

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,
Plaintiff-Respondent,
vs.
JEREMY YORK CUNNINGHAM,
Defendant-Appellant.

Supreme Court Case No. 45253

LIMITED CLERK'S RECORD ON APPEAL

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

HONORABLE LYNN G. NORTON

STATE APPELLATE PUBLIC DEFENDER
ATTORNEY FOR APPELLANT
BOISE, IDAHO

LAWRENCE G. WASDEN
ATTORNEY FOR RESPONDENT
BOISE, IDAHO

In the Supreme Court of the State of Idaho

STATE OF IDAHO,)

Plaintiff-Respondent,)

v.)

JEREMY YORK CUNNINGHAM,)

Defendant-Appellant.)

ORDER AUGMENTING APPEAL

Supreme Court Docket No. 45253-2017

Ada County No. CRFE-2014-5157

A Clerk's Record, Reporters' Transcripts and Exhibits were filed with this Court in prior appeal No. 42585, *State v. Cunningham*, Ada County No. CRFE-2014-5157. Therefore,

IT HEREBY IS ORDERED that this Record on Appeal shall be AUGMENTED to include the Clerk's Record, Reporters' Transcripts and Exhibits filed in prior appeal No. 42585, *State v. Cunningham*, Ada County No. CRFE-2014-5157.

IT FURTHER IS ORDERED that the District Court Clerk shall prepare and file a CLERK'S RECORD with this Court, which shall contain the documents requested in this Notice of Appeal together with a copy of this Order, but shall not duplicate any document included in the Clerk's Record filed in prior appeal No. 42585. Further, the designated Court Reporter shall prepare the transcript requested in this Notice of Appeal and the CLERK'S RECORD AND REPORTER'S TRANSCRIPT shall be filed with this Court by October 5, 2017.

DATED this 1st day of August, 2017.

For the Supreme Court

Kimber Grove

Kimber Grove, Senior Deputy Clerk for
Karel A. Lehrman, Clerk

cc: Counsel of Record
District Court Clerk
Court Reporter
District Judge Lynn G. Norton

ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

State of Idaho
vs.
Jeremy York Cunningham

§
§
§
§
§
§
§

Location: Ada County District Court
Judicial Officer: Norton, Lynn G.
Filed on: 04/14/2014
Appear by: 04/14/2014
Case Number History:
Police Reference Number: 14-407425
-463055487

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:
Jurisdiction: Boise City Police Department				
1. Controlled Substance-Possession of	I37-2732(c)(1)	FEL	04/11/2014	Criminal
	{F}			
TCN: 1110190910				
2. Drug Paraphernalia-Use or Possess With Intent to Use	I37-2734A(1)	MIS	04/11/2014	
TCN: 1110190910				

Statistical Closures
09/25/2014 Closed

DATE	CASE ASSIGNMENT
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Current Case Assignment	
Case Number	CR-FE-2014-5157
Court	Ada County District Court
Date Assigned	05/27/2014
Judicial Officer	Norton, Lynn G.

PARTY INFORMATION

State	State of Idaho	<i>Lead Attorneys</i> Faulkner, Whitney Anne 208-287-7700(W)
Defendant	Cunningham, Jeremy York	Marx, Brian Christopher <i>Public Defender</i> 208-287-7400(W)
Victim	ACPO DRUG PROSECUTION RESTITUTION DRUG ENFORCEMENT DONATION ACCOUNT	

DATE	EVENTS & ORDERS OF THE COURT	INDEX
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04/14/2014	New Case Filed - Felony Party: Defendant Cunningham, Jeremy York <i>New Case Filed - Felony</i>	
04/14/2014	Prosecutor Assigned Party: Defendant Cunningham, Jeremy York <i>Prosecutor assigned Ada County Prosecutor</i>	
04/14/2014	Criminal Complaint Party: Defendant Cunningham, Jeremy York <i>Criminal Complaint</i>	
04/14/2014	Hearing Scheduled Party: Defendant Cunningham, Jeremy York <i>Hearing Scheduled (Video Arraignment 04/14/2014 01:30 PM)</i>	

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

04/14/2014 Arraignment
Party: Defendant Cunningham, Jeremy York
Hearing result for Video Arraignment scheduled on 04/14/2014 01:30 PM: Arraignment / First Appearance

04/14/2014 Order Appointing Public Defender
Party: Defendant Cunningham, Jeremy York
Order Appointing Public Defender Ada County Public Defender [on the record in open court]

04/14/2014 Change Assigned Judge: Administrative
Party: Defendant Cunningham, Jeremy York
Judge Change: Administrative

04/14/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Preliminary 04/28/2014 08:30 AM)

04/14/2014 Bond Set
Party: Defendant Cunningham, Jeremy York
BOND SET: at 10000.00 - (137-2732(c)(1) {F} Controlled Substance-Possession of)

04/14/2014 Order Appointing Public Defender
Party: Defendant Cunningham, Jeremy York
Order Appointing Public Defender [file stamped 04/15/2014]

04/14/2014 **Video Arraignment (1:30 PM)** (Judicial Officer: Oths, Michael J.)

04/16/2014 Motion for Bond Reduction
Party: Defendant Cunningham, Jeremy York
Motion For Bond Reduction

04/16/2014 Notice of Hearing
Party: Defendant Cunningham, Jeremy York
Notice Of Hearing

04/16/2014 Request for Discovery
Party: Defendant Cunningham, Jeremy York
Defendant's Request for Discovery

04/21/2014 Preliminary Hearing Response to Request for Discovery
Party: Defendant Cunningham, Jeremy York
Preliminary Hearing Response to Request for Discovery and Objections

04/21/2014 Request for Discovery
Party: Defendant Cunningham, Jeremy York
State/City Request for Discovery

04/28/2014 Continued
Party: Defendant Cunningham, Jeremy York
Continued (Preliminary 05/02/2014 09:30 AM)

04/28/2014 Motion for Bond Reduction
Party: Defendant Cunningham, Jeremy York
Motion For Bond Reduction Denied

04/28/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
Magistrate Minutes & Notice of Hearing

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

05/02/2014 Continued
Party: Defendant Cunningham, Jeremy York
Continued (Preliminary 05/15/2014 08:30 AM)

05/02/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
Magistrate Minutes & Notice of Hearing

05/15/2014 Bound Over (after Prelim)
Party: Defendant Cunningham, Jeremy York
Hearing result for Preliminary scheduled on 05/15/2014 08:30 AM: Bound Over (after Prelim)

05/15/2014 Change Assigned Judge: Bind Over
Party: Defendant Cunningham, Jeremy York
Change Assigned Judge: Bind Over

05/15/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Arraignment 05/27/2014 09:00 AM)

05/15/2014 Amended Complaint Filed
Party: Defendant Cunningham, Jeremy York
Amended Complaint Filed

05/15/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
Magistrate Minutes & Notice of Hearing

05/15/2014 Order for Commitment
Party: Defendant Cunningham, Jeremy York
Commitment

05/15/2014 **Preliminary Hearing (8:30 AM)** (Judicial Officer: Steckel, Daniel L.)

05/20/2014 Information Filed
Party: Defendant Cunningham, Jeremy York
Information

05/21/2014 Prosecutor Assigned
Party: Defendant Cunningham, Jeremy York
Prosecutor assigned R. Scott Bandy

05/22/2014 Motion
Party: Defendant Cunningham, Jeremy York
Motion for Preliminary Hearing Transcript

05/23/2014 Motion for Disqualification of Judge
Party: Defendant Cunningham, Jeremy York
Motion to Disqualify

05/27/2014 Disqualification of Judge - Without Cause
Party: Defendant Cunningham, Jeremy York
Disqualification of Judge - Without Cause/Order Granting Disqualification Without Cause

05/27/2014 Change Assigned Judge: Disqualification without Cause
Party: Defendant Cunningham, Jeremy York
Change Assigned Judge: Disqualification W/O Cause

05/27/2014 DC Arraignment: Court Reporter: # of Pages:

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

Party: Defendant Cunningham, Jeremy York
Hearing result for Arraignment scheduled on 05/27/2014 09:00 AM: District Court Arraignment- Court Reporter: Sue Wolf
Number of Pages: Less than 100 pages

05/27/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Entry of Plea 06/05/2014 09:00 AM)

05/27/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
Notice of Reassignment

05/27/2014 **Arraignment (9:00 AM)** (Judicial Officer: Neville, Thomas F.)

06/02/2014 Prosecutor Assigned
Party: Defendant Cunningham, Jeremy York
Prosecutor assigned James E Vogt

06/04/2014 Order
Party: Defendant Cunningham, Jeremy York
Order for Preliminary Hearing Transcript

06/05/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
Hearing result for Entry of Plea scheduled on 06/05/2014 09:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

06/05/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Entry of Plea 06/12/2014 09:00 AM)

06/05/2014 **Entry of Plea (9:00 AM)** (Judicial Officer: Norton, Lynn G.)

06/10/2014 Notice of Preparation of Transcript
Party: Defendant Cunningham, Jeremy York
Notice of Preparation of Preliminary Hearing Transcript

06/12/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
Hearing result for Entry of Plea scheduled on 06/12/2014 09:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

06/12/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Status Conference 07/24/2014 09:00 AM)

06/12/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Pretrial Conference 08/28/2014 09:00 AM)

06/12/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Jury Trial 09/09/2014 08:30 AM) 2 days

06/12/2014 A Plea is entered for Charge: *
Party: Defendant Cunningham, Jeremy York
A Plea is entered for charge: - NG (137-2732(c)(1) {F} Controlled Substance-Possession of)

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

06/12/2014 A Plea is entered for Charge:*
Party: Defendant Cunningham, Jeremy York
A Plea is entered for charge: - NG (137-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)

06/12/2014 Notice of Jury Trial & Scheduling Order
Party: Defendant Cunningham, Jeremy York
Notice Of Jury Trial And Scheduling Order

06/12/2014 **Entry of Plea** (9:00 AM) (Judicial Officer: Norton, Lynn G.)

06/12/2014 **Plea**
1. Controlled Substance-Possession of
Not Guilty
TCN: 1110190910 :

06/12/2014 **Plea**
2. Drug Paraphernalia-Use or Possess With Intent to Use
Not Guilty
TCN: 1110190910 :

06/25/2014 Transcript Filed
Party: Defendant Cunningham, Jeremy York
Transcript Filed
[file stamped 06/23/2014]

07/02/2014 Response to Request for Discovery
Party: Defendant Cunningham, Jeremy York
State/City Response to Discovery

07/24/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
Hearing result for Status Conference scheduled on 07/24/2014 09:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: less than 100

07/24/2014 **Status Conference** (9:00 AM) (Judicial Officer: Norton, Lynn G.)

07/31/2014 Prosecutor Assigned
Party: Defendant Cunningham, Jeremy York
Prosecutor assigned Barbara Duggan

08/18/2014 Response to Request for Discovery
Party: Defendant Cunningham, Jeremy York
State/City Response to Discovery / Addendum

08/21/2014 Continued
Party: Defendant Cunningham, Jeremy York
Continued (Pretrial Conference 08/28/2014 11:00 AM)

08/28/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
Hearing result for Pretrial Conference scheduled on 08/28/2014 11:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

08/28/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
State's Witness List

08/28/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
State's Exhibit List

08/28/2014 Order
Party: Defendant Cunningham, Jeremy York
Final PreTrial Order

08/28/2014 **Pre-trial Conference (11:00 AM)** (Judicial Officer: Norton, Lynn G.)

09/05/2014 Notice
Party: Defendant Cunningham, Jeremy York
Notice Of Intent to Impeach Pursuant to IRE 609

09/09/2014 Jury Trial Started
Party: Defendant Cunningham, Jeremy York
Hearing result for Jury Trial scheduled on 09/09/2014 08:30 AM: Jury Trial Started 2 days

09/09/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: More than 200

09/09/2014 **Jury Trial (8:30 AM)** (Judicial Officer: Norton, Lynn G.)
2 days Hearing result for Jury Trial scheduled on 09/09/2014 08:30 AM: Jury Trial Started

09/10/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: 50

09/10/2014 Found Guilty after Trial
Party: Defendant Cunningham, Jeremy York
Found Guilty After Trial (Count 1)

09/10/2014 Acquitted (after Trial)
Party: Defendant Cunningham, Jeremy York
Acquitted (after Trial) (137-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)

09/10/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Status Conference 09/11/2014 10:00 AM)

09/10/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
Jury Instructions

09/10/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
Verdict

09/10/2014 Pretrial Release Order
Party: Defendant Cunningham, Jeremy York
Amended Pre Trial Release Order

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

09/10/2014 **Disposition**
2. Drug Paraphernalia-Use or Possess With Intent to Use
Acquittal
TCN: 1110190910 :

09/11/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
Hearing result for Status Conference scheduled on 09/11/2014 10:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

09/11/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Sentencing 09/25/2014 10:00 AM)

09/11/2014 **Status Conference (10:00 AM)** (Judicial Officer: Norton, Lynn G.)

09/25/2014 Interest Ordered on Restitution
Int Start Dt: 10/23/2014

09/25/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
Hearing result for Sentencing scheduled on 09/25/2014 10:00 AM: District Court Hearing Held
Court Reporter: Penny Tardiff
Number of Transcript Pages for this hearing estimated: Less than 100

09/25/2014 Hearing Scheduled
Party: Defendant Cunningham, Jeremy York
Hearing Scheduled (Hearing Scheduled 10/23/2014 11:00 AM) Restitution Hearing

09/25/2014 Finding of Guilty
Party: Defendant Cunningham, Jeremy York
Finding of Guilty (137-2732(c)(1) {F} Controlled Substance-Possession of)

09/25/2014 Sentenced to Jail or Detention
Party: Defendant Cunningham, Jeremy York
Sentenced to Jail or Detention (137-2732(c)(1) {F} Controlled Substance-Possession of)
Confinement terms: Penitentiary determinate: 1 year 6 months. Penitentiary indeterminate: 3 years 6 months.

09/25/2014 Status Changed
Party: Defendant Cunningham, Jeremy York
STATUS CHANGED: closed pending clerk action

09/25/2014 Sentenced to Pay Fine
Party: Defendant Cunningham, Jeremy York
Sentenced To Pay Fine 2030.50 charge: 137-2732(c)(1) {F} Controlled Substance-Possession of

09/25/2014 **Sentencing (10:00 AM)** (Judicial Officer: Norton, Lynn G.)

09/25/2014 **Disposition**
1. Controlled Substance-Possession of
Guilty
TCN: 1110190910 :

09/25/2014 **Sentence (Judicial Officer: Norton, Lynn G.)**
1. Controlled Substance-Possession of

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

Felony Sentence
Confinement
Type:
Facility: Idaho Department of Correction
Effective Date: 09/25/2014
Determinante: 1 Year, 6 Months
Indeterminate: 3 Years, 6 Months
Comment: Ct recommends any therapeutic or rehabilitative programming that is available at the Dept of Corrections.

09/29/2014 Judgment of Conviction & Order of Commitment
Party: Defendant Cunningham, Jeremy York
Judgment & Commitment

09/29/2014 Miscellaneous
Party: Defendant Cunningham, Jeremy York
Order to Transport

10/03/2014 Notice of Appeal
Party: Defendant Cunningham, Jeremy York
NOTICE OF APPEAL

10/03/2014 Appeal Filed in Supreme Court
Party: Defendant Cunningham, Jeremy York
Appealed To The Supreme Court

10/07/2014 Order
Party: Defendant Cunningham, Jeremy York
Order Appointing State Appellate Public Defender on Direct Appeal

10/23/2014 DC Hearing Held: Court Reporter: # of Pages:
Party: Defendant Cunningham, Jeremy York
Hearing result for Hearing Scheduled scheduled on 10/23/2014 11:00 AM: District Court Hearing Held
Court Reporter: Tiffany Fisher
Number of Transcript Pages for this hearing estimated: Less than 100 Restitution Hearing

10/23/2014 Restitution Recommended by the Prosecutor's Office
Party: Defendant Cunningham, Jeremy York
Restitution Recommended by the Prosecutor's office. 100.00 victim # 2

10/23/2014 Restitution Recommended by the Prosecutor's Office
Party: Defendant Cunningham, Jeremy York
Restitution Recommended by the Prosecutor's office. 2240.00 victim # 1

10/23/2014 **Hearing Scheduled (11:00 AM)** (Judicial Officer: Norton, Lynn G.)
Restitution Hearing Hearing result for Hearing Scheduled scheduled on 10/23/2014 11:00 AM: District Court Hearing Held
Court Reporter: Tiffany Fisher
Number of Transcript Pages for this hearing estimated: Less than 100 Restitution Hearing

10/24/2014 Order
Party: Defendant Cunningham, Jeremy York
Order for Restitution and Judgment
[file stamped 10/23/2014]









10/27/2014 Amended Judgment
Party: Defendant Cunningham, Jeremy York
Amended Judgment & Commitment

10/28/2014 Notice of Appeal
Party: Defendant Cunningham, Jeremy York

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

Amended NOTICE OF APPEAL

12/08/2014	Notice of Appeal Party: Defendant Cunningham, Jeremy York <i>Second Amended NOTICE OF APPEAL</i>
01/08/2015	Notice Party: Defendant Cunningham, Jeremy York <i>(2) Notice of Transcript Lodged - Supreme Court No. 42585</i>
01/20/2015	Motion for Reconsideration Party: Defendant Cunningham, Jeremy York <i>Motion for Reconsideration of Sentence</i>
01/20/2015	Brief Filed Party: Defendant Cunningham, Jeremy York <i>Brief in Support of Defendant's Motion for Reconsideration of Sentence</i>
02/10/2015	Order Party: Defendant Cunningham, Jeremy York <i>Order Denying Motion for Reconsideration of Sentence</i>
03/02/2016	Decision or Opinion Party: Defendant Cunningham, Jeremy York <i>Opinion Filed - Vacated - Supreme Court No. 42585</i>
03/24/2016	Remittitur Party: Defendant Cunningham, Jeremy York <i>Remittitur - Vacated - Supreme Court No. 42585</i>
02/28/2017	 Decision or Opinion <i>- Opinion - District Court Award of Restitution Vacated and Remanded - Supreme Court No. 44176</i>
03/24/2017	 Notice of Hearing
03/27/2017	 Remittitur <i>- Supreme Court No. 44176</i>
05/11/2017	Scheduling Conference (11:00 AM) (Judicial Officer: Norton, Lynn G.)
05/11/2017	 Court Minutes
07/07/2017	Restitution Hearing (10:00 AM) (Judicial Officer: Norton, Lynn G.)
07/07/2017	 Court Minutes
07/07/2017	 Order <i>- Second Amended Judgment & Commitment</i>
07/07/2017	 Exhibit List/Log
07/07/2017	 Notice of Appeal
07/07/2017	Appeal Filed in Supreme Court

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ADA COUNTY DISTRICT COURT
CASE SUMMARY
CASE NO. CR-FE-2014-5157

07/10/2017	 Order of Restitution and Judgment
07/10/2017	Interest Ordered on Restitution Int Start Dt: 10/23/2014
08/01/2017	 Order Appointing State Appellate Public Defender <i>on Direct Appeal</i>
09/06/2017	 Notice <i>of Transcript Lodged - Supreme Court No. 45253</i>

DATE **FINANCIAL INFORMATