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State v. Ayala Clerk's Record Dckt. 45048

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,
Plaintiff-Respondent,
vs.
JESUS GEORGE AYALA,
Defendant-Appellant.

Supreme Court Case No. 45048

CLERK'S RECORD ON APPEAL

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

HONORABLE MELISSA MOODY

STATE APPELLATE PUBLIC DEFENDER
ATTORNEY FOR APPELLANT
BOISE, IDAHO

LAWRENCE G. WASDEN
ATTORNEY FOR RESPONDENT
BOISE, IDAHO

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR01-16-32723

State of Idaho
Plaintiff,
vs.
JESUS GEORGE AYALA
Defendant.

§
§
§
§
§
§

Location: **Ada County District Court**
Judicial Officer: **Bail, Deborah A.**
Filed on: **10/03/2016**
Case Number History: **PRE-FILE01-16-1305**
Prosecutor Control Number: **2016-0001756**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Criminal
Jurisdiction: County					
1. Controlled Substance-Possession of	I37-2732(c)(1)	FEL	10/02/2016	Case Flags:	Ada County Prosecutor {F}
TCN: ID1110244916 ACN: 1					
Arrest: 10/02/2016					
2. Drug Paraphernalia-Use or Possess With Intent to Use	I37-2734A(1)	MIS	10/02/2016		
TCN: ID1110244916 ACN: 1					
Arrest: 10/02/2016					
3. Enhancement-Drug-Second or Subsequent Offense	I37-2739	FEL	10/02/2016		
TCN: ID1110244916					

DATE CASE ASSIGNMENT

Current Case Assignment	
Case Number	CR01-16-32723
Court	Ada County District Court
Date Assigned	11/03/2016
Judicial Officer	Bail, Deborah A.

PARTY INFORMATION

State	State of Idaho	<i>Lead Attorneys</i> Bleazard, Robert Mark 208-287-7700(W)
Defendant	AYALA, JESUS GEORGE	Durham, Craig Harrison <i>Retained</i> 208-345-5183(W)

DATE EVENTS & ORDERS OF THE COURT INDEX

10/03/2016	Video Arraignment (1:30 PM) (Judicial Officer: Smyser, Howard D.)	
10/03/2016	 Initiating Document - Pre-File Case	
10/03/2016	 Criminal Complaint	
10/03/2016	 Arr. Minutes & Hearing Notice	
10/03/2016	Bond Set 10,000	
10/05/2016	 Proof of Service Notice of Hearing 10-17-16	
10/11/2016		

000002

CASE SUMMARY

CASE NO. CR01-16-32723

 Response to Request for Discovery
Preliminary Hearing Response to Request for Discovery and Objections

10/11/2016  Request for Discovery
State's Request for Discovery

10/17/2016 **Preliminary Hearing (8:30 AM) (Judicial Officer: Gardunia, Theresa L.)**

10/17/2016  Court Minutes

10/17/2016 Court Minutes

10/20/2016  Notice of Appearance
Entry of Appearance Craig Durham for Jesus Ayala

10/20/2016  Request for Discovery
Defendant's First Request for Discovery

11/02/2016  Response to Request for Discovery
Preliminary Hearing Response to Request for Discovery and Objections

11/02/2016  Request for Discovery
State's Request for Discovery

11/03/2016 **Preliminary Hearing (8:30 AM) (Judicial Officer: Gardunia, Theresa L.)**

11/03/2016  Court Minutes

11/03/2016 Notice of Hearing

11/03/2016 Preliminary Hearing Waived (Bound Over)

11/03/2016  Order for Commitment

11/04/2016  Information Filed
Information

11/07/2016 **Arraignment (1:30 PM) (Judicial Officer: Bail, Deborah A.)**

11/07/2016  Court Minutes

11/10/2016  Response to Request for Discovery
Defendant's First Response to Request for Discovery

11/14/2016 **Entry of Plea (1:30 PM) (Judicial Officer: Bail, Deborah A.)**

11/14/2016  Court Minutes

11/14/2016  Notice of Jury Trial & Scheduling Order

11/14/2016 **Plea (Judicial Officer: Bail, Deborah A.)**
1. Controlled Substance-Possession of
Not Guilty

CASE SUMMARY
CASE NO. CR01-16-32723

TCN: ID1110244916 :

2. Drug Paraphernalia-Use or Possess With Intent to Use
Not Guilty
TCN: ID1110244916 :

- 12/05/2016  Response to Request for Discovery
State's Discovery Response to Court
- 12/08/2016  Motion
State's Motion for Leave to File Information Part II
- 12/08/2016  Notice
State's Notice of Hearing
- 12/12/2016  Motion
Defendant's Motion for Extension of Time
- 12/13/2016  Order
Granting Motion for Extension of Time
- 12/16/2016  Motion to Suppress
- 12/16/2016  Memorandum In Support of Motion
to Suppress
- 12/19/2016 **Pre-trial Conference (9:30 AM) (Judicial Officer: Bail, Deborah A.)**
- 12/19/2016  Court Minutes
- 12/20/2016 **Pre-trial Conference (9:30 AM) (Judicial Officer: Bail, Deborah A.)**
- 12/20/2016  Information Part 2
- 12/20/2016  Court Minutes
- 01/05/2017  Objection
State's Objection and Memorandum in Response to Defendant's Motion to Suppress
- 01/09/2017 **Motion to Suppress (9:30 AM) (Judicial Officer: Bail, Deborah A.)**
- 01/09/2017  Court Minutes
- 01/09/2017  Exhibit List/Log
- 01/09/2017  Guilty Plea Advisory
- 01/09/2017  Order for Pre-Sentence Report (PSI)
- 01/09/2017  PSI Face Sheet

CASE SUMMARY
CASE NO. CR01-16-32723

- 01/09/2017 **Amended Plea** (Judicial Officer: Bail, Deborah A.)
 - 1. Controlled Substance-Possession of Guilty
 TCN: ID1110244916 :
 - 2. Drug Paraphernalia-Use or Possess With Intent to Use Guilty
 TCN: ID1110244916 :

- 01/09/2017 **Disposition** (Judicial Officer: Bail, Deborah A.)
 - 1. Controlled Substance-Possession of Guilty (Plea Agreement)
 TCN: ID1110244916 :
 - 2. Drug Paraphernalia-Use or Possess With Intent to Use Guilty (Plea Agreement)
 TCN: ID1110244916 :
 - 3. Enhancement-Drug-Second or Subsequent Offense Dismissed on Motion of Prosecutor
 TCN: ID1110244916 :

- 01/10/2017 **CANCELED Jury Trial (9:30 AM)** (Judicial Officer: Bail, Deborah A.)
Vacated

- 02/01/2017  Order to Transport

- 03/06/2017  Pre-Sentence Report

- 03/08/2017  Memorandum
Defendant's Sentencing Memorandum

- 03/13/2017 **Sentencing (3:00 PM)** (Judicial Officer: Bail, Deborah A.)

- 03/13/2017  Court Minutes

- 03/13/2017 **Sentence** (Judicial Officer: Bail, Deborah A.)
 - 1. Controlled Substance-Possession of Felony Sentence Confinement
 Type:
 Facility: Idaho Department of Correction
 Effective Date: 03/13/2017
 Determinate: 1 Year
 Indeterminate: 6 Years
 Pre-Sentence Credit for Time Served
 - Fee Totals:
 Court Costs - 285.50
 Felony - Drug
 Fee Totals \$ 285.50

- 03/13/2017 **Sentence** (Judicial Officer: Bail, Deborah A.)
 - 2. Drug Paraphernalia-Use or Possess With Intent to Use Misdemeanor Sentence Confinement
 Type:
 Facility: Idaho Department of Correction
 Term: 30 Days

CASE SUMMARY
CASE NO. CR01-16-32723

Effective Date: 03/13/2017
 Concurrent with other charge - this case
 Pre-Sentence Credit for Time Served
 Credit Term: 30 Days

Fee Totals:
 Restitution (PA) - Agency/Other (Interest Bearing) 100.00
 Fee Totals \$ 100.00

03/17/2017	 Judgment of Conviction & Order of Commitment
04/21/2017	 Notice of Appeal
04/24/2017	Appeal Filed in Supreme Court
04/25/2017	 Order of Restitution and Judgment
04/25/2017	 Motion <i>Motion to Appoint the State Appellate Public Defender</i>
04/25/2017	 Motion to Withdraw <i>Motion to Withdraw</i>
04/25/2017	 Motion <i>Motion to Waive Fees and Costs</i>
04/28/2017	 Order Appointing State Appellate Public Defender
04/28/2017	Interest Ordered on Restitution Int Start Dt: 04/19/2017
05/19/2017	 Notice of Appeal <i>- AMENDED</i>
08/14/2017	 Notice <i>of Transcript Lodged - Supreme Court No. 45048</i>

DATE

FINANCIAL INFORMATION

Defendant AYALA, JESUS GEORGE	
Total Charges	385.50
Total Payments and Credits	0.00
Balance Due as of 8/14/2017	385.50

OCT 03 2016

CHRISTOPHER D. RICH, Clerk
By STORMY McCORMACK
DEPUTY

DR#: 16-115553
Control #: 2016-0001756

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
JESUS GEORGE AYALA,)
)
Defendant.)
_____)

Case No. CR01-16-32723
COMPLAINT
Defendant's [REDACTED]
Defendant's [REDACTED]

PERSONALLY APPEARED BEFORE me this 3rd day of October, 2016, Michael C. Anderson, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says that: JESUS GEORGE AYALA, on or about the 2nd day of October, 2016, in the County of Ada, State of Idaho, did commit the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as follows:

SM

COUNT I

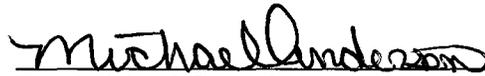
That the defendant, JESUS GEORGE AYALA, on or about the 2nd day of October 2016, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

COUNT II

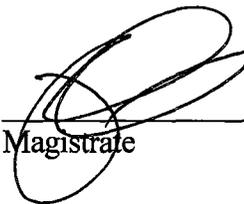
That the defendant, JESUS GEORGE AYALA, on or about the 2nd day of October 2016, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a syringe and/or baggies, used to inject, pack and/or contain a controlled substance.

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

JAN M. BENNETTS
Ada County Prosecuting Attorney


By: Michael C. Anderson
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 3 day of October, 2016.


Magistrate

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

State of Idaho vs. JESUS GEORGE AYALA

Case No. CR01-16-32723

JUDGE: Smayser

DATE: 10/3/2016

CLERK: NY

INTERPRETER: _____

HEARING TYPE:

Parties:

State of Idaho
JESUS GEORGE AYALA

Attorney: Haynes
Attorney: _____

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

Case Called: 30147 Defendant: Present Not Present In Custody

PD Appointed PD Denied Waived Attorney Advised of Rights Rights Waived

Defendant Advised of Charges Defendant Advised of Subsequent Penalties

Not Guilty Plea Guilty Plea/Admit No Contact Order Issued Pre-Trial Release Order

Bond 10,000

Δ said he is hiring private counsel

PH on 10/17/16 at 8:30 am/pm w/ Judge Cardunia

Contact the Ada County Public Defender, 200 W. Front St., Rm. 1107, Boise, ID 83702, telephone (208) 287-7400.

Release Defendant, This Case Only

**You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest, or default judgment may be entered if you are charged with an infraction.
ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702**

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

Defendant	Hand Delivered <input type="checkbox"/>	Via Counsel <input type="checkbox"/>
Defense Atty	Hand Delivered <input type="checkbox"/>	Intdept Mail <input type="checkbox"/>
Prosecutor	Hand Delivered <input type="checkbox"/>	Intdept Mail <input checked="" type="checkbox"/>

Signature: _____

CHRISTOPHER D. RICH, Clerk of the District Court

By: [Signature]
Deputy Clerk

DATED: 10-3-16

Signed: 10/4/2016 01:14 PM

[Signature]



VIDEO ARRAIGNMENT MINUTES

CR01-16-32723
ARMN
Arr. Minutes & Hearing Notice
148413



000009

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

State of Idaho vs. JESUS GEORGE AYALA

Case No. CR01-16-32723

JUDGE: Smuser
CLERK: NY

DATE: 10/3/2016
INTERPRETER: _____

HEARING TYPE:
Parties:
State of Idaho
JESUS GEORGE AYALA

Attorney: Haynes
Attorney: _____

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

Case Called: 30147 Defendant: Present Not Present In Custody
 PD Appointed PD Denied Waived Attorney Advised of Rights Rights Waived
 Defendant Advised of Charges Defendant Advised of Subsequent Penalties
 Not Guilty Plea Guilty Plea/Admit No Contact Order Issued Pre-Trial Release Order
 Bond 10,000

Δ said he is hiring private counsel

PH on 10/17/16 at 8:30 am/pm w/ Judge Hardunia

Contact the Ada County Public Defender, 200 W. Front St., Rm. 1107, Boise, ID 83702, telephone (208) 287-7400.

Release Defendant, This Case Only

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest, or default judgment may be entered if you are charged with an infraction.
ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

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

Defendant	Hand Delivered <input checked="" type="checkbox"/>	Via Counsel <input type="checkbox"/>
Defense Atty	Hand Delivered <input type="checkbox"/>	Intdept Mail <input type="checkbox"/>
Prosecutor	Hand Delivered <input type="checkbox"/>	Intdept Mail <input type="checkbox"/>

Signature: Shockey 5505

CHRISTOPHER D. RICH, Clerk of the District Court

By: [Signature]
Deputy Clerk

DATED: 10-3-16

CR01-16-32723
ARMN
Arr. Minutes & Hearing Notice
148413



VIDEO ARRAIGNMENT MINUTES

JAN M. BENNETTS
Ada County Prosecuting Attorney

Cory Nielsen
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
)	
vs.	)	PRELIMINARY HEARING
	)	RESPONSE TO REQUEST FOR
JESUS GEORGE AYALA,	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

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

I. DISCLOSURES

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

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

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

16-B Stipulation - Request Disclosure:

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

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

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

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

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

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical Records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 18, including an NCIC consisting of sixteen (16) pages. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

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

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

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

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

5. Reports of Examinations and Tests:

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

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

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

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

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

II. OBJECTIONS

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

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

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

RESPECTFULLY SUBMITTED this 11 day of October, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Cory Nielsen
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 11TH day of October, 2016, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Ada County Public Defender, 200 W. Front St., Room 1107, Boise, ID 83702

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

CBright

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
)	
vs.	)	REQUEST FOR DISCOVERY
)	
JESUS GEORGE AYALA,)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

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

- (1) Documents and Tangible Objects:

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

(2) Reports of Examinations and Tests:

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

(3) Defense Witnesses:

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

(4) Expert Witnesses:

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

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

DATED this the 11 day of October, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Cory Nielsen
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this the 11TH day of October, 2016, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Ada County Public Defender, 200 W. Front St., Room 1107, Boise, ID 83702

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

CBright
Legal Assistant

CR01-16-32723
CMIN
Court Minutes
157359



FILED 10/17/16 AT 9:12^{AM} .M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY [Signature]
Deputy

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

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 Jesus G. Ayala)
 Defendant.)

Case Number: CR01-16-32723
Judge: Gardunia
Case Called: 090950 In Chambers
 Ada Special C. Nielsen
PD PD Appointed /Private _____
 Interpreter _____

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

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

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

Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived

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

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

Case continued to 11-03-16 at 8:30 am/pm for PD

Defendant Waives Preliminary Hearing Hearing Held Commitment Signed

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

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

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

Δ has hired : Durham

Consolidated w/ _____

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

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

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

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

Signature [Signature]

By: [Signature]
Deputy Clerk

DATED 10/17/16

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

v.

JESUS GEORGE AYALA,

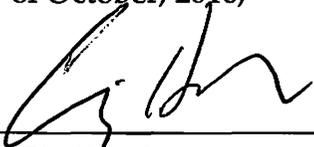
Defendant.

Case No. CR01-16-32723

ENTRY OF APPEARANCE

The undersigned appears in this case as counsel for the Defendant, Jesus George Ayala. All pleadings and papers should henceforth be served on counsel for Mr. Ayala at the contact information above.

Respectfully submitted on this 20th day of October, 2016,



Craig H. Durham

CERTIFICATE OF SERVICE

A copy of this Entry of Appearance has been served on the following on this 20th day of October, 2016, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	___	Hand Delivery
200 W Front Street	___	Court Box
Boise ID 83701	___	U.S. Mail
F: 208-287-7709	<u>X</u>	Facsimile
	<u>X</u>	E-filing



Craig H. Durham
Attorney for Defendant

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com

Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

v.

JESUS GEORGE AYALA,

Defendant.

Case No. CR01-16-32723

**DEFENDANT'S FIRST
REQUEST FOR DISCOVERY**

To: Ada County Prosecuting Attorney

The undersigned, pursuant to Rule 16 of the Idaho Criminal Rules and the Sixth and Fourteenth Amendments to the United States Constitution, requests discovery and inspection of the following information, evidence, and materials:

DEFENDANT'S FIRST REQUEST FOR DISCOVERY - 1

000022

1. Any evidence that has been discovered by any member of the agencies involved in the investigation or prosecution of this case that tends to negate or mitigate the guilt of the defendant, lessen the degree of the offense, or mitigate the potential punishment. *Brady v. Maryland*, 373 U.S. 83 (1963); I.C.R. 16(a). Such “*Brady* material” includes offers of leniency or plea bargain agreements or any other form of remuneration provided to any potential witness in this case. *Giglio v. United States*, 405 U.S. 150 (1972).
2. All warrants, and all affidavits executed by any peace officer, parole officer, or investigator in support of any warrants, that were issued related to this case or that resulted in the discovery of evidence that the prosecution intends to introduce in this case.
3. All evidence of other crimes, wrongs, or acts of the defendant that the prosecution intends to introduce at trial in accordance with the provisions of Rule 404(b) of the Idaho Rules of Evidence.
4. Any written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the State, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.
5. The substance of any oral statement made by the defendant, whether before or after arrest to any peace officer, prosecuting attorney, or the prosecuting

attorney's agent, and the recorded testimony of the defendant before a grand jury that relates to the offense charged.

6. Any written or recorded statements of any co-defendant.
7. The substance of any oral statement made by any co-defendant, whether before or after arrest, to a peace officer or agent of the prosecuting attorney.
8. A copy of the defendant's prior criminal record.
9. All books, papers, documents, photographs, tangible objects including drugs or other physical evidence, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney or any law enforcement agency and that are material to the preparation of the defense, or intended for use by the prosecutor as evidence at trial, or obtained from or belonging to the defendant.
10. All photographs and audio or video recordings that were taken as part of the investigation in this case.
11. A written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior convictions of any such person which is within the knowledge of the prosecuting attorney.
12. All statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to

any official involved in the investigatory process of the case.

13. A written summary or report of any testimony that the State intends to introduce pursuant to Rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing. The summary provided must describe the witness's opinions, the facts and data for those opinions, and the witness's qualifications.
14. Any results or reports of physical or mental examinations, and of scientific tests or experiments, made in connection with the particular case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.
15. All documentation regarding the chain of custody of any physical evidence, including, but not limited to, a description of the method of packaging and handling of the evidence at the time of recovery, at the time of booking it into evidence and at the time of submitting for analysis.
16. All rough notes, documentation, and reports within the possession of any law enforcement agency that tested any item of physical evidence in this case with respect to scientific tests in this case.
17. All police or investigative reports, follow-up reports, daily logs, surveillance logs, property reports, chronology notes, and any other written materials or memoranda that were made by a police officer or investigator in connection with

the investigation or prosecution of the case.

Respectfully submitted on this 20th day of October 2016.

A handwritten signature in black ink, appearing to read "Craig H. Durham". The signature is written in a cursive, flowing style with a prominent initial "C".

Craig H. Durham
Attorney for Defendant

CERTIFICATE OF SERVICE

A copy of this Defendant's First Request for Discovery has been served on the following on this 20th day of October, 2016, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	<input type="checkbox"/>	Hand Delivery
200 W Front Street	<input type="checkbox"/>	Court Box
Boise ID 83701	<input type="checkbox"/>	U.S. Mail
F: 208-287-7709	<input checked="" type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	E-filing



Craig H. Durham
Attorney for Defendant

JAN M. BENNETTS
Ada County Prosecuting Attorney

Cory Nielsen
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
)	
vs.	)	PRELIMINARY HEARING
	)	RESPONSE TO REQUEST FOR
JESUS GEORGE AYALA,	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

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

I. DISCLOSURES

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

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

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

16-B Stipulation - Request Disclosure:

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

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

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

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

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

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical Records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 41, including an NCIC consisting of sixteen (16) pages. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

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

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

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

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

5. Reports of Examinations and Tests:

- The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.
- These documents are specifically identified in subsection 4A above as State’s pages 25 through 27.

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

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

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

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

II. OBJECTIONS

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

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

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

RESPECTFULLY SUBMITTED this 26 day of October, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Cory Nielsen
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 26th day of October, 2016, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Craig Durham, 910 W. Main St., Ste. 328, Boise, ID 83702

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

CBright

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
)	
vs.	)	REQUEST FOR DISCOVERY
)	
JESUS GEORGE AYALA,)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

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

- (1) Documents and Tangible Objects:

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

(2) Reports of Examinations and Tests:

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

(3) Defense Witnesses:

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

(4) Expert Witnesses:

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

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

DATED this the 26 day of October, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Cory Nielsen
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

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

Craig Durham, 910 W. Main St., Ste. 328, Boise, ID 83702

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

CBright

Legal Assistant

FILED 11/03/16 AT 9:30 .M.
 CHRISTOPHER D. RICH,
 CLERK OF THE DISTRICT COURT
 BY C. HO
 Deputy

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

PRELIMINARY HEARING NOTICE / MINUTE SHEET

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
Jesus G. Ayala)
 Defendant.)

Case Number: CR 01-16-32723
 Judge: Gardunia
 Case Called: 92312 In Chambers
 Ada Special C. Nielsen
 PD PD Appointed (Private) C. Durham
 Interpreter _____

- Defendant: Present Not Present In Custody Bond \$ _____ B/F _____ B/W _____
- Posted Bond \$ _____ PTRO NCO Advised of Rights Waive Rights Waive Time
- Motion/Stipulation for: Bond Reduction Amended NCO Denied /Granted _____
- Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived
- Rule 11 Plea Agreement w/ DVC Offer Sheet Guilty Plea(s) Entered _____ Accepted _____
- State Defense Mutual -- Request for Continuance _____ Objection No Objection
- Case continued to _____ at _____ am/pm for _____
- Defendant Waives Preliminary Hearing Hearing Held Commitment Signed
- Case Bound Over to Judge Bail on 11/7/16 at 1:30 am/pm
- Order for §18-211 Evaluation, requested by: Prosecutor Defense Order §18-212 Commitment
- Case Dismissed by Court after Hearing / On State's Motion Release Defendant, This Case Only

CR01-16-32723
 CMIN
 Court Minutes
 171738



Consolidated w/ _____

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

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

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

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

Signature Lewis J. App

By: C. HO
 Deputy Clerk

DATED 11/03/16

FILED
NOV 3 2016

NOV - 3 2016

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

CR01-16-32723
ORCT
Order for Commitment
171740



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

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
JESUS GEORGE AYALA,)
)
Defendant.)

Case No. CR01-16-32723

COMMITMENT

Defendant's [REDACTED]
Defendant's [REDACTED]

THE ABOVE NAMED DEFENDANT, JESUS GEORGE AYALA, having been brought before this Court for a Preliminary Examination on the 3rd day of Nov, 2016, on a charge that the Defendant on or about the 2nd day of October 2016, in the County of Ada, State of Idaho, did commit the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as follows:

COUNT I

That the defendant, JESUS GEORGE AYALA, on or about the 2nd day of October 2016, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

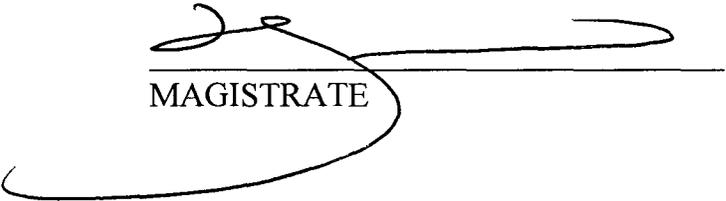
COUNT II

That the defendant, JESUS GEORGE AYALA, on or about the 2nd day of October 2016, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a syringe and/or baggies, used to inject, pack and/or contain a controlled substance.

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

WHEREFORE, IT IS ORDERED that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 10,000.

DATED this 3rd day of Nov, 2016.


MAGISTRATE

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

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
)	
vs.	)	I N F O R M A T I O N
)	
JESUS GEORGE AYALA,	)	Defendant's [REDACTED]
	)	Defendant's [REDACTED]
)	
Defendant.)	
)	

JAN M. BENNETTS, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that JESUS GEORGE AYALA is accused by this Information of the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A which crime(s) was/were committed as follows:

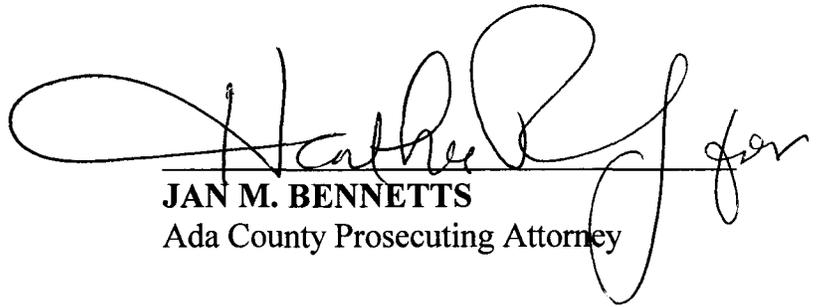
COUNT I

That the defendant, JESUS GEORGE AYALA, on or about the 2nd day of October 2016, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

COUNT II

That the defendant, JESUS GEORGE AYALA, on or about the 2nd day of October 2016, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a syringe and/or baggies, used to inject, pack and/or contain a controlled substance.

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



JAN M. BENNETTS
Ada County Prosecuting Attorney

Ada County Mugshot



JID	Name		
01103613	AYALA JESUS GEORGE		
Gender	Race	Ethnicity	
Male	White	Hispanic origin	
Hair Color	Eye Color	Height	Weight
Black	Brown	508	179

		State
		ID

First Surname	First Given Name	Name Type
AYALA	JESUS	Primary
	JESUS GEORGE	Alias
AYALA GEORGE	JESUS	Alias
GEORGE AYALA	JESUS	Alias

Mark Code	Mark Description
TAT BACK	Star DANA
TAT CHEST	stars
TAT L ARM	stars ISIS Noctem Habene JAYGER
TAT UR ARM	flowers

Description	Judge Bail 110716 Tara Villereal Nicole Julson		
Date	11/7/2016	Location	1A-CRT508
Time	Speaker	Note	
01:46:18 PM		CR01-16-32723 St v Jesus Ayala Arraignment	
01:46:38 PM		Defendant present in custody	
01:46:41 PM	State Attorney	Robert Bleazard	
01:46:42 PM	Personal Attorney	Craig Durham	
01:46:59 PM		True Name. Copy of Information. Waives Reading.	
01:47:53 PM	Personal Attorney	requests 1 week for EOP	
01:47:57 PM	Judge	sets EOP - November 14 @ 1:30 pm	

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www.fortherecord.com

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

v.

JESUS GEORGE AYALA,

Defendant.

Case No. CR01-16-32723

**DEFENDANT'S FIRST
RESPONSE TO DISCOVERY**

Defendant Jesus George Ayala, by and through counsel, hereby responds the State's Request for Discovery under Rule 16(c) of the Idaho Criminal Rules.

Defendant notes that these responses are preliminary, based on information currently available to him, and will be supplemented or amended, as needed.

(1) Documents and Tangible Objects: At this date, Defendant has not decided which documents or tangible objects, if any, within his possession, custody, or control he intends to introduce in evidence at trial. Defendant reserves the right to introduce any item produced by the State during discovery in his defense at trial.

(2) Reports and Examinations of Tests: Defendant does not currently have any results of any physical or mental health examinations, or scientific tests or experiments, made in connection with this case that he intends to introduce in evidence at trial.

(3) Witnesses: Defendant will not decide until trial whether he will testify on his own behalf. He may call any of the following persons to testify at trial:

(a) Any witness disclosed in discovery or called by the State.

(4) Expert Witnesses: None at this time.

(5) Alibi Witnesses: None at this time.

Respectfully submitted on this 10th November, 2016,



Craig H. Durham
Attorney for Defendant

CERTIFICATE OF SERVICE

A copy of this Defendant's First Response to Discovery has been served on the following on this 10th day of November, 2016, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	<input type="checkbox"/>	Hand Delivery
200 W Front Street	<input type="checkbox"/>	Court Box
Boise ID 83701	<input type="checkbox"/>	U.S. Mail
F: 208-287-7709	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	E-filing



Craig H. Durham
Attorney for Defendant

Description	Judge Bail 111416 Tara Villereal Nicole Julson		
Date	11/14/2016	Location	1A-CRT508
Time	Speaker	Note	
01:58:24 PM		CR01-16-32723 St v Jesus Ayala Entry of Plea	
02:00:39 PM		Defendant present in custody	
02:00:39 PM	State Attorney	Robert Bleazard	
02:00:39 PM	Personal Attorney	Craig Durham	
02:00:43 PM	Personal Attorney	defendant pleads Not Guilty	
02:00:47 PM	Judge	Sets this case for Jury Trial - January 10 @ 9:30 am - PTC - December 19 @ 9:30 am - Discovery - December 5	
02:02:06 PM			

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

DEBORAH A. BAIL
DISTRICT JUDGE

November 14, 2016

THE STATE OF IDAHO,
Plaintiff,

Case No. CR01-16-32723

vs.

JESUS GEORGE AYALA,
Defendant.

NOTICE OF TRIAL SETTING

THIS IS YOUR NOTICE OF TRIAL SETTING

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

Pretrial ConferenceMonday, December 19, 2016 @ 9:30 AM

Jury TrialTuesday, January 10, 2017 @ 9:30 AM

- ▶ All requested jury instructions must be submitted to the court five (5) days prior to trial.
- ▶ Any motion to exclude a witness who was a victim of the alleged crime must be made two (2) weeks prior to trial.
- ▶ Discovery compliance date is set for December 5, 2016.
- ▶ Notice is hereby given, pursuant to I.C.R. 25(a)(6) that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G. D. Carey

Hon. Thomas Neville

Hon. Cheri Copsey

Justice Gerald Schroeder

Hon. Renae Hoff

Hon. Kathryn Sticklen

Hon. James Judd

Hon. Darla Williamson

Hon. D. Duff McKee

Hon. Ronald Wilper

Hon. Michael McLaughlin

All Sitting Fourth District Judges

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

Copies to Counsel:

ADA COUNTY PROSECUTORS OFFICE
VIA-EMAIL

CRAIG DURHAM
ATTORNEY AT LAW
VIA-EMAIL

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

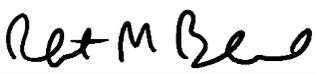
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
vs.)	
	)	DISCOVERY
JESUS GEORGE AYALA,	)	RESPONSE TO COURT
)	
Defendant.)	
)	
_____)	

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

RESPECTFULLY SUBMITTED this 5th day of December, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Robert M. Bleazard
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 5th day of December, 2016, I caused to be served, a true and correct copy of the foregoing Discovery Response to Court upon the individual(s) named below in the manner noted:

Craig Durham, Ferguson Durham, PLLC, 223 N. 6th Street, Ste. 325, Boise, ID 83712

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By depositing copies of the same in the Interdepartmental Mail.*
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- By emailing copies of the same to said attorney(s) at the email address:*
chd@fergusondurham.com
- By iCourt eFile and Serve*



Legal Assistant

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
vs.)	
	)	MOTION FOR LEAVE TO FILE
JESUS GEORGE AYALA,	)	INFORMATION
	)	PART II
Defendant.)	
_____)	

COMES NOW, Robert M. Bleazard, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho and moves this Court for its order allowing the State to file an Information, Part II, pursuant to Idaho Code §37-2739, in the above-matter based on what the State believes is the defendant's prior record as set out below.

That the defendant, JESUS GEORGE AYALA was convicted of the crime of POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a Felony.

The State's information as to the defendant's prior record is based on a state or national records check and certified copies of the Judgments of Conviction.

RESPECTFULLY SUBMITTED this 7th day of December, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Robert M. Bleazard
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of December, 2016, I caused to be served, a true and correct copy of the foregoing Motion for Leave to File Information Part II upon the individual(s) named below in the manner noted:

Craig Durham, Ferguson Durham, PLLC, 223 N. 6th Street, Ste. 325, Boise, ID 83712

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By depositing copies of the same in the Interdepartmental Mail.*
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- By emailing copies of the same to said attorney(s) at the email address:
chd@fergusondurham.com*
- By iCourt eFile and Serve*



Legal Assistant

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
JESUS GEORGE AYALA,)
)
Defendant.)
)
_____)

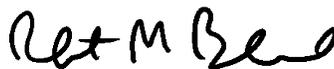
Case No. CR01-16-32723

NOTICE OF HEARING

TO: Craig Durham, his Attorney of Record, you will please take notice that on the 12th day of December, 2016, at the hour of 1:30 PM of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Robert M. Bleazard, will move this Honorable Court regarding the State's Motion for Leave to File Information Part II in the above-entitled action.

DATED this 7th day of December, 2016.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Robert M. Bleazard
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2016, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted:

Craig Durham, Ferguson Durham, PLLC, 223 N. 6th Street, Ste. 325, Boise, ID 83712

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By depositing copies of the same in the Interdepartmental Mail.*
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- By emailing copies of the same to said attorney(s) at the email address:
chd@fergusondurham.com*
- By iCourt eFile and Serve*



Legal Assistant

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

v.

JESUS GEORGE AYALA,

Defendant.

Case No. CR01-16-32723

**DEFENDANT'S MOTION
FOR EXTENSION OF TIME**

Defendant Jesus George Ayala, by and through his counsel Craig H. Durham, moves to extend the deadline to file pretrial motions under Rule 12 of the Idaho Criminal Rules for one week, until December 19, 2016.

Good cause supports the request. Defendant's counsel needs additional time to research and prepare a possible motion to suppress due to the complexity of the issues and the press of counsel's other matters. Settlement discussions before the pretrial

conference on December 19 may also influence whether a motion is filed in this matter.

An extension of time should not prejudice the State.

Respectfully submitted on this 12th day of December 2016.



Craig H. Durham

CERTIFICATE OF SERVICE

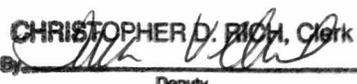
A copy of this Motion to For Extension of Time has been served on the following on this 12th day of December, 2016, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	<input type="checkbox"/>	Hand Delivery
200 W Front Street	<input type="checkbox"/>	Court Box
Boise ID 83701	<input type="checkbox"/>	U.S. Mail
F: 208-287-7709	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	E-filing
	<input checked="" type="checkbox"/>	email



Craig H. Durham
Attorney for Defendant

DEC 13 2016

CHRISTOPHER D. RICH, Clerk
By  Deputy

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,
Plaintiff,

v.

JESUS GEORGE AYALA,
Defendant.

Case No. CR01-16-32723

**ORDER GRANTING
MOTION FOR EXTENSION
OF TIME**

Good cause appearing, Defendant's Motion for Extension of Time is granted.

The deadline to file pretrial motions under Rule 12 of the Idaho Criminal Rules is extended to December 19, 2016.

DATED this 13th day of December 2016.



Hon. Deborah Bail
District Judge

CERTIFICATE OF SERVICE

A copy of this Order has been served on the following on this 14th day of

December, 2016, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY
200 W Front Street
Boise ID 83701
F: 208-287-7709

- Hand Delivery
- Court Box
- U.S. Mail
- Facsimile
- E-filing
- email

Craig H. Durham
223 N. 6th Street, Suite 325
Boise ID 83702
chd@fergusondurham.com

- Hand Delivery
- Court Box
- U.S. Mail
- Facsimile
- E-filing
- email

Jana Velho



Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

v.

JESUS GEORGE AYALA,

Defendant.

Case No. CR01-16-32723

**DEFENDANT'S MOTION TO
SUPPRESS**

Defendant Jesus George Ayala, by and through counsel, moves the Court to suppress the alleged methamphetamine and paraphernalia that was discovered in violation of his constitutional and statutory rights.

This Motion is brought under the Fourth and Fourteenth Amendments to the U.S. Constitution, Article I, § 17 of the Idaho Constitution, Idaho Code § 20-227, and

Idaho Criminal Rule 12(c). The Motion is supported by a separate Memorandum filed herewith.

Respectfully submitted on this 16th day of December, 2016.

A handwritten signature in black ink, appearing to read "Craig H. Durham". The signature is written in a cursive style with a horizontal line underneath it.

Craig H. Durham
Attorney for Defendant

CERTIFICATE OF SERVICE

A copy of this Defendant's Motion to Suppress has been served on the following
on this 16th day of December, 2016, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	<input type="checkbox"/>	Hand Delivery
200 W Front Street	<input type="checkbox"/>	Court Box
Boise ID 83701	<input type="checkbox"/>	U.S. Mail
F: 208-287-7709	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	E-filing



Craig H. Durham
Attorney for Defendant

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff,

v.

JESUS GEORGE AYALA,

Defendant.

Case No. CR01-16-32723

**DEFENDANT'S
MEMORANDUM IN
SUPPORT OF MOTION TO
SUPPRESS**

Defendant Jesus George Ayala, by and through counsel, moves the Court to
Suppress the alleged methamphetamine and drug paraphernalia that was discovered in
violation of his constitutional and statutory rights.

STATEMENT OF FACTS¹

On October 2, 2016, in the early afternoon, Ada County Sheriff's officers received a tip that a Jesus Ayala, who was on parole, was at the Target Store in Boise. No warrant of any type had been issued for Mr. Ayala, though an on-duty parole agent with Idaho Probation and Parole had apparently informed Sergeant Matthew Steele that Mr. Ayala was wanted for parole violations and that a parole agent's warrant would issue for him if he were located.²

Three Ada County Sheriff's officers and two Boise police officers arrived at Target and encountered the Defendant outside of the store. The officers detained him and asked him for identification. He refused to comply with that request and instead repeatedly told them that he had done nothing wrong. After few minutes of a similar type of back-and-forth, and after Sergeant Steele allegedly reaffirmed that an agent's warrant "would issue" if Mr. Ayala were arrested, Ada County Sheriff's Deputy John Rynhart to Mr. Ayala to put his hands behind his back to be taken into custody. Mr. Ayala was distraught and did not initially comply. He was then forcibly handcuffed while he stood in passive resistance. He did not push, strike, or make aggressive moves

¹ Counsel proffers the facts based on discovery that the State has provided. (See Attachment A, Narrative Report of Deputy John Rynhart). Mr. Ayala does not concede the credibility or accuracy of statements made in police reports, and an evidentiary hearing will be needed to establish the facts.

² It appears that, at least initially, officers had retrieved identifying information for a Jesse David Ayala, from Emmett, who is listed as 6'2" and 175 pounds. Jesus George Ayala, the Defendant, is considerably shorter, at 5'8" and weighs 180 pounds, and he is from Blaine County. (Attach. B.)

toward the officers.

At the jail, Deputy Rynhart conducted a search of Mr. Ayala's belongings "incident to the arrest," finding two small baggies with suspected methamphetamine, totaling 1.8 grams, in his wallet. He also discovered a syringe, baggies, and a razor blade in a bag. Based on this evidence, the State has charged Mr. Ayala with one felony count of possession of a controlled substance and one misdemeanor count of possession of drug paraphernalia.

Mr. Ayala offers two arguments for suppression of the evidence that Deputy Rynhart confiscated. First, the arresting officers lacked probable cause to support a warrantless arrest for any crime, or for alleged parole violations, in violation of the Fourth Amendment to the United States Constitution and Art. I, Sec. 17 of the Idaho Constitution. Second, law enforcement officers arrested Mr. Ayala unlawfully under Idaho Code § 20-227 without first securing a parole agent's warrant. As Deputy Rynhart's search was the result of an unlawful arrest, evidence from that search is fruit of the poisonous tree. The appropriate remedy is to suppress that evidence.

ARGUMENT

I.

Law enforcement officers lacked probable cause to support the warrantless arrest of Mr. Ayala, in violation of his rights under the Fourth Amendment to the United States Constitution and Article I, Section 17 of the Idaho Constitution.

The Fourth Amendment to the United States Constitution guarantees the right of every citizen to be free from unreasonable searches and seizures. U.S. CONST. amend IV; *see also* IDAHO CONST. art. 1, § 17. An arrest is a seizure for purposes of the Fourth Amendment, and to be constitutionally reasonable the arrest must be supported by probable cause. *E.g., Virginia v. Moore*, 553 U.S. 164, 171 (2008). Probable cause is the possession of information that would lead a person of ordinary care and prudence to believe or entertain an honest and strong presumption that a person they have placed under arrest is guilty of a crime. *See State v. Julian*, 129 Idaho 133, 136, 922 P.2d 1059, 1062 (1996). The State has the burden of showing, based on the totality of the circumstances, the validity of any warrantless arrest. *State v. Rodriguez*, 115 Idaho 1096, 1098, 772 P.2d 734, 736 (Ct.App. 1989).

1. There was no probable cause to arrest for a new crime

It is undisputed that no warrant – either an arrest warrant signed by a judge or a parole agent’s warrant – existed when Mr. Ayala was arrested. Officers had no cause to believe that Mr. Ayala had committed a felony offense, or that he had committed a misdemeanor in their presence. The stated basis for the arrest was an alleged parole violation and the promise of a forthcoming agent’s warrant. For these facts, the Court can safely determine that there was no probable cause for officers to believe any *criminal offense* had been committed.

The State should not be heard to argue that Deputy Rynhart had independent

cause to arrest Mr. Ayala for resisting an order to cuff up. The decision to arrest him for a parole violation had already been made at that time. The State cannot bootstrap probable cause for a resisting charge to an arrest that was already in process when the alleged resisting occurred.

That Mr. Ayala was a parolee does not change the analysis in a substantive way. It is true that there is a line of case law in which the Supreme Court and lower courts have held parolees have diminished expectations of privacy while on parole. This authority, however, justifies *searches* based on a lesser degree or suspicion or no suspicion at all. *See, e.g., Samson v. California*, 547 U.S. 843, 857 (2006) (holding that a suspicion-less search of a parolee was reasonable under the Fourth Amendment). A brief detention during that search is equally reasonable.

Here, Mr. Ayala is not alleging an unlawful search while being briefly detained. Instead, he alleges an unlawful arrest, which tainted a later search at the stationhouse. For that same reason, any waiver that he signed when he was paroled from prison, consenting to searches by parole agents, does not mean he consented to an arrest.³

2. There was not sufficient cause to arrest for a parole violation

The issue turns on whether officers had sufficient legal cause to take Mr. Ayala into custody for a parole violation. Idaho statutorily authorizes a parole agent

³ Moreover, these waivers typically grant consent to agents of Probation and Parole, not to all law enforcement officers at any time or at any place.

personally to arrest a parolee under his or her supervision without a warrant when the parolee “has, in the judgment of said parole or probation officer, violated the conditions ... of his parole or probation.” Idaho Code § 20-227. It is uncertain what level of suspicion a parole officer needs to justify a warrantless arrest under the statute. But, in any case, the statute does not authorize warrantless arrests by peace officers who are *not* probation or parole agents. Instead, those peace officers must be deputized by Probation and Parole to make an arrest through a written agent’s warrant.

Without an agent’s warrant or the presence of a parole officer, Mr. Ayala contends that a non-parole officer must have probable cause to believe a parole violation has occurred before he can arrest the parolee for that supposed violation. In this case, Deputy Rynhart lacked sufficient cause to believe that the person he was arresting had committed a parole violation. It appears that the officers were not sure who they had encountered. They initially had identification for a Jesse David Ayala, not Jesus George Ayala. That Ayala lived in Emmett, not Blaine County, and did not match the Defendant’s description. But, regardless whether the officers were eventually able to identify the Defendant as Jesus George Ayala, a parolee, the information on which Deputy Rynhart relied to arrest him for a violation was scant. At most, Sergeant Steele may have spoken to an on-duty probation and parole agent, not Mr. Ayala’s supervising agent, and was told that a warrant would issue for parole violations. Sergeant Steele told Deputy Rynhart that information. This wholly unspecific and

unreliable double or triple hearsay was insufficient for a full-blown custodial arrest.

The arrest of Mr. Ayala was unlawful under the state and federal constitutions. The later search at the jail that uncovered evidence on which these charges are based is directly attributed to the unlawful arrest and must be suppressed. *Wong Sun v. United States*, 371 U.S. 471, 484 (1963)

II.

Given that Mr. Ayala was arrested by law enforcement officers for a parole violation in the absence of a parole officer and without an agent's warrant authorizing them to do so, his arrest was also unlawful under Idaho Code § 20-227 and in violation of his right to due process of law.

Idaho Code § 20-227 authorizes a parole officer to arrest a parolee without a warrant when in the judgment of the officer the parolee has violated the conditions of his parole. The parole officer does not need a warrant to personally arrest the parolee. But if the parole officer seeks the assistance of other law enforcement officers, then the parole officer must "deputize any other officer with power of arrest to do so, by giving such officer a written statement hereafter referred to as an agent's warrant, setting forth that the parolee, [or] probationer ... has, in the judgment of said parole or probation officer, violated the conditions ... of his parole or probation." *Id.*

Here, no parole officer was on site and no "written statement" or agent's warrant had been provided to arresting officers. Deputy Rynhart admits as much. The officers

therefore violated Mr. Ayala's statutory rights under the statute by arresting him without a warrant.

Mr. Ayala concedes that the Idaho Supreme Court has determined that suppression is not an appropriate remedy for violation of statutory rights that do not rise to constitutional violations. *See, e.g., State v. Green*, 158 Idaho 884, 886, 354 P.3d 446, 448 (2015). And, in an unpublished decision, the Idaho Court of Appeals recently applied that rule to Idaho Code § 20-227. *State v. May*, No. 43970 (Ct. App. December 1, 2016) (unpublished opinion).

Nonetheless, Mr. Ayala contends that Idaho Code § 20-227 creates a liberty interest in parolees to be free, absent a warrant, from non-parole officer arrests. The Legislature presumably included this additional layer of protection to avoid hasty arrests on uncertain or confusing information, as here, and to limit the power of non-parole officers to use alleged violations to further other investigations. Liberty interests that are created by state law cannot be taken away without due process under the Fourteenth Amendment. *Cf. Greenholtz v. Nebraska Penal Inmates*, 442 U.S. 1, 7 (1979) In that sense, the rights created under this statute vested constitutional rights in Mr. Ayala, and the arrest violated his right to due process of law. Suppression is warranted. *State v. May* is not precedential and, more to the point, it does not appear that this argument was made.

Even if the Court concludes that it is bound by a higher court on this issue, the

rule is unwise and should be abandoned, and Mr. Ayala raises the claim here to preserve it for further review. The purpose of the exclusionary rule is to deter police misconduct. Mr. Ayala is unaware of any other remedy at law for this particular statutory violation. Without another remedy to hold violators accountable, officers have no incentive to follow the statute. There is no deterrence, and the requirement of an agent's warrant will have been effectively read out of the statute entirely.

CONCLUSION

Defendant requests that the Court set an evidentiary hearing, grant his Motion, and suppress the fruits of his unlawful arrest.

Respectfully submitted on this 16th day of December, 2016.



Craig H. Durham
Attorney for Defendant

CERTIFICATE OF SERVICE

A copy of this Memorandum in Support of Defendant's Motion to Suppress has been served on the following on this 16th day of December, 2016, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	___	Hand Delivery
200 W Front Street	___	Court Box
Boise ID 83701	___	U.S. Mail
F: 208-287-7709	___	Facsimile
	<u>X</u>	E-filing



Craig H. Durham
Attorney for Defendant

ATTACHMENT A

**Ada County Sheriff's Office
Narrative Report**

RD: 45

DR# 2016-115553

1. Incident Topic AGENTS WARRANT ARRESTS & SEIZURES-RESISTING OR OBSTRUCTING OFFICERS CONTROLLED SUBSTANCE-FELONY POSSESSION OF DRUG PARAPHERNALIA-USE OR POSSESS WITH INTENT TO USE		2. Subject/Victim's Name STATE OF IDAHO,	
3. Address 633 N MILWAUKEE ST , BOISE TARGET		4. Phone	
5. Date Occurred 10/02/2016	6. Time Occured 14:18	7. Route To ADA FELONY PA	8. Division PATROL
* Has Video *			

Narrative:

On Sunday, 10/02/16, at approximately 1418 hours, ACSO North Sector Sergeant Steele received telephonic notification that Jesus George Ayala, a parolee wanted by the Idaho Department of Corrections Probation and Parole Unit for absconding, was currently at the Target store located at 933 N Milwaukee Avenue in the City of Boise. The was not currently an active warrant for Ayala's arrest, however According to the on-duty Probation and Parole Agent, if he was located, IDOC P&P stated their intention to issue an agent's warrant for his arrest pursuant to Idaho Code 20-227. Along with Sergeant Steele, ACSO Deputy T. Howell, and two members of the Boise Police Department, we went to the Target and conducted an area search for Ayala.

During the search, we located a man matching a photograph we had of Ayala sitting on the ground in front of the store. I later positively identified this man as Ayala by his valid Idaho Driver License photograph. Ayala was conversing with Deputy Howell and the two BPD officers when I walked up to their location. Ayala refused to provide us with his identification and stated he had done nothing wrong to warrant complying with our direction to identify himself.

Once Sergeant Steele received secondary confirmation that an agent's warrant was to be issued, I directed Ayala to stand and allow us to take him into custody without resistance. Ayala did not comply with my direction to turn away and put his hands behind his back and he instead stood there defiantly holding onto his belongings including his cellular phone and a gray backpack. I tried prying Ayala's belongings from his hands, but he clung onto them fiercely while verbally protesting our actions. Due to his lack of compliance, I grabbed his right wrist, manipulated his arm to have him face the wall, and I pinned him against the wall with my body to be handcuffed. Ayala struggled against our efforts to take him into custody by actively pulling his arms away making it difficult for us to handcuff him. Once he was ultimately handcuffed, I searched Ayala's person and I secured him in the rear seat of my patrol SUV. I

Admin	
Officer(s) Reporting JOHN RYNHART	Ada No. 4961
Approved Supervisor CRAIG DURRELL	Ada No 4205
	Approved Date 10/02/2016 23:37

000006

**Ada County Sheriff's Office
Narrative Report**

RD: 45

DR# 2016-115553

1. Incident Topic AGENTS WARRANT ARRESTS & SEIZURES-RESISTING OR OBSTRUCTING OFFICERS CONTROLLED SUBSTANCE-FELONY POSSESSION OF DRUG PARAPHERNALIA-USE OR POSSESS WITH INTENT TO USE		2. Subject/Victim's Name STATE OF IDAHO,	
3. Address 633 N MILWAUKEE ST , BOISE TARGET		4. Phone	
5. Date Occurred 10/02/2016	6. Time Occured 14:18	7. Route To ADA FELONY PA	8. Division PATROL
* Has Video *			

took Ayala's bag and began transporting him to the Ada County Jail for booking.

While driving to the jail, Ayala spontaneously stated that he had drug paraphernalia in his bag and he implored me to not charge him for the offense. When I arrived at the jail, I thoroughly searched Ayala's bag and located numerous items of interest. In a black leather wallet containing Ayala's Idaho Driver License and financial transaction cards, I found two small plastic baggies each containing a white crystalline substance that later NIK tested presumptive positive for Methamphetamine content. When I later weighed the suspected Methamphetamine, the baggies weighed 1.3 grams GVW and .5 grams GVW.

Also inside the same bag, I located an intact hypodermic syringe, a used grey metal razor blade, and multiple plastic baggies matching the ones containing the suspected Methamphetamine. Also inside the bag was a translucent drop bottle containing a clear liquid substance. I did not initially note the significance of this bottle initially because based upon its labeling it appeared to be simply electronic cigarette fluid. However, later during the booking process at the jail, Ayala told Deputy Kirtley that he forgot to bring it to anyone's attention that the liquid inside the bottle was actually "GHB." GHB is an abbreviation for Gamma-Hydroxybutyric Acid, a controlled substance.

I seized all of the drugs and its paraphernalia and I later booked it for testing into the ACSO Property Room. I completed the paperwork to have the suspected drugs tested by the ACSO Crime Lab and I disposed of the razor blade and hypodermic syringe in a biohazard container pursuant to departmental policy.

Ayala was booked for felony possession of a controlled substance (IC 37-2732), possession of drug paraphernalia (IC 37-2734), and the agent's warrant (IC 20-227).

I later uploaded my on body camera's video footage of this investigation to my Evidence.com account.

Admin	
Officer(s) Reporting JOHN RYNHART	Ada No. 4961
Approved Supervisor CRAIG DURRELL	Ada No. 4205
	Approved Date 10/02/2016 23:37

000007

ATTACHMENT B

Incident Detail Report

Data Source: **Data Warehouse**
 Incident Status: **Closed**
 Incident number: **16-0216585**
 Incident Date: **10/2/2016 13:39:35**
 Last Updated: **10/13/2016 11:32:22**

Incident Information

Incident Type:	Response 15	Alarm Level:	
Priority:	P2 - High Priority	Problem:	WS-Warrant Service
Determinant:		Agency:	Law Enforcement
Base Response#:	GPD16-0019718	Jurisdiction:	Ada County Sheriff
Confirmation#:	10022016-0190512	Division:	ACS North Ada Co SO
Taken By:	Rynhart, John H	Battalion:	ACS North Ada Co SO
Response Area:		Response Plan:	
Disposition:	AFL-Arrest Felony	Command Ch:	
Cancel Reason:		Primary TAC:	
Incident Status:	Closed	Secondary TAC:	
Certification:		Delay Reason (if any):	
Longitude:	116285985	Latitude:	43610594

Incident Location

Location Name:	TARGET	County:	ADA COUNTY
Address:	633 N MILWAUKEE ST	Location Type:	Commercial Business
Apartment:		Cross Street:	N MILWAUKEE ST/N BENJAMIN LN
Building:	B045	Map Reference:	N24
City, State, Zip:	BOISE ID 83704		

Call Receipt

Caller Name:		Call Back Phone:	
Method Received:		Caller Location:	
Caller Type:			

Time Stamps

Description	Date	Time	User	Elapsed Times Description	Time
Phone Pickup	10/2/2016	13:39:35			
1st Key Stroke	10/2/2016	13:39:35		Received to In Queue	
In Waiting Queue	10/2/2016	13:39:35		Call Taking	
Call Taking Complete	10/2/2016	13:39:35	Rynhart, John H	In Queue to 1st Assign	00:00:01
1st Unit Assigned	10/2/2016	13:39:36		Call Received to 1st Assign	00:00:01
1st Unit Enroute	10/2/2016	13:39:36		Assigned to 1st Enroute	00:17:53.3
1st Unit Arrived	10/2/2016	13:39:36		Enroute to 1st Arrived	00:00:00
Closed	10/2/2016	16:55:12	VisiNetMobileInterface	Incident Duration	03:15:37

Resources Assigned

Unit	Primary Flag	Assigned	Disposition	Enroute	Staged	Arrived	Delay At Patient Avail	Complete	Odm. Enroute	Odm. Arrived	Cancel Reason
S44	Y	13:39:36	AFL-Arrest Felony	13:57:29		13:39:36		16:55:12			
S62	N	13:43:27	AST-Assist Rendered	13:43:27				14:20:16			
740	N	13:44:36	CAN-Cancelled	13:44:36				13:51:22			
S20	N	13:48:59	AST-Assist Rendered	13:48:59				15:41:24			
1DT1	N	13:58:41	AST-Assist Rendered	13:58:41				14:17:39			

Personnel Assigned

Unit	Name
S44	Rynhart, John H (SO4961)
S62	Howell, Terisa M (SO4515)
740	Goodman, John (GP1257)
S20	Steele, Matthew A (SO4201)
1DT1	Schneider, Trent (BP907); Seavey, Ian (BP901)

Pre-Scheduled Information

No Pre-Scheduled Information

Transports

No Transports Information

Transport Legs

No Transports Information

Comments

Date	Time	User	Type	Conf.	Comments
10/2/2016	13:39:36	VisiNET	Response		[REDACTED]
					[2] S44 - Response MKE/DR STA/photo not found NAM/AYALA,JESSE D [REDACTED].SEX/M

MAY BE THE SAME AS: PAGE 01 FOR OFFICIAL INVESTIGATION PURPOSES ONLY



000075

4685 BEACON AVE ** EXP/03-08-2007.
EMMETT ID 83617. OLT/IDENTIFICATION CARD.

NOT-ELIGIBLE FOR TRAFFIC SAFETY COURSE.

SEX/M. HAI/BRO. EYE/BRO. [REDACTED]
HGT/602. WGT/175. ISS/06-12-2006. REC/230061630022. CNTY/GEM.

10/2/2016 13:44:48 SO4961 Response

[REDACTED]. AKA OLS/ID.
END OF RECORD
END OF MESSAGE...
INQ/

MRI 5403500 IN: IDMV 1646 AT 2016-10-02 13:44:29
OUT: SADACAD3 3100 AT 2016-10-02 13:44:29
[3] S44 - Response MKE/DR

[REDACTED]
CLS/
ISS/20060612
NAM/AYALA, JESSE DAVID

[REDACTED]
HGT/6 02
WGT/175
EYE/BRO
HAI/BRO
SEX/
ADR/ 4685 BEACON AVE EMMETT ID 83617
IMR/MIS:

SIG/MIS:

CDT/20060612
[REDACTED]

10/2/2016 13:45:40 SO4961 Response

MAY BE THE SAME AS: PAGE 01 FOR OFFICIAL INVESTIGATION PURPOSES ONLY
***** IDAHO IDENTIFICATION CARD ONLY - NOT A DRIVERS LICENSE *****
OLN/VA117942B. PRIVACY FLAG.

[REDACTED]

NOT-ELIGIBLE FOR TRAFFIC SAFETY COURSE.

SEX/M. HAI/BRO. EYE/BRO. [REDACTED]
HGT/602. WGT/175. ISS/06-12-2006. REC/230061630022. CNTY/GEM.

[REDACTED]. AKA OLS/ID.
END OF RECORD
END OF MESSAGE...
INQ/

10/2/2016 13:55:49 SO5605 Response

MRI 5403550 IN: IDMV 1649 AT 2016-10-02 13:45:30
OUT: SADACAD3 3102 AT 2016-10-02 13:45:30
[4] Secondary Location for S44: N MILWAUKEE ST / W EMERALD ST, N MILWAUKEE ST / W EMERALD ST,BOISE, ID 83704.

10/2/2016 13:56:01 SO5605 Response

[5] Secondary Location for S20: N MILWAUKEE ST / W EMERALD ST, N MILWAUKEE ST / W EMERALD ST,BOISE, ID 83704.

10/2/2016 13:56:10 SO5605 Response

[6] Secondary Location for S62: N MILWAUKEE ST / W EMERALD ST, N MILWAUKEE ST / W EMERALD ST,BOISE, ID 83704.

10/2/2016 13:57:29 Mobile1 Response

[7] Secondary Location for S44: 633 N MILWAUKEE ST,BOISE, ID 83704

10/2/2016 13:58:41 SO5668 Response

[8] Backed up S44 with 1DT1

10/2/2016 13:59:49 SO5605 Response

[9] Secondary Location for S20: TARGET 633 N MILWAUKEE, 633 N MILWAUKEE ST,BOISE, ID 83704.

10/2/2016 14:00:06 SO5605 Response

[10] Secondary Location for S62: TARGET 633 N MILWAUKEE, 633 N MILWAUKEE ST,BOISE, ID 83704.

10/2/2016 14:00:18 SO5605 Response

[11] Secondary Location for S44: TARGET 633 N MILWAUKEE, 633 N MILWAUKEE ST,BOISE, ID 83704.

10/2/2016 14:18:45 SO9319 Response

[12] Secondary Location for S44: JAIL 33, 7210 W BARRISTER DR,BOISE, ID 83704.

10/2/2016 14:18:45 SO9319 Response

[13] S44 1 MALE 95 W/ S20

10/2/2016 14:18:50 SO9319 Response

[14] Secondary Location for S20: JAIL 33, 7210 W BARRISTER DR,BOISE, ID 83704.

10/2/2016 14:22:17 VisiNET Response

[15] Secondary Location for S44: JAIL 33, 7210 W BARRISTER DR,BOISE, ID 83704.

10/2/2016 14:46:06 SO9319 Response

[16] Requested Case Number(s) issued for Ada County Sheriff: ACS16-115553 requested by S44.

10/2/2016 15:25:15 VisiNET Response

[17] Secondary Location for S44: JAIL 33, 7210 W BARRISTER DR,BOISE, ID 83704.

10/2/2016 15:25:32 VisiNET Response

[18] Secondary Location for S44: PROPERTY ACSO, 7200 W BARRISTER DR,BOISE, ID 83704.

10/2/2016 15:27:56 VisiNET Response

[19] Secondary Location for S44: PROPERTY ACSO, 7200 W BARRISTER DR,BOISE, ID 83704.

Address Changes

Date	Time	Location/Address	User
10/2/2016	13:39:50	/ 4019 W CHINDEN BLVD	CYL
10/2/2016	13:57:15	TARGET 633 N MILWAUKEE / 4019 W CHINDEN BLVD	ED

Priority Changes
No Priority Changes

000076

Description	Judge Bail 121916 Tara Villereal Nicole Julson	
Date	12/19/2016	Location 1A-CRT508
Time	Speaker	Note
09:34:52 AM		CR01-16-32723 St v Jesus Ayala PTC & Mo/Info Part II
09:36:19 AM		Defendant present in custody
09:36:21 AM	State Attorney	Robert Bleazard
09:36:24 AM	Personal Attorney	Craig Durham
09:38:52 AM	Personal Attorney	Filed a Motion to Suppress
09:39:21 AM	Judge	Continues the PTC & Information Part II - December 20 @ 9:30 am

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

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR01-16-32723
)	
vs.	)	INFORMATION
	)	PART II
JESUS GEORGE AYALA,)	
	)	Defendant's [REDACTED]
Defendant.	)	Defendant's [REDACTED]
_____)	

JAN M. BENNETTS, Prosecuting Attorney in and for the County of Ada, State of Idaho, who, in the name of and by the authority of said State, prosecutes in its behalf, in proper person, comes now before the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, and given the Court to understand and to be further informed that, as PART II of the Information on file herein, the Defendant, JESUS GEORGE AYALA, heretofore has been convicted of the following violations of I.C. §37-2732(a), to-wit: I. POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a Felony, in case number CR 2011-3911, a Felony, for which the conviction subjects Defendant to the enhanced penalties of I.C. §37-2739.

I

That the said Defendant, JESUS GEORGE AYALA, on or about the 5th day of February, 2014, was convicted of the crime of POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a Felony, in the County of Blaine, State of Idaho, by virtue of that certain Judgment of Conviction made and entered by Honorable Judge Jonathan Brody in case number CR 2011-3911.

WHEREFORE, the said Defendant, having been convicted previously of the violation of I.C. §37-2732(a) and should be sentenced accordingly pursuant to Idaho Code §37-2739, upon conviction of the charge(s) contained in PART I of the Information.

DATED this 12th day of December, 2016.

 /for/

JAN M. BENNETTS
Ada County Prosecuting Attorney

Description	Judge Bail 122016 Tara Villereal Nicole Julson		
Date	12/20/2016	Location	1A-CRT509
Time	Speaker	Note	
09:03:09 AM		CR01-16-32723 St v Jesus Ayala PTC & Mo/Info Part II	
09:03:33 AM	State Attorney	Robert Bleazard	
09:03:34 AM	Personal Attorney	Craig Durham	
10:08:59 AM	Judge	Calls case	
10:09:03 AM		Defendant present in custody	
10:11:36 AM	Personal Attorney	no objection to the filing of the Information Part II and waives reading	
10:14:58 AM	Judge	The Informaton Part II will be filed	
10:15:14 AM	State Attorney	Objects to the filing of the Motion to Suppress	
10:15:57 AM	Judge	Objection is sustained	
10:16:05 AM	Judge	Sets Motion to Suppress - January 9 @ 9:30 am. The State is to file their objection to the Motion to Suppress by January 4th	

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JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

THE STATE OF IDAHO,)	
	)	Case No. CR01-16-32723
Plaintiff,)	
	)	STATE’S OBJECTION
vs.	)	AND MEMORANDUM
	)	IN RESPONSE TO DEFENDANT’S
JESUS GEORGE AYALA,	)	MOTION TO SUPPRESS
)	
Defendant.)	
)	

COMES NOW, Robert M. Bleazard, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and **OBJECTS** to the Defendant’s Motion to Suppress and provides the following memorandum in response.

FACTS

On October 2, 2016, a multi-agency task force comprised of Deputy John Rynhart, Sergeant Matthew Steele, Deputy Terisa Howell, and two other members of the Boise City Police Department had information about the location of a parolee, Jesus Ayala, who had absconded from parole. The defendant’s parole officer, Kevin Wayt, informed the task force that he intended to issue an Agent’s

Warrant if the defendant was located. The task force located the defendant at a Target store on Milwaukee Avenue in Boise, Idaho.

The officers made contact with the defendant and asked him to identify himself. They initially identified him visually with the defendant's photograph. The defendant refused to cooperate with the officers. Sergeant Steel received confirmation that Officer Wayt would issue an Agent's Warrant for the defendant. The officers then placed the defendant under arrest for the Agent's Warrant. The defendant failed to comply with the request to stand down. The officers had to physically put defendant into compliance with the arrest and the defendant continued to struggle until he was handcuffed.

The defendant was then transported to the Ada County Jail. Once at the jail, Deputy Rynhart searched the defendant's belongings and located his black leather wallet which contained his Idaho Driver's License. Inside the wallet, Deputy Rynhart also found two small plastic baggies containing a substance which was later tested positive to be methamphetamine. Law enforcement found other items of drug paraphernalia in the bag. Ultimately, the officers received the Agent's Warrant from Officer Wayt and delivered Defendant to the Ada County Jail.

ARGUMENT

I. The defendant was searched subsequent to a lawful arrest, which is a recognized exception to the warrant requirement of the Fourth Amendment.

Warrantless searches by law enforcement officials are presumptively unreasonable, and therefore, violate the Fourth Amendment. In order to overcome this presumption, the burden of proof is on the State to show that the search fell within one of the well-delineated exceptions to the general warrant requirement or was otherwise reasonable under the circumstances. *California v. Acevedo*, 500 U.S. 565 (1991). Under the exclusionary rule, if the State fails to meet its burden, then the evidence obtained as a result of the search, including any derivative evidence, is inadmissible in court. *State v. Brauch*, 133 Idaho 215 (1999).

An officer may contemporaneously incident to a lawful custodial arrest search the arrestee's person and area within the arrestee's immediate control, including any open or closed containers located therein. *Chimel v. California*, 395 U.S. 752 (1969). A suspect need not be formally arrested prior to a search of his or her person as long a lawful cause for the suspect's arrest existed at the time of the search. *Rawlings v. Kentucky*, 448 U.S. 98, 111 (1980). See *State v. Smith*, 152 Idaho 115, 119

(2011) (Warrantless search of defendant's backpack that he removed from his vehicle came within search-incident-to-lawful-arrest exception to warrant requirement, even though defendant was not formally arrested until after search of backpack).

Under Idaho Code 20-227, any law enforcement officer may arrest a parolee with a written statement, known as an Agents Warrant, from the parole officer that the parolee has violated the conditions of his parole. An agent's warrant "*delivered with the parolee . . . by the arresting officer to the official in charge of . . . the county jail or other place of detention, shall be sufficient warrant for the detention of the . . . parolee.*" Idaho Code 20-227(2) (emphasis added).

In this case, the defendant was placed under arrest after being affirmatively identified by law enforcement officers tasked with locating and apprehending the defendant. The officers had information directly from the defendant's parole officer that the defendant had absconded from parole and was wanted on an agent's warrant, which the parole officer intended to complete upon the location of the defendant. Once the defendant was located and his identity was confirmed, the parole officer completed the agent's warrant form and delivered it to the deputy. Deputy Rynhart then delivered the defendant, per Idaho Code 20-227, to the county jail along with the agent's warrant. The arrest of the defendant was effectuated in accordance with Idaho Code 20-227. The arrest was therefore a lawful arrest giving rise to the lawful search of the defendant's belongings incident to defendant's arrest.

CONCLUSION

The Defendant's motion to suppress should be DENIED.

RESPECTFULLY SUBMITTED this 4th day of January, 2017.

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Robert M. Bleazard
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 4th day of January, 2017, I caused to be served, a true and correct copy of the foregoing Objection and Memorandum in Response to Defendant's Motion to Suppress upon the individual(s) named below in the manner noted:

Craig Durham, Ferguson Durham, PLLC, 223 N. 6th Street, Ste. 325, Boise, ID 83712

- By depositing copies of the same in the United States mail, postage prepaid, first class.*
- By Hand Delivering said document to defense counsel.*
- By depositing copies of the same in the Interdepartmental Mail.*
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- By emailing copies of the same to said attorney(s) at the email address:
chd@fergusondurham.com*
- By iCourt eFile and Serve*



Legal Assistant

Description	Judge Bail 010917 Tara Villereal Nicole Julson		
Date	1/9/2017	Location	1A-CRT504
Time	Speaker	Note	
09:54:08 AM		CR01-16-32723 St v Jesus Ayala Mo/Suppress	
09:54:17 AM		Defendant present in custody	
09:54:19 AM	State Attorney	Robert Bleazard	
09:54:20 AM	Personal Attorney	Craig Durham	
09:55:45 AM	Judge	would like counsel to consider stipulating to certain facts	
09:59:34 AM	State Attorney	Calls Matthew Steele, sworn, direct examination	
10:04:47 AM	Personal Attorney	Cross-examination of the witness - Matthew Steele	
10:07:28 AM	Personal Attorney	Exhibit A previously marked is identified	
10:10:22 AM	Personal Attorney	Moves to admit Exhibit A	
10:10:26 AM	State Attorney	No objection	
10:10:26 AM	Judge	Exhibit A is admitted	
10:10:31 AM	State Attorney	Re-direct examination of the witness - Matthew Steele	
10:12:00 AM	Judge	excuses the witness	
10:12:22 AM		counsel stipulate to Deputy Rinehart's testimony	
10:12:52 AM	Personal Attorney	Argues Motion to Suppress	
10:16:28 AM	State Attorney	Argues in opposition to Motion to Suppress	
10:19:25 AM	Personal Attorney	Responds	
10:20:30 AM	Judge	Denies the Motion to Suppress	
10:26:08 AM		Court recesses	

10:51:44 AM		Court resumes
10:51:50 AM	Personal Attorney	Defendant will plead guilty to Count I & II. Open argument, no Information Part II, Defendant can appeal the denial of the Motion to Suppress
10:53:38 AM		Defendant is sworn and examined regarding the plea
10:58:11 AM	State Attorney	comments
10:58:14 AM	Judge	Accepts the defendant's plea of guilty and will have the Clerk enter it
10:58:15 AM	Judge	Orders a PSI and sets this matter for Sentencing - March 13 @ 3:00 pm

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

Guilty Plea Advisory Form for use in Judge Bail's Court

Defendant's Name: JESUS GEORGE AYALA

Date: 1-9-, 2017.

Case Number: CR 01-16-32723

Sentence range on charges for which a guilty plea is being entered:

<u>0</u>	Minimum & Maximum Possible Penalty:	<u>7 years</u>	<u>CT I</u>
	Minimum & Maximum Possible Penalty:	7 years	<u>CT II</u>
	Minimum & Maximum Possible Penalty:	<u>7 years</u>	
	Minimum & Maximum Possible Penalty:		

STATEMENT OF RIGHTS & EXPLANATION OF WAIVERS BY PLEA OF GUILTY

PLEASE INITIAL EACH RESPONSE

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elected to have a trial, the state could not call you as a witness or ask you any questions. However, anything you do say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent about the charge I am pleading guilty to both before and after trial. JA

2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case unless you are waiving your rights under *Estrada v. State*. Unless you waive your rights under *Estrada*, even after pleading guilty, you will still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). You can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty. If you do waive your rights under *Estrada*, you do not have the right to refuse to answer any question or provide any information that might tend to show you committed some other crime(s). JA

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence unless I waive my rights under *Estrada*, in which case, I understand that I must talk freely and openly with the presentence investigator and with any evaluators regardless of whether it may tend to incriminate me in some other crime(s). JA

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

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

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

5. You have the right to a speedy and public jury trial. A jury trial is a proceeding to determine whether you are guilty of the charge(s) brought against you. You are presumed to be innocent of having committed any crime until and unless the State proves you are guilty beyond a reasonable doubt. In a jury trial, all evidence is submitted to members of this community who serve as jurors. You and your attorney will have a role in choosing the people who sit on your jury. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense if you want to although the decision to testify is entirely up to you. No one can force you to testify at your trial. The State must convince each and every one of the jurors of your guilt beyond a reasonable doubt.

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

6. You have the right to confront the witnesses against you. This means that the witnesses who testify against you in your jury trial will be placed under oath and will testify in your presence and be subject to questioning by your attorney. You also have the right to call witnesses of your choosing to testify on your behalf. You have the right to compel the attendance of witnesses who will testify for you and, if you cannot afford to bring those witnesses to court, they will be paid for at public expense.

I understand that by pleading guilty I am waiving my right to confront and cross examine the witnesses against me, and to present witnesses and evidence in my defense. JA

QUESTIONS REGARDING PLEA

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

1. Do you read and write the English language? ~~YES~~ NO
If not, have you been provided with an interpreter to help you fill out this form? YES ~~NO~~

2. What is your age? 29

3. What is your true legal name? Jesus George Ayala

4. How far did you go in school? Some College
If you did not complete high school, have you received either a general education diploma or high school equivalency diploma? YES NO

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

6. Have you ever been diagnosed with a mental health disorder? YES ~~NO~~
If so, what was the diagnosis and when was it made?

7. Are you currently prescribed any medication? YES ~~NO~~
If so, have you taken your prescription medication during the past 24 hours? YES NO

8. In the last 24 hours, have you taken any medications or drugs, or drank any alcoholic beverages which you believe affect your ability to make a reasoned and informed decision in this case? YES ~~NO~~

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

10. Is your guilty plea the result of a plea agreement? ~~YES~~ NO
If so, what are the terms of that plea agreement?

Dismissal of InL Part II
retain appeal rights suppression ruling

11. I understand that my plea agreement is a non-binding plea agreement. This means that the judge is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, up to the maximum sentence for any offense. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. JD

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

If so, do you understand that your sentences for each crime could be ordered to be served either concurrently(at the same time) or consecutively(one after the other)? YES NO

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

If so, what issue are you reserving the right to appeal? Suppression ruling

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

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

If so, what are those promises? _____

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

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

18. Is there anything you have requested your attorney to do that has not been done? YES NO

If yes, please explain. _____

19. Your attorney can get various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called discovery. Have you reviewed the evidence provided to your attorney during discovery? YES NO

20. Have you told your attorney about any witnesses who would show your innocence? YES NO

21. Do you understand that by pleading guilty you will waive any defenses, both factual and legal, that you believe you may have in this case? YES NO

22. Are there any motions or other requests for relief that you believe should still be filed in this case? YES NO
If so, what motions or requests?

23. Do you understand that if you enter an unconditional guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including: 1) any searches or seizures that occurred in your case, 2) any issues concerning the method or manner of your arrest, and 3) any issues about any statements you may have made to law enforcement? YES NO *Conditional*

24. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty? YES NO

25. Are you currently on probation or parole? YES NO
If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole? YES NO

26. Are you aware that if you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship? YES NO

27. Are you required by the crime to which you will plead guilty to register as a sex offender? (I.C. § 18-8304) YES NO

28. Are you aware that if you plead guilty you may be required to pay restitution to the victims in this case? (I.C. §19-5304) YES NO

29. Have you agreed to pay restitution to any other party as a condition of your plea agreement? YES NO
If so, to whom? _____

30. Is there a mandatory driver's license suspension as a result of a guilty plea in this case? YES NO

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

31. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse, or psychosexual evaluation is required?

(I.C. §§ 18- 918(7)(a),-8005(9),-8317) YES NO

32. Are you pleading guilty to a crime for which you may be required to pay the costs of prosecution and investigation? (I.C. § 37-2732A(K)) YES NO

33. Are you pleading guilty to a crime for which you will be required to submit a DNA sample to the state? (I.C. § 19-5506) YES NO

34. Are you pleading guilty to a crime for which the court could impose a fine for a crime of violence of up to \$5,000, payable to the victim of the crime?

(I.C. § 19-5307) YES NO

35. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to vote in Idaho?

(ID. CONST. art. 6, §3) YES NO

36. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to hold public office in Idaho?

(ID.CONST. art. 6, § 3) YES NO

37. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform jury service in Idaho?

(ID.CONST. art. 6, § 3) YES NO

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

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

40. Are you entering your plea freely and voluntarily? YES NO

41. Are you pleading guilty because you did commit the acts alleged in the information or indictment? YES NO

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

43. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue with your attorney? YES NO

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

Dated: JAN 9th, 2017.



DEFENDANT

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



DEFENDANT'S ATTORNEY

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

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

State of Idaho
Plaintiff,
vs.
JESUS GEORGE AYALA
Defendant.

Case No. CR01-16-32723
Order to Transport from
Department of Correction
Event Code: OTRAN

The Defendant is in the custody of the Idaho Board of Corrections, and it is necessary that Defendant be brought before this Court on:

<u>Hearing Type</u>	<u>Date</u>	@	<u>Time</u>
Sentencing	03/13/2017		03:00 PM

The Ada County Sheriff shall bring the Defendant from the penitentiary to the court at said time and on said date;

Immediately following the court appearance the Sheriff will return the Defendant to the custody of the Idaho State Penitentiary;

The Idaho State Penitentiary shall release the Defendant for the purpose of the court hearing.

The Clerk of this Court shall serve a copy hereof upon the Idaho State Penitentiary forthwith and certify to the same.

IT IS SO ORDERED.

Dated: January 31, 2017



Deborah A. Bail
Judge

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,
Plaintiff,

v.

JESUS GEORGE AYALA,
Defendant.

Case No. CR01-16-32723

**DEFENDANT'S
SENTENCING
MEMORANDUM**

Jesus "Jesse" Ayala appears before the Court for sentencing after pleading guilty to possession of a controlled substance, a felony, Idaho Code § 37-2732c, and to misdemeanor possession of drug paraphernalia, Idaho Code § 37-2734A. In exchange for Mr. Ayala's guilty plea, the State has agreed not to pursue an Information Part II and to consent to Mr. Ayala appealing the denial of his motion to suppress. Sentencing is scheduled for Monday, March 13, 2017, at 3:00 p.m.

STANDARD OF LAW

The fundamental requirement of any sentence is that it be reasonable. *State v. Charboneau*, 124 Idaho 497, 499, 861 P.2d 67, 69 (1993). Reasonableness is measured by analyzing four criteria: 1) the protection of society, 2) the deterrence of crime both generally and specifically, 3) the possibility of rehabilitation, and 4) punishment or retribution for wrongdoing. *State v. Wolf*, 99 Idaho 382, 384, 582 P.2d 728, 730 (1978). A sentence of confinement longer than necessary to achieve these purposes is unreasonable. *State v. Broadhead*, 120 Idaho 141, 145, 814 P.2d 401, 405 (1991) (quoting *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1983)).

DISCUSSION

Twenty-nine-year-old Jesse Ayala has had to overcome some unique hardships growing up in a rural community in Idaho, due at least in part to his sexual orientation. (Exhibits A-1, A-2, A-3.) He did not always fit in and wasn't always accepted. (*See Id.*) In his teenage years, he began using drugs, and he has struggled with substance abuse off-and-on since that time. (PSI, pp. 11-12.) Regardless, he had, and continues to have, the strong support of a network of family and friends, who describe him as "warm," a "go getter," "intelligent," and "generous," with the potential to make a positive impact on society if he can stay

clean. (Exhibits A-1, A-2, A-3.) He comes from a good family, with hardworking and stable parents. (*Id.*)

Mr. Ayala's criminal history reflects his struggle with drug addiction, with one prior felony conviction for possession of a controlled substance and misdemeanors primarily related to drug use, which ultimately resulted in imposition of a prison sentence. Mr. Ayala was a member of a vulnerable group in prison, and he was sexually assaulted before his release on parole. (PSI, p. 5.) After that trauma, his request to live with his parents was denied. (*Id.*) Yet, despite that setback, initially he was headed in the right direction, employed in Blaine County at a jewelry store and a coffee shop, and he completed an aftercare program.¹

After running into a series of misfortunes in the summer of 2016, however, Mr. Ayala fell off the wagon and used methamphetamine. (PSI, p. 5.) He was sent to live in a motel in Twin Falls, where he was victimized again by predatory former inmates and eventually taken against his will to Boise. (*Id.*; see Exhibit C.) It was there that he was arrested and found with a small quantity of methamphetamine and drug paraphernalia, leading to the charges in this case.

¹ Mr. Ayala's parole officer has apparently informed the presentence investigator that Mr. Ayala was removed from group treatment for being disruptive, implying that he didn't complete the program. (PSI, p. 8.) This implication is at odds with the Certificate of Completion that he received, attached as Exhibit B to this Memorandum.

As Mr. Ayala has expressed to the Court (PSI, p. 5), the nature of these offenses has all of the hallmarks of a quick descent into a relapse. He asks the Court for an opportunity to prove that he can get back on track, and there are many reasons for optimism. He has pled guilty and has accepted responsibility for his offenses. He is remorseful for his conduct. He knows he needs to address his substance abuse issues and is also open to mental health treatment. While he is still young enough to change, he is also getting to an age where recidivism decreases. He is now in a long-term relationship with a boyfriend, who provides him love, support, and stability. (Exhibit A-2.)

The Court may not get this fuller picture of Mr. Ayala's background and characteristics from a review of the PSI. For instance, there is no doubt that his parole officer clashed with him, and the officer has provided some negative comments about Mr. Ayala's character and has given his opinion about Mr. Ayala's ability to be supervised. (PSI, p. 8.) Respectfully, those comments lack context and are at odds with undersigned counsel's experience, with some of the known facts, and with the letters from friends and family provided to the Court.²

² Further, while all of the allegations of parole violations are attached to the PSI, it is not noted that on February 1 a hearing officer found Jesse in violation only as to allegations No. 1 (substance use) and No. 4 (leaving district without written permission). The hearing officer did not find a preponderance of the evidence supported the other allegations. A final revocation hearing in front of the Commission on the two violations has not yet occurred.

In short, Mr. Ayala is not a violent career criminal, and he has many good qualities from which he can build a positive and law-abiding life. There is momentum in this country toward the common-sense notion that locking up lower-level drug offenders for lengthy prison sentences uses precious resources, fails to address the societal problems that lead to this type of criminality, and causes further economic and social dislocation to the incarcerated, their families, and to the community. That would be true here.

For these reasons, Mr. Ayala asks the Court to sentence him in a manner that shows leniency and gives him a chance to demonstrate his capacity to change. If the Court is considering incarceration, then he suggests that a reasonable disposition would be a unified sentence with a relatively short determinate term, of no more than six months to a year, and an order running his sentences concurrent with any parole revocation sentence. That would give him an opportunity to begin programming immediately in the IDOC, prepare a solid release plan, and prove to the Parole Commission, at its discretion, that he deserves another opportunity for release in the near future.

Respectfully submitted on this 8th day of March, 2017.



Craig H. Durham
Attorney for Defendant

CERTIFICATE OF SERVICE

A copy of this Memorandum has been served on the following on this 8th day of March, 2017, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	___	Hand Delivery
200 W Front Street	___	Court Box
Boise ID 83701	___	U.S. Mail
F: 208-287-7709	___	Facsimile
	<u>X</u>	E-filing
	<u>X</u>	Email



Craig H. Durham
Attorney for Defendant

Judge,

My name is Kassie Exon, age 26. I am sending this letter in regards to my brother Jesus George Ayala. The purpose of this letter is to help him during this tough time and to give insight on the person he is when he is not abusing illegal drugs. For the remainder of this letter I will be referring to Jesus as "Jesse". Jesse is full of life, a go getter, and highly intelligent individual with endless opportunities. Jesse has had to overcome hardships that the average person would unlikely encounter. My brother, Jesse, was born to my parents Jesus and Dana Ayala, who were not always accepting of his sexuality. To Them and most people with certain beliefs consider homosexuality a sin. Jesse, had internal struggles with accepting who he was and dealing with the disapproval of my family, community, and friends. During this time food became is comfort that led to weight problems and more self-discomfort. So, Jesse turned to the use of methamphetamine to make all his pain go away. Jesse has been dealing with his addiction since he was a teenager. When Jesse is not using methamphetamine, he is kind and motivated. In all the years that I have known Jesse he has always had to fight for a place in this world, in a world that wasn't ready to accept and love him. Jesse has dreams of being a realtor, high end diamond store owner, and much more, all of which are achievable if he is given the opportunity to strive. Jesse does not benefit from incarceration, he needs rehabilitation. His past should prove that locking him away does not eliminate the problem. Addiction is something he will deal with for the rest of his life, but he needs the right tools and support to help him. My family and I have all tried and will continue in helping him to the best of our ability. I even wanted him to move out to California near me to get a fresh start, go to school, and get to know his niece and nephew. Which was almost a possibility until his P.O. revoked the offer. I know Jesse can do well and become a person who contributes to society in a positive way.

Sincerely, Kassie Exon

letter to judge

DA Dana Ayala
Yesterday, 9:21 PM
Craig Durham

Reply |

| Action Items

Your Honor

1/08/17

My name is Dana Ayala. I am mother to Jesus George Ayala (aka Jesse). you may not see who Jesse is but to me he is my Son. The love I have for him is unconditional. I believe, I know Jesse better than he knows himself. As a child Jesse was a joy to be around kind hearted & thoughtful. sure throughout the years we have had our ups and downs. but what parent and child doesn't. when Jesse is not high he is so amazing and funny too. It seems he has it together. He has struggled with his sexual preference with his peers, but I believe mostly I think as to not disappoint us. But through all that, we have excepted him for who he is. I don't believe my son to be a criminal.

I believe he has a drug addiction.

I wish they had something in Idaho like in other states to treat the addiction and not send them to prison. I don't believe prison to be the answer. To be in a place with murders & rapist, people that do real harm to others can not be good lesson to learn, when clearly it is just the drug that they want and not to hurt anyone but themselves. anyways Your Honor I would just like you to know that I am here for moral support of my son (Jesse) to let him know he is not alone in this world & I am here to help morally & financially. please Your Honor, I don't know if you are a mother, but if you have to sentence my son please make his time short let us seek avenues to get him help from this drug disease. Because if he was ill and could die we would search for a Doctor to help him. this is what Jesse is... ill. not a criminal. take into consideration of how he arrived here in Boise before being arrested what he went through. what he has already gone through with his time served in prison. I could not keep my heart in the right place if those things happened to me. Yet he seems to just shrug those off in hopes of starting a new life. He is now 29 years old, please give him a chance to prove he can do better in his 30's than he did in 20's.

Thank you for reading my letter Your Honor
Sincerely Dana M Ayala

David L. Lyman

1587 N. Ellington Way
Eagle, ID 83616
(208) 602-2063
david.lyman1@hotmail.com

January 7, 2017

The Honorable Judge Deborah Ann Bail
Ada County Courthouse
Chambers Room 5150
200 W. Front Street
Boise, ID 83702

Your Honor,

I provide the following reference with full knowledge of the charges against Mr. Jesus George Ayala, the circumstances surrounding said charges, as well as his past conviction preceding the time of my relationship with him.

My name is David Lyman and I am the fiancé of Jesse Ayala and have been in a relationship with him for the past five months out of the seven months that I have known him. In this seemingly short span of time, I have had the privilege of cultivating a relationship with the most amazing, dynamic, and loving man I could've ever imagined meeting; a man I wish to start the rest of my life with as soon as possible. Jesse matches my love and devotion to him in equal measure, an indomitable love he shares with his family and all who care for him. The love he embodies often manifests into a deep empathy and generosity towards people in general, particularly for those who are struggling and are less fortunate than him. His penchant for helping fellow inmates, whether financial or otherwise, as well as his plans to open and operate an LGBT-oriented halfway house in Boise that is focused on lasting rehabilitation and stability are a testament to this.

The communion Jesse holds with the disadvantaged derives in part from his own battles with substance abuse, the toxic people and environment it creates, and the trauma that originally led him down that path. For as long as I've known him, he's shown an incomparable drive to work his way toward a permanently drug-free life, as evidenced by his completion of his drug programs three months early. This motivation and industriousness is not limited to his quest for sobriety, but appears in all areas of his life and work.

Despite the difficult circumstances of his recent transgression, Jesse has taken a great amount of the responsibility for it – particularly for his own actions that it involved. For this, he has been consumed with an intense regret but also a reaffirmed initiative to sever himself from the world of substance abuse entirely and to help others do the same. I cannot pretend that this incident is completely out of character for Jesse as it is not the first time this has happened, but what I do know is that it will be the last. I intend on going with him and supporting him in his drug programs and doing whatever I can to help him get back on track to lasting sobriety. I myself am drug-free and have no record and Jesse and I intend on living together upon his release. What he needs is rehabilitation and the proximity of his loved ones who completely support him every step of the way. What Jesse wants and can achieve with this support and the qualities he possesses is a sober and prosperous life that we will build together. Thank you for all that you do for our community.

With All Due Respect,

David L. Lyman

CERTIFICATE OF COMPLETION

Positive Connections Plus, LLC
141 Citation Way, #5 & 6
Hailey, Idaho 83333
(w) 208-788-0146 and (f) 208-788-1210

THIS CERTIFICATE IS AWARDED TO

Jessie Ayala

IN RECOGNITION OF

14 sessions of Level 1 Outpatient treatment (DBT) Group

9/1/16

DATE

Kim Hays, UMSW

SIGNATURE

Treatment Supervisor

TITLE



000104

EXHIBIT B

EXHIBIT C
TEXT MESSAGES



I need to get Away to my luggage

And bounce



Please

Uh oh how the hell did this happen

How is someone going to get you if you can't get away from them

Pleae



Cal Mandy agian





Jesse G Ayala



OCT 1 AT 6:17 PM

I'm with a client. You ok?



0:22

They fuckiny N



Took me because I let some one walk. With their money

I heard that. Where did they take you?



And now I have to get all theb340 paid

Who is it

By tonight or I am done



Guys from

Aa



GIF



Write a message...

000107



Description	Judge Bail 031317 Tara Villereal Nicole Julson	
Date	3/13/2017	Location 1A-CRT508
Time	Speaker	Note
04:54:20 PM		CR01-16-32723 St v Jesus Ayala Sentencing
04:54:21 PM		Defendant present in custody
04:54:21 PM	State Attorney	Robert Bleazard
04:54:21 PM	Personal Attorney	Craig Dunham
04:56:32 PM	State Attorney	Recommends 3 + 7
05:05:27 PM	Personal Attorney	Recommends 1 + 2, suspended
05:08:42 PM	Defendant	Makes a statement
05:10:31 PM	Judge	Imposes Sentence of 1 + 6 on Count I
05:15:44 PM		The Court recommends substance abuse treatment while incarcerated
05:16:33 PM		Court costs
05:16:37 PM		Count II - 30 days ACJ w/cts, concurrent - no court costs
05:17:20 PM		Advises the defendant he/she has 42 days to appeal

Produced by FTR Gold™
www.fortherecord.com

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

Signed: 3/17/2017 04:51 PM

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

THE STATE OF IDAHO,

Plaintiff,

vs.

JESUS GEORGE AYALA,

Defendant.



Case No. CR01-16-32723

JUDGMENT OF CONVICTION
AND ORDER OF COMMITMENT

The Defendant, JESUS GEORGE AYALA, personally appeared with his attorney, Craig H. Durham, for sentencing in this matter on the 13th day of March, 2017, before the Honorable Deborah A. Bail, District Judge. Robert Bleazard, Deputy Prosecuting Attorney for Ada County, appeared for the State of Idaho.

The Defendant was previously arraigned and advised of his rights and all charges against him. The Defendant has been convicted upon a plea of guilty to the offenses of COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c); and COUNT II: POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A of the Information.

JUDGMENT IS ENTERED

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



COUNT I: For a minimum fixed and determinate period of confinement of one (1) year; with the fixed minimum period followed by an indeterminate period of custody of up to six (6) years, for a total term not to exceed seven (7) years.

On Count I, you shall remit court costs of seventeen and 50/100 dollars (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of fifteen dollars (\$15.00); Court Technology Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee of three dollars (\$3.00); Victim's Compensation Fund in the amount of seventy-five dollars (\$75.00); Drug Hotline Fee, pursuant to I.C. §37-2735A, in the amount of ten dollars (\$10.00); Miscellaneous Program Fee of thirty dollars (\$30.00); and Emergency Surcharge Fee of one hundred dollars (\$100.00).

COUNT II: (Misdemeanor): You shall serve thirty (30) days in the Ada County Jail, to run concurrent with Count I. Pursuant to Idaho Code §18-309, the Defendant shall be given credit for the time already served in this case in the amount of one hundred sixty-three (163) days. The Court specifically orders no court costs on Count II.

The Court specifically recommends that the Defendant participate in substance abuse treatment while incarcerated.

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



RIGHT TO APPEAL/LEAVE TO APPEAL IN FORMA PAUPERIS

The Court advised you of the right to appeal this judgment within forty-two (42) days of the date it is file stamped by the Clerk of the Court. If you are unable to pay the costs of the appeal, including the costs of an attorney, you may apply for leave to appeal *in forma pauperis*, which means that an attorney will be appointed for you at public expense to handle your appeal, and you will not have to pay a filing fee or any court costs, including the costs of a transcript.

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

Done in open Court this 13th day of March, 2017.



DEBORAH A. BAIL
District Judge



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 17th day of March, 2017, I emailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA — EMAIL

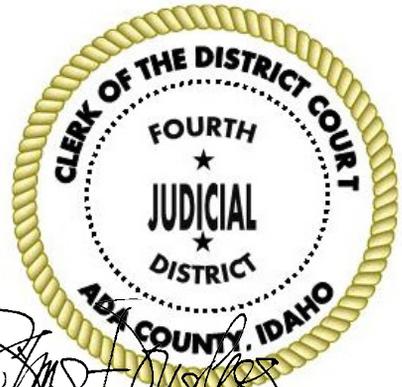
CRAIG H. DURHAM
ATTORNEY FOR DEFENDANT
VIA — EMAIL
chd@fergusondurham.com

ADA COUNTY JAIL
VIA — EMAIL

DEPARTMENT OF CORRECTION
CENTRAL RECORDS
VIA — EMAIL

PROBATION & PAROLE / PSI DEPARTMENT
VIA — EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court



By: 
Deputy Court Clerk

Signed: 3/17/2017 04:52 PM



APR 21 2017

CHRISTOPHER D. RICH, Clerk
By BRENDA RUCKDASHEL
DEPUTY

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff-
Respondent,

v.

JESUS GEORGE AYALA,

Defendant-
Appellant.

Case No. CR01-16-32723

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT:

1. Jesus George Ayala appeals against the respondent State of Idaho to the Idaho Supreme Court from the Judgment of Conviction and Order of Commitment, entered in this action on the 17th day of March, 2017, Honorable Judge Deborah A. Bail, presiding. A copy of the Judgment is attached to this notice.



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

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

(a) The District Court erred in denying Defendant's Motion to Suppress;

(b) The District Court imposed an excessive sentence.

4. To Mr. Ayala's knowledge, no order was entered sealing all or any portion of the record.

5. Mr. Ayala requests that a transcript be prepared of the following:

(a) January 9, 2017, hearing on Defendant's Motion to Suppress;

(b) January 9, 2017, hearing on Defendant's Change of Plea;

(c) March 13, 2017, sentencing hearing.

Taken by Nicole Julson, court reporter for the Hon. Deborah A. Bail.

6. Mr. Ayala requests the following documents to be included in the

clerk's record, in addition to those automatically included under Rule 28, I.A.R.

- (a) Defendant's Motion to Suppress, filed December 16, 2017;
- (b) The State's Objection and Memorandum in Response to Motion to Suppress, filed January 5, 2017;
- (c) Guilty Plea Advisory, filed January 9, 2017;
- (e) Defendant's Sentencing Memorandum, filed March 8, 2017.

7. Mr. Ayala requests that exhibits, if any, introduced at the hearing at the January 9, 2017 hearing on Defendant's Motion to Suppress be copied and sent to the Supreme Court as part of the record.

8. I certify:

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

Nicole Julson
Ada County Courthouse
Chambers Room 5150
200 W. Front Street
Boise, ID 83702

(b) That Mr. Ayala is an indigent person and is exempt from paying the estimated transcript fee because he is unable to afford the transcript fee and qualifies for a waiver.

(c) That Mr. Ayala is exempt from paying the estimated fee for the preparation of the record, if any, because he is an indigent person who is unable to pay the estimated fee and qualifies for a waiver.

(d) There is no filing fee in this case as an appeal in a criminal case under I.A.R. 23(a)(8). In any event, Mr. Ayala is exempt from paying a filing fee because he is an indigent person who is unable to pay the fee and qualifies for a waiver.

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

DATED THIS 21st day of April, 2017.



Craig H. Durham
Attorney for Defendant Jesus Ayala

CERTIFICATE OF SERVICE

A copy of this NOTICE OF APPEAL has been served on the following on
this 21st day of April, 2017, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	<input checked="" type="checkbox"/>	Hand Delivery
200 W Front Street	<input type="checkbox"/>	Court Box
Boise ID 83701	<input type="checkbox"/>	U.S. Mail
F: 208-287-7709	<input type="checkbox"/>	Facsimile

Deposited in the US Mail, postage prepaid, addressed to:

Attorney General of Idaho
P.O. Box 83720
Boise, Idaho 83720-0010

Clerk of the Supreme Court
PO Box 83720
Boise, Idaho 83720-0101

Nicole Julson
Ada County Courthouse
Chambers Room 5150
200 W. Front Street
Boise, ID 83702

//

//

//

Mr. Jesus Ayala
#102900
PO Box 14
Boise, ID 83707



Craig H. Durham
Attorney for Defendant

FILED By: *Christopher D. Rich* Deputy Clerk
Fourth Judicial District, Ada County
CHRISTOPHER D. RICH, Clerk
Signed: 3/17/2017 04:51 PM

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

THE STATE OF IDAHO,

Plaintiff,

vs.

JESUS GEORGE AYALA,

Defendant.

Case No. CR01-16-32723

JUDGMENT OF CONVICTION
AND ORDER OF COMMITMENT



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The Court specifically recommends that the Defendant participate in substance abuse treatment while incarcerated.

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



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

Done in open Court this 13th day of March, 2017.



DEBORAH A. BAIL
District Judge



CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 17th day of March, 2017, I emailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA — EMAIL

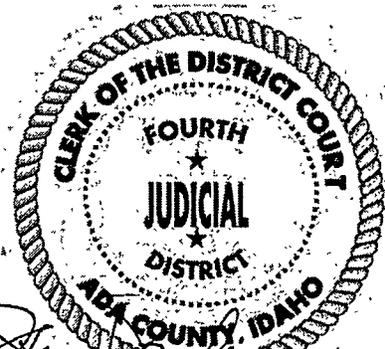
CRAIG H. DURHAM
ATTORNEY FOR DEFENDANT
VIA — EMAIL
chd@fergusondurham.com

ADA COUNTY JAIL
VIA — EMAIL

DEPARTMENT OF CORRECTION
CENTRAL RECORDS
VIA — EMAIL

PROBATION & PAROLE / PSI DEPARTMENT
VIA — EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court



By: 
Deputy Court Clerk

Signed: 3/17/2017 04:52 PM



APR 25 2017

CHRISTOPHER D. RICH, Clerk
By TARA VILLEREAL
DEPUTY

JAN M. BENNETTS
Ada County Prosecuting Attorney

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

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 JESUS GEORGE AYALA,)
)
 Defendant.)
 _____)

Case No. CR01-16-32723

**ORDER FOR RESTITUTION AND
JUDGMENT**

WHEREAS, on ~~the~~ March 13, 2017, a Judgment of Conviction was entered against the defendant, JESUS GEORGE AYALA, and therefore pursuant to Idaho Code §37-2732(k) the defendant, JESUS GEORGE AYALA, shall make restitution to the law enforcement agency(ies) in the amount of \$100.00, as follows:

RESTITUTION – LAW ENFORCEMENT AGENCIES

ADA COUNTY SHERIFFS OFFICE	\$100.00
TOTAL:	\$100.00

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

IT IS SO ORDERED.

DATED April 19, 2017

Deborah A. B...
Judge

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff-
Respondent,

v.

JESUS GEORGE AYALA,

Defendant-
Appellant.

Case No. CR01-16-32723

**MOTION TO APPOINT THE
STATE APPELLATE PUBLIC
DEFENDER**

COMES NOW the Defendant, Jesus George Ayala, by and through
counsel, and moves this Court for an order appointing the State Appellate Public
Defender to represent him on appeal from the Court's Judgment of Conviction
and Order of Commitment, entered March 17, 2017.

This motion is made pursuant to I.C. § 19-852(b), § 19-854, § 19-870(a). Mr.
Ayala is presently serving a sentence in a correctional institution, and he is an

indigent person who unable to afford counsel on his own, as shown by his
Affidavit provided herewith.

DATED THIS 25th day of April, 2017.

A handwritten signature in black ink, appearing to read "Craig H. Durham". The signature is fluid and cursive, with a large initial "C" and "H".

Craig H. Durham
Attorney for Defendant Jesus Ayala

CERTIFICATE OF SERVICE

A copy of this MOTION TO APPOINT THE STATE APPELLATE PUBLIC DEFENDER has been served on the following on this 25th day of April, 2017, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	___	Hand Delivery
200 W Front Street	___	Court Box
Boise ID 83701	___	U.S. Mail
F: 208-287-7709	___	Facsimile
	<u>X</u>	E-filing

Deposited in the US Mail, postage prepaid, addressed to:

Mr. Jesus Ayala
#102900
PO Box 14
Boise, ID 83707



Craig H. Durham
Attorney for Defendant

ATTACHMENT A

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff-
Respondent,

v.

JESUS GEORGE AYALA,

Defendant-
Appellant.

Case No. CR01-16-32723

**AFFIDAVIT IN SUPORT OF
IN FORMA PAUPERIS
STATUS**

COMES NOW the Defendant, Jesus George Ayala, who declares under penalty of perjury pursuant to Idaho Code § 9-1406 that the following facts are true and correct:

1. I understand that a material false statement under oath is perjury.
2. I am over the age of 18 and competent to testify.
3. My statement is based on my personal knowledge.

4. I am the Defendant in this matter.

5. I have now appealed from the Court's Judgment of Conviction and Order of Commitment, entered on March 17, 2017.

6. I had retained counsel in the District Court. His fee was paid by my family rather than me.

7. I am unable to pay the court costs, fees, or to hire counsel to represent me on appeal.

8. I have been in custody for almost seven months. I am currently incarcerated at the Idaho State Correctional Institution serving prison sentences.

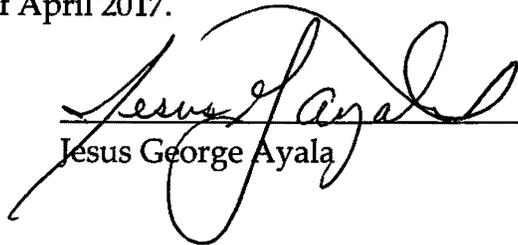
9. I have no job or other source of income.

10. I do not own a home or any other assets or accounts of significant value.

11. I rely solely on my family for modest support from time-to-time to purchase commissary items in prison.

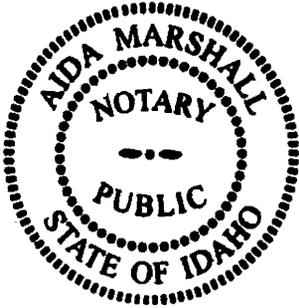
12. My prison trust account averages approximately ^{\$/} 50 per month.

EXECUTED this 20th day of April 2017.


Jesus George Ayala

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED and SWORN to before me this 20th day of April, 2017.



Aida Marshall
Notary Public For Idaho Dept of Correction
Residing at Boise, Idaho

My commission expires:

06/14/2017
(month)(day)(year)

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff-
Respondent,

v.

JESUS GEORGE AYALA,

Defendant-
Appellant.

Case No. CR01-16-32723

**MOTION TO WITHDRAW AS
COUNSEL**

COMES NOW Craig H. Durham, counsel for Defendant Jesus Ayala in this district court criminal matter, and moves the Court to enter an order allowing him to withdraw as counsel. In support, counsel states that the district court matter is completed and the scope of his representation does not extend to appeal. Mr. Ayala is an indigent person who is entitled to the appointment of counsel on appeal.

DATED THIS 25th day of April, 2017.

A handwritten signature in black ink, appearing to read "Craig H. Durham". The signature is fluid and cursive, with the first name "Craig" being more prominent.

Craig H. Durham
Attorney for Defendant Jesus Ayala

CERTIFICATE OF SERVICE

A copy of this MOTION TO WITHDRAW has been served on the following on this 25th day of April, 2017, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	___	Hand Delivery
200 W Front Street	___	Court Box
Boise ID 83701	___	U.S. Mail
F: 208-287-7709	___	Facsimile
	<u>X</u>	E-filing

Deposited in the US Mail, postage prepaid, addressed to:

Mr. Jesus Ayala
#102900
PO Box 14
Boise, ID 83707



Craig H. Durham
Attorney for Defendant

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff-
Respondent,

v.

JESUS GEORGE AYALA,

Defendant-
Appellant.

Case No. CR01-16-32723

**MOTION TO WAIVE
APPELLATE FEES AND
COSTS**

COMES NOW the Defendant, Jesus George Ayala, by and through
counsel, and moves this Court for an order waiving fees and costs on appeal, if
any, including fees and costs associated with preparation of transcripts or the
Clerk's Record.

This motion is made pursuant to I.C. § 19-852(b), § 19-854, § 19-870(a).

There is no filing fee for a direct criminal appeal, but there may be costs

associated with the preparation of the Clerk's Record and any transcripts. Mr. Ayala is presently incarcerated, has no current job or other source of income, and has no other assets. *See* Attachment A. As a person who is serving a prison sentence in a state institution, he is presumed to be indigent under I.C. § 19-854(2)(c).

DATED THIS 25th day of April, 2017.

A handwritten signature in black ink, appearing to read "Craig H. Durham". The signature is fluid and cursive, with a large initial "C" and "D".

Craig H. Durham
Attorney for Defendant Jesus Ayala

CERTIFICATE OF SERVICE

A copy of this MOTION TO WAIVE FEES AND COSTS has been served on the following on this 25th day of April, 2017, in the manner indicated below:

ADA COUNTY PROSECUTING ATTORNEY	___	Hand Delivery
200 W Front Street	___	Court Box
Boise ID 83701	___	U.S. Mail
F: 208-287-7709	___	Facsimile
	<u>X</u>	E-filing

Deposited in the US Mail, postage prepaid, addressed to:

Mr. Jesus Ayala
#102900
PO Box 14
Boise, ID 83707



Craig H. Durham
Attorney for Defendant

ATTACHMENT A

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff-
Respondent,

v.

JESUS GEORGE AYALA,

Defendant-
Appellant.

Case No. CR01-16-32723

**AFFIDAVIT IN SUPORT OF
IN FORMA PAUPERIS
STATUS**

COMES NOW the Defendant, Jesus George Ayala, who declares under penalty of perjury pursuant to Idaho Code § 9-1406 that the following facts are true and correct:

1. I understand that a material false statement under oath is perjury.
2. I am over the age of 18 and competent to testify.
3. My statement is based on my personal knowledge.

4. I am the Defendant in this matter.

5. I have now appealed from the Court's Judgment of Conviction and Order of Commitment, entered on March 17, 2017.

6. I had retained counsel in the District Court. His fee was paid by my family rather than me.

7. I am unable to pay the court costs, fees, or to hire counsel to represent me on appeal.

8. I have been in custody for almost seven months. I am currently incarcerated at the Idaho State Correctional Institution serving prison sentences.

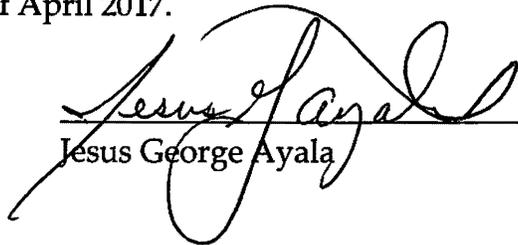
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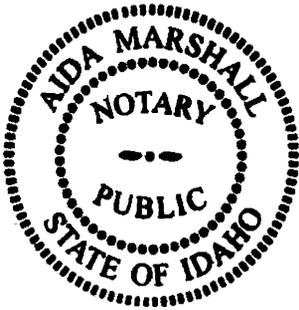
12. My prison trust account averages approximately ^{\$/} 50 per month.

EXECUTED this 20th day of April 2017.


Jesus George Ayala

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED and SWORN to before me this 20th day of April, 2017.



Aida Marshall
Notary Public For Idaho Dept of Correction
Residing at Boise, Idaho

My commission expires:

06/14/2017
(month)(day)(year)

APR 28 2017

CHRISTOPHER D. RICH, Clerk
By TARA VILLEREAL
DEPUTY

Craig H. Durham
ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
Telephone: (208)-345-5183
Facsimile: (208)-906-8663
Email: chd@fergusondurham.com
Attorney for Defendant

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

STATE OF IDAHO,

Plaintiff-
Respondent,

v.

JESUS GEORGE AYALA,

Defendant-
Appellant.

Case No. CR01-16-32723

ORDER APPOINTING STATE
APPELLATE PUBLIC
DEFENDER

GOOD CAUSE appearing, it is hereby ordered that the Idaho State
Appellate Public Defender is appointed to represent Defendant Jesus George
Ayala on appeal from the Judgment of Conviction and Order of Commitment.

DATED THIS 28th day of April, 2017.



Hon. Deborah A. Bail

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

ERIK R. LEHTINEN
Chief, Appellate Unit
I.S.B. #6247
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985

NO. _____
A.M. _____ FILED P.M. 3:19

MAY 19 2017
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

ORIGINAL

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

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	CASE NO. CR01-16-32723
)	
v.	)	S.C. DOCKET NO. 45048
)	
JESUS GEORGE AYALA,	)	AMENDED
	)	NOTICE OF APPEAL
Defendant-Appellant.)	

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

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction and Order of Commitment entered in the above-entitled action on the 17th day of March, 2017, the Honorable Deborah A. Bail, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-9).

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

(a) The district court erred in denying Defendant's Motion to Suppress.

(b) The district court imposed an excessive sentence.

4. ~~To Mr. Ayala's knowledge, no order was entered sealing all or any portion of the record.~~ There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. ~~Mr. Ayala requests that a transcript be prepared of the following:~~ **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(d). The appellant also requests the preparation of the additional portions of the reporter's transcript:

(a) Motion to Suppress Evidence Hearing held on December 20, 2016 (Court Reporter: Nicole Julson, no estimation of pages is listed on the Register of Actions);

(b) Motion to Suppress / Change of Plea Hearing held on January 9, 2017 (Court Reporter: Nicole Julson, no estimation of pages is listed on the Register of Actions); and

(c) Sentencing Hearing held on March 13, 2017 (Court Reporter: Nicole Julson, no estimation of pages is listed on the Register of Actions).

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

- (a) Defendant's Motion to Suppress filed December 16, ~~2017~~ 2016;
- (b) Defendant's Memorandum in Support of Motion to Suppress filed December 16, 2016;
- (c) State's Objection and Memorandum in Response to Defendant's Motion to Suppress filed January 5, 2017;
- (d) Exhibit List/Log filed January 9, 2017;
- (e) Guilty Plea Advisory filed January 9, 2017;
- (f) Defendant's Sentencing Memorandum filed March 8, 2017;
- (g) Any affidavits, objections, responses, briefs or memorandums, filed or lodged, by the state, appellant or the court in support of or in opposition to the Motion to Suppress;
- (h) Mr. Ayala request that exhibits, if any, introduced at the hearing ~~at the~~ held on January 9, 2017 ~~hearing~~ on the Defendant's Motion to Suppress be copied and sent to the Supreme Court as part of the record; and
- (i) Any exhibits, including but not limited to the PSI, letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing. Except that any pictures or depictions of child pornography necessary to the appeal need not be sent, but may be sought later by motion to the Idaho Supreme Court.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the Court Reporter, Nicole Julson;

(b) ~~That Mr. Ayala is exempt from paying the estimated fee for the preparation of the record, if any, because he is an indigent person who is unable to pay the estimated fee and qualifies for a waiver.~~ That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (I.C. §§ 31-3220, 31-3220A, I.A.R. 27(f));

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

(d) ~~That Mr. Ayala is an indigent person and is exempt from paying the estimated transcript fee because his is unable to afford the transcript fee and qualifies for a waiver.~~ That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, (I.C. §§ 31-3220, 31-3220A, I.A.R. 24(h)); and

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

DATED this 18th day of May, 2017.



ERIK R. LEHTINEN
Chief, Appellate Unit

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 19th day of May, 2017, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

CRAIG H DURHAM
FERGUSON DURHAM PLLC
223 N 6TH STREET STE 325
BOISE ID 83702

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

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

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



MARY ANN LARA
Administrative Assistant

ERL/mal

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JESUS GEORGE AYALA,

Defendant-Appellant.

Supreme Court Case No. 45048

CERTIFICATE OF EXHIBITS

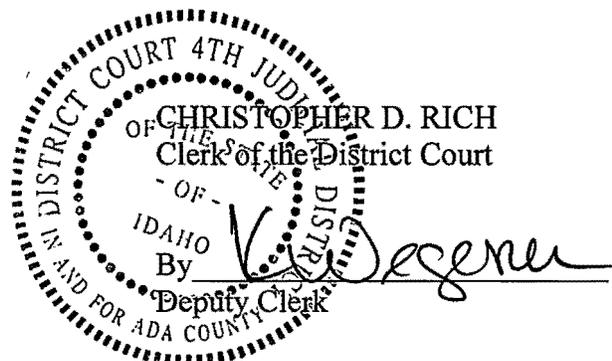
I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

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

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

1. Presentence Investigation Report.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 14th day of August, 2017.



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

HONORABLE DEBORAH A. BAIL

January 9, 2017

Court Clerk: Tara Villereal
Court Reporter: Nicole Julson

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
JESUS AYALA,)
)
Defendant.)
)

Case No. CR01-16-32723

**EXHIBIT LIST
Motion to Suppress**

Counsel for Plaintiff: Robert Bleazard

Counsel for Defendant: Craig Durham

DEFENDANT'S EXHIBITS

Status

Date

		<u>Status</u>	<u>Date</u>
A.	Copy of Agent's Warrant	Admitted	01/09/2017

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

STATE OF IDAHO,

Plaintiff-Respondent,
vs.
JESUS GEORGE AYALA,

Defendant-Appellant.

Supreme Court Case No. 45048

CERTIFICATE OF SERVICE

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

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

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

STATE APPELLATE PUBLIC DEFENDER
ATTORNEY FOR APPELLANT
BOISE, IDAHO

LAWRENCE G. WASDEN
ATTORNEY FOR RESPONDENT
BOISE, IDAHO

Date of Service: AUG 14 2017

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

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JESUS GEORGE AYALA,

Defendant-Appellant.

Supreme Court Case No. 45048

CERTIFICATE TO RECORD

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

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 21st day of April, 2017.

