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State v. Andersen Clerk's Record Dckt. 45042

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO)
Plaintiff/Respondent)
)
vs.)
)
BRIANNA NICOLE)
ANDERSEN)
Defendant/Appellant)

SUPREME COURT NUMBER
45042

CLERK'S RECORD

APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
THE HONORABLE BENJAMIN R. SIMPSON DISTRICT JUDGE
FIRST JUDICIAL DISTRICT, PRESIDING

ERIC D. FREDERICKSEN
STATE APPELLATE
PUBLIC DEFENDER
322 E FRONT ST, STE 570
BOISE ID 83702

MR. LAWRENCE WASDEN
ATTORNEY GENERAL
STATE OF IDAHO
700 W. JEFFERSON, STE 210
BOISE ID 83720

State of Idaho vs. Brianna Nicole Andersen

Date	Code	User	Judge
10/2/2016	NOTE	LUCKEY	JUDGE WAYMAN To Be Assigned
10/3/2016	NCRF	LUCKEY	New Case Filed - Felony To Be Assigned
	CRCO	LUCKEY	Criminal Complaint Anna Eckhart
	AFWA	LUCKEY	Affidavit in Support of Warrantless Arrest To Be Assigned
	ORPC	LUCKEY	Order Finding Probable Cause Clark A. Peterson
	HRSC	LUCKEY	Hearing Scheduled (Arrestment/First Appearance 10/03/2016 01:00 PM) Anna Eckhart
	ARRN	LEGARD	Hearing result for Arrestment/First Appearance scheduled on 10/03/2016 01:00 PM: Arrestment / First Appearance Anna Eckhart
	ORPD	LEGARD	Defendant: Andersen, Brianna Nicole Order Appointing Public Defender Public defender Public Defender Anna Eckhart
	ORBC	LEGARD	Order Setting Bond and Conditions of Release Anna Eckhart
10/4/2016	BNDS	SANCHEZ	Bond Posted - Surety (Amount 20000.00) To Be Assigned
10/5/2016	HRSC	GARZA	Hearing Scheduled (Preliminary Hearing Status Conference 10/20/2016 08:30 AM) Robert Caldwell
	HRSC	GARZA	Hearing Scheduled (Preliminary Hearing 10/21/2016 01:30 PM) Mayli A. Walsh
		GARZA	Notice of Preliminary Hearing Status Conference and Preliminary Hearing To Be Assigned
	NODF	SANCHEZ	Notice To Defendant To Be Assigned
	WAVX	SANCHEZ	Waiver Of Extradition To Idaho To Be Assigned
10/6/2016	NAPH	LUCKEY	Notice of Appearance, Request for Timely Preliminary Hearing, Motion for Bond Reduction and Notice of Hearing To Be Assigned
	DRSD	LUCKEY	Defendant's Response To Discovery To Be Assigned
	DRQD	LUCKEY	Defendant's Request For Discovery To Be Assigned
	PRQD	LUCKEY	Plaintiff's Request For Discovery To Be Assigned
	PRSD	LUCKEY	Plaintiff's Response To Discovery To Be Assigned
10/7/2016	PSRS	LUCKEY	Plaintiff's Supplemental Response To Discovery Regarding Expert Witness To Be Assigned
10/11/2016	SUBF	KOZMA	Subpoena Return/found-CS To Be Assigned
10/12/2016	SUBF	KOZMA	Subpoena Return/found-AN To Be Assigned
10/20/2016	HRHD	ROHRBACH	Hearing result for Preliminary Hearing Status Conference scheduled on 10/20/2016 08:30 AM: Hearing Held Robert Caldwell
10/21/2016	ORDR	BUTLER	Order of Voluntary Disqualification - Walsh Mayli A. Walsh
	INHD	LUCKEY	Hearing result for Preliminary Hearing scheduled on 10/21/2016 01:30 PM: Interim Hearing Held - Continued Timothy L. Van Valin
	DISF	HOFFMAN	Disqualification Of Judge Mayli Walsh - Self Mayli A. Walsh

State of Idaho vs. Brianna Nicole Andersen

Date	Code	User	Judge
10/21/2016	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing Status Conference 11/08/2016 08:30 AM)
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing 11/10/2016 01:30 PM)
		HOFFMAN	Notice of Preliminary Hearing Status Conference and Preliminary Hearing
11/2/2016		HOFFMAN	AMENDED Notice of Preliminary Hearing Status Conference and Preliminary Hearing
11/3/2016	SUBF	KOZMA	Subpoena Return/found-AN
11/7/2016	HRHD	RILEY	Hearing result for Preliminary Hearing Status Conference scheduled on 11/07/2016 08:30 AM: Hearing Held
11/10/2016	INHD	LUCKEY	Hearing result for Preliminary Hearing scheduled on 11/10/2016 01:30 PM: Interim Hearing Held - Continued
11/14/2016	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing Status Conference 11/29/2016 08:30 AM)
	HRSC	HOFFMAN	Hearing Scheduled (Preliminary Hearing 12/01/2016 01:30 PM)
		HOFFMAN	Notice of Preliminary Hearing Status Conference and Preliminary Hearing
11/18/2016	SUBF	JLEIGH	Subpoena Return/found - AN
11/29/2016	HRHD	MONAGHAN	Hearing result for Preliminary Hearing Status Conference scheduled on 11/29/2016 08:30 AM: Hearing Held
12/1/2016	PHHD	ROHRBACH	Hearing result for Preliminary Hearing scheduled on 12/01/2016 01:30 PM: Preliminary Hearing Held PA 2 witnesses
	BOUN	ROHRBACH	Bound Over (after Prelim)
	ORHD	ROHRBACH	Order Holding Defendant
12/2/2016	MNPH	SANCHEZ	Motion For Preparation Of Preliminary Hearing Transcript
12/5/2016	INFO	SANCHEZ	Information
12/7/2016	ORDR	PEUKERT	Order For Preparation of Preliminary Hearing Transcript
	MNSP	SANCHEZ	Motion To Suppress
12/8/2016	HRSC	PEUKERT	Hearing Scheduled (Arraignment in District Court 12/21/2016 02:00 PM)
		PEUKERT	Notice of Hearing

State of Idaho vs. Brianna Nicole Andersen

Date	Code	User	Judge
12/21/2016	DCHH	PEUKERT	Hearing result for Arraignment in District Court scheduled on 12/21/2016 02:00 PM: District Court Hearing Held Court Reporter: Valerie Larson Number of Transcript Pages for this hearing estimated: Less tahn 100 pages
	PLEA	PEUKERT	A Plea is entered for charge: - NG (137-2732(c)(1) {F} Controlled Substance-Possession of)
	PLEA	PEUKERT	A Plea is entered for charge: - NG (118-2603 {F} Evidence-Destruction, Alteration or Concealment)
1/3/2017	HRSC	TLJONES	Hearing Scheduled (Pre-Trial Conference 04/21/2017 02:00 PM)
	HRSC	TLJONES	Hearing Scheduled (Jury Trial Scheduled 04/25/2017 09:00 AM) 2 Days
		TLJONES	Notice of Hearing on PTC and JT
1/4/2017	NLTR	SANCHEZ	Notice of Lodging Transcript - 55 pages, Julie Foland
1/5/2017	RECT	SANCHEZ	Receipt Of Transcript - PD
1/10/2017	HRSC	SANCHEZ	Hearing Scheduled (Motion to Suppress/Limine 03/16/2017 03:00 PM)
	NOTH	SANCHEZ	Notice Of Hearing
	MEMO	SANCHEZ	Memorandum In Support Of Motion To Suppress
1/13/2017	RECT	SANCHEZ	Receipt Of Transcript - KCPA
1/27/2017	PLWL	LADUSKY	Plaintiff's Witness List
1/31/2017	SUBF	KOZMA	Subpoena Return/found-AN
	SUBF	KOZMA	Subpoena Return/found-AN
2/7/2017	SUBF	JLEIGH	Subpoena Return/found - CS
2/15/2017	SUBF	JLEIGH	Subpoena Return/found - ZML
3/3/2017	SUBN	JLEIGH	Subpoena returned/not found - RCS
	SUBF	JLEIGH	Subpoena Return/found - NHU
3/14/2017	BRIE	SANCHEZ	State's Brief In Opposition To Defendant's Motion To Suppress
3/16/2017	DCHH	PEUKERT	Hearing result for Motion to Suppress/Limine scheduled on 03/16/2017 03:00 PM: District Court Hearing Held Court Reporter: Valerie Larson Number of Transcript Pages for this hearing estimated: Less than 100 pages
3/24/2017	ORDR	ANDERSEN	Order on Defendant's Motion to Suppress
4/11/2017	APSC	OREILLY	Appealed To The Supreme Court

State of Idaho vs. Brianna Nicole Andersen

Date	Code	User	Judge
4/11/2017	MNPD	OREILLY	Motion For Appointment Of State Appellate Public Defender Scott Wayman
4/21/2017	HRVC	PEUKERT	Hearing result for Jury Trial Scheduled scheduled on 04/25/2017 09:00 AM: Hearing Vacated 2 Days Scott Wayman
	DCHH	PEUKERT	Hearing result for Pre-Trial Conference scheduled on 04/21/2017 02:00 PM: District Court Hearing Held Court Reporter: Valerie Larson Number of Transcript Pages for this hearing estimated: Less than 100 pages Scott Wayman
	DCHH	PEUKERT	Hearing result for Pre-Trial Conference scheduled on 04/21/2017 02:00 PM: District Court Hearing Held Court Reporter: Valerie Larson Number of Transcript Pages for this hearing estimated: Less than 100 pages Scott Wayman
	ORDR	PEUKERT	Order For Appointment of State Appellate Public Defender In Direct Appeal: Retaining Trial Counsel for Residual Purposes Scott Wayman
4/28/2017	ORDR	PEUKERT	Order To Stay Scott Wayman
5/1/2017	NAPL	SANCHEZ	Notice Of Appeal Due Date From Supreme Court Scott Wayman
5/10/2017	NLTR	SANCHEZ	Notice of Lodging Transcript - 13 pages, Valerie Larson Scott Wayman

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO,

IN AND FOR THE COUNTY OF KOOTENAI

2016 OCT -3 AM 11: 04

THE STATE OF IDAHO)
Plaintiff,)
vs.)
Brianna Nicole Andersen)
Defendant,)
DOB: [REDACTED])
SSN: [REDACTED])
DL#: [REDACTED])
State: Idaho)

COURT CASE #:)
DEPARTMENT REPORT #:16C32384)

PROBABLE CAUSE DECLARATION IN SUPPORT)
OF WARRANTLESS ARREST AND/OR)
REFUSAL/FAILURE OF EVIDENTIARY TEST AND)
ORDER FINDING PROBABLE CAUSE)

CLERK DISTRICT COURT
[Signature]
DEPUTY

I, J. Nielsen K38, the undersigned, hereby declare and/or otherwise state that the following is true and correct:

- I am a peace officer employed by the Coeur d'Alene Police Department.
- The above named defendant was arrested on the 1st day of October, 2016 at the time of 0148 for the offense(s) [list offense(s) and code] Possession of controlled substance 37-2732 (c)(1), Destruction of Evidence 18-2603 and/or (check any applicable boxes below)

- Driving under the influence of alcohol, drugs or other intoxicating substances, Idaho Code 18-8004.
- Second DUI offense in the last ten (10) years, prior offense date and location:
- Two or more DUI offenses in the last ten (10) years, prior offense dates and locations:
- Driving without privileges, Idaho Code 18-8001.
- Possession of controlled substance, Idaho Code 37-2732 felony misdemeanor
- Possession of paraphernalia, Idaho Code 37-2734A.
- Reckless driving, Idaho Code 49-1401.
- Domestic battery, Idaho Code 18-918.

- Location of Occurrence: 1108 N 11th St, Kootenai County, Idaho.
- The above named defendant was identified as: Brianna Nicole Andersen
 Military ID State ID Card Student ID Card Driver's License Credit Cards
 Paperwork found Verbal ID by defendant
 Witness: identified defendant.
 Other:

- Actual physical control established by: Observation by declarant Observation by Officer
 Admission of Defendant to: , Statement of Witness:
 Other:

This is an arrest initiated by a private citizen. The basis for the request for the issuance of a Complaint is set forth in the police report attached and incorporated herein. The information and statements provided to me by , the complaining party, are true and correct to the best of my knowledge.

- I believe that there is probable cause that the above described offense(s) was (were) committed by the defendant based on the following facts:

OFFICER: J. Nielsen K38

SUSPECT(S) or DESCRIPTION(S):

Ryan Chad Stebbins

(M) Possession of paraphernalia 37-2734A1
(Booked, Eticket C2505343)

Brianna Nicole Andersen

(F) Destruction of evidence 18-2603

(F) Possession of controlled substance 37-2732(c)(1)

Nicholas H Ulvan

(M) Possession of controlled substance 37-2732(c)(3)
(Booked, eticket C2505342)

Possession of paraphernalia 37-2734A1
(Booked, Eticket C2505342)

CASE SUMMARY:

I responded to the report of an unconscious unresponsive male at 1108 N 11th St. Upon arrival I learned that Ryan Stebbins had used heroin and accidentally overdosed. He was ultimately arrested for an agents warrant and possession of paraphernalia. Additionally a Brianna Andersen and Nicholas Ulvan who were in the residence were both arrested for possession of controlled substance. Brianna was also charged for destruction of evidence.

NARRATIVE:

On October 1, 2016 I responded to the report of an unintentional overdose at 1108 N 11th St. When I arrived on scene I entered the residence and went directly to the bathroom. I located a male identified as Ryan Chad Stebbins lying on his back with his eyes closed. The original report was that he was not breathing and was unconscious. When I arrived I found Ryan was breathing and had a strong pulse. Brianna Andersen, Nicholas Ulvan and Zackery Linscott were also in the residence. He even responded to my voice when I said his name. Ryan was lying on a towel and there was ice on the floor around him. There was also a syringe on the bathroom counter. The syringe was similar in appearance as the type I commonly find when encountering drug users. Ryan admitted to using heroin when he was asked what he had taken. Coeur d'Alene Fire responded and evaluated Ryan for injuries.

Shortly after Fire arrived Ryan was able to walk out to the living room. I then asked him to walk outside where I could talk to him. Ryan was unable to tell me a whole lot about the heroin he used. He told me that he remembered loading the needle himself off of a spoon, but was not sure how much he used. He stated that he did not bring the heroin he did use into the residence and stated that it was just there. He further told me he was using the heroin in the bathroom with Brianna. He also stated that he injected himself with the heroin when he used.

voluntarily consented and described it as grey, sparkly, and demonstrated the size with hand motions.

Ofc. Rodgers located the purse and brought it to me. I searched the purse and located 2 small plastic baggies inside a zippered coin pocket in a wallet. The wallet also contained multiple FTC cards with Brianna's name on them as well as her Idaho DL. The baggies were clear with an orange animal head printed on them. One of the baggies contained a small round ball of a brown and black substance. It appeared to be a cotton ball like material coated in a tar like substance. Through my training and experience, I recognized the substance by its physical appearance to be consistent with heroin. A common practice for injecting heroin is to dilute the substance in a solution then use a small cotton ball or the tip of a cotton swab as a filter when drawing the diluted substance into a needle. The cotton like material I located appeared to have been used for this same method and still contained a usable amount of the substance.

I gave the plastic baggies to Ofc. Nielsen and he Nik tested the black substance. He informed me the substance tested presumptive positive for heroin.

I gave Zackery a courtesy transport back to his residence at 1710 N 5th St.

C. Schatz K85

- J. Rodgers K23

On 10/01/2016 at approximately 0050, I responded to the listed location to assist Officer Nielsen with an overdose call. Upon arrival I spoke with a male I verbally identified as Nicholas Ulvan (Nick). I initially spoke with Nick in the upstairs kitchen. While speaking with Nick I gathered the following:

Nick lives at this residence with Ryan Stebbins. On this night a friend of Ryan's came over who Nick knew as Brianna Andersen. Nick said they were all downstairs in his bedroom. Nick said they were drinking beer and getting ready to go down town to a bar. While speaking with Nick I found that they had also been smoking marijuana in his bedroom. I asked Nick if we could go downstairs. He said we could.

Once downstairs Nick said I could go into his bedroom. Once inside Nick asked "do you want my weed" or something to that affect. I said yes. Nick opened a dresser drawer and pulled out a plastic zip lock which had printed on it "ARTIZEN". Inside of it was a green leafy substance which due to my training and experience I recognized to be consistent in look and smell with that of marijuana. Nick also handed me a blue glass pipe with burnt residue which is consistent with that of burnt marijuana. Nick handed me a small plastic container containing what appeared to be hash oil.

Nick said there was also marijuana and paraphernalia inside of his night stands. Nick gave permission to retrieve these items. Two black sunglass cases were found containing more green leafy substance and a red metal pipe with burnt residue. I seized all of these items as evidence.

I spoke with Nick further and gathered the following:

Nick said all of them were in his bedroom smoking marijuana and drinking. They were planning on playing pool down town. Nick said that Ryan and Brianna went upstairs. Nick stayed in his bedroom to get ready. Nick said after a little bit he heard a loud thud upstairs. When he went upstairs Ryan was found on the ground.

Nick said he knew Ryan used to have an addiction to heroine. Nick said he does not use any drug besides marijuana and did not know that Ryan was using heroine still. Nick said that Brianna and Ryan never spoke about using drugs and Nick never saw any drugs other than his marijuana. Nick allowed me to search the rest of the downstairs and I found nothing of note.

