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4-7-2016

### State v. Bernal Clerk's Record Dckt. 44556

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,  
Plaintiff-Respondent,  
vs.  
JOHN JACOB BERNAL,  
Defendant-Appellant.

Supreme Court Case No. 44556

CLERK'S RECORD ON APPEAL

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

HONORABLE DEBORAH BAIL

STATE APPELLATE PUBLIC DEFENDER  
ATTORNEY FOR APPELLANT  
BOISE, IDAHO

LAWRENCE G. WASDEN  
ATTORNEY FOR RESPONDENT  
BOISE, IDAHO

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. CR-FE-2016-4439

State of Idaho  
vs.  
John Jacob Bernal

§  
§  
§  
§  
§

Location: Ada County District Court  
Judicial Officer: Bail, Deborah A.  
Filed on: 04/07/2016  
Case Number History:  
Police Reference Number: 16-605841

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type: Criminal
Jurisdiction: <b>Boise City Police Department</b>				
1. Assault-Aggravated	I18-905	FEL	03/11/2016	Case Flags: <b>No Contact Order Outstanding</b>
Arrest:				
2. Enhancement-Use of a Deadly Weapon in Commission of a Felony	I19-2520	FEL	03/11/2016	
<i>Filed As: Driving-Reckless</i>				
	MIS		4/25/2016	
Arrest:				
3. Driving-Reckless	I49-1401(1)	MIS	03/11/2016	
<i>Filed As: Accident-Leaving the Scene or Failing to Stop for Damage Accident</i>				
	MIS		4/25/2016	
Arrest:				
4. Accident-Leaving the Scene or Failing to Stop for Damage Accident	I49-1301	MIS	03/11/2016	
Arrest:				

**Warrants**

Arrest Warrant - Bernal, John Jacob (Judicial Officer: Clerk, Magistrate Court )  
04/21/2016                      Returned Served  
04/08/2016                      Outstanding Bench Warrant/Det Order  
Fine:             \$300  
Bond:             \$0

DATE

CASE ASSIGNMENT

**Current Case Assignment**

Case Number	CR-FE-2016-4439
Court	Ada County District Court
Date Assigned	05/09/2016
Judicial Officer	Bail, Deborah A.

PARTY INFORMATION

State	State of Idaho	<i>Lead Attorneys</i> Bleazard, Robert Mark <i>Retained</i> 208-287-7700(W)
<b>Defendant</b>	<b>Bernal, John Jacob</b>	<b>Marx, Brian Christopher</b> <i>Public Defender</i> 208-287-7400(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

04/07/2016	New Case Filed - Felony Party: Defendant Bernal, John Jacob <i>New Case Filed - Felony</i>
04/07/2016	Prosecutor Assigned Party: Defendant Bernal, John Jacob <i>Prosecutor assigned Ada County Prosecutor</i>
04/07/2016	Case Sealed

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. CR-FE-2016-4439

Party: Defendant Bernal, John Jacob  
*Case Sealed*

04/08/2016 Warrant/Det Order Issued - Arrest  
Party: Defendant Bernal, John Jacob  
*Warrant Issued - Arrest Bond amount: 20000.00 Defendant: Bernal, John Jacob*

04/08/2016 Status Changed  
Party: Defendant Bernal, John Jacob  
*STATUS CHANGED: Inactive*

04/08/2016 Criminal Complaint  
Party: Defendant Bernal, John Jacob  
*Criminal Complaint*

04/21/2016 Warrant/Det Order Returned - Served  
Party: Defendant Bernal, John Jacob  
*Warrant Returned Defendant: Bernal, John Jacob*

04/21/2016 Case Un-sealed  
Party: Defendant Bernal, John Jacob  
*Case Un-sealed*

04/21/2016 Status Changed  
Party: Defendant Bernal, John Jacob  
*STATUS CHANGED: Pending*

04/21/2016 Book into Jail on  
Party: Defendant Bernal, John Jacob  
*Booked into Jail on:*

04/21/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob  
*Hearing Scheduled (Video Arraignment 04/21/2016 01:30 PM)*

04/21/2016 Arraignment  
Party: Defendant Bernal, John Jacob  
*Hearing result for Video Arraignment scheduled on 04/21/2016 01:30 PM: Arraignment / First Appearance*

04/21/2016 Change Assigned Judge: Administrative  
Party: Defendant Bernal, John Jacob  
*Judge Change: Administrative*

04/21/2016 Order Appointing Public Defender  
Party: Defendant Bernal, John Jacob  
*Order Appointing Public Defender Ada County Public Defender*

04/21/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob  
*Hearing Scheduled (Preliminary 05/04/2016 08:30 AM)*

04/21/2016 Bond Set  
Party: Defendant Bernal, John Jacob  
*BOND SET: at 20000.00 - (118-905 Assault-Aggravated)*

04/21/2016 No Contact Order  
Party: Defendant Bernal, John Jacob  
*No Contact Order: Criminal No Contact Order Filed Comment: DR#16-605841 Expiration Days: 730 Expiration Date: 4/21/2018*

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. CR-FE-2016-4439

04/21/2016 Miscellaneous  
Party: Defendant Bernal, John Jacob  
*Notice & Order Of Hearing/appointment Of Pd*

04/21/2016 **Video Arraignment (1:30 PM)** (Judicial Officer: Oths, Michael J.)

04/22/2016 Proof of Service  
Party: Defendant Bernal, John Jacob  
*Proof Of Service-NCO*

04/26/2016 Motion for Bond Reduction  
Party: Defendant Bernal, John Jacob  
*Motion For Bond Reduction*

04/26/2016 Notice of Hearing  
Party: Defendant Bernal, John Jacob  
*Notice Of Hearing(5/4/16@8:30AM)*

04/27/2016 Preliminary Hearing Response to Request for Discovery  
Party: Defendant Bernal, John Jacob  
*Preliminary Hearing Response to Request for Discovery and Objections*

04/27/2016 Request for Discovery  
Party: Defendant Bernal, John Jacob  
*State/City Request for Discovery*

05/02/2016 Preliminary Hearing Response to Request for Discovery  
Party: Defendant Bernal, John Jacob  
*Preliminary Hearing Response to Request for Discovery and Objections / First Supplemental*

05/04/2016 Continued  
Party: Defendant Bernal, John Jacob  
*Continued (Preliminary 05/09/2016 08:30 AM)*

05/04/2016 Miscellaneous  
Party: Defendant Bernal, John Jacob  
*Magistrate Minutes & Notice of Hearing*

05/09/2016 Amended Complaint Filed  
Party: Defendant Bernal, John Jacob  
*Amended Complaint Filed*

05/09/2016 Charge Reduced Or Amended  
Party: Defendant Bernal, John Jacob  
*Charge Reduced Or Amended (119-2520 Enhancement-Use of a Deadly Weapon in Commission of a Felony)*

05/09/2016 Charge Reduced Or Amended  
Party: Defendant Bernal, John Jacob  
*Charge Reduced Or Amended (149-1401(1) Driving-Reckless)*

05/09/2016 Hearing Held  
Party: Defendant Bernal, John Jacob  
*Preliminary Hearing Held*

05/09/2016 Change Assigned Judge: Bind Over  
Party: Defendant Bernal, John Jacob  
*Change Assigned Judge: Bind Over*

05/09/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. CR-FE-2016-4439

*Hearing Scheduled (Arraignment 05/16/2016 01:30 PM)*

05/09/2016 Order for Commitment  
Party: Defendant Bernal, John Jacob  
*Commitment*

05/09/2016 Motion for Bond Reduction  
Party: Defendant Bernal, John Jacob  
*Motion For Bond Reduction: Denied*

05/09/2016 Miscellaneous  
Party: Defendant Bernal, John Jacob  
*Magistrate Minutes & Notice of Hearing*

05/09/2016 **CANCELED Preliminary Hearing (8:30 AM)** (Judicial Officer: Swain, Kevin)  
*Vacated*

05/11/2016 Information Filed  
Party: Defendant Bernal, John Jacob  
*Information*

05/11/2016 Request for Discovery  
Party: Defendant Bernal, John Jacob  
*Defendant's Request for Discovery*

05/13/2016 Prosecutor Assigned  
Party: Defendant Bernal, John Jacob  
*Prosecutor assigned Robert M. Bleazard*

05/16/2016 DC Arraignment: Court Reporter: # of Pages:  
Party: Defendant Bernal, John Jacob  
*Hearing result for Arraignment scheduled on 05/16/2016 01:30 PM: District Court Arraignment- Court Reporter: Nicole Julson  
Number of Pages: less than 100*

05/16/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob  
*Hearing Scheduled (Entry of Plea 05/23/2016 01:30 PM)*

05/16/2016 **Arraignment (1:30 PM)** (Judicial Officer: Bail, Deborah A.)

05/18/2016 Motion  
Party: Defendant Bernal, John Jacob  
*Motion for PH Transcript*

05/19/2016 Order  
Party: Defendant Bernal, John Jacob  
*Order for Preliminary Hearing Transcript*

05/23/2016 DC Hearing Held: Court Reporter: # of Pages:  
Party: Defendant Bernal, John Jacob  
*Hearing result for Entry of Plea scheduled on 05/23/2016 01:30 PM: District Court Hearing Held  
Court Reporter: Nicole Julson  
Number of Transcript Pages for this hearing estimated: less than 100*

05/23/2016 A Plea is entered for Charge:\*  
Party: Defendant Bernal, John Jacob  
*A Plea is entered for charge: - NG (118-905 Assault-Aggravated)*

05/23/2016 A Plea is entered for Charge:\*

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. CR-FE-2016-4439**

Party: Defendant Bernal, John Jacob  
*A Plea is entered for charge: - NG (119-2520 Enhancement-Use of a Deadly Weapon in Commission of a Felony)*

05/23/2016 A Plea is entered for Charge:\*  
Party: Defendant Bernal, John Jacob  
*A Plea is entered for charge: - NG (149-1401(1) Driving-Reckless)*

05/23/2016 A Plea is entered for Charge:\*  
Party: Defendant Bernal, John Jacob  
*A Plea is entered for charge: - NG (149-1301 Accident-Leaving the Scene or Failing to Stop for Damage Accident)*

05/23/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob  
*Hearing Scheduled (Pretrial Conference 07/18/2016 09:30 AM)*

05/23/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob  
*Hearing Scheduled (Jury Trial 08/02/2016 09:30 AM)*

05/23/2016 Miscellaneous  
Party: Defendant Bernal, John Jacob  
*Notice of Trial Setting*

05/23/2016 **Entry of Plea (1:30 PM)** (Judicial Officer: Bail, Deborah A.)

05/23/2016 **Plea**  
1. Assault-Aggravated  
Not Guilty  
TCN: :

05/23/2016 **Plea**  
2. Enhancement-Use of a Deadly Weapon in Commission of a Felony  
Not Guilty  
TCN: :

05/23/2016 **Plea**  
3. Driving-Reckless  
Not Guilty  
TCN: :

05/23/2016 **Plea**  
4. Accident-Leaving the Scene or Failing to Stop for Damage Accident  
Not Guilty  
TCN: :

05/25/2016 Motion to Disqualify  
Party: Defendant Bernal, John Jacob  
*Motion for Disqualification Without Cause*

05/25/2016 Notice  
Party: Defendant Bernal, John Jacob  
*Notice of Preparation of Preliminary Hearing Transcript*

05/26/2016 Order  
Party: Defendant Bernal, John Jacob

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
**CASE NO. CR-FE-2016-4439**

*Order Granting Disqualification without Cause (Judge Copsey)*

06/17/2016 Request for Discovery  
Party: Defendant Bernal, John Jacob  
*Defendant's Request for Discovery / Specific*

06/17/2016 Response to Request for Discovery  
Party: Defendant Bernal, John Jacob  
*Defendant's Response to Discovery*

06/20/2016 Response to Request for Discovery  
Party: Defendant Bernal, John Jacob  
*State/City Response to Discovery*

06/23/2016 Response to Request for Discovery  
Party: Defendant Bernal, John Jacob  
*State/City Response to Discovery / Specific*

06/24/2016 Response to Request for Discovery  
Party: Defendant Bernal, John Jacob  
*Defendant's Response to Discovery / 2nd*

06/28/2016 Transcript Filed  
Party: Defendant Bernal, John Jacob  
*Transcript Filed*

07/18/2016 DC Hearing Held: Court Reporter: # of Pages:  
Party: Defendant Bernal, John Jacob  
*Hearing result for Pretrial Conference scheduled on 07/18/2016 09:30 AM: District Court Hearing Held*  
*Court Reporter: Nicole Julson*  
*Number of Transcript Pages for this hearing estimated: less than 100*

07/18/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob  
*Hearing Scheduled (Pretrial Conference 07/25/2016 09:30 AM)*

07/18/2016 **Pre-trial Conference (9:30 AM)** (Judicial Officer: Bail, Deborah A.)

07/25/2016 DC Hearing Held: Court Reporter: # of Pages:  
Party: Defendant Bernal, John Jacob  
*Hearing result for Pretrial Conference scheduled on 07/25/2016 09:30 AM: District Court Hearing Held*  
*Court Reporter: Nicole Julson*  
*Number of Transcript Pages for this hearing estimated: less than 100*

07/25/2016 **Pre-trial Conference (9:30 AM)** (Judicial Officer: Bail, Deborah A.)

07/28/2016 Miscellaneous  
Party: Defendant Bernal, John Jacob  
*Defendant's List Of Potential Witnesses*

07/29/2016 Response to Request for Discovery  
Party: Defendant Bernal, John Jacob  
*State/City Response to Discovery/ Addendum*

08/02/2016 DC Hearing Held: Court Reporter: # of Pages:  
Party: Defendant Bernal, John Jacob  
*Hearing result for Jury Trial scheduled on 08/02/2016 09:30 AM: District Court Hearing Held*  
*Court Reporter: Nicole Julson*  
*Number of Transcript Pages for this hearing estimated: more than 500*



ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. CR-FE-2016-4439

08/02/2016 Jury Trial Started  
Party: Defendant Bernal, John Jacob  
*Jury Trial Started*

08/02/2016 **Jury Trial (9:30 AM)** (Judicial Officer: Bail, Deborah A.)

08/03/2016 DC Hearing Held: Court Reporter: # of Pages:  
Party: Defendant Bernal, John Jacob  
*District Court Hearing Held*  
*Court Reporter: Penny Tardiff*  
*Number of Transcript Pages for this hearing estimated: less than 100 - Jury Trial Day 2*

08/03/2016 Found Guilty after Trial  
Party: Defendant Bernal, John Jacob  
*Found Guilty After Trial - Count I, II, III & IV*

08/03/2016 Jury Instructions  
Party: Defendant Bernal, John Jacob  
*Jury Instructions*

08/03/2016 Verdict form  
Party: Defendant Bernal, John Jacob  
*Verdict Form*

08/03/2016 Verdict form  
Party: Defendant Bernal, John Jacob  
*Verdict Form*

08/03/2016 Verdict form  
Party: Defendant Bernal, John Jacob  
*Verdict Form*


08/03/2016 Verdict form  
Party: Defendant Bernal, John Jacob  
*Verdict Form*

08/03/2016 Pre-Sentence Investigation Ordered  
Party: Defendant Bernal, John Jacob  
*Pre-Sentence Investigation Evaluation Ordered*


08/03/2016 Hearing Scheduled  
Party: Defendant Bernal, John Jacob  
*Hearing Scheduled (Sentencing 10/03/2016 03:00 PM)*

08/03/2016 **Disposition** (Judicial Officer: Bail, Deborah A.)  
1. Assault-Aggravated  
Guilty (After Trial)  
TCN: :  
  
2. Enhancement-Use of a Deadly Weapon in Commission of a Felony  
Guilty (After Trial)  
TCN: :  
  
3. Driving-Reckless  
Guilty (After Trial)  
TCN: :  
  
4. Accident-Leaving the Scene or Failing to Stop for Damage Accident  
Guilty (After Trial)  
TCN: :

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. CR-FE-2016-4439

09/26/2016  Pre-Sentence Report  
*Presentence Investigation Report*


10/03/2016 **Sentencing (3:00 PM) (Judicial Officer: Bail, Deborah A.)**


10/03/2016  Court Minutes

10/03/2016 **Sentence (Judicial Officer: Bail, Deborah A.)**  
1. Assault-Aggravated  
Felony Sentence  
Confinement  
Type:  
Facility: Idaho Department of Corrections  
Effective Date: 10/03/2016  
Determinate: 3 Years  
Indeterminate: 7 Years  
Pre-Sentence Credit for Time Served


3. Driving-Reckless  
Felony Sentence  
Confinement  
Type:  
Facility: Ada County Jail  
Term: 120 Days  
Effective Date: 10/03/2016  
Concurrent with other charge - this case  
Pre-Sentence Credit for Time Served


4. Accident-Leaving the Scene or Failing to Stop for Damage Accident  
Felony Sentence  
Confinement  
Type:  
Facility: Ada County Jail  
Term: 120 Days  
Effective Date: 10/03/2016  
Concurrent with other charge - this case  
Pre-Sentence Credit for Time Served


10/07/2016  Judgment of Conviction


10/12/2016  Notice of Appeal


10/12/2016 Appeal Filed in Supreme Court

10/14/2016  Order Appointing State Appellate Public Defender

10/19/2016  Motion for Reconsideration  
*of Sentence Rule 35*


10/19/2016  Brief Filed  
*Brief in Support of Rule 35 Motion*

10/26/2016  Objection  
*to Defendant's Motion for Reconsideration of Sentence*

11/21/2016  Notice of Appeal  
*- AMENDED*

ADA COUNTY DISTRICT COURT  
**CASE SUMMARY**  
CASE NO. CR-FE-2016-4439

03/14/2017

 Notice

*of Transcript Lodged x 4 - Supreme Court No. 44556*

APR 08 2016

CHRISTOPHER D. RICH, Clerk  
By VIOLETA GARCIA  
DEPUTY

DR # 16-605841

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

Michael Anderson  
Jill Longhurst  
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. )  
)  
JOHN JACOB BERNAL, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2016-0004439

**COMPLAINT**

Bernal's DOB:   
Bernal's SSN: 

PERSONALLY APPEARED Before me this 7 day of <sup>April</sup>~~March~~ 2016, Michael Anderson, Deputy Prosecuting Attorney or Jill Longhurst, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did commit the crimes of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(a), 905(a), II. RECKLESS DRIVING, MISDEMEANOR, I.C. §49-1401 and III. LEAVING THE SCENE OF AN ACCIDENT INVOLVING VEHICLE DAMAGE, MISDEMEANOR, I.C. §49-1301 as follows:

VM

COUNT I

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did unlawfully and with apparent ability, attempt to commit a violent injury upon the person of Gustavo Becerra, with a deadly weapon, to-wit: a knife and/or by a means likely to produce great bodily harm, to-wit: by attempting to stab Gustavo Becerra with a knife multiple times.

COUNT II

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did operate a motor vehicle, to-wit: a blue Buick upon Five Mile Rd., Boise, carelessly and heedlessly by driving aggressively, and stopped his vehicle in front of Carmen Becerra's vehicle blocking traffic.

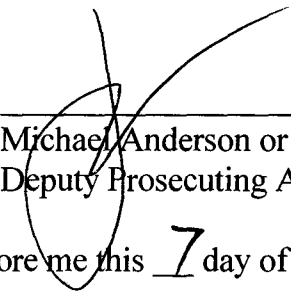
COUNT III

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, was the driver of a vehicle involved in an accident resulting in damage to a vehicle, to-wit: a Mercedes driven or attended by W. Lee at 9881W. Granger Ave. and failed to immediately stop at the scene of the accident and/or remain at the scene of the accident until he had fulfilled the requirements of the law.

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

Said Complainant therefore prays that a Warrant issue for the arrest of the Defendant and that JOHN JACOB BERNAL, may be dealt with according to law.

**JAN M. BENNETTS**  
Ada County Prosecutor

  
\_\_\_\_\_  
Michael Anderson or Jill Longhurst  
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 7 day of ~~March~~ <sup>April</sup> 2016.

  
\_\_\_\_\_  
Magistrate

Ada County Mugshot - Prosecutor's Office



User: PRHARTAL

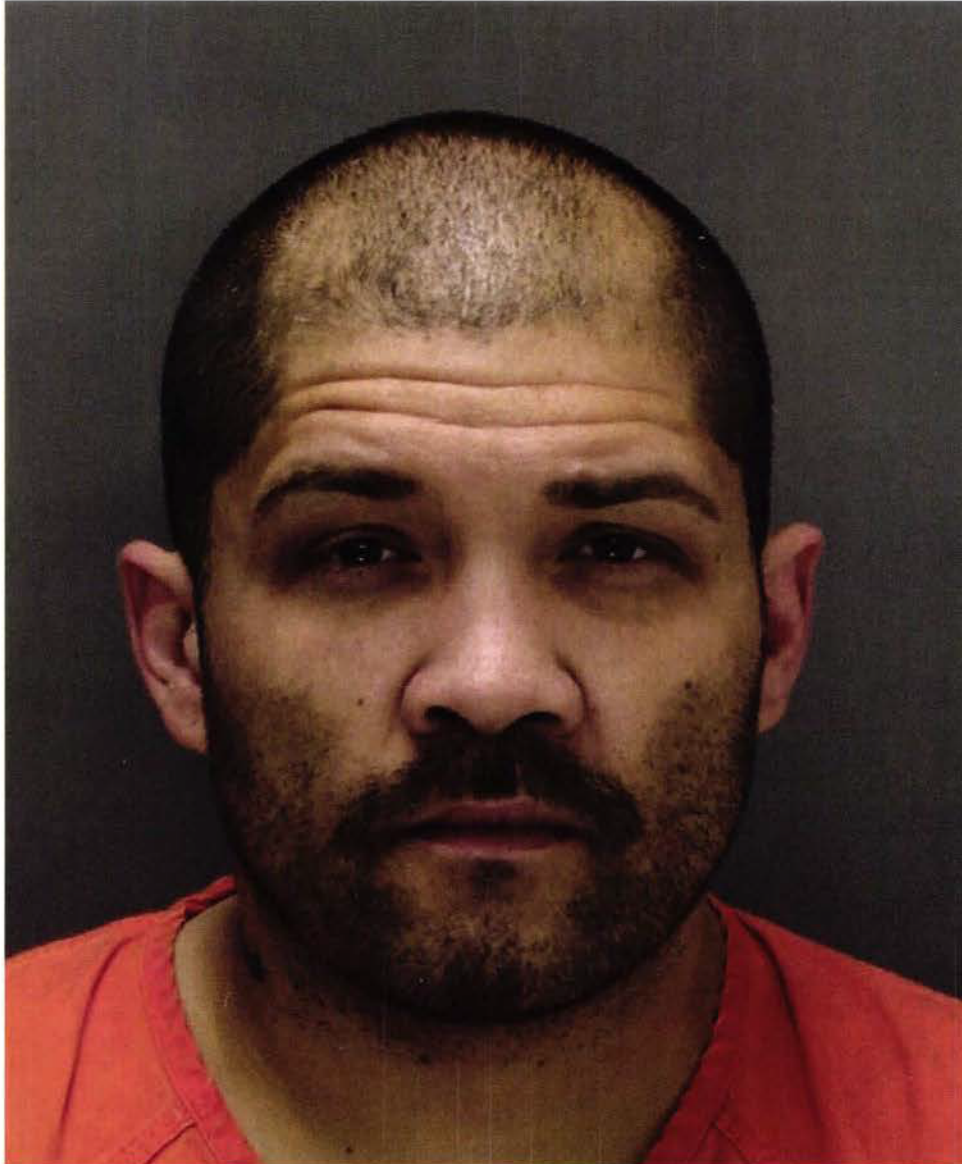


Photo Taken: 2016-04-20 10:28:59

Name: BERNAL, JOHN JACOB

Case #: CR-FE-2016-0004439

LE Number: 1030312

DOB: [REDACTED]

SSN: [REDACTED]

Height: 510

Weight: 250

Drivers License Number:

Drivers License State:

Sex: M Race: U Eye Color: BRO Hair Color: BRO Facial Hair:

Marks: ARM, RIGHT

Scars:

Tattoos:

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

PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO. FE16-4439

vs John J. Bernal

CLERK C. HO

DATE 04 / 07 / 2015 TIME 10:45

PROSECUTOR: ~~MICHAEL ANDERSON DOUG VARIE~~

CASE ID MCDANIEL for GARDUNIA BEG. 111457

Jill Longhurst

COURTROOM 204 END 112003

COMPLAINING WITNESS \_\_\_\_\_

INTOX \_\_\_\_\_

JUDGE

STATUS

- BERECZ
- BIETER
- CAWTHON
- COMSTOCK
- ELLIS
- FORTIER
- GARDUNIA**
- HARRIGFELD
- HAWLEY
- HICKS

- MacGREGOR-IRBY
- MANWEILER
- MCDANIEL
- MINDER
- OTHS
- REARDON
- SCHMIDT
- STECKEL
- SWAIN
- WATKINS
- KIBODEAUX

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

**MCDANIEL..... (for)**

DR# \_\_\_\_\_

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

COMMENTS

AGENTS WARRANT w/ JUDGE PV AR set

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

FUGITIVE (STATE) \_\_\_\_\_

MOTION & ORDER TO CONSOLIDATE W/ \_\_\_\_\_



1030312

NO. 876 FILED  
A.M. 8:16 P.M.

APR 21 2016

CHRISTOPHER D. RICH, Clerk  
By STORMY MCCORMACK  
DEPUTY

DR # 16-605841  
OFFICER: ZIMMER  
AGENCY: BPD

JAN M. BENNETTS  
Ada County Prosecuting Attorney

Michael Anderson  
Jill Longhurst  
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. )  
)  
JOHN JACOB BERNAL, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2016-000 4439 01 01

ARREST WARRANT

FAXED TO: Canyon W.

Address: 103 S STAPLETON LN, BOISE, ID 83705  
DOB: [REDACTED] SSN [REDACTED]  
Sex: Male Race: Hispanic Height: 5'11" Weight: 230  
Hair/Eyes: BRO/BRO

APR 16 2016  
BY: K. Mouser  
TIME: 1:36 ADA SS/0

TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE  
STATE OF IDAHO: **ARRESTED**  
ADA COUNTY SHERIFF

ARREST WARRANT (BERNAL), Page 1

RECEIVED  
Ada County Sheriff  
WARRANTS  
APR 08 2016  
Stephen Bartlett, Sheriff  
BOISE, IDAHO

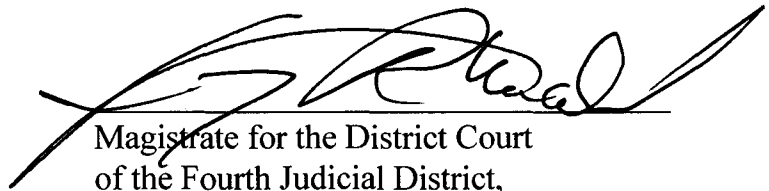
000016 CB

SM

A COMPLAINT UPON OATH having been this day laid before me by Michael Anderson, Deputy Prosecuting Attorney or Jill Longhurst, Deputy Prosecuting Attorney, stating that the crime(s) of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(a), 905(a), II. RECKLESS DRIVING, MISDEMEANOR, I.C. §49-1401 and III. LEAVING THE SCENE OF AN ACCIDENT INVOLVING VEHICLE DAMAGE, MISDEMEANOR, I.C. §49-1301 have been committed, and accusing JOHN JACOB BERNAL thereof and having found probable cause;

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above at any time during the day or night, and to bring him/her before me at my office in the County of Ada, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Ada County.

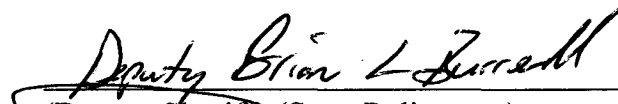
DATED This 7 day of April, 2016.

  
Magistrate for the District Court  
of the Fourth Judicial District,  
Magistrate Division

Bond \$ 20,000

**RETURN OF SERVICE**

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing him into Court this 20<sup>th</sup> day of April, 2016.

  
(Deputy Sheriff) (State Policeman)  
(City Policeman) Ada County Sheriff  
#4937

**COMMITMENT FOR EXAMINATION AFTER APPEARANCE**

THE WITHIN NAMED Defendant, having been brought before me under this Warrant, is committed for examination to the Sheriff of Ada County, State of Idaho, and is admitted to bail in the sum of \$ \_\_\_\_\_, surety, cash or by undertaking of two sufficient sureties, and is committed to the custody of the Sheriff of Ada County until such bail is given. This Cause is continued for further appearance until \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Magistrate for the District Court  
of the Fourth Judicial District,  
Magistrate Division

**ORDER OF RELEASE**

**TO THE SHERIFF OF ADA COUNTY, IDAHO:**

**YOU ARE HEREBY ORDERED** to release the Defendant from your custody.

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
Magistrate for the District Court  
of the Fourth Judicial District,  
Magistrate Division

**NCIC ENTRY:** (Additional Levels Inclusive)

- Idaho Only
- North West Shuttle (ID, WA, OR)
- Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO, AZ, NV)
- Nationwide

**BY:** \_\_\_\_\_

**DATED:** \_\_\_\_\_

ADA COUNTY MAGISTRATE MINUTES

John Jacob Bernal

CR-FE-2016-0004439

DOB [REDACTED]

Scheduled Event: Video Arraignment Thursday, April 21, 2016 01:30 PM

Judge: Michael Oths

Clerk: KEY

Interpreter: [Signature]

Prosecuting Agency: AC BC EA GC MC

Pros: [Signature]

PD Attorney: [Signature]

- 1 I18-905 Assault-Aggravated F
- 2 I49-1401(1) Driving-Reckless M
- 3 I49-1301 Accident-Leaving the Scene or Failing to Stop for Damage Accident M

20054 Case Called Defendant:  Present  Not Present  In Custody

Advised of Rights  Waived Rights  PD Appointed  Waived Attorney

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

Bond \$ 20,000 -  ROR  Pay / Stay  Payment Agreement

In Chambers  PT Memo  Written Guilty Plea  No Contact Order

PH: 5/4/16 @ 830  
w/ Swain

Finish ( ) Release Defendant

*[Handwritten initials]*

APR 21 2016

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

CHRISTOPHER D. RICH, Clerk  
By ADA Deputy

STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
BERNAL JOHN JACOB )  
 )  
DOB [REDACTED] SSN [REDACTED] )  
 )  
Defendant. )

Case No. CRFE20160004439  
Reference No. \_\_\_\_\_

NO CONTACT ORDER  
 AMENDED

DR # 16-605841  
 Ada  Boise  GC  Meridian

The above-entitled matter having come before the Court, and good cause appearing therefor,

IT IS HEREBY ORDERED that the above-named defendant shall not contact (including: in person or through another person, or in writing or e-mail, or by telephone, pager, or facsimile) or attempt to contact, harass, follow, communicate with, or knowingly remain within 100 feet of: BECERRA GUSTAVO JULION, BECERRA CARMEN B

Exceptions are:

- no exceptions
- to contact by telephone between \_\_\_\_\_ .m. and \_\_\_\_\_ .m. on \_\_\_\_\_  
\_\_\_\_\_ for the following purposes: \_\_\_\_\_
- to participate in counseling/mediation
- to provide for the exchange of children between the parties through \_\_\_\_\_
- to retrieve personal necessities from the residence/protected address through \_\_\_\_\_
- to meet with or through attorneys and/or during legal proceedings
- to respond to emergencies involving the natural or adopted children of both parties
- other: \_\_\_\_\_

IT IS FURTHER ORDERED that the defendant named herein shall not go within 300 yards of the above-named person's residence or workplace as set forth below (provide this information only if requested by prosecution):

10787 W Alliance St. Boise, ID 83713

Residence Address \_\_\_\_\_

Work Address \_\_\_\_\_

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under Idaho Code § 18-920, for which no bail will be set until an appearance before a judge. A first and second conviction for the crime of violation of a no contact order is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail not to exceed one (1) year, or both. A third conviction for violation of a no contact order within five (5) years is a felony and is punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in the state prison not to exceed five (5) years, or both. Further, any such violation of this order may result in the increase, revocation, or modification of the bond set in the underlying charge for which this no contact order was imposed.

If there is more than one domestic violence protection order in place, the most restrictive provision will control any conflicting terms of any other civil or criminal protection order.

This order may subject you to Federal prosecution under 18 U.S. Code § 922 if you possess, receive, or transport a firearm.

THIS ORDER CAN BE MODIFIED ONLY BY A JUDGE AND WILL EXPIRE AT 11:59 p.m. ON 4/21/18  
OR UPON DISMISSAL OF THIS CASE, WHICHEVER FIRST OCCURS.

Defendant \_\_\_\_\_ Date \_\_\_\_\_

*[Signature]* Judge \_\_\_\_\_ Date 4/21/16

Served by: [Signature] 5324 \_\_\_\_\_

Date served: 4/21/16 14:15 \_\_\_\_\_

NO CONTACT ORDER  FILE  ACSO  PROSECUTOR

FILED  
 AM. \_\_\_\_\_ P.M. \_\_\_\_\_  
 Thursday, April 21, 2016  
 CHRISTOPHER D. RICH, CLERK OF THE COURT  
 BY: \_\_\_\_\_  
 DEPUTY CLERK

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

STATE OF IDAHO,  
 Plaintiff.

vs.

John Jacob Bernal  
 103 S. Stapleton Ln #103  
 Boise, ID 83705

Defendant.

)  
 ) Case No: CR-FE-2016-0004439  
 ) **NOTICE OF APPOINTMENT OF PUBLIC DEFENDER**  
 ) **AND SETTING CASE FOR HEARING**  
 )  Ada  Boise  Eagle  Garden City  Meridian  
 )

TO: Ada County Public Defender

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

Preliminary ... Wednesday, May 04, 2016 ... 08:30 AM  
 Judge: Kevin Swain

**BOND AMOUNT:** \_\_\_\_\_ The Defendant is:  In Custody  Released on Bail  ROR

TO: The above named defendant

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

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

I hereby certify that copies of this Notice were served as follows on this date of Thursday, April 21, 2016.

**Defendant:** Mailed \_\_\_\_\_ Hand Delivered  Signature Gentry Ellis  
 Clerk / date \_\_\_\_\_ / \_\_\_\_\_ Phone ( ) \_\_\_\_\_

**Prosecutor:** Interdepartmental Mail  Clerk / date SB 4-22

**Public Defender:** Interdepartmental Mail  Clerk / date SB 4-22

[Signature]  
 Deputy Clerk

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

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

NO. 1030 FILED  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

APR 26 2016

CHRISTOPHER D. RICH, Clerk  
By BRIGELDA TORRES

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.

JOHN JACOB BERNAL,

Defendant.

Case No. CR-FE-2016-0004439

MOTION FOR BOND REDUCTION

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

DATED, Monday, April 25, 2016.

*Steven A Botimer*

STEVEN A BOTIMER  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Monday, April 25, 2016, I mailed a true and correct copy of the within instrument to:

MICHAEL A. HAWKINS  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.

*Quinn Harris*

MOTION FOR BOND REDUCTION

000022

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

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

APR 26 2016

CHRISTOPHER D. RICH, Clerk  
By GRICELDA TORRES  
DEPUTY

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

STATE OF IDAHO,  
Plaintiff

vs.

JOHN JACOB BERNAL,  
Defendant.

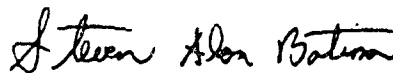
Case No. CR-FE-2016-0004439

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to MICHAEL A. HAWKINS:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Wednesday, May 04, 2016, at the hour of 08:30 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Monday, April 25, 2016.



STEVEN A BOTIMER  
Attorney for Defendant

CERTIFICATE OF MAILING

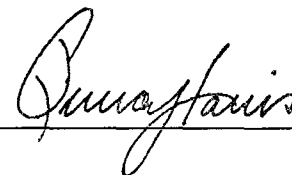
I HEREBY CERTIFY, that on Monday, April 25, 2016, I mailed a true and correct copy of the within instrument to:

MICHAEL A. HAWKINS  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



NOTICE OF HEARING



000023



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PH  
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8:30

NO. 10  
A.M. \_\_\_\_\_ FILED \_\_\_\_\_ P.M. \_\_\_\_\_  
**APR 27 2016**  
CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Michael A. Hawkins**  
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,	)	
	)	<b>Case No. CR-FE-2016-0004439</b>
Plaintiff,	)	
vs.	)	<b>PRELIMINARY HEARING</b>
	)	<b>RESPONSE TO REQUEST FOR</b>
JOHN JACOB BERNAL,	)	<b>DISCOVERY AND OBJECTIONS</b>
	)	
Defendant.	)	
_____	)	

**COMES NOW**, Michael A. Hawkins, 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

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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 1 through 22, including an NCIC consisting of 18 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.

**i. Audio/video recordings:** 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:

**No Protected Information and is marked “Unredacted and Not Confidential.”** Which you may share with your client.

**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.

**No media available at this time.**

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.

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).

**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 26 day of April 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney



---

Michael A. Hawkins  
Deputy Prosecuting Attorney

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26<sup>th</sup> day of April 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:

**Steve Botimer, 200 W. Front Street, Room 1107, Boise, ID 83702**

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



**APR 27 2016**

**CHRISTOPHER D. RICH, Clerk**  
By MAURA OLSON  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Michael A. Hawkins**  
Deputy Prosecuting Attorney  
200 W. 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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2016-0004439</b>
	)	
vs.	)	<b>REQUEST FOR DISCOVERY</b>
	)	
JOHN JACOB BERNAL,	)	
	)	
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.

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(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 26 day of April, 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney



---

Michael A. Hawkins  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26<sup>th</sup> day of April, 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:

**Steve Botimer, 200 W. Front Street, Room 1107, Boise, ID 83702**

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

  
\_\_\_\_\_



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NO. \_\_\_\_\_ FILED  
A.M. 10:15 P.M. \_\_\_\_\_

MAY 02 2016

CHRISTOPHER D. RICH, Clerk  
By WENDY MALONE  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Michael A. Hawkins**  
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,	)	
	)	<b>Case No. CR-FE-2016-0004439</b>
Plaintiff,	)	
vs.	)	<b>FIRST SUPPLEMENTAL</b>
	)	<b>PRELIMINARY HEARING</b>
JOHN JACOB BERNAL,	)	<b>RESPONSE TO REQUEST FOR</b>
	)	<b>DISCOVERY AND OBJECTIONS</b>
Defendant.	)	
_____	)	

**COMES NOW**, Michael A. Hawkins, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following First Supplemental 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

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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 23 through 25. 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.

**i. Audio/video recordings:** 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:

**No Protected Information and is marked “Unredacted and Not Confidential.”** Which you may share with your client.

**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.

**No media available at this time.**

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.

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).

**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 29 day of April 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney



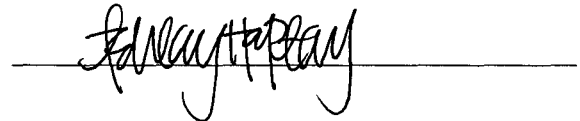
Michael A. Hawkins  
Deputy Prosecuting Attorney

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of ~~April~~<sup>May</sup> 2016, I caused to be served, a true and correct copy of the foregoing First Supplemental Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

**Steve Botimer, 200 W. Front Street, Room 1107, Boise, ID 83702**

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



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

FILED 5/4/16 CBTA M. CHRISTOPHER D. RICH, CLERK OF THE DISTRICT COURT BY [Signature] Deputy

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO, )
Plaintiff, )
vs. )
John Bernal )
Defendant. )

Case Number: FE-2014-4439
Judge: Venlow for oncar
Case Called: 93608
Ada Special Hawkins
PD PD Appointed /Private Botimer
Interpreter

- Defendant: Present Not Present In Custody Bond \$ 20,000 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 Objection No Objection
Case continued to 5/9/16 at 8:30 am/pm for Prelim
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 5/4/16

MAY 09 2016

CHRISTOPHER D. RICH, Clerk  
By CASSANDRA JOHNSTON  
DEPUTY

DR # 16-605841

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

Michael A. Hawkins  
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. )  
)  
JOHN JACOB BERNAL, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2016-0004439

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

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

PERSONALLY APPEARED Before me this 9 day of May, 2016, Michael A. Hawkins, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did commit the crimes of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(a), 905(a), II. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520, III. RECKLESS DRIVING, MISDEMEANOR, I.C. §49-1401 and IV. LEAVING THE SCENE OF AN ACCIDENT INVOLVING VEHICLE DAMAGE, MISDEMEANOR, I.C. §49-1301 as follows:

COUNT I

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did unlawfully and with apparent ability, attempt to commit a violent injury upon the person of Gustavo Becerra, with a deadly weapon, to-wit: a knife and/or by a means likely to produce great bodily harm, to-wit: by attempting to stab Gustavo Becerra with a knife, ~~multiple times.~~

COUNT II

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did use a deadly weapon, to-wit: a knife, in the commission of the crime alleged in Count I.

COUNT III

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did operate a motor vehicle, to-wit: a blue Buick upon Five Mile Rd., Boise, carelessly and heedlessly by driving aggressively and stopped his vehicle in front of Carmen Becerra's vehicle blocking traffic.

COUNT IV

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, was the driver of a vehicle involved in an accident resulting in damage to a vehicle, to-wit: a Mercedes driven or attended by W. Lee at 9881 W. Granger Ave. and failed to immediately stop at the scene of the accident and/or remain at the scene of the accident until he had fulfilled the requirements of the law.



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


**JAN M. BENNETTS**  
Ada County Prosecutor



---

Michael A. Hawkins  
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 9 day of May, 2016.



---

Magistrate

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
01:33:20 PM		<b>Bernal John Jacob CR-FE-2016-0004439</b>
01:34:10 PM	States Attorney	Motion to File Amended Complaint
01:35:17 PM	Defense Attorney	No Objection/Waive Reading of Complaint
01:35:30 PM	Judge Swain	CT Accepts and Files Amended Complaint
01:35:36 PM	Defense Attorney	Motion to Exclude Witnesses
01:35:38 PM	Judge Swain	Granted
01:35:45 PM	States Attorney	Calls SW # 1 /Sworn Becerra
01:37:09 PM	States Attorney	DX SW # 1
01:40:54 PM	Defense Attorney	CX SW # 1
01:46:22 PM	Defense Attorney	Nothing further witness steps down/Excused
01:46:37 PM	States Attorney	Move to Amend, amended complaint by Interlineation
01:47:18 PM	States Attorney	Submit closing argument on evidence presented/reserve rebuttal
01:47:32 PM	Defense Attorney	Closing
01:48:15 PM	States Attorney	Response
01:48:48 PM	Judge Swain	CT finds that the State has proved there is enough evidence to provide probable cause to sign Commitment and bind case over to District Court with Judge Bail 5/16/2016 on 1:30 @ am/pm for AR and further proceedings
01:50:05 PM	Defense Attorney	Motion for bond Reduction
01:50:14 PM	States Attorney	Response
01:51:17 PM	Judge Swain	Bond Reduction Denied
01:51:56 PM		<b>Smout Amber Dawn CR-FE-2016-0005213</b>
01:53:22 PM	States Attorney	Calls SW # 1 /Sworn Charles Jacobs
01:54:08 PM	States Attorney	DX SW #1
02:00:03 PM	Defense Attorney	Objection/ Leading
02:00:05 PM	Judge Swain	Sustained

02:02:53 PM	States Attorney	Nothing Further
02:02:58 PM	Defense Attorney	CX SW # 1
02:05:30 PM	Defense Attorney	Nothing Further
02:06:04 PM	States Attorney	Nothing further witness steps down/Excused
02:06:44 PM	States Attorney	Moves to admit SE #1
02:07:20 PM	Judge Swain	Admitted
02:07:21 PM	Defense Attorney	Closing
02:07:24 PM	States Attorney	Response
02:09:11 PM	Judge Swain	CT finds that the State has proved there is enough evidence to provide probable cause to sign Commitment and bind case over to District Court with Judge Bail on 5/16/2016 @1:30 am/pm for AR and further proceedings

MAY 09 2016

CHRISTOPHER D. RICH, Clerk  
By CASSANDRA JOHNSTON  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

Michael A. Hawkins  
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,	)	Case No. CR-FE-2016-0004439
	)	
vs.	)	COMMITMENT
	)	
JOHN JACOB BERNAL,	)	Defendant's DOB: [REDACTED]
	)	Defendant's SSN: [REDACTED]
Defendant.	)	
_____	)	

THE ABOVE NAMED DEFENDANT, JOHN JACOB BERNAL, having been brought before this Court for a Preliminary Examination on the 9 day of May, 2016, on a charge that the Defendant on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did commit the crimes of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(a), 905(a), II. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520, III. RECKLESS

DRIVING, MISDEMEANOR, I.C. §49-1401 and IV. LEAVING THE SCENE OF AN ACCIDENT INVOLVING VEHICLE DAMAGE, MISDEMEANOR, I.C. §49-1301 as follows:

COUNT I

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did unlawfully and with apparent ability, attempt to commit a violent injury upon the person of Gustavo Becerra, with a deadly weapon, to-wit: a knife and/or by a means likely to produce great bodily harm, to-wit: by attempting to stab Gustavo Becerra with a knife ~~multiple times.~~

COUNT II

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did use a deadly weapon, to-wit: a knife, in the commission of the crime alleged in Count I.

COUNT III

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did operate a motor vehicle, to-wit: a blue Buick upon Five Mile Rd., Boise, carelessly and heedlessly by driving aggressively and stopped his vehicle in front of Carmen Becerra's vehicle blocking traffic.


COUNT IV

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, was the driver of a vehicle involved in an accident resulting in damage to a vehicle, to-wit: a Mercedes driven or attended by W. Lee at 9881W. Granger Ave. and failed to immediately stop at the scene of the accident and/or remain at the scene of the accident until he had fulfilled the requirements of the law.

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 \$ 20,000.

DATED this 9 day of May, 2016.

  
\_\_\_\_\_  
MAGISTRATE

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

FILED 5/09/16 14PP M. CHRISTOPHER D. RICH, CLERK OF THE DISTRICT COURT By [Signature] Deputy

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO, Plaintiff, vs. John Bernal Defendant.

Case Number: FE-16-04439 Judge: Swain Case Called: 13320 In Chambers Ada Special Hawkins PD PD Appointed /Private Botimer. Interpreter

- Defendant: Present Not Present In Custody Bond \$ 20,000 B/F B/W
Posted Bond \$ PTRO ANCO 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
Rule 11 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 Bail on 5/16/16 at 1:30 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 5/09/16

NO. \_\_\_\_\_ FILED 3:50  
A.M. \_\_\_\_\_ P.M.

MAY 11 2016

CHRISTOPHER D. RICH, Clerk  
By ARIC SHANK  
DEPUTY

147  
AR  
5/16  
1:30

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

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

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
JOHN JACOB BERNAL, )  
)  
Defendant. )  
\_\_\_\_\_ )

Case No. CR-FE-2016-0004439

**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 **JOHN JACOB BERNAL** is accused by this Information of the crimes of: I. AGGRAVATED ASSAULT, FELONY, I.C. §18-901(a), 905(a), II. USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520, III. RECKLESS DRIVING, MISDEMEANOR, I.C. §49-1401 and IV. LEAVING THE SCENE OF AN ACCIDENT

£



INVOLVING VEHICLE DAMAGE, MISDEMEANOR, I.C. §49-1301 which crimes were committed as follows:

COUNT I

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did unlawfully and with apparent ability, attempt to commit a violent injury upon the person of Gustavo Becerra, with a deadly weapon, to-wit: a knife and/or by a means likely to produce great bodily harm, to-wit: by attempting to stab Gustavo Becerra with a knife.

COUNT II

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did use a deadly weapon, to-wit: a knife, in the commission of the crime alleged in Count I.

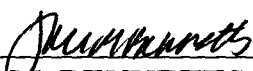
COUNT III

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, did operate a motor vehicle, to-wit: a blue Buick upon Five Mile Rd., Boise, carelessly and heedlessly by driving aggressively and stopped his vehicle in front of Carmen Becerra's vehicle blocking traffic.

COUNT IV

That the Defendant, JOHN JACOB BERNAL, on or about the 11th day of March, 2016, in the County of Ada, State of Idaho, was the driver of a vehicle involved in an accident resulting in damage to a vehicle, to-wit: a Mercedes driven or attended by W. Lee at 9881 W. Granger Ave. and failed to immediately stop at the scene of the accident and/or remain at the scene of the accident until he had fulfilled the requirements of the law.

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

  
\_\_\_\_\_  
**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

Ada County Mugshot - Prosecutor's Office



User: PRHARTAL

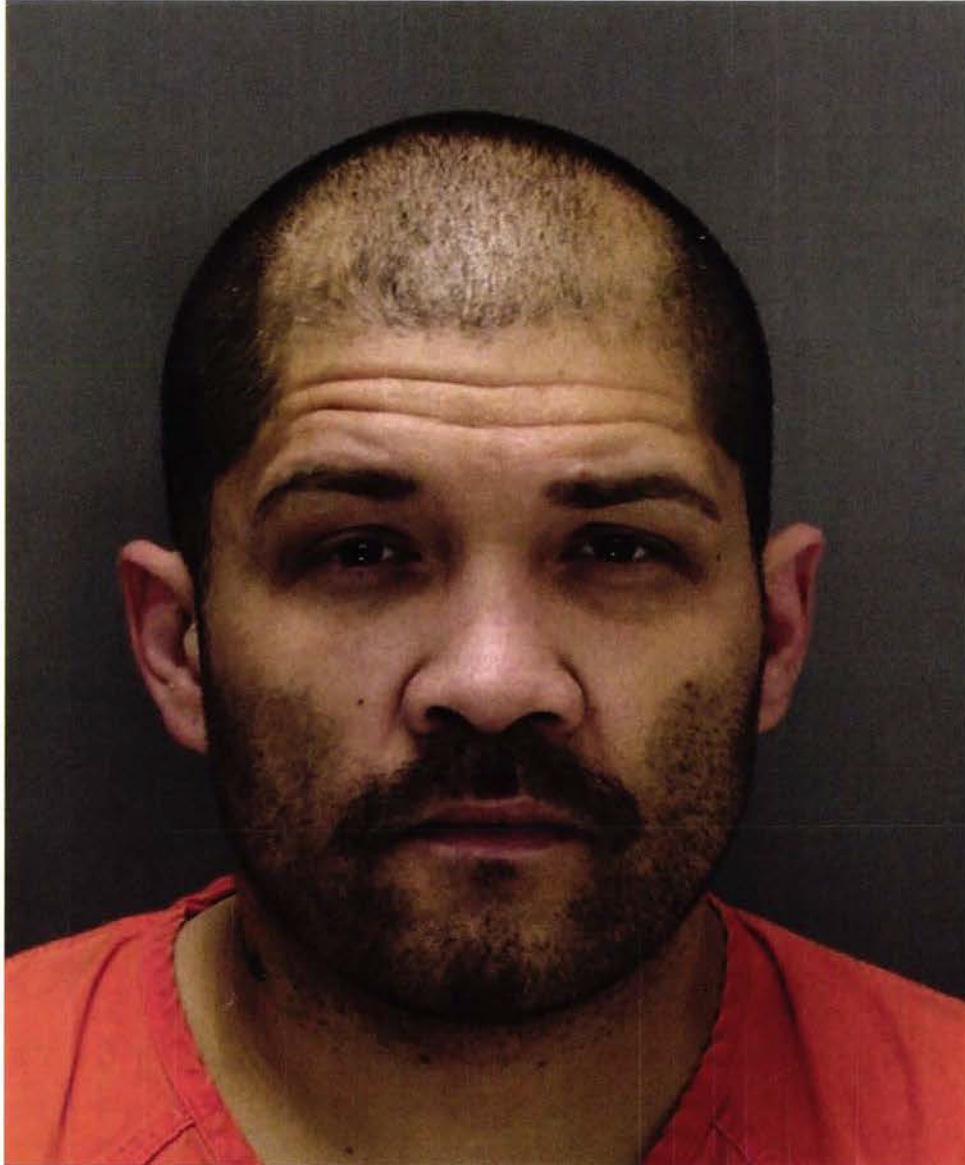


Photo Taken: 2016-04-20 10:28:59

Name: BERNAL, JOHN JACOB

Case #: CR-FE-2016-0004439

LE Number: 1030312

DOB: [REDACTED]

SSN: [REDACTED]

Height: 510

Weight: 250

Drivers License Number:

Drivers License State:

Sex: M Race: U Eye Color: BRO Hair Color: BRO Facial Hair:

Marks: ARM, RIGHT

Scars:

Tattoos:

Att  
5/11/16  
BO

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

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. *3:40*

MAY 11 2016

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

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

STATE OF IDAHO,

Plaintiff

vs.

JOHN JACOB BERNAL,

Defendant.

Case No. CR-FE-2016-0004439

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

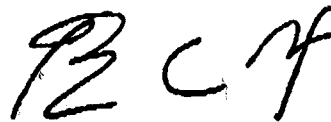
- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, 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; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

*Handwritten mark*

- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

**DATED**, Wednesday, May 11, 2016.



---

**BRIAN C MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Wednesday, May 11, 2016, I mailed a true and correct copy of the within instrument to:

**ADA COUNTY PROSECUTOR**  
**Counsel for the State of Idaho**

by placing said same in the Interdepartmental Mail.



---

Irene Barrios

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
01:40:22 PM		<b>CRFE16-4439 St v John Bernal Arraignment</b>
01:40:32 PM		Defendant present in custody
01:40:34 PM	State Attorney	Heather Reilly
01:40:34 PM	Public Defender	Brian Marx
01:40:37 PM		True Name. Copy of Information. Waives Reading.
01:42:14 PM	Public Defender	requests 1 week for EOP
01:42:15 PM	Judge	sets EOP - May 23 @ 1:30 pm

MAY 18 2016

CHRISTOPHER D. RICH, Clerk  
By CHRIS FRIES  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

147  
Plea  
5/23  
1:30

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

STATE OF IDAHO,

Plaintiff,

vs.

JOHN JACOB BERNAL,

Defendant.

Case No. CR-FE-2016-0004439

MOTION FOR PRELIMINARY  
HEARING TRANSCRIPT

COMES NOW, JOHN JACOB BERNAL, the above-named Defendant, by and through counsel of the Ada County Public Defender's office, BRIAN C. MARX, and moves this Court pursuant to ICR 5.1(d) for an ORDER providing typewritten transcripts of the preliminary hearing proceedings, which were held on May 9, 2016, as they are essential and necessary for filing pretrial motions. Defendant, being indigent, also requests that the transcripts be prepared at the cost of Ada County, and as soon as possible.

DATED Wednesday, May 18, 2016.



BRIAN C. MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Wednesday, May 18, 2016, I mailed (served) a true and correct copy of the within instrument to the Ada County Transcript Coordinator by placing said same in the Interdepartmental Mail.



Irene Barrios

mb

RECEIVED

MAY 18 2016

Ada County Clerk

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 11:30 P.M. \_\_\_\_\_

MAY 19 2016

CHRISTOPHER D. RICH, Clerk  
By TARA VILLEREA  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff,

vs.

JOHN JACOB BERNAL,

Defendant.

Case No. CR-FE-2016-0004439

ORDER FOR PRELIMINARY  
HEARING TRANSCRIPT

For good cause appearing, this Court hereby grants Defendant's Motion for Preliminary Hearing Transcript. Pursuant to ICR 5.1(d), a typewritten transcript of the preliminary hearing held May 9, 2016, shall be prepared at the expense of Ada County, and as soon as possible.

SO ORDERED AND DATED this 19 day of May 2016.



DEBORAH BAIL  
District Judge

~~CC. TRANSCRIPTS~~

ORDER FOR PRELIMINARY HEARING TRANSCRIPT

000055

TV CC.PA | PD | Trans



<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>01:58:52 PM</u>		<b>CRFE16-4439 St v John Bernal Entry of Plea</b>
<u>01:59:14 PM</u>		Defendant present in custody
<u>01:59:17 PM</u>	State Attorney	Heather Reilly
<u>01:59:17 PM</u>	Public Defender	Brian Marx
<u>01:59:24 PM</u>	Public Defender	defendant pleads Not Guilty
<u>01:59:45 PM</u>	Judge	Sets this case for Jury Trial - August 2 @ 9:30 am, PTC - July 18 @ 9:30 am, Discovery - June 20

FILED May 23, 2016 at 02:09 PM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY: Ma Vilho  
Deputy Clerk

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

DEBORAH A. BAIL  
DISTRICT JUDGE

May 23, 2016

**THE STATE OF IDAHO,**  
Plaintiff,

Case No. CR-FE-2016-0004439

vs.

**JOHN JACOB BERNAL,**  
Defendant.

NOTICE OF TRIAL SETTING

**THIS IS YOUR NOTICE OF TRIAL SETTING**

The above-entitled matter has been set for trial before the Court and a jury for:

Pretrial Conference.....Monday, July 18, 2016 @ 9:30 AM

Jury Trial.....Tuesday, August 2, 2016 @ 9:30 AM

- ▶ All requested jury instructions must be submitted to the court five (5) days prior to trial.
- ▶ Any motion to exclude a witness who was a victim of the alleged crime must be made two (2) weeks prior to trial.
- ▶ Discovery compliance date is set for June 20, 2016.
- ▶ Notice is hereby given, pursuant to I.C.R. 25(a)(6) 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. Renae Hoff  
 Hon. James Judd  
 Hon. D. Duff McKee  
 Hon. Michael McLaughlin

Hon. Thomas Neville  
 Justice Gerald Schroeder  
 Hon. Kathryn Sticklen  
 Hon. Darla Williamson  
 Hon. Ronald Wilper  
**All Sitting Fourth District Judges**

Unless a party has previously exercised their right to disqualification without cause under Rule 25(a)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this written notice listing the alternate judge.

**Copies to Counsel:**

ADA COUNTY PROSECUTORS OFFICE

ADA COUNTY PUBLIC DEFENDERS OFFICE

147  
7/18  
9:30  
PTC

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 5:36

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

MAY 25 2016

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

CHRISTOPHER D. RICH, Clerk  
By SARA MARKLE  
DEPUTY

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

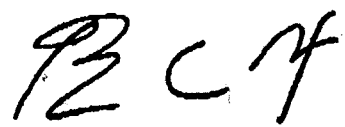
STATE OF IDAHO,  
Plaintiff,  
vs.  
JOHN JACOB BERNAL,  
Defendant.

Case No. CR-FE-2016-0004439

MOTION FOR DISQUALIFICATION  
WITHOUT CAUSE

COMES NOW, JOHN JACOB BERNAL, the above-named Defendant, by and through counsel of the Ada County Public Defender's office, BRIAN C. MARX, and moves this Court to disqualify the Honorable Judge Copey as an alternate Judge in the above entitled matter, without case, pursuant to Idaho Criminal Code Rule 25(a).

DATED Wednesday, May 25, 2016.




\_\_\_\_\_  
BRIAN C. MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Wednesday, May 25, 2016, I mailed (served) a true and correct copy of the within instrument to:

Robert M. Bleazard  
Ada County Prosecutor's Office  
Interdepartmental Mail

  
\_\_\_\_\_  
Irene Barrios

171  
7/18  
930  
PTC

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4:30

MAY 25 2016

CHRISTOPHER D. RICH, Clerk  
By RAE ANN NIXON  
DEPUTY

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

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CRFE-2016-0004439
	)	
JOHN J. BERNAL,	)	NOTICE OF PREPARATION
	)	OF PRELIMINARY HEARING
Defendant,	)	TRANSCRIPT
_____	)	

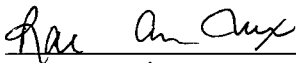
An Order for transcript was filed in the above-entitled matter on May 19, 2016, and a copy of said Order was received by the Transcription Department on May 24, 2016. I certify the estimated cost of preparation of the transcript to be:

Type of Hearing: Preliminary Hearing  
Date of Hearing: May 9, 2016 Judge: Kevin Swain0020  
61 Pages x \$3.25 = \$198.25

In this case, the Ada County Public Defender's Office has agreed to pay for the cost of the transcript fee upon completion of the transcript.

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty (30) days (or expedited days) from the date of this notice. The transcriber may make application to the District Judge for an extension of time in which to prepare the transcript.

Date: May 25, 2016

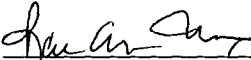
  
\_\_\_\_\_  
Rae Ann Nixon  
Transcript Coordinator



CERTIFICATE OF MAILING

I certify that on May 25, 2016, a true and correct copy of the Notice of Preparation of Transcript was forwarded to Defendant's attorney of record, by first class mail, at:

Ada Co. Public Defender  
200 W. Front St. Ste. 1107  
Boise ID 83702  
BRAIN C. MARX

  
\_\_\_\_\_  
Rae Ann Nixon  
Transcript Coordinator

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 2:00

**MAY 26 2016**

CHRISTOPHER D. RICH, Clerk  
By TARA VILLEREAL  
DEPUTY

**RECEIVED**  
**MAY 25 2016**  
Ada County Clerk

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff,

vs.

JOHN JACOB BERNAL,

Defendant.

Case No. CR-FE-2016-0004439

**ORDER GRANTING  
DISQUALIFICATION  
WITHOUT CAUSE**

The above entitled matter having come before this Court and based on the defendant's motion;

IT IS HEREBY ORDERED that the Honorable Judge Cheri C. Copsy be disqualified from the above entitled case pursuant to Idaho Criminal Rule 25(a), without case.

DATED this 26<sup>th</sup> day of May, 2016.



DEBORAH BAIL  
District Judge

ORDER FOR DISQUALIFICATION WITHOUT CAUSE

000061

TV

JUN 17 2016

CHRISTOPHER D. RICH, Clerk  
By WENDY MALONE  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff,

vs.

JOHN JACOB BERNAL,

Defendant.

Case No. CR-FE-2016-0004439

**DEFENDANT'S SPECIFIC  
REQUEST FOR DISCOVERY**

TO: THE STATE OF IDAHO, Plaintiff, and to Robert M. Bleazard, Ada County  
Prosecutor :

PLEASE TAKE NOTICE that undersigned counsel requests discovery and copies of  
the following information, evidence, and/or materials pursuant to ICR 16 within fourteen  
days of service:

- 1) The Dispatcher name from the Dispatch Log, Discovery page  
15.

DATED, this 6<sup>th</sup> day of June 2016.

  
\_\_\_\_\_  
BRIAN C. MARX  
Attorney for Defendant

*amm*

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 17<sup>th</sup> day of June 2016, I mailed (served) a true and correct copy of the within instrument to:

Robert M. Bleazard  
Ada County Prosecutor  
Interdepartmental Mail

  
\_\_\_\_\_  
Irene Barrios



ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_ FILED 4:20  
A.M. \_\_\_\_\_ P.M.

JUN 17 2016

CHRISTOPHER D. RICH, Clerk  
By WENDY MALONE  
DEPUTY

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

STATE OF IDAHO,

Plaintiff,

vs.

JOHN JACOB BERNAL,

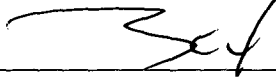
Defendant.

Case No. CR-FE-2016-0004439

DEFENDANT'S DISCOVERY  
RESPONSE TO COURT

COMES NOW, JOHN JACOB BERNAL, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon Robert M. Bleazard, counsel for the state of Idaho, with Defendant's Response to Request for Discovery on the above-filed date.

DATED, this 17<sup>th</sup> day of June, 2016.

  
BRIAN C. MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 17<sup>th</sup> day of June, 2016, I mailed (served) a true and correct copy of the within instrument to:

Robert M. Bleazard  
Ada County Prosecutor's Office  
Interdepartmental Mail

  
Irene Barrios

DEFENDANT'S DISCOVERY RESPONSE TO COURT

000064

171  
PTC  
7-18  
9:30

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

JUN 20 2016

CHRISTOPHER D. RICH, Clerk  
By SARA WRIGHT  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Robert M. Bleazard**  
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. )  
)  
JOHN JACOB BERNAL, )  
)  
Defendant. )  
)  
\_\_\_\_\_ )


**Case No. CR-FE-2016-0004439**

**DISCOVERY  
RESPONSE TO COURT**

COMES NOW, Robert M. Bleazard, 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 17 day of June, 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney



Robert M. Bleazard  
Deputy Prosecuting Attorney


BR

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20<sup>th</sup> day of June, 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:

**Brian Marx, Ada County Public Defender's Office, 200 W. Front Street, Rm. 1107, Boise, ID 83702**

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By 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 emailing copies of the same to said attorney(s) at the email address:*  
**bmarx@adaweb.net**

  
\_\_\_\_\_  
Legal Assistant

147  
PH  
7/18  
9:30

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

2

JUN 23 2016

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Robert M. Bleazard**  
Deputy Prosecuting Attorney  
200 West 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. )  
)  
JOHN JACOB BERNAL, )  
)  
Defendant. )  
)  
\_\_\_\_\_ )

**Case No. CR-FE-2016-0004439**  
**STATE'S RESPONSE TO**  
**DEFENDANT'S SPECIFIC**  
**REQUEST FOR DISCOVERY**  
**TO COURT**

**COMES NOW**, Robert M. Bleazard, 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 Specific Request for Discovery.

**RESPECTFULLY SUBMITTED** this 23 day of June, 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney  
  
Robert M. Bleazard  
Deputy Prosecuting Attorney

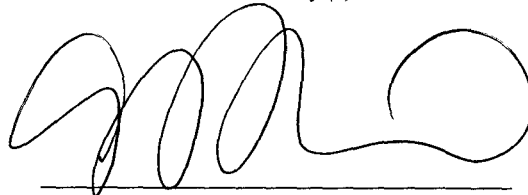
MO

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of June, 2016, I caused to be served, a true and correct copy of the foregoing State's Response to Defendant's Specific Request for Discovery to Court upon the individual(s) named below in the manner noted:

**Brian Marx, Ada County Public Defender's Office, 200 W. Front Street, Rm. 1107, Boise, ID 83702**

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By 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 emailing copies of the same to said attorney(s) at the email address:*  
**bmarx@adaweb.net**



Legal Assistant

147  
PTC  
7/18  
QA

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED \_\_\_\_\_ P.M. 3/4/5

JUN 24 2016

CHRISTOPHER D. RICH, Clerk  
By SARA MARKLE  
DEPUTY

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

STATE OF IDAHO,

Plaintiff,

vs.

JOHN JACOB BERNAL,

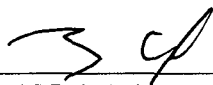
Defendant.

Case No. CR-FE-2016-0004439

DEFENDANT'S 2<sup>ND</sup> DISCOVERY  
RESPONSE TO COURT

COMES NOW, JOHN JACOB BERNAL, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon ROBERT M. BLEAZARD, counsel for the state of Idaho, with Defendant's Addendum to Discovery on the above-filed date.


DATED, Friday, June 24, 2016.

  
\_\_\_\_\_  
BRIAN C. MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Friday, June 24, 2016, I mailed (served) a true and correct copy of the within instrument to:

ROBERT M. BLEAZARD  
Ada County Prosecutor's office  
Interdepartmental Mail

  
\_\_\_\_\_  
Irene Barrios

MO

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
09:48:48 AM		<b>CRFE16-4439 St v John Bernal Pre-Trial Conference</b>
09:49:07 AM		Defendant present in custody
09:49:10 AM	State Attorney	Robert Bleazard
09:49:12 AM	Public Defender	Brian Marx
09:49:31 AM	Public Defender	asks for a continuance
09:49:35 AM	Judge	continues PTC - July 25 @ 9:30 am

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>09:36:25 AM</u>		<b>CRFE16-4439 St v John Bernal Pre-Trial Conference</b>
<u>09:37:07 AM</u>		Defendant present in custody
<u>09:37:09 AM</u>	State Attorney	Robert Bleazard
<u>09:37:10 AM</u>	Public Defender	Brian Marx
<u>09:37:12 AM</u>	Public Defender	A go for trial



51  
812  
930

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_  
JUL 28 2016

CHRISTOPHER D. RICH, Clerk  
By GRICELDA TORRES  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

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

THE STATE OF IDAHO,  
  
Plaintiff,  
  
vs.  
  
JOHN JACOB BERNAL,  
  
Defendant.


Case No. CR-FE-2016-0004439

**DEFENDANT'S LIST OF  
POTENTIAL WITNESSES**

COMES NOW, JOHN JACOB BERNAL, the defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's Office, and provides the following list of the defendant's potential witnesses:

1. Kyle Zimmerman, c/o Ada County Sheriff's Office
2. Christopher Zimmer, c/o Boise City Police Department

DATED, this 28<sup>th</sup> day of July 2016.

  
\_\_\_\_\_  
BRIAN C. MARX  
Attorney for Defendant

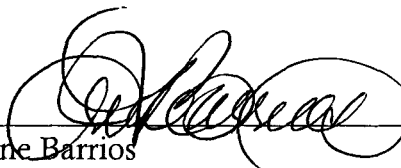


CERTIFICATE OF MAILING

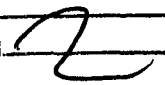
I HEREBY CERTIFY, that on 28<sup>th</sup> day of July, 2016, I mailed (served) a true and correct copy of the within instrument to:

Robert M. Bleazard  
Ada County Prosecutor's Office  
Interdepartmental Mail

Irene Barrios

A handwritten signature in black ink, appearing to read 'Irene Barrios', is written over a horizontal line. The signature is cursive and somewhat stylized.

8/2  
930

A.M. FILED P.M. 

JUL 29 2016

CHRISTOPHER D. RICH, Clerk  
By SARA WRIGHT  
DEPUTY

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Robert M. Bleazard**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
JOHN JACOB BERNAL, )  
)  
Defendant. )  
\_\_\_\_\_ )

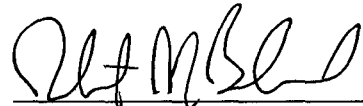
**Case No. CR-FE-2016-0004439**

**ADDENDUM TO DISCOVERY  
RESPONSE TO COURT**

**COMES NOW**, Robert M. Bleazard, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted an Addendum to Response to Discovery.

**RESPECTFULLY SUBMITTED** this 29 day of July, 2016.

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney



By: Robert M. Bleazard  
Deputy Prosecuting Attorney




**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29<sup>th</sup> day of July, 2016, I caused to be served, a true and correct copy of the foregoing Addendum to Discovery Response to Court upon the individual(s) named below in the manner noted:

**Brian Marx, Ada County Public Defender's Office, 200 W. Front Street, Rm. 1107, Boise, ID 83702**

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By 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 emailing copies of the same to said attorney(s) at the email address:  
**bmarx@adaweb.net***

  
\_\_\_\_\_  
Legal Assistant

Time	Speaker	Note
08:26:35 AM		<b>CRFE16-4439 St v John Bernal Jury Trial - Day 1</b>
08:26:49 AM	State Attorney	Robert Bleazard
08:26:53 AM	Public Defender	Brian Marx
09:35:28 AM	Judge	Calls case
09:36:26 AM	Judge	instructs counsel
09:36:29 AM		Court recesses
09:49:04 AM		Court resumes
09:49:07 AM		the prospective jury is present
09:49:22 AM	Judge	Calls case
09:51:13 AM	Clerk	Calls roll
09:53:55 AM	Clerk	Swears in the prospective jury panel
09:58:34 AM	Judge	Voir dres the prospective jury panel
10:01:44 AM	Clerk	Draws twenty-seven names
10:12:52 AM	State Attorney	Voir dres the prospective jury panel
10:16:17 AM	Judge	Juror # 283 is excused by the Court for cause
10:21:02 AM	State Attorney	continues voir dire of the prospective jury panel
10:38:32 AM	Public Defender	Voir dres the prospective jury panel
10:53:19 AM	Public Defender	passes the panel for cause
10:53:24 AM	Judge	Thanks and excuses the remaining prospective jury panel
10:54:09 AM		counsel exercise their peremptory challenges
11:08:11 AM	Judge	Seats the trial jury
11:08:53 AM		side-bar
11:10:16 AM	Judge	Thanks and excuses the remaining prospective jury panel
11:10:54 AM		Court recesses
11:31:52 AM		Court resumes
11:31:57 AM		the jury is present
11:32:30 AM	Clerk	Swears in the trial jury
11:34:00 AM	Judge	Reads preliminary jury instructions
11:34:16 AM	Judge	Reads the Information
11:49:33 AM	Judge	admonishes the jury
11:49:38 AM		Court recesses
01:35:32 PM		Court resumes
01:35:35 PM		the jury is present
01:36:10 PM	State Attorney	Opening statement
01:44:22 PM	Public Defender	Opening statement
01:46:13 PM	State Attorney	Calls Carmen Becerra, sworn, direct examination

<u>01:52:06 PM</u>	State Attorney	Exhibit # 1 previously marked is identified
<u>01:52:25 PM</u>	State Attorney	Moves to admit Exhibit # 1
<u>01:52:28 PM</u>	Public Defender	No objection
<u>01:52:30 PM</u>	Judge	Exhibit # 1 is admitted
<u>02:03:27 PM</u>	Public Defender	Cross-examination of the witness - Carmen Becerra
<u>02:05:47 PM</u>	State Attorney	Re-direct examination of the witness - Carmen Becerra
<u>02:06:56 PM</u>	Judge	excuses the witness
<u>02:07:00 PM</u>	State Attorney	Calls Gustavo Becerra, sworn, direct examination
<u>02:13:02 PM</u>	Public Defender	Objection - Hearsay. Moves to strike
<u>02:13:10 PM</u>	Judge	Objection is sustained. Strikes the answer
<u>02:25:56 PM</u>	Public Defender	Cross-examination of the witness - Gustavo Becerra
<u>02:35:00 PM</u>	State Attorney	Re-direct examination of the witness - Gustavo Becerra
<u>02:36:15 PM</u>	Judge	excuses the witness
<u>02:37:59 PM</u>	State Attorney	Calls Wang Le, sworn, direct examination - Interpreter: Paul Minh Tu
<u>02:40:15 PM</u>	State Attorney	Exhibit # 2 previously marked is identified
<u>02:40:35 PM</u>	State Attorney	Moves to admit Exhibit # 2
<u>02:40:41 PM</u>	Public Defender	No objection
<u>02:40:42 PM</u>	Judge	Exhibit # 2 is admitted
<u>02:42:58 PM</u>	Judge	excuses the witness
<u>02:43:08 PM</u>	State Attorney	The State rests
<u>02:43:15 PM</u>	Judge	admonishes and excuses the jury
<u>02:44:09 PM</u>	Judge	Advises the Defendant of his right to testify
<u>02:44:53 PM</u>		Court recesses
<u>03:00:57 PM</u>		Court resumes
<u>03:01:00 PM</u>		the jury is not present
<u>03:01:02 PM</u>	Defendant	Does not wish to testify
<u>03:01:29 PM</u>	Judge	goes over jury instructions with counsel
<u>03:03:57 PM</u>		the jury is now present
<u>03:04:10 PM</u>	Public Defender	Defense rests
<u>03:04:22 PM</u>	Judge	Reads the Jury Instructions
<u>03:18:14 PM</u>	State Attorney	Closing argument
<u>03:36:28 PM</u>	Public Defender	Closing argument
<u>03:46:05 PM</u>	State Attorney	Final argument
<u>03:53:26 PM</u>	Clerk	Swears in the Bailiff

03:53:53 PM	Judge	Draws the alternate juror
03:54:16 PM		Jury goes out for deliberation
05:39:12 PM		Court resumes
05:39:15 PM		the jury is present
05:39:32 PM	Court Reporter	Reads back testimony of witness - Gustavo Bacerra
06:16:46 PM	Judge	admonishes and excuses the jury for the evening
06:17:28 PM	Judge	There was an additional jury question that was passed along to counsel but has not been answered yet.
06:18:00 PM	State Attorney	Objects to the lesser included
06:18:11 PM	Public Defender	Objects to the lesser included
06:18:17 PM	Judge	will not include a lesser included
06:18:27 PM		Court recesses

<b>Time</b>	<b>Speaker</b>	<b>Note</b>
<u>08:40:05 AM</u>		<b>CRFE16-4439 State v John Bernal Jury Trial - Day 2</b>
<u>08:40:29 AM</u>	State Attorney	Robert Bleazard
<u>08:40:31 AM</u>	Public Defender	Brian Marx
<u>10:34:36 AM</u>		Calls case
<u>10:34:39 AM</u>		the jury is not present
<u>10:34:41 AM</u>	Judge	the jury had a question re: a lesser included. counsel objected. Simple assault is not an option in this particular case.
<u>10:37:11 AM</u>		the jury is now present and have reached a verdict
<u>10:37:38 AM</u>	Judge	Reads the Verdict
<u>10:37:55 AM</u>		Defendant is found guilty on Count I
<u>10:38:06 AM</u>		Answer to question re: deadly weapon - Yes
<u>10:38:25 AM</u>		Defendant is found guilty on Count III
<u>10:38:31 AM</u>		Defendant is found guilty on Count IV
<u>10:39:40 AM</u>	Judge	polls the jury
<u>10:39:46 AM</u>	Judge	Orders a PSI and sets this matter for Sentencing - October 3 @ 3:00 pm
<u>10:41:57 AM</u>	Judge	Thanks and excuses the jury



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

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

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 10:50 P.M. \_\_\_\_\_

**AUG 03 2016**

**CHRISTOPHER D. RICH, Clerk**  
**By TARA VILLEREA**  
**DEPUTY**

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 JOHN JACOB BERNAL, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. Case No. CR-FE-2016-0004439

JURY INSTRUCTIONS

THE HONORABLE DEBORAH A. BAIL  
DISTRICT JUDGE  
PRESIDING

2

INSTRUCTION NO. 1

A defendant in a criminal action is presumed to be innocent. This presumption places upon the State the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant's guilt, you must return a verdict of not guilty.

A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

You have now heard all the evidence in the case. My duty is to instruct you as to the law. It is your duty to determine if the state has proven the charge against the defendant beyond a reasonable doubt. You must follow all the rules as I explain them to you in these instructions. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 2

It is a constitutional right of a defendant in a criminal trial that he or she may not be compelled to testify. Thus, the decision as to whether he or she should testify is left to the defendant, acting with the advice and assistance of his or her attorney. You must not draw any inference of guilt from the fact that he or she does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 3

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

INSTRUCTION NO. 4

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is intended to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. anything you may have seen or heard when the court was not in session.

INSTRUCTION NO. 5

The key part of your job as jurors is to decide how credible or believable each witness was. This is your job, not mine. It is up to you to decide if a witness's testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or none of it at all. But you should act reasonably and carefully in making these decisions.

As you weigh the testimony, you can ask yourselves questions:

- (A) Was the witness able to clearly see or hear the events? Sometimes even an honest witness may not have been able to see or hear what was happening, and may make a mistake.
- (B) How good was the witness's memory?
- (C) Was there anything else that may have interfered with the witness's ability to perceive or remember the events?
- (D) How did the witness act while testifying? Did the witness appear honest or not?
- (E) Did the witness have any relationship to the state or the defendant, or anything to gain or lose from the case, that might influence the witness's testimony? Ask yourself if the witness had any bias, or prejudice, or reason for testifying that might cause the witness to lie or to slant the testimony in favor of one side or the other.

(F) How believable the witness's testimony was in light of all the other evidence? Was the witness's testimony supported or contradicted by other evidence that you found believable? If you believe that a witness's testimony was contradicted by other evidence, remember that people sometimes forget things, and that even two honest people who witness the same event may not describe it exactly the same way.

These are only some of the things that you may consider in deciding how believable each witness was. You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience in dealing with other people. And then decide what testimony you believe, and how much weight you think it deserves.

INSTRUCTION NO. 6

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count.



INSTRUCTION NO 7

Evidence may be either direct or circumstantial. The law makes no distinction between direct and circumstantial evidence. Each is accepted as a reasonable method of proof and each is respected for such convincing force as it may carry.

Direct evidence is evidence that directly proves a fact, like testimony from a witness who saw or heard something. Circumstantial evidence is evidence that indirectly proves the fact, by proving one or more facts from which the fact at issue may be inferred. For example, if you see it hailing, you have direct evidence that it has hailed. If you go to bed and wake up and see the ground covered with hail, you have circumstantial evidence that it has hailed even though you did not watch it happen.

INSTRUCTION NO. 8

In order for the defendant to be guilty of Aggravated Assault, the state must prove each of the following:

1. On or about March 11, 2016,
2. in the state of Idaho,
3. the defendant John Jacob Bernal committed an assault upon Gustavo Becerra
4. by attempting to stab him with a knife, and
5. the defendant committed that assault with a deadly weapon or instrument.

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.

INSTRUCTION NO. 9

An "assault" is committed when a person:

(1) unlawfully attempts, with apparent ability, to commit a violent injury on the person of another; or

(2) intentionally and unlawfully threatens by word or act to do violence to the person of another, with an apparent ability to do so, and does some act which creates a well-founded fear in the other person that such violence is imminent. "Imminent" means about to take place.

INSTRUCTION NO. 10

A "deadly weapon or instrument" is one likely to produce death or great bodily injury. It also includes any other object that is capable of being used in a deadly or dangerous manner if the person intends to use it as a weapon.

INSTRUCTION NO. 11

If you find the defendant guilty of Aggravated Assault, you must next consider whether the defendant displayed, used, threatened or attempted to use a deadly weapon in the commission of the crime.

A deadly weapon is any object, instrument or weapon which is capable of producing, and likely to produce, death or great bodily injury.

If you unanimously find beyond a reasonable doubt that the defendant used, displayed, threatened with or attempted to use a deadly weapon in the commission of the above crime, then you must so indicate on the verdict form submitted to you. If, on the other hand, you cannot make such a finding, then you must make that indication on the verdict form.

INSTRUCTION NO. 12

In order for the defendant to be guilty of Reckless Driving, the state must prove each of the following:

1. On or about March 11, 2016,
2. in the state of Idaho,
3. the defendant John Jacob Bernal drove or was in actual physical control of a vehicle
4. upon a highway, or upon public or private property open to the public, and
5. the defendant drove the vehicle carelessly or heedlessly or without due caution and circumspection and in a manner as to endanger or be likely to endanger any person or property

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.

INSTRUCTION NO. 13

In order for the defendant to be guilty of Leaving the Scene of an Accident Involving an Attended Vehicle, the state must prove each of the following:

1. On or about March 11, 2016,
2. in the state of Idaho,
3. the defendant John Jacob Bernal was driving a motor vehicle
4. on public or private property open to the public,
5. the defendant's vehicle was involved in an accident
6. which resulted in damage to another vehicle which was driven or attended by a person,
7. the defendant had knowledge of the accident, and
8. either the defendant failed to immediately stop his vehicle at the scene of the accident, or to stop as close as possible and then immediately return to the scene of the accident, or after stopping at or returning to the scene of the accident, the defendant failed to remain at the scene until he had done the following:
  - (a) given his name and address;
  - (b) given the name of his insurance agent or company, if the defendant had automobile liability insurance;
  - (c) given the vehicle registration number of the vehicle the defendant was driving; and
  - (d) if available, exhibited his driver's license to the driver of or person attending the other vehicle involved in the collision.

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.

INSTRUCTION NO. 14

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.



INSTRUCTION NO. 15

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions. You should feel free to re-examine your own views and change your opinion if you are convinced by your discussion with your fellow jurors that your original opinion was incorrect based upon the evidence that you as jurors saw and heard during the trial.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

INSTRUCTION NO. 16

If it becomes necessary during your deliberations to communicate with me, you may send a note signed by one or more of you to the bailiff. You should not try to communicate with me by any means other than such a note.

During your deliberations, you are never to reveal to anyone how the jury stands on any of the questions before you, numerically or otherwise, unless requested to do so by me.


INSTRUCTION NO. 17

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question. Nothing is more important than jurors approaching deliberations in a careful, respectful way. Listen to each other. Share your views with each other. You and you alone are the judges of the facts.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise. A verdict form suitable to any conclusion you may reach is submitted to you with these instructions.

DATED This 2<sup>nd</sup> day of August, 2016

  
DEBORAH A. BAIL  
District Judge

**JUROR QUESTION TO JUDGE DURING DELIBERATION**

**DO NOT DESTROY - RETURN TO BAILIFF**

DATE 8/2/16

CASE # CRFE 16-4439

TO JUDGE Bail

FOREMAN NAME Tiffany Curtis

**QUESTION AND/OR REMARK:**

Can we consider an assault charge instead  
of an aggravated assault charge?  
Can we  
get testimony transcripts regarding the  
knife?

Tiffany Curtis  
FOREMAN SIGNATURE

Simple assault is not an option in this particular case.

Robert A. L.  
District Judge

**JUROR QUESTION TO JUDGE DURING DELIBERATION**

**DO NOT DESTROY - RETURN TO BAILIFF**

DATE 8/2/2016

CASE # CR FE 16-4439

TO JUDGE Bail

FOREMAN NAME Tiffany Curtis

**QUESTION AND/OR REMARK:**

May we be dismissed for  
the day?

Tiffany Curtis

FOREMAN SIGNATURE

We will have the court reporter re-read the testimony related to Gustavo Becerra. We cannot provide transcripts but we can have the court reporter re-read that portion of the case. After that, I will excuse you for the evening and you can resume deliberations tomorrow at 9:00 a.m.

Michael H. Dail  
District Judge

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

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 10:50 P.M. \_\_\_\_\_

AUG 03 2016

CHRISTOPHER D. RICH, Clerk  
By TARA VILLERREAL  
DEPUTY

THE STATE OF IDAHO, )  
 )  
Plaintiff, )  
vs. )  
 )  
JOHN JACOB BERNAL, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Case No. Case No. CR-FE-2016-0004439

VERDICT

As to the offense of AGGRAVATED ASSAULT, we, the jury, find the defendant, JOHN JACOB BERNAL:

GUILTY X NOT GUILTY \_\_\_\_\_

8/3/16  
DATE

Tiffany Curtis  
FOREPERSON

20



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

NO. \_\_\_\_\_ FILED  
A.M. 10:50 P.M. \_\_\_\_\_

**AUG 03 2016**

**CHRISTOPHER D. RICH, Clerk**  
By **TARA VILLEREAL**  
DEPUTY

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 JOHN JACOB BERNAL, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. Case No. CR-FE-2016-0004439

**VERDICT**

If you found the defendant JOHN JACOB BERNAL guilty of Aggravated Assault, do you  
unanimously find that he used a deadly weapon in the commission of the Aggravated Assault?

YES:  NO:

8/3/16  
DATE

Tiffany Cortes  
FOREPERSON

2

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

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 10:50 P.M. \_\_\_\_\_

**AUG 03 2016**

CHRISTOPHER D. RICH, Clerk  
By TARA VILLEREAL  
DEPUTY

THE STATE OF IDAHO, )  
 )  
Plaintiff, )  
vs. )  
 )  
JOHN JACOB BERNAL, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Case No. Case No. CR-FE-2016-0004439

VERDICT

As to the offense of Reckless Driving, we, the jury, find the defendant, JOHN JACOB BERNAL:

GUILTY  X  NOT GUILTY \_\_\_\_\_

8/2/16  
DATE

Tiffany Curtes  
FOREPERSON

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

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 10:50 P.M. \_\_\_\_\_

**AUG 03 2016**

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 JOHN JACOB BERNAL, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

CHRISTOPHER D. RICH, Clerk  
By TARA VILLEREA  
DEPUTY

Case No. Case No. CR-FE-2016-0004439

VERDICT

As to the offense of Leaving the Scene of an Accident Involving Vehicle Damage, we, the jury, find  
the defendant, JOHN JACOB BERNAL:

GUILTY X NOT GUILTY \_\_\_\_\_

8/2/16  
DATE

Tiffany Curtis  
FOREPERSON

<b>Description</b>	Judge Bail 100316 Tara Villereal Vanessa Gosney/Christie Olesek		
<b>Date</b>	10/3/2016	<b>Location</b>	1A-CRT508
<b>Time</b>	<b>Speaker</b>	<b>Note</b>	
<a href="#">03:25:19 PM</a>		CRFE16-4439 St v John Bernal Sentencing	
<a href="#">03:25:32 PM</a>		Defendant present in custody	
<a href="#">03:25:34 PM</a>	State Attorney	Robert Bleazard	
<a href="#">03:25:35 PM</a>	Public Defender	Brian Marx	
<a href="#">03:26:08 PM</a>	Public Defender	comments re: victim impact statement	
<a href="#">03:26:42 PM</a>	Judge	strikes and disregards any statement re: the Defendant's right to trial	
<a href="#">03:27:03 PM</a>	victim	makes a statement	
<a href="#">03:28:28 PM</a>	Public Defender	Objection	
<a href="#">03:28:29 PM</a>	Judge	Objection is overruled	
<a href="#">03:30:58 PM</a>	State Attorney	Recommends on Count I - 3 + 7, NCO	
<a href="#">03:37:31 PM</a>	Public Defender	Recommends Rider	
<a href="#">03:41:16 PM</a>	Defendant	Makes a statement	
<a href="#">03:42:56 PM</a>	Judge	Imposes Sentence: Count I - 3 + 7, enhanced by Count II	
<a href="#">03:43:12 PM</a>		Count III - 120 days ACJ w/cts, concurrent w/ Count I	
<a href="#">03:43:15 PM</a>		Count IV - 120 days ACJ w/cts, concurrent w/ Count I & Count III	
<a href="#">03:46:53 PM</a>		The Court recommends sub abuse treatment and anger management while incarcerated	
<a href="#">03:47:22 PM</a>		Advises the defendant he/she has 42 days to appeal	

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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.

JOHN JACOB BERNAL,

Defendant.

SSN: [REDACTED]  
DOB [REDACTED]

Case No. CR-FE-2016-0004439

JUDGMENT OF CONVICTION

The Defendant, JOHN JACOB BERNAL, personally appeared with his attorney, Brian Marx, for sentencing in this matter on the 3<sup>rd</sup> day of October, 2016, before the Honorable Deborah A. Bail, District Judge. Robert Bleazard, Deputy Prosecuting Attorney for Ada County, appeared for the State of Idaho.

The Defendant was previously arraigned and advised of his rights and all charges against him. The Defendant has been convicted upon a finding of guilty by a jury to the offenses of COUNT I: AGGRAVATED ASSAULT, FELONY, I.C. §§18-901(a) and 18-905(a); COUNT II: USE OF A DEADLY WEAPON DURING THE COMMISSION OF A CRIME, FELONY, I.C. §19-2520; COUNT III: RECKLESS DRIVING, MISDEMEANOR, I.C. §49-1401; and COUNT IV: LEAVING THE SCENE OF AN ACCIDENT INVOLVING VEHICLE DAMAGE, MISDEMEANOR, I.C. §49-1301, of the Information.



**JUDGMENT IS ENTERED**

**Judgment of Conviction.** The Defendant is sentenced pursuant to I.C. §19-2513 to the custody of the state board of correction to be confined for a period of time as follows:

**COUNT I:** For a minimum fixed and determinate period of confinement of three (3) years; with the fixed minimum period followed by an indeterminate period of custody of up to seven (7) years, for a total term not to exceed ten (10) years, enhanced by Count II.

**COUNT III: (Misdemeanor):** You shall serve one hundred twenty (120) days in the Ada County Jail, to run concurrent with Count I.

**COUNT IV: (Misdemeanor):** You shall serve one hundred twenty (120) days in the Ada County Jail, to run concurrent with Counts I and III.

Pursuant to Idaho Code §18-309, the Defendant shall be given credit for the time already served in this case in the amount of one hundred sixty-seven (167) days.

**The Court specifically recommends that the Defendant participate in substance abuse treatment and anger management treatment while incarcerated.**

IT IS FURTHER ORDERED that the Defendant is committed to the custody of the Sheriff of Ada County, Idaho, for delivery forthwith to the custody of the Idaho Department of Correction at the Idaho State Penitentiary or other facility within the state designated by the State Board of Correction.

**RIGHT TO APPEAL/LEAVE TO APPEAL IN FORMA PAUPERIS**

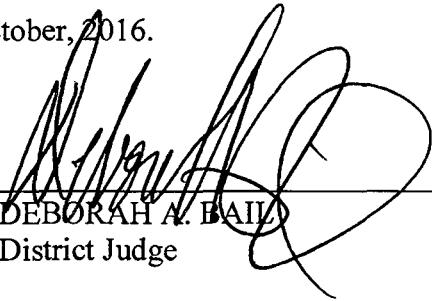
The Court advised you of the right to appeal this judgment within forty-two (42) days of the date it is file stamped by the Clerk of the Court. If you are unable to pay the costs of the appeal, including the costs of an attorney, you may apply for leave to appeal *in forma pauperis*,



which means that an attorney will be appointed for you at public expense to handle your appeal, and you will not have to pay a filing fee or any court costs, including the costs of a transcript.

The Clerk will deliver a certified copy of this Judgment of Conviction to the Sheriff, which shall serve as the commitment of the Defendant.

Done in open Court this 3<sup>rd</sup> day of October, 2016.

  
DEBORAH A. BAIL  
District Judge



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 7<sup>th</sup> day of October, 2016, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR  
VIA — EMAIL

ADA COUNTY PUBLIC DEFENDER  
VIA — EMAIL

ADA COUNTY JAIL  
VIA — EMAIL

DEPARTMENT OF CORRECTION  
CENTRAL RECORDS  
VIA — EMAIL

PROBATION & PAROLE / PSI DEPARTMENT  
VIA — EMAIL

CHRISTOPHER D. RICH  
Clerk of the District Court



By:   
Deputy Court Clerk

Signed: 10/7/2016 11:52 AM





OCT 12 2016

CHRISTOPHER D. RICH, Clerk  
By SARA MARKLE  
Clerk

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant-Appellant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JOHN JACOB BERNAL,

Defendant-Appellant.

Case No. CR-FE-2016-4439

NOTICE OF APPEAL

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

**NOTICE IS HEREBY GIVEN THAT:**

- 1) The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the final decision and order entered against him in the above-entitled action on October 3, 2016, the Honorable Deborah A. Bal, District Judge presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-10).
- 3) A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal are:
  - a) Did the District Court abuse its discretion by imposing an excessive sentence?
  - b) Did the Court err in allowing the victims impact statement?
  - c) Was there sufficient evidence for the verdict?
- 4) There is a portion of the record that is sealed. That portion of the record that is sealed is the pre-sentence investigation report (PSI).

NOTICE OF APPEAL

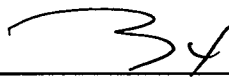
CR - FE - 2016 - 4439  
NOTA  
Notice of Appeal  
154740



000112

- 5) Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
- a) Arraignment hearing held May 16, 2016 (Court Reporter: Nicole Julson. Estimated pages: 100).
  - b) Entry of Plea hearing held May 23, 2016 (Court Reporter: Nicole Julson. Estimated pages: 100).
  - c) District Court hearing held August 3, 2016 (Court Reporter: Penny Tardiff. Estimated pages: 100).
  - d) Sentencing hearing held October 3, 2016 (Court Reporter: Christy Olesek. Estimated pages: 100).
- 6) Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
- 7) I certify:
- a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) mentioned in paragraph 5 above.
  - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
  - c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, IAR 23(a)(8)).
  - d) Ada County will be responsible for paying for the reporter's transcript, as the client is indigent (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
  - e) That service has been made upon all parties required to be served pursuant to IAR 20.

DATED this 12<sup>th</sup> day of October 2016.

  
\_\_\_\_\_  
Brian C. Marx  
Attorney for Defendant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 12 day of October 2016, I mailed (served) a true and correct copy of the within instrument to:

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

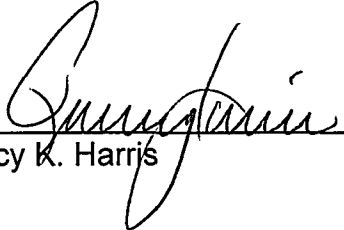
Idaho Appellate Public Defender  
PO Box 2816  
Boise, ID 83701-2860

Nicole Julson  
Court Reporter  
Interdepartmental Mail

Penny Tardiff  
Court Reporter  
Interdepartmental Mail

Christy Olesek  
Court Reporter  
Interdepartmental Mail

Robert M. Bleazard  
Ada County Prosecutor's Office  
Interdepartmental Mail

  
\_\_\_\_\_  
Quincy K. Harris

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

ADA COUNTY PUBLIC DEFENDER  
Attorney for Defendant  
BRIAN C. MARX, ISB #7694  
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.

JOHN JACOB BERNAL,

Defendant.

Case No. CR-FE-2016-4439

ORDER APPOINTING STATE  
APPELLATE PUBLIC DEFENDER ON  
DIRECT APPEAL

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

ORDERED: October 14, 2016

*Deborah A. Bail*

DEBORAH A. BAIL  
District Judge

CERTIFICATE OF SERVICE

Signed: 10/14/2016 02:39 PM

I HEREBY CERTIFY that on \_\_\_\_\_, I served a true and correct electronic copy to:

Ada County Prosecutor	acpocourtdocs@adaweb.net
Ada County Public Defender	public.defender@adacounty.id.gov
State Appellate Public Defender	



*Jan Vilho*

Deputy Clerk

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7419**

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

**STATE OF IDAHO,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **JOHN BERNAL,** )  
 )  
 **Defendant.** )  
 \_\_\_\_\_ )

**Criminal No. CR-FE-2016-4439**  
**MOTION FOR RECONSIDERATION**  
**OF SENTENCE**

**COMES NOW**, the above-named Defendant, JOHN BERNAL, by and through his Attorney of Record, the Ada County Public Defender’s Office, BRIAN MARX, handling attorney, and hereby moves this Honorable Court, pursuant to Idaho Criminal Rule 35, for a reduction of its sentence imposed October 3, 2016.

**DATED**, this 19th day of October 2016.

  
\_\_\_\_\_  
**BRIAN MARX**  
**Attorney for Defendant**

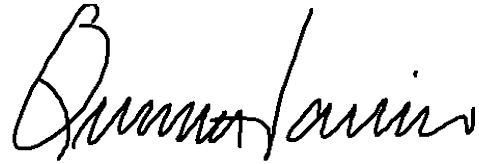
**CERTIFICATE OF MAILING**

I **HEREBY CERTIFY**, that on this 19th day of October 2016, I mailed a true and correct copy of the foregoing to:

Robert Bleazard, Ada County Prosecutor's Office

by:

File/Serve



---

Quincy Harris

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

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

<b>STATE OF IDAHO,</b>	)	
	)	<b>Case No. CR-FE-2016-4439</b>
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>BRIEF IN SUPPORT OF</b>
	)	<b>DEFENDANT'S MOTION FOR</b>
<b>JOHN BERNAL,</b>	)	<b>RECONSIDERATION OF SENTENCE</b>
	)	
<b>Defendant.</b>	)	
_____	)	

**I. PROCEDURAL HISTORY**

On October 3, 2016 this Court imposed a sentence of three years fixed followed by seven years indeterminate for a total term not to exceed ten years.

**II. ARGUMENT**

**A) Criteria For Motion For Reconsideration Of Sentence.**

A motion for reconsideration of sentence pursuant to Idaho Criminal Rule 35 is essentially a plea for leniency, which may be granted if the sentence imposed upon the defendant was, for any reason, unduly severe. State v. Lopez, 106 Idaho 447 (Ct.App. 1984). Such a motion is directed at the sound discretion of the sentencing court. State v. Roach, 112 Idaho 173

(Ct.App. 1986). Traditionally, motions pursuant to ICR 35 are used to present new evidence that was not available at the time of sentencing.

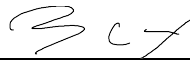
**B) Sentence Reduction In The Interest Of Justice.**

The objective of sentencing against which the reasonableness of a sentence is measured is the protection of society, deterrence of crime, rehabilitation of the offender, and retribution. Achieving these objectives may still be accomplished by reducing the sentence in this case.

**III. CONCLUSION**

Based on the information contained herein, Mr. Bernal respectfully requests this Court to reconsider the sentence imposed. Mr. Bernal requests a hearing on this matter if this Court feels further argument would aid in its decision.

**DATED**, this 19th day of October 2016.



---

**Brian Marx**  
**Attorney for Defendant**



**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on this 19th day of October 2016, I mailed a true and correct copy of the foregoing to:

Robert Bleazard, Ada County Prosecutor's Office

by:

  x   File/Serve



---

Quincy Harris

**JAN M. BENNETTS**  
Ada County Prosecuting Attorney

**Robert M. Bleazard**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2016-0004439</b>
vs.	)	
	)	
JOHN JACOB BERNAL,	)	<b>STATE'S OBJECTION TO</b>
	)	<b>DEFENDANT'S MOTION</b>
Defendant.	)	<b>FOR RECONSIDERATION</b>
	)	<b>OF SENTENCE</b>
_____	)	

**THE STATE OF IDAHO**, by and through Robert M. Bleazard, Ada County Deputy Prosecuting Attorney, comes now and hereby objects to the Defendant's Motion for Reconsideration of Sentence under Idaho Criminal Rule 35.

The objectives of sentencing, against which the reasonableness of a sentence is to be measured, are the protection of society, deterrence of the individual and the public in general, the possibility of rehabilitation and punishment or retribution. *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct.App.1982). In examining the reasonableness of a sentence, the court should focus on the nature of the crime and the character of the Defendant. *See State v. Young*, 119 Idaho 510, 808 P.2d 429 (Ct.App.1991). The trial court abuses its discretion in sentencing only if the sentence is excessive under a reasonable view of the facts. *State v. Charboneau*, 124 Idaho 497, 499, 861 P.2d 67, 69 (1993); *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992).


A motion pursuant to I.C.R. 35 is essentially a request for leniency, which may be granted in the discretion of the sentencing court. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct.App.1987). If the sentence is not excessive in light of the objectives of sentencing, the defendant must show that it is excessive because of new or additional information. *State v. Springer*, 122 Idaho 544, 545, 835 P.2d 1355, 1356 (Ct.App.1992); *See also, State v. Caldwell*, 119 Idaho 281, 284, 805 P.2d 487, 490 (Ct.App.1991). The Court has no obligation to change or modify a legal sentence. *Id.*

In this matter, the Defendant has not cited any legally sufficient reason for the court to conclude his sentence is now excessive or should be reduced. The Brief in Support of Defendant's Motion for Reconsideration of Sentence provides no new information that would provide the Court with a basis upon which it could reduce the sentence. Furthermore, Defendant cites no reason that supports the request for leniency in this case. The sentence ordered by this Court satisfies the factors under *Toohill*, i.e. protection for society, deterrence, rehabilitation, and retribution. Thus, the Court has no obligation to change or modify the Defendant's sentence and the State respectfully urges the Court to deny the Defendant's motion.

**DATED** this 26th day of October, 2016.

**JAN M. BENNETTS**

Ada County Prosecuting Attorney



---

By: Robert M. Bleazard  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26th day of October, 2016, I caused to be served, a true and correct copy of the foregoing Objection to Defendant's Motion for Reconsideration of Sentence upon the individual(s) named below in the manner noted:

**Brian Marx, Ada County Public Defender's Office, 200 W. Front Street, Rm. 1107, Boise, ID 83702**

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By 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 emailing copies of the same to said attorney(s) at the email address:  
**bmarx@adaweb.net***
- By iCourt eFile and Serve*



---

Legal Assistant

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 3:45

NOV 21 2016

CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

ERIC D. FREDERICKSEN  
Interim State Appellate Public Defender  
I.S.B. #6555

SALLY J. COOLEY  
Deputy State Appellate Public Defender  
I.S.B. #7353  
P.O. Box 2816  
Boise, ID 83701  
(208) 334-2712

ORIGINAL

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

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	CASE NO. CR-FE-2016-4439
	)	
v.	)	S.C. DOCKET NO. 44556
	)	
JOHN JACOB BERNAL,	)	AMENDED
	)	NOTICE OF APPEAL
Defendant-Appellant.	)	
_____	)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO AND THE PARTY'S ATTORNEYS, JAN M. BENNETTS, ADA COUNTY PROSECUTOR 200 WEST FRONT STREET, BOISE, ID 83702, STATEHOUSE MAIL, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above named respondent to the Idaho Supreme Court from the ~~final decision~~ Judgment of Conviction entered in the above entitled action on the 3<sup>rd</sup> 7<sup>th</sup> day of October, 2016, the Honorable Deborah A. Bail, presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rules (I.A.R.) 11(c)(1-40 9).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal is:

(a) Did the District Court abuse its discretion by imposing an excessive sentence?

(b) Did the Court err in allowing the victims impact statement?

(c) Was there sufficient evidence for the verdict?

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

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:

(a) ~~Arraignment hearing held May 16, 2016 (Court Reporter: Nicole Julson. Estimated pages: 100);~~

(b) ~~Entry of Plea hearing held May 23, 2016 (Court Reporter: Nicole Julson. Estimated pages: 100);~~

(c) ~~District Court hearing held August 3, 2016 (Court Reporter: Penny Tardiff, Estimated pages: 100);~~

(d) Jury Trial held on August 2-3, 2016, to include the voir dire, opening statements, closing arguments, jury instruction conferences, any hearings regarding questions from the jury during deliberations, return of the verdict, and any polling of the jurors (Court Reporter(s): Nicole Julson and Penny Tardiff, estimation of 600 pages are listed on the Register of Actions); and

(e) Sentencing Hearing held on October 3, 2016, (Court Reporter: Christy Olesek. ~~Estimate pages: 100.~~ No estimation of pages is listed on the Register of Actions).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2), and all exhibits, recordings, and documents for I.A.R. 31. The Appellant requests the following documents to be included in the Clerk's Record, in addition to those automatically included under I.A.R. 28(b)(2) and I.A.R. 31:

(a) Defendant's List of Potential Witnesses filed July 28, 2016;

(b) Jury Instruction and Verdict Form filed August 3, 2016;

(c) Motion for Reconsideration of Sentence Rule 35 filed October 19, 2016;

(d) Brief in Support of Rule 35 Motion filed October 19, 2016;

(e) State's Objection to Defendant's Motion for Reconsideration of Sentence filed October 26, 2016; and

(f) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing.

7. I certify:

(a) That a copy of this Notice of Appeal has been served on the court reporter(s) mentioned in paragraph 5 above, Nicole Julson, Penny Tardiff and Christy Olesek;

(b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e) 27(f));

(c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§31-3220, 31-3220A, I.A.R. 23(a)(8));

(d) That arrangements have been made with Ada county who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e h); and

(e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 21<sup>st</sup> day of November, 2016.

  
\_\_\_\_\_  
SALLY J. COOLEY  
Deputy State Appellate Public Defender



CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 21<sup>st</sup> day of November, 2016, caused a true and correct of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

BRIAN C MARX  
ADA COUNTY PUBLIC DEFENDER  
200 W FRONT STREET  
BOISE ID 83702  
STATEHOUSE MAIL


NICOLE JULSON  
COURT REPORTER  
200 W FRONT STREET  
BOISE ID 83702  
STATEHOUSE MAIL

CHRISTY OLESEK  
COURT REPORTER  
200 W FRONT STREET  
BOISE ID 83702  
STATEHOUSE MAIL

PENNY TARDIFF  
COURT REPORTER  
200 W FRONT STREET  
BOISE ID 83702  
STATEHOUSE MAIL

JAN M BENNETTS  
ADA COUNTY PROSECUTOR  
200 WEST FRONT STREET  
BOISE ID 83702  
STATEHOUSE MAIL

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL – CRIMINAL DIVISION  
Hand deliver to Attorney General's mailbox at Supreme Court

  
MARY ANN LARA  
Administrative Assistant

SJC/mal

NO. \_\_\_\_\_  
A.M. 8:37 FILED \_\_\_\_\_  
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TO: CLERK OF THE COURT  
IDAHO SUPREME COURT  
451 WEST STATE STREET  
BOISE, IDAHO 83702

**MAR 14 2017**  
CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

STATE OF IDAHO, )  
 ) Supreme Court No. 44556  
 )  
Plaintiff, )  
 )  
 )  
v. )  
JOHN JACOB BERNAL, ) Case No. CRFE-2016-4439  
 )  
Defendant. )  
\_\_\_\_\_ )

**NOTICE OF TRANSCRIPT LODGED**

Notice is hereby given that on **March 8, 2017**, I  
filed a transcript of 68 pages in length for the  
above-referenced appeal with the District Court  
Clerk of the County of Ada in the Fourth Judicial  
District.

\_\_\_\_\_  
Nicole L. Julson

\_\_\_\_\_  
Date

**HEARINGS:** 8/2/16, Voir Dire.  
**FINAL PDF SENT 3/8/17.**

NO. FILED  
A.M. 8:37 P.M.

MAR 14 2017  
CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

1 TO: CLERK OF THE COURT, IDAHO SUPREME COURT  
2 451 WEST STATE STREET, BOISE, IDAHO  
3 FAX (208) 334-2616

3 STATE OF IDAHO, ) Docket No. 44556-2016  
4 )  
5 Plaintiff-Respondent, ) Case No. CRFE-2016-0004439  
6 vs. ) NOTICE OF LODGING  
7 )  
8 JOHN JACOB BERNAL, )  
9 )  
10 Defendant-Appellant. )  
11 \_\_\_\_\_ )

12 NOTICE OF TRANSCRIPT(S) LODGED

13 Notice is hereby given that on February 10, 2017,  
14 I lodged one (1) transcript, totaling 111 pages, for  
15 the following dates/proceedings:

16 **08-02-16 Jury Trial, Day 1**

17 for the above-referenced appeal with the District Court  
18 Clerk for Ada County, in the Fourth Judicial District.

19  
20 *Susan M. Wolf*  
21 Susan M. Wolf,  
22 RPR, CSR No. 728  
23  
24  
25

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 8:37 P.M.

MAR 14 2017  
CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO

---

STATE OF IDAHO,	)	
	)	Supreme Court Docket
Plaintiff-Respondent,	)	44556
	)	
vs.	)	
	)	
JOHN JACOB BERNAL,	)	
	)	
Defendant-Appellant.	)	

---

NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on November 9, 2016, I lodged a transcript 14 pages in length for the above-referenced appeal with the District Court Clerk of Ada County in the Fourth Judicial District.

*Penny L. Tardiff*  
\_\_\_\_\_  
(Signature of Reporter)

\_\_\_\_\_  
Penny L. Tardiff CSR

\_\_\_\_\_  
11-9-2016

Hearing Date: August 3, 2016

NO. \_\_\_\_\_  
A.M. 8:37 FILED P.M. \_\_\_\_\_

**MAR 14 2017**

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

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To: Clerk of the Court  
Idaho Supreme Court  
451 West State Street  
(208) 334-2616

IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 44556

-----  
STATE OF IDAHO, )  
Plaintiff, )  
vs. )  
JOHN JACOB BERNAL, )  
Defendant. )  
-----

NOTICE OF TRANSCRIPT OF 20 PAGES LODGED

Appealed from the District Court of the Fourth Judicial  
District of the State of Idaho, in and for the County of  
Ada.  
Honorable Deborah A. Bail, District Court Judge

Volume One contains:  
10-3-16: Imposition of Sentence

Date: November 18, 2016

Christine A. Olesek, RPR  
Christine Anne Olesek, RPR  
Official Court Reporter,  
Judge Samuel A. Hoagland  
Idaho Certified Shorthand Reporter No. SRL-1044  
Registered Professional Reporter

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

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
JOHN JACOB BERNAL,  
  
Defendant-Appellant.

Supreme Court Case No. 44556  
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.

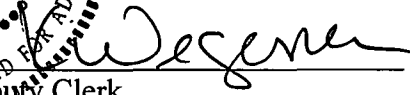
I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

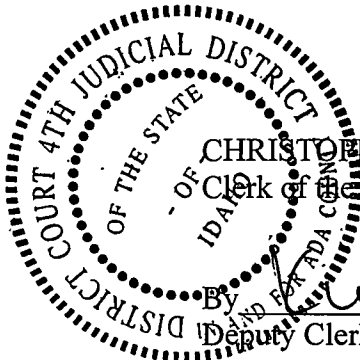
1. Presentence Investigation Report.

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

1. Transcript of Preliminary Hearing held May 9, 2016, Boise, Idaho, filed June 28, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 14th day of March, 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**

**HONORABLE DEBORAH A. BAIL**

**August 2, 2016**

Court Clerk: Tara Villereal  
Court Reporter: Nicole Julson

**THE STATE OF IDAHO,**

Plaintiff,

vs.

**JOHN JACOB BERNAL,**

Defendant.

**Case No. CRFE16-4439**

**EXHIBIT LIST  
JURY TRIAL**

Counsel for Plaintiff: Robert Bleazard

Counsel for Defendant: Brian Marx

**PLAINTIFF'S EXHIBITS**

**Status**

**Date**

		<b><u>Status</u></b>	<b><u>Date</u></b>
1.	Google Map	Admitted	08/02/16
2.	Picture of Car	Admitted	08/02/16

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

STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
JOHN JACOB BERNAL,  
  
Defendant-Appellant.

Supreme Court Case No. 44556

CERTIFICATE OF SERVICE

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

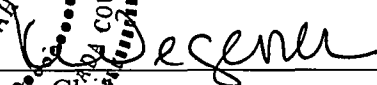
CLERK'S RECORD AND REPORTER'S TRANSCRIPT

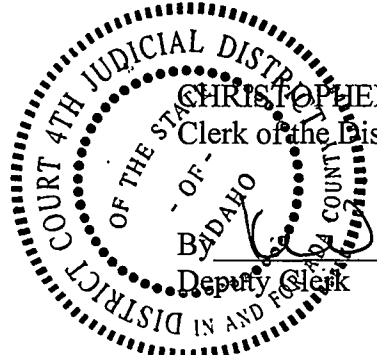
to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER  
ATTORNEY FOR APPELLANT  
BOISE, IDAHO

LAWRENCE G. WASDEN  
ATTORNEY FOR RESPONDENT  
BOISE, IDAHO

Date of Service: MAR 14 2017

CHRISTOPHER D. RICH  
Clerk 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

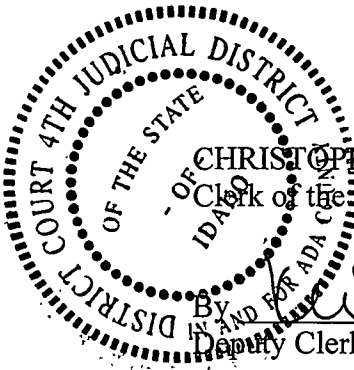
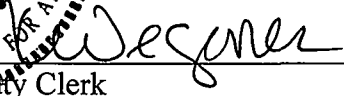
STATE OF IDAHO,  
  
Plaintiff-Respondent,  
vs.  
  
JOHN JACOB BERNAL,  
  
Defendant-Appellant.

Supreme Court Case No. 44556

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 12th day of October, 2016.

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