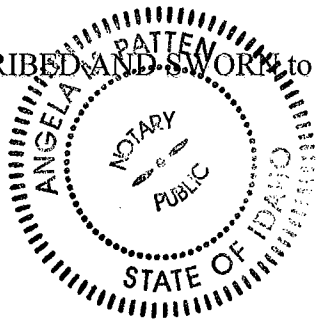
5. That the officer, after the initial conversation, quickly changed the subject to a drug investigation and inquired of both myself and my passenger as to whether either of us were on probation or parole.
6. That when the officer asked to search my car, I denied his request. The requesting officer then searched my car after a dog sniff.
7. That at no time did I see a warrant to search my vehicle.


Further Sayeth Your Affiant Naught.

DATED this 08 day of February, 2017.


Lacey Killeen

SUBSCRIBED AND SWORN to before me this 8 day of February, 2017.




Notary Public for Idaho
Residing at: Boise, ID
My Commission Expires: 2/20/21

CERTIFICATE OF SERVICE


I HEREBY CERTIFY on the 8 day of February 2017, I served a true and correct copy of the within and foregoing document upon the individual(s) named below in the manner noted:

By depositing copies of the same in the United States Mail, postage prepaid, first class.

By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

By Odyssey E-file and Serve.

Ada County Prosecuting Attorney, 200 W. Front Street, Boise, ID


Legal Assistant

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, Idaho 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
)	
Plaintiff,)	
	)	MEMORANDUM IN REPLY TO THE
vs.	)	STATE'S OBJECTION TO THE
	)	DEFENDANT'S MOTION TO
LACEY KILLEEN,	)	SUPPRESS
)	
)	
Defendant.)	
_____)	

COMES NOW, the above defendant, by and through her attorney of record Robert R. Chastain, and hereby submits the following memorandum in response to the state's objection to her motion to suppress.

MEMORANDUM

The parties appear to be largely in agreement regarding the essential facts supporting the defendant's motion to suppress. *See*, State's Objection, p. 2 ("Officer Green inquired of their probation and parole status and the passenger, McGraw, indicated that he was on parole for Delivery of Marijuana. . . . Officer Green told [the defendant] he was going to run his drug detecting K9 around the car. Officer Green asked Killeen if there was anything illegal in her vehicle and she said there was not. She denied to give consent to a search of her vehicle.") The question, then, becomes the legal significance of these facts.

The defendant has based her motion on the recent cases of *State v. Linze*, ___ Idaho ___ (2016) and *Rodriguez v. United States*, 135 S.Ct. 1609 (2015). The state’s brief provides no analysis of either the holding or the reasoning of those cases. It does not dispute, or address, the *Linze* holding that even *de minimus* extensions violate the “broad and inflexible” rule prohibiting extensions unrelated to the purpose of the stop. In fact, as explained above, the state concedes the existence of the extensions cited by the defendant. Despite the concession, the state provides no explanation of how the seizure’s extension could be constitutionally permissible in light of the requirements of *Linze* and *Rodriguez*.

Instead, the state argues that “this was an exceptionally efficient stop,” and simply concludes that “no delay [was] involved” without discussion of the numerous delays cited by the defendant. Even if the stop could be considered “exceptionally efficient,” that fact could not justify the unrelated questioning that took place in this case. Such an argument was explicitly rejected by the Court in *Rodriguez*, where the Court described the argument as follows: “The Government’s argument, in effect, is that by completing all traffic-related tasks expeditiously, an officer can earn bonus time to pursue unrelated criminal investigation.” 135 S.Ct. at 1616. That argument is unpersuasive, the Court reasoned, because “an officer always has to be reasonably diligent,” and if “an officer can complete traffic-based inquiries expeditiously, then that is the amount of time reasonably required to complete the stop’s mission.” *Id.* (quotations, alterations omitted). According to the Court, “the critical question . . . is . . . whether [the police conduct] prolongs—i.e., adds time to—the stop.” *Id.*

Here, the police conduct prolonged, and therefore added time to, the stop of the defendant. The basis for this conclusion is virtually unchallenged by the state. Therefore, all evidence resulting from the illegal extension must be suppressed. For the foregoing reasons, this

Court should grant the defendant's motion to suppress the evidence against her.

DATED this 9 day of February, 2017.

/s/ Robert R. Chastain
ROBERT R. CHASTAIN
Attorney for Defendant

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on the 9 day of February, 2017, I served a true and correct copy of the within and foregoing document upon the individual named below in the manner noted:

Ada County Prosecutor's Office
200 W. Front St. Rm 3191
Boise, ID 83702

By depositing copies of the same in the United States Mail, postage prepaid, first class

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By Odyssey E-file and Serve.


Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>01:59:51 PM</u>		
<u>02:00:03 PM</u>		LACEY KILEEN CR01 16 25070 MO/SUPPRESS
<u>02:00:17 PM</u>		Present: Whitney Faulkner for the State, Rob Chastain for the defense, defendant on bond
<u>02:00:21 PM</u>		BRIAN McGRAW CR01 16 27824 MO/SUPPRESS
<u>02:00:23 PM</u>		Present: Whitney Faulkner for the State, Mark Coonts for the defense, defendant in custody
<u>02:00:25 PM</u>	Court	Here on motions to suppress filed by both defendants.
<u>02:00:57 PM</u>	Coonts	Re typo and one inaccuracy in my Memorandum.
<u>02:02:07 PM</u>	Faulkner	Concedes that there was no warrant.
<u>02:02:48 PM</u>	Faulkner	Calls first witness.
<u>02:03:16 PM</u>		Jason Green (BCPD officer) sworn; direct examination begins.
<u>02:09:30 PM</u>		Witness identifies the defendants.
<u>02:15:06 PM</u>		Exhibit 1 handed to witness and identified (CD: Officer Green audio).
<u>02:15:28 PM</u>	Faulkner	Move to admit and publish Exhibit 1.
<u>02:15:33 PM</u>	Coonts/Chastain	No objection.
<u>02:15:35 PM</u>	Court	Exhibit 1 is admitted.
<u>02:16:19 PM</u>	All counsel	Stipulate to waive transcription of the audio.
<u>02:17:00 PM</u>		Audio begins.
<u>02:24:31 PM</u>		Audio ends.
<u>02:24:47 PM</u>	Coonts	Begins cross-examination.
<u>02:33:29 PM</u>	Faulkner	Objection (asked and answered).
<u>02:33:40 PM</u>	Court	Mr. Coonts, move on.
<u>02:34:26 PM</u>	Chastain	Begins cross-examination.
<u>02:37:16 PM</u>	Faulkner	Begins re-direct.
<u>02:37:27 PM</u>	Chastain	Objection (irrelevant).
<u>02:37:59 PM</u>	Faulkner	Response
<u>02:38:40 PM</u>	Court	I'll let you go into it, but I'm not going to say I'll consider it.
<u>02:42:09 PM</u>	Coonts	Begins re-cross.
<u>02:43:42 PM</u>	Chastain	Begins re-cross.
<u>02:44:35 PM</u>	Court	Questions witness.
<u>02:47:23 PM</u>		Witness steps down.
<u>02:47:27 PM</u>	Faulkner	Calls next witness.
<u>02:47:57 PM</u>		Marshall Plaisted (BCPD officer) sworn; direct examination begins.
<u>02:53:49 PM</u>	Chastain/Coonts	Stipulate that video can be played.

<u>02:54:07 PM</u>	Faulkner	Exhibit 2 (Officer Plaisted's body cam video).
<u>02:54:11 PM</u>	Court	Exhibit 2 is admitted.
<u>02:56:33 PM</u>		Video begins.
<u>03:01:04 PM</u>		Video ends.
<u>03:01:30 PM</u>	Coonts	Begins cross-examination.
<u>03:05:50 PM</u>	Chastain	No cross.
<u>03:05:51 PM</u>	Faulkner	Begins re-direct.
<u>03:07:14 PM</u>	Coonts	Begins re-cross.
<u>03:07:47 PM</u>		Witness steps down.
<u>03:07:52 PM</u>	Faulkner	State has no further evidence.
<u>03:08:03 PM</u>	Coonts	No evidence to offer.
<u>03:08:15 PM</u>	Chastain	Same
<u>03:08:18 PM</u>	Faulkner	Argument.
<u>03:11:36 PM</u>	Coonts	Argument
<u>03:15:05 PM</u>	Chastain	Argument
<u>03:19:36 PM</u>	Coonts	I have my client's probation and parole agreement, if the Court is interested.
<u>03:19:56 PM</u>	Court	Grant motions to suppress.
<u>03:25:24 PM</u>	Faulkner	I have no evidence to proceed on in these cases.
<u>03:25:32 PM</u>	Court	Based on the State's statement, does defense have a motion?
<u>03:25:37 PM</u>	Chastain	Move to dismiss the case with prejudice as to Lacey Kileen.
<u>03:25:46 PM</u>	Coonts	Join in the motion on behalf of my client, Brian McGraw.
<u>03:25:48 PM</u>	Court	Grant the motion in both cases.
<u>03:25:57 PM</u>		
<u>03:26:06 PM</u>	Court	Order Ms. Kileen's bond exonerated.
<u>03:36:11 PM</u>		End of case

FILED By: Beth Martin Deputy Clerk
Fourth Judicial District, Ada County
CHRISTOPHER D. RICH, Clerk

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

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LACEY KILLEEN,)
)
 Defendant.)
 _____)

Case No. CR01-16-25070

**ORDER GRANTING MOTION
TO SUPPRESS**

The Court having heard the motion heretofore made in the above case on February 10, 2017
and being fully advised in the premises;

IT IS HEREBY ORDERED that the motion to suppress evidence is granted.

DATED this ___ day of March, 2017.

Signed: 3/10/2017 02:25 PM



JUDGE

CERTIFICATE OF MAILING

I hereby certify that on this 10th day of March, 2017, I emailed (served) a true and correct copy of the within instrument to:

Whitney Faulkner
Ada County Prosecutor
acpocourtdocs@adaweb.net

Rob Chastain
Attorney at Law
admin@chastainlaw.net

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



Signed: 3/10/2017 03:12 PM

Beth Masters, Deputy Court Clerk

NO. 9 FILED
A.M. _____ P.M. _____

MAR 20 2017

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

LAWRENCE G. WASDEN
Attorney General
State of Idaho

PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

KENNETH K. JORGENSEN
Idaho State Bar #4051
Deputy Attorney General
P. O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534
Email: ecf@ag.idaho.gov

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

STATE OF IDAHO,	)	District Court No. CR01-16-25070
)	
Plaintiff-Appellant,	)	Supreme Court No.
)	
v.	)	NOTICE OF APPEAL
)	
LACEY KILLEEN,)	
)	
Defendant-Respondent.)	
)	

TO: LACEY KILLEEN, THE ABOVE-NAMED RESPONDENT, ROBERT R. CHASTAIN, P. O. BOX 756, BOISE, ID 83701-0756 AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant, State of Idaho, appeals against the above-named respondent to the Idaho Supreme Court from the ORDER GRANTING MOTION TO SUPPRESS, entered in the above-entitled action on

the 10th day of March, 2017, the Honorable Michael J. Reardon presiding. A copy of the order is attached to this notice.

2. The state has a right to appeal to the Idaho Supreme Court, and the order described in paragraph 1 above is an appealable order under and pursuant to Rule 11(c)(7), I.A.R.

3. Preliminary statement of the issue on appeal: Whether the district court erred in concluding that handing a citation book to another officer during the course of a traffic stop was a violation of the Fourth Amendment.

4. To undersigned's knowledge, no part of the record has been sealed.

5. The appellant requests the preparation of the following portions of the reporter's transcript:

The February 10, 2017, hearing on Defendant's motion to suppress (Kim Madsen, reporter, less than 100 pages estimated).

6. Appellant requests the normal clerk's record pursuant to Rule 28, I.A.R.

7. I certify:

(a) That a copy of this notice of appeal is being served on each reporter of whom a transcript has been requested as named below at the address set out below:

KIM MADSEN
200 W. Front St.
Boise, ID 83702-7300

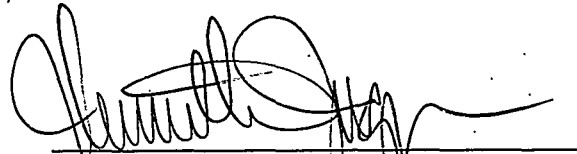
(b) That arrangements have been made with the Ada County Prosecuting Attorney who will be responsible for paying for the reporter's transcript;

(c) That the appellant is exempt from paying the estimated fee for the preparation of the record because the State of Idaho is the appellant (Idaho Code § 31-3212);

(d) That there is no appellate filing fee since this is an appeal in a criminal case (I.A.R. 23(a)(8));

(e) That service is being made upon all parties required to be served pursuant to Rule 20, I.A.R.

DATED this 17th day of March, 2017.



KENNETH K. JORGENSEN
Deputy Attorney General
Attorney for the Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 17th day of March, 2017, caused a true and correct copy of the foregoing NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

THE HONORABLE MICHAEL J. REARDON
Ada County District Court
200 W. Front St.
Boise, ID 83702-7300

JAN M. BENNETTS
Ada County Prosecuting Attorney
200 W. Front St., Rm. 3191
Boise, ID 83702

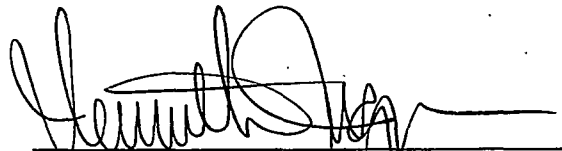
WHITNEY A. FAULKNER
Ada County Prosecutor's Office
200 W. Front St., Rm. 3191
Boise, ID 83702

ROBERT R. CHASTAIN
P. O. Box 756
Boise, ID 83701-0756

KIM MADSEN
Court Reporter
200 W. Front St.
Boise, ID 83702-7300

HAND DELIVERY

STEPHEN W. KENYON
CLERK OF THE COURT
IDAHO SUPREME COURT
P. O. Box 83720
Boise, ID 83720-0101


KENNETH K. JORGENSEN
Deputy Attorney General

KKJ/dd

Signed: 3/10/2017 03:11 PM

FILED By: Beth Menter Deputy Clerk
Fourth Judicial District, Ada County
CHRISTOPHER D. RICH, Clerk

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

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LACEY KILLEEN,)
)
 Defendant.)
 _____)


Case No. CR01-16-25070
**ORDER GRANTING MOTION
TO SUPPRESS**

The Court having heard the motion heretofore made in the above case on February 10, 2017
and being fully advised in the premises;

IT IS HEREBY ORDERED that the motion to suppress evidence is granted.

DATED this ___ day of March, 2017.

Signed: 3/10/2017 02:25 PM



JUDGE

CERTIFICATE OF MAILING

I hereby certify that on this 10th day of March, 2017, I emailed (served) a true and correct copy of the within instrument to:

Whitney Faulkner
Ada County Prosecutor
acpcourtdocs@adlaweb.net

Rob Chastain
Attorney at Law
admin@chastainlaw.net

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

Beth Masters

Signed: 3/10/2017 03:12 PM

Beth Masters, Deputy Court Clerk

ROBERT R. CHASTAIN
Attorney at Law
300 Main, Suite 158
Boise, ID 83702-7728
Telephone: (208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Plaintiff,)	
	)	MOTION TO WITHDRAW
vs.	)	AS ATTORNEY OF RECORD
)	
LACEY KILLEEN,)	
)	
Defendant.)	
_____)	

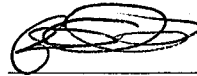
COMES NOW Robert R. Chastain, attorney for the Defendant, and hereby requests the Court, pursuant to Idaho Criminal Rule 44.1 to grant him permission to withdraw as attorney of record in the above entitled case, and for appointment of the State Appellate Public Defender to represent her in the pending State's appeal.

This Motion is made on the basis the undersigned was retained by Ms. Killeen's mother to represent her in the above-entitled matter. Ms. Killen is indigent and has no funds to defend the State's appeal to the Idaho Supreme Court. Specifically, Lacey Killeen was represented by the Ada County Public Defender's office in Case No. CR-MD-2015-12826 and thus qualifies for appointment of a State Appellate Public Defender.

This Motion is supported by the accompanying Affidavit of Robert R. Chastain.

WHEREFORE, the undersigned respectfully requests the Court grant the within Motion to Withdraw as Attorney of Record.

DATED this 23 day of March, 2017.



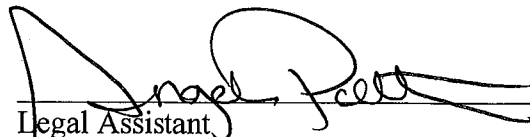
ROBERT R. CHASTAIN
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 23 day of March, 2017, I served a true and correct copy of the within and foregoing document upon the individual(s) named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class.
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.
- By Odyssey E-file and Serve.

- Whitney Faulkner, Ada County Prosecuting Attorney,
acpocourtdocs@adaweb.net
- Kenneth Jorgensen, ecf@ag.idaho.gov
- Lacey Killeen, 4250 Falconrest Way, Boise, ID 83716



Legal Assistant

ROBERT R. CHASTAIN
Attorney at Law
300 W. Main, Suite 158
Boise, ID 83702-7728
(208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Plaintiff,)	
vs.	)	AFFIDAVIT OF ROBERT R.
	)	CHASTAIN IN SUPPORT OF
LACEY KILLEEN,	)	MOTION TO VACATE AND RESET
	)	JURY TRIAL
Defendant.)	
_____)	

STATE OF IDAHO)
) ss:
County of Ada)

COMES NOW, Robert R. Chastain, who being first duly sworn upon oath, deposes and says:

1. I am the attorney of record for Lacey Killeen.
2. I make this affidavit of my own personal knowledge.
3. That your affiant was retained by the Defendant's mother to represent her in the above-entitled case.
4. That Lacey Killeen is otherwise indigent and has no financial ability to retain private

counsel to represent her in the pending appeal filed by the Attorney General.

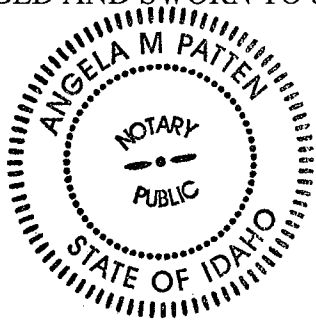
5. That I am aware Ms. Killeen was represented by the Ada County Public Defender's office in Case No. CR-MD-2015-12826.
5. That I respectfully request that I be relieved of further representation of Ms. Killeen and that the State Appellate Public Defender's Office be appointed to represent her to respond to the Attorney General's Notice of Appeal filed on March 17, 2017.
6. That I cannot represent Ms. Killeen for free and respectfully request the Court grant the accompanying Motion to Withdraw as well as the accompanying Motion to Appoint State Appellate Public Defender.


Further, your affiant sayeth naught.



Robert R. Chastain

SUBSCRIBED AND SWORN TO before me this 23 day of March, 2017.




NOTARY PUBLIC FOR IDAHO
Residing at: 701 N. 1st St.
Commission Expires: 2/20/21

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 23 day of March, 2017, I served a true and correct copy of the within and foregoing document upon the individual(s) named below in the manner noted:

- By depositing copies of the same in the United States Mail, postage prepaid, first class.
- By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.
- By Odyssey E-File and Serve.
 - Whitney Faulkner, Ada County Prosecuting Attorney,
acpocourtdocs@adaweb.net
 - Kenneth Jorgensen, ecf@ag.idaho.gov
 - Lacey Killeen, 4250 Falconrest Way, Boise, ID 83716


Legal Assistant

ROBERT R. CHASTAIN
Attorney at Law
300 Main Street Suite 158
Boise, ID 83702
(208) 345-3110
Idaho State Bar #2765

Attorney for Defendant

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

STATE OF IDAHO,)	
	)	Case No. CR01-16-25070
Respondent-Plaintiff,)	
)	
vs.	)	MOTION FOR ORDER
	)	APPOINTING STATE
LACEY KILLEEN,	)	APPELLATE PUBLIC
	)	DEFENDER ON APPEAL
Appellant-Defendant.)	
)	

COMES NOW the Defendant-Appellant and hereby moves this Court for its order appointing the State Appellate Public Defender to represent her in defending the State's appeal.

This Motion is made on the basis that she has no personal funds with which to hire private counsel and desires to have the services of the Idaho State Appellate Public Defender.

DATED this 23 day of March, 2017.



Robert R. Chastain
Attorney for the Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 23 day of March, 2017, I served a true and correct copy of the within and foregoing document upon the individual(s) named below in the manner noted:

Whitney Faulkner
Ada County Prosecuting Attorney
acpocourtdocs@adaweb.net

- By first class mail, postage prepaid
- By hand delivery
- By Odyssey E-file and Serve

Lacey Killeen
4250 Falconrest Way
Boise, ID 83707

- By first class mail, postage prepaid
- By hand delivery
- By faxing the same to:


Legal Assistant

ROBERT R. CHASTAIN
ATTORNEY AT LAW
300 Main, Suite 158
Boise, ID 83702-7728
Telephone: 208-345-3110
Idaho State Bar #2765

Attorney for Defendant


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

STATE OF IDAHO	)	CASE NO. CR01-16-25070
)	
Plaintiff,)	
vs.	)	NOTICE OF WITHDRAWAL
)	
LACEY KILLEEN,)	
)	
Defendant.)	
)	

COMES NOW, Robert R. Chastain, and hereby gives notice, pursuant to Idaho Criminal Rule 44.1, of his withdrawal as attorney of record for Lacey Killeen in the above entitled case.

This notice is made on the basis the case has been dismissed and the State Appellate Public Defender has been appointed to represent her in the State's appeal.

DATED this 6th day of April, 2017.



ROBERT R. CHASTAIN
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on the 1 day of April, 2017, I served a true and correct copy of the within and foregoing document upon the individual(s) named below in the manner noted:

By depositing copies of the same in the United States Mail, postage prepaid, first class.

By hand delivering copies of the same to the office(s) of the attorney(s) indicated below.

By Odyssey E-File and Serve.

Ada County Prosecuting Attorney, acpocourtdocs@adaweb.net


Legal Assistant

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.
LACEY R KILEEN
Defendant.

Case No. CR01-16-25070
Order Appointing State Appellant
Public Defender on Appeal
Event Code: OASAPD

The above-named Defendant, LACEY R KILEEN, being indigent, and finding it necessary to respond to an appeal of the Order Granting Motion to Suppress filed by the State of Idaho;
IT IS HEREBY ORDERED that the Idaho State Appellate Public Defender is appointed to represent the above-named Defendant, in all matters pertaining to this appeal.

IT IS SO ORDERED.

Signed: 4/3/2017 04:51 PM

Dated: March 31, 2017



MICHAEL J. REARDON
District Judge

CERTIFICATE OF SERVICE

I certify that on 7 April 2017 I served a copy of the attached to:

Whitney Faulkner Ada County Prosecutor acpocourtdocs@adaweb.net	Rob Chastain Attorney at Law admin@chastainlaw.net
---	---

State Appellate Public Defender
documents@sapd.state.id.us

Kenneth Jorgensen
Deputy Attorney General
ecf@ag.idaho.gov

CHRISTOPHER D. RICH
Clerk of the Court

By: *Berk Martin* Signed: 4/7/2017 09:30 AM
Deputy Clerk

NO. _____
A.M. _____ FILED P.M. *2:42*

MAY 30 2017

CHRISTOPHER D. RICH, Clerk
By **KELLE WEGENER**
DEPUTY

TO: Clerk of the Court
Idaho Supreme Court
451 West State Street
Boise, Idaho 83720

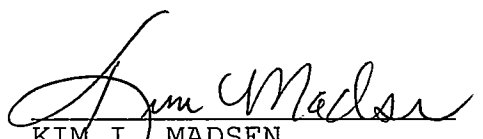
(SC No. 44942
(
(
(STATE
(
(vs.
(
(KILLEEN

NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on April 18, 2017, I lodged a appeal transcript of 74 pages in length in the above-referenced appeal with the District Court Clerk of the County of Ada in the 4th Judicial District.

This transcript contains hearings held on

.....February 10, 2017, Motion to Suppress


KIM I. MADSEN
Ada County Courthouse
200 West Front Street
Boise, Idaho 83702
(208) 287-7583

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-Appellant,
vs.
LACEY KILLEEN,

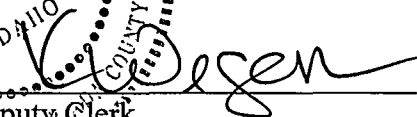
Defendant-Respondent.

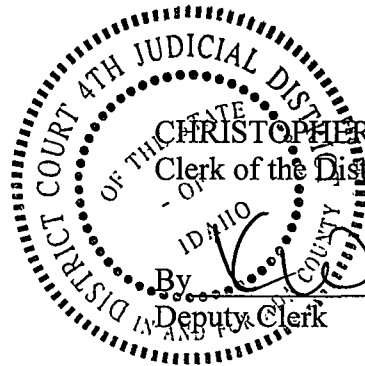
Supreme Court Case No. 44942
CERTIFICATE OF EXHIBITS

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

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 30th day of July, 2017.

CHRISTOPHER D. RICH
Clerk of the District Court
By 
Deputy Clerk



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

Michael Reardon/Beth Masters
District Judge/ Clerk

Page 1 of 1

Suppression Hearing
10 February, 2017

STATE OF IDAHO,

Plaintiff,

vs.

LACEY KILEEN,

Defendant.

Case No. CR01 16 25070

EXHIBIT LIST

STATE OF IDAHO,

Plaintiff,

vs.

BRIAN McGRAW,

Defendant.

CONSOLIDATED CASES

Case No. CR01 16 27824

EXHIBIT LIST

Plaintiff's Attorney: Whitney Faulkner
Defendant's Attorney: Rob Chastain

<u>BY</u>	<u>NO.</u>	<u>DESCRIPTION</u>	<u>STATUS</u>	<u>DATE</u>
St	1	CD: Officer Green audio	Admitted	02/10/17
St	2	DVD: Officer body cam video	Admitted	02/10/17

EXHIBIT LIST

000114

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-Appellant,
vs.
LACEY KILLEEN,

Defendant-Respondent.

Supreme Court Case No. 44942

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:

LAWRENCE G. WASDEN
ATTORNEY FOR APPELLANT
BOISE, IDAHO

STATE APPELLATE PUBLIC
DEFENDER
ATTORNEY FOR RESPONDENT
BOISE, IDAHO

Date of Service: MAY 30 2017

CHRISTOPHER D. RICH
Slerk of the District Court
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-Appellant,
vs.
LACEY KILLEEN,

Defendant-Respondent.

Supreme Court Case No. 44942
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 20th day of March, 2017.

CHRISTOPHER D. RICH
Clerk of the District Court
By: 
Deputy Clerk