I arrested Nick for possession of a controlled substance and possession of paraphernalia. I read Nick his Miranda rights. Nick said he understood his rights and agreed to speak with me.

I asked Nick if we could search the rest of his house to locate any further illegal substances. Nick said we could not and that he wanted to speak with his lawyer. I ended my conversation with Nick.

I transported Nick to KC PSB and booked him in for possession of a controlled substance and possession of paraphernalia.

I NIK tested the green leafy substance with NIK test E. It tested presumptive positive for the presence of marijuana.

I booked the green leafy substance into the Evidence locker submitting it for testing at the state lab. I booked the paraphernalia into the evidence locker as well.

- J. Rodgers K23

SGT J. Schneider K39

SUPPLEMENTAL NARRATIVE:

I responded to 1108 N 11th St to assist Ofc Nielsen with the report of an overdose. I arrived and saw Ofc Nielsen speaking with a barely responsive male lying prostrate in the bathroom. I saw a 1mL insulin syringe on the bathroom counter, and from my training and experience as a certified Drug Recognition Expert, I know these syringes are commonly used for illicit IV drug use. The male on the floor identified himself as Ryan Stebbins. Ryan appeared heavily under the influence of a narcotic analgesic. He was on the nod and struggled to keep awake and keep his eyes open. His speech was low, raspy, and thickly slurred. He also displayed miosis, or abnormally constricted pupils. I talked to Ryan to keep him awake and breathing. He admitted he had just injected heroin. Medics arrived and I stepped out of the bathroom. I secured the syringe and noted it appeared used, with a small amount of blood at the end of the barrel where the needle meets the barrel. I gave the syringe to Ofc Nielsen.

I spoke to a male who identified himself as Zach, and said he was Ryan's brother. Zach said he was on the phone with his other brother Kyle and heard "Bri" calling him into the bathroom, where he saw ryan on the floor and not breathing. Zach began CPR on Ryan and yelled at Bri to call the police. He

said she didn't call right away, and instead was "freaking out."

I spoke to a female who identified herself as Bri (Brianna Andersen). Bri was deceitful and lied constantly. She denied being in the bathroom with Ryan. I noticed she had injection marks of various ages from fresh to healing over the the veins on top of her feet. Her speech was also slow and raspy and she appeared under the influence of a narcotic analgesic. She denied using IV drugs and claimed the injection marks were "scars" from old use. They were not, as some were scabbed and not cratered, indicating they were a couple days old at most, and the area around the injection marks was lightly bruised. I confronted her about hiding the drugs because Ryan certainly didn't do it while unconscious. She denied it, and said I could search her, her purse, and her car.

I walked outside and sat on the step with Ryan after medics cleared him. He admitted he'd been sober just over a year and tonight was his first relapse. He is a recovering heroin addict. He was very cooperative with me and clearly felt terrible about relapsing. He was crying and said he'd let his brother down. He initially just said the heroin was "just there" so he used it. After talking to him for a while, he admitted he and Bri went into the bathroom to use heroin. He was adamant the heroin was brought to the house, but said he didn't bring it, his brother didn't bring it, and Nick isn't involved in that kind of stuff. He eventually admitted Bri brought the heroin, and didn't know how much she had. He said he cooked it in a spoon and injected it, and then remembered us being there talking to him. He didn't know his brother saved his life while Bri was busy hiding evidence instead of calling 911. I urged him to keep working on his recovery and surround himself with supportive people instead of ones who tempt him to hurt himself.

Ofc Nielsen showed me a small ziploc baggie with a small cotton ball soaked in a brown tar substance consistent in appearance with heroin. He NIK tested it and it returned presumptive positive for heroin. Ofc Niska also told me Bri finally admitted to flushing things down the toilet before calling for help.

See other officers' reports for further information.

Video uploaded to Viper.

SCHNEIDER K39

OFFICER: A. Niska K87

On 10/1/16 I assisted Officer Nielsen while responding to a medical call located at 1108 N 11th St. Per the call notes, a male was found unconscious with agonal breathing possibly from an overdose. I arrived on scene and observed three individuals, two males and a female, in the living room of the residence. A male, later identified as Ryan Stebbins, was found on the bathroom floor.

I observed Ryan to be laying on his back, in between the bathtub and the bathroom sink. There were several ice cubes around him on the floor. On top of the bathroom sink's counter, I observed a capped syringe. The plunger was compressed. One of the males, identified as Zackery Linscott, was pacing outside of the bathroom. He advised me that he had performed CPR on Ryan for

approximately ten minutes prior to calling 911. Zackery was unaware of what Ryan had taken or used. Prior to medical arriving, Ryan became alert.

I made contact with the female in the living room, identified by her Idaho driver's license as Brianna Andersen. It should be mentioned that throughout my contact with Brianna she consistently lied, circumventing the truth. She advised me that she had met with Ryan earlier in the evening at a gas station. He invited her over to the residence to go to the bars later in the evening. She followed Ryan to the residence, whom Ryan recently moved into with Nicholas Ulvan.

Brianna advised me that herself, Ryan, Zackery, and Nicholas were hanging out downstairs after ordering pizza. Ryan went upstairs to use the restroom at approximately 0030 hours. A few minutes after Ryan went upstairs, they heard a loud thump. Brianna advised me that Nicholas went upstairs and found Ryan unconscious on the bathroom floor. They placed Ryan in the bathtub and placed ice cubs on him. Zackery then performed CPR on Ryan, while she called 911. Brianna did not know what Ryan had been using or why there was a syringe found in the bathroom.

While speaking with Brianna, she advised me that she recently was released from probation and was a former abuser of opiates. She advised me that she had never used heroin. During my contact with Brianna, Sergeant Schneider called out Brianna for her dishonesty after he spoke with Ryan (see his supplemental for further). Brianna became immediately defensive and denied any involvement in the incident.

I began to question Brianna further, to which she then advised me of a more accurate depiction of the incident. She advised me that herself, Zackery, and Nicholas were in the living room, while Ryan excused himself to use the bathroom. Brianna advised me that Ryan had been in the restroom for approximately three to four minutes with the door closed. Brianna then knocked on the bathroom door, advised Ryan she was at the door, and proceeded to enter the bathroom.

Brianna advised me that she had gone into the bathroom to have sex with Ryan. Ryan was seated on top of the toilet, while she straddled him. At one point, Zackery had knocked on the bathroom door, prompting Ryan to tell Brianna to be quiet. Brianna advised that Ryan's body became limp and he slumped his head. Brianna picked up Ryan and placed him into the bathtub, where Ryan was able to brace himself with his arms. Brianna advised me that Ryan's lips were turning purple and he became unresponsive.

After placing Ryan in the bathtub, Brianna located a used syringe in between the toilet and the bathroom sink on the floor. She advised me that she picked up the syringe, snapped it in half, and flushed it. When asked why she chose to place Ryan in the bathtub and dispose of the syringe, rather than call 911, she advised me that she knew Ryan was on probation and she didn't want him to get into trouble. After disposing of the syringe, she alerted Zackery and Nicholas, to which she then called 911 while Zackery performed CPR on Ryan.

As I continued speaking with Brianna, she advised me that she had in fact used heroin and admitted to lying about her drug use. She advised me that she was released from probation in January of this year. Within recent months, Brianna has reverted back to using opiates and heroin as a coping mechanism. Brianna advised me that she last used a week ago. I observed several track marks on the

tops of Brianna's feet. She advised me that they were scars from her past use. However, several of the marks on Brianna's right foot were freshly scabbed over. She advised me that she uses the veins in the tops of her feet due to there being an abundance of scar tissue in the veins in her arms.

Brianna advised me that her purse was located downstairs. Brianna advised me that I could search her purse. Her purse was located in the basement after she described it as being grey with sparkles and large in size. Officer Schatz reconfirmed with Brianna that she would allow him to search her purse, to which she advised he could. Officer Schatz located a small baggie inside Brianna's purse containing a brown tar-like substance. The substance Nik tested presumptive positive for heroin. Brianna was arrested for destruction of evidence and possession of a controlled substance.

While searching Brianna prior to placing her in the rear of my patrol vehicle, I located two syringe caps in the front right pocket of her pants. I transported her to PSB, where she was booked.

A. Niska K87

DUI DECISION PTS (check applicable boxes and give supporting comments)

- Odor of alcoholic beverage:
- Admitted consumption of alcohol:
- Slurred Speech:
- Impaired Memory:
- Glass/Bloodshot eyes:
- Gaze Nystagmus:
- Walk & Turn:
- One Leg Stand:
- Other:
- Drugs Suspected: YES
- Drug Recognition Evaluation Performed: YES
- Accident Involved:
- Injuries:

Prior to testing, defendant was substantially informed of the consequences of refusal and failure of the test as required by Sections 18-8002 and 18-8002A, Idaho Code.

Defendant was tested for alcohol concentration, drugs or other intoxicating substances. The test(s) was (were) performed in compliance with Sections 18-8003 and 18-8004(4) Idaho Code and the standards and methods adopted by the Idaho State Police.

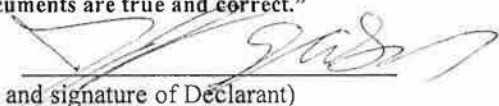
BAC tested by _____ using: Intoxilyzer 5000 LIFELOC FC20 Alco Sensor Instrument
Serial # of instrument _____ Other: _____
Name of person administering BAC test: _____ Date Certification expires: _____

- BAC result:
- Blood and/or Urine Test results pending: Yes No
- Defendant refused test as follows:

NOTE: THE NAME OF THE DECLARANT AND THE DATES MUST BE TYPED BELOW FOR ELECTRONIC SUBMISSION TO THE COURT. THIS FORM SHOULD THEN BE PRINTED, SIGNED AND SUBMITTED WITH THE REST OF THE COMPLAINT PAPERWORK.

"I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing declarations and any attached reports and/or documents are true and correct."

DATE: 10/01/2016 SIGNED:


(Name and signature of Declarant)

PRINTED NAME: J. Nielsen K38 _____

ORDER FINDING PROBABLE CAUSE

The defendant, Brianna Nicole Andersen, having been arrested without a warrant for the offense(s) of Possession of controlled substance, Destruction of evidence, and the Court having examined the declaration of J. Nielsen K38, the Court finds probable cause for believing that said crime(s) has (have) been committed, or in the alternative N/A, and that the defendant committed said crime(s), and that the defendant may be required to post bail prior to being released.

DATED: This day of , 20 . TIME:

(Name and signature of Judge for First Judicial District of the State of Idaho)

RE-BOOKING INFORMATION SHEET
 KOOTENAI COUNTY PUBLIC SAFETY BUILDING

Booking # _____

Name ID # _____ Date 10-1-11

Accepted by: <u>SM</u>
Agency Report # <u>110032384</u>
BAC <u>1</u>
Warrant Check _____
Prob. Check _____
Prob. Officer _____
Locker # <u>587</u>
Location _____
Hold For: _____
For DUI Charge:
Was Call Requested _____
Was Call Made _____

ARRESTEE:

Name Andersen Brianna Nicole
Last First Middle

AKA _____

Address 1902 E. 2nd

City Post Falls ST ID Zip 83854

Home Phone (208) 967-5139 SS# _____

City/State of Birth Salem, OR DOB _____

D.L. # CC241505T State ID Occupation unemployed Employer _____ Work Phone # _____

PHYSICAL DESCRIPTION:

Height 5' 09" Weight 150 Sex F Hair SDY Eyes BLU

Race W Glasses _____ Contacts _____ Facial Hair _____

Scars, Marks, Tattoo's Tattoo "heart" web of right hand

Clothing Description Jean's white tank top, cream shorts

ARRESTING OFFICER INFORMATION:

Date / Time of Arrest 10-1-11 / 0145 Location 1108 N. 11th St. Dist 82

Arresting Officer J. Nielsen # K38 Agency CDAPD Arrival at PSB 0157

CHARGES AND BAIL: ARREST TYPE: ON-VIEW WARRANT CITIZEN OTHER

M/F	Code	Charges	Bail	Sentence	Warrant or Case #
1. F	18-21003	Destruction of Evidence	✓		
2. F	37-213201	Possession of Cont. Substance	8		
3.					
4.					
5.					
6.					

Is the arresting officer aware of any mental or physical conditions this inmate may have which might affect his/her safety or ability to be held without special attention by jail staff? No, Yes (Explain) _____

Did the arrestee arrive with prescription medication? No, Yes

VEHICLE INFORMATION:

Vehicle Lic. _____ ST _____ YR _____ Make _____ Model _____ Body _____ Color(s) 1

Vehicle Disposition _____

CITIZEN ARREST:

I hereby arrest the above named suspect on the charge(s) indicated and request a peace officer to take him/her into custody. I will appear as directed and sign a complaint against the person I have arrested.

Arresting Persons Name		Address		Phone #	
Race		Sex		DOB	
Employer		Phone #			
Officer	ID #	Approved By	ID #	Date	

VICTIM'S RIGHTS INFORMATION:

Name:	Code	Mult. Victims	Address:	Phone:
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
Occupation:	Race/Sex	Age	DOB	Business Address:
ANDERSEN, Brianna				SC #45042
				Bus. Phone:
				15



Coeur d'Alene Police

Officer Report for Incident 16C32384

Nature: DRUGS
Location: 82

Address: 1108 N 11TH ST; OPS1
COEUR D'ALENE ID 83814

Offense Codes: NC
Received By: S.ERICKSON How Received: 9 Agency: CDA
Responding Officers: J.NIELSEN, J.SCHNEIDER, C.SCHATZ, J. RODGERS, A.NISKA, C.COHEN
Responsible Officer: J.NIELSEN Disposition: ACT 10/01/16
When Reported: 00:46:36 10/01/16 Occurred Between: 00:00:00 10/01/16 and 03:30:00 10/01/16

Assigned To: Detail: Date Assigned: **/**/**
Status: Status Date: **/**/** Due Date: **/**/**

Complainant: 457497
Last: ANDERSEN First: BRIANNA Mid: NICOLE
DOB: [REDACTED] Dr Lic: [REDACTED] Address: 1902 E 2ND ST
Race: W Sex: F Phone: (208)818-1207 City: POST FALLS, ID 83854

Offense Codes

Reported: NC Not Classified Observed:
Additional Offense: NC Not Classified

Circumstances

VIPR VIPR EVIDENCE STORAGE - CDAPD

Responding Officers:	Unit :
J.NIELSEN	K38
J.SCHNEIDER	K39
C.SCHATZ	K85
J. RODGERS	K23
A.NISKA	K87
C.COHEN	K50

Responsible Officer: J.NIELSEN	Agency: CDA
Received By: S.ERICKSON	Last Radio Log: **:**:** **/**/**
How Received: 9 911 Line	Clearance: 1 ARREST REPORT TAKEN
When Reported: 00:46:36 10/01/16	Disposition: ACT Date: 10/01/16
Judicial Status:	Occurred between: 00:00:00 10/01/16
Misc Entry:	and: 03:30:00 10/01/16

Modus Operandi:	Description :	Method :
LT	LOCATION TYPE	LT20
D	DRUGS/LIQUOR	RESIDENCE/HOME D34

Involvements

Date	Type	Description	Relationship
10/01/16	Name	ULVAN, NICHOLAS HERMAN	OFFENDER
10/01/16	Name	STEBBINS, RYAN CHAD	OFFENDER
10/01/16	Name	LINSCOTT, ZACKERY MICHAEL	MENTIONED
10/01/16	Name	ANDERSEN, BRIANNA NICOLE	Complainant
10/01/16	Name	ANDERSEN, BRIANNA NICOLE	OFFENDER
10/01/16	Cad Call	00:46:36 10/01/16 OVERDOSE D	Initiating Call
10/01/16	Property	Drug GREEN LEAFY ARTIZEN 0	EVIDENCE
10/01/16	Property	RED Paraphernalia 2 PIPES 1 METAL 1 GLASS 0	EVIDENCE
10/01/16	Property	BLK Drug TAR in cotton ball 0	EVIDENCE

Narrative

OFFICER: J. Nielsen K38

SUSPECT(S) or DESCRIPTION(S):

Ryan Chad Stebbins

(M) Possession of paraphernalia 37-2734A1
(Booked, Eticket C2505343)

Brianna Nicole Andersen

(F) Destruction of evidence 18-2603

(F) Possession of controlled substance 37-2732(c)(1)

Nicholas H Ulvan

(M) Possession of controlled substance 37-2732(c)(3)
(Booked, eticket C2505342)

Possession of paraphernalia 37-2734A1
(Booked, Eticket C2505342)

CASE SUMMARY:

I responded to the report of an unconscious unresponsive male at 1108 N 11th St. Upon arrival I learned that Ryan Stebbins had used heroin and accidentally overdosed. He was ultimately arrested for an agents warrant and possession of paraphernalia. Additionally a Brianna Andersen and Nicholas Ulvan who were in the residence were both arrested for possession of controlled substance. Brianna was also charged for destruction of evidence.

NARRATIVE:

On October 1, 2016 I responded to the report of an unintentional overdose at 1108 N 11th St. When I arrived on scene I entered the residence and went directly to the bathroom. I located a male identified as Ryan Chad Stebbins lying on his back with his eyes closed. The original report was that he was not breathing and was unconscious. When I arrived I found Ryan was breathing and had a strong pulse. Brianna Andersen, Nicholas Ulvan and Zackery Linscott were also in the residence. He even responded to my voice when I said his name. Ryan was lying on a towel and there was ice on the floor around him. There was also a syringe on the bathroom counter. The syringe was similar in appearance as the type I commonly find when encountering drug users. Ryan admitted to using heroin when he was asked what he had taken. Coeur d'Alene Fire responded and evaluated Ryan for injuries.

Shortly after Fire arrived Ryan was able to walk out to the living room. I then asked him to walk outside where I could talk to him. Ryan was unable to tell me a whole lot about the heroin he used. He told me that he remembered loading the needle himself off of a spoon, but was not sure how much he used. He stated that he did not bring the heroin he did use into the residence and stated that it was just there. He further told me he was using the heroin in the bathroom with Brianna. He also stated that he injected himself with the heroin when he used. While I was speaking with Ryan, Officer A. Niska and C. Schatz were speaking

with Brianna. Officer C. Schatz also spoke to Zackery. Officer J. Rodgers spoke with Nicholas.

I learned that Ryan was on probation when I ran him through Central Dispatch. I requested that Central Dispatch contact the on call and inform them that Ryan had admitted to using heroin and was currently being evaluated for an overdose. I was later contacted by Probation Officer Linsey Morgan who advised she would be issuing an agent warrant and requested I arrest Ryan and bring him to the Kootenai County Jail. Sergeant J. Schneider also spoke with Ryan attempting to gather more information about where the heroin came from and if there was more in the residence. While Sergeant J. Schneider was speaking with Ryan I listened to Officer A. Niska speaking with Brianna. Brianna made a statement about how she had found Ryan in the bathroom unresponsive and that she had located a "rig" (Syringe) on the side of the toilet. She stated that she broke it in half and flushed it down the toilet. She also stated that she did not know where the second syringe.

Officer C. Schatz gained consent from Brianna to search her purse. I was standing next to him when he located two small zip lock baggies with an animal design on them. One of the baggies had a brown substance inside of it. I NIK tested the substance with tested presumptive positive for heroin. I arrested Brianna for destruction of evidence and possession of a controlled substance. I also arrested Ryan for the agent warrant and possession of paraphernalia. Nicholas was arrested by Officer J. Rodgers for possession of controlled substance and possession of paraphernalia. All three suspects were transported to the Kootenai County Jail where they were booked on the charges.

The Syringe was photographed and disposed of in a sharps container. The brown substance in the baggie was sent to the state lab for further testing. For additional information on this incident review Officers J. Rodgers, A. Niska and C Schatz supplemental narratives for further information.

CASE EVIDENCE:

- BODY CAM IN-CAR VIDEO PHOTOS AUDIO
- UPLOADED TO VIPER UPLOAD TO VIPER LATER

Responsible LEO:

Approved by:

Date

Supplement

SUPPLEMENTAL, C. SCHATZ K85, 16C32384

On 10/1/16 I responded to 1108 N 11th St for an overdose. I contacted a male inside the residence who verbally identified himself as Zackery Linscott. Zackery told me he was at the residence to hang out with his brother Ryan, drink beer, and play guitar. He was upstairs on the phone with a family member when he heard a thud from someone falling in the bathroom. He went to check on the noise he heard and found his brother on the ground unconscious and not breathing. He immediately started CPR. Zackery said his brother had a past with drugs but believed he was no longer using and had only consumed alcohol tonight.

It was later confirmed that Brianna Andersen was inside the bathroom with Ryan when he overdosed. Brianna denied having any involvement in Ryan's overdose or using drugs other than marijuana. I asked Brianna if I could search her purse to prove she does not have any drug related items to corroborate her story. She voluntarily consented and described it as grey, sparkly, and demonstrated the size with hand motions.

Ofc. Rodgers located the purse and brought it to me. I searched the purse and located 2 small plastic baggies inside a zippered coin pocket in a wallet. The wallet also contained multiple FTC cards with Brianna's name on them as well as her Idaho DL. The baggies were clear with an orange animal head printed on them. One of the baggies contained a small round ball of a brown and black substance. It appeared to be a cotton ball like material coated in a tar like substance. Through my training and experience, I recognized the substance by its physical appearance to be consistent with heroin. A common practice for injecting heroin is to dilute the substance in a solution then use a small cotton ball or the tip of a cotton swab as a filter when drawing the diluted substance into a needle. The cotton like material I located appeared to have been used for this same method and still contained a usable amount of the substance.

I gave the plastic baggies to Ofc. Nielsen and he Nik tested the black substance. He informed me the substance tested presumptive positive for heroin.

I gave Zackery a courtesy transport back to his residence at 1710 N 5th St.

C. Schatz K85

Supplement

- J. Rodgers K23

On 10/01/2016 at approximately 0050, I responded to the listed location to assist Officer Nielsen with an overdose call. Upon arrival I spoke with a male I verbally identified as Nicholas Ulvan (Nick). I initially spoke with Nick in the upstairs kitchen. While speaking with Nick I gathered the following:

Nick lives at this residence with Ryan Stebbins. On this night a friend of Ryan's came over who Nick knew as Brianna Andersen. Nick said they were all downstairs in his bedroom. Nick said they were drinking beer and getting ready to go down town to a bar. While speaking with Nick I found that they had also been smoking marijuana in his bedroom. I asked Nick if we could go downstairs. He said we could.

Once downstairs Nick said I could go into his bedroom. Once inside Nick asked "do you want my weed" or something to that affect. I said yes. Nick opened a dresser drawer and pulled out a plastic zip lock which had printed on it "ARTIZEN". Inside of it was a green leafy substance which due to my training and experience I recognized to be consistent in look and smell with that of marijuana. Nick also handed me a blue glass pipe with burnt residue which is consistent with that of burnt marijuana. Nick handed me a small plastic container containing what appeared to be hash oil.

Nick said there was also marijuana and paraphernalia inside of his night stands. Nick gave permission to retrieve these items. Two black sunglass cases were found containing more green leafy substance and a red metal pipe with burnt residue. I seized all of these items as evidence.

I spoke with Nick further and gathered the following:

Nick said all of them were in his bedroom smoking marijuana and drinking. They were planning on playing pool down town. Nick said that Ryan and Brianna went upstairs. Nick stayed in his bedroom to get ready. Nick said after a little bit he heard a loud thud upstairs. When he went upstairs Ryan was found on the ground.

Nick said he knew Ryan used to have an addiction to heroine. Nick said he does not use any drug besides marijuana and did not know that Ryan was using heroine still. Nick said that Brianna and Ryan never spoke about using drugs and Nick never saw any drugs other than his marijuana. Nick allowed me to search the rest of the downstairs and I found nothing of note.

I arrested Nick for possession of a controlled substance and possession of paraphernalia. I read Nick his Miranda rights. Nick said he understood his rights and agreed to speak with me.

I asked Nick if we could search the rest of his house to locate any further illegal substances. Nick said we could not and that he wanted to speak with his lawyer. I ended my conversation with Nick.

I transported Nick to KC PSB and booked him in for possession of a controlled substance and possession of paraphernalia.

I NIK tested the green leafy substance with NIK test E. It tested presumptive positive for the presence of marijuana.

I booked the green leafy substance into the Evidence locker submitting it for

testing at the state lab. I booked the paraphernalia into the evidence locker as well.

- J. Rodgers K23

Supplement

OFFICER: A. Niska K87

On 10/1/16 I assisted Officer Nielsen while responding to a medical call located at 1108 N 11th St. Per the call notes, a male was found unconscious with agonal breathing possibly from an overdose. I arrived on scene and observed three individuals, two males and a female, in the living room of the residence. A male, later identified as Ryan Stebbins, was found on the bathroom floor.

I observed Ryan to be laying on his back, in between the bathtub and the bathroom sink. There were several ice cubes around him on the floor. On top of the bathroom sink's counter, I observed a capped syringe. The plunger was compressed. One of the males, identified as Zackery Linscott, was pacing outside of the bathroom. He advised me that he had performed CPR on Ryan for approximately ten minutes prior to calling 911. Zackery was unaware of what Ryan had taken or used. Prior to medical arriving, Ryan became alert.

I made contact with the female in the living room, identified by her Idaho driver's license as Brianna Andersen. It should be mentioned that throughout my contact with Brianna she consistently lied, circumventing the truth. She advised me that she had met with Ryan earlier in the evening at a gas station. He invited her over to the residence to go to the bars later in the evening. She followed Ryan to the residence, whom Ryan recently moved into with Nicholas Ulvan.

Brianna advised me that herself, Ryan, Zackery, and Nicholas were hanging out downstairs after ordering pizza. Ryan went upstairs to use the restroom at approximately 0030 hours. A few minutes after Ryan went upstairs, they heard a loud thump. Brianna advised me that Nicholas went upstairs and found Ryan unconscious on the bathroom floor. They placed Ryan in the bathtub and placed ice cubs on him. Zackery then performed CPR on Ryan, while she called 911. Brianna did not know what Ryan had been using or why there was a syringe found in the bathroom.

While speaking with Brianna, she advised me that she recently was released from probation and was a former abuser of opiates. She advised me that she had never used heroin. During my contact with Brianna, Sergeant Schneider called out Brianna for her dishonesty after he spoke with Ryan (see his supplemental for further). Brianna became immediately defensive and denied any involvement in the incident.

I began to question Brianna further, to which she then advised me of a more accurate depiction of the incident. She advised me that herself, Zackery, and Nicholas were in the living room, while Ryan excused himself to use the bathroom. Brianna advised me that Ryan had been in the restroom for approximately three to four minutes with the door closed. Brianna then knocked on the bathroom door, advised Ryan she was at the door, and proceeded to enter the bathroom.

Brianna advised me that she had gone into the bathroom to have sex with Ryan. Ryan was seated on top of the toilet, while she straddled him. At one point, Zackery had knocked on the bathroom door, prompting Ryan to tell Brianna to be quiet. Brianna advised that Ryan's body became limp and he slumped his head. Brianna picked up Ryan and placed him into the bathtub, where Ryan was able to brace himself with his arms. Brianna advised me that Ryan's lips were turning purple and he became unresponsive.

After placing Ryan in the bathtub, Brianna located a used syringe in between the toilet and the bathroom sink on the floor. She advised me that she picked up the syringe, snapped it in half, and flushed it. When asked why she chose to place Ryan in the bathtub and dispose of the syringe, rather than call 911, she advised me that she knew Ryan was on probation and she didn't want him to get into trouble. After disposing of the syringe, she alerted Zackery and Nicholas, to which she then called 911 while Zackery performed CPR on Ryan.

As I continued speaking with Brianna, she advised me that she had in fact used heroin and admitted to lying about her drug use. She advised me that she was released from probation in January of this year. Within recent months, Brianna has reverted back to using opiates and heroin as a coping mechanism. Brianna advised me that she last used a week ago. I observed several track marks on the tops of Brianna's feet. She advised me that they were scars from her past use. However, several of the marks on Brianna's right foot were freshly scabbed over. She advised me that she uses the veins in the tops of her feet due to there being an abundance of scar tissue in the veins in her arms.

Brianna advised me that her purse was located downstairs. Brianna advised me that I could search her purse. Her purse was located in the basement after she described it as being grey with sparkles and large in size. Officer Schatz reconfirmed with Brianna that she would allow him to search her purse, to which she advised he could. Officer Schatz located a small baggie inside Brianna's purse containing a brown tar-like substance. The substance Nik tested presumptive positive for heroin. Brianna was arrested for destruction of evidence and possession of a controlled substance.

While searching Brianna prior to placing her in the rear of my patrol vehicle, I located two syringe caps in the front right pocket of her pants. I transported her to PSB, where she was booked.

A. Niska K87

Supplement

SGT J. Schneider K39

SUPPLEMENTAL NARRATIVE:

I responded to 1108 N 11th St to assist Ofc Nielsen with the report of an overdose. I arrived and saw Ofc Nielsen speaking with a barely responsive male lying prostrate in the bathroom. I saw a 1mL insulin syringe on the bathroom counter, and from my training and experience as a certified Drug Recognition Expert, I know these syringes are commonly used for illicit IV drug use. The male on the floor identified himself as Ryan Stebbins. Ryan appeared heavily under the influence of a narcotic analgesic. He was on the nod and struggled to keep awake and keep his eyes open. His speech was low, raspy, and thickly slurred. He also displayed miosis, or abnormally constricted pupils. I talked to Ryan to keep him awake and breathing. He admitted he had just injected heroin. Medics arrived and I stepped out of the bathroom. I secured the syringe and noted it appeared used, with a small amount of blood at the end of the barrel where the needle meets the barrel. I gave the syringe to Ofc Nielsen.

I spoke to a male who identified himself as Zach, and said he was Ryan's brother. Zach said he was on the phone with his other brother Kyle and heard "Bri" calling him into the bathroom, where he saw Ryan on the floor and not breathing. Zach began CPR on Ryan and yelled at Bri to call the police. He said she didn't call right away, and instead was "freaking out."

I spoke to a female who identified herself as Bri (Brianna Andersen). Bri was deceitful and lied constantly. She denied being in the bathroom with Ryan. I noticed she had injection marks of various ages from fresh to healing over the veins on top of her feet. Her speech was also slow and raspy and she appeared under the influence of a narcotic analgesic. She denied using IV drugs and claimed the injection marks were "scars" from old use. They were not, as some were scabbed and not cratered, indicating they were a couple days old at most, and the area around the injection marks was lightly bruised. I confronted her about hiding the drugs because Ryan certainly didn't do it while unconscious. She denied it, and said I could search her, her purse, and her car.

I walked outside and sat on the step with Ryan after medics cleared him. He admitted he'd been sober just over a year and tonight was his first relapse. He is a recovering heroin addict. He was very cooperative with me and clearly felt terrible about relapsing. He was crying and said he'd let his brother down. He initially just said the heroin was "just there" so he used it. After talking to him for a while, he admitted he and Bri went into the bathroom to use heroin. He was adamant the heroin was brought to the house, but said he didn't bring it, his brother didn't bring it, and Nick isn't involved in that kind of stuff. He eventually admitted Bri brought the heroin, and didn't know how much she had. He said he cooked it in a spoon and injected it, and then remembered us being there talking to him. He didn't know his brother saved his life while Bri was busy hiding evidence instead of calling 911. I urged him to keep working on his recovery and surround himself with supportive people instead of ones who tempt him to hurt himself.

Ofc Nielsen showed me a small ziploc baggie with a small cotton ball soaked in a brown tar substance consistent in appearance with heroin. He NIK tested it and it returned presumptive positive for heroin. Ofc Niska also told me Bri finally admitted to flushing things down the toilet before calling for

help.

See other officers' reports for further information.

Video uploaded to Viper.

SCHNEIDER K39

Property

Property Number: 16-15253
 Item: Drug
 Brand: GREEN LEAFY
 Year: 0
 Meas: GM
 Total Value: \$0.00
 Owner: ULVAN NICHOLAS HERMAN 343671
 Agency: CDA COEUR D'ALENE POLICE DEPT
 Accum Amt Recov: \$0.00
 UCR:
 Local Status: EIS
 Crime Lab Number:
 Date Released: **/**/**
 Released By:
 Released To:
 Reason:
 Comments: ALSO CONTAINS HASH OIL

Owner Applied Nmbr:
 Model: ARTIZEN
 Quantity: 8
 Serial Nmbr:
 Color:
 Tag Number:
 Officer: J. RODGERS
 UCR Status:
 Storage Location:
 Status Date: **/**/**
 Date Recov/Rcvd: 10/01/16
 Amt Recovered: \$0.00
 Custody: **.*.*** **/**/**

Property Number: 16-15254
 Item: Paraphernalia
 Brand: 2 PIPES
 Year: 0
 Meas:
 Total Value: \$0.00
 Owner: ULVAN NICHOLAS HERMAN 343671
 Agency: CDA COEUR D'ALENE POLICE DEPT
 Accum Amt Recov: \$0.00
 UCR:
 Local Status: EIS
 Crime Lab Number:
 Date Released: **/**/**
 Released By:
 Released To:
 Reason:
 Comments: ALSO CONTAINS METAL GRINDER AND GLASSES CONTAINERS PARA WAS FOUND IN

Owner Applied Nmbr:
 Model: 1 METAL 1 GLASS
 Quantity:
 Serial Nmbr:
 Color: RED
 Tag Number:
 Officer: J. RODGERS
 UCR Status:
 Storage Location:
 Status Date: **/**/**
 Date Recov/Rcvd: 10/01/16
 Amt Recovered: \$0.00
 Custody: **.*.*** **/**/**

Property Number: 16-15255
 Item: Drug
 Brand: TAR
 Model: in cotton ball

Year: 0	Quantity:
Meas: TR	Serial Nbr:
Total Value: \$0.00	Color: BLK
Owner: ANDERSEN BRIANNA NICOLE 457497	
Agency: CDA COEUR D'ALENE POLICE DEPT	Tag Number:
Accum Amt Recov: \$0.00	Officer: J.NIELSEN
UCR:	UCR Status:
Local Status: EIS	Storage Location:
Crime Lab Number:	Status Date: **/**/**
Date Released: **/**/**	Date Recov/Rcvd: 10/01/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **:**:** **/**/**
Reason:	
Comments: ALSO CONTAINS ANOTHER SMALL PLASTIC BAGGY	

Name Involvements:

MENTIONED :446820

Last: LINSCOTT
DOB: [REDACTED]
Race: W Sex: M

First: ZACKERY
Dr Lic: [REDACTED]
Phone: () -

Mid: MICHAEL
Address: 1018 N D ST; #B
City: COEUR D'ALENE, ID 83814

OFFENDER : 343671

Last: ULVAN
DOB: [REDACTED]
Race: W Sex: M

First: NICHOLAS
Dr Lic: [REDACTED]
Phone: (208)661-2988

Mid: HERMAN
Address: 1108 N 11TH ST
City: COEUR D ALENE, ID 83814

OFFENDER : 457497

Last: ANDERSEN
DOB: [REDACTED]
Race: W Sex: F

First: BRIANNA
Dr Lic: [REDACTED]
Phone: (208)818-1207

Mid: NICOLE
Address: 1902 E 2ND ST
City: POST FALLS, ID 83854

OFFENDER : 441266

Last: STEBBINS
DOB: [REDACTED]
Race: W Sex: M

First: RYAN
Dr Lic: [REDACTED]
Phone: (208)964-1879

Mid: CHAD
Address: 1108 N 11TH ST
City: COEUR D ALENE, ID 83815

HEINRICH, TERI

From: Clark A. Peterson <capeterson@kcgov.us>
Sent: Saturday, October 01, 2016 2:09 PM
To: SCHNEIDER, JOSH; *Sergeants; *PD-LIEUTENANTS; *PD-RECORDS; PC Affidavits
Cc: April Legard; Mayli Walsh
Subject: RE: 16C32384 - Brianne Andersen

I find probable cause for the warrantless arrest and continued detention for the above named defendant on the charge(s) listed in the accompanying report.

Clark Peterson
Magistrate Judge #299
10/1/16 at 2:09 pm

*AG #330
10-3-16*

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:
2016 OCT -3 AM 11:20
CLERK DISTRICT COURT
[Signature]

Clark A. Peterson
Magistrate Judge #299
Resident Chambers: Kootenai County Justice Building
325 W. Garden Ave
PO Box 9000
Coeur d'Alene ID 83816-9000
(208)446-1110

From: SCHNEIDER, JOSH [mailto:JSCHNEIDER@cdaid.org]
Sent: Saturday, October 1, 2016 7:10 AM
To: *Sergeants; *PD-LIEUTENANTS; *PD-RECORDS; PC Affidavits
Subject: 16C32384 - Brianne Andersen

Same report, three different arrestees.

Thank you,

V/R
SGT Schneider

ORIGINAL

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-2168

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED:

2016 OCT -3 AM 11:00

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 KOOTENAI

STATE OF IDAHO,

Plaintiff,

vs.

BRIANNA NICOLE ANDERSEN

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

Case No. CR-F16-19399

CRIMINAL COMPLAINT

Agency Case: 16C32384

Craig v. Buhl

_____ , appeared personally before me, and being first duly sworn on oath, that the above named defendant did commit the crime(s) of: **COUNT I, POSSESSION OF A CONTROLLED SUBSTANCE** a Felony, Idaho Code §37-2732(c)(1), and **COUNT II, DESTRUCTION OF EVIDENCE** a Felony, Idaho Code §18-2603, committed as follows:

COUNT I

That the defendant, BRIANNA NICOLE ANDERSEN, on or about the 1st day of October, 2016, in the County of Kootenai, State of Idaho, did knowingly and unlawfully possess a controlled substance, to wit: heroin, a Schedule ~~II~~ controlled substance;

12-1-16
SC #45042
[Signature]

COUNT II

That the defendant, BRIANNA NICOLE ANDERSEN, on or about the 1st day of October, 2016, in the County of Kootenai, State of Idaho, did willfully destroy and/or conceal an object containing heroin knowing that the object was about to be produced, used or discovered as evidence in a ^{felony 12-1-16 RC #267} criminal investigation authorized by law and with the intent to prevent it from being so produced, used or discovered, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the people of the State of Idaho. Said complainant therefore prays for proceedings according to law.

DATED this 3rd day of October, 2016.

Craig V. Bell
COMPLAINANT

2016. SUBSCRIBED AND SWORN to before me this 3rd day of Oct.

Small. E. [Signature] #330
MAGISTRATE

Description	CR 2016-19399 Andersen, Brianna 20161003 First Appearance Judge Eckhart Clerk April Legard Def Rights		
Date	10/3/2016	Location	1K-COURTROOM6
Time	Speaker	Note	
<u>03:15:45 PM</u>	Judge Eckhart	Calls Case Defendant Present In Custody Via Video PA Present - Mr Brooks	
<u>03:15:47 PM</u>	J	Felony Poss Con Sub Felony Destroy Evid Reviews Charges/Penalties	
<u>03:15:52 PM</u>	Def	Understand Charges/Penalties	
<u>03:17:07 PM</u>		Request Counsel	
<u>03:17:09 PM</u>	J	Appoint Public Defender	
<u>03:17:49 PM</u>		Set PH w/in 14 days	
<u>03:17:51 PM</u>	PA	Recommends 25k Bond Reviews Defendant History	
<u>03:18:36 PM</u>	Def	Request Bond Reduction Reviews History - Work - Residence -	
<u>03:19:56 PM</u>	J	20k Bond Set Reviews Bond Conditions	
<u>03:20:07 PM</u>	Def	Understands Conditions	
<u>03:27:39 PM</u>	End		

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www.fortherecord.com

MUST BE COMPLETED
TO BE CONSIDERED

Filed 10-3-16 AT 3:50 p.m.
CLERK OF THE DISTRICT COURT

BY [Signature] DEPUTY

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

APPLICATION FOR: Brianna Andersen
 DEFENDANT JUVENILE CHILD PARENT

CASE NO. CR16-19399

DOB [Redacted]

BY _____
PARENT or GUARDIAN OF MINOR
DOB _____

FINANCIAL STATEMENT AND ORDER

NOTE: If this application is being made on behalf of a minor, please answer the following questions as they apply to his/her parents or legal guardian. Include information for you and your spouse.

I, the above named defendant (or the parent(s) on behalf of a minor), being first duly sworn on oath, depose and say in support of my request for court appointed counsel:

My current mailing address is: 1902 E 2nd Post Falls Idaho 83854
Street or P.O. Box City State Zip Code

My current telephone number or message phone is: (208) 917-5739

Crimes Charged: possession / destruction of evidence

I request the Court appoint counsel at county expense; and I agree to reimburse the county for the cost of said defense, in the sum and upon the terms as the Court may order.

BELOW IS A TRUE AND CORRECT STATEMENT OF MY FINANCIAL CONDITION:

1. EMPLOYMENT:

A. Employed: ___yes Yno B. Spouse Employed: ___yes ___no
C. If not employed, or self-employed, last date of employment Aug. 2016
D. My employer is: _____
Address: _____

2. HOUSEHOLD INCOME MONTHLY (Include income of spouse):

Wages before deductions \$ 0 Other income: (Specify: Child Support, S.S., V.S., A.D.C.,
Less Deductions \$ 0 Food Stamps, Etc.)
Net Monthly Wages \$ 0 \$ 0

3. HOUSEHOLD EXPENSES MONTHLY:

Rent or Mortgage Payment \$ 250.00 Child Care \$ 0
Utilities \$ 0 Recreation \$ 0
Clothing \$ 0 Medical \$ 0
Transportation \$ 100.00 Insurance \$ 0
School \$ 0 Other (Specify) \$ 0
Food \$ 100.00

3. HOUSEHOLD EXPENSES MONTHLY: (cont.)

DEBTS: Creditor Chapman
Creditor _____
Creditor _____

Total \$ 1500.00 \$ 0 per mo
Total \$ _____ \$ _____ per mo
Total \$ _____ \$ _____ per mo

4. ASSETS:

A. I (we) have cash on hand or in banks \$ 0
B. I (we) own personal property valued at \$ 500.00
C. I (we) own vehicle(s) valued at \$ 0
D. I (we) own real property valued at \$ 0
E. I (we) own stocks, bonds, securities, or interest therein \$ 0

5. THE FOLLOWING ALSO AFFECTS MY FINANCIAL CONDITION (Specify): _____

6. DEPENDENTS: X self _____ spouse _____ children _____ other (specify) _____
(number)

Brian Andersen
APPLICANT

Subscribed and sworn to before me this 3 day of October, 2016.

CHRIS CHRISTENSEN
NOTARY PUBLIC
STATE OF IDAHO

Chris Christensen
NOTARY PUBLIC/CLERK/JUDGE

The above named ✓ defendant _____ parent _____ guardian appeared before the court on the aforesaid charge and requested the aid of counsel. The court having considered the foregoing, and having personally examined the applicant; ✓ **ORDERS** _____ **DENIES** the appointment of the service of counsel.

THE APPLICANT MAY BE ORDERED TO PAY REIMBURSEMENT FOR THE COST OF APPOINTED COUNSEL AT THE CONCLUSION OF THE CASE.

ENTERED this 3rd day of Oct, 2016.

Sandra M. Eckert #330
JUDGE

Custody Status: ___ In ___ Out

Copies to:
 Prosecuting Attorney 10
 Public Defender 10

Bond \$ _____

10-3-16
Date Chris Christensen
Deputy Clerk

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

STATE OF IDAHO Plaintiff	CASE NO. CR- <u>16-19399</u>
v.	ORDER SETTING BAIL or
<u>Andersen, Brianna</u> Defendant	RELEASE ON OWN RECOGNIZANCE and
	CONDITIONS

The above case having come before the Court on the below date and the Court having considered the factors in I.C.R. 46, now therefore,

IT IS HEREBY ORDERED that bail be set in the amount of \$ 20,000⁰⁰
 and the following are established as the conditions of release:

THE DEFENDANT SHALL:

- Commit no new criminal offenses greater than an infraction (a finding of probable cause on a subsequent offense is sufficient to revoke bail);
- Sign waiver of extradition and file with the Court;
- Make all court appearances timely;
- Do NOT** consume alcohol or controlled substances;
- Promptly notify the Court and defense counsel of any change of address;
- Maintain regular contact with defense counsel;
- Do NOT** drive, operate or be in physical control of a motor vehicle without a valid license and insurance;
- Obtain a Substance Abuse/Batterer's Evaluation from an approved evaluator by: _____
- Submit to: EtG Drug Both EtG & Drug urinalysis testing ___ times monthly through:
 Avertest (address/phone below) Absolute (address/phone below)
 Other _____ Results to be provided to the
 Prosecuting Attorney's office, Public Defender/Defense Attorney _____, Court
- Other: _____

Defendant has acknowledged these conditions in open court, and is advised that a violation of any term may result in the defendant being returned to jail.

Copies sent 10/3/16 To:

- Prosecutor _____ [] in court interoffice
- Defense Counsel _____ [] in court interoffice
- Defendant _____ [] in court

Date: 10-3-16

Jail FAX 446-1407

Judge Sara H. Eckert No. 330

Avertest FAX: (208) 416-2539, 500 N Government Way, Suite 100, CD'A, ID, Ph: (208) 416-2539

Avertest Emailed: coeurdaleneid@avertest.com

Absolute FAX: (208) 758-0401, 5433 N Government Way, Suite B, CD'A, ID, Ph: (208) 758-0051

Probation Department _____

Other _____

Paul Legend
Deputy Clerk

Description	CR 2016-19399 Andersen, Brianna 20161020 Preliminary Hearing Status Conference Judge Caldwell Clerk Shari Rohrbach		
Date	10/20/2016	Location	1K-COURTROOM12
Time	Speaker	Note	
<u>08:35:36 AM</u>	J	Calls, def present with Mr Jones, Ms Klempel for the State.	
<u>08:35:47 AM</u>	DA	Will leave set.	
<u>08:35:52 AM</u>	PA	2 witnesses, 1 witness may be unavailable, I'll talk with the assigned attorney.	
<u>08:36:04 AM</u>	J	Leave set.	
<u>08:36:07 AM</u>	end		

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STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 10/21/16
AT 1028 O'CLOCK A.M.
CLERK, DISTRICT COURT
Wanda Butler
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI
MAGISTRATE'S DIVISION

STATE OF IDAHO, Plaintiff, v. BRIANNA NICOLE ANDERSEN, Defendant,	CASE NO. CR-2016-19399 ORDER OF VOLUNTARY DISQUALIFICATION
---	--

It appearing to the court that the ends of justice would best be served by another judge handling the above-entitled matter, now therefore,

IT IS HEREBY ORDERED, that pursuant to Idaho Criminal Rule 25(d), the undersigned is hereby disqualified from presiding further and the case shall be reassigned to a new judge.

DATED this 20th day of October, 2016



Mayli Walsh
Magistrate #338

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was [] faxed; [] mailed; or [x] emailed by me, First Class mail, postage prepaid this 21 day of October, 2016 to:

Kootenai County PA
Email: kepareports@kcgov.us

Post Falls Prosecutor
legalservices@postfallspolice.com

Coeur d'Alene City PA
cdaprosnotices@cdaid.org

Trial Court Administrator
Fax 446-1224

#4014

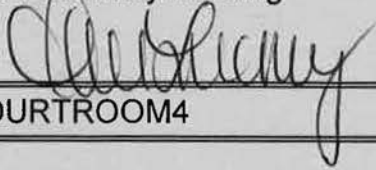
10:24am

Public Defender
Email: pdfax@kcgov.us

Wanda Butler

Deputy Clerk



Description	CR 2016-19399 Andersen, Brianna 20161021 Preliminary Hearing Judge VanValin Clerk Taylor Luckey		
Date	10/21/2016	Location	1K-COURTROOM4
Time	Speaker	Note	
<u>01:57:15 PM</u>	Judge Walsh	Calls Case Defendant Present with Jay Logsdon PA Present, Dave Robins	
<u>01:57:30 PM</u>	PA	Move to Continue. Defense does not object. One of the officers are in AZ for training.	
<u>01:58:11 PM</u>	DA	Correct. No objection.	
<u>01:58:14 PM</u>	Def	Had enough time with atty. Understands waiver of right to timely preliminary. No objection.	
<u>01:58:41 PM</u>		Waives right to timely preliminary hearing.	
<u>01:58:45 PM</u>	J	Grants Continuance.	
<u>01:58:49 PM</u>	End		

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Description	CR 2016-19399 Andersen, Brianna 20161107 Preliminary Hearing Status Conference Judge Burton Clerk Breanne Riley		
Date	11/7/2016	Location	1K-COURTROOM12
Time	Speaker	Note	
08:57:31 AM	Judge Burton	Calls case, defendant present PA, Ms McClinton DA, Mr Schwartz	
	DA	Leave matter set as status	
08:57:46 AM	PA	That is the states request	
08:57:52 AM	Judge Burton	Matter is left set as a status	
08:57:55 AM	End		

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Description	CR 2016-19399 Andersen, Brianna 20161110 Preliminary Hearing Judge Peterson Clerk Taylor Luckey		
Date	11/10/2016	Location	1K-COURTROOM7
Time	Speaker	Note	
01:46:06 PM	Judge Peterson	Calls Case Defendant Present with Benjamin Onosko PA Present, Alex Klempel	
01:46:31 PM	DA	Matter set as status. Needs to be reset.	
01:46:39 PM	PA	Nothing more.	
01:46:41 PM	J	Reset preliminary hearing. Def to stay in contact with lawyer.	
01:46:59 PM	End		

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Description	CR 2016-19399 Andersen, Brianna 20161129 Preliminary Hearing Status Conference Judge Combo Clerk Kally Young		
Date	11/29/2016	Location	1K-COURTROOM12
Time	Speaker	Note	
08:39:20 AM	Judge-Combo	Calls Case: KCPA-Laura McClinton/PD-Jay Logsdon/Def-Brianna Andersen- Present in Court	
08:39:35 AM	PD-	Matter to be left set-	
08:39:39 AM	KCPA-Laura McClinton	2 witnesses	
08:39:43 AM	Judge-Combo	Matter is left set-	
08:39:46 AM	End		

Produced by FTR Gold™
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Description	CR 2016-19399 Andersen, Brianna Nicole 20161201 Preliminary Hearing Judge Caldwell Clerk Cristine Steckman		
Date	12/1/2016	Location	1K-COURTROOM7
Time	Speaker	Note	
<u>02:29:01 PM</u>	J	Laura McClinton PA Jay Logsdon DA DF present Out of Custody	
<u>02:29:30 PM</u>	PA	We are prepared to move forward	
<u>02:29:32 PM</u>	DA	Waives reading of complaint	
<u>02:29:44 PM</u>	PA	We have a motion to amend Count II to include on line 4, add Felony Criminal Investigation	
<u>02:30:05 PM</u>	DA	No objection	
<u>02:30:09 PM</u>	PA	Via innerlineation	
<u>02:30:13 PM</u>	J	Alright	
<u>02:30:43 PM</u>	DA	Move to exclude witness	
<u>02:30:48 PM</u>	PA	Calls Officer Nielsen	
<u>02:31:10 PM</u>	Officer Nielsen	Swears to oath, employed w/ City of CDA since Jan 2013, POST certified, on duty 10/31/16, responded to call for service on a drug overdose, late in the evening, 1108 N 11st in CDA, ID.	
<u>02:32:36 PM</u>	DA	Move to strike, lack of foundation	
<u>02:32:41 PM</u>	J	Sustained	
<u>02:32:43 PM</u>	Officer Nielsen	I received information through Central Dispatch	
<u>02:32:57 PM</u>	DA	Hearsay	
<u>02:33:00 PM</u>	PA	Foundation	
<u>02:33:03 PM</u>	J	Over ruled	
<u>02:33:05 PM</u>	Officer Nielsen	Male uncouscious, not breathing, in bathroom. I entered residence I could see there were several people standing by an open doorway, saw a bathroom, male laying on his back, towel and ice cubes next to him. Several people were there and they were hysterical, I removed them from the room. Individual was Ryan Stebbens, I do know that there was a female Briana Andersen and the male's brother was on scene too, there were other but I didn't speak to them. I identified Ms Andersen through other officers, she is present in court at counsel table, black shirt, white coat. She was the only female at the residence when I arrived. I noticed a syringe, laying on the counter in the bathroom. I asked Mr Stebbens if he had taken any drugs into his body to	

		make him go unconscious, he said he had
<u>02:36:08 PM</u>	DA	Objection
<u>02:36:11 PM</u>	J	Strike that last response
<u>02:36:22 PM</u>	Officer Nielsen	I have training and experience based on drug paraphenalia. I have training and experience in narcotics. I have specific training and experience in dealing w/ heroin. I believed the syringe to be associated w/ a drug that falls under the category of heroin. I was talking to Mr Stebbens when I was at the residence. I briefly spoke to Ms Andersen. A purse was searched, a different officer obtained the purse. Officer Shatt's searched the purse, I obsered the search. He removed two small baggies from the purse, they had an animal design, one had a dark substance on it. I secured them in the trunk of my vehicle, I also NIC tested one of them. I booked the items into evidence. Reviews States Ex 1, relates to this case, Ms Andersen and the items found on scene. There is more than one item on the lab report.
<u>02:42:45 PM</u>	PA	Move to admit
<u>02:42:47 PM</u>	DA	No objection
<u>02:42:53 PM</u>	J	States 1 is admitted
<u>02:43:04 PM</u>	Officer Nielsen	The 2.1 lab item relates to Ms Andersen, that item was contained in the zip lock baggie
<u>02:43:34 PM</u>	DA	Cross
<u>02:43:37 PM</u>	Officer Nielsen	I arrived late into the evening, I was one of the first on scene, we all arrived at the same time. The front door was open when I went inside. I noticed a young man laying in a bathroom w/ ice on his chest. Ms Andersen and two males were the occupants, one maybe two males. Mr Stebbens was lying on the bathroom floor, I checked for a pulse, he was breathing, I stayed w/ him until EMS got on scene. He was able to stand up and they let him out to the living room once they arrived. He stepped outside and I was able to talk to him on the outside front porch area. I returned into the residence when Officer Shatts began searching the room. It was my understanding that two Officers confirmed that the purse was Ms Andersen's. At some point I witnessed her saying that it was her purse. I believe Mr Stebben's brother was in the room when the purse search was conducted. Officer Shatts was there, Officer Niska and Ms Andersen were in the kitchen but its all open together. We gathered the syringe that was found in the bathroom, it did not appear that anyone attempted to break it, no other syringes were located. I would say maybe 20-30 minutes as a rough guess from the time I arrived to the time the purse was searched. Officer Niska and Seargent Schneider spoke w/ Ms Andersen I believe
<u>02:51:11 PM</u>	PA	Re-direct

<u>02:51:14 PM</u>	Officer Nielsen	It was a large silver purse. I believe he had overdosed on heroin, so I was investigating a heroin over dose, felony level investigation. Syringe in bathroom had a dark flood and blood on needle area. Fluid appearance was consistent w/ heroin
<u>02:52:50 PM</u>	J	Excuses witness
<u>02:52:53 PM</u>	PA	Calls Amy Niska
<u>02:52:57 PM</u>	Officer Niska	Swears to oath, Employed w/ CDA PD as a patrol Officer, I have been there since Aug 2015, I am POST certified. I was on duty 10/1, responded to location, I ran in the front door, off to the right there was a bathroom, male laying on the ground, it was hecitic, there was two males and one female in the living room. Officer Nielsen was just ahead of me, he was already present in the residence. EMS arrived later. I was able to identify the female, Brianna Andersen, seated next to DF counsel wearing tan jacket w/ brown hair. I went to Mr Stebbens when I first arrived, he was unconscious, he had ice cubes laying around him, very pale, he was just starting to come too. There was a syringe that had been compressed on the bathroom counter. I was not able to observe if there was a substance inside the syringe. Ms Andersen was seated in the living room, I pulled Brianna Andersen closer over to the kitchen, I did not tell her she was under arrest, she agreed to speak with me. I spoke w/ her about what had occured prior to our arrival. She originally told me that they were down stairs in the basement eating pizza and Ryan seperated from the group and they heard a loud thump and they found him in the bathroom unconscious. Then she told me they had been in the living room, Ryan went into the bathroom by himself, she knocked on the door, she went in there to have sex w/ him, she was stratteling him, another male knocked on the door, Ryan told her to be quiet. Then he became relaxed and slumped over and became unresponsive. She said she went and got ice and notified the other residence. She said she called 911. She said she located a syringe and flushed it and snapped it in half, she said it was on the floor between the wall and the toilet, she did not indicate what was in the syringe. She said she knew Ryan was on probation and she did not want him to get in trouble or go to jail. Ms Andersen said she did not know why the syringe in the bathroom was there.
<u>03:01:31 PM</u>	DA	Relevance
<u>03:01:34 PM</u>	PA	Possession of heroin charge, knowing she has a history is relevant
<u>03:01:47 PM</u>	J	Overruled
<u>03:01:49 PM</u>		Ms Andersen told me she had never used heroin, as conversation progressed she told me she was a former heroin user and she recently relapsed and began increasing her use over the prior weeks. She had track marks on the tops of her feet, there was

	Officer Niska	fresh scabbing on them. I had a discussion w/ her regarding her purse. Ms Andersen stated her purse was large, gray w/ sequin sparkles on it, she stated it was in the basement. She provided us w/ consent to search her purse. The purse was retrieved, Officer Kohen brought the purse to Officer Shatts, it matched the description that Ms Andersen provided me. Officer Shatts requested to search the purse and Ms Andersen stated it was okay to search it. I was not present when the purse was searched. I conducted a search of her person. I located two syringe caps in her front right pocket. I did not have conversation w/ her about them. We were trying to locate her purse. Seargent Schneider spoke w/ her. Officer Nielsen was in and out of the house so was Officer Schatts, everyone was kind of on round in and out.
<u>03:07:10 PM</u>	DA	Cross
<u>03:07:12 PM</u>	Officer Niska	It was close to midnight, Officer Nielsen w/ young man laying on the ground covered in ice. Seargent Schneider assigned me to speak w/ Ms Andersen. Officer Rogers was w/ someone named Nick. EMS arrived w/in 5 minutes, they were right behind us. During those 5 minutes I was speaking w/ Ms Andersen, originally she stated she was down stairs and heard a thump, Seargent Schneider called her a liar, he is 5' 9" and weighs maybe 210. He expressed he believed she was being dishonest, she changed her story. I asked to speak w/ her, I did not mirandize her. She was not wearing shoes. I had consent from her to search the purse. Officer Shatts yelled across the room to her to search the purse and she gave him consent. She was arrested after we got into her purse. The wall of the kitchen to the front door about 25-30 feet, I could see the officers on the front step speaking to Mr Stebbens
<u>03:14:30 PM</u>	PA	Re-direct
<u>03:14:33 PM</u>	Officer Niska	No weapons were drawn, no threats were made. I never told her she wasn't free to leave.
<u>03:14:59 PM</u>	J	Excuses witness.
<u>03:15:11 PM</u>	PA	I have one more amendment to make to Count I, schedule is incorrect should be schedule one
<u>03:15:27 PM</u>	DA	No objection
<u>03:15:30 PM</u>	PA	By innerlineation
<u>03:15:34 PM</u>	J	Okay
<u>03:16:02 PM</u>	PA	State resets
<u>03:16:04 PM</u>	DA	No evidence
<u>03:16:11 PM</u>	PA	Argument
<u>03:17:41 PM</u>	DA	Argument
<u>03:19:57 PM</u>	PA	No followup

03:20:00 PM	J	I do find the states met its burden, Court will enter ordre at this time, Judge Wayman has bene assigned
03:20:41 PM	end	

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STATE OF IDAHO

VS.
BRIANNA NICOLE ANDERSEN

DOB: [REDACTED]

FILED 12-1-14 AT .am.
CLERK OF THE DISTRICT COURT

BY Sharon R, DEPUTY

FELONY CASE # CR-2016-0019399

ORDER HOLDING
 DISMISSING CHARGE(S)

CHARGE(S): COUNT 1 - CONTROLLED SUBSTANCE-POSSESSION OF - 137-2732(C)(1) F
COUNT 2 - EVIDENCE-DESTRUCTION, ALTERATION OR CONCEALMENT - 118-2603 F

Amended to: _____

Dismissed - insufficient evidence to hold defendant to answer charge(s). Bond exonerated. JNCO Lifted.

(Specify dismissed charge(s) on above line, if other charges still pending)

Preliminary hearing having been waived by the defendant on the above listed charge(s),
 Preliminary hearing having been held in the above entitled matter, and it appearing to me that the offense(s) set forth above has / have been committed, and there is sufficient cause to believe the named defendant is guilty thereof,

IT IS HEREBY ORDERED that the defendant is held to answer the above charge(s) and is bound over to District Court. The Prosecuting Attorney shall file an Information that includes all charges under this case number.

IT IS FURTHER ORDERED that the defendant be admitted to bail in the amount of \$ _____ and is committed to the custody of the Kootenai County Sheriff pending the giving of such bail.

Defendant was advised of the charges and potential penalties and of defendant's rights, and having waived his/her constitutional rights to: a) trial by jury; b) remain silent; and c) confront witnesses, thereafter pled guilty to the charge(s) contained in the Information filed by the Prosecuting Attorney.

IT IS FURTHER ORDERED that all pretrial motions in this case shall be filed not later than **42 days** after the date of this order unless ordered otherwise. All such pretrial motions in this matter shall be accompanied by a brief in support of the motion, and a notice of hearing for a date scheduled through the Court.

THIS CASE IS ASSIGNED TO JUDGE Scott Wayman

ENTERED this 1 day of December 2016.

[Signature]
#267

Judge

Copies sent 12 / 1 / 16 as follows:

Prosecutor IL Defense Attorney IL Defendant IL TCA Office via email: g/robert
 Assigned District Judge: interoffice delivery emailed tyjones Jail (if in custody via email at jails@kcgov.us)
Deputy Clerk Sharon R KCSO Records fax 446-1307 (re: NCO)
12-2-16 9:26am

Order Holding Defendant/Dismissing Case

Jay Logsdon, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 8759

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED: *[Signature]*
2016 DEC -2 AM 10: 07

CLERK DISTRICT COURT
[Signature]
DEPUTY
[Signature]

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

STATE OF IDAHO,)
)
Plaintiff,)
)
V.)
)
BRIANNA NICOLE ANDERSEN,)
)
)
)
Defendant.)

**CASE NUMBER CR-16-0019399
Fel**

**MOTION FOR PREPARATION OF
PRELIMINARY HEARING TRANSCRIPT**

COMES NOW, the above named defendant, by and through her attorney Jay Logsdon, Public Defender and hereby moves the Court for an Order directing the clerk of the court to prepare and complete the transcript of the Preliminary Hearing held in the above-entitled matter on December 1, 2016, before the Honorable Scott Wayman. This motion is made on the grounds that the transcript of said hearing is necessary for defense counsel in order to prepare a defense on behalf of the defendant in this matter.

Counsel for the defendant further moves the Court to order that the costs necessary for the preparation and completion of the transcript be paid at county expense and at no expense to the Defense. This Motion is made on the grounds that the defendant was determined to be indigent by the above-entitled Court on 10/03/2016, and further, that her representation is provided for by the Office of the Public Defender.

DATED this 2 day of December, 2016

THE LAW OFFICE OF THE PUBLIC DEFENDER OF KOOTENAI COUNTY

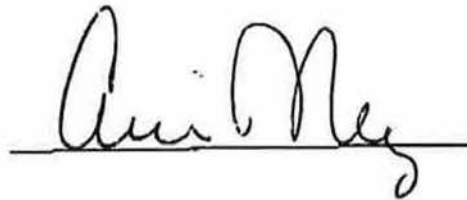
BY: 
JAY LOGSDON
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 2 day of December, 2016, addressed to:

Transcript Department-Kootenai County Courthouse FAX 446-1187
Kootenai County Prosecutor FAX 446-2168

- Via Fax
- Interoffice Mail



ORIGINAL

009
STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

2016 DEC -5 PM 3:18

CLERK DISTRICT COURT
Angela M. Cheney
DEPUTY

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-2168

Assigned Attorney
Alexis Klempel

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

STATE OF IDAHO,
Plaintiff,

vs.

BRIANNA NICOLE ANDERSEN
D.O.B.: 01/11/1994
S.S.N.: XXX-XX-6503
Fingerprint #: 2800097882
Defendant.

Case No. CR-F16-19399

INFORMATION

BARRY MCHUGH, Prosecuting Attorney in and for the County of Kootenai, State of Idaho, who prosecutes in its behalf, comes now into Court, and does accuse Brianna Nicole Andersen with committing the crime(s) of: **COUNT I, POSSESSION OF A CONTROLLED SUBSTANCE**, Idaho Code §37-2732(c)(1), and **COUNT II, DESTRUCTION OF EVIDENCE**, Idaho Code §18-2603, committed as follows:

COUNT I

That the defendant, BRIANNA NICOLE ANDERSEN, on or about the 1st day of October, 2016, in the County of Kootenai, State of Idaho, did knowingly and unlawfully possess a controlled substance, to-wit: heroin, a Schedule II controlled substance;

COUNT II

That the defendant, BRIANNA NICOLE ANDERSEN, on or about the 1st day of October, 2016, in the County of Kootenai, State of Idaho, did willfully destroy and/or conceal an object containing heroin knowing that the object was about to be produced, used or discovered as evidence in a criminal investigation authorized by law and with the intent to prevent it from being so produced, used or discovered, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

DATED this 2nd day of December, 2016.

BARRY MCHUGH
Kootenai County Prosecuting Attorney



Alexis Klempel
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 5th day of December, 2016, a true and correct copy of the foregoing was caused to be delivered as follows: mailed faxed hand delivered emailed JusticeWeb
Kootenai County Public Defender
Jay Logsdon



Jay Logsdon, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 8759

STATE OF IDAHO
COUNTY OF KOOTENAI
FILED: 12/2/16
AT 9:00 O'CLOCK A.M.
CLERK DISTRICT COURT
Jay Logsdon
DEPUTY

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 V.)
)
 BRIANNA NICOLE ANDERSEN,)
)
 Defendant.)

**CASE NUMBER CR-16-0019399
Fel**

**ORDER FOR PREPARATION OF
PRELIMINARY HEARING TRANSCRIPT**

The Court having before it the foregoing Motion and good cause appearing, now, therefore,
IT IS HEREBY ORDERED that the clerk of the court shall prepare and complete the
transcript of the Preliminary Hearing held in the above-entitled matter on December 1, 2016.

IT IS FURTHER ORDERED that the costs necessary for the preparation and completion of
said transcript shall be paid at county expense and at no expense to the defense.

IT IS FURTHER ORDERED that the transcript shall be complete and submitted to all parties
to this action no later than the 7 day of January, 2017.

DATED this 7 day of December, 2016.

Scott Wayman
SCOTT WAYMAN
DISTRICT JUDGE

CLERK'S CERTIFICATE

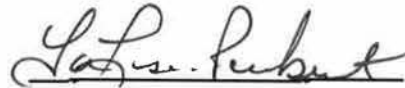
I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 8 day of December, 2016, addressed to:

✓ Nicole Vigil - Kootenai County Courthouse (nvigil@kcgov.us)

✓ Kootenai County Public Defender 446-1701/pdfax@kcgov.us

✓ Kootenai County Prosecutor FAX 446-2168/kcpareports@kcgov.us

2:20 pm



Jay Logsdon, Deputy Public Defender
The Law Office of the Public Defender of Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 8759

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED: *[Signature]*
2016 DEC -7 PM 3:01

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 KOOTENAI**

STATE OF IDAHO,)
)
Plaintiff,)
)
V.)
)
BRIANNA NICOLE ANDERSEN,)
)
Defendant.)
_____)

**CASE NUMBER CR-16-0019399
Fel**

MOTION TO SUPPRESS

COMES NOW, the above named defendant by and through his attorney, Jay Logsdon, Deputy Public Defender, and hereby moves the Court for an Order suppressing any and all evidence gathered against the above named defendant including all statements made by the defendant, the observations made by the officers of the contents of the defendant's purse, and any evidence seized subsequent to her arrest. The evidence must be suppressed because the interrogation done by the officers was without Miranda warnings, her consent to the search of her purse was unlawfully coerced, and her arrest was unlawful and without legal justification, therefore in violation of the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and Article I §§ 13, 17 of the Constitution of the State of Idaho.

The exclusionary rule of the Idaho Constitution affords greater protection than the Fourth and Fifth Amendments to the United States Constitution based upon the long-standing jurisprudence of

MOTION TO SUPPRESS

Page 1

the Idaho appellate courts, the uniqueness of the State of Idaho, and the uniqueness of the Idaho Constitution. See *State v. Cada*, 129 Idaho 224 (Ct.App.1996) (Idahoans have higher expectation of privacy in their land); *State v. Guzman*, 122 Idaho 981, 995 (1992) (not the exclusionary rule, but the constitutional provision itself impedes fact-finding function of Court- but this is a "price the framers anticipated and were willing to pay"); *State v. Thompson*, 114 Idaho 746 (1988) (Idahoans have a higher expectation of privacy in the home); *State v. LePage*, 102 Idaho 387 (1981) (judicial integrity mandates exclusionary rule); *State v. Rauch*, 99 Idaho 586 (1978) (admission of illegally seized evidence itself a violation of constitution); *State v. Arregui*, 44 Idaho 43 (1927) (application of exclusionary rule in Idaho 34 years prior to *Mapp v. Ohio*, 367 U.S. 643 (1961)). Therefore, the evidence unlawfully procured in this matter must be suppressed at trial.

Counsel requests that this motion be set for hearing in order to present oral argument, evidence and/or testimony in support thereof. Requested time is 35 minutes. A memorandum of law will be filed once the transcript of the preliminary hearing has been received.

DATED this 7 day of December, 2016.

THE LAW OFFICE OF THE PUBLIC
DEFENDER OF KOOTENAI COUNTY

BY: Jay Logsdon
JAY LOGSDON
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 7 day of December, 2016, addressed to:

Kootenai County Prosecutor FAX 446-2168

[Signature]

Description	CR 2016-19399 Andersen, Brianna 20161221 Arraignment Judge Wayman Clerk TaLisa Peukert Court Reporter Valerie Larson		
Date	12/21/2016	Location	1K-COURTROOM14
Time	Speaker	Note	
<u>03:11:03 PM</u>	Judge Wayman	DF not in custody with PD Mr. Logsdon. Mr. Mortensen KCPA.	
<u>03:11:29 PM</u>	DF	Understand charges. Understand rights and penalties.	
<u>03:11:57 PM</u>	PD	NG plea.	
<u>03:12:01 PM</u>	DF	NG plea.	
<u>03:12:06 PM</u>	Judge	NG plea. Set for 2 day trial.	
<u>03:12:34 PM</u>	end		



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STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED:
2017 JAN 10 PM 1:53
CLERK DISTRICT COURT
Jay Logsdon
DEPUTY 90

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-16-0019399
	)	Fel
V.)	
	)	MEMORANDUM IN SUPPORT OF
BRIANNA NICOLE ANDERSEN,	)	MOTION TO SUPPRESS
)	
Defendant.)	
)	

COMES NOW, the above named defendant by and through her attorney, Jay Logsdon, Deputy Public Defender, and hereby submits the following Memorandum in support of her Motion to Suppress previously filed with this Court.

I. ISSUES PRESENTED

- A. The potentially incriminating statements the officers obtained from Ms. Andersen without providing her with warnings pursuant to *Miranda v. Arizona* must be suppressed.**
- B. The contraband found as a result of Ms. Andersen's alleged statements must be suppressed as fruit of the poisonous tree under the Fourteenth Amendment to the United States Constitution.**

- C. The paraphernalia and second confession resulting from Ms. Andersen's unwarned statements must be suppressed under the higher standard of the Idaho Constitution.**
- D. Ms. Andersen's consent to search her purse was coerced and therefore the evidence found within must be excluded.**

II. FACTS

On October 1, 2016, at around midnight Coeur d'Alene Police officers descended upon the resident at 1108 N 11th St. in Coeur d'Alene as a result of a 911 call indicating a young man had fallen unconscious. Tr. p. 6, 7, 18. Officer Nielsen, first on scene, entered and found the unconscious body of Ryan Stebbins on the bathroom floor a few feet into the residence. Tr. p. 8. Mr. Stebbins was covered in ice cubes. Tr. p. 8. Three other people were in the residence behaving hysterically. Tr. p. 8.

On the counter in the bathroom was a hypodermic needle that had been plunged. Tr. p. 10, 24, 26. As the officer was attending to Mr. Stebbins, officers Niska, Schatz, Schneider, and Cohen entered with the EMS crew. Tr. p. 42, 45, 46. Officer Niska went into the bathroom and saw Mr. Stebbins coming to. Tr. p. 30. Then Sgt. Schneider and Officer Niska took Ms. Brianna Andersen, who had called 911, into the living room near the kitchen. Tr. p. 31. The kitchen was a smaller room connected to the living room. Tr. p. 47. Ms. Andersen chose to sit while she was questioned. Tr. p. 31. She provided a statement originally that was not acceptable to Sgt. Schneider, who raised his voice, accused her of lying, and demanded that she tell the truth. Tr. p. 43. Nearby, Officer Rodgers questioned one of the young men. Tr. p. 42.

At this point, Mr. Stebbins had awoken and Officers Nielsen and Sgt. Schnieder took him outside where he and the other two gentlemen continued to speak with police well within view of

Ms. Andersen through the windows. Tr. p. 20, 48. Ms. Andersen allegedly made incriminating statements. Sgt. Schatz then entered and demanded to search her purse, to which Ms. Andersen agreed. Tr. p. 39, 44 Sgt. Schatz allegedly located heroin within the purse. Ms. Andersen was arrested and evidence was allegedly located on her person.

III. ARGUMENT

A. The potentially incriminating statements the officers obtained from Ms. Andersen without providing her with warnings pursuant to *Miranda v. Arizona* must be suppressed.

The prosecution cannot use any statements, gained through a custodial interrogation of a defendant unless it can “demonstrate the use of procedural safeguards effective to secure the privilege against self-incrimination.” *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). These safeguards must include informing the defendant prior to questioning that he or she “has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed.” *Id.* The requirement of *Miranda* warnings is based upon the Fifth Amendment privilege against self-incrimination. *State v. Doe*, 130 Idaho 811, 814 (Ct. App. 1997).

Miranda's safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. *State v. Harms*, 137 Idaho 891, 894, (Ct. App. 2002); *Rhode Island v. Innis*, 446 U.S. 291, 300 – 301 (1980). The term “functional equivalent” refers to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect. 137 Idaho at 894, 446 U.S. at 301. A practice that the police should

know is reasonably likely to evoke an incriminating response from a suspect thus amounts to interrogation. 446 U.S. at 301. The term “incriminating response” refers to any response—whether inculpatory or exculpatory—that the prosecution may seek to introduce. 137 Idaho at 894, 446 U.S. at 301.

As laid out in *Miranda*, these procedural safeguards are only required for custodial interrogations. *Id.* “A person is in custody whenever subject to a restraint on his or her liberty in any degree similar to formal arrest.” *State v. Hansen*, 138 Idaho 791, 795 (2003). Officers must inform a suspect in their custody whom they are interrogating of his right not to incriminate himself and his right to an attorney. *Miranda*, 384 U.S. at 444. Whether a suspect is in custody is a mixed question of law and fact which require that the entire circumstances of the particular case be carefully assessed. *United States v. Griffin*, 922 F.2d 1343, 1347 (8th Cir.1990). This test is an objective one based on the surrounding circumstances. *State v. Ybarra*, 102 Idaho 573, 576 (1981). Custody occurs under circumstances other than formal arrest where the suspect is deprived of his freedom of action in any significant way. *Id.*; *United States v. Griffin*, 922 F.2d at 1347. The only relevant inquiry is how a reasonable man in the suspect's position would have understood his situation. *Berkemer v. McCarty*, 468 U.S. 420, 442 (1984); *State v. Medrano*, 123 Idaho 114, 117 (Ct. App. 1992). In determining whether a suspect is “in custody” at a particular time, a court examines the extent of the physical or psychological restraints placed on the suspect during interrogation in light of whether a “reasonable person in the suspect’s position would have understood his situation” to be one of custody. *United States v. Griffin*, 922 F.2d at 1347. If under the circumstances the suspect believes his freedom of action has been curtailed to a “degree associated with formal arrest”, and if that belief is reasonable from an objective

MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS

Page 4

viewpoint, then the suspect is in custody. *Id.* Deprivations of freedom may occur in places other than the police station. *Id.* at 1348. Because the suspect's freedom to leave supplies the key to a custody determination, the court must examine the "indicia of custody" which are:

1. whether the suspect was informed at the time of questioning that the questioning was voluntary, that the suspect was free to leave or request the officers to do so, or that the suspect was not considered under arrest;
2. whether the suspect possessed unrestrained freedom of movement during questioning;
3. whether the suspect initiated contact with authorities or voluntarily acquiesced to official requests to respond to questions;
4. whether strong arm tactics or deceptive stratagems were employed during questioning;
5. whether the atmosphere of the questioning was police dominated;
or
6. whether the suspect was placed under arrest at the termination of the questioning.

Id. at 1349.

A court is less likely to find custody where the first three factors are present, as they tend to be mitigating factors. *Id.* However, as the latter three are aggravating factors, a court is more likely to find custody when they are present. A court need not find that all factors are present and the factors are not weighted equally. A particularly strong showing with respect to one factor may compensate for a deficiency with respect to other factors. *Id.*

In this matter, Officer Niska and Sgt. Schneider did not tell Ms. Andersen that her responses were voluntary or indicate that she was free to leave. The only freedom of movement they allowed was permitting her to sit while they loomed above her. The situation was entirely police dominated, from the officers nearby questioning other members of the resident to outside where the officers were questioning Mr. Stebbins as could be seen through the windows. The

officers used strong arm tactics by yelling at Ms. Andersen and accusing her of lying after she made her first statement. She was arrested after the questioning ended.

The purpose of Miranda warnings is to protect citizens from the coercive power of police officers to make them make statements where the Constitution permits them to remain silent. Here, Ms. Andersen was confronted by multiple police officers during an investigation into a young man who had previously passed out on the floor in the bathroom. No person in her position would have felt free to leave. She was clearly in custody, and was left with the impression that perhaps somehow she might talk her way out of that situation. Thus, warnings were required. Because they were not given, the statements she made must be suppressed.

B. The contraband found as a result of Ms. Andersen's alleged statements must be suppressed as fruit of the poisonous tree under the Fourteenth Amendment to the United States Constitution.

A *Miranda* violation, as distinguished from the coercion of an involuntary statement, does not result in the suppression of physical evidence discovered as a result of the unwarned statement. In other words, with regard to physical evidence later discovered, there is no such thing as "fruit of the poisonous *Miranda* violation." See *United States v. Patane*, 542 U.S. 630, 642 (2004). Therefore, the alleged *Miranda* violation would not have resulted in the suppression of evidence of the paraphernalia or the later statements. A *Miranda* violation is a factor that is to be considered, however, in determining whether a statement was involuntary and hence a due process violation. See *State v. Troy*, 124 Idaho 211, 214 (1993). If involuntariness is found, then further evidence gained by exploitation of the involuntary statements would be subject to suppression. *Patane*, 542 U.S. at 645-46.

MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS

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C. The paraphernalia and second confession resulting from Ms. Andersen's unwarned statements must be suppressed under the higher standard of the Idaho Constitution.

Unwarned statements should be held unconstitutional under Article I Section 17 of the Idaho Constitution. Idaho's exclusionary rule dates back to 1927, 34 years prior to *Mapp v. Ohio*, 367 U.S. 643 (1961). See *State v. Arregui*, 44 Idaho 43 (1927). Furthermore, in Idaho, to admit illegally seized evidence constitutes an additional violation by the judicial branch. *State v. Rauch*, 99 Idaho 586 (1978). Idaho has recognized that the more substantial cost to society is a violation of our Constitutional rights, not that a guilty person might go free. *Arregui*, 44 Idaho at ___, 254 P. at 792. "[T]hat is the price the framers anticipated and were willing to pay to ensure the sanctity of the person, home, and property against unrestrained governmental power." *State v. Guzman*, 122 Idaho 981, 995 (1992) (citation omitted). The unique nature of Idaho's protection against government stems in part from its people. See *State v. Thompson*, 114 Idaho 746 (1988). As the Court noted in *Thompson*, "[t]he prospect of unregulated monitoring [is] . . . disturbing even to those [Idahoans] with nothing elicited to hide." *Thompson*, 114 Idaho at 751.

In *Patane*, the United States Supreme Court held that physical evidence resulting from a *Miranda* violation would not be excluded. 542 U.S. at 634. In that case, Justice Thomas explained that "any further extension of these rules must be justified by its necessity for the protection of the actual right against compelled self-incrimination." *Id.* at 638, citing *Chavez v. Martinez*, 538 U.S. 760, 778 (2003) (SOUTER, J., concurring in judgment) (requiring a "powerful showing" before "expand[ing] ... the privilege against compelled self-incrimination"). In *Chavez*, the Court had held that a *Miranda* violation does not occur until an unwarned statement is used at trial. 538 U.S. at 790. Since no violation exists at the time the

interrogation is taking place, the Court in *Patane* held that there is “nothing to deter.” 542 U.S. at 642. The Court therefore held that no fruit of the poisonous tree doctrine may apply. *Id.*

In *Madison v. Craven*, the Idaho Appellate Court held that Idaho similarly does not recognize a *Miranda* violation until used at trial. 114 Idaho 696, 701 (Ct.App.2007). The Court based its holding on that of the Idaho Supreme Court in *State v. Crowe*, 131 Idaho 109 (1998). *Id.* *Crowe* involved a probationer who sought to have statements made in therapy kept out of a probation violation hearing. 131 Idaho at 112. In that case, not only did the Court specifically decline to review the statements under Article I Section 13 of the Idaho Constitution, but the Court made it clear that its holding had to do with the fact that a probation violation hearing is not a criminal hearing. *Id.* at 112.

Furthermore, the federal Supreme Court’s reliance on its own jurisprudence regarding deterrability of police officers does not apply to Idaho’s Constitution. In *Guzman*, 122 Idaho at 990 n.7, the Idaho Supreme Court recalled the protest of Justice Morgan in *State v. Anderson*, 31 Idaho 514, 527-28 (1918) against the use of unconstitutionally procured evidence:

If the security of the person and the home are not protected by the constitution, the right to the exercise and enjoyment of religious faith and worship may be withdrawn. If unreasonable searches and seizures, without warrant, are to be permitted, trial by jury may be denied. If officers may, upon suspicion, search the persons and homes of the inhabitants of Idaho, the rights of the people to bear arms for their security and defense, to peaceably assemble, to freely speak, write and publish, are in danger. Whenever the courts lend their sanction to the abolition of one of these sacred rights the fundamental principle, which forms the foundations of all of them, is cut away and our boast of free government becomes an idle waste of breath.

The Idaho Supreme Court stated that the exclusionary rule was adopted in Idaho on the basis of its own constitution in *State v. Arregui*, 44 Idaho 43 (1927), a full twenty-two years prior to its

application to the federal government through the Fourth Amendment in *Wolf v. Colorado*, 338 U.S. 25 (1949), and thirty-four years prior to its application to the states on the basis of the federal constitution in *Mapp v. Ohio*, 367 U.S. 25 (1961). *Guzman*, 122 Idaho at 991-992.

While the federal exclusionary rule reached its weakest point in *U.S. v. Leon*, 468 U.S. 897 (1984), when the federal Supreme Court whittled its function to that of deterring police misconduct, the Idaho Constitution at no point abandoned the rule's full panoply of constitutional foundations and functions. See *Guzman*, 122 Idaho at 992-993. In *Guzman*, the Idaho Supreme Court held

that the exclusionary rule should be applied in order to: 1) provide an effective remedy to persons who have been subjected to an unreasonable government search and/or seizure; 2) deter the police from acting unlawfully in obtaining evidence; 3) encourage thoroughness in the warrant issuing process; 4) avoid having the judiciary commit an additional constitutional violation by considering evidence which has been obtained through illegal means; and 5) preserve judicial integrity.

Id. at 993.

Moreover, the Supreme Court of Idaho rejected the reasoning of the federal Supreme Court in regards to police deterrence. *Guzman*, 122 Idaho at 997. The Idaho Supreme Court's passage will be reproduced below for the benefit of this Court:

A crucial premise in the *Leon* majority's argument in favor of the good faith exception is that the police deterrence function of the exclusionary rule is not served when a warrant turns out to be constitutionally defective. According to the majority, "[p]enalizing the officer for the magistrate's error, rather than his own, cannot logically contribute to the deterrence of Fourth Amendment violations." 468 U.S. at 921. However, as Justice Brennan's dissent points out, this argument "captures only one comparatively minor element of the generally acknowledged purposes of the exclusionary rule.... [T]he chief deterrent function of the rule is its tendency to promote institutional compliance with Fourth Amendment requirements on the part of law enforcement agencies generally." *Id.* Otherwise stated, the exclusionary rule encourages police departments to devote greater care and attention to providing the magistrate with sufficient evidence to establish

probable cause. The good faith exception, on the other hand, places a premium on police ignorance of the law.

Because the good faith exception raises the value of having a warrant (as opposed to having a valid warrant), the benefits to be gained from "magistrate shopping" are heightened. As the Connecticut court noted, "the good faith exception would encourage some police officers to extend less effort in establishing the necessary probable cause to search and more effort in locating a judge who might be less exacting than some others." *State v. Marsala*, 579 A.2d 58, 67 (1990). An empirical study has shown that there are substantial disparities between magistrates as to how much evidence is required to obtain a search warrant. See T. Davis, *A Hard Look at What We Know (and Still Need to Learn) About the 'Costs' of the Exclusionary Rule: The NIJ Study and Other Studies of 'Lost' Arrests*, 1983 AM.B.FOUND.RESEARCH J. 611, 666. There can be no doubt the police on the street know this from experience and will use it to their advantage, absent a reason not to do so.

Not only does the good faith exception provide an incentive for the police to spend less time garnering evidence to establish probable cause, it also creates a disincentive for magistrates to be vigilant in their role as neutral guardians of the constitution. The good faith exception implicitly tells magistrates that they need not take much care in reviewing warrant applications, since their mistakes will be of virtually no consequence. If the magistrate was incorrect as to the existence of probable cause, but the police relied in good faith upon it, the evidence is nonetheless admitted; thus, there is no institutional incentive to do it right. "Inevitably, the care and attention devoted to such an inconsequential chore will dwindle." *Leon*, 468 U.S. at 956 (Brennan, J. dissenting).

Another consequence of effectively discontinuing review of the issuing judicial officer's probable cause determination is that there will be less guidance for these judicial officers as to what constitutes probable cause.

[I]t is in close fourth amendment cases that new law is made and guidance to magistrates and the police is most needed. Close cases are both the hardest to decide and the easiest to dispose of under the good faith exception; in such cases the officer's objective good faith is clearest. Thus, these are the cases that defendants are least likely to litigate and the courts most likely to dispose of without reaching the merits of the fourth amendment claim.

Wasserstrom and Mertens, *The Exclusionary Rule on the Scaffold: But Was It a Fair Trial?*, 22 AM.CRIM.L.REV. 85, 112 (1984). Absent such guidance, some courts believe that the number of mistakes made by judicial officers will increase. See *State v. Oakes*, 598 A.2d 119, 126 (Vt. 1991); *State v. Marsala*, 579 A.2d at

67.

The New Jersey Supreme Court reached a related conclusion:

Whatever else may be said for or against the Leon rule, the good-faith exception will inevitably and inexorably diminish the quality of evidence presented in search-warrant applications. By eliminating any cost for noncompliance with the constitutional requirement of probable cause, the good-faith exception assures us that the constitutional standard will be diluted.

State v. Novembrino, 519 A.2d at 854.

The exclusionary rule unencumbered by the good faith exception provides incentives for the police department and the judiciary to take care that each warrant applied for and issued is in fact supported by probable cause. In addition to encouraging compliance with the constitutional requirement that no warrant shall issue but upon probable cause, it also lessens the chances that innocent citizens will have their homes broken into and ransacked by the police because of warrants issued upon incomplete or inaccurate information. We believe these are laudable effects of the exclusionary rule which appear to have gone unrecognized by the Leon majority.

The words of the Idaho Supreme Court lead us back to the original intent of *Miranda*. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966) held that to protect the people of this nation from “overzealous police practices,” the prosecution would be required to show protections had been used prior to the taking of statements during any custodial interrogation. The Court was particularly concerned with “the modern practice of in-custody interrogation is psychologically rather than physically oriented.” *Id.* at 448. After describing police practices created to get people to confess, the Court stated

Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice.

Id. at 458.

What the United States Supreme Court so candidly recognized as the problem with

custodial interrogation, that is, that custodial interrogation is *inherently* compulsive, has been tucked away and forgotten in that Court's later opinions. The Court has bled the protections promised by the Constitution and *Miranda* dry. It is up to Idaho with its unique Constitution and its own values of limited government and police power to recognize once again what has never stopped being true: custodial interrogations are unconstitutionally compulsive when they happen. Their results are illegal. And whatever follows that illegality is the fruit of that illegality. As such, it must be suppressed under Article 1 § 17 and 13 of the Idaho Constitution. See *State v. Radford*, 134 Idaho 187, 193-94 (2000) citing *Taylor v. Alabama*, 457 U.S. 687, 698 (1982).

In this case, Ms. Andersen was subjected to an illegal interrogation in which she allegedly admitted to having found and destroyed drug paraphernalia and to being a drug addict. She then allegedly agreed to the search of her purse. The length of time from the illegal interrogation to the search was short. The only intervening circumstance was Sgt. Schatz yelling at her. The result of the search must be suppressed as the fruit of the prior illegal interrogation under the Idaho Constitution.

D. Ms. Andersen's consent to search her purse was coerced and therefore the evidence found within must be excluded.

Warrantless searches are *per se* unreasonable, and therefore unconstitutional, unless a specifically enumerated exception to this rule applies. *State v. Johnson*, 110 Idaho 516, 522 (1986). A warrantless entry or search may be rendered reasonable by an individual's consent. *State v. Ballou*, 145 Idaho 840, 846 (Ct. App. 2008). The state has the burden of demonstrating consent by a preponderance of the evidence. *Id.* The state must show that consent was voluntary rather than the result of duress or coercion, either direct or implied. *State v. Stewart*, 145 Idaho

641, 648 (Ct. App. 2008). A voluntary decision is one that is the product of an essentially free and unconstrained choice by its maker. *Schneckloth v. Bustamonte*, 412 U.S. 218, 225 (1973); *State v. Stewart*, 145 Idaho 641, 648. An individual's consent is involuntary if his will has been overborne and his capacity for self-determination critically impaired. *Schneckloth v. Bustamonte*, 412 U.S. 218, 225 (1973); *State v. Stewart*, 145 Idaho 641, 648. Whether consent was granted voluntarily, or was a product of coercion, is a factual determination to be based upon the surrounding circumstances, accounting for subtly coercive police questions and the possibly vulnerable subjective state of the party granting the consent to a search. *Schneckloth v. Bustamonte*, 412 U.S. 218, 229 (1973); *State v. Stewart*, 145 Idaho 641, 648.

A determination of voluntariness does not turn on the presence or absence of a single controlling criterion. *Schneckloth v. Bustamonte*, 412 U.S. 218, 226 (1973); *State v. Stewart*, 145 Idaho 641, 648. Factors to be considered include whether there were numerous officers involved in the confrontation [citations omitted]; the location and conditions of the consent, including whether it was at night [citations omitted]; whether the police retained the individual's identification [citations omitted]; whether the individual was free to leave [citations omitted]; and whether the individual knew of his right to refuse consent [citations omitted]. *State v. Stewart*, 145 Idaho 641, 648.

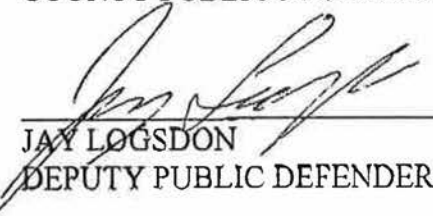
For essentially the same reasons described in Ms. Andersen's argument as to why her statements were coerced, her alleged consent to the search of her purse was clearly also the result of police coercion. Therefore, the result of the search must be suppressed.

IV. CONCLUSION

Ms. Andersen respectfully requests that this Court grant her Motion to Suppress the results of the illegal interrogation and search pursuant to the Fourth and Fifth Amendments to the Constitution of the United States and Article 1 §§ 13, 17 of the Constitution of the State of Idaho.

DATED this 10 day of January, 2017.

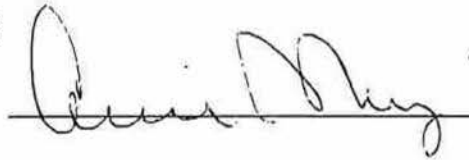
LAW OFFICE OF THE KOOTENAI
COUNTY PUBLIC DEFENDER

BY: 
JAY LOGSDON
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same as indicated below on the 10 day of January, 2017, addressed to:

Kootenai Prosecutor Office (208) 446-2168



STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 3/14/17
AT 2:00 O'CLOCK P.M.
CLERK DISTRICT COURT
[Signature]
DEPUTY

BARRY MCHUGH
Kootenai County Prosecuting Attorney
501 N. Government Way/P.O. Box 9000
Coeur d'Alene, ID 83816-9000
Telephone Number: (208) 446-1800
Fax Number: (208) 446-2168

Assigned Attorney
Alexis Klempel

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

STATE OF IDAHO,
Plaintiff,

vs.

BRIANNA NICOLE ANDERSEN
Defendant.

Case No. F16-19399

**STATE'S BRIEF IN
OPPOSITION TO
DEFENDANT'S MOTION TO
SUPPRESS**

COMES NOW, ALEXIS KLEMPPEL, Deputy Prosecuting Attorney, in and for Kootenai County, Idaho, and hereby submits the State's Brief in Opposition to Defendant's Motion to Suppress (hereinafter, "Defendant's Motion").

FACTS

On October 1, 2016, Coeur d'Alene Police responded to a call for a drug overdose. Defendant was present in the home. Officer Niska questioned Defendant. After lying for quite some time, Defendant eventually admitted to flushing a syringe down the toilet. Defendant also gave Officer Niska consent to search her purse and confirmed this consent with Officer Schatz. Officer Schatz found a baggie containing heroin inside Defendant's purse. Defendant was arrested for Destruction of Evidence and Possession of a Controlled Substance.

ISSUES

1. Whether Defendant's statements were made in a non-custodial interview.
2. Whether Defendant's statements were freely and voluntarily made.
3. Whether legal precedent precludes a finding that evidence is "fruit of the poisonous *Miranda* violation" and therefore suppressible.

ARGUMENT

1. Because Defendant was not in custody, *Miranda* warnings were not required, and her statements are admissible.

Before conducting a custodial interrogation, law enforcement must first inform a defendant of his or her right to remain silent and right to counsel. *Miranda v. Arizona*, 384 U.S. 436, 467-68 (1966); *State v. Silver*, 155 Idaho 29, 304 P.3d 304, 306 (Ct. App. 2013). However, *Miranda* warnings are only required when the defendant is in custody. *Id.* "A person is in custody, for *Miranda* purposes, from the moment of formal arrest or as soon as the person's freedom of action is curtailed to a degree associated with formal arrest." *Silver*, 304 P.3d at 306 (quoting *Berkemer v. McCarty*, 468 U.S. 420, 440 (1984)) (internal quotations omitted). This custody determination is based on the totality of the circumstances surrounding the interrogation and "how a reasonable man in the suspect's position would have understood his situation." *State v. James*, 148 Idaho 574, 577 (2010) (quoting *Berkemer*, 468 U.S. 420, 442). The burden of proving custody for purposes of *Miranda* is on the defendant. *James*, 148 Idaho at 577.

Courts consider a number of factors in determining how a reasonable person would understand his situation including whether the interrogation took place in a police-dominated atmosphere such as a police station, the degree of restraint on the defendant's movement including whether he was in handcuffs, whether the defendant is informed that the detention is more than temporary, the location and visibility of the interrogation, the presence of other

people, the number of officers present or involved in the interrogation, and nature of the questioning. *Silver*, 304 P.3d at 307; see also *Berkemer*, 468 U.S. at 435-42; *James*, 148 Idaho at 577-78.

Here, while multiple officers were on scene, multiple civilians were on scene as well. Defendant was not told her detention was more than temporary nor was her movement restrained to the degree associated with formal arrest. The location of her interview was the living room of a residence, visible to other civilians inside the residence. Because Defendant was not in custody, *Miranda* warnings were not necessary prior to questioning her.

2. Because Defendant's statements were made and her consent to search was given freely and voluntarily, the statements and physical evidence are admissible.

The State has the burden of proving, by a preponderance of the evidence, that any statements made in an allegedly coercive interrogation were, in fact, voluntarily made. *Lego v. Twomey*, 404 U.S. 477, 489 (1972); *State v. Yager*, 139 Idaho 680, 685 (2004). Voluntariness is determined based on the totality of the circumstances, and turns on “whether the defendant’s will was overcome by police conduct” at the time of confession. *Arizona v. Fulminante*, 499 U.S. 279, 287-88 (1991); *State v. Troy*, 124 Idaho, 211, 214 (1993); *State v. Brown*, 155 Idaho 423 (Ct. App. 2013); *State v. Wilson*, 126 Idaho 926, 929 (Ct. App. 1995). Courts examine both the characteristics of the defendant and of the interrogation in making this decision and consider several factors. See *Schneckloth v. Bustamonte*, 412 U.S. 218, 226 (1973); *State v. Troy*, 124 Idaho 211, 214 (1993); *Brown*, 155 Idaho 423. Some factors include level of education or intelligence, age, length of detention, nature of the questioning, and use of tactics like deprivation of food or sleep. *Schneckloth*, 412 U.S. at 226.

Similarly, the State has the burden of proving, by a preponderance of the evidence, “that the consent [to search] was in fact voluntarily given, and not the result of duress or coercion,

express or implied.” *Id.*¹; see also *State v. Hansen*, 138 Idaho 791 (2003). This determination also must be made based on the totality of the circumstances. *Schneckloth*; *State v. Staatz*, 132 Idaho 693 (Ct. App. 1999).

It is apparent from a review of Officer Niska’s body camera footage that Defendant’s will was not overcome in either her statements to police or her consent to search her purse. In fact, early on in her interview with Officer Niska, Defendant volunteered consent stating, “You can search my purse.” This was not in response to a request from officers. Additionally, Defendant’s demeanor throughout the questioning is calm, her friend Zach is standing nearby, and she does not appear to be under duress. Thus, both her statements and her consent were voluntary.

3. Even if Defendant’s statements were obtained in violation of *Miranda*, suppression of physical evidence is inappropriate.

Even if Defendant should have been read her *Miranda* warnings prior to questioning, the physical evidence obtained is still admissible. This is because suppression of physical evidence is not a remedy for *Miranda* violations. See *United States v. Patane* 542 U.S. 630 (2004); *State v. Garcia*, 143 Idaho 774, 781 (Ct. App. 2006).

CONCLUSION

Because Defendant’s statements were not obtained in violation of *Miranda* and were voluntarily made, and because Defendant’s consent to search was voluntary, Defendant’s motion to suppress should be denied.

//

//

¹ This standard is separate from the standard requiring a knowing and intelligent waiver of rights. “Nothing, either in the purposes behind requiring a ‘knowing’ and ‘intelligent’ waiver of trial rights, or in the practical application of such a requirement suggests that it ought to be extended to the constitutional guarantee against unreasonable searches and seizures.” *Schneckloth*, 412 U.S. at 241.

DATED this 14th day of March, 2017.

BARRY MCHUGH
Kootenai County Prosecuting Attorney

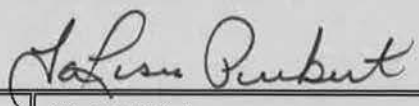


Alexis Klempel
Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of March, 2017, a true and correct copy of the foregoing was caused to be delivered as follows: mailed faxed hand delivered emailed JusticeWeb
Kootenai County Public Defender
Jay Logsdon



Description	CR 2016-19399 Andersen, Brianna 20170316 Motion to Suppress Judge Simpson Clerk TaLisa Peukert Court Reporter Valerie Larson		
Date	3/16/2017	Location	1K-CRT14
Time	Speaker	Note	
<u>03:09:37 PM</u>	Judge Simpson	Mr. Logsdon PD and Ms. Klemple KCPA	
<u>03:10:07 PM</u>	PD	Submit transcript for review. We will not proceed with a hearing today.	
<u>03:12:30 PM</u>	PD	That is stipulated.	
<u>03:12:47 PM</u>	Judge	There are 2 issues, are her statements suppressible and was it a free and voluntary act.	
<u>03:13:27 PM</u>	KCPA	Submit.	
<u>03:13:32 PM</u>	Judge	I have reviewed transcript. I will SUPPRESS all of her statements made after she was told to sit down. In regard of search of the purse, there are factors that have to be considered. She was in custody. I did not hear any testimony about being told she HAD to consent. Initially she volunteered to the search of the purse. I have viewed the video tape. Officer went to retrieve her purse and he searched the purse. It was at night. She was detained, she was not free to go. She knew she was being asked for consent. This case was based on a over dose. Everyone was upset. No one advised her she had the right to refuse consent but she DID grant search and I will NOT grant suppression on that issue.	
<u>03:18:53 PM</u>	PD	My recollection of the video tape is the officer was treating everything like time was of essence. My clients responses were NOT voluntary, I want that to be known.	
<u>03:20:04 PM</u>	Judge	Her statements are CONSTITUTIONALLY PROHIBITED. KCPA to prepare order.	

Produced by FTR Gold™
www.fortherecord.com

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED:

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

2017 MAR 24 PM 4:33

CLERK DISTRICT COURT

Mary Meleser

Case No. CRF16-19599

STATE OF IDAHO,
Plaintiff,

vs.

BRIANNA NICOLE ANDERSEN,
Defendant.

**ORDER ON DEFENDANT'S
MOTION TO SUPPRESS**

This matter having come before the Court upon the defendant's Motion to Suppress; the State having been represented by Alexis Klempel, Deputy Prosecuting Attorney; the defendant being present and represented by Jay Logsdon; the Court having considered arguments on the matter, now therefore

IT IS HEREBY ORDERED that the defendant's Motion to Suppress is granted in part as to Defendant's statements and denied in part as to the physical evidence found in Defendant's purse for reasons stated on the record.

ENTERED this 24 day of March, 2017.

Bay-R S
JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of March, 2017 that a true and correct copy of the foregoing was delivered as indicated below:

- Kootenai County Prosecuting Attorney (email: kcpareports@kcgov.us)
- Coeur d'Alene Prosecuting Attorney (email: cdaprosnotices@cdaid.org)
- Post Falls Prosecuting Attorney (email: legalservices@postfallspolice.com)
- Rathdrum Prosecuting Attorney (email: legalservices@postfallspolice.com)
- Kootenai County Public Defender (email: pdfax@kcgov.us)
- Defendant/Defendant's Attorney: _____
- Kootenai County Jail (email: warrants@kcgov.us)
- Kootenai County Work Release (email: workrelease@kcgov.us; jailsgts@kcgov.us)
- Community Service (email: dzook@kcgov.us)
- Adult Misdemeanor Probation (email: kcmp@kcgov.us)
- Probation & Parole (email: dist1@idoc.idaho.gov; ccdsentencingteam@idoc.idaho.gov)
- Idaho Department of Transportation (fax: 208-334-8739)
- BCI (fax: 208-884-7193)
- Idaho Department of Corrections (email: centralrecords@idoc.idaho.gov)
- Other: _____
- Other: _____
- Other: _____

(a) 4:31 pm

JIM BRANNON

CLERK OF THE DISTRICT COURT

By : Mary Andersen

009

LAWRENCE G. WASDEN
Attorney General
State of Idaho

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

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

STATE OF IDAHO } SS
COUNTY OF KOOTENAI }
FILED: 4/11/17
AT 6 O'CLOCK M
CLERK, DISTRICT COURT
Cindy Neely DEPUTY

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

STATE OF IDAHO,	)	District Court No. CRF-2016-19399
)	
Plaintiff-Appellant,	)	Supreme Court No.
)	
v.	)	NOTICE OF APPEAL
)	
BRIANNA NICOLE ANDERSEN,)	
)	
Defendant-Respondent.)	
)	

TO: BRIANNA NICOLE ANDERSEN, THE ABOVE-NAMED RESPONDENT, JAY LOGSDON, KOOTENAI COUNTY PUBLIC DEFENDER'S OFFICE, DEPT. PD, P. O. BOX 9000, COEUR D'ALENE, ID 83816-9000 AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

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

on the 24th day of March, 2017, the Honorable Benjamin R. Simpson presiding. A copy of the order being appealed is attached to this notice.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11(c)(7), I.A.R.

3. Preliminary statement of the issue on appeal: Whether the district court erred in concluding that Andersen's *Miranda* rights were violated.

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

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

The March 16, 2017, hearing on Defendant's Motion to Suppress/Limine (Valerie Larson, reporter, less than 100 pages estimated). The state requests that the transcript of the preliminary hearing already prepared as an exhibit in the district court proceedings be included in the appellate record as an exhibit.

6. Appellant requests the normal clerk's record pursuant to Rule 28, I.A.R., to include exhibits admitted in relation to the motion to suppress and hearing on that motion.

7. I certify:

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

VALERIE LARSON
P. O. Box 788
Spirit Lake, ID 83869

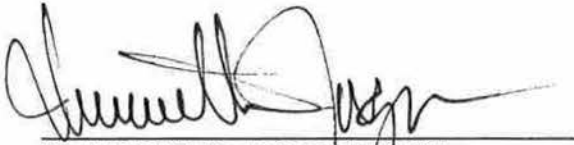
(b) That arrangements have been made with the Kootenai County Prosecuting Attorney who will be responsible for paying for the reporter's transcript;

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

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

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

DATED this 4th day of April, 2017.


KENNETH K. JORGENSEN
Deputy Attorney General
Attorney for the Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 4th day of April, 2017, caused a true and correct copy of the foregoing NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

THE HONORABLE BENJAMIN R. SIMPSON
Kootenai County District Court
P. O. Box 9000
Coeur d'Alene, ID 83816-9000

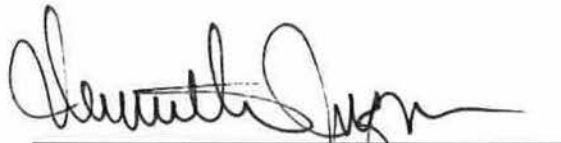
BARRY McHUGH
Kootenai County Prosecuting Attorney
501 Government Way
Coeur d'Alene, ID 83814

JAY LOGSDON
Kootenai County Public Defender's Office
Dept. PD
P. O. Box 9000
Coeur d'Alene, ID 83816-9000

VALERIE LARSON
P. O. Box 788
Spirit Lake, ID 83869

HAND DELIVERY

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



KENNETH K. JORGENSEN
Deputy Attorney General

KKJ/dd

009

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED:

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

2017 MAR 24 PM 4: 33

CLERK DISTRICT COURT

STATE OF IDAHO,
Plaintiff,
vs.
BRIANNA NICOLE ANDERSEN,
Defendant.

Case No. CRF16-19599

**ORDER ON DEFENDANT'S
MOTION TO SUPPRESS**

This matter having come before the Court upon the defendant's Motion to Suppress; the State having been represented by Alexis Klempel, Deputy Prosecuting Attorney; the defendant being present and represented by Jay Logsdon; the Court having considered arguments on the matter, now therefore

IT IS HEREBY ORDERED that the defendant's Motion to Suppress is granted in part as to Defendant's statements and denied in part as to the physical evidence found in Defendant's purse for reasons stated on the record.

ENTERED this 24 day of March, 2017.

Bay-RS
JUDGE

ORDER ON DEFENDANT'S
MOTION TO SUPPRESS

CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of MARCH, 2017 that a true and correct copy of the foregoing was delivered as indicated below:

- Kootenai County Prosecuting Attorney (email: kcpareports@kcgov.us)
- Coeur d'Alene Prosecuting Attorney (email: cdaprosnotices@cdaid.org)
- Post Falls Prosecuting Attorney (email: legalservices@postfallspolice.com)
- Rathdrum Prosecuting Attorney (email: legalservices@postfallspolice.com)
- Kootenai County Public Defender (email: pdfax@kcgov.us)
- Defendant/Defendant's Attorney: _____
- Kootenai County Jail (email: warrants@kcgov.us)
- Kootenai County Work Release (email: workrelease@kcgov.us; jailsgts@kcgov.us)
- Community Service (email: dzook@kcgov.us)
- Adult Misdemeanor Probation (email: kcmp@kcgov.us)
- Probation & Parole (email: dist1@idoc.idaho.gov; ccdsentencingteam@idoc.idaho.gov)
- Idaho Department of Transportation (fax: 208-334-8739)
- BCI (fax: 208-884-7193)
- Idaho Department of Corrections (email: centralrecords@idoc.idaho.gov)
- Other: _____
- Other: _____
- Other: _____

JIM BRANNON

CLERK OF THE DISTRICT COURT

By: Margaret Andersen

ORDER ON DEFENDANT'S
MOTION TO SUPPRESS

ORIGINAL

Jay Logsdon, Deputy Public Defender
The Law Office of the Public Defender Kootenai County
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 8759

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED:

2017 APR 11 PM 3: 03

CLERK DISTRICT COURT
Cindy O'Reilly
DEPUTY

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NUMBER CR-16-0019399
)	
V.)	
)	
BRIANNA NICOLE ANDERSEN,	)	MOTION FOR APPOINTMENT OF
	)	STATE APPELLATE PUBLIC DEFENDER
	)	IN DIRECT APPEAL; RETAINING TRIAL
Defendant.	)	COUNSEL FOR RESIDUAL PURPOSES

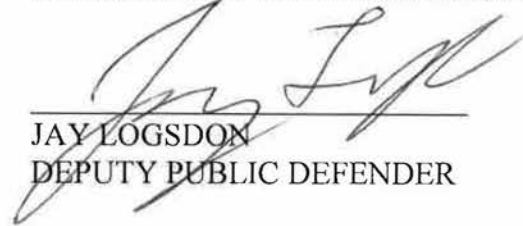
COMES NOW, the above named defendant, by and through her attorney, Jay Logsdon, Deputy Public Defender and hereby moves the Court for an Order pursuant to Idaho Code §19-867, et seq., and Idaho Appellate Rules 13 and 45.1 for its order appointing the State Appellate Public Defender's Office to represent the Appellant in all appellate proceedings. This motion is brought on the grounds and for the reasons that the Defendant is currently being represented by the Office of the Public Defender, Kootenai County; the State Appellate Public Defender is authorized by statute to represent the Defendant in all felony appellate proceedings; and it is in the interest of justice, for them to do so in this case since the Defendant is indigent, and the State has filed an appeal.

**MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER
IN DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES PAGE 1**

DATED this 7 day of April, 2017.

THE LAW OFFICE OF THE PUBLIC
DEFENDER OF KOOTENAI COUNTY

BY:



JAY LOGSDON
DEPUTY PUBLIC DEFENDER

**MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER
IN DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES PAGE 2**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 11 day of April, 2017, served a true and correct copy of the attached MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER via interoffice mail or as otherwise indicated upon the parties as follows:

- | | | |
|---------------|--|--|
| <u> X </u> | Kootenai County Prosecuting Attorney
P.O. Box 9000
Coeur d'Alene, Idaho 83816-9000 | via Interoffice Mail |
| <u> X </u> | State Appellate Public Defender
322 East Front, Suite 570
Boise, Idaho 83702 | <input checked="" type="checkbox"/> First Class Mail
<input type="checkbox"/> Certified Mail
<input type="checkbox"/> Facsimile (208) 334-2985 |
| <u> X </u> | Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010 | <input checked="" type="checkbox"/> First Class Mail
<input type="checkbox"/> Certified Mail
<input type="checkbox"/> Facsimile (208) 854-8074 |
| <u> </u> | Reporter for District Judge John T. Mitchell, Julie Foland | via Interoffice Mail |
| <u> X </u> | Reporter for District Judge Scott Wayman, Valerie Larson | via Interoffice Mail |
| <u> </u> | Reporter for District Judge Rich Christensen, Keri Veare | via Interoffice Mail |
| <u> </u> | Reporter for District Judge Benjamin Simpson, Anita Self | via Interoffice Mail |
| <u> </u> | Reporter for District Judge Lansing Haynes, Valerie Nunemacher | via Interoffice Mail |



**MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER
IN DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES PAGE 3**

Jay Logsdon, Deputy Public Defender
 The Law Office of the Public Defender Kootenai County
 PO Box 9000
 Coeur d'Alene, Idaho 83816
 Phone: (208) 446-1700; Fax: (208) 446-1701
 Bar Number: 8759

STATE OF IDAHO } ss
 COUNTY OF KOOTENAI }
 FILED: 9/21/17
 AT 9:00 O'CLOCK A.M.
 CLERK, DISTRICT COURT
Justin Hubert
 DEPUTY

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

STATE OF IDAHO,)	
	)	CASE NUMBER CR-16-0019399
Plaintiff,)	
)	
V.	)	ORDER FOR APPOINTMENT OF STATE
	)	APPELLATE PUBLIC DEFENDER IN
	)	DIRECT APPEAL; RETAINING TRIAL
BRIANNA NICOLE ANDERSEN,	)	COUNSEL FOR RESIDUAL PURPOSES
)	
)	
Defendant.)	

TO: OFFICE OF THE IDAHO STATE APPELLATE PUBLIC DEFENDER, AND, JAY LOGSDON, DEPUTY PUBLIC DEFENDER, KOOTENAI COUNTY.

The state having filed an appeal in this matter, and the defendant having requested the aid of counsel in defending herself on appeal from this district court in this felony matter, , and the Court being satisfied that said defendant continues to be a needy person entitled to public representation, therefore,

IT IS HEREBY ORDERED, in accordance with I.C. 19-870, that the State Appellate Public Defender is appointed to represent defendant in all further proceedings involving his appeal.

IT IS FURTHER ORDERED that trial counsel shall remain as appointed counsel of record

ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER IN DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES Page 1

for all other matters involving action in the trial court which, if resulting in an order in defendant's favor, could affect the judgment, order or sentencing in the action, until the expiration of the time limit for filing said motions or, if sought and denied, upon the expiration of the time for appeal of such ruling with the responsibility to decide whether or not a further appeal will be taken in such matters.

IT IS FURTHER ORDERED that trial counsel shall cooperate with the Office of State Appellate Public Defender in the prosecution of defendant's appeal.

DATED this 21 day of April, 2017.



SCOTT WAYMAN
DISTRICT JUDGE

**ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER IN DIRECT
APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES Page 2**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 26 day of April, 2017 served a true and correct copy of the attached ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER via facsimile, interoffice mail or as otherwise indicated upon the parties as follows:

- X Kootenai County Public Defender Interoffice Mail
 Facsimile (208) 446-1701 # 3191

- X Kootenai County Prosecuting Attorney Interoffice Mail
 Facsimile (208) 446-1833 # 3191

- X State Appellate Public Defender
322 East Front, Suite 570
Boise, Idaho 83702 First Class Mail
 Certified Mail
 Facsimile (208) 334-2985 # 3191

- X Lawrence G. Wasden
Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010 First Class Mail
 Certified Mail
 Facsimile (208) 854-8074 # 3191

- ✓ Supreme Court (certified) First Class Mail
 Fax Certified (208) 334-2616 # 3191

- Reporter for District Judge John T. Mitchell, Julie Foland via Interoffice Mail

- ✓ Reporter for District Judge Scott Wayman, Valerie Larson via Interoffice Mail

- Reporter for District Judge Rich Christensen, Keri Veare via Interoffice Mail

- Reporter for District Judge Lansing Haynes, Valerie Nunemacher via Interoffice Mail

- Reporter for District Judge Benjamin R. Simpson, Anita Self via Interoffice Mail



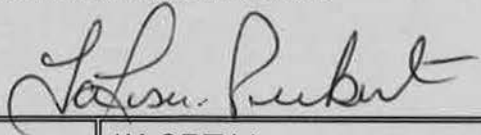
For Kootenai County Clerk Processing Appeal:

- Supreme Court (certified copy) First Class Mail
 Fax Certified (208) 334-2616

Sent / / by _____, Deputy Clerk

ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER IN DIRECT APPEAL; RETAINING TRIAL COUNSEL FOR RESIDUAL PURPOSES **Page 3**

Description	CR 2016-19399 Andersen, Brianna 20170421 Pretrial Conference Judge Wayman Clerk TaLisa Peukert Court Reporter Valerie Larson		
Date	4/21/2017	Location	1K-CRT14
Time	Speaker	Note	
<u>02:53:21 PM</u>	Judge Wayman	DF not in custody with PD Ms. Montalvo. Mr. Mortensen.	
<u>02:53:44 PM</u>	KCPA	STAY ALL PROCEEDINGS. The motion to Supress is being appealed.	
<u>02:54:27 PM</u>	Judge	Grants motion to STAY all proceedings. Signs order appointing Appeal Attorney on Motion to Supress.	
<u>02:55:11 PM</u>	Judge	KCPA to prepare order within 14 days.	
<u>02:55:20 PM</u>	end		



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007

STATE OF IDAHO }
COUNTY OF KOOTENAI } SS
FILED:

2017 APR 28 PM 12: 55

CLERK DISTRICT COURT
Chloe Hubert
DEPUTY

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 BRIANNA ANDERSEN,)
)
 Defendant.)
 _____)

Case No. **F16-19399**

ORDER TO STAY

The Court having before it the above State's motion, and good cause appearing now,
therefore,

IT IS HEREBY ORDERED that any further action in this above entitled matter is STAYED
pending any Appellate decision.

ENTERED this 27 day of May, 2017.

Scott Wraymond

JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the 28 day of April, 2017 that a true and correct copy of the foregoing was delivered as indicated below:

- Kootenai County Prosecuting Attorney (email: kcpareport@kcgov.us)
- Kootenai County Public Defender (email: pdfax@kcgov.us)
- _____ Defendant/Defendant's Attorney _____
- _____ Kootenai County Jail (email: warrants@kcgov.us)

JIM BRANNON

CLERK OF THE DISTRICT COURT

By: Jalen Pickett
Deputy Clerk

1:00 pm

Cindy O'Reilly

2017 MAY -1 PM 4: 08

From: supremecourtdocuments@idcourts.net
Sent: Monday, May 1, 2017 03:29 PM
To: coreilly@kcgov.us; mlara@sapd.state.id.us; documents@sapd.state.id.us;
EFREDERICKSEN@SAPD.STATE.ID.US; delayne.m.deck@ag.idaho.gov
HOBBYHORSEACRES@YAHOO.COM; DLARSEN@KCGOV.US; ecf@ag.idaho.gov
Subject: 45042 - STATE v. BRIANNA ANDERSEN (Kootenai CR-2016-19399)
Attachments: 45042 CC.pdf; 45042 SAPD.pdf; 45042 ORDER.pdf; 45042 NOA.pdf

CLERK DISTRICT COURT
[Handwritten Signature]
COMMUNITY

FILED NOTICE OF APPEAL with attachment - TRANSCRIPT REQUESTED - SEE ALL ATTACHMENTS.
Please review the CLERK'S CERTIFICATE OF APPEAL and notify the Court of any errors. **DUE DATE -
TRANSCRIPT (Reporter's lodging date is 05-31-17) AND CLERK'S RECORD SHALL BE FILED IN THIS
COURT BY 07-05-17**

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

STATE OF IDAHO	)	SUPREME COURT
	)	45042
Plaintiff/Respondent)	
	)	CASE NUMBER
	)	CR2016-19399
VS.)	
	)	CLERK'S CERTIFICATE
)	
BRIANNA NICOLE ANDERSEN)	
)	
<u>Defendant/Appellant</u>)	


I, Gayle Sanchez, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that the foregoing Record in this cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents requested by Appellate Rule 28.

I further certify that the following will be submitted as exhibits to this Record on Appeal:

Exhibit – PL 1 Document Preliminary Hearing – Filed 12/01/2016
Transcript Preliminary Hearing – Filed 01/04/2017

IN WITNESS WHEREOF, I have here unto set my hand and affixed the seal of the said Court this 12th Day of May, 2017.

Clerk of the District Court
Jim Brannon

by: 
Gayle Sanchez
Deputy Clerk

Clerk's Certificate

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

STATE OF IDAHO

Plaintiff/Respondent

VS.

BRIANNA NICOLE ANDERSEN

Defendant/Appellant

}
} SUPREME COURT
} 45042

}
} CASE CR2016-19399

}
} CERTIFICATE OF SERVICE

I, Gayle Sanchez, Deputy Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, do hereby certify that I have personally served or mailed, by United States Mail, one copy of the Clerk's Record to each of the attorneys of record in this cause as follows:

Eric D. Frederickson
State Appellate
Public Defender
322 E. Front St., Ste. 570
Boise, ID 83702

Attorney for Appellant

Lawrence G. Wasden
Office Attorney General
700 W Jefferson Ste 210
Boise, ID 83702

Attorney for Respondent

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 12th Day of May, 2017.

Jim Brannon
Clerk of District Court

By 
Gayle Sanchez
Deputy Clerk

CERTIFICATE OF SERVICE