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State v. Herrera Clerk's Record v. 3 Dckt. 44596

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Vol. 3 of 7

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO
Plaintiff / Respondent

VS

SUPREME COURT CASE # 44596

JOSEPH DUANE HERRERA
Defendant / Appellant

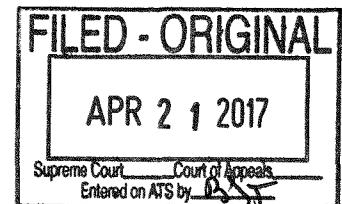
CLERK'S RECORD OF APPEAL

Appeal from the District Court of the First Judicial District of the State of Idaho, in
and for the County of Benewah

Volume III

Eric D. Fredericksen
Appellant Public Defender
322 E. Front Street, Suite 570
Boise, ID 83702

Kenneth K Jorgensen
Deputy Attorney General
Attorney for the Respondent
PO BOX 83720
Boise, ID 83720



44596

ORIGINAL

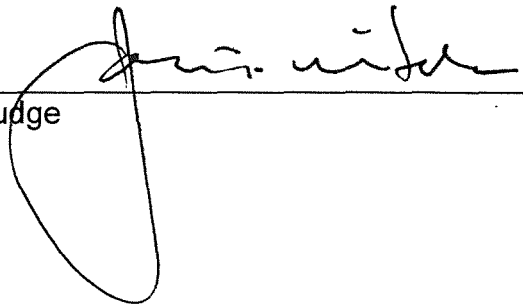
INSTRUCTION NO. 25

The distinction between murder and manslaughter is that murder requires malice aforethought, while manslaughter does not.

There is no malice aforethought if the defendant acted with adequate provocation while in the heat of passion or a sudden quarrel, even if the defendant intended to kill the deceased. The provocation would have been adequate if it would have caused a reasonable person, in the same circumstances, to lose self-control and act on impulse and without reflection.

Heat of passion may be provoked by fear, rage, anger, terror, revenge or other emotion. Adequate provocation does not exist, however, when a person acts from choice and malice aforethought even though experiencing any number of emotions.

The defendant would not be acting in heat of passion or sudden quarrel if sufficient time elapsed after the provocation for a reasonable person in the same circumstances to have regained self-control and for reason to have returned.



Judge

INSTRUCTION NO. 26

Malice may be express or implied.

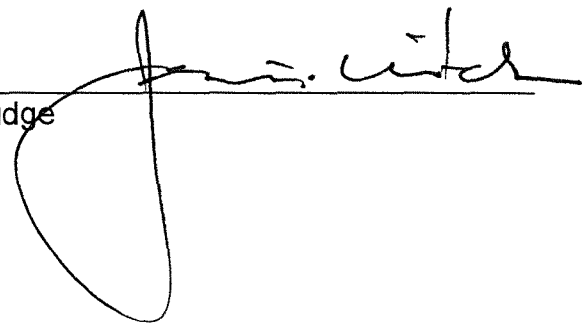
Malice is express when there is manifested a deliberate intention unlawfully to kill a human being.

Malice is implied when:

1. The killing resulted from an intentional act,
2. The natural consequences of the act are dangerous to human life, and
3. The act was deliberately performed with knowledge of the danger to, and with conscious disregard for, human life.

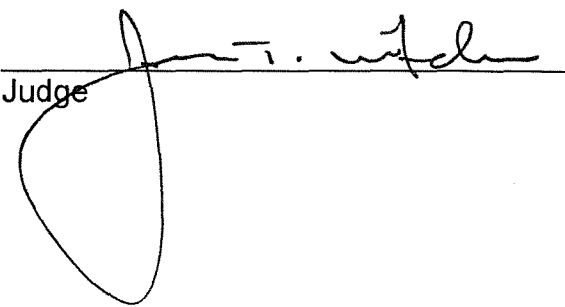
When it is shown that a killing resulted from the intentional doing of an act with express or implied malice, no other mental state need be shown to establish the mental state of malice aforethought. The mental state constituting malice aforethought does not necessarily require any ill will or hatred of the person killed.

The word "aforethought" does not imply deliberation or the lapse of time. It only means that the malice must precede rather than follow the act.

Judge 

INSTRUCTION NO. 27

Criminal negligence or gross negligence means such negligence as amounts to a wanton, flagrant or reckless disregard of consequences or willful indifference of the safety or rights of others.

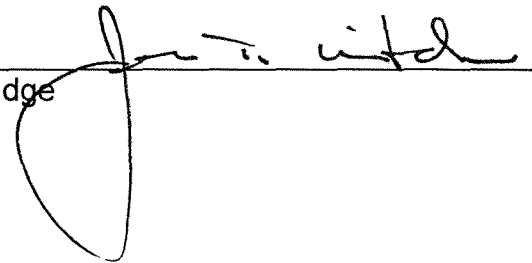
A handwritten signature in black ink, appearing to read "J. W. [unclear]", is written over a horizontal line. Below the line, the word "Judge" is printed in a small, black, sans-serif font. A large, loopy flourish extends downwards from the signature.

Judge

INSTRUCTION NO. 29

Our law provides that "no act committed by a person while in a state of voluntary intoxication is less criminal by reason of the person having been in such condition."

This means that voluntary intoxication, if the evidence shows that the defendant was in such a condition when the defendant allegedly committed the crime charged, is not a defense in this case.

A handwritten signature in black ink, appearing to read "J. R. White", is written over a horizontal line. The signature is cursive and somewhat stylized.

Judge

INSTRUCTION NO. 30

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

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

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

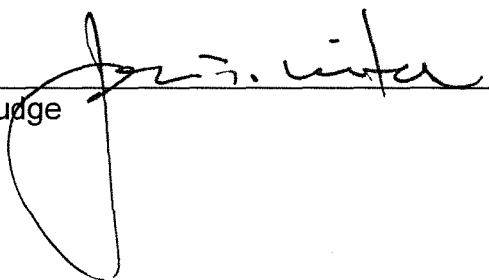
As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual

judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

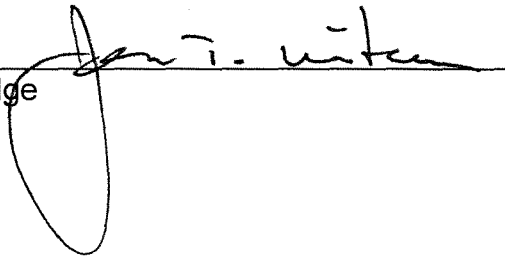

Judge

INSTRUCTION NO. 31

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.

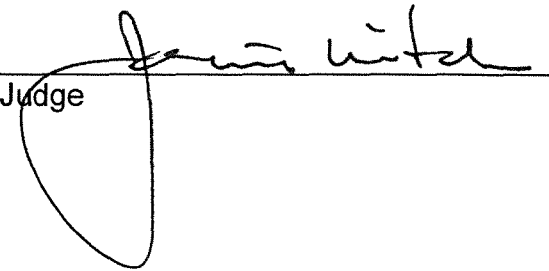
You will each receive a copy of the instructions. The copies will be presented to you in booklet form.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.


Judge

INSTRUCTION NO. 32

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.


Judge

INSTRUCTION NO. 33


Upon retiring to the jury room, select one of you as a presiding officer, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

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

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.



Judge

INSTRUCTION NO. 34

In this case you will return a verdict consisting of a series of questions. Although the explanations on the verdict form are self-explanatory, they are part of my instructions to you. I will now read the verdict form to you. It states:

"We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

QUESTION NO. 1: Is Joseph Duane Herrera not guilty or guilty of Murder in the Second Degree?

Not Guilty _____ **Guilty** _____

If you unanimously answered Question No. 1 "**Guilty**", then you should simply sign the verdict form and advise the bailiff. If you unanimously answered Question No. 1 "**Not Guilty**", then proceed to answer Question No. 2.

QUESTION NO. 2: Is Joseph Duane Herrera not guilty or guilty of Voluntary Manslaughter?

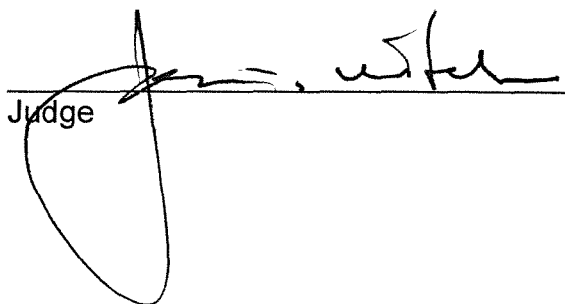
Not Guilty _____ **Guilty** _____

If you unanimously answered Question No. 2 "**Guilty**", then you should simply sign the verdict form and advise the bailiff. If you unanimously answered Question No. 2 "**Not Guilty**", then proceed to answer Question No. 3.

QUESTION NO. 3: Is Joseph Duane Herrera not guilty or guilty of Involuntary Manslaughter?

Not Guilty _____ **Guilty** _____

The verdict form then has a place for it to be dated and signed. You should sign the verdict form as explained in another instruction."

Judge 

STATE OF IDAHO
COUNTY OF ~~BENEWAH~~ ^{BENEWAH}
FILED

2016 JUL 21 PM 4:35

CLERK DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,)	
)	
)	
<i>Plaintiff,</i>	)	Case No. CR-2011-2053
)	
vs.	)	VERDICT
)	
JOSEPH DUANE HERRERA,)	
)	
<i>Defendant.</i>)	
_____)	

We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

QUESTION NO. 1: Is Joseph Duane Herrera not guilty or guilty of Murder in the Second Degree?

Not Guilty _____ Guilty ✓

If you unanimously answered Question No. 1 "**Guilty**", then you should simply sign the verdict form and advise the bailiff. If you unanimously answered Question No. 1 "**Not Guilty**", then proceed to answer Question No. 2.

QUESTION NO. 2: Is Joseph Duane Herrera not guilty or guilty of Voluntary Manslaughter?

Not Guilty _____ Guilty _____

If you unanimously answered Question No. 2 "**Guilty**", then you should simply sign the verdict form and advise the bailiff. If you unanimously answered Question No. 2 "**Not Guilty**", then proceed to answer Question No. 3.

QUESTION NO. 3: Is Joseph Duane Herrera not guilty or guilty of Involuntary Manslaughter?

Not Guilty _____ Guilty _____

The verdict form then has a place for it to be dated and signed. You should sign the verdict form as explained in another instruction.

DATED this 21 day of July, 2016.



Presiding Officer

FILED
BENEWAH COUNTY

Assigned to: _____
Assigned: 2016 JUL 22 AM 9:00

First Judicial District Court, State of Idaho
In and For the County of Benewah
ORDER FOR PRESENTENCE REPORT AND EVALUATIONS

Case No: CR-2011-0002053

STATE OF IDAHO
Plaintiff,
vs.

CHARGE(s):
118-4001-II Murder II

Joseph Duane Herrera
319 14th Street
St. Maries, ID 83861
Defendant.

PSIO1- Order for Presentence Investigation Report (only)

On this Thursday, 7/21/16, a Pre-sentence Investigation Report was ordered by the Honorable Scott Wayman to be completed for Court appearance on:
John T. Mitchell
Tuesday, September 16, 2016 @ 9am

- Behavioral Health Assessments waived by the Court (PSIO1 ROA code)
- Waiver under IC 19-2524 2 (e) allowing assessment and treatment services by the same person or facility

Other non- §19-2524 evaluations/examinations ordered for use with the PSI:

Sex Offender Domestic Violence Other _____ Evaluator:

PLEA AGREEMENT: State recommendation

WHJ/JOC Probation PD Reimb Fine ACJ Restitution Other:

DEFENSE COUNSEL: Clayton Anderson
PROSECUTOR: Benewah County Prosecutor Barthelme/David Robb

THE DEFENDANT IS IN CUSTODY: YES NO If yes where: Ben Co Jail
DO YOU NEED AN INTERPRETER? NO YES if yes, what is the language? _____

Date: July 21, 2016 Signature: Scott Wayman
Scott Wayman, District Judge

WHEREUPON, the jury was polled.

WHEREUPON, the Court having accepted said verdict did then enter its Order as follows:

IT IS HEREBY ORDERED THAT:

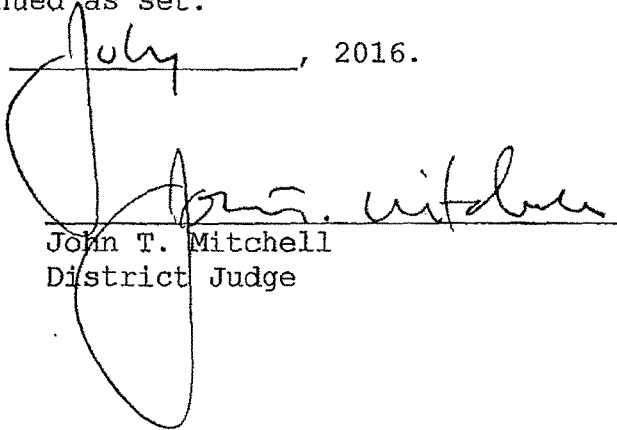
1. The Clerk of the above-entitled Court enter of record the above-stated verdict of the jury;

2. A presentence investigation be conducted by the Idaho Board of Corrections and a copy of said report presented to the Court and Counsel herein seven (7) working days before the date for sentencing;

3. The above-entitled matter be, and hereby is, continued until 9:00 a.m. o'clock on the 6th day of September, 2016; at which time the above-named defendant shall appear before one of the Judges of the above-entitled Court at the Courtroom of the Benewah County Courthouse, St. Maries, Idaho, for consideration of said presentence report and sentencing herein; and

4. Bond shall be continued as set.

DATED the 26th day of July, 2016.


John T. Mitchell
District Judge

FILED
BENEWAH COUNTY

2016 AUG -3 PM 2:52

BY:  DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948

Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.


Case No. CR11-2053

MOTION TO EXTEND TIME TO FILE
POST TRIAL MOTIONS

COMES NOW, Clayton Andersen, Benewah County Public Defender, and moves for the court to allow an additional 14 days to file post-trial motions in this matter as his wife has been hospitalized or had a health condition such he has had to provide home health care.

I HEREBY CERTIFY that on the 3 day of August 2016, a true and correct copy of the foregoing document was served upon the Benewah County Prosecutor.


DATED this 3 day of August, 2016.



Clayton Andersen
Benewah County Public Defender

FILED
BENEWAH COUNTY

2016 AUG 31 AM 10:48

BY:  DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S 7th ST Suite G-07
St Maries, ID 83861
Telephone: (208) 215-2085 or (208)245-2521
Facsimile: (208) 215-2087 or (208)245-3948

Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.

CASE NO. CR11-2053

MOTION TO CONTINUE SENTENCING

The Defendant, Joseph Herrera, by and through his attorney, Clayton Andersen and
moves the Court as follows:

RELIEF SOUGHT

For An Order continuing Sentencing.

GROUND OF MOTION

1. Supplemental PSI will not be prepared adequately prior to Sentencing for
adequate review by defendant and counsel.

2. The Defendants Attorneys spouse has been ill, such that defendants counsel has not been adequately able to obtain mitigating information.

BASIS OF MOTION

The basis of this motion is all the records and files of this action.

ORAL ARGUMENT AND LENGTH OF HEARING

Oral argument is waived.

DATED this 20 day of August, 2016.

Attorney for Defendant



Clayton Andersen

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of August, 2016, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Brian Thie

Interoffice Mail



Clayton Andersen

FILED
BENEWAH COUNTY

2016 AUG 31 PM 4:08

BY:  DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948
Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Respondent.

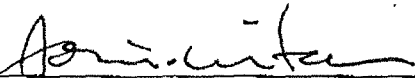
Case No. CR11-2053

ORDER TO CONTINUE SENTENCING

Based upon the Motion to Continue Sentencing wherein the Defendant through his attorney,

IT IS HEREBY ORDERED that the Sentencing set for September 6, 2016 is continued ~~to be~~
until October 26, 2016 at 9:00 a.m.
~~set by the clerk of the court.~~

DATED this 31st day of August, 2016.



Judge Mitchell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of August, 2016, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Benewah County Prosecutor
Clayton Andersen

David Rolan KCPA

Interoffice mail
 Interoffice mail

X

[Signature]

Deputy Clerk

FILED
BENEWAH COUNTY

2016 SEP 15 PM 3:55

BY:  DEPUTY

Clayton Andersen, ISB # 1860
Benewah County Public Defender
222 S. 7th, Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-3948
Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

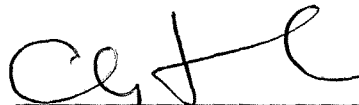
Defendant.

Case No. CR-11-2053

NOTICE OF FILING UNDER SEAL

COMES NOW, Clayton Andersen, Benewah County Public Defender, and files the Reference Letters, from Sharon Spier, Jay Stratton, Terry Davenport, James Herrera, Danielle Outland, Heather Burch, Rhonda Martinell, Carol Donnally, Jo Peterson, and Jeri Herrera for Joseph Herrera. DATED this 15 day of September, 2016.

Attorney for Defendant



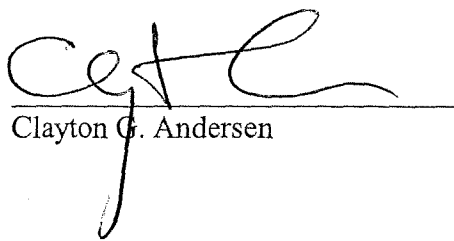
Clayton Andersen

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15 day of September, 2016, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Brian Thie

[X] Interoffice Mail



Clayton G. Andersen

FILED
BENEWAH COUNTY

2016 SEP 19 AM 9:41

BY:  .DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948

Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.

Case No. CR11-2053

**SECOND MOTION FOR APPROVAL OF
ADDITIONAL COMPENSATION FOR
BENEWAH PUBIC DEFENDER**

COMES NOW, Clayton Andersen, Benewah County Public Defender, and moves for the
court as follows:

RELIEF SOUGHT

For an Order granting the Benewah Public Defender additional compensation from the
District Court Fund of Benewah County for attorney and staff fees in the \$20,952.50 with credit for
prior payment of \$8,292.50 received on or about May 1, 2016, leaving a balance to be paid of
\$12,659.50.

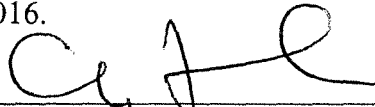
GROUND OF MOTION

1. The itemized billing attached to this Second Motion for this matter;
2. The Benewah County Contract for Public Defender Services previously attached to the
First Motion pursuant to paragraph 6 states that as the Public Defender that I can seek

additional compensation on a case-by- case basis from the presiding Judge.

3. The rate used by the Defendant's attorney is the rate of \$95.00 per hour which is the contract rate for Kootenai County Conflict Public Defenders for felonies and the rate of \$35.00 for staff is a rate for compensation of staff and the approved rate by the Benewah County Commissioners which is now set forth in the contract for Public defender services for additional compensation for the contract starting on October 1, 2016.
4. Idaho Code Sections 31-1501 and Idaho Code Section 19-860.
5. The summary of the hours billed by me for Public Defender clients since December 1, 2015 to September 16, 2016, is attached, which reflects 474.55 hours, along with my two staff members that devote approximately 80% of their court time to the Benewah County cases. In addition, I am required to provide all other expenses for the Public Defender office except for the office and utilities.
6. The Benewah Prosecutor has previously informed the court during the hearing on the first Motion that the issue of additional compensation is to be determined by the court.

DATED this 19 day of September, 2016.




Clayton Andersen
Benewah County Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of September, 2016, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Nancy Wolff interoffice mail
Deanna Bramblett Benewah County Clerk hand delivery
District Judge John T. Mitchell facsimile to 446-1132
Benewah Prosecutor interoffice mail



Clayton Andersen

Clayton Andersen Attorney at Law

222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: 208-245-2521
Fax: 208-245-3948

September 14, 2016

Joseph Herrera

Client Number: 15-612 Joseph Herrera
Matter Number: CR15-1127 Herrera vs. State Of Idaho
For Services Rendered Through 9/14/2016.

Timekeeper Summary

Timekeeper BPD worked 160.60 hours at \$95.00 per hour, totaling \$15,257.00.

Timekeeper CGA worked 2.50 hours at \$95.00 per hour, totaling \$237.50.

Timekeeper CL worked 42.50 hours at \$35.00 per hour, totaling \$1,487.50.

Timekeeper DP worked 30.00 hours at \$95.00 per hour, totaling \$2,850.00.

Timekeeper SG worked 32.00 hours at \$35.00 per hour, totaling \$1,120.00.

Timekeeper BPD worked 0.25 hours at no charge.

Timekeeper CL worked 1.00 hours at no charge.

Payment Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>
5/2/2016	Benewah County check	(\$8,292.50)
Total Payments Received:		(\$8,292.50)

Continued On Next Page

Client Number: 15-612
Matter Number: CR15-1127

9/14/2016
Page: 2

Current Invoice Summary

Prior Balance:	\$0.00	
Payments Received:	(\$8,292.50)	Last Payment: 5/2/2016
Unpaid Prior Balance:	<u>(\$8,292.50)</u>	
Current Fees:	\$20,952.00	
Advanced Costs:	\$0.00	
TOTAL AMOUNT DUE:	<u><u>\$12,659.50</u></u>	

PRE-BILL

Clayton Andersen Attorney at Law

Joseph Herrera
, ID

Date: 9/14/2016
Time: 12:45PM
Page: 1 of 12

Client: 15-612 Joseph Herrera
Matter: CR15-1127 Herrera vs. State Of Idaho
Matter Type: CR-F Criminal Felony
Comments :
File Open Date: 8/31/2015
Billing Mode: Hourly
Billing Frequency : Monthly
Remarks:
Bill Date: 9/14/2016
Start Date: 1/1/1900
Last Bill:
Originating Timekeeper: BPD
Responsible Timekeeper: BPD
Billing Format Code: BEN
Fees/Costs Cut Date: 9/14/2016
Payments Cut Date: 9/14/2016
Type of Bill: Regular

ACCOUNT AGING	Current (\$8,292.50)	30 - 59 Days \$ 0.00	60 - 89 Days \$ 0.00	90 Days and Over \$ 0.00
Fees Billed to Date:	\$0.00	Costs Billed to Date:	\$0.00	

Fees

Ticket Number	Date	Timekeeper	Description	Hours	Amount	
1	9/18/2015	BPD	Court appearance	0.25	\$23.75	BL
2	9/23/2015	BPD	Retrieve files from James Siebc's office	0.25	\$23.75	BL
3	9/29/2015	BPD	Conference with Walsh re expert witness	0.25	\$23.75	BL
90	10/21/2015	BPD	Review letter from client	0.25	\$23.75	BL
91	10/26/2015	BPD	Review letter from client	0.25	\$23.75	BL
92	11/16/2015	BPD	Review letter from client	0.25	\$23.75	BL
4	11/19/2015	BPD	Telephone Call with expert witness	0.50	\$47.50	BL
93	11/30/2015	CGA	Review letter from client	0.25	\$23.75	BL
5	12/1/2015	BPD	Review Supreme Court decision and prepare Moion and Order to Disqualify	0.75	\$71.25	BL
6	12/2/2015	BPD	Telephone Call with clerk re remittur needed before setting case	0.25	\$23.75	BL
7	12/5/2015	CGA	Review email from Pex from International Forensic Experts and reply	0.50	\$47.50	BL
94	12/9/2015	BPD	Review letter from client	0.25	\$23.75	BL
8	1/22/2016	BPD	Prepare Stipulation and Order for Defendant to remain in Benewah Co. Jail, Stipulation for Exclsusion of Evidence and Order, Prepare Stipulation and Order for Mediation, Stipulation and Order to pay International Forensics, conference with prosecutor and client	3.25	\$308.75	BL

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Clayton Andersen Attorney at Law

Client: 15-612 Joseph Herrera
Matter: CR15-1127 Herrera vs. State Of Idaho

9	2/24/2016	BPD	Telephone Call with Judges clerk re Stipulation and Order, perpare Orders for Judge, prepare waivber of seppedy trial, conference with client re waiver, continuance and prepare for case, travel to CDA for status conference hearing, attend hearing, conference with prosecutor, travel back to St. Maries, instructions to staff re Order to prosecutor for review, prepare letter to Forensic International	3.75	\$356.25	BL
10	2/24/2016	BPD	Telephone Call with Judge Stegner's clerk re mediation dates	0.25	\$23.75	BL
11	2/25/2016	BPD	CVonference with prosecutor re mediation and plea negotiations	0.50	\$47.50	BL
12	2/26/2016	BPD	Telephone Call with prosecutor regarding plea negotiation	0.25	\$23.75	BL
13	2/26/2016	BPD	Prepare letter to client re negotiations	1.00	\$95.00	BL
14	2/28/2016	BPD	Conference client	0.75	\$71.25	BL
15	2/29/2016	BPD	Conference with witness	0.50	\$47.50	BL
16	2/29/2016	BPD	Review Trial Transcript	1.00	\$95.00	BL
17	2/29/2016	BPD	Conference with prosecutor	0.50	\$47.50	BL
18	3/3/2016	BPD	Legal Research on case, Prepare Motion to Exclude Character Evidence and Motion to Exclude James Comack, prepare for trial, review Telephone Call message from client re witness, review trial court transcript	3.25	\$308.75	BL
19	3/4/2016	BPD	Prepare letter to Judge Stegner for mediation, review letter from Defendant, instructions to staff to fax and deliver letter to cient and prepare letter to client and legal research	2.75	\$261.25	BL
20	3/5/2016	BPD	Telephone Call with prosecutor, legal research andprepare letter to client	2.50	\$237.50	BL
21	3/5/2016	BPD	Conference client	1.25	\$118.75	BL
22	3/6/2016	BPD	Legal Research and Prepare letter to prosecutor	0.50	\$47.50	BL
23	3/7/2016	BPD	Prepare final draft of letter to prosecutor, Conference client, organize file, legal research, review transcript, create witness files based on witnesses subpoenaed by State, prepare for mediation and prepare letter to client re same, instructions to staff re time for hearings	3.75	\$356.25	BL
24	3/7/2016	BPD	Conference with prosecutor re mediation and sunbmission of plea offer	0.50	\$47.50	BL
25	3/7/2016	CL	Make Copies for expert witness and organize file by making labels and adding new binders	3.00	\$105.00	BL
26	3/8/2016	BPD	Receive Order and instructions for staff to scan and copy order to client	0.25	\$23.75	BL

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Clayton Andersen Attorney at Law

Client: 15-612

Joseph Herrera

Matter: CR15-1127

Herrera vs. State Of Idaho

27	3/8/2016	BPD	Prepare for mediation, conference prosecutor on mediation format, conference prosecutor and Judge Stegner about mediation format, attend mediation	4.75	\$451.25	BL
28	3/8/2016	BPD	Conference Herrera and prepare letter to Herera, prepare Motion to Replace Attorney, instructions to staff	0.75	\$71.25	BL
130	3/8/2016	CL	Scan Order and copy for client	0.25	\$8.75	BL
29	3/9/2016	CL	Filing of motion with court, copies of letter, deliver to jail and dropped off order with Deedee at auditors office for check	0.25	\$0.00	NC
30	3/10/2016	BPD	Legal research, Prepare letter to client, prepare Notice of Hearing on Motions, prepare Motion in Limine and Brief re Fleeing, Prepare Motion re Photographs and Brief, Motion re Clothing and Restraints, Motion for Medication, Motyion re Defendant's Prior Testimony and instructions to staff to serve prosecutor and client	4.25	\$403.75	BL
31	3/10/2016	CL	Receive fax make copies and file with court take to jail scan and email to judge	0.50	\$17.50	BL
32	3/11/2016	CL	Cpoy transcript and place in witness file folder	1.00	\$35.00	BL
34	3/16/2016	CL	Scan and make copies on appeal transcript	0.50	\$17.50	BL
35	3/16/2016	BPD	Review email from Mitchell re jury questionairre and instructions to staff, Telephone Call with prosecutor	0.50	\$47.50	BL
36	3/17/2016	BPD	Instructions to staf re trial transcript and filing	0.25	\$23.75	BL
33	3/18/2016	BPD	Conference with prosecutor regarding Motions and review Motion to Amend Information and Notice of Hearing	0.75	\$71.25	BL
37	3/18/2016	BPD	Review letter from client	0.25	\$23.75	BL
38	3/21/2016	BPD	Conference prosecutor re Motions, jury questionairre and continuance	0.75	\$71.25	BL
39	3/22/2016	BPD	Legal Research, prepare for Motions, prepare letter to client and instructions to staff to deliver letter	2.50	\$237.50	BL
40	3/22/2016	CL	Print letter add attachments get copy of jury questionnaire from clerk take to jail	0.75	\$26.25	BL
41	3/22/2016	CL	Prepare additional notebook for all motions	0.50	\$17.50	BL
42	3/22/2016	BPD	Review jury questionaiire provided by Judge Mitchell, make corrections, prepare motion notebook for motions scheduled, instructions to staff, prepare additional jury questionaiire questions, travel to court, attend motion hearing	7.75	\$736.25	BL
43	3/23/2016	BPD	Prepare additional jury questionairre questions, letter to Judge Mitchell regarding the questionairre and instructions to staff	2.50	\$237.50	BL

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Clayton Andersen Attorney at Law

Client: 15-612

Joseph Herrera

Matter: CR15-1127

Herrera vs. State Of Idaho

45	3/23/2016	CL	Scan supplemental brief on motion to amend	0.25	\$8.75	BL
46	3/23/2016	BPD	Deliver jury questionaire and instructions to staff	0.25	\$23.75	BL
47	3/23/2016	BPD	Instructions to staff re jury selections,, opreparation of witness notebooks and review of Supplemental Brief bby prosecutor	0.75	\$71.25	BL
48	3/23/2016	CL	Make copies, filing and deliver documents to client	0.50	\$17.50	BL
49	3/23/2016	BPD	Review email from Mitchell and reply, review Memorandum Decision, prepare letter to client with instructions to staff for delivery and Telephone Call with client	0.75	\$71.25	BL
74	3/23/2016	BPD	Review email from Mitchell re jury questionairre and reply	0.25	\$23.75	BL
75	3/23/2016	BPD	Review email from Mitchell re PDF of Order and instructions to staff	0.25	\$23.75	BL
76	3/23/2016	BPD	Review email from Benewah Clerk to Mitchell re exhibits in court's possession	0.25	\$23.75	BL
50	3/24/2016	CL	scan several exhibits for file	0.75	\$26.25	BL
51	3/24/2016	CL	more scanning for exhibits	0.25	\$8.75	BL
52	3/24/2016	CL	Scan letter and exhibits to Jim Pex of International Forensics and email letter to him	0.75	\$26.25	BL
53	3/24/2016	BPD	Prepare letter to International Forensics with exhibits and instructions to staff, organize witness file, review witness statements	2.50	\$237.50	BL
54	3/25/2016	CL	send out disk to Jim pax	0.25	\$8.75	BL
55	3/25/2016	BPD	Conference prosecutor on jury questionairre	0.25	\$23.75	BL
56	3/29/2016	BPD	Review Amended Info and NOH and Prepare letter to client re NOH and amended prosecuting attorney information	0.50	\$47.50	BL
57	3/29/2016	CL	Prepare corrections to letter to client and added additional dates	0.50	\$17.50	BL
58	3/29/2016	BPD	Prepare draft of jury instructions and legasl research	1.75	\$166.25	BL
72	3/29/2016	BPD	Review email from Judge Mitchell re trial exhibits	0.25	\$23.75	BL
73	3/29/2016	BPD	Review email from Mitchell on duplication by Pete Barnes of exhibits	0.25	\$23.75	BL
60	3/30/2016	BPD	Prepare Jury Instruction, legal research and instructions to staff	1.50	\$142.50	BL
61	3/30/2016	BPD	Legal research and prepare jury instructions and instructions to staff	2.50	\$237.50	BL
62	3/30/2016	CL	Prepare copies of Jury Instructions and place in notebook	0.50	\$17.50	BL

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Clayton Andersen Attorney at Law

Client: 15-612 Joseph Herrera
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64	3/30/2016	BPD	Telephone Call with Jim Pex of International Foresnics and instructions to staff	0.50	\$47.50	BL
63	3/31/2016	BPD	Telephone Call with Thie re release of evidence stipulation	0.50	\$47.50	BL
65	3/31/2016	BPD	Prepare letter to client re Amended Information, trial stting, jury instructions, update on expert witness contact and other matters	0.75	\$71.25	BL
66	3/31/2016	BPD	Telephone Call with prosecutor on release of evidence	0.25	\$23.75	BL
67	4/4/2016	BPD	Conference client	1.00	\$95.00	BL
68	4/4/2016	BPD	Prepare letter to Jim Pex and send out check pursuant to agreement	0.25	\$23.75	BL
69	4/5/2016	BPD	Prepare Motion and Order to Transport for 042016 hearing	0.50	\$47.50	BL
70	4/5/2016	BPD	Prepare Stipulation and Order to Release Exhibits and email Thie for approval	0.50	\$47.50	BL
71	4/5/2016	BPD	Prepare draft of Response to discovery	0.25	\$23.75	BL
77	4/5/2016	BPD	Telephone Call with prosecutor on Evidence stipulation and Order and Motion and Order to Transport	0.25	\$23.75	BL
78	4/5/2016	BPD	Review emails from Thie and reply from Mitchell	0.25	\$23.75	BL
79	4/6/2016	BPD	Conference with prosecutor re discovery and collecxtion of evidence for Kootenai Co Bailffs Pete Barnes	0.75	\$71.25	BL
80	4/7/2016	CL	Makes copies of jury questions and file	0.50	\$17.50	BL
81	4/7/2016	BPD	Pick-up evidence from bailiff	0.25	\$23.75	BL
82	4/7/2016	BPD	Complete and letter jury instructions, discovery response, review exhibit received from bailiff, email diagrams to expert witness and deliver response to discovery, exhibits and proposed jury instructions	0.75	\$71.25	BL
83	4/8/2016	CL	Sort jury instructions	0.50	\$17.50	BL
84	4/8/2016	BPD	Conference with client and conference with Prosecutor's staff re delivery of Exhibits	0.75	\$71.25	BL
85	4/8/2016	CL	Make copies of jury questions. scan and email to judge mitchell defendants requested jury instructions	0.75	\$26.25	BL
86	4/8/2016	CL	Filing	0.25	\$8.75	BL
87	4/11/2016	BPD	Review letter from cvlient	0.25	\$23.75	BL
88	4/11/2016	BPD	Review letter from client	0.25	\$23.75	BL
89	4/11/2016	BPD	Conference with prosecutor on signing stipulation to release evidence, jury instructions and 404(b) disclsoure	0.25	\$23.75	BL
95	4/11/2016	BPD	Conference prosecutor on 404(b) disclosure, stipulation to release evidence and instructions to staff	0.50	\$47.50	BL

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Clayton Andersen Attorney at Law

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96	4/11/2016	BPD	Review state's 401(b) disclosure and instructions to staff	0.25	\$23.75	BL
97	4/12/2016	CL	Make copies for 404B Binder	0.25	\$8.75	BL
98	4/12/2016	BPD	Legal research on former testimony	1.25	\$118.75	BL
99	4/12/2016	CL	Filing Papers	0.50	\$17.50	BL
100	4/12/2016	CL	Herrera 401B filing	0.25	\$8.75	BL
101	4/13/2016	BPD	Prepare letter to client re states 404b Itent. order release of evidence and transport	0.25	\$23.75	BL
102	4/13/2016	CL	Make copies and calendar tentative date for motions. email Jeannie for time for motions on the 20th	0.50	\$17.50	BL
103	4/13/2016	BPD	Prepare Motion for Additional Compensation and Affidavit in Support of Motion	1.00	\$0.00	NB
104	4/13/2016	BPD	Prepare Motion to Exclude defendant's prior testimony and Brief in Support of Motion and instructions to staff to request hearing on April 20, 2016 and hand delivery to court and prosecutor	1.50	\$142.50	BL
105	4/13/2016	CL	copies and filing with court	0.50	\$17.50	BL
106	4/13/2016	BPD	Legal research, prepare Object to Notice of Intent re 404(b) evidence, Telephone Call with witness, prepare Notice of Hearings on Motions for additional Compensation and Limine re Prior testimony, instructions to staff and prepare letter to client	2.25	\$213.75	BL
107	4/13/2016	CL	Make copies and file documents with court	0.50	\$17.50	BL
108	4/13/2016	CGA	Telephone Call with witness and conference with client	1.50	\$142.50	BL
109	4/13/2016	CGA	Review email from Stacy re evidence and Judge Mitchell's clerk re additional Motions added to 0420 docket	0.25	\$23.75	BL
110	4/15/2016	BPD	Telephone Call with prosecutor on decision not to use 404(b) witnesses, delay hearing Motion to Exclude Defendant's testimony, review of jury instruction wording propounded by Defendant and schedule time on Monday	0.50	\$47.50	BL
111	4/19/2016	CL	Email clean jury selection questions to Judge Mitchell	0.50	\$17.50	BL
112	4/19/2016	CL	Telephone Call to Mitchell's court reporter on cost of transcript for July 13 hearing only, emailed Mitchell's clerk to get cost of exhibit duplication, emailed Brian Thie clean copy of instructions work on jury instructions notebook, file notice to vacate and deliver to PA, deliver proposed 404(b) order to Thie.	1.50	\$52.50	BL

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Clayton Andersen Attorney at Law

Client: 15-612 Joseph Herrera
Matter: CR15-1127 Herrera vs. State Of Idaho

113	4/19/2016	BPD	Conference with client r regarding April 20 hearing; conference with prosecutor on jury instructions, vacating Motion re Defendant's testimony, and 404(b) evidence, and review state's and defendant's proposed instructions, instructions to staff to email clean copy of proposed jury instructions to Mitchell and Thie, prepare Order re 404(b) and instructions to serve Thie with copy, prepare Order re Additional Compensation, prepare stipulation and order for payment of exhibit cost and instructions to staff to obtain amount and entity to pay from Mitchell's clerk, review message on costs of transcript for July 13 and 23 hearings and instructions to staff to contact reporter re cost of July 13 testimony only	2.50	\$237.50	BL
114	4/20/2016	BPD	Court appearance on Motions, Review of Jury Questionaiire and Jury Instructions and instructions to staff re sending jury questionairre to Mtichell	2.00	\$190.00	BL
115	4/22/2016	BPD	Review and make changes to stipulation and order re payment of duplication costs	0.25	\$23.75	BL
116	4/25/2016	BPD	Review Order for payment on exhibit cost and instructions to staff	0.25	\$23.75	BL
117	4/26/2016	BPD	email International Foresics and review reply	0.25	\$23.75	BL
118	4/27/2016	BPD	Review certified letter from client	0.25	\$23.75	BL
119	4/27/2016	SG	File dociuements in binders	0.50	\$17.50	BL
120	4/27/2016	BPD	Review email from Internaional Foresics and reply	0.25	\$23.75	BL
121	4/28/2016	BPD	Conference records clerk re disks for hearings held and unable to obtain because record systems was shut down	0.25	\$0.00	NC
122	5/2/2016	BPD	Telephone Call with Gordon Rutter with International Foresics X 2.75	0.75	\$71.25	BL
123	5/4/2016	BPD	Telephone Call with Gordon Rutter with International Foresics	0.50	\$47.50	BL
125	5/5/2016	BPD	Review email from Rutter	0.10	\$9.50	BL
124	5/18/2016	BPD	Review letter from International forensics and instructions to copy, scan, and prepare letter to client	0.50	\$47.50	BL
126	5/18/2016	BPD	Review Forensic International Opinion and instructions to provide copy to client	0.25	\$23.75	BL
127	6/7/2016	BPD	Prepare revised jury questionairre and instructions to staff to email to Mitchell and Thie	0.50	\$47.50	BL
128	6/10/2016	BPD	Review email from Mitchel re jury questionairre and instructions to staff	0.25	\$23.75	BL
131	6/23/2016	BPD	Conference with prosecutor regarding evidence	0.50	\$47.50	BL

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Clayton Andersen Attorney at Law

Client: 15-612

Joseph Herrera

Matter: CR15-1127

Herrera vs. State Of Idaho

132	6/24/2016	BPD	Prepare letter to client, deliver letter to jail and conference prosecutor	0.75	\$71.25	BL
133	6/27/2016	CL	Receive certified mail from client, scan and prepare reply letter	0.50	\$17.50	BL
134	6/27/2016	BPD	Prepare motion and order to transport	0.50	\$47.50	BL
200	6/27/2016	BPD	Review letter from client	0.25	\$23.75	BL
135	6/28/2016	BPD	Prepare letter drafted to Prosecutor re plea	0.50	\$47.50	BL
136	6/29/2016	BPD	Prepare letter to client, and instructions to deliver to jail	0.75	\$71.25	BL
142	6/29/2016	BPD	Telephone Conference prosecutor, conference client, Telephone Call prosecutor, conference client's parents, client, attend pre-trial, conference with prosecutors and Judge Mitchell and prepare letter to client	2.75	\$261.25	BL
137	7/5/2016	CL	Print our jury questionnaires	2.00	\$70.00	BL
138	7/5/2016	SG	File jury questionnaires in notebooks	0.50	\$17.50	BL
139	7/5/2016	CL	Print out jury questionnaires	2.50	\$87.50	BL
140	7/5/2016	CL	Download transcripts to computer	1.00	\$35.00	BL
141	7/6/2016	BPD	Telephone Call with prosecutor re evidence, plea negotiations and review of state's exhibits on 070716	0.50	\$47.50	BL
143	7/6/2016	SG	Deliver jury questionnaires to client in jail	0.25	\$8.75	BL
144	7/7/2016	BPD	Conference prosecutor regarding exhibits	0.75	\$71.25	BL
162	7/7/2016	BPD	Conference with client re trial preparation and jury selection	0.75	\$71.25	BL
145	7/8/2016	BPD	Prepare letter to client	0.50	\$47.50	BL
147	7/8/2016	CL	copy juror questionnaires	2.50	\$87.50	BL
148	7/11/2016	CL	Work on witness notebook and jury questionnaire notebook	4.50	\$157.50	BL
149	7/11/2016	SG	Organize notebooks for Exhibits, Juror Questionnaires & Witnesses	8.00	\$280.00	BL
150	7/12/2016	CL	Telephone call to P A to get needed photos, listen to transcript and prepare transcript of dictate judges ruling from March hearing	3.50	\$122.50	BL
151	7/12/2016	CL	Organize and add notes from attorney to Witness notebook	2.50	\$87.50	BL
152	7/12/2016	BPD	Prepare motion and order for transport	0.50	\$47.50	BL
153	7/12/2016	SG	Prepare Exhibit binder & questionnaire binders	7.00	\$245.00	BL
154	7/13/2016	CL	File motion to transport	0.25	\$0.00	NC
155	7/13/2016	BPD	Review transcripts of Judge Mitchell's April ruling and legal research	1.00	\$95.00	BL

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Clayton Andersen Attorney at Law

Client: 15-612

Joseph Herrera

Matter: CR15-1127

Herrera vs. State Of Idaho

156	7/13/2016	CL	Print out juror questionnaires	0.75	\$26.25	BL
158	7/13/2016	SG	Prepare Exhibit notebook, Juror Questionnaires notebook & go over missing questionnaires with attorney	7.00	\$245.00	BL
157	7/14/2016	BPD	Prepare letter to client re motion and order to transport	0.25	\$23.75	BL
159	7/14/2016	BPD	Review jury questionnaires, finalize response to discovery, prepare subpoenas and instructions to staff, prepare jury rating chart and instructions to staff, trial preparation	3.25	\$308.75	BL
161	7/14/2016	CL	Make copies of subpoenas and file with court.	0.50	\$17.50	BL
163	7/14/2016	CL	Prepare rating spreadsheet for jury selection and review with attorney	1.50	\$52.50	BL
164	7/14/2016	SG	Telephone Call jail re Daniel Ducommun (in custody), prepare notebook for DVD's & review Exhibit notebooks with attorney	2.00	\$70.00	BL
177	7/14/2016	BPD	Conference with Doug Pierce re jury questionnaires, responses and his review of same	1.00	\$95.00	BL
165	7/15/2016	CL	Email jury chart to Pierce	0.25	\$8.75	BL
166	7/15/2016	SG	Email transcripts to Doug Pierce, acquire addresses for Cindy Loe and Raymond Roy	0.50	\$17.50	BL
167	7/15/2016	SG	Delivery Subpeona letters for Daniel Ducommun & Jason Bierman	0.50	\$17.50	BL
168	7/15/2016	CL	Listen to transcript to dictate	0.50	\$17.50	BL
201	7/15/2016	BPD	Prepare letters of instructions for witnesses	0.50	\$47.50	BL
211	7/15/2016	DP	Conference with Andersen, review jury questionnaires and rate jurors	2.00	\$190.00	BL
218	7/15/2016	DP	Conference Andersen re review of jury questionnaires, establish rating system for jurors, review jury questionnaires and record rating for Andersen review	2.00	\$190.00	BL
178	7/16/2016	BPD	Prepare opening statement, review jury questionnaires, organize notebooks for additional jury questionnaires, review trial transcript and discovery, prepare cross examination of witnesses	7.25	\$688.75	BL
212	7/16/2016	DP	Review transcripts for cross examination questions, review jury questionnaires and prepare info for Andersen review	3.00	\$285.00	BL
179	7/17/2016	BPD	Conference with witnesses, client regarding jury questionnaires, prepare jury rating chart, Telephone Call with Pierce, review autopsy report and transcripts and complete trial witness notebook	7.50	\$712.50	BL
213	7/17/2016	DP	Review jury questionnaires, Telephone Call with Andersen, and exchange information regarding rating of jurors	3.00	\$285.00	BL

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Clayton Andersen Attorney at Law

Client: 15-612

Joseph Herrera

Matter: CR15-1127

Herrera vs. State Of Idaho

180	7/18/2016	BPD	Attend trial and conference with Pierce at lunch and client after trial	8.75	\$831.25	BL
214	7/18/2016	DP	Attend trial, conference with Andersen on state's opening, state's witnesses and review of evidence after first day of trial with Andersen	8.00	\$760.00	BL
169	7/19/2016	CL	try to contact Bierman for subpoena	0.50	\$0.00	NC
170	7/19/2016	SG	Print new letter for Jason Bierman, called 2x, 2nd time spoke with him, gave me directions to where I could find him, delivered subpoena.	1.00	\$35.00	BL
181	7/19/2016	BPD	Review cross-examination questions for witnesses, attend trial and conference with Pierce	9.75	\$926.25	BL
215	7/19/2016	DP	Attend trial, conference with Andersen re state's witnesses and review of trial testimony	4.00	\$380.00	BL
182	7/20/2016	BPD	Attend trial, conference with Pierce and prepare draft of closing	9.25	\$878.75	BL
216	7/20/2016	DP	Attend trial, assist in preparation of witness cross and conference with Andersen re closing	8.00	\$760.00	BL
171	7/25/2016	BPD	Review Order Entering Jury Verdict of Guilty and for PSI, prepare letter and instructions to staff	0.25	\$23.75	BL
172	7/26/2016	BPD	Instructions to staff concerning partial closing of Herrera file and preparation of sentencing notebook	0.25	\$23.75	BL
173	7/26/2016	SG	Close portion of file as instructed by attorney and prepare a sentencing notebook as instructed	3.00	\$105.00	BL
175	7/28/2016	CL	Receive and scan letters received from client	0.25	\$8.75	BL
183	7/31/2016	BPD	Prepare final draft of closing, attend trial and verdict	6.25	\$593.75	BL
185	8/2/2016	SG	Filing	0.50	\$17.50	BL
186	8/3/2016	SG	File at Courthouse "Motion to Extend Time to File" and deliver client letter	0.25	\$8.75	BL
202	8/3/2016	BPD	Prepare Motion to Extend Time for Post trial Motions	0.50	\$47.50	BL
187	8/16/2016	CL	scan letter received from client	0.25	\$8.75	BL
203	8/16/2016	BPD	Review letter from client	0.25	\$23.75	BL
188	8/25/2016	CL	Receive and scan character reference letters re: sentencing	0.25	\$8.75	BL
204	8/26/2016	BPD	Review character letters	0.50	\$47.50	BL
189	8/30/2016	CL	Receive and scan letter from client	0.25	\$8.75	BL
190	8/30/2016	CL	Receive and scan 2nd letter from client	0.25	\$8.75	BL
192	8/30/2016	BPD	Conference client and PSI investigator	1.50	\$142.50	BL

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Clayton Andersen Attorney at Law

Client: 15-612

Joseph Herrera

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Herrera vs. State Of Idaho

193	8/30/2016	BPD	Prepare Motion for Continuance and instructions to staff and message to prosecutor's staff re continuance	0.50	\$47.50	BL
205	8/30/2016	BPD	Review letter from client	0.25	\$23.75	BL
195	8/31/2016	CL	Fax motion and order re: continue sentencing to judge mitchell and attempt to set up court date	0.25	\$8.75	BL
196	8/31/2016	SG	Filing	0.50	\$17.50	BL
197	8/31/2016	SG	Review file for character letters, make copies of letters and character witness letters previously submitted and place in sentencing notebook comparing with ones attached to PSI	0.50	\$17.50	BL
198	8/31/2016	BPD	Conference with prosecutor re continuance, instructions to staff to schedule hearing time with Judge Mitchell regarding hearing for continuance, Telephone Call with PSI preparer on status of continuance, review prior character reference letters, prepare letter to Letter To Lt. Morris re client's Benewah County records, letter to WEegner re character reference, letter to IDOC re client's records with instructions to staff, review Order for Continuance, Telephone Call with client's mother on continuance	1.50	\$142.50	BL
206	8/31/2016	BPD	Review emails from Judge Mitchell and prosecutor re continuance	0.25	\$23.75	BL
199	9/1/2016	BPD	Telephone Call with client X 2 regarding character witnesses, Telephone Call with Katie with Preparation of document &P regarding continuance and instructions to staff	0.50	\$47.50	BL
207	9/7/2016	CL	NOF for reference letter from Davenport	0.25	\$8.75	BL
208	9/7/2016	CL	NOF reference letter from Stratton	0.25	\$8.75	BL
209	9/7/2016	CL	NOF reference letter from Spier	0.25	\$8.75	BL
217	9/12/2016	BPD	Review Board of Corrections records re client	0.50	\$47.50	BL
210	9/13/2016	CL	receive and scan reference letters from: James Herrerea, Danielle Outland, Heather Burch, Rhonda Martinell, Carol Donnally, Jo Peterson and Jeri Herrera. Update NOF and make copies of letters for filing	1.00	\$35.00	BL

Total Hours:	269.85	
Billable Hours:	267.60	\$20,952.00

Continued On Next Page

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PRE-BILL

Clayton Andersen Attorney at Law

Client: 15-612
Matter: CR15-1127

Joseph Herrera
Herrera vs. State Of Idaho

Date: 9/14/2016
Time: 12:45PM
Page: 12 of 12

Timekeeper Summary

Timekeeper BPD worked 1.25 hours at no charge.
Timekeeper BPD worked 160.60 hours at \$95.00 per hour, totaling \$15,257.00.
Timekeeper CGA worked 2.50 hours at \$95.00 per hour, totaling \$237.50.
Timekeeper CL worked 1.00 hours at no charge.
Timekeeper CL worked 42.50 hours at \$35.00 per hour, totaling \$1,487.50.
Timekeeper DP worked 30.00 hours at \$95.00 per hour, totaling \$2,850.00.
Timekeeper SG worked 32.00 hours at \$35.00 per hour, totaling \$1,120.00.

Payment Detail

<u>Date</u>	<u>Description</u>	<u>Amount</u>
5/2/2016	Benewah County check	(\$8,292.50)
Total Payments Received:		(\$8,292.50)

Prior Balance:	\$0.00	Date Of Last Payment:	05/02/2016
Payments Received:	(\$8,292.50)		
Current Fees:	\$20,952.00		
Sales Tax on Fees:	\$0.00		
Advanced Costs:	\$0.00		
Sales Tax on Costs:	\$0.00		
Administrative Cost:	\$0.00		
Late Charges:	\$0.00		
Additional Retainer Due:	\$0.00		
TOTAL AMOUNT DUE:	\$12,659.50		

Fees and Costs [] Fees Only [] Costs Only [] Don't Bill []

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Time Ticket Diary Report

Clayton Andersen Attorney at Law

Report Date: 9/17/2016
Report Time: 1:51PM
Page: 120 of 120
User ID: layton G Andersen

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Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
------------------------------	------------------	----------------------------	------------------	-------	--------	------	--------------	------------------	------	----------------

<u>Firm Totals</u>	
TYPE	Unbilled
Billable Hours	473.80
No-Charge Hours	0.75
Grand Total:	<u><u>474.55</u></u>

Time Ticket Diary Report

Clayton Andersen Attorney at Law

Report Date: 9/17/2016
Report Time: 1:56PM
Page: 93 of 93
User ID: layton G Andersen

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Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
------------------------------	------------------	----------------------------	------------------	-------	--------	------	--------------	------------------	------	----------------

<u>Timekeepers Totals</u>			
Timekeeper:	CL	Type	Unbilled
		Billable Hours	367.70
		Non-Billable Hours	4.00
		No-Charge Hours	59.00
		Total For CL	430.70

<u>Firm Totals</u>	
TYPE	Unbilled
Billable Hours	367.70
Non-Billable Hours	4.00
No-Charge Hours	59.00
Grand Total:	430.70

Time Ticket Diary Report

Clayton Andersen Attorney at Law

Report Date: 9/17/2016
Report Time: 1:58PM
Page: 79 of 79
User ID: layton G Andersen

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Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
CR16-0207 Christopher Katzdorn Time Ticket Text:	15-952	09/16/2016 Katzdorn, Christopher vs State of Idaho CR16-628 Scan judgment & cal prob.	13	0.25	15.00	BL			No	Unbilled
CR16-0247 Brian Conley Time Ticket Text:	15-1031	09/16/2016 Conley, Brian vs SOI CR16-991 Letter to client	8	0.25	15.00	BL			No	Unbilled
Totals For:SG				<u>292.75</u>	<u>14,717.50</u>					

<u>Timekeepers Totals</u>		
Timekeeper:	SG	
	Type	Unbilled
	Billable Hours	245.75
	Non-Billable Hours	2.00
	No-Charge Hours	45.00
	Total For SG	<u>292.75</u>

<u>Firm Totals</u>		
	TYPE	Unbilled
	Billable Hours	245.75
	Non-Billable Hours	2.00
	No-Charge Hours	45.00
	Grand Total:	<u>292.75</u>

FILED
BENEWAH COUNTY

2016 OCT 20 PM 3:21

BY:  .DEPUTY

Clayton Andersen, ISB # 1860
Benewah County Public Defender
222 S. 7th, Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-3948
Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.

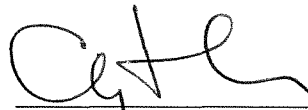
Case No. CR-11-2053

**NOTICE OF FILING DEPARTMENT OF
CORRECTION RECORDS**

COMES NOW, Clayton Andersen, Benewah County Public Defender, and files the Idaho Department of Corrections Records provided to his attorney based on the written request. I certify copy of the records received were provided to the Benewah County Prosecutor by interoffice mail on today's date

Dated 20 day of October, 2016.

Attorney for Defendant



Clayton Andersen

NOTICE OF ACTION ON PUBLIC RECORDS REQUEST

IDAHO DEPARTMENT OF CORRECTION
1299 N. Orchard, Suite 110
Boise, Idaho 83706

Name of Requestor: Clayton Andersen Date: 9/8/2016
Address of Requestor: 222 S. 7th Suite G-7 St. Maries, ID 83861

Dear Mr. Andersen:

The Idaho Department of Correction received your public records request on 9/6/2016
(Date)

I. Request Granted

- The requested record is enclosed.
- You may inspect and photocopy the requested records during regular office hours by contacting

Name	Title	Telephone Number

II. Request Granted in Part and Denied in Part or Denied in its Entirety

Your request has been processed. However, your request has been

- Granted in part and denied in part
- Denied in its entirety

Pursuant to:

<input checked="" type="checkbox"/> Idaho Code 74-104(1)	<input type="checkbox"/> Idaho Code 74-105(4)(a)	<input checked="" type="checkbox"/> Idaho Code 74-106(13)
<input checked="" type="checkbox"/> Idaho Code 74-104(2)	<input type="checkbox"/> Idaho Code 74-105(4)(b)	<input type="checkbox"/> Idaho Code 74-106(17)
<input type="checkbox"/> Idaho Code 74-105(1)	<input type="checkbox"/> Idaho Code 74-105(4)(c)	<input type="checkbox"/> Idaho Code 74-106(1)
<input type="checkbox"/> Idaho Code 74-108(5)	<input type="checkbox"/> Idaho Code 74-113(3)(e)	<input type="checkbox"/> IDAPA 06.01.01.108
<input type="checkbox"/> Idaho Criminal Rule 32		<input type="checkbox"/> No record found

The statutory exemptions provided herein shall not constitute a waiver of any and all other legal bases or privileges which may also be applicable.

- If your request was denied in part or entirely, the Department had the opportunity to consult with, or the request was reviewed by, the deputy attorneys general who represent the Idaho Department of Correction.
- If your request was denied in part or entirely, you have the right to appeal the denial of your request by filing a petition in conformance with the provisions of the Idaho Public Records Law, Title 74, Chapter 1, Idaho Code. Your petition must be filed in the Ada Judicial District Court of the State of Idaho within One Hundred Eighty (180) calendar days of the of the date of mailing of this notice.

III. Additional Comments:

Sincerely, Adriana Pitzer *Adriana Pitzer*
Custodian/Designated Custodian
Date: 9/8/2016

cc: Central Records (offender records denied in its entirety or in part)

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CLAYTON ANDERSEN

ATTORNEY AT LAW

BENEWAH COUNTY PUBLIC DEFENDER

222 S. 7TH SUITE G-7

ST. MARIES, ID 83861

TELEPHONE 208-245-2521

FACSIMILE 208-245-3948

E-MAIL CLAYTONLAW1801@GMAIL.COM

August 31, 2016

Records Bureau
Idaho Department of Correction
1299 N. Orchard Street, Suite 110
Boise, ID 83706

RE: State vs. Herrera CR11-1245

Dear Records Custodian,

I represent Joseph Duane Herrera IDOC with inmate number #108567 in my capacity as the Benewah County Public Defender.

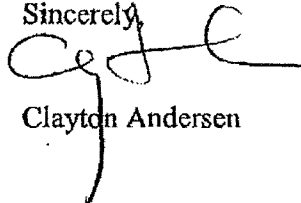
My client was remanded by the Idaho Supreme Court for retrial on the Second degree Murder Charge. He was convicted by a jury which rendered a verdict on July 23, 2016.

I am requesting a copy of his inmate records while incarcerated at IDOC.

You may email those records to me.

Please advise me accordingly if there is any problem with this records request.

Sincerely,



Clayton Andersen

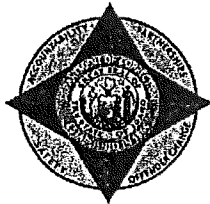
cc: client

RECEIVED

SEP 06 2016

CENTRAL RECORDS

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Idaho Department of Correction Reclassification Score Sheet

Offender Name: HERRERA, JOSEPH DUANE

Facility: ICC UNIT E POD A

Offender Number: 108567

Previous Custody Level: MEDIUM

Section I: Sentence, Criminal History, Age		Possible Severity	Score		
Category 1: Severity of Current Offense					
<input checked="" type="checkbox"/> High Severity		9	HIGH 9		
<input type="checkbox"/> Low Severity		1			
Category 2: Escape History					
<input type="checkbox"/> Felony conviction for escape or attempted escape from adult secure facility (scored 10 years)		10	0		
<input type="checkbox"/> Felony escape or attempted escape from adult secure facility without a criminal conviction (scored 10 years)		7			
<input type="checkbox"/> Felony escape/walkaway or attempted escape/walkaway from an adult non-secure facility (scored 5 years)		4			
<input checked="" type="checkbox"/> None		0			
Category 3: Severity of Prior Felony Convictions					
<input type="checkbox"/> High Severity		3	LOW 0		
<input checked="" type="checkbox"/> Low Severity or No Prior Convictions		0			
Category 4: Current Age					
<input type="checkbox"/> < 23	Date of Birth	3	2		
<input checked="" type="checkbox"/> 24 - 31	[REDACTED]	2			
<input type="checkbox"/> 32 - 38		1			
<input type="checkbox"/> 39 - 50	Current Age	0			
<input type="checkbox"/> > 51	30	-1			
Section II: Institutional Behavior					
<input type="checkbox"/> Class A DOR with Level 1 enhancement in the last 5 years.		25	-1		
<input type="checkbox"/> Class A DOR with Level 2 enhancement in the last 3 years.		23			
<input type="checkbox"/> Class A DOR without an enhancement in the last 12 months.		20			
<input type="checkbox"/> Class B DOR in the last 12 months.		7			
<input type="checkbox"/> No Class A or B DOR in the last 12 months.		0			
<input checked="" type="checkbox"/> No DOR (Class A, B, or C) in the last 12 months		-1			
Section III: Release Proximity					
Parole Eligible	Next Hearing	Tentative Parole	Full Term Release	Release Proximity Not Scored	0
11/27/2033	Jun 2033				
Section IV: Scoring				Score	Level
Basic Scoring		Scored Level		10	MEDIUM
Mandatory Overrides				Adjusted Level	MEDIUM
<input checked="" type="checkbox"/> Life Sentence and no Tentative Parole Date within 3 years.					
<input type="checkbox"/> 20 or more years until FTRD with no TPD within 5 years OR no PED, PHD, TPD, and Detainer, Pending Felony Charges, or ICE Requests.					
Section V: Discretionary Overrides					
<input type="checkbox"/> Needs to be managed at a higher custody level	Comments:				
<input type="checkbox"/> Can be managed at a lower custody level					
Section VI: Custody Level					
Prepared By:	Herdt, Sandra Lee 8552	11/18/2014	Recommended	MEDIUM	
Reviewed By:	Herdt, Sandra Lee 8552	11/18/2014			
Review Comment:					
Facility Head Review:					
Facility Head Comment:					
Management Review:					
Manager Comment:					
Served By:	Herdt, Sandra Lee 8552	11/18/2014	Assigned Level	MEDIUM	



Idaho Department of Correction

Reclassification Score Sheet

Offender Name: **HERRERA, JOSEPH DUANE**

Facility: **IMSI G-BLOCK**

Offender Number: **108567**

Previous Custody Level: **MEDIUM**

Section I: Sentence, Criminal History, Age		Section II: Institutional Behavior	
Category 1: Severity of Current Offense <input checked="" type="checkbox"/> High Severity 6 <input type="checkbox"/> Moderate Severity 2 <input type="checkbox"/> Low Severity 1		<input type="checkbox"/> Class A DOR with Level 1 enhancement in the last 5 years. 17 <input type="checkbox"/> Class A DOR with Level 2 enhancement in the last 3 years. 15 <input type="checkbox"/> Class A DOR without an enhancement in the last 12 months. 13 <input type="checkbox"/> Class B DOR in the last 12 months. 5 <input checked="" type="checkbox"/> No Class A or B DOR in the last 12 months. 0 <input type="checkbox"/> No DOR (Class A, B, or C) in the last 12 months. -1 Details: No Scoreable DORs: This offender has been	
Category 2: Escape History <input type="checkbox"/> Conviction for escape or attempted escape from adult secure facility within the last 10 years. 10 <input type="checkbox"/> DOR for escape or attempted escape from adult secure facility within the last 10 years. 7 <input type="checkbox"/> Conviction/DOR for escape/walkaway or attempted escape/walkaway from a facility without a security perimeter in the last 5 years. 4 <input checked="" type="checkbox"/> None 0 Details: NONE		Section III: Release Proximity	
Category 3: Severity of Prior Convictions <input type="checkbox"/> High Severity 3 <input checked="" type="checkbox"/> Moderate / Low Severity / No Prior 0		<input checked="" type="checkbox"/> Not within 18 months (low risk crime) or 12 months (high risk crime) of TPD/FTRD. 0 <input type="checkbox"/> Within 18 months (low risk crime) or 12 months (high risk crime) of TPD/FTRD. [see placement matrix for risk level] -2 Details: Release Proximity Not Scored	
Category 4: Current Age <input type="checkbox"/> < 23 3 <input checked="" type="checkbox"/> 24 - 31 2 <input type="checkbox"/> 32 - 38 1 <input type="checkbox"/> 39 - 50 0 <input type="checkbox"/> > 51 -1 Date of Birth: ██████████		Section II + III Total 0	
Section I Total 8		Section IV: Scoring	
		Total Score Section I + II + III 8 <input type="checkbox"/> ≥ 13 Close <input checked="" type="checkbox"/> 7- 12 Medium <input type="checkbox"/> 2 - 6 Minimum <input type="checkbox"/> ≤ 1 Community	
Section V: Overrides (check all that apply)			
Discretionary		Mandatory	
<input type="checkbox"/> Parole Commission Recommendation <input type="checkbox"/> Needs to be managed at a higher custody level <input type="checkbox"/> Can be managed at a lower custody level <input type="checkbox"/> Noncompliant with case plan <input type="checkbox"/> Other considerations		<input checked="" type="checkbox"/> Placement Matrix <input checked="" type="checkbox"/> 20+ Years to serve / Life sentence (Medium or Close) <input type="checkbox"/> Detainer / Pending Felony / ICE (Medium or Close)	
Override Explanation: HR Crime on Placement Matrix - Life Sentence - will require Mandatory Override to Medium if points drop to minimum or community.			
Section VI: Recommended Custody Level			
<input type="checkbox"/> Close <input checked="" type="checkbox"/> Medium <input type="checkbox"/> Minimum <input type="checkbox"/> Community			
Section VII: Authorization			
Final Custody Level: MEDIUM Prepared By: Pfeifer, Larissa 7984 Reviewed By: Wren, Gregory J 3342 Date: 03/20/2014 Date: 03/26/2014 Facility Head: Served By: Pfeifer, Larissa 7984 Date: Date: 03/27/2014			

C-file Copy 368

IDAHO DEPARTMENT OF CORRECTION
Restrictive Housing Order

Institution: **Idaho Correctional Institute-Orofino**

Date: **09/09/2013**

Offender Name: **Herrera, Joseph**

Number: **108567**

Offender is placed in housing unit **A3/138** and has been placed in the following status:

- Under sentence of death in accordance with Idaho Code section 19-2706
- Segregation pending investigation (SPI) – up to 14 days, **Release Date:**
- Pre-hearing segregation – up to seven (7) days, **Release Date:**
- Extension of segregation – up to an additional seven (7) days, **Release Date:**
- *Administrative segregation
- *Detention Number of Days: **Release Date:**
- *Protective Custody
- Transit

Reason: South Transport.

A. Guessen
Authorizing Supervisor

Shift Commander
Title

09/09/2013
Date

Carlin
Warden's Review

9/9/13
Date

Distribution

Original: to central file

Copy: to housing unit

Copy: to offender

Copy: to shift commander



Idaho Department of Correction

Initial Classification Score Sheet

Offender Name: HERRERA, JOSEPH DUANE

Facility: ISCI UNIT 15

Offender Number: 108567

<p>Section I: Sentence, Criminal History, Age</p> <p>Category 1: Severity of Current Offense</p> <p><input checked="" type="checkbox"/> High Severity 8 <input type="checkbox"/> Moderate Severity 3 <input type="checkbox"/> Low Severity 1</p> <p>Category 2: Escape History</p> <p><input type="checkbox"/> Conviction for escape or attempted escape from adult secure facility within the last 10 years. 10 <input type="checkbox"/> DOR for escape or attempted escape from adult secure facility within the last 10 years. 7 <input type="checkbox"/> Conviction/DOR for escape/walkaway or attempted escape/walkaway from a facility without a security perimeter in the last 5 years. 4 <input checked="" type="checkbox"/> None 0 Details: N/A</p> <p>Category 3: Severity of Prior Felony Convictions</p> <p><input type="checkbox"/> High Severity 5 <input type="checkbox"/> Moderate Severity 2 <input type="checkbox"/> Low Severity 1 <input checked="" type="checkbox"/> No Prior Felony Convictions 0</p> <p>Category 4: Current Age</p> <p><input type="checkbox"/> < 23 3 <input checked="" type="checkbox"/> 24 - 31 2 <input type="checkbox"/> 32 - 38 1 <input type="checkbox"/> 39 - 50 0 <input type="checkbox"/> > 51 -1 Date of Birth [REDACTED]</p> <p>Section I Total: 10</p>	<p>Section II: Institutional Behavior</p> <p><input type="checkbox"/> Class A DOR with Level 1 enhancement in the last 5 years. 17 <input type="checkbox"/> Class A DOR with Level 2 enhancement in the last 3 years. 15 <input type="checkbox"/> Class A DOR without an enhancement in the last 12 months. 13 <input type="checkbox"/> Class B DOR in the last 12 months. 5 <input checked="" type="checkbox"/> No Class A or B DOR in the last 12 months. 0 Details: No Scoreable DORs</p> <p>Section III: Release Proximity</p> <p>This section is not used for Initial Classification</p> <p>Section II + III Total: 0</p> <p>Section IV: Scoring</p> <p>Total Score Section I + II + III: 10</p> <p><input type="checkbox"/> > 12 Close <input checked="" type="checkbox"/> 5 - 11 Medium <input type="checkbox"/> 2 - 4 Minimum <input type="checkbox"/> < 1 Community</p>		
<p>Section V: Overrides (check all that apply)</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Discretionary</p> <p><input type="checkbox"/> Parole Commission Recommendation <input type="checkbox"/> Needs to be managed at a higher custody level <input type="checkbox"/> Can be managed at a lower custody level <input type="checkbox"/> Other considerations</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Mandatory</p> <p><input type="checkbox"/> Placement Matrix <input type="checkbox"/> 20+ Years to serve / Life sentence (Medium or Close) <input type="checkbox"/> Detainer / Pending Felony / ICE (Medium or Close)</p> </td> </tr> </table> <p>Override Explanation:</p>		<p>Discretionary</p> <p><input type="checkbox"/> Parole Commission Recommendation <input type="checkbox"/> Needs to be managed at a higher custody level <input type="checkbox"/> Can be managed at a lower custody level <input type="checkbox"/> Other considerations</p>	<p>Mandatory</p> <p><input type="checkbox"/> Placement Matrix <input type="checkbox"/> 20+ Years to serve / Life sentence (Medium or Close) <input type="checkbox"/> Detainer / Pending Felony / ICE (Medium or Close)</p>
<p>Discretionary</p> <p><input type="checkbox"/> Parole Commission Recommendation <input type="checkbox"/> Needs to be managed at a higher custody level <input type="checkbox"/> Can be managed at a lower custody level <input type="checkbox"/> Other considerations</p>	<p>Mandatory</p> <p><input type="checkbox"/> Placement Matrix <input type="checkbox"/> 20+ Years to serve / Life sentence (Medium or Close) <input type="checkbox"/> Detainer / Pending Felony / ICE (Medium or Close)</p>		
<p>Section VI: Recommended Custody Level</p> <p><input type="checkbox"/> Close <input checked="" type="checkbox"/> Medium <input type="checkbox"/> Minimum <input type="checkbox"/> Community</p>			
<p>Section VII: Authorization</p> <p>Final Custody Level: MEDIUM</p> <p>Prepared By: Rice, Michael J 2766 Reviewed By: Steffen, Cathy D. 6155 Date: 09/17/2013 Date: 09/18/2013 Facility Head: Served By: Rice, Michael J 2766 Date: Date: 09/19/2013</p>			

Offender Assessment Summary  

Offender Name: HERRERA, JOSEPH DUANE Offender #: 108567



Assessment Date: 08/15/2013

LSI-R

Section #	Section	Section Score
6	LEISURE/RECREATION	1.0
7	COMPANIONS (Rank: 2nd)	0.8
10	ATTITUDE/ORIENTATION (Rank: 1st)	0.75
1	CRIMINAL HISTORY (Rank: 5th)	0.6
2	EDUCATION/EMPLOYMENT (Rank: 7th)	0.6
9	EMOTIONAL/PERSONAL (Rank: 3rd and 4th)	0.6
8	ALCOHOL/DRUGS (Rank: 8th or higher)	0.55
3	FINANCIAL (Rank: 7th)	0.5
4	FAMILY/MARITAL (Rank: 6th)	0.25
5	ACCOMMODATIONS	0.0


Total Score 31.0
Evaluation High Risk

Source File:w_otr_s16_5.jsp

Offender Assessment Summary  

Offender Name: HERRERA, JOSEPH DUANE **Offender #:** 108567

Assessment Date: 08/15/2013

Section Score 

Re.Sort

TCU DRUG SCREEN II

Section #	Section	Section Score
1	Chemical Dependency	9.0
Total Score	9.0	
Evaluation	Chemically Dependent	

Back

Source File:w_otr_s16_5.jsp

IDAHO DEPARTMENT OF CORRECTION
OFFICIAL TIME CALCULATION REPORT

COMMITMENT NAME: HERRERA, JOSEPH DUANE IDOC NUMBER: 108567
LAST DATE CALCULATED: 09/11/2013 SEX: M STATUS: Termer PAGE: 1 OF 1

CASE NUMBERS CR11-2053
SENTENCE NUMBER 1
COUNTY BENEWAH

CRIME MURDER 2ND
COUNTS (IDENTICAL TERMS) 1
DATE OF CRIME

MINIMUM SENTENCE 22- 0- 0
MAXIMUM SENTENCE LIFE

DATE OF SENTENCE 08/29/2013
SENTENCE EFFECTIVE DATE
CC/CS TO SENTENCE I
INDETERMINATE BEGIN DATE 11/27/2033

JURISDICTION BEGINS
JURISDICTION ENDS
JURISDICTION QUASHED

JAIL CREDITS 640

PAROLE ELIGIBLE 11/27/2033
FULL TERM EXPIRATION

CC = Concurrent, CS = Consecutive, CL = Consecutive to All

REMARKS:
SENTENCE 1 09.05.13KR*/09.06.13 J-AUDIT.BP

STATUS PERIODS:
START LENGTH TYPE

09/10/2013 1 Present at Facility
08/29/2013 12 SENTENCE DATE

Offender DOR Report

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There were no records found.

STATE OF IDAHO)
 County of BENEWAH)^{ss}
 FILED 10/24/16
 AT 1:00 O'clock P M
 CLERK, DISTRICT COURT

 Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 JOSEPH DUANE HERRERA,)
)
 Defendant.)
 _____)

Case No. **BEN CRF 2011 2053**
**NOTICE OF INTENT OF THE COURT
 TO RELY ON CERTAIN MATERIALS
 AT OCTOBER 26, 2016, SENTENCING
 HEARING**

The Court gives notice to the parties and their lawyers of its intent to rely on certain information in the record at the time of the sentencing hearing to be held on October 26, 2016. Those materials consist of:

Any transcript from the prior proceedings, including but not limited to: 1) the entire trial transcript, and specifically the un-redacted testimony of a) the defendant, Joseph Duane Herrera; witnesses, b) Kaytlin Comack, sister of the victim Stefanie Comack, and the Facebook messages discussed in the Idaho Supreme Court Opinion for which Kaytlin Comack laid the foundation; c) Eunice McEwen, friend of the victim Stefanie Comack; d) Bobbie Jo Riddle, girlfriend of the father of the victim Stefanie Comack; e) Susie Comack, mother of the victim Stefanie Comack; 2) the transcript prepared for of any prior hearing in this case including but not limited to the initial sentencing hearing before Judge Gibler; and 3) the juror questionnaire returned by Juror No. 40, Constance Lynn Davis as part of

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the retrial before the undersigned. A copy of the juror questionnaire of Juror No. 40 is attached to this Court's notice.

This Court makes this disclosure in an abundance of caution after re-reading *State v. Kralovec*, Court of Appeals of Idaho decision No. 42760, March 2, 2016, 2016 WL 817467. While this is an unpublished opinion, this Court is not pointing the parties in the present case to this decision as "precedent", but rather as illuminating a possible notice issue in the present case, and this Court is not citing that case as authority to any court.

In the *Kralovec* decision there is the following quote:

Kralovec has not shown that the district court abused its discretion because he was provided a full opportunity to present evidence and to review and correct the PSI, as well as to explain or rebut *any adverse evidence that might have come to the court's attention*.

2016 WL 817467, p. 5. (italics added). That quote is dicta in that case because the issue being discussed in that opinion was not some item being considered by District Judge Jason Scott to which the defendant did not have prior knowledge, but rather, defendant in that case was objecting that Judge Scott refused defendant's request to read the entire transcript of the trial prior to sentencing (a senior judge had presided over the jury trial). However, the italicized language of that quote remains, and this Court, in an abundance of caution, wanted to provide counsel for both parties, but especially the defendant, with a) notice of what the Court has already read on prior occasions in this case, and b) to clarify in advance of the sentencing hearing, what the Court is considering is part of the "record" in this case.

In *Kralovec* the Idaho Court of Appeals cited to two other cases that are published and are well known to this Court and to attorneys practicing in the State of Idaho. The *Kralovec* opinion cites to *State v. Gain*, 140 Idaho 170, 90 P.3d 920 (2004), and *State v. Morgan*, 109 Idaho 1040, 712 P.2d 741 (Ct. App. 1985). 2016

WL 817467, p. 5. The Idaho Supreme Court in *Gain*, wrote:

A defendant is denied due process when the sentencing court relies upon information that is materially untrue or when the court makes materially false assumptions of fact. *State v. Dunn*, 134 Idaho 165, 172, 997 P.2d 626, 633 (Ct.App.2000). In order to minimize the likelihood of such due process violations, three fundamental safeguards are required: (1) the defendant must be afforded a full opportunity to present favorable evidence; (2) the defendant must be given a reasonable opportunity to examine all materials contained in the presentence report; and (3) the defendant must be afforded a full opportunity to explain and rebut adverse evidence. *State v. Morgan*, 109 Idaho 1040, 1043, 712 P.2d 741, 744 (Ct.App.1985).

140 Idaho 170, 174-75, 90 P.3d 920, 924-25. It is the third requirement that is meant to be addressed by this notice by the Court in the present case, that "the defendant must be afforded a full opportunity to explain and rebut adverse evidence." *Morgan*, which is cited by the Idaho Supreme Court in the above passage from *Gain*, raises the additional concern of this Court.

The judge had a clear duty under *Moore* to render his decision upon facts in the record. Had the judge desired to enlarge the record, he should have granted the parties a genuine opportunity to prepare and offer responsive information. No such genuine opportunity was afforded here.

109 Idaho 1040, 1043, 712 P.2d 741, 744. In that case, the Idaho Supreme Court noted District Judge John Maynard stated the following at sentencing:

At the sentencing hearing, the district judge reviewed the presentence report, made some corrections, listened to arguments of counsel, and then made the following statement:

My first consideration in sentencing you must be the protection of society and its people. *A condition of your bond when you were originally released was that you were to have no contact whatsoever with your wife because of certain assaultive behavior on your part prior to that time or upon the children, any contact with the children. That was a condition of your bond. It's been reported to the Court that you immediately went out and violated that condition of your bond, that as a result of that your wife was hospitalized.*

The Court has, in addition to the report, the information from the Department of Health and Welfare, the Juvenile Services, and the reports of an investigator with regard to your stepson and some criminal activity

that he's been involved in, and that report certainly leads the Court to believe that you were behind his criminal activity.

I see at this point no redeeming factor of any kind. I can't consider any kind of a probation based upon your conduct in the past, your leaving the area—your walking out of the courtroom at time for sentencing in this very matter, secreting yourself away from the courtroom.

So I ask you, do you know of any lawful reason why judgment shouldn't be pronounced against you?

THE DEFENDANT: No, sir.

THE COURT: All right. It's the judgment of the Court you are guilty of the crime as charged and it's the further order of the Court you be committed to the Idaho State Board of Corrections for a fixed term of five years.

109 Idaho 1040, 1042, 712 P.2d 741, 743. (Italics in original). Quite understandably, concerning the italicized portion, the Idaho Supreme Court then wrote:

The judge's assertion that Morgan had violated a condition of his bond, causing his wife to be hospitalized, was not based upon any report in the record. The report apparently was an oral statement from an unidentified source. Morgan and his attorney were unaware of any such report.

Id. The Idaho Supreme Court then held:

The instant case turns upon the third *Moore* requirement—a full opportunity to explain and rebut adverse evidence. As noted, the “evidence” challenged in this case was an oral statement attributed to an unidentified source and revealed to Morgan only when the judge recited reasons for the sentence he intended to pronounce. In no sense can it be said that Morgan received a “full opportunity” to explain and rebut this “evidence.” We believe that Morgan's right to procedural due process was violated.

The state argues that Morgan waived this violation by failing to interrupt the judge's recital or by failing to assert some “lawful reason” why judgment should not be pronounced. However, it must be remembered that when the judge began his recital, the presentence report had been examined and corrected, all known evidence had been presented, both sides had argued their positions, and the matter had been submitted for decision. The judge had a clear duty under *Moore* to render his decision upon facts in the record. Had the judge desired to enlarge the record, he should have granted the parties a genuine opportunity to prepare and offer responsive information. No such genuine opportunity was afforded here.

109 Idaho 1040, 1043, 712 P.2d 741, 744.

It would seem clear that the above materials listed by the Court in this instant notice in this case, are part of the “record”. The only exception might be (as set forth

above) "the juror questionnaire returned by Juror No. 40, Constance Lynn Davis."
That juror questionnaire was specifically discussed on the record outside the presence of the jury, at the time counsel for defendant Herrera made a motion to excuse that juror, and others, for cause. In that motion, counsel for defendant Herrera noted what he found objectionable, that Juror No. 40 answered question 18(c) (a question about prior publicity in the media about the case) "I worked w/a co-worker whose niece was Joseph's girlfriend prior to Stephanie. He did all the same things to this girl as Stephanie, except kill her. He's scum." Herrera's motion to excuse Juror No. 40 for cause was granted. However, that specific juror questionnaire of Juror No. 40 was not made part of the record at that time. This Court is placing the parties on notice of its intent to make "the juror questionnaire returned by Juror No. 40, Constance Lynn Davis" part of the record at sentencing, and to consider it as evidence at sentencing. The attorneys for the parties have been aware of the existence of such since prior to the trial.

DATED this 24th day of October, 2016

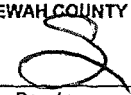

JOHN T. MITCHELL District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 24 day of October, 2016 copies of the foregoing Order were mailed, postage prepaid, or sent by facsimile or interoffice mail to:

Defense Attorney - Clayton Andersen
Prosecuting Attorney - Brian Thie

CLERK OF THE DISTRICT COURT
BENEAH COUNTY

BY: 
Deputy

Juror Name: Constance Lynn Davis

Panel No.: 16091

Juror Signature: Constance L Davis

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

CASE NO. CR-11-2053

JOSEPH HERRERA

Defendant.

JUROR QUESTIONNAIRE

You are a prospective juror in State of Idaho v. Joseph Herrera. In this case, Joseph Herrera is charged with the killing of Stefanie Comack. This case stems from activities that occurred on or about December 25, 2011.

The jury selected will decide whether Joseph Herrera is not guilty or guilty of these charges.

You are required to answer all questions contained herein truthfully and completely. Because this questionnaire is part of the jury selection process, your answers are made under oath and subject to the penalty of perjury. The information that you provide will be used by the Court and the attorneys for both sides solely for the selection of the jury in this case. The confidentiality of your answers to these questions will be respected and maintained by the Court.

QUESTIONS

1. What is your full name? (Please print).

Constance Lynn Davis

2. What is your age, including date of birth?

58 9/20/57

3. What is your occupation?

retired

4. Are you now employed?

YES: NO:

a. If "YES", provide the name and address of your employer

b. If "NO", provide the name and address of your most recent employer

USDA, Forest Service 3815 Schreiber
Way, Cda, Id

c. How long have you (or did you) work at your most recent place of employment?

36 years 30 1/2 in Orofino, Id. 5 1/2 in Cda

d. What are (or were) your primary duties?

Contracting officer

e. Are you now, or have you been, a supervisor?

YES: NO:

5. What is your marital status?

Married: Single: Separated:

Divorced: Spouse Deceased: Living with Someone:

Other:

6. What is your spouse's/partner's occupation?

NA

a. Where does he or she work?

NA

7. If you are under age 25, what are your parents' occupations?

NA

8. What is the highest level of education you have completed?

High School

9. What specialized training (if any) have you had?

OST

10. In what clubs or organizations are you (or ever have been) a member?

Ski Hill & Swim Team board member

11. Have you ever been a member or supporter of any advocacy group, or political lobbying organization, focusing its efforts on tougher criminal laws, victim rights, or offender punishment?

YES: _____ NO:

If "YES", please identify the organization(s) you have supported.

12. Have you ever served in the military?

YES: _____ NO:

If "YES", please provide the following information:

Branch _____ Years of Service _____

Highest Grade or Rank Attained _____

13. Have you ever worked, or volunteered, as any type of investigator (in the broadest sense), including but not limited to: private detective; insurance claims adjustor; loss control worker; crime prevention; neighborhood watch person; security guard; laboratory worker; social worker; drug or alcohol counselor; or public health worker?

No

YES: _____ NO: X

If "YES" please describe your activities. If you would consider:

14. Is there any reason you cannot participate as a juror in a trial which may take one or two weeks?

I'm in the middle of moving into a dump home
that I'm going to work on B14 I can move totally
in and I have a family member on her death bed that
15. Do you have any difficult reading, writing, or understanding the English language?
I'd like to attend her services

✓ NO

16. If you have children, give the gender and age of each of your children.

2 daughters 33 and 36

17. Have you ever served on a jury?

YES: _____ NO: X

a. If "YES", indicate in what Court you served, and give the year that you served

b. Did you serve on a criminal trial jury or a grand jury?

c. Did you reach a verdict?

d. What verdict was reached?

18. There may have been publicity about the present case in the media.

a. Have you read or heard about this case?

YES: NO:

b. Have you discussed this case with anyone?

YES: NO:

c. Have you formed any opinion whether Joseph Herrera is "guilty" or "not guilty" of any crime?

YES: NO: I worked w/ a Co-worker ~~whose~~ whose
niece was Joseph's girlfriend prior to
Stephanie. He did all the same
things to this girl as Stephanie, except
hes scum / kill her

If "YES", what opinions have you formed?

19. Unless you are excused from jury service in this case, the Court will order that you may not read, listen to, or watch any accounts of this case in the news media, including but not limited to: newspapers, periodicals, television, radio, internet, or any other source. The Court will further order that you may not discuss this case with anyone, nor may you discuss this Questionnaire or your answers with anyone, until such time as you have concluded jury service in this case.

a. Is there any reason you will not be able to follow the instructions given to you by the Court regarding the above?

YES: NO:

If "YES", please explain:

20. Would you change your opinion regarding a just and proper verdict merely to reach an agreement with one or more of your fellow jurors?

YES: NO: I really don't know.

21. Are you in any way acquainted with or related to Joseph Herrera, Stefanie Comack, or any member of his family?

YES: NO:

If "Yes", please explain how you know Joseph Herrera and/or Stefanie Comack.

22. The attorneys for the State, who will be prosecuting this case, are David Robbins and Brian Thie. Are you acquainted with any of them?

YES: _____ NO: X

If "YES", how do you know of David Robbins or Brian Thie?

23. The attorney for Joseph Herrera is Clayton Andersen. Are you acquainted with Clayton Andersen?

YES: _____ NO: X

If "YES", how do you know of Clayton Andersen?

24. The presiding Judge in this case is John Mitchell. Are you acquainted with Judge Mitchell?

YES: _____ NO: X

If "YES", how do you know of Judge Mitchell?

25. As stated above, the decedent in this case is Stefanie Comack. Are you acquainted with Stefanie Comack, or do you know any member of her family?

YES: _____ NO: X

*Just the family of the prior girlfriend
before Stefanie*

If "YES", how do you know of Stefanie Comack or her family members?

26. Have you, your spouse, your family members, or any of your close friends, ever been the victim of a crime, a witness to a crime, accused of a crime, or had any personal interest in the outcome of any criminal case?

YES: _____ NO: X

If "YES", please explain.

27. Have you, or has anyone close to you, ever been arrested for, charged with or convicted of any crime other than a minor traffic offense?

YES: _____ NO:

If "YES", please explain.

28. Have you or anyone close to you been employed, in any capacity, or otherwise associated with:

a. any state, federal, or municipal law enforcement agency (for example: Police Department, FBI, DEA, INS, ATF, IRS, Parole and Probation Department, Sheriff's Department, correctional facility, fire department, or prosecutor's office?)

YES: _____ NO:

If "YES" please explain.

b. any criminal defense, prisoners' rights, or sentencing reform group (for example: Office of the Public Defender; Amnesty International, ACLU, etc.)?

YES: _____ NO:

If "YES", please explain.

29. Would you tend to give greater weight or lesser weight to the testimony of a police officer, other law enforcement personnel, or other agency representative, solely because of his or her official capacity?

YES: _____ NO: _____

If "YES", please explain.

I ~~do~~ really don't know depends on person & their attitude

30. Have you, or anyone close to you, been abused?

YES: NO:

If "YES", please explain.

molested, abused by neighbor & alcoholic Dad.

31. Have you, or anyone close to you, been accused of abusing/assaulting another?

YES: NO:

If "YES", please explain.

Dad to ^{our} family & my mom

32. Would you tend to give greater weight or lesser weight to the testimony of a witness called by the prosecution?

YES: NO:

IDK

If "YES", please explain.

33. Would you tend to give greater weight or lesser weight to the testimony of a witness called by the defense?

YES: NO:

IDK

If "YES", please explain.

34. Have you, or has any member of your household or immediate family, attended law school, studied legal subjects (such as criminology, criminal justice, or law enforcement) or been employed in any capacity by a law firm or law-related agency?

YES: NO:

If "YES", please describe your experience.

35. Are you currently taking any medication that might interfere with your ability to be a fair, impartial, and attentive juror in this case?

YES: _____ NO: _____ IDK

If "YES", identify the medication and please explain how it affects you.

buspar - an anxiety pill.

36. Do you have any difficulty with eyesight or hearing, or do you have any other disability, condition, ailment, or disease that would make jury service in this case a hardship for you?

YES: X NO: _____

If "YES", please explain.

I don't always hear well.

37. The State may introduce evidence of the presence of substances in blood in its case against Joseph Herrera.

a. Do you have any specific training, knowledge or experience in the area of testing blood for substances?

YES: _____ NO: X

If "YES", please explain.

b. Do you believe that scientific evidence carries greater weight than other types of evidence?

YES: X NO: _____

If "YES", please explain.

I watch a lot of "cold case" files on TV

c. It is anticipated that there will be testimony offered as to opinions from experts that have been paid to review materials for the purpose of forming those opinions. Would you be able to listen to, fairly consider, and weigh the testimony of experts who have been compensated for their expertise?

YES: _____ NO: _____ IDK

If "NO", please explain.

38. Do you hold any opinions regarding psychiatry or psychology?

YES: _____ NO: _____

IDK

If "YES", what is your opinion?

39. Would you be able to listen to, fairly consider, and weigh the testimony of a psychiatrist or psychologist, if offered at trial?

YES: _____ NO: _____

IDK

If "NO", please explain.

40. What, if any, education, training, or experiences have you had in the areas of:

Medicine? YES: _____ NO: X

Please explain: _____

Statistics? YES: _____ NO: X

Please explain: _____

Police Procedure? YES: _____ NO: X

Please explain: _____

Drug Use/Addiction? YES: _____ NO: X

Please explain: _____

41. Would viewing graphic photos of a crime scene, a deceased body and wounds make it impossible for you to listen impartially in considering other evidence presented?

YES: _____ NO: X

42. Do you own any firearms?

YES: _____ NO: X

43. Has anyone in your family ever owned a gun?

YES X NO _____

44. If yes, please state whether the gun was owned by you or some other family member, the type of gun and the purpose for which it was kept.

Always lived my whole life w/ guns in my home till 10 years ago.

45. Do you have any experience regarding the use of firearms?

YES: X NO: _____

If your answer was yes to the previous question, briefly describe your experience regarding the use of firearms.

hunting & trap shooting

46. Does your firearm experience include the use of pistol that has a clip or magazine that holds the ammunition?

YES: X NO: _____

47. Do you support the right to bear arms?

YES: X NO: _____

48. Have you or a family member been injured as the result of a firearm?

YES: X NO: _____

If your answer was yes to the previous question, briefly describe the injury.

my nephew just committed suicide last Dec 2015 along w/ his wife

49. Do you keep any firearm loaded at your residence?

YES: _____ NO: X

50. Do you have a concealed carry permit for a firearm?

YES: _____ NO: X

51. Are you a member of the National Rifle Association or any other organization that supports the lawful possession of firearms?

YES: _____ NO: X

52. Do any of you belong to any organizations who advocate gun control?

YES: _____ NO:

53. Do you oppose the registration of gun or firearm ownership?

YES: _____ NO:

54. Have you ever taken a Hunter Safety Course?

YES: _____ NO:

55. Do you or a family member possess a federal firearm license?

YES: _____ NO:

56. Do you have any objection to firearms laws?

YES: _____ NO:

57. Have you or any member of your family had any experience in dealing with problems, legal, medical, or otherwise, that related to the use or abuse of controlled substances?

YES: NO: _____

58. Would this experience in dealing with problems, legal, medical, or otherwise, that related to the use or abuse of controlled substances make you unable to serve as a juror?

YES: _____ NO:

If yes to the previous question, please describe briefly why you do not believe that you could serve as a juror.

59. Are you a member of any organization which is dedicated to drug abuse education or awareness, such as "Just Say No" or "Dare"?

YES: _____ NO:

60. Do you believe that marijuana should be legalized?

YES: _____ NO: _____ Don't care either way

61. Do you have any experience with persons under the influence of methamphetamines?

YES: _____ NO:

If your answer was "yes" to the previous question, briefly describe your experience with persons under the influence of methamphetamines.

62. Have you or a family member ever been treated for substance abuse involving the use of alcohol or drugs?

YES: NO: _____

If your answer was "yes" to the previous question, briefly describe the treatment.

my sister has

63. Will the fact that this case involves the use of marijuana or methamphetamines affect your ability to serve fairly and impartially?

YES: NO: _____

If your answer was "yes" to the previous question, briefly describe why this would affect your ability to serve fairly and impartially.

if he's using the excuse he was on drugs to get off the penalty - that's crap.

PRINCIPLES OF LAW

There are certain legal principles governing a criminal case by which you must abide once you have taken your oath as a juror. If you have any difficulty in understanding these principles or in accepting these principles, you must inform the Court at this time. It is imperative that you be absolutely honest and open about your feelings.

64. Presumption of Innocence

Under our law and system of justice, the defendant is presumed to be innocent. The presumption of innocence means two things.

First, the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove his or her innocence, nor does the defendant ever have to produce any evidence at all.

Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It is the kind of doubt which would make an ordinary person hesitant to act in the most important

affairs of his or her own life. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

If you are selected as a juror in this case, will you have any difficulty accepting and/or applying the rule of law that Joseph Herrera must be presumed to be innocent?

YES: NO: _____

If "YES", please explain.

65. Information

There has been an Information filed in this case. An Information is a formal method of presenting charges.

Do you believe that it is more likely that Joseph Herrera is guilty merely because he has been formally charged by Information?

YES: _____ NO: _____ *IDK*

If "YES", please explain.

66. Do you believe that most people who are charged with crimes are probably guilty of those crimes?

YES: _____ NO: _____ *NOT necessarily*

If "YES", please explain.

67. Burden of Proof

The State has the burden of proving that Joseph Herrera is guilty beyond a reasonable doubt. Joseph Herrera does not have to prove that he is innocent. Joseph Herrera is not required to testify. Joseph Herrera is not required to present any evidence. Every element of an offense must be proven by the State, or the jury must find Joseph Herrera not guilty of that offense.

a. Do you understand this legal principle?

YES: NO: _____

b. Will you follow the Court's instructions in this regard?

YES: NO: _____

If "NO", please explain.

68. Right to Remain Silent

In every criminal case, the accused has an absolute Constitutional right not to testify.

a. Would you be able to presume Joseph Herrera to be innocent if he does not testify?

YES: _____ NO: _____

TDK

If "NO", please explain.

b. Would the fact that Joseph Herrera presented no evidence in his defense affect your ability to render a fair and impartial verdict?

YES: NO: _____

If "YES", please explain.

Probably because there is none

69. Reasonable Doubt

One of the fundamental principles of our system is that the prosecution has the burden of proving that Joseph Herrera is guilty beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

a. Are you able to accept this principle of law?

YES: _____ NO:

If "NO", please explain.

There will be so much stuff presented
I don't know if I could keep it
straight and organized.

b. Do you foresee any difficulty in applying this legal principle?

YES: NO:

If "YES", please explain.

I'm sure its going to be pretty confusing.

70. Is there any matter not yet covered by this questionnaire that you feel the attorneys or the Court should know about in considering you as a potential juror in this case?

YES: NO:

If "YES", please explain.

71. Is there any reason whatsoever why you are concerned that you may not be able to fairly and impartially weigh the evidence in this case, listen to the Court's instructions, and reach a verdict on all issues in accordance with the Court's instructions?

YES: NO:

If "YES", please explain.

After a few days ~~its~~ I don't know how I would keep it straight, organized in my mind. It'll be pretty over whelming to me.

I, Constance Lynn Davis, DO SOLEMNLY SWEAR OR AFFIRM, UNDER PENALTY OF PERJURY, THAT THE ANSWERS TO THE QUESTIONS SET FORTH ABOVE ARE MY ANSWERS, MADE WITHOUT ASSISTANCE FROM ANY OTHER PERSON, AND ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

JUROR SIGNATURE: Constance Lynn Davis

JUROR NAME (Print): Constance Lynn Davis

This completed questionnaire MUST be returned to the Jury Commission within 10 days of receipt. A self-addressed stamped envelope is provided.

2016 OCT 25 PM 2:32

BY:  DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948

Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.

Case No. CR11-2053

DEFENDANT'S CORRECTIONS
REGARDING PRESENTENCE
INVESTIGATION REPORT

COMES NOW, Clayton Andersen, Benewah County Public Defender, and makes a record of the correction on the Presentence Investigation Report (PSI) as follows:

1. Page 4, the Drug Paraphernalia-Use or Possession located near the bottom with a date of 11/02/2005 with court case CR-2005-0003633 is incorrect as there is no case listed for the Defendant in Benewah or Kootenai County with this case number. Please see Exhibit A;
2. Page 5 under prior record, comments. The Defendant has five misdemeanor convictions as follows:
 - a. Benewah County Case CR01-0291 for MIP on 05/05/01;
 - b. Benewah County Case CR02-026 for MIP on 01/01/02;
 - c. Benewah County Case CR03-0742 for Inattentive Driving on 12/26/03;
 - d. Kootenai County Case CR07-029576 for Frequenting on 12/15/07;

e. Benewah County Case CR08-0967 for Battery on 07/12/08.

Please see Exhibit B which is a repository print out of each case and Exhibit C which is the repository print out for Benewah and County.

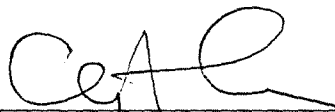
3. Page 6 in the first paragraph regarding the sentence that begins with On July 20, 2014, which portion of the sentence states "causing strain on resources and a waste of time for the instructor. There was no instructor, the GED program was a meeting location with a guard that met daily with a volunteer person coming on Monday who answered questions. The Defendant returned his materials that he had been given. The GED program was covering Algebra when the Defendant started and the participants were more than half the way through this section and the Defendant did not understand any of the program. The Defendant was sick and had his cell block supervisor contact the guard informing him that he was ill. The Defendant turned his materials back in several days later. The Defendant's position is that there was no strain on resources nor a waste of time for the instructor since he received no instruction;
4. Page 6 third paragraph regarding the comments by Lt. Morris. During the entire time that Defendant has been in the Benewah County Jail he has not received any write ups or sanctions. The Defendant denies that he has had another cellmate cause problems. The Defendant also disputes that any care has been given by the jail on the person that the jail assigned to his cell as he has had numerous cellmates with a vast variety of criminal charges. The Defendant has often assisted cellmates in during their negative thinking to positive thinking and for the cellmate to participate and join in church services and accept Jesus Christ in their lives. As well, the attitude of the jail staff has sometimes been very negative towards the Defendant as indicated by the letter dated 4-17-16 from inmate Bert Lewis

attached as Exhibit D; and letter from Thurman Sines dated August 14, 2013 attached as Exhibit E regarding his assistance.

5. Page 7, under Significant Family Information Comments. He informed the PSI preparer that nothing had changed except as set forth in the second paragraph;
6. Page 7, under Interests and Activities. He informed the PSI preparer that nothing had changed except as set forth in the paragraph, he also informed the PSI preparer regarding his participation as shown under page 9 regarding offender companion, inmate worker and the dog program and his participation in studying the bible, and attending Chapel at the Benewah County Jail;
7. On page 8, the reference to Kimberly Smith is incorrect as he had a dating relationship with a Kimberly Davis who has married and he believes her name is now Smith and does not know who the PSI preparer talked too.
8. Page 16, on bottom of page, the response set forth in paragraph 3 above
9. Page 17, first paragraph the comments are same as set forth in paragraph 4 above.
10. Page 17, fourth paragraph last sentence, the Defendant disputes that Ms. Smith or Johnson would say anything because they are afraid of him. Please see the previous character letters submitted to Judge Gibler from LeiLani Shifflet dated 8-16-13; Tanny Sines dated 8-15-13; Heather Burch dated 8-9-13; Pamela Olson dated 8-10-13; Danielle Outland dated 9-17-13 as Exhibit F.
11. Page 18 last paragraph, Defendant is unaware of any rehabilitative programs other than the self-study GED program available to him as an inmate.

I hereby certify that on the ____ day of October 2016, a true and correct copy of the foregoing document was served upon the Benewah County Prosecutor.

DATED this 25 day of October, 2016.



Clayton Andersen
Benewah County Public Defender

EXHIBIT "A"

No Cases Found

Connection: Public

Kootenai

1 Cases Found.

State of Idaho vs. Melanie J Olson
No hearings scheduled

Case: **CR-2005-0003633** Magistrate Judge: **To Be Assigned** Amount due: **\$0.00** **Closed**

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	02/21/2005	I49-654(2) Exceeding the Posted Speed Limit (1-19 MPH)	1084563	Infraction	Finding: Guilty
		Officer: HOWARD, DANIEL, ISP			Disposition date: 03/11/2005
					Fines/fees: \$53.00

Register of actions:	Date	Description
	02/22/2005	New Case Filed
	03/11/2005	Guilty Plea Or Admission Of Guilt - GT (I49-654(2) Exceeding the Posted Speed Limit (1-19 MPH))
	03/11/2005	Sentenced To Pay Fine (I49-654(2) Exceeding the Posted Speed Limit (1-19 MPH))
	03/11/2005	Case status changed: closed pending clerk action
	03/15/2005	Case status changed (batch process)

Connection: Public

EXHIBIT "B"

1

Benewah

1 Cases Found.

State of Idaho vs. Joseph Duane Herrera

No hearings scheduled

Case: **CR-2001-0000291** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** **Closed**

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	05/05/2001	I23-949 Alcoholic Bev- possess/consume/purchase By Minor Officer: Cordle, Guy R, 3000	92200	Misdemeanor	Finding: Guilty Disposition date: 05/29/2001 Fines/fees: \$73.10 Probation Type: Unsupervised Term: 1 year

Register of
actions: Date

- 05/15/2001 New Case Filed
- 05/15/2001 Hearing Scheduled - Mic (05/25/2001) Magistrate Court Clerks
- 05/16/2001 Hearing Scheduled - Mic (05/29/2001) Patrick R. Mcfadden
- 05/29/2001 Guilty Plea - Mic
- 05/29/2001 Judgment
- 05/29/2001 Sentenced To Pay Fine
- 05/29/2001 Probation Ordered
- 05/29/2001 Case Status Closed But Pending
- 08/02/2001 Affidavit Of Ftp Processed
- 03/13/2003 Discharged From Probation

Connection: Public

Benewah

1 Cases Found.

**State of Idaho vs. Joseph Duane Herrera
No hearings scheduled**

Case: **CR-2002-0000026** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** **Closed**

Charges: Violation Date	Charge	Citation	Degree	Disposition
01/01/2002	I23-949 Alcoholic Bev-possess/consume/purchase By Minor Officer: Cordle, Guy R, 3000	992711	Misdemeanor	Finding: Guilty Disposition date: 01/14/2002 Fines/fees: \$173.50 Jail: 30 days Suspended Jail: 29 days Probation Type: Unsupervised Term: 1 year



Register of actions: Date

- 01/02/2002 Bond Posted - Surety
- 01/02/2002 Notice To Defendants Regarding Your Release From Custody
- 01/07/2002 New Case Filed
- 01/07/2002 Hearing Scheduled - Mic (01/14/2002) Patrick R. Mcfadden
- 01/07/2002 Order Finding Probable Cause
- 01/14/2002 Arraignment / First Appearance - Mic
- 01/14/2002 Guilty Plea - Mic
- 01/14/2002 Judgment
- 01/14/2002 Sentenced To Fine And Incarceration
- 01/14/2002 Probation Ordered
- 01/14/2002 Bond Exonerated
- 01/14/2002 Case Status Closed But Pending
- 03/12/2002 Letter From Defendant
- 01/21/2003 Hearing Scheduled - Comm Serv/ged (03/28/2003) Patrick R. Mcfadden
- 03/27/2003 Hearing Scheduled - Comm Serv/ged (04/25/2003) Patrick R. Mcfadden
- 04/25/2003 Reopen (case Previously Closed)
- 04/25/2003 Disposition With Hearing
- 04/25/2003 Final Judgement, Order Or Decree Entered
- 04/25/2003 Order Of Extension/modification (cm Svc)
- 04/25/2003 Requirement For Ged Waived
- 04/25/2003 Case Status Closed But Pending
- 06/23/2003 Proof Of Completion Of 8 1/2 Hrs Comm Service
- 03/24/2004 Hearing Scheduled - Community Svc (05/14/2004) Patrick R. Mcfadden
- 05/14/2004 Reopen (case Previously Closed)
- 05/14/2004 Disposition With Hearing - Community Svc
- 05/14/2004 Final Judgment, Order Or Decree Entered
- 05/14/2004 Order Of Extension/modification (7 1/2 Hrs Cs)
- 05/14/2004 Case Status Closed But Pending
- 10/01/2004 Hearing Scheduled - Comm Service (12/01/2004) Patrick R. Mcfadden
- 12/01/2004 Hearing result for Hearing Scheduled held on 12/01/2004 01:00 PM: Disposition With Hearing Comm Service
- 12/01/2004 Hearing result for Hearing Scheduled held on 12/01/2004 01:00 PM: Disposition With Hearing Comm Service

Benewah

1 Cases Found.

State of Idaho vs. Joseph Duane Herrera

No hearings scheduled

Case: **CR-2003-0000742** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** **Closed**

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	12/26/2003	Original: I18-8004 {M} Driving Under The Influence Amended: I49-1401(3) Driving-inattentive/careless Officer: Dickenson, Rodney Bryan, 1000	10249	Misdemeanor Misdemeanor	Finding: Guilty Disposition date: 05/03/2004 Fines/fees: \$221.50 Jail: 10 days Suspended Jail: 9 days Probation Type: Unsupervised Term: 1 year

(Handwritten scribble)
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Register of actions: Date

- 12/29/2003 New Case Filed
- 12/29/2003 Bond Posted - Surety
- 12/29/2003 Notice To Defendants Regarding Your Release From Custody
- 12/29/2003 Hearing Scheduled - Dui (01/09/2004) Patrick R. Mcfadden
- 12/31/2003 Order Finding Probable Cause
- 01/09/2004 Statement Of Defendant's Rights-dui
- 01/09/2004 Arraignment / First Appearance - Dui
- 01/09/2004 Order Appointing Public Defender
- 01/18/2004 Hearing Scheduled - Dui (03/08/2004) Patrick R. Mcfadden
- 03/05/2004 Motion To Continue
- 03/05/2004 Continued - Dui
- 03/12/2004 Hearing Scheduled - Dui (05/03/2004) Patrick R. Mcfadden
- 05/03/2004 Hearing Held - Dui
- 05/03/2004 Charge Reduced Or Amended - Dui
- 05/03/2004 Guilty Plea -inattentive Driving
- 05/03/2004 Judgment
- 05/03/2004 Sentenced To Fine And Incarceration
- 05/03/2004 Probation Ordered
- 05/03/2004 Bond Exonerated
- 05/03/2004 Case Status Closed But Pending
- 09/23/2004 Affidavit Of Ftp Processed
- 04/03/2006 STATUS CHANGED (batch process)

Connection: Public

Kootenai

1 Cases Found.

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2007-0029576** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$250.00** **Closed pending clerk action**

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	12/15/2007	I37-2732(D) Controlled Substance-frequenting Place Used,etc Officer: Eixenberger K2345, Shawn, KCSO	111106	Misdemeanor	Finding: Guilty Disposition date: 02/26/2008 Fines/fees: \$250.00 Jail: 90 days Suspended Jail: 89 days Probation Type: Unsupervised Term: 1 year

4

12/15/2007 IPV Probation Violation-misdemeanor Officer: Eixenberger K2345, Shawn, KCSO	Misdemeanor Finding: Guilty Disposition date: 10/30/2008 Fines/fees: \$0.00 Jail: 3 days Credited time (Yes): 1 day
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Register of actions: Date

- 12/17/2007 New Case Filed - Misdemeanor
- 12/27/2007 Hearing Scheduled (Pre-Trial Conference/Arraignment 02/26/2008 08:30 AM)
- 12/27/2007 Notice of Pretrial Conference
- 02/26/2008 Hearing result for Pre-Trial Conference/Arraignment held on 02/26/2008 08:30 AM: Arraignment / First Appearance
- 02/26/2008 Administrative assignment of Judge
- 02/26/2008 A Plea is entered for charge: - GT (I37-2732(D) Controlled Substance-frequenting Place Used,etc)
- 02/26/2008 Sentenced To Pay Fine (I37-2732(D) Controlled Substance-frequenting Place Used,etc)
- 02/26/2008 Case status changed: closed pending clerk action
- 02/26/2008 Sentenced To Incarceration (I37-2732(D) Controlled Substance-frequenting Place Used,etc) Confinement terms: Jail: 90 days. Suspended jail: 89 days.
- 02/26/2008 Probation Ordered (I37-2732(D) Controlled Substance-frequenting Place Used,etc) Probation term: 1 year. (Unsupervised)
- 02/26/2008 Judgment
*****ACCOUNT IS IN COLLECTIONS***** - Step 1, Failure to Pay Fines and Fees - Charge # 1, Controlled Substance-frequenting Place Used,etc Appearance date: 4/28/2008
- 05/06/2008 Kootenai County Sheriff's Incident Report-fta
- 05/08/2008 Warrant Issued - Bench Bond amount: .00 Failure to Comply With Conditions of Probation Defendant: Herrera, Joseph Duane - ISSUED 05/14/08 - TMB
- 05/08/2008 Case status changed: Inactive
- 05/16/2008 Affidavit of Probation Violation-Failure to Comply ADIS BY 5-1-08
- 06/09/2008 Motion To Show Cause

06/11/2008 Hearing Scheduled (Order to Show Cause 08/21/2008 09:00 AM)
 06/11/2008 Order To Show Cause Issued
 06/19/2008 Affidavit Of Mailing
 08/21/2008 Hearing result for Order to Show Cause held on 08/21/2008 09:00 AM: Failure To Appear For Hearing Or Trial
 08/21/2008 Warrant Issued - Bench Bond amount: 1000.00 Failure to Appear ForOSC Hearing on 08/21/08 at 09:00 AM Defendant: Herrera, Joseph Duane - ISSUED 08/21/08 - TMB
 08/21/2008 Case status changed: Inactive
 08/25/2008 Letter From Defendant Re: Missed Court Date (per McFadden reset but warrant stays out untill he appears)
 08/26/2008 Warrant Returned Failure To Sign up for Sheriifs Labor Program within 7 days Defendant: Herrera, Joseph Duane
 08/26/2008 Case status changed: Activate (previously inactive)
 09/05/2008 Hearing Scheduled (Order to Show Cause 10/30/2008 09:00 AM)
 09/05/2008 Notice of Hearing
 09/05/2008 Warrant to remain outstanding until defendant appears at next court date 10/30/08 9/5/08
 09/12/2008 Warrant Returned Failure to Appear ForOSC Hearing on 08/21/08 at 09:00 AM Defendant: Herrera, Joseph Duane
 10/30/2008 Hearing result for Order to Show Cause held on 10/30/2008 09:00 AM: Disposition With Hearing
 10/30/2008 Sentenced To Incarceration (IPV Probation Violation-misdemeanor) Confinement terms: Jail: 3 days. Credited time: 1 day.
 10/30/2008 Order After Hearing On Probation Violation/ Contempt
 10/30/2008 Case status changed: closed pending clerk action
 10/31/2008 Certificate Of Completion - ADIS - Benewah Medical & Wellness Center
 02/11/2009 Kootenai County Sheriff's Incident Report-fta
 02/19/2009 Warrant Issued - Bench Bond amount: .00 Failure to Appear for Sheriff's Work Program Defendant: Herrera, Joseph Duane--issued 02-25-09
 02/19/2009 Case status changed: Inactive
 04/23/2009 Hearing Scheduled (Arraignment/First Appearance 04/23/2009 02:00 PM)
 04/23/2009 Warrant Returned Failure to Appear for Sheriff's Work Program Defendant: Herrera, Joseph Duane
 04/23/2009 Case status changed: Activate (previously inactive)
 04/23/2009 Hearing result for Arraignment/First Appearance held on 04/23/2009 02:00 PM: Disposition With Hearing
 04/23/2009 Case status changed: closed pending clerk action
 04/14/2014 Scanned

Connection: Public

Benewah

1 Cases Found.

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2008-0000967** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** **Closed**

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	07/12/2008	I18-903 Battery Officer: Richardson, Michael J, 3000	5080	Misdemeanor	Finding: Guilty Disposition date: 07/14/2008 Fines/fees: \$175.50 Jail: 60 days Suspended Jail: 58 days Credited time (Yes): 2 days Probation Type: Unsupervised Term: 1 year

5

Register of actions:

- Date
- 07/14/2008 New Case Filed - Misdemeanor
- 07/14/2008 Prosecutor assigned Douglas P Payne
- 07/14/2008 Order Finding Probable Cause
- 07/14/2008 Arraignment / First Appearance
- 07/14/2008 A Plea is entered for charge: - GT (I18-903 Battery)
- 07/14/2008 Found Guilty After Trial (I18-903 Battery)
- 07/14/2008 Court Accepts Guilty Plea (I18-903 Battery)
- 07/14/2008 Sentenced To Incarceration (I18-903 Battery) Confinement terms: Jail: 60 days. Suspended jail: 58 days. Credited time: 2 days.
- 07/14/2008 Probation Ordered (I18-903 Battery) Probation term: 1 year 0 months 0 days. (Unsupervised)
- 07/14/2008 STATUS CHANGED: closed pending clerk action
- 07/14/2008 Sentenced To Pay Fine 375.50 charge: I18-903 Battery
***** REPORTED TO COLLECTIONS-
- 08/29/2008 OVERDUE***** - Step 1, Failure to Pay Fines and Fees - Charge # 1, Battery Appearance date: 8/29/2008
- 02/14/2011 Bond Posted from Tax Intercept - Cash (Receipt 341 Dated 2/14/2011 for 175.50)
- 02/14/2011 Tax Intercept - NOTICE OF STATE INCOME TAX WITHHOLDING AND DIVERSION OF FUNDS TO THE ABOVE COURT TO PAY A DELINQUENT DEBT
- 03/07/2011 Bond Converted from Tax Intercept (Receipt number 568 dated 3/7/2011 amount 175.50)
- 03/07/2011 STATUS CHANGED: closed

Connection: Public

EXHIBIT "C"

Case History

Cases for: **Herrera, Joseph Duane**
Kootenai

2 Cases Found.

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2011-0022454** Magistrate Judge: **To Be Assigned** Amount due: **\$0.00** **Closed**

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	12/22/2011	I49-902(1) Vehicle-Operate when Unsafe or Improperly Equipped Officer: Larsen K2362, Solar G., KCSO	137803	Infraction	Finding: Guilty Disposition date: 01/06/2012 Fines/fees: \$62.00

Register of actions:

Date	Action
12/28/2011	New Case Filed - Infraction
01/06/2012	Notice of Default Judgment - Step 1, Failure to Appear - Charge # 1, Vehicle-Operate when Unsafe or Improperly Equipped Appearance date: 1/20/2012
01/06/2012	Case status changed: Closed pending clerk action
01/23/2012	Case status changed (batch process)

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2007-0029576** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$250.00** **Closed pending clerk action**

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	12/15/2007	I37-2732(D) Controlled Substance-frequenting Place Used,etc Officer: Eixenberger K2345, Shawn, KCSO	111106	Misdemeanor	Finding: Guilty Disposition date: 02/26/2008 Fines/fees: \$250.00 Jail: 90 days Suspended Jail: 89 days
	12/15/2007	IPV Probation Violation-misdemeanor Officer: Eixenberger K2345, Shawn, KCSO		Misdemeanor	Finding: Guilty Disposition date: 10/30/2008 Fines/fees: \$0.00 Jail: 3 days Credited time (Yes): 1 day

Register of actions:

Date	Action
12/17/2007	New Case Filed - Misdemeanor
12/27/2007	Hearing Scheduled (Pre-Trial Conference/Arraignment 02/26/2008 08:30 AM)
12/27/2007	Notice of Pretrial Conference
02/26/2008	Hearing result for Pre-Trial Conference/Arraignment held on 02/26/2008 08:30 AM: Arraignment / First Appearance
02/26/2008	Administrative assignment of Judge
02/26/2008	A Plea is entered for charge: - GT (I37-2732(D) Controlled Substance-frequenting Place Used,etc)
02/26/2008	Sentenced To Pay Fine (I37-2732(D) Controlled Substance-frequenting Place Used,etc)
02/26/2008	Case status changed: closed pending clerk action
02/26/2008	Sentenced To Incarceration (I37-2732(D) Controlled Substance-frequenting Place Used,etc) Confinement terms: Jail: 90 days. Suspended jail: 89 days.

02/26/2008 Probatic rdered (I37-2/32(D) Controlled Substan equenting Place Useu,etc)
 Probation term: 1 year. (Unsupervised)

02/26/2008 Judgment
 *****ACCOUNT IS IN COLLECTIONS***** - Step 1, Failure to Pay Fines

04/28/2008 and Fees - Charge # 1, Controlled Substance-frequenting Place Used,etc Appearance
 date: 4/28/2008

05/06/2008 Kootenai County Sheriff's Incident Report-fta

05/08/2008 Warrant Issued - Bench Bond amount: .00 Failure to Comply With Conditions of
 Probation Defendant: Herrera, Joseph Duane - ISSUED 05/14/08 - TMB

05/08/2008 Case status changed: Inactive

05/16/2008 Affidavit of Probation Violation-Failure to Comply ADIS BY 5-1-08

06/09/2008 Motion To Show Cause

06/11/2008 Hearing Scheduled (Order to Show Cause 08/21/2008 09:00 AM)

06/11/2008 Order To Show Cause Issued

06/19/2008 Affidavit Of Mailing

08/21/2008 Hearing result for Order to Show Cause held on 08/21/2008 09:00 AM: Failure To
 Appear For Hearing Or Trial

08/21/2008 Warrant Issued - Bench Bond amount: 1000.00 Failure to Appear ForOSC Hearing on
 08/21/08 at 09:00 AM Defendant: Herrera, Joseph Duane - ISSUED 08/21/08 - TMB

08/21/2008 Case status changed: Inactive

08/25/2008 Letter From Defendant Re: Missed Court Date (per McFadden reset but warrant stays
 out untill he appears)

08/26/2008 Warrant Returned Failure To Sign up for Sheriifs Labor Program within 7 days
 Defendant: Herrera, Joseph Duane

08/26/2008 Case status changed: Activate (previously inactive)

09/05/2008 Hearing Scheduled (Order to Show Cause 10/30/2008 09:00 AM)

09/05/2008 Notice of Hearing

09/05/2008 Warrant to remain outstanding until defendant appears at next court date 10/30/08
 9/5/08

09/12/2008 Warrant Returned Failure to Appear ForOSC Hearing on 08/21/08 at 09:00 AM
 Defendant: Herrera, Joseph Duane

10/30/2008 Hearing result for Order to Show Cause held on 10/30/2008 09:00 AM: Disposition
 With Hearing

10/30/2008 Sentenced To Incarceration (IPV Probation Violation-misdemeanor) Confinement
 terms: Jail: 3 days. Credited time: 1 day.

10/30/2008 Order After Hearing On Probation Violation/ Contempt

10/30/2008 Case status changed: closed pending clerk action

10/31/2008 Certificate Of Completion - ADIS - Benewah Medical & Wellness Center

02/11/2009 Kootenai County Sheriff's Incident Report-fta

02/19/2009 Warrant Issued - Bench Bond amount: .00 Failure to Appear for Sheriff's Work
 Program Defendant: Herrera, Joseph Duane--issued 02-25-09

02/19/2009 Case status changed: Inactive

04/23/2009 Hearing Scheduled (Arrestment/First Appearance 04/23/2009 02:00 PM)

04/23/2009 Warrant Returned Failure to Appear for Sheriff's Work Program Defendant: Herrera,
 Joseph Duane

04/23/2009 Case status changed: Activate (previously inactive)

04/23/2009 Hearing result for Arrestment/First Appearance held on 04/23/2009 02:00 PM:
 Disposition With Hearing

04/23/2009 Case status changed: closed pending clerk action

04/14/2014 Scanned

Connection: Public

Case History

**Cases for: Herrera, Joseph Duane
Benewah**

11 Cases Found.

Joseph Duane Herrera, Plaintiff vs State Of Idaho, Defendant

Case: **CV-2014-0000142** District Filed: **04/14/2014** Subtype: **Post Conviction Relief** Judge: **Fred M. Gibler** Status: **Closed 06/04/2014**

Defendants: **State Of Idaho By & Thru Idaho Post**
Subjects: **Herrera, Joseph Duane**

Disposition:	Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
	06/04/2014	Dismissal of Case	06/04/2014	Dismissed/Terminated	State Of Idaho By & Thru Idaho Post (Defendant), Herrera, Joseph Duane (Subject)	Dismissed

Register of actions:

Date	Description
03/31/2014	Petition For Post-Conviction Relief
04/14/2014	New Case Filed - Post Conviction Relief
04/14/2014	Filing: H10 - Post-conviction act proceedings Paid by: Herrera, Joseph Duane (subject) Receipt number: 0007145 Dated: 4/14/2014 Amount: \$.00 (Cash) For: Herrera, Joseph Duane (subject)
04/24/2014	Notice Of Intent to Dismiss
06/04/2014	Judgment
06/04/2014	Civil Disposition entered for: State Of Idaho By & Thru Idaho Post, Defendant; Herrera, Joseph Duane, Subject. Filing date: 6/4/2014
06/04/2014	STATUS CHANGED: Closed

**State of Idaho vs. Joseph Duane Herrera
Next hearing scheduled: 10/26/2016 9:00 AM**

Case: **CR-2011-0002053** District Judge: **John T. Mitchell** Amount due: **\$0.00** Closed pending clerk action

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	12/25/2011	I18-4001-II Murder II Officer: Loe, Robert W, 3000		Felony	Finding: Guilty Disposition date: 07/21/2016 Fines/fees: \$0.00

Pending hearings:	Date/Time	Judge	Hearing Type
	10/26/2016 9:00 AM	John T. Mitchell	Motion
	10/26/2016 9:00 AM	John T. Mitchell	Sentencing

Register of actions:

Date	Description
07/18/16	Hearing result for Jury Trial scheduled on 07/18/2016 09:00 AM: Jury Trial Started Murder II
12/27/2011	New Case Filed - Felony
12/27/2011	Prosecutor assigned Douglas P Payne
12/27/2011	Criminal Complaint
12/27/2011	Arraignment / First Appearance
12/27/2011	Court Minutes for Probable Cause Hearing
12/27/2011	Commitment - Held To Answer \$200.000.00
12/27/2011	Hearing Scheduled (Preliminary 01/09/2012 01:30 PM) 2nd Murder
12/27/2011	Notice Of Hearing
12/27/2011	Court Minutes
	Subpoena Issued Officer Bob Loe, Chief Margaret Lehmbacher, Dr Clyde Hason, S.A.
01/04/2012	Paul Berger ISP, Derek Barden, Deputy Michael Richardson, Raymond Roy, Katlyn Comack, Suzie Comack, Eunice McEwen, Ron Hodge
01/05/2012	Subpoena Returned Kaytlin Comack, Derek Barden, Raymond Roy, Susan Comack Clyde Hanson, Margaret Lehmbacher, Ron Hodge, Robert Loe
01/06/2012	Defendant: Herrera, Joseph Duane Order Appointing Public Defender Public defender William Butler

01/06/2012 Order Appointing F : Defender
01/06/2012 Court Minutes
Court Minutes Hearing type: Preliminary Hearing date: 1/9/2012 Time: 9:09 am
01/09/2012 Courtroom: District Courtroom Court reporter: Minutes Clerk: Stacy Bradbury Tape
Number: Defense Attorney: William Butler Prosecutor: Douglas Payne
01/09/2012 Continued (Preliminary 01/23/2012 01:30 PM) 2nd Murder
01/09/2012 Notice Of Hearing
01/10/2012 First Supplemental Response to Discovery
01/11/2012 Motion For Bond Reduction or Release on Own Recognizance and Notice of Hearing
01/11/2012 Hearing Scheduled (Motion 01/23/2012 01:30 PM) Motion for Bond Reduction
Subpoena Issued Subpoena Issued Officer Bob Loe, Chief Margaret Lehmacher, Dr
01/12/2012 Clyde Hason, S.A. Paul Berger ISP, Derek Barden, Deputy Michael Richardson, Raymond
Roy, Katlyn Comack, Suzie Comack, Eunice McEwen, Ron Hodge
01/12/2012 Notice of intent to Use 404 (b) Evidence
01/12/2012 Subpoena Returned Chief Margaret Lehmbecker, Michael Richardson, Clyde Hanson,
Ron Hodge, Robert Loe+-
01/17/2012 Motion to Continue Preliminary Hearing
01/17/2012 Subpoena Returned Raymond Roy Susan Comack, Kaytlin Comack
01/18/2012 Order to Continue Preliminary Hearing
01/18/2012 Continued (Preliminary 03/26/2012 01:30 PM) 2nd Murder
01/18/2012 Notice Of Hearing
01/23/2012 Subpoena Returned Michael Richardson, Derek Barden
01/25/2012 Hearing result for Motion scheduled on 01/23/2012 01:30 PM: Hearing Vacated Motion
for Bond Reduction
Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page
02/28/2012 Paid by: Carissa Receipt number: 0000531 Dated: 2/28/2012 Amount: \$8.00 (Credit
card)
02/28/2012 Miscellaneous Payment: Technology Cost - CC Paid by: Carissa Receipt number:
0000531 Dated: 2/28/2012 Amount: \$3.00 (Credit card)
03/13/2012 Subpoena Issued Officer BOB Loe, Ronnie Dickerson, Jerrilyn Herrera, Jesse Herrera,
Chief Margaret Lehmbecker, Dr Clyde Hansen, Ron Hodge, Officer Scott Castles
03/15/2012 Subpoena Returned Officer BOB Loe, Ronnie Dickerson, Jerrilyn Herrera, Jesse Herrera,
Chief Margaret Lehmbecker, Dr Clyde Hansen, Ron Hodge, Officer Scott Castles
03/21/2012 Ex-parte Motion for Investigators
Court Minutes Hearing type: Preliminary Hearing date: 3/26/2012 Time: 9:35 am
03/26/2012 Courtroom: District Courtroom Court reporter: Minutes Clerk: Stacy Bradbury Tape
Number: Defense Attorney: William Butler Prosecutor: Douglas Payne
03/26/2012 Hearing result for Preliminary scheduled on 03/26/2012 01:30 PM: Preliminary Hearing
Held 2nd Murder
03/26/2012 Order Holding Defendant To Answer To District Court
03/26/2012 Hearing result for Preliminary scheduled on 03/26/2012 01:30 PM: Hearing Held 2nd
Murder
03/27/2012 Prosecuting Attorney's Information
03/27/2012 Notice Of Hearing of Arraignment
03/27/2012 Hearing Scheduled (Arraignment 04/13/2012 09:30 AM) Murder in 2nd Degree
03/30/2012 Order (Bond Reduction to \$100,000.00)
04/09/2012 Hearing Scheduled (Motion 04/13/2012 09:30 AM) Motion for Investigators (Butler)
04/09/2012 Ex-Parte Motion for Investigators and Funds and Notice of Hearing
04/13/2012 Request for Cameras in the Courtroom (Mary Orr)
04/13/2012 Court Authorization
04/13/2012 Request for Cameras in the Courtroom (Dylan Wohlenhaus
04/13/2012 Court Authorization
04/13/2012 Hearing result for Arraignment scheduled on 04/13/2012 09:30 AM: Hearing Held
Murder in 2nd Degree
04/13/2012 Hearing result for Motion scheduled on 04/13/2012 09:30 AM: Hearing Vacated Motion
for Investigators and Funds (Butler)
04/13/2012 Order Entering Plea of Not Guilty
04/13/2012 A Plea is entered for charge: - NG (I18-4001-II Murder II)
04/13/2012 Court Minutes
04/23/2012 Hearing Scheduled (Jury Trial 08/14/2012 09:30 AM)
04/23/2012 Motion for Transcript of Preliminary Hearing
04/23/2012 Notice Of Trial
05/01/2012 Order

05/03/2012 Ex-parte Motion r Transcript

05/04/2012 Order RE: Ex-parte motion for Transcript
Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page

05/09/2012 Paid by: James Thomson Receipt number: 0001285 Dated: 5/9/2012 Amount: \$2.00 (Credit card)

05/09/2012 Miscellaneous Payment: Technology Cost - CC Paid by: James Thomson Receipt number: 0001285 Dated: 5/9/2012 Amount: \$3.00 (Credit card)

05/18/2012 Transcript Filed-Transcript of Preliminary Hearing - copies to PA, Butler

05/18/2012 Stipulation for Extension of Time to File Discovery Response and Pretrial Motions

05/18/2012 Order for Extension of Time to File Discovery Response and Pretrial Motions
Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page

05/21/2012 Paid by: Law Office of Staci L. Anderson, PLLC Receipt number: 0001397 Dated: 5/21/2012 Amount: \$123.00 (Check)

05/21/2012 Voided Receipt (Receipt# 1397 dated 5/21/2012)
Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page

05/23/2012 Paid by: Saetrum Law Offices Receipt number: 0001419 Dated: 5/23/2012 Amount: \$67.00 (Check)

05/23/2012 Miscellaneous Payment: Registered Mail Fee Paid by: Saetrum Law Offices Receipt number: 0001419 Dated: 5/23/2012 Amount: \$3.00 (Check)

06/13/2012 Second Supplemental Response To Request For Discovery

06/13/2012 Witness and Exhibit List

06/13/2012 Motion in Limine

06/13/2012 Notice of Intent to Use I.R.E. 803(24) and 804(6) Evidence

06/13/2012 Second Notice of Intent to Use 404(b) Evidence

06/13/2012 State's Second Motion in Limine

06/14/2012 Ex-parte Motion for Investigator Funds and Notice of Hearing

06/14/2012 Hearing Scheduled (Motion 06/15/2012 09:30 AM) Ex-Parte Motion for Investigator Funds

06/15/2012 Motion to Change Venue

06/15/2012 Motion to Suppress or Dismiss

06/18/2012 Registered Agent Return of Service - Subpoena Duces Tecum - Benewah Community Hospital

06/19/2012 Notice Of Hearing

06/20/2012 Hearing result for Motion scheduled on 06/15/2012 09:30 AM: Hearing Vacated Ex-Parte Motion for Investigator Funds

06/20/2012 Hearing Scheduled (Motion in Limine 07/13/2012 01:00 PM) State's Motion and 2nd Motion in Limine

06/20/2012 Defendant's Supplemental Request For Discovery

06/22/2012 Amended Notice Of Hearing

06/27/2012 Response To Defendant's Supplemental Request For Discovery

06/28/2012 Notice of Election to Proceed Under Idaho Code 9-420

06/28/2012 Certification of Records as "Not Found"

06/28/2012 State's Amendment to Notices of Intent to Use 404(b) and Hearsay Evidence

06/28/2012 State's Motion for Determination of Admissability of Evidence

06/28/2012 Plaintiff's Brief in Support of Admission of Victim's Statement and 404(b) Evidence
Subpoena Issued - James Comack, Suzie Comack, Jack Comack, Katlyn Comack, Eunice

06/28/2012 McEwen, Kianna Appell, Kim Smith, Bobbie Riddle, Tiffany Reeves, Roger Hossfeld, Eunice McEwen

06/29/2012 First Amendment to State's Witness List

07/02/2012 Subpoena Returned - Kimberly Anna Smith, Tiffany Ann Reeves, Kiani Rayelle Appell, Bobbie Joe Riddle, James Eric Comack, Jennifer Lynn Yumi Hickson

07/05/2012 Subpoena Returned - Rodger Harold Hossfeld, Jr.

07/06/2012 Notice Of Hearing

07/09/2012 Subpoena Returned - Eunice Marie McEwen

07/10/2012 Subpoena Issued - Officer Scott Castles, Chief Margaret Lehmbecker, Det. Paul Berger

07/10/2012 Subpoena Returned - Scott Charles Castles, Jr, Margaret Ann Lehmbecker
Hearing result for Motion in Limine scheduled on 07/13/2012 01:00 PM: Hearing Held

07/13/2012 State's Motion and 2nd Motion in Limine Defense Motion to Change Venue and Motions to Suppress

07/13/2012 Request for Cameras in the Courtroom and

07/13/2012 Court Authorization

07/13/2012 Court Minutes

07/16/2012 Subpoena Returned - Caytlin Comack

07/12/2012 C Deny Motion Suppress or Dismiss
 Subpoena Issued - Leon Hodge, Det. Paul Berger, Det. Michael Van Leuven, Det. Charles Greear, Officer Robert W. Loe, Chief Margaret Lehmbecker, Jesse Herrera, Jerilyn Herrera, Dr. Clyde Hansen, Derek Barden, Raymond Roy, James Comack, Suzie Comack, Katlyn Comack, Danny Ducommun, Jana Hanson, Vincent Hanson, Stuart Jacobsen, Officer Scott Castles, Ronnie Dickerson, Trp. Glenn Bakken, Dr. Sally Aiken, Deputy Michael Richardson, Deputy Robert Rogers, Deputy Rodney B. Dickenson, Bobbie Riddle, Janelle Buell, Dr. Paul F. Paschall

07/24/2012 Order on State's Motion for Determination of Admissability of Evidence

07/24/2012 Supplement to Motion to Change Venue

07/26/2012 Subpoena Returned - Margaret Ann Lehmbecker, Rodney Bryan Dickenson, Derek Barden

07/26/2012 Hearing Scheduled (Motion 08/01/2012 02:00 PM) Defense Motion to Continue Jury Trial

07/26/2012 Motion to Continue Jury Trial

07/26/2012 Order Denying Motion to Change Venue
 Subpoena Returned - Jerilynn Ronda Herrera, Susan Comack, Dan Ducommen, Vincent Hanson, Jana Hanson, Zachary Paul Sifford, Robert E. Rogers, Scott C. Castles, Raymond Roy, Robert W. Loe, Sr., Clyde Hansen, Bobbie Joe Riddle, Michael J. Richardson, Ronald Lee Hodge, Janelle Marie Buell

07/27/2012 Notice Of Hearing

07/29/2012 Subpoena Returned - Susan Comack

07/30/2012 Subpoena Returned - Ronald Dickerson, Jesse Herrera

07/31/2012 Subpoena Returned - Jack Henry Comack, James Eric Comack, Kaytlin Comack

08/01/2012 Hearing result for Motion scheduled on 08/01/2012 02:00 PM: Hearing Held Defense Motion to Continue Jury Trial

08/01/2012 Motion Granted

08/01/2012 Hearing result for Jury Trial scheduled on 08/14/2012 09:30 AM: Continued 2nd Degree Murder

08/01/2012 Request for Cameras in the Courtroom and Court Authorization Granted

08/01/2012 Court Minutes

08/02/2012 Order Continuing Jury Trial

08/03/2012 Hearing Scheduled (Jury Trial 12/11/2012 09:30 AM) 2nd Degree Murder

08/03/2012 Notice Of Trial
 Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page

08/06/2012 Paid by: James Thomson Receipt number: 0002173 Dated: 8/6/2012 Amount: \$9.00 (Credit card)

08/06/2012 Miscellaneous Payment: Technology Cost - CC Paid by: James Thomson Receipt number: 0002173 Dated: 8/6/2012 Amount: \$3.00 (Credit card)

09/25/2012 Notice of Substitution of Counsel

09/25/2012 Defendant: Herrera, Joseph Duane Appearance James E Siebe

09/26/2012 Request For Discovery

11/20/2012 Motion to Continue

11/21/2012 Order to Continue

11/21/2012 Continued (Jury Trial 03/12/2013 09:00 AM) 2nd Degree Murder

12/28/2012 Request For Discovery and Alibi Demand

02/01/2013 Hearing Scheduled (Status 02/22/2013 09:30 AM)

02/01/2013 Notice Of Hearing

02/22/2013 Hearing result for Status scheduled on 02/22/2013 09:30 AM: Hearing Held

02/22/2013 Court Minutes
 Subpoena Issued - Det. Michael Van Leuven, Officer Robert W. Loe, Chief Margaret Lehmbecker, Jesse Herrera, Jerilyn Herrera, Dr. Clyde Hansen, Derek Barden, Raymond Roy, James Comack, Susie Comack, Katlyn Comack, Eunice McEwen, Jana Hanson, Vincent Hanson, Det. Paul Berger, Stuart Jacobsen, Deputy Scott Castles, Ronnie Dickerson, Trp. Glenn Bakken, Det. Charles Greear, Sally Aiken, Deputy Michael Richardson, Robby Rogers, Deputy Rodney B. Dickenson, Bobbie Riddle, Janelle Buell, Dr. Paul F. Paschall

02/25/2013 Subpoena Returned - Dr. Clyde Hansen

02/26/2013 Subpoena Returned - Susan Ann Comack, Ronald Lee Dickerson, Bobbie Joe Riddle, Jana Lee Hanson, Jana Lee Hanson, Vincent Leon Hanson, Raymond Albert Roy, Rodney Bryan Dickenson, Kaytlin Jacklin Marie Comack, Derek Daniel Barden, Margaret Ann Lehmbecker

02/27/2013 Subpoena Returned - Michael John Richardson, Scott Charles Castles, Jr., Jerilynn Ronda Herrera, Jesse Warren Herrera, Janelle Marie Buell, James Eric Comack, Robert Earl Rogers

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03/01/2013 State's Second Amended Witness and Exhibit List

03/04/2013 Personal/Recalled Return of Service - Eunice McEwen

03/05/2013 Proposed Jury Instructions/defendant

03/08/2013 Request for Cameras in the Courtroom - Gazette Record

03/08/2013 Request for Cameras in the Courtroom - KHQ News

03/08/2013 Request for Jury Instructions

03/08/2013 Request for Cameras in the Courtroom

03/08/2013 Request for Cameras in the Courtroom

03/11/2013 Court Authorization

03/12/2013 Hearing result for Jury Trial scheduled on 03/12/2013 09:00 AM: Jury Trial Started 2nd Degree Murder March 12-15 and 19-20, 2013

03/12/2013 Hearing result for Jury Trial scheduled on 03/12/2013 09:00 AM: Hearing Vacated 2nd Degree Murder March 12-15 and 19-20, 2013

03/12/2013 Court Minutes

03/13/2013 Hearing Scheduled (Status 03/22/2013 09:30 AM)

03/13/2013 Notice Of Hearing

03/13/2013 Court Authorization

03/18/2013 Motion in Limine

03/19/2013 Motion to Disable Firearm

03/19/2013 Order Approving Disabling of Firearm

03/22/2013 Hearing result for Status scheduled on 03/22/2013 09:30 AM: Hearing Held

03/22/2013 Court Minutes

03/25/2013 Hearing Scheduled (Jury Trial 06/11/2013 09:30 AM) Trial dates June 11-14, 18-19 in Kootenai County 2nd Degree Murder

03/25/2013 Notice Of Trial
Subpoena Issued - Det. Michael Van Leuven, Officer Robert W. Loe, Chief Margaret Lehmbecker, Jesse Herrera, Jerilyn Herrera, Dr. Clyde Hansen, Derek Barden, Raymond Roy, James Comack, Susie Comack, Katlyn Comack, Eunice McEwen, Jana Hanson,

04/03/2013 Vincsent Hanson, Det. Paul Berger, Stuart Jacobsen, Deputy Scott Castles, Ronnie Dickerson, Trp. Glenn Bakken, Det. Charles Greear, Sally Aiken, Deputy Michael Richardson, Robby Rogers, Deputy Rodney B. Dickenson, Bobbie Riddle, Janelle Buell, Dr. Paul F. Paschall

04/04/2013 Order Setting Trial
Subpoena Returned - Raymond Albert Roy, Jesse Warren Herrera, Robert William Loe, Sr., Susan Ann Comack, Margaret Ann Lehmbecker, James Eric Comack, Rodney Bryan

04/08/2013 Dickenson, Michael John Richardson, Scott Charles Castles, Jr., Bobbie Joe Riddle, Dr. Clyde Hansen, Jerilynn Ronda Herrera, Ronald LOee Dickerson, Kaytlin Jacklin Marie Comack, Janelle Marie Buell

04/11/2013 Subpoena Returned - Derek Daniel Barden

06/05/2013 Notice of Additional Witness

06/05/2013 Five Blank Subpoenas Issued

06/11/2013 Court Minutes

06/11/2013 Court Minutes

06/11/2013 Amended Prosecuting Attorney's Information

06/11/2013 Hearing result for Jury Trial scheduled on 06/11/2013 09:30 AM: Hearing Held Trial dates June 11-14, 18-19 2nd Degree Murder

06/11/2013 Hearing result for Jury Trial scheduled on 06/11/2013 09:30 AM: Jury Trial Started Trial dates June 11-14, 18-19 2nd Degree Murder

06/12/2013 Court Minutes

06/13/2013 Court Minutes

06/14/2013 3 blank Subpoenas Issued

06/18/2013 Court Minutes

06/19/2013 Court Minutes

06/19/2013 Jury Instructions/defendant

06/19/2013 Jury Instructions

06/19/2013 Verdict

06/19/2013 Pre-Sentence Investigation Evaluation Ordered

06/21/2013 Order Entering Jury Verdict of Guilty and for Presentence Investigation

06/21/2013 Found Guilty After Trial (I18-4001-II Murder II)

06/21/2013 Court Accepts Guilty Plea (I18-4001-II Murder II)

06/21/2013 STATUS CHANGED: closed pending clerk action

06/25/2013 Hearing Scheduled (Sentencing 08/29/2013 03:00 PM) 2nd Degree Murder

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08/23/2013 Presentence Report

08/28/2013 Order in RE: Dress Clothes

08/29/2013 Hearing result for Sentencing scheduled on 08/29/2013 03:00 PM: Hearing Held 2nd Degree Murder

08/29/2013 Judgment and Sentence

08/29/2013 Sentenced To Incarceration (I18-4001-II Murder II) Confinement terms: Credited time: 640 days. Penitentiary determinate: 22 years.

08/29/2013 Other Sentencing Information: Indeterminate Life sentence.

08/29/2013 Court Minutes

09/09/2013 Sentenced To Pay Fine 240.50 charge: I18-4001-II Murder II

09/18/2013 Order for Appointment of Idaho State Appellate Public Defender for Purposes of Appeal

10/01/2013 Notice Of Appeal

10/01/2013 Appealed To The Supreme Court

10/01/2013 STATUS CHANGED: Inactive

12/13/2013 Notice Of Lodging Transcript On Appeal - Byrl Cinnamon

12/13/2013 Notice Of Lodging Transcript On Appeal - Anita Self

12/13/2013 Notice Of Lodging Transcript On Appeal - Valerie Nunemacher

01/24/2014 Notice Of Telephonic Hearing

01/24/2014 Hearing Scheduled (Hearing Scheduled 02/14/2014 12:00 PM) Telephonic Hearing

01/24/2014 Response To "Objection to the Record" and Motion to Vacate Hearing

01/28/2014 Amended Notice of Telephonic Hearing

01/30/2014 Hearing result for Hearing Scheduled scheduled on 02/14/2014 12:00 PM: Hearing Vacated

01/30/2014 Objection to the Record

01/30/2014 Order Granting Objection to the Record

02/28/2014 Notice of Transcript lodged Julie FOLAND

03/03/2014 Statement \$513.50 Julie Foland Appeal Transcript

03/31/2014 Petition For Post-Conviction Relief

08/07/2015 Opinion

08/07/2015 Summary Statement

08/19/2015 Order (To transport defendant from IDOC to Benewah County)

08/19/2015 BOND SET: at \$200,000.00

Court Minutes Hearing type: Status Hearing date: 8/26/2015 Time: 10:41 am

08/26/2015 Courtroom: Court reporter: Minutes Clerk: Angela Medley Tape Number: Defense Attorney: James Siebe Prosecutor: Douglas Payne

08/28/2015 Defendant: Herrera, Joseph Duane Appearance Clayton G Andersen

08/28/2015 Order Appointing Public Defender

08/28/2015 Hearing Scheduled (Status 09/18/2015 09:30 AM)

08/28/2015 Notice Of Hearing

08/28/2015 Petition For Rehearing

Court Minutes Hearing type: Status Hearing date: 9/18/2015 Time: 1:43 pm

09/18/2015 Courtroom: Court reporter: Minutes Clerk: Stacy Bradbury Tape Number: Defense Attorney: Clayton Andersen Prosecutor: Douglas Payne

09/23/2015 Hearing result for Status scheduled on 09/18/2015 09:30 AM: Hearing Held

11/06/2015 Order Denying Petition For Rehearing

11/30/2015 2015 Opinion No. 111 Substitution Opinion. The Court's Prior Opinion Dated August 7, 2015 is Hereby Withdrawn

11/30/2015 STATUS CHANGED: Reopened

Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page

12/07/2015 Paid by: Gazette Record Receipt number: 0002697 Dated: 12/7/2015 Amount: \$13.00 (Check)

12/28/2015 Remittitur

12/28/2015 Hearing Scheduled (Status 04/22/2016 09:30 AM) In Benewah.. Is trial Going?

12/28/2015 Hearing Scheduled (Jury Trial 04/26/2016 09:30 AM) Murder.. Trial will be at Kootenai County Courthouse 324 W. Garden Ave Coeur d'Alene, ID 83814 a

12/28/2015 Notice of Hearing

12/30/2015 Motion to Disqualify-Clayton Andersen

Hearing Scheduled (Tentative Hearing-Paperwork not filed 02/05/2016 11:30 AM)

12/30/2015 Motion for appointment of Expert Witness/Fees/House in Benewah/Limine and Mediation -Clayton Andersen

12/31/2015 Disqualification Of Judge - Cause (Judge Gibler)-Clayton Andersen

01/03/2016 Order Or Re-Assignment Honorable John T. Mitchell

01/06/2016 Change Assigned Judge
Hearing result for Jury Trial scheduled on 04/26/2016 09:30 AM: Hearing Held

01/06/2016 Murder... Trial will be at Kootenai Courthouse 324 W. Garden Ave Coeurd'Alene, ID 83814 a

01/06/2016 Hearing result for Status scheduled on 04/22/2016 09:30 AM: Hearing Vacated In Benewah.. Is trial Going?

01/06/2016 Prosecutor assigned Brian D Thie
Hearing result for Tentative Hearing-Paperwork not filed scheduled on 02/05/2016

01/20/2016 11:30 AM: Hearing Vacated Motion for appointment of Expert Witness/Fees/House in Benewah/Limine and Mediation -Clayton Andersen

01/20/2016 Hearing Scheduled (Pretrial Conference 04/13/2016 01:30 PM) Hearing at Kootenai County Courthouse

01/20/2016 Hearing Scheduled (Jury Trial 04/25/2016 09:00 AM) Hearing will be Held Kootenai County Courthouse

01/22/2016 Notice Of Trial

02/05/2016 Notice Of Trial

02/05/2016 Hearing Scheduled (Status 02/24/2016 11:30 AM) Scheduling Confrence

02/05/2016 Notice Of Hearing

02/23/2016 Stipulation to Continue Pre-trial and Trial

02/24/2016 Hearing result for Status scheduled on 02/24/2016 11:30 AM: Hearing Held Scheduling Confrence

02/24/2016 Motion to Authorize the Benewah County District Court Fund to Pay internation Forsensic Experts. LLC, Pususnt to the Contract Agreement Dated 12/08/15 Attached

02/24/2016 Order to Authorize the Benewah County District Court Fund to Pay internation Forsensic Experts. LLC, Pususnt to the Contract Agreement Dated 12/08/15 Attached

02/24/2016 Court Minutes
Subpoena Issued Ronnie Dickerson, Janelle Buell, Deputy R. Dickenson, Deputy M Richardson, Sally Aiken, Det. CHARLES Greear, Officer Scott Castles, Stuart Jacobsen, Det Paul Berger, Det. Michael Leuven, Dr. Clyde Hansen, Chief Margaret Lehmbecker, Offier Robert Loe

03/01/2016

03/02/2016 Order to Keep Defendant in Custody at the Benewah County Jail

03/02/2016 Motion in Limine Regarding Defendant's Character Evidence and Other Evidence Ruled inadmissible by the Idaho Supreme Court

03/02/2016 Motion to Exclude James Comack from Court Proceedings

03/03/2016 Objection to Motion

03/03/2016 Objection to Motion

03/04/2016 Amended Objection to Motion

03/04/2016 Amended Objection to Motion
Court Minutes Hearing type: Hearing Scheduled Hearing date: 3/8/2016 Time: 10:18 am Courtroom: Court reporter: Minutes Clerk: Stacy Bradbury Tape Number: Defense Attorney: Clayton Andersen Prosecutor: Brian Thie

03/08/2016

03/08/2016 Court Minutes-Mediation with Judge Stensgar

03/08/2016 Motion to Transport for Hearing

03/09/2016 Motion to Replace Defense Attorney

03/09/2016 Motion to Permit Amended Information

03/10/2016 Subpoena Returned Margaret Lehmbecker, Robert Loe, Scott Castles

03/10/2016 Notice of Hearing

03/10/2016 Order to Transport for Hearings

03/10/2016 Brief in Support of Motion in Limine Regarding Fleeing By the Defendant

03/10/2016 Motion in Limine Regarding Fleeing By the Defendant
Motion in Limine Regarding Portions of Defendant's Prior Testimony Regarding his

03/10/2016 Rebuttal to the Character Evidence and other Evidence Ruled inadmissible by the Idaho Supreme Court
Motion For Benewah County Sheriff to Transfer Defendant's Medications and For the Kootenai County Jail to Admisister Medications Prescribed to Defendant During any Time Periods he is in Custody at the Kootenai County Jaile During Defendant's Trial

03/10/2016 Motion For Defendant to be able to wear street clothes and the Defendant not be handcuffed or have other restraints in the presence of the Jury During Defenant's Trial
Brief in Support of Motion in Limine Re Display of Stephanie Comack's Photographs to the Jury in Opening Argument and a Prior Determination by the Court on the Photgraphs that the State intends to Produce in Evidence Regarding Stephanie Comack

03/10/2016 Motion in Limine Re Display of Stephanie Comack's Photographs to the Jury in Opening Argument and a Prior Determination by the Court on the Photographs that the State intends to Produce in Evidence Regarding Stepanie Comack

03/10/2016 Notice of Hearing c Defendant's Motions

03/10/2016 Hearing Scheduled (Motion 04/22/2016 04:00 PM) Motions Hearing to be held in Kootenai County Courthouse

03/14/2016 Subpoena Returned Michael Richardson, Janelle Buell, Clyde Hansen. Ronald Dickerson, Rodney Dickenson

03/14/2016 Amended Notice of Hearing

03/15/2016 Subpoena Issued Jesse W. Herrera, Jerilyn Herrera

03/16/2016 Subpoena Issued Glen Bakken, Roy Raymond

03/17/2016 Motion to Release Evidence

03/22/2016 Subpoena Returned Raymond Albert Roy

03/22/2016 Court Minutes

03/23/2016 Memorandum Decision and Order on Pre-trial Motions heard on March 22, 2016, Order Vacating April 25, 2016, Trial and Rescheduling Trial to Begin July 18th, 2016

03/24/2016 Hearing result for Motion scheduled on 04/22/2016 04:00 PM: Hearing Vacated Motions

03/24/2016 Notice Of Vacating Pretrial/ Motion/ and Jury Trial and resetting Hearing

03/24/2016 Hearing result for Jury Trial scheduled on 04/25/2016 09:00 AM: Hearing Vacated Hearing will be Held Kootenai County Courthouse

03/24/2016 Hearing result for Pretrial Conference scheduled on 04/13/2016 01:30 PM: Hearing Vacated Hearing at Kootenai County Courthouse

03/24/2016 Hearing Scheduled (Jury Trial 07/18/2016 09:00 AM) Murder

03/24/2016 Hearing Scheduled (Status 04/20/2016 09:00 AM) Re-Examination of Witness

03/24/2016 Hearing Scheduled (Pretrial Conference 06/29/2016 04:00 PM)

03/24/2016 Notice Of Trial

03/24/2016 Amended Prosecuting Attorney's Information
Subpoena Issued (Jeri Herrera, Jesse W. Herrera, Dr. Sally Aiken, Ronnie Dickerson, Janelle Buell, Deputy Michael Richardson, Deputy R. Bryan Dickenson, Officer Scott Castles, Dr. Clyde Hansen, Chief Margaret Lehmbecker, Officer Robert W. Loe, Stuart Jacobsen, Detective Michael Van Leuven, Detective Charles Greear, Detective Paul Berger)

03/28/2016 Subpoena Returned Robert Loe, Michael Richardson

03/29/2016 Subpoena Returned Margaret Lehmbecker, Scott Castles, Janelle Buell, Rodney Dickenson, Ronald Dickerson,

04/04/2016 Subpoena Returned Dr Clyde Hansen

04/08/2016 Defendant(s) Requested Jury Instructions

04/08/2016 Defendants First Response to Request for Discovery after Demand for New Trial

04/11/2016 Stipulation Regarding Release of Exhibits

04/11/2016 Notice of Intent to Use 404(b) Evidence

04/11/2016 Motion to Transport for Hearing

04/12/2016 Order Regarding Release of Exhibits

04/12/2016 Order to Transport For Hearing

04/13/2016 Subpoena Issued Katlyn Comack, Bobbie Jo (Riddle) Comack, Susie Comack, Eunice McEwen

04/13/2016 Motion in Limine Regarding Defendant's Prior Testimony

04/13/2016 Brief in Support of Motion in Limine Regarding Defendant's Prior Testimony

04/13/2016 Affidavit in Support of Motion For Approval of Additional Compensation For Benewah Public Defender

04/13/2016 Motion For Approval of Additional Compensation for Benewah Public Defender

04/13/2016 Notice of Hearing on Defendant's Motion in Limine on Defendant's Prior Testimony

04/13/2016 Notice of Hearing on Defendant's Motion for Approval of Additional Compensation for Benewah Public Defender

04/13/2016 Objection to State's Notice of Intent to Use 404(BO Evidence Filed and Dated April 11, 2016

04/19/2016 Notice to Vacate Hearing on Defendant's Motion in Limine on Defendant's Prior Testimony

04/19/2016 Request For Jury Instructions

04/20/2016 Hearing result for Status scheduled on 04/20/2016 09:00 AM: Hearing Held Re-Examination of Witness

04/20/2016 Court Minutes

04/22/2016 Stipulation Regarding Payment of Duplication Costs

04/25/2016 Order Re: Payment of Duplication of Court Exhibits

06/27/2016 Motion for transport for Hearings

06/27/2016 Order to Transport for Hearing

06/29/2016 Hearing result for Trial Conference scheduled on 06/29/2016 04:00 PM: Hearing Held

07/11/2016 State's Third Amended Witness List and Exhibit List

07/13/2016 Motion to Transport for Trial

07/13/2016 Order to Transport for Trial

07/14/2016 Defendant's First Response to Request For Discovery After Remand For New Trial

07/14/2016 Subpoena Issued Raymond Roy, Cindy Loe, Daniel Ducommun, Jason Bierman

07/14/2016 Motion to Transport Witness for Trial

07/15/2016 Order to Transport Witness for Trial

07/15/2016 State's Supplemental Response To Request For Discovery

07/15/2016 Request For Cameras in the Courtroom

07/17/2016 Order to Transport Witness for Trial (7.18.16)

07/17/2016 Order to Transport Witness for Trial (7.20.16)

07/18/2016 Court Minutes (Status)

07/19/2016 Court Minutes (Trial - Day 1)

07/19/2016 Court Minutes (Trial - Day 2)

07/20/2016 Court Minutes (Trial - Day 3)

07/21/2016 Found Guilty After Trial

07/21/2016 Found Guilty After Trial (I18-4001-II Murder II)

07/21/2016 Court Accepts Guilty Plea (I18-4001-II Murder II)

07/21/2016 STATUS CHANGED: closed pending clerk action

07/21/2016 Court Minutes (Trial - Day 4)

07/21/2016 Jury Instructions Filed

07/21/2016 Verdict

07/22/2016 Pre-Sentence Investigation Evaluation Ordered

07/22/2016 Hearing Scheduled (Sentencing 09/06/2016 09:00 AM)

07/22/2016 Notice Of Hearing

07/25/2016 Order Entering Jury Verdict Of Guilty And For Presentence Investigation

08/03/2016 Motion to Extend Time to File Post Trial Motions

08/04/2016 Motion to Extend Time to File Post Trial Motions

08/31/2016 Motion to Continue Sentencing

08/31/2016 Order to Continue Sentencing

08/31/2016 Continued (Sentencing 10/26/2016 09:00 AM) II Murder

08/31/2016 Notice Of Hearing

09/15/2016 Notice of Filing Under Seal

09/19/2016 Second Motion For Approval of Additional Compensation For Benewah Public Defender

10/05/2016 Notice of Hearing on Defendant's Second Motion for Approval of Additional Compensation For Benewah Public Defender

10/05/2016 Hearing Scheduled (Motion 10/26/2016 09:00 AM) Motion for Approval of Additional Compensation For Benewah Public Defender

10/20/2016 Presentence Report

10/20/2016 Notice of Filing Department of Corrections Recprds

10/24/2016 Notice of Intent of the Court to Rely on Certain Materials at October 26th, 2016 Sentencing Hearing

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2010-0000132** Magistrate Judge: **Magistrate Court Clerks** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	01/31/2010	I49-654(2) Driving-Speed-Exceeding the Maximum Posted Speed Limit	14286	Infraction	Finding: Guilty
		Officer: Benewah Co Sheriff,, 1000			Disposition date: 02/16/2010
					Fines/fees: \$75.00

Register of actions: Date

02/15/2010 New Case Filed - Infraction
 02/15/2010 Prosecutor assigned Douglas P Payne
 A Plea is entered for charge: - GT (I49-654(2) Driving-Speed-Exceeding the Maximum

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02/16/2010 Posted Speed Limit

- 02/16/2010 Found Guilty After Trial (I49-654(2) Driving-Speed-Exceeding the Maximum Posted Speed Limit)
- 02/16/2010 Court Accepts Guilty Plea (I49-654(2) Driving-Speed-Exceeding the Maximum Posted Speed Limit)
- 02/16/2010 STATUS CHANGED: closed pending clerk action
- 02/16/2010 Sentenced To Pay Fine 75.00 charge: I49-654(2) Driving-Speed-Exceeding the Maximum Posted Speed Limit
- 02/16/2010 STATUS CHANGED: closed

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2009-0001483** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	11/25/2009	I18-918(3)(B) {M} Battery-Domestic Violence with No Traumatic Injury Officer: O'Donnell, Rick, 1000	16634	Misdemeanor	Finding: Bond Forfeiture-Case Dismissed Other Finding: Deferred Prosecution 6 Months Disposition date: 07/30/2010 Fines/fees: \$0.00

Register of actions: Date

- 11/25/2009 New Case Filed - Misdemeanor
- 11/25/2009 Prosecutor assigned Douglas P Payne
- 11/25/2009 Affidavit
Court Minutes Hearing type: Arraignment Hearing date: 11/25/2009 Time: 10:11 am
- 11/25/2009 Courtroom: Court reporter: Minutes Clerk: Stacy Bradbury Tape Number: Defense Attorney: Prosecutor: Douglas Payne
- 11/25/2009 Order Finding Probable Cause
- 11/25/2009 Information To Defendant (misdemeanor Rights)
- 11/25/2009 Commitment - Held To Answer 500
- 11/25/2009 No Contact Order: Civil Order Submitted for Signature Comment: Within 300 feet of Kiani Appell Expiration Days: 365 Expiration Date: 11/25/2010
- 11/27/2009 Hearing Scheduled (Pretrial Conference 01/25/2010 09:00 AM) Dom Batt
- 11/27/2009 Notice Of Hearing
- 11/27/2009 Notice To Defendants Regarding Your Release From Custody
- 11/27/2009 Bond Posted - Surety (Amount 500.00)
Court Minutes Hearing type: Pretrial Conference Hearing date: 1/25/2010 Time: 8:30 am
- 01/25/2010 Courtroom: District Courtroom Court reporter: Minutes Clerk: Stacy Bradbury Tape Number: Defense Attorney: Prosecutor: Douglas Payne
- 01/25/2010 Hearing result for Pretrial Conference held on 01/25/2010 09:00 AM: Hearing Vacated Dom Batt
- 01/25/2010 Deferred Prosecution 6 months
- 01/25/2010 STATUS CHANGED: inactive
- 07/26/2010 Bond Posted - Cash (Receipt 8421 Dated 7/26/2010 for 100.00)
- 07/30/2010 Motion to Dismiss
- 07/30/2010 STATUS CHANGED: closed pending clerk action
- 07/30/2010 Surety Bond Exonerated (Amount 500.00)
- 07/30/2010 Bond Forfeited - Case Dismissed
- 08/11/2011 STATUS CHANGED (batch process)

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2008-0000967** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	07/12/2008	I18-903 Battery Officer: Richardson, Michael J, 3000	5080	Misdemeanor	Finding: Guilty Disposition date: 07/14/2008 Fines/fees: \$175.50 Jail: 60 days Suspended Jail: 58 days

42

Credited time (es): 2 days

Register of actions: Date

- 07/14/2008 New Case Filed - Misdemeanor
- 07/14/2008 Prosecutor assigned Douglas P Payne
- 07/14/2008 Order Finding Probable Cause
- 07/14/2008 Arraignment / First Appearance
- 07/14/2008 A Plea is entered for charge: - GT (I18-903 Battery)
- 07/14/2008 Found Guilty After Trial (I18-903 Battery)
- 07/14/2008 Court Accepts Guilty Plea (I18-903 Battery)
- 07/14/2008 Sentenced To Incarceration (I18-903 Battery) Confinement terms: Jail: 60 days. Suspended jail: 58 days. Credited time: 2 days.
- 07/14/2008 Probation Ordered (I18-903 Battery) Probation term: 1 year 0 months 0 days. (Unsupervised)
- 07/14/2008 STATUS CHANGED: closed pending clerk action
- 07/14/2008 Sentenced To Pay Fine 375.50 charge: I18-903 Battery
***** REPORTED TO COLLECTIONS-*****
- 08/29/2008 OVERDUE***** - Step 1, Failure to Pay Fines and Fees - Charge # 1, Battery Appearance date: 8/29/2008
- 02/14/2011 Bond Posted from Tax Intercept - Cash (Receipt 341 Dated 2/14/2011 for 175.50)
- 02/14/2011 Tax Intercept - NOTICE OF STATE INCOME TAX WITHHOLDING AND DIVERSION OF FUNDS TO THE ABOVE COURT TO PAY A DELINQUENT DEBT
- 03/07/2011 Bond Converted from Tax Intercept (Receipt number 568 dated 3/7/2011 amount 175.50)
- 03/07/2011 STATUS CHANGED: closed

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2005-0000709** Magistrate Judge: **Magistrate Court Clerks** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	08/02/2005	I49-1428 Insurance-operate Mv Without Liability Insurance Officer: Hilton, Sidney E, 1000	12825	Infraction	Finding: Guilty Disposition date: 09/23/2005 Fines/fees: \$116.50

Register of actions: Date

- 08/03/2005 New Case Filed - Infraction
- 08/03/2005 Prosecutor assigned Douglas P Payne
- 09/23/2005 Guilty Plea Or Admission Of Guilt (GT I49-1428 Insurance-operate Mv Without Liability Insurance)
- 09/23/2005 STATUS CHANGED: closed pending clerk action
- 09/23/2005 Sentenced To Pay Fine 116.50 charge: I49-1428 Insurance-operate Mv Without Liability Insurance
- 09/23/2005 STATUS CHANGED: closed

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2003-0000742** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	12/26/2003	Original: I18-8004 {M} Driving Under The Influence Amended: I49-1401(3) Driving-inattentive/careless Officer: Dickenson, Rodney Bryan, 1000	10249	Misdemeanor Misdemeanor	Finding: Guilty Disposition date: 05/03/2004 Fines/fees: \$221.50 Jail: 10 days Suspended Jail: 9 days

Register of actions: Date

- 12/29/2003 New Case Filed

423

12/29/2003 Bond Posted - Surety
 12/29/2003 Notice To Defendants Regarding Your Release From Custody
 12/29/2003 Hearing Scheduled - Dui (01/09/2004) Patrick R. Mcfadden
 12/31/2003 Order Finding Probable Cause
 01/09/2004 Statement Of Defendant's Rights-dui
 01/09/2004 Arraignment / First Appearance - Dui
 01/09/2004 Order Appointing Public Defender
 01/18/2004 Hearing Scheduled - Dui (03/08/2004) Patrick R. Mcfadden
 03/05/2004 Motion To Continue
 03/05/2004 Continued - Dui
 03/12/2004 Hearing Scheduled - Dui (05/03/2004) Patrick R. Mcfadden
 05/03/2004 Hearing Held - Dui
 05/03/2004 Charge Reduced Or Amended - Dui
 05/03/2004 Guilty Plea -inattentive Driving
 05/03/2004 Judgment
 05/03/2004 Sentenced To Fine And Incarceration
 05/03/2004 Probation Ordered
 05/03/2004 Bond Exonerated
 05/03/2004 Case Status Closed But Pending
 09/23/2004 Affidavit Of Ftp Processed
 04/03/2006 STATUS CHANGED (batch process)

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2002-000026** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	01/01/2002	I23-949 Alcoholic Bev-possess/consume/purchase By Minor Officer: Cordle, Guy R, 3000	992711	Misdemeanor	Finding: Guilty Disposition date: 01/14/2002 Fines/fees: \$173.50 Jail: 30 days Suspended Jail: 29 days

Register of actions: Date

01/02/2002 Bond Posted - Surety
 01/02/2002 Notice To Defendants Regarding Your Release From Custody
 01/07/2002 New Case Filed
 01/07/2002 Hearing Scheduled - Mic (01/14/2002) Patrick R. Mcfadden
 01/07/2002 Order Finding Probable Cause
 01/14/2002 Arraignment / First Appearance - Mic
 01/14/2002 Guilty Plea - Mic
 01/14/2002 Judgment
 01/14/2002 Sentenced To Fine And Incarceration
 01/14/2002 Probation Ordered
 01/14/2002 Bond Exonerated
 01/14/2002 Case Status Closed But Pending
 03/12/2002 Letter From Defendant
 01/21/2003 Hearing Scheduled - Comm Serv/ged (03/28/2003) Patrick R. Mcfadden
 03/27/2003 Hearing Scheduled - Comm Serv/ged (04/25/2003) Patrick R. Mcfadden
 04/25/2003 Reopen (case Previously Closed)
 04/25/2003 Disposition With Hearing
 04/25/2003 Final Judgement, Order Or Decree Entered
 04/25/2003 Order Of Extension/modification (cm Svc)
 04/25/2003 Requirement For Ged Waived
 04/25/2003 Case Status Closed But Pending
 06/23/2003 Proof Of Completion Of 8 1/2 Hrs Comm Service
 03/24/2004 Hearing Scheduled - Community Svc (05/14/2004) Patrick R. Mcfadden
 05/14/2004 Reopen (case Previously Closed)
 05/14/2004 Disposition With Hearing - Community Svc

420

05/14/2004 Final Judgment, Order Or Decree Entered
 05/14/2004 Order Of Extension/modification (7 1/2 Hrs Cs)
 05/14/2004 Case Status Closed But Pending
 10/01/2004 Hearing Scheduled - Comm Service (12/01/2004) Patrick R. Mcfadden
 12/01/2004 Hearing result for Hearing Scheduled held on 12/01/2004 01:00 PM: Disposition With Hearing Comm Service
 12/01/2004 Hearing result for Hearing Scheduled held on 12/01/2004 01:00 PM: Disposition With Hearing Comm Service
 12/01/2004 Other Sentencing Option Completed.: Community Service completed 12/1/2004

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2001-0000628** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	09/20/2001	I23-949 Alcoholic Bev-possess/consume/purchase By Minor Officer: Cordle, Guy R, 3000	992462	Misdemeanor	Finding: Dismissed By Prosecutor Disposition date: 06/26/2002 Fines/fees: \$0.00

Register of actions: Date

09/25/2001 New Case Filed
 09/25/2001 Hearing Scheduled - Mic (10/12/2001) Magistrate Court Clerks
 10/10/2001 Hearing Scheduled - Mic (10/22/2001) Patrick R. Mcfadden
 10/22/2001 Interim Hearing Held - Mic
 10/25/2001 Hearing Scheduled - Mic (11/19/2001) Patrick R. Mcfadden
 11/19/2001 Stipulation Deferring Prosecution
 11/19/2001 Pa Probation
 11/19/2001 Miscellaneous Remarks
 11/19/2001 Final Judgment, Order Or Decree Entered
 11/19/2001 Letter From Sarah S. Haeg
 11/23/2001 Hearing Scheduled - Mic (05/20/2002) Patrick R. Mcfadden
 01/17/2002 Hearing Scheduled - Mic (05/20/2002) Patrick R. Mcfadden
 06/05/2002 Hearing Scheduled - Mic (06/24/2002) Patrick R. Mcfadden
 06/24/2002 Fail To Appear Warrant Issued
 06/26/2002 Warrant Quashed
 06/26/2002 Proof Of Completion Of Community Service
 06/26/2002 Dismissed Before Trial Or Hearing
 06/26/2002 Final Judgment, Order Or Decree Entered
 06/26/2002 Sentenced Modified
 04/03/2006 STATUS CHANGED (batch process)

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2001-0000291** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	05/05/2001	I23-949 Alcoholic Bev-possess/consume/purchase By Minor Officer: Cordle, Guy R, 3000	92200	Misdemeanor	Finding: Guilty Disposition date: 05/29/2001 Fines/fees: \$73.10

Register of actions: Date

05/15/2001 New Case Filed
 05/15/2001 Hearing Scheduled - Mic (05/25/2001) Magistrate Court Clerks
 05/16/2001 Hearing Scheduled - Mic (05/29/2001) Patrick R. Mcfadden
 05/29/2001 Guilty Plea - Mic
 05/29/2001 Judgment
 05/29/2001 Sentenced To Pay Fine
 05/29/2001 Probation Ordered
 05/29/2001 Case Status Closed But Pending

425

08/02/2001 Affidavit Of Ftp P... sed
 03/13/2003 Discharged From Probation

State of Idaho vs. Joseph Duane Herrera
No hearings scheduled

Case: **CR-2000-0000618** Magistrate Judge: **Patrick R. McFadden** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	08/18/2000	I23-949 Alcoholic Bev-possess/consume/purchase By Minor	1629	Misdemeanor	Finding: Dismissed By Prosecutor
		Officer: Cordle, Guy R, 3000			Other Finding: Pa Probation
					Disposition date: 12/27/2000
					Fines/fees: \$0.00

Register of actions: Date

- 08/21/2000 New Case Filed
- 08/23/2000 Hearing Scheduled - Mic (09/05/2000) Magistrate Court Clerks
- 08/31/2000 Hearing Scheduled - Mic (09/15/2000) Patrick R. Mcfadden
- 09/15/2000 Disposition With Hearing - Mic
- 09/15/2000 Pa Probation
- 09/15/2000 Final Judgment, Order Or Decree Entered
- 09/19/2000 Hearing Scheduled - Mic (12/15/2000) Patrick R. Mcfadden
- 12/19/2000 Hearing Scheduled - Mic (01/08/2001) Patrick R. Mcfadden
- 12/27/2000 Dismissed Before Trial Or Hearing - Mic
- 12/27/2000 Final Judgment, Order Or Decree Entered
- 12/27/2000 Sentenced Modified

Connection: Public

420

EXHIBIT "D"

MY NAME IS BURT LEMIS - I'm AN BENEHAH CO. INMATE WHO'S BEING HOUSED IN A POD (LIVING AREA) WITH JOE HERRERA.

THE OTHER DAY I HAD A CONVERSATION W/ DEPUTY RONNIE WHO IS A CUSTODIAL OFFICER HERE AT BENEHAH CO. DETAILS OF THIS CONVERSATION SEEMED EXTREMELY PREDJUDICIAL TOWARDS JOE'S SITUATION, PERTAINING TO HIS CASE & WHAT HE'S IN JAIL FOR.

THEN LATER THAT SAME NIGHT - I WENT OUT TO THE E.R. - AS I WAS LEAVING A GUY WAS BEING BROUGHT IN AND BOOKED. I WAS GONE FOR APPROX. 3 HOURS. WHEN I RETURNED - THEY SET ME IN A CHAIR - NOT A FOOT AWAY WAS A PROPERTY BOX FROM THE GUY BOOKED EARLIER - INSIDE WAS SOME THINGS THAT COULD BE DESCRIBED AS DANGEROUS - (A KNIFE, CELL PHONE, WALLET FULL OF CASH ECT...)

AFTER SOME THOUGHT - I STARTED GETTING THE FEELING THAT MAYBE I WAS BEING PROPPED UP BY SOME OF THE STAFF HERE TO ASSAULT JOE. ITS JUST A FEELING I GOT. IF SOMEONE WAS TO LOOK INTO MY PAST HISTORY - THEY'D SEE A VERY HIGH PROPENSITY FOR VIOLENTS - SO WITH OFFICER RONNIE TALKIN' TO ME ABOUT JOE'S CRIME - THEN BEING GIVEN ACCESS TO A DANGEROUS WEAPON - THEN AFTER ALL THAT, BEING HARRASSED OVER A CELL PHONE THAT MAY OR MAY NOT OF BEEN

TAKEN. SORTA FELT LIKE REPERCUSSIONS FOR NOT
DOING SOMETHING.

THEN SO AFTER SOME THOUGHT I APPROACHED
A SENIOR DEPUTY HERE AT THE JAIL ABOUT HOW
THINGS FELT & HOW IT COULD LOOK PRETTY BAD IF
SOMETHING HAD HAPPENED TO JOE & THAT DEPUTY
TOLD ME THEY'D ALREADY DISCUSSED THAT, AND
THAT THEY THOUGHT THEY SHOULD JUST USE IT AS
A LEARNING EXPERIENCE.

But Lewis 4-7-16

EXHIBIT "E"

08/14/2013

Dear Judge Gibler,

I am writing you this letter in regards to Joe Herrera. I met Joe when I was incarcerated at Benewah County Jail. I did not know Joe prior to meeting him in jail. When I was placed in the jail, I was very ill; suffering from alcohol withdrawal. My legs were swollen to twice their size and I could not eat anything. Joe was very concerned for my well-being, thinking I was going to die. He insisted that the jailers seek medical attention for me. They did but I do not believe they would have without Joe speaking up for me. He was very helpful, watching over me, getting my food for me and encouraging me to eat and drink. He even encouraged me to start exercising, which also helped the edema in my legs to resolve. I was not the only person that Joe showed concern for. I witnessed him treat others with kindness and respect also. He would give commissary to the other inmates that had none. He treated everyone with kindness and respect, including the jailers. If there was any work to be done, Joe was the first to volunteer to help. He painted the jail and was always helping keep the cells clean and orderly. Joe Herrera is a good man that befriended me in a time of need. I understand that Joe was involved in a very tragic event. I just hope that I can help you to see that the Joe Herrera that has been portrayed in the media and in court is not the whole picture and the person I know is a good, compassionate man. I will always be grateful for the help he gave me and I am proud to know him.

Thank you for taking the time to read this.

Sincerely,

Truman Jones
208-245-5381

EXHIBIT "F"

LeiLani Shifflet
211 e 6th street
Post Falls Idaho 83854
August 16, 2013

Your Honorable Judge Gibler:

I understand that *Joseph D. Herrera* is appearing before the Court in relation to sentencing for the charge of 2nd degree Murder and I seek to provide a knowledgeable character reference on his behalf.

I have known Joe for over 20 years and had the privilege to become his friend approx. 17 years ago in 1996 and have remained to this day a very close and personal friend.

When I met Joe one of the things that caught my attention is his ability to make anyone smile. He has a way of making even the most emotionally overwhelming moments in one's life and making them feel as though there is hope and healing in the future. I recently lost my mother in 2010; Joe was one of the first people I sought for comfort. He had a way of making my loss and devastation more bearable; not only did he make himself readily available for anytime that I needed someone to talk to or to rely on for things I was not able to do myself at the time, Joe went out of his way to check on me on a regular basis throughout my grieving period. He has always in the years I have known him showed the same compassion to not only me but also those that have the privilege to be able to call him a friend.

When we were growing up there was few in the close circle that me and Joe kept company with; all of them being males with myself being the only female. That being said I have an inside to the man Joe is, that is not only rare but also knowledgeable. I personally have never dated Joe. That is for no other reason other than we are very close friends, but I have been present in every relationship that he has been in and I get a view most females don't ever get on men. I have never witnessed nor to any knowledge been told of Joe treating women with nothing but respect and care no matter what the circumstances may be. He has confided in me many times in our life for advice on how to handle situations with females so that he was sure he didn't hurt nor offend them in a disrespectful manner. Joe is one of the most loving companionate men I have ever had the honor of getting to know let alone to be able to say he is my best friend.

Your Honorable Judge Gibier

August 16, 2013

Page 2

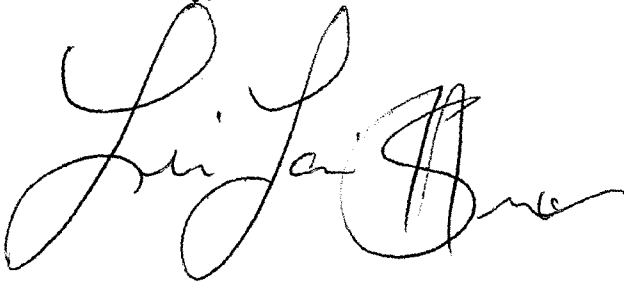
I and several others that are as close with Joe, to this day remain shocked of what happened and even more so by the charge that he faced. The nature of the offence is wholly inconsistent with Joe's character and reputation. I have visited and corresponded with Joe throughout the entire course of this charge and was present at the trial. I am at a great loss without Joe in my life and I feel the impact of his absence every day. He is the type of person that people learn to depend on because he never complained or acted in a way that any request made is too much for him. In the history of our relationship he has been there for me more than I could ever repay; if it be because I ran out of gas, need a shoulder to cry on, or if I want to just take a drive into the mountains to get out of the town, Joe was always there with a smile.

There is a piece of Joe that will never return. His cheery personality and ability to make any situation its best and have a smile are now a thing of the past. Joe remains shocked, remorseful, and haunted every min by the event that occurred and will never forgive himself. He hasn't asked for forgiveness nor has he asked for any sort of remorse or pity from myself or anyone. He has to live with this the rest of his life and for someone who knows Joe probably better than anyone that is the greatest punishment that anyone could ever have to endure.

I would like to thank you for considering my inside view of Joe that few are able to say that they have and I can be contacted anytime if you would like further information.

I am more than willing to provide oral evidence to the Court on behalf of *Joseph D. Herrera* if required.

Sincerely,

A handwritten signature in black ink, appearing to read "LeiLani Shifflet". The signature is written in a cursive, flowing style with large loops and a prominent initial "L".

LeiLani Shifflet

(208)220-2432-cell

(602)531-7530-message if cell unavailable

4/11/15

To Whom it may concern:

I have known Joe Herrera for a few years thru working w/ him at Valley Vista, where he was a very good worker, he was caring & attentive to our residents, always there to help when needed. He also dated my niece, they had a very good relationship and are still friends to this day. As I see it Joe just got on the wrong path & with that a horrible tragedy happened.

He is a bright, caring & loving young man & I think if he was to get a long prison sentence it would just do damage to a man who could otherwise be a very productive member of our society please take this in to consideration

Thank you
Tanny Sines
201 Lincoln Ave
St Maries, Id
83861
208 660-7886

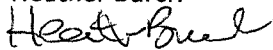
8-8-13

To whom it may concern:

I am writing this letter in regards of Joseph D Herrera. I have known Joe since junior high. I would like to make you aware that Joe always went over and beyond to care and help others when needed. He would always help his fellow co-workers out whenever needed, due to I worked with him at VVCC. The resident's at VVCC really cared for Joe and Joe would help in other departments like doing dishes when he didn't even work in the kitchen and helping to wheel resident's to and from Activities or dining. Joe has never shown any aggressive or abusive tendencies since I have known him. I really do hope that this letter shows what a kind and caring person Joseph is.

Thank you,

Heather Burch



1-509-389-0387

P.O. Box 225

St. Maries, ID. 83861

Aug 10, 2013

Your Honor,

I am writing you on behalf of Joe Herrera. Joe and I have been friends for over 15 years. We went to school together and have worked together as adults. Joe is a quiet, somewhat shy individual. In school he was always friendly to everyone and always worked his hardest even if it was not easy for him. He was and still is willing to put his activities on hold to listen or help someone with a problem. Joe and I worked together as housekeepers at Valley Vista Care in St. Maries. Joe was an excellent employee, who showed leadership in his duties, even if not in charge. He took pride in his work, and was willing to help in any department. Joe also showed great care and kindness to the residents at Valley Vista. They adored him and loved getting hugs, hellos, and the general caring attention Joe gave wholeheartedly gave them. The Joe you see before you today has had to fight many personal demons. He unfortunately is not the Joe we knew even two years ago. However, I feel the Joe is that we all love and depend on as a friend has been showing signs of life. I believe he is remorseful for the events that have brought him before you. He has not denied his presence in the activity, and has displayed good behavior and conduct while in prison confines. I feel with the correct rehabilitation program the Joe we all love could be a fully functioning member of society once again. Please consider this request for leniency while you make your sentencing.

Sincerely,



Pamela Olson
208-582-1319

8-7-13

To whom it may concern,

I am writing this letter in regards of Joseph D Herrera. I have known Joe for over 14 years and he is a fun, loving, good hearted person. I dated Joe for 4 years and lived with him for 3 ½ of those years back in 1998-2002. Joe was never aggressive or abusive in any way. He always was a heart winner and would make you laugh at the drop of a hat. He always had a way of making you smile and always had the right words to make your day better. Joe is a person that cares for everyone and never had a bad thing to say about anyone. I hope that you take this letter to heart and realize what kind of person Joe was and is. I appreciate your time.

Sincerely,

Danielle Outland



208-582-2307

1153 S 4th Street
St. Maries, ID. 83861

Time	Speaker	Note
9:10:13 AM	Judge John Mitchell, Clerk Bradbury.	Judge Calls Court Mr Thie Prosecuting Attorney. Mr Robbins Deputy PA from Kootenai and Clayton Andersen for Mr Herrera <i>Jolie Foland - Reporter</i>
9:10:46 AM		We were set to begin at 9 there was scoffle outside with comack and herrera.. I need to make it clear we will have law enforcement here county wide if there are disturbances you will be taken out by law enforcement. THIS is an emotionally charges case since christmas 2011.
9:12:31 AM	Mr Andersen	Mr Andersen there was an attack on my client and he was struck on the forehead. My client family is concerned about leaving they would like to have assistance by law enforcement to follow them out. I am deeply concerned the have theateded his life. Not a good way to start a proceeding.
9:14:22 AM	Judge	If you are interested in comack and herrera family show of hands Herrera family slide over to that side of the room and the comack family slide to other side of the room. When we take a recess herrera family remain in court room and can use bathroom in the jury room. Comack family exit and can use the down stairs bathroom. After hearing the folks on right comack family to exit first and we will wait 10 minutes and then we will let the herrera supports go.
9:18:07 AM	Judge	before we begin with sentencing, I want to make an explination to help diffuse the tension. Why evidence that came into the first trial that was not allowed can be allowed today. In the first trial a mistake was made by the prosecutor not to allow certain evidence in, that order was violated. That violation is what allowed his trial to be retried. This is a emotionally packed case, the fact we had to retry and pick apart at those old wounds. I appologize to the parties this should have not had to happen. The reason that evidence could not be heard, needs some explaining, Prior violence might make sense to citizen to be used. But if you want the jury decision based on facts, that evidence of prior if that comes before a jury it is human nature to assume that if there was prior in the past that to assume that it happened on the 25th. Because of the heartache involved in the 2nd trial, I have tried to follow on the side of caution.
9:28:02 AM	Judge	Mr Preference to Defense motion for additional compensation for county funds to be taken up at a later time.
9:28:58 AM	State	No position
9:29:16 AM	Judge	I received a correction to PSI I have a read that. Is there any objection to the Defenses objection to PSI

Time	Speaker	Note
9:30:13 AM	State	State agrees with the corrections
9:30:44 AM	Judge	Do you need more time to go over the PSI for any more corrections. If you do have any please let you attorney know and he can let me know.
9:32:51 AM	State	correction to PSI on 1st page and the addendum to the PSI
9:34:49 AM	Judge	Notice of intent is there any objection by the plaintiff. No objection from state.
9:35:29 AM	Mr Andersen	Objection to Jury Questionair by Constant Davis. Jury Questionair are confinental. The statement by that Juriorur should not be used.
9:39:24 AM	Mr Thie	Address the court not rely on Jury Questionair used for sentencing and would like it redacted.
9:40:13 AM	Judge	I have become aware of Judge ability to use other evidence in Sentencing. Since I made that discloser I had not thought about Rule 21 issue. That pleading will be part of the record. But I will not allow that Jury Questionair be part of my decision.
9:42:21 AM	Mr Thie	4 impact statement
9:42:44 AM	Mr Andersen	2 witnesses
9:43:02 AM	Judge	addresses the court with the order of things that will be happened. Mr Robbins addresses the court brief record.
9:46:00 AM	Mr Andersen	Addresses the court
9:46:59 AM	Judge	the attorneys or the Judge do not have any say to Idaho supreme court.
9:47:26 AM	State	Victim impact statement Stephanie Mills. I was a close friend of Stephanie and thier family.
9:49:33 AM		Off the record
9:50:31 AM		10 min
10:00:02 AM		Back on record
10:00:09 AM	State	Calls Katlynn Comack sister of Stephanie Comack I just want to say since christmas things have changed for us. That day that it happened he called us to let us know he shot her and then I called him back to let him know that he killed her. There has been no remorse from him and he doesnt care. I wish I could go back to that day and make her go with me. I hope you put him prison for ever. I will never be able to talk to my sister again. One day he will be able to get out of prison and live a normal life.

Time	Speaker	Note
10:05:41 AM	State	Calls Jim Comack I am Stephanie Father. I cannot stand you and I hate you. My daughter was good kid and you were meaner than hell to her. The Judge will tell us how sorry he is. I killed an elk and and have more mercy on than an the elk than I do for you. The other inmates said that you think your a celebraty. When you cry and beg for mercy to judge. Everytime you were mean to my daughter to get her back you would say that you would kill your self. Why dont you just kill your self. I would love to slit your throat and watch you bleed out. Mr Robbins would like to approach Mr Comack.
10:12:06 AM		Mr Comack continues... I think we should to take him out back. You could give him life. My Daughter was 18 and she is dead. All we got is a box of ashes. they can go visit him in prison. make no mistake I will not forget this.
10:13:20 AM	State	Calls Suzie Comack, Stephanie mother... She was so sweet and so loving and fearless and protective of her family. She adored her nephews. It has affected us we are broken as a family. Stephanie cannot be heard because she is not here. To go through this trial was even harder than the second time. To have to face him living and breathing, and we are the ones that are treated like criminals. I can understand unconditional love. When your child has done something like. Mr Robbins talks to witness.
10:17:19 AM		MS Comack Joe biggest fear is facing life. Our biggest fear has already been relized our daughter is dead. I said that we love your children, I suggest they try to live our life. Christmas is horrific, it is all we can do to get through it. Joe has never shown an ounce of remorse. Only remorse is when he is going to prison. He called us and said he did it he shot her. I remember every word of that day. Herrera went to casino while we were in there holding her hand until she was gone. We live with this every day. We had to go home and tell her 10 year old sister she was dead. There is no healing, closer. There is only getting through. The Herrera have there child alive and breathing. I would ask you to consider giving Joe the Max sentence. He is not sorry he is not remorseful. I will always have the picture in the hospital bed, she painted her nails for christmas and they looked perfect and she was perfect. Nothing can change what happened, but he should pay for what happened.
10:22:36 AM		Short recess to talk to next witness

Time	Speaker	Note
10:23:50 AM	State	Calls Cassidy Comack I was 10 years old when you killed my sister. I remember the day it happened. My parents said she had been shot and I said where is she ad they said she is dead. I have the same night mare I wake up and hope it was not true. I go into her room and she is not there. She was my best friend. I hate this, every day I think about her and I stay up till 2am and cry. I miss my sister I was only 10, I saw your house everyday when I went to school. I hate you, and I have never hated anyone. Please give him life, I cannot stand the thought of being out of jail while I am still alive. Brian Thie for the record Cassidy Comack Stephanie sister
10:28:35 AM		10 Min Recess
10:43:11 AM	Mr Andersen	Back on the Record. Terry Davenport sworn in by Clerk. I had contact in Benewah County Jail Feb 2012. I invited him to the Jail Chapel. I am there to read the bible and pray with him. The second vistit he wept and repented and ask for forgiveness. I had over 70 visits with Joe he never failed to pay for comack family asking for forgiveness and peace. I believe he has responded to scripter and the word. He would like to share his testimony by counseling other inmates.
10:48:03 AM	Mr Thie	X-am of Terry Davenport in Feb 2012 he repented and ask for forgiveness. I do not ask what they have done, we read and have fellowship. I knew what he did, by reading that papers. I was prepared not to like him and hate him. I thought he was a hardened criminal. My feeling was he was repenting for Stephanie Comack. But he did not say what he was repenting for.
10:50:57 AM	Mr Andersen	Calls Jeri Herrera sworn in by Clerk I am the mother of Joseph Herrera I would like to read a statement. We are sorry and this event has impacted our lives. We took Stephanie into our home and welcomed her. The articles the threat, the law suits suing us and blaming us. We are sorry our family is very sorry. I left a job a home and community. Joe is sorry too. Joe has a conscious and he will live this for the rest of his life. We believe our son deserves a fair trial. He has not gotten due process. We believe he should be punished but not spend the rest of his life in prision.
10:54:46 AM	Judge	we will hear recommendations from attorney's

Time	Speaker	Note
10:55:43 AM	Mr Thie	addresses the court. Joseph Herrera has had alcohol, drug and battery x2 but convicted once. He started using Meth at 26. He met Stephanie Fall of 2011. The family was concerned about him controlling Stephanie. On Christmas day Joseph Herrera held a hand gun to Stephanie Comack head and pulled the trigger. Society needs to be protected from Joseph Herrera. After murdering Stephanie he told 3 different stories. He told the police it was an accident. He told the 1st Jury she pulled the gun to her head and pulled the trigger. He told the jury he was sorry the accident happened to her. There doesnt seem to be any accountability. State believe the first step to be rehabilitated is admission. 1st PSI he stated he was using meth daily. In the 2nd PSI there was no form of remorse. He worked in kitchen, and trained rehabilitation dogs. He appears to manipulate people to do things for him so he doesnt get in trouble for doing things. I do not know if he will go out an murder someone again. But he will go back to doing things that he know how to do.
11:05:54 AM	Andersen	Objection
11:05:58 AM	Judge	Overruled
11:06:11 AM	Mr Thie	Continues addressing the court. There relationship was abusive weapon from the start. He stole the murder weapon from his dad and hid in his room with the drugs. He blamed Stephanie for her own murder in the 1st trial. State recommends high end of the scale..30 year to life.

Time	Speaker	Note
11:10:17 AM	Mr Andersen	Addresses the court.. Mr Herrera doesnt have and extensive criminal record. The state allegation that the relation was abusive is unproven. He asking him to be convicted of something far greater than he is convicted of. You heard what Mr Comack is going to do with the Parole board. Our recommendation is 10 year is the inderminate sentence 15 years. He is 28 years old who made a tragis circumstance that no one can unwind. The state wishes to ignore what has happened to Joe Herrera that he has not changed. Dr Davenport is a kind mind that just wants to spread the word in the benewah county jail. The verbal warning he recieved while in prision, he had no DNR. He gove other prisoners counseling. I would like my other clients are housed with Mr Herrera becomes out better. He knows he will get a stiff sentence, there is not a great deal of rehabilitation in idaho for him. People who work well with animals are a good guage in there personality. Being a offender counselor you do not get paid for that you just get the results. He has made changes in him self personally. You do not fool people like Dr Davenport. He has given you information form his heart. I lost a son I understand the Comack Pain. There is nothing heal that pain. People to have unforgiveness is a poiseness pill you swollen hoping someone else will die from. There is no Max Inderminate Sentence. Mr Herrera actually saved another mans life while in Jail. That is a demonstration of what he can be
11:19:01 AM		
11:20:54 AM	Judge	Looking at something from the new Presentence report
11:21:43 AM	Mr Herrera	Would like to read a letter. I would like to express my remorse to Comack for the loss of Stephanie. I do understands thier unforgivenss for my Loss. I do not believe this case has been done properly. He has failed give me competent representation. My lawyer has refused to have representation. My constitutional rights have not up held. I wish with all my heart with what has occurred.

Time	Speaker	Note
11:24:47 AM	Judge	<p>I think I need to make clear my sentencing decision. If I have done anything that made you feel like I had prejudged your guilt or innocense. What happened in the 1st trial was a mistake. When I first met you, you were innocent. I do not know where you got that impression. But going through preparation why I should not impose a fixed life sentence of your murder of Stephanie Comack..is an appropriate sentence to be handed down. . Judge reads the Criminal Complaint, the first jury found you guilty. The 2nd Jury found you guilty without the improper evidence given to them. I will have to use your admissions against you, you will have to live with your sentence all your life. Jim Siebe claimed that it was an accident. Mr Andersen in the 2nd Trial claimed it was an accident and reckless. I am left with a person whole still has not comeforward with really happened. You have told 3 stories and maybe 4. I was hoping you would come in today and tell us what was the truth. The difficulty in this case is no one really has closure. No body really knows what happens, what you dont know you go to the darkes part of your own heart. Knowing what happened will help the healing process. Because of the different stories no one knows what happens. It is your showing a lack of accountabilitiy. I know for fact your stole the 2 guns, because other people wanted to do harm to you. There was guns and drugs in bedroom and you knew they were there. You intended to pick the gun and put it to your girlfriends head and intended to pull the trigger and it killer her. The best you can ever argue is that you didnt know there was bullet in the chamber of the gun. Even if i believe that you didnt know in fact if the gun was loaded. But you picked up the gun put it to head of someone and pulled the trigger is guilty of murder. Your mother testified she heard nothing no arguement. There is testimony that she was shot by you because there was a disagreement where you were going to go for Christmas. You should go to prision for the rest of your life. Murder as a response to where you are going to go for Christmas. I know there story about she pulled the gun is not true. If it was an accident</p>

Time	Speaker	Note
11:40:23 AM	Judge	Cont.. If that is what truly happened it would have been in those screams were heard on the body cams. That is not the case. I am imaginging the Comack go to a place, were do we go for Christmas arguement. This is kind of your go to position, put a gun to Your own or to Stephanie head. Stephanie McEwen statement I am considering that in my decision. It was improper to give to jury but it is appropriate in my decision. You are manipulative and controlling. You are bigger stronger and you have the gun. Judge Gibler stated in Sentencing Hearing. I find this is a situation that you could be required to spend the rest of your life behind bars. There is a high degree you should not be released back into society. It has been over 5 years and you still have not come forward with the truth. You are controlling in a confined setting.
11:47:04 AM	Judge	Cont. The fact at the time you stole the gun for father to protect your self from other bad actors your are one of them if your are hanging out with bad actors. You testified that you said you would kill yourself rather than to go where she wanted for Christmas. I cannot imagine more Manipulation. There is not much indication that you will change. I am glad you work with the Dogs, i applaud your efforts. The Dr. Testimony is credible. Judge goes over the tools of sentencing.
11:54:08 AM	Judge	Judge Orders Fixed 30 years to Life Sentence. I trust the Parole Cominssion to do the right thing when I had over a case. If they keep you there the rest of your life it will be based on your conduct or what your victim family tell them. If I give you fixed Life Sentence it will not give you hope, a reason to do the right thing. Fixed life sentence is warranted. We dont know what happeded and you are not going to tell us. You have not been emotional. There can be a million reasons for lack of emotion, one could be that you are heartless, But has very little to do with my finding. Couple years have ticked on and we still do not know what happened Dev 25th 2011. I have given my decision, I hope everyone will start to heal. The fact that it had to be retried has kept the wound open. I encourage you to get help. Niether side will feel whole. The Fee for PSI is set aside. The costs. you 42 days to appeal from todays date. Mr Comack I understand everything you had to say, I am not sure what I would do in your situation. The desire to do harm you have to get past that. It would be horrible for you and your family if you had to spend the rest of life in prison.
12:03:38 PM		End

FILED 10/26/16

AT 1 O'clock PM
CLERK, DISTRICT COURT

[Signature]
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,)
)
) Plaintiff,)
 vs.)
)
) JOSEPH DUANE HERRERA)
)
) DOB: [REDACTED])
)
) SSN: [REDACTED])
)
) IDOC: 108567)
)
) Defendant.)

Case No. **BEN CRF 2011 2053**

**SENTENCING DISPOSITION
AND NOTICE OF RIGHT TO
APPEAL**

This JUDGMENT AND SENTENCE constitute the sentencing disposition in the above matter.

On October 26, 2016, before the Honorable John T. Mitchell, District Judge, you, **JOSEPH DUANE HERRERA**, personally appeared for sentencing. Also appearing were a representative of the Prosecuting Attorney for BENEWAH County, Idaho and your lawyer, Clayton Andersen.

WHEREUPON, the previously ordered presentence report having been filed, and the Court having ascertained that you have had an opportunity to read the presentence report and review it with your lawyer, and you having been given the opportunity to explain, correct or deny parts of the presentence report, and having done so, and you having been given the opportunity to make a statement and having done so, and recommendations having been made by counsel for the State and by your lawyer, and there being no legal reason given why judgment and sentence should not then be pronounced, the Court did then pronounce its sentencing disposition as follows:

IT IS HEREBY ORDERED that you, **JOSEPH DUANE HERRERA**, having been advised of and having waived your constitutional rights to: a) trial by jury; b) remain silent; and c) confront witnesses, and thereafter having pled guilty to the criminal offense charged in the Information on file herein as follows: **MURDER IN THE SECOND DEGREE I.C. 18-4001;**

THAT YOU, JOSEPH DUANE HERRERA, ARE GUILTY OF THE CRIME SO CHARGED, and now, therefore,

IT IS FURTHER ORDERED that, pursuant to I.C. §19-2513, you are sentenced as follows:

MURDER IN THE SECOND DEGREE, (a felony), Idaho Code § I.C. 18-4001, committed on December 25, 2011 – to the custody of the Idaho State Board of Correction for a fixed term of THIRTY (30) years followed by an indeterminate term of LIFE years, for a total term not to exceed LIFE years.

IT IS FURTHER ORDERED that **JOSEPH DUANE HERRERA** is committed to the custody of the Idaho State Board of Correction on the date of the sentencing hearing,

October 26, 2016, and that the Clerk shall deliver a copy of this order to the Sheriff, which shall serve as the commitment of the Defendant to the custody of the Idaho State Board of Correction.

IT IS FURTHER ORDERED pursuant to *I.C. § 19-5302* that the court shall reserve jurisdiction to determine the amount of restitution you shall pay your victim(s) in this matter. The amount shall be determined from time to time by stipulation or upon notice and hearing. Thereafter, a separate civil judgment shall be entered against you and in favor of your victims. Such civil judgment shall bear statutory interest from the date of each offense.

IT IS FURTHER ORDERED that, the court having found you to have either the present or the future ability to pay, you shall pay court costs and fees on each count or charge as follows:

Emergency Felony Surcharge (crime committed after 4/15/10)	100.00
a. Court costs	17.50
b. Victim's Comp. Fund	75.00
c. P.O.S.T. Fee	15.00
d. BENEWAH Co. Justice Fund	10.00
e. ISTARs	10.00
f. Victim Notification Fee (VINE)	15.00
g. Peace/Detention Officer Disability Act	<u>3.00</u>
TOTAL each count or charge	\$ 245.50

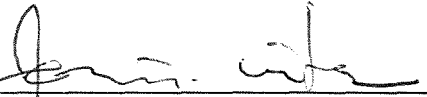
IT IS FURTHER ORDERED that pursuant to Idaho Code § 18-309 you, **JOSEPH DUANE HERRERA**, shall be given **1,768** days credit for time served on any sentence imposed on the above charges. (12/25/11 – 10/26/16 = 1,768) 4.84 YEARS.

NOTICE OF RIGHT TO APPEAL

YOU, JOSEPH DUANE HERRERA, ARE HEREBY NOTIFIED that you have a right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days of the entry of the written order in this matter.

YOU ARE FURTHER NOTIFIED that if you are unable to pay the costs of an appeal, you have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of counsel at public expense. If you have questions concerning your right to appeal, you should consult your present lawyer.

DATED this 26TH day of OCTOBER, 2016.



John T. Mitchell, District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 26th day of October, 2016 copies of the foregoing Order were mailed, postage prepaid, or sent by facsimile or interoffice mail to:

- Defense Attorney - Clayton Andersen 446-1701
- Prosecuting Attorney - Brian Thie 446-2168
- Probation & Parole, fax: 769-1481
- Community Service (Interoffice Mail)
- BENEWAH County Auditor (Interoffice Mail)
- GLOBAL DRUG TESTING via FAX : 664-6045
- IDOC, CCD, IDOC DIST 1 : Dist1@idoc.idaho.gov; Ccdsentencingd1@idoc.idaho.gov; centralrecords@idoc.idaho.gov

- BENEWAH County Sheriff
- ID Dept. of Transp. (208) 334-8739
- Idaho Department of Correction [certified copy faxed to (208) 327-7445]
- IDOC CCD, fax (208) 658-2186

___ Defendant, In Court
CLERK OF THE DISTRICT COURT BENEWAH COUNTY
BY: 
Deputy

FILED
BENEWAH COUNTY

2016 OCT 26 PM 3:26

BY: [Signature] .DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948
claytonlaw1801@gmail.com
Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR COUNTY OF BENEWAH

STATE OF IDAHO,	)	Case No. CR-11-2053
)	
Respondent/Plaintiff,	)	NOTICE OF APPEAL
)	
vs.)	
)	
JOSEPH HERRERA,)	
)	
Appellant/Defendant.)	
_____)	

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant, Joseph Herrera, files this Notice of Appeal against the above-named Respondent/Plaintiff, State of Idaho to the Idaho Supreme Court from Sentencing Disposition and Notice of Right to Appeal entered in the above-entitled action on October 26, 2016, by the Honorable District Judge John T. Mitchell.

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 Rule 11(c).

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.

4. Has an order been entered sealing all or any portion of the record? If so, what portion?

No

5. (a) Is a reporter's transcript requested? Yes

(b) The appellant requests the preparation of the following portions of the reporter's transcript: e.g.

The reporter's standard transcript as defined in Rule 25(c), I.A.R. supplemented by the following:

(1) The voir dire examination of the jury.

(2) The opening statements and closing arguments of counsel.

(3) The conference on requested instructions, the objections of the parties to the instructions, and the court's ruling thereon.

(4) The oral presentation by the court of written instructions given to the jury and reported by the reporter. While the written requested instructions and the written instructions given by the district court in an action shall not be included in the reporter's transcript, they shall be included in the clerk's record if specifically requested pursuant to Rules 19 or 28(c).

(5) All other hearings and proceedings which were heard by the trial court at some time other than during the course of the trial particularly the rulings issued by the court on March 22, 2016 and the sentencing on October 26, 2016. The record of the trial court's ruling during the trial on July 21, 2016, regarding the communication with the jury.

6. The appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28, I.A.R. including all requested and given jury instructions.

7. I certify:

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

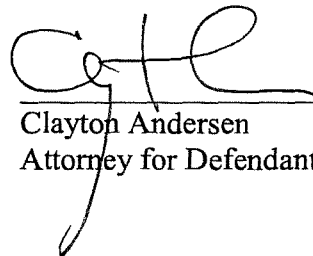
Name and address: Julie Foland by facsimile to 446-1132 at P. O. Box 9000, Coeur d'Alene, ID 83816;

(b) That the appellant is exempt from paying the estimated transcript fee because the Defendant is indigent.

(c) That appellant is exempt from paying the appellate filing fee because the Defendant is indigent.

(d) That service has been made upon all parties required to be served pursuant to Rule 20 and the attorney general of Idaho pursuant to § 67-1401(1), Idaho Code).

Dated this 26 day of October, 2016.



Clayton Andersen
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 26 day of October, 2016, served a true and correct copy of the attached NOTICE OF APPEAL as indicated upon the parties as follows:

Benewah County Prosecuting Attorney
bthie@benewahcounty.org

Interoffice mail

State Appellate Public Defender
PO Box 2816
Boise, ID 83701
jcurtis@sapd.st.id.us

Facsimile (208) 334-2985

Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
agwasden@ag.idaho.gov


Facsimile (208) 854-8074

Reporter for District Judge
Julie Foland
Kootenai County
PO Box 9000, Coeur d'Alene, ID 83816
jfoland@kcgov.us

Facsimile (208) 446-1132

District Judge John T. Mitchell

jmittell@kcgov.us



Clayton Andersen

FILED
BENEWAH COUNTY

2016 OCT 26 PM 3:26

BY:  . DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948
claytonlaw1801@gmail.com
Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.

Case CV11-2053

**MOTION TO APPOINT STATE
APPELLATE PUBLIC
DEFENDER**

Comes now, the Defendant by and through his attorney of record Clayton Andersen Benewah Public Defender and moves for an Order as follows:

RELIEF SOUGHT

For an Order appointing the State Appellate Public Defender for the purposes of representing the Defendant regarding his appeal.

GROUNDS OF MOTION

The grounds of the Motion are as follows:

1. The Defendant is indigent and is entitled to representation as public expense;

3. The Defendant has been incarcerated since December 25, 2011;
4. The State Appellate Public Defender previously represented the Defendant on his previous appeal in this matter.

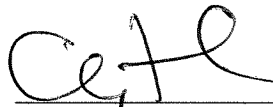
BASIS OF MOTION

The basis of this motion is all of the records and files of this action.

ORAL ARGUMENT AND HEARING

No oral argument or hearing is requested as the Defendant is entitled to the relief sought based on his indigent status.

DATED this 26 day of October, 2016.



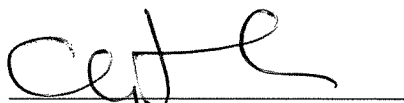
Clayton Andersen

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26 day of October 2016, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Benewah County Prosecutor

interoffice mail



Clayton Andersen

FILED
BENEWAH COUNTY
2016 OCT 24 AM 11:24
CLAYTON ANDERSEN
DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948
Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.

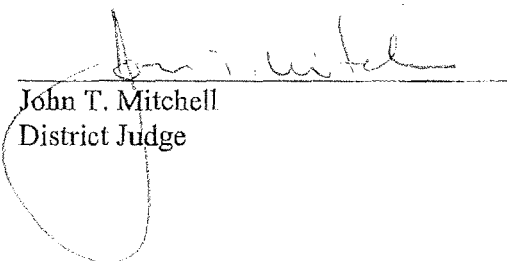
Case No. CR 11-2053

**ORDER APPOINTING STATE
PUBLIC DEFENDER**

Based on the Defendant's Notice of Appeal and the Motion to Appoint Appellate Public
Defender and good cause appearing,

IT IS HEREBY ORDERED that the State Appellate Public Defender is appointed
regarding the Defendant's Appeal in this matter.

Dated this 26th day of October, 2016.




John T. Mitchell
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 28 day of October, 2016, served a true and correct copy of this document as indicated upon the parties as follows:

- | | | |
|--------------|--|--------------------------|
| <u> X </u> | Benewah County Prosecuting Attorney | Facsimile (208) 245-1915 |
| <u> X </u> | State Appellate Public Defender
3050 Lake Harbor Lane, Suite 100
Boise, Idaho 83703 | Facsimile (208) 334-2985 |
| <u> X </u> | Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010 | Facsimile (208) 854-8074 |
| <u> X </u> | Reporter for District Judge
Julie Foland
Kootenai County
PO Box 9000, Coeur d'Alene, ID 83816 | Facsimile (208) 446-1132 |
| <u> X </u> | Clayton Andersen | Facsimile (208) 245-3948 |



Deputy Clerk

Description		BENEWAH CR 2011-2053 State vs Herrera 20161101 Motion Attorneys Fees Judge Mitchell Court Reporter Julie Foland Clerk Jeanne Clausen	
Date	11/1/2016	Location	1K-COURTROOM8
Time	Speaker	Note	
02:18:22 PM	J	Calls case - Mr. Thie and Mr. Andersen present on the telephone. Motion by the defendant for additional compensation. I have read all the documents filed in support of this motion.	
02:25:14 PM	DA	Nothing additional to add. The notebook I have submitted outlines everything.	
02:25:46 PM	PA	No position.	
02:25:55 PM	J	Signs the more recent order that includes language that I just discussed. There is an issue I would like to take up that pertains to my pleading relating to juror questionnaire. Mr. Andersen had a very valid point that document should be sealed.	
02:27:47 PM	PA	Just the questionnaire or the entire pleading?	
02:28:01 PM	J	Just the questionnaire.	
02:28:09 PM	PA	No objection.	
02:28:12 PM	DA	No objection.	
02:28:16 PM	J	Mr. Herrera has a copy of those juror questionnaires in Benewah County. I was going to order the sheriff seize those documents and give them to Ms. Bradbury.	
02:29:00 PM	PA	Not appropriate for the sheriff to go thru Mr. Herrera's things. More appropriate that Mr. Andersen get those from Mr. Herrera.	
02:29:45 PM	DA	Agrees with Mr. Herrera.	
02:30:04 PM	J	Lets try that first.	
02:30:10 PM	DA	If I had an order by the court that all those questionnaires be returned would be the best.	
02:30:35 PM	J	Objection to the court shredding all the other questionnaires including the 12 jurors that were seated. Whatever form you have it in needs to be destroyed.	
02:31:35 PM	PA	I have destroyed them.	
02:31:43 PM	J	All copies of the juror questions need to be shredded. Any objection to the court shredding the juror questionnaires.	
02:32:26 PM	DA	I don't see any appellate issue with the juror questionnaire.	
02:33:27 PM	PA	No objection	
02:33:40 PM	J	I will destroy them all including the 12 jurors that were seated.	

02:34:00 PM	PA	Nothing further.
02:34:05 PM	DA	Nothing further.
02:34:10 PM	End	

Produced by FTR Gold™
www.fortherecord.com

FILED
BENEWAH COUNTY

2016 NOV -1 PM 4:17

BY: [Signature] DEPUTY

CLAYTON ANDERSEN ISB #1860
Benewah County Public Defender
222 S. 7th Suite G-07
St. Maries, ID 83861
Telephone: (208) 245-2521
Fax: (208) 245-245-3948

Attorney for Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
-- STATE OF IDAHO, IN AND FOR THE COUNTY OF BENEWAH

STATE OF IDAHO,

Plaintiff,

vs.

JOSEPH HERRERA,

Defendant.

Case No. CR11-2053

**ORDER FOR APPROVAL OF
ADDITIONAL COMPENSATION FOR
BENEWAH PUBIC DEFENDER**

Based upon the Second Motion for Additional Compensation, with attachments, review of the file, and good cause appearing,

IT IS HEREBY ORDERED that Clayton Andersen, Benewah County Public Defender is granted additional compensation from the District Court Fund of Benewah County for attorney and staff fees in the sum of \$12,659.50 which includes prior payment of \$8,292.50 received on or about May 1, 2016 on the entire balance of \$20,952.50 for additional compensation pursuant to the Public Defender Contact with Benewah County. From this payment the Public Defender shall pay Doug Pierce his compensation.

DATED this 1st ^{November} day of ~~September~~, 2016.

[Signature]
John T. Mitchell
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1 day of ~~September~~^{November}, 2016, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Nancy Wolff interoffice mail
Deanna Bramblett Benewah County Clerk hand delivery
Benewah Prosecutor interoffice mail

Clayton Anderson



Deputy Clerk

IN THE DISTRICT COURT OF THE 1 JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR BENEWAH COUNTY BENEWAH COUNTY

FILED

2016 NOV 10 PM 4:35

STATE OF IDAHO,

Plaintiff-Respondent,

Supreme Court No. 44596

BY: [Signature] DEPUTY

v.

CLERK'S CERTIFICATE OF APPEAL

JOSEPH DUANE HERRERA,

Defendant-Appellant.

Appeal from: 1st Judicial District, Benewah County

Honorable Judge John Mitchell

Case number from District Court: CR11-2053

Order or Judgment Appealed From: Sentencing Disposition and Notice of Right to Appeal

Attorney for Appellant: Appellant Public Defender

Attorney for Respondent: Lawrence G. Wasden, Attorney General

Appealed By: Joseph Duane Herrera

Appealed against: State of Idaho

Notice of Appeal Filed: October 26th, 2016

Notice of Cross Appeal filed: N/A

Amended Notice of Cross Appeal Filed: N/A

Appellate fee paid: No

Respondent or Cross-Respondent's request for additional record filed: N/A

Respondent or Cross-Respondent's request for additional reporter's transcript filed: N/A

Was District Court Reporter's transcript requested? Yes

Estimated number of pages: 2040

If so, name of each reporter of whom transcript has been requested as named below at the address set out below:

Name and Address: Danelle Bungen PO BOX 9000 Coeur d'Alene Idaho 83816

Name and Address: Julie Foland PO BOX 9000 Coeur d'Alene Idaho 83816

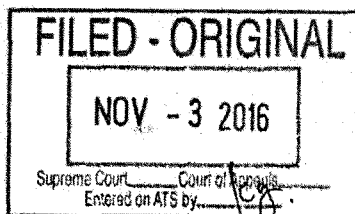
Name and Address:

October 28, 2016

Deanna Bramblett (Elected Clerk)

By: Deputy Clerk

[Signature: Shay A. Bradby]



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In the Supreme Court of the State of Idaho By: Deputy

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	ORDER AUGMENTING PRIOR
	)	APPEAL
v.)	
	)	Supreme Court Docket No. 44596-2016
JOSEPH DUANE HERRERA,	)	Benewah County No. CR-2011-2053
)	
Defendant-Appellant.)	

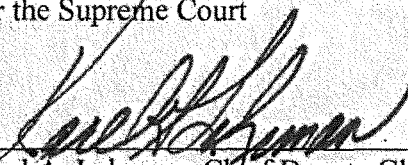
A Clerk's Record and Reporter's Transcripts were filed with this Court in prior appeal No. 41494, *State v. Herrera* (Benewah County No. CR-2011-2053). Therefore,

IT HEREBY IS ORDERED that this Record on Appeal shall be AUGMENTED to include the Clerk's Record and Reporter's Transcripts filed in prior appeal No. 41494, *State v. Herrera* (Benewah County No. CR-2011-2053).

IT FURTHER IS ORDERED that the District Court Clerk shall prepare and file a LIMITED CLERK'S RECORD with this Court, which shall contain documents requested in the Notice of Appeal together with a copy of this Order, but shall not duplicate any document included in the Clerk's Record filed in prior appeal No. 41494. Furthermore, the designated Court Reporters shall prepare the transcripts requested and the LIMITED CLERK'S RECORD and REPORTER'S TRANSCRIPTS shall be filed with this Court after settlement occurs.

DATED this 15th day of November, 2016.

For the Supreme Court



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

cc: Counsel of Record
District Court Clerk
Court Reporter
District Judge John T. Mitchell

Entered on JSI
By: cg

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

ELIZABETH ANN ALLRED
Deputy State Appellate Public Defender
I.S.B. #7259
322 E. Front Street, Ste. 570
Boise, ID 83702
(208) 334-2712

FILED
BENEWAH COUNTY

2016 NOV 30 PM 1:06

BY:  DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR BENEWAH COUNTY

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	CASE NO. CR 2011-2053
)	
v.	)	S.C. DOCKET NO. 44596
)	
JOSEPH DUANE HERRERA,	)	AMENDED
	)	NOTICE OF APPEAL
Defendant-Appellant.)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO AND THE PARTY'S ATTORNEYS, BRIAN THIE, BENEWAH COUNTY PROSECUTOR, 701 COLLEGE AVENUE, ST. MARIES, ID 83861, 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 Sentencing Disposition and Notice of Right to Appeal entered in the above entitled action on the 26th day of October, 2016, the Honorable John T. Mitchell, presiding.

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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)(1-9).

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) Was there sufficient evidence to convict Appellant?

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. ~~Is a reporter's transcript requested?~~ Yes. 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: e.g.

(a) Status held February 24, 2016 (Court Reporter: Julie Foland, no estimation of pages are listed on the Register of Actions);

(b) Pre-trial Motion hearing held March 22, 2016 (Court Reporter: Julie Foland, no estimation of pages are listed on the Register of Actions);

(c) Status held April 20, 2016 (Court Reporter: Julie Foland, no estimation of pages are listed on the Register of Actions);

(d) Jury Trial held on July 18-21, 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: Julie Foland, no estimation of pages are listed on the Register of Actions);

(e) Sentencing Hearing held on October 26, 2016, (Court Reporter: Julie Foland, no estimation of pages are listed on the Register of Actions);

and

(f) Motion Hearing held November 1, 2016, (Court Reporter: Julie Foland, no estimation of pages are 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) Objection to Motion filed March 3, 2016;

(b) Objection to Motion filed March 3, 2016;

(c) Amended Objection to Motion filed March 4, 2016;

(d) Amended Objection to Motion filed March 4, 2016;

(e) Brief in Support of Motion in Limine Regarding Fleeing by the Defendant filed March 10, 2016;

(f) Brief in Support of Motion in Limine Re Display of Stephanie Comack's Photographs to the Jury in Opening Argument and a Prior Determination by the Court on the Photographs that the State intends to Produce in Evidence Regarding Stephanie Comack filed March 10, 2016.

- (g) Memorandum Decision and Order on Pre-trial Motion heard on March 22, 2016, Order Vacating April 25, 2016, Trial and Rescheduling Trial to Begin July 18th, 2016;
- (h) Defendant(s) Requested Jury Instructions filed April 8, 2016;
- (i) Stipulation Regarding Release of Exhibits filed April 11, 2016;
- (j) Notice of Intent to Use 404(b) Evidence filed April 11, 2016;
- (k) Brief in Support of Motion in Limine Regarding Defendant's Prior Testimony filed April 13, 2016;
- (l) Affidavit in Support of Motion for Approval of Additional Compensation for Benewah Public Defender filed April 13, 2016;
- (m) Objection to State's Notice of Intent to Use 404(b) Evidence Filed and Dated April 11, 2016 filed April 13, 2016;
- (n) Request for Jury Instructions filed April 19, 2016;
- (o) State's Third Amended Witness List and Exhibits List filed July 11, 2016;
- (p) Jury Instructions filed July 21, 2016;
- (q) Notice of Filing Under Seal filed September 15, 2016;
- (r) Notice of Filing Department of Corrections Records filed October 20, 2016;
- (s) Notice of Intent of the Court to Rely on Certain Materials at October 26th, 2016 Sentencing Hearing filed October 24, 2016;
- (t) Defendant's Correction Regarding Presentence Investigation Reporter filed October 25, 2016; and

(u) 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), Julie Foland;

(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. 27(f);

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

(d) That arrangements have been made with Benewah 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(h); and

(e) That service has been made upon all parties required to be served pursuant to I.A.R. 20 and the attorney general of Idaho pursuant to §67-1401(1), I.C.

DATED this 29th day of November, 2016.



ELIZABETH ANN ALLRED
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING


I HEREBY CERTIFY that I have this 29th 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:

CLAYTON G ANDERSEN
222 S 7TH STREET STE G-07
ST MARIES ID 83861

JULIE FOLAND
COURT REPORTER
PO BOX 9000
COEUR D'ALENE ID 83816-9000

BRIAN THIE
BENEWAH COUNTY PROSECUTOR
701 COLLEGE
ST MARIES ID 83861

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


MARY ANN LARA
Administrative Assistant

EAA/mal

AMENDED NOTICE OF APPEAL – PAGE 6

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF IDAHO,
IN AND FOR THE COUNTY BENEWAH**

State of Idaho,)	
Plaintiff-Respondent,	)	DISTRICT COURT NO: CR11-2053
VS.)	
	)	SUPREME COURT CASE # 44596
Joseph Duane Herrera)	
Defendant/Appellant	)	CERTIFICATE OF SERVICE
)	

I, DEANNA BRAMBLETT, Deputy Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Benewah, do hereby certify that I have personally served or mailed, by X United States mail, hand delivery, one copy of the Clerk's Record and Court Reporter's Transcript to the following Attorney's in this cause as follows:

Eric D. Fredericksen
Appellant Public Defender
322 E. Front Street, Suite 570
Boise, ID 83702

Kenneth K Jorgensen
Deputy Attorney General
Attorney for the Respondent
PO BOX 83720
Boise, ID 83720

IN WITNESS WHEREOF, I have hereunto set my hand the affixed seal of the said Court
this 18 day of January , 2017

DEANNA BRAMBLETT, Clerk of the Court

By Stacy A Bradbury
Stacy A Bradbury, Deputy Clerk

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT, STATE OF IDAHO
IN AND FOR THE COUNTY OF BENEWAH**

STATE OF IDAHO)	
Plaintiff /Respondent	)	DISTRICT COURT NO: CR11-2053
)	
VS	)	SUPREME COURT CASE # 44596
	)	CERTIFICATE OF EXHIBITS
Joseph D. Herrera)	
Defendant/Appellant)	

I, Deanna Bramblett, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Benewah, do hereby certify that the following is a list of exhibits that have been lodged with the Supreme Court.

EXHIBIT NO.	DESCRIPTION	Dated
1	Plaintiff Exhibits 1-101	July 18-21, 2016
2	Defendant Exhibits	July 18-21, 2016
3	Juror List	
4	Pre Voir Dire and Jury Selection	
5	Notice of Filing Under Seal	Sept. 15, 2016
6	Letters	Sept. 12, 2016
7	Letter	Oct. 28, 2016
8	Letter	March 7, 2016

CERTIFICATE OF EXHIBITS

9	Presentence Report	Oct. 10, 2016
10	Addendum Presentence Report	Oct. 21, 2016
11	Transcript on Appeal Volume I & II	Dec. 19, 2016
12	Transcript on Appeal Volume III	Jan. 9, 2017

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of Said Court
on the 18 Day of January 2017.

Deanna Bramblett
CLERK OF THE DISTRICT COURT

By: Stacy A. Bradbury
Stacy A. Bradbury, Deputy Clerk



CERTIFICATE OF EXHIBITS

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF IDAHO,
IN AND FOR THE COUNTY BENEWAH**

STATE OF IDAHO,)	
Plaintiff /Respondent	)	DISTRICT COURT NO: CR11-2053
VS.)	
	)	SUPREME COURT CASE # 44596
Joseph Duane Herrera)	
Defendant/Appellant	)	CERTIFICATE OF RECORD
)	

I, DEANNA BRAMBLETT, Deputy Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Benewah, do hereby certify that the above and foregoing record in the above-entitled case was compiled under my direction as, 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 Counsels. I further certify that the Notice of Appeal was filed in the District Court on November 30, 2016.

Eric D. Fredericksen
Appellant Public Defender
322 E. Front Street, Suite 570
Boise, ID 83702

Kenneth K Jorgensen
Deputy Attorney General
Attorney for the Respondent
PO BOX 83720
Boise, ID 83720

IN WITNESS WHEREOF, I have hereunto set my hand the affixed seal of the said Court
this 18 day of January, 2017

DEANNA BRAMBLETT, Clerk of the Court

By Stacy A Bradbury
Stacy A Bradbury, Deputy Clerk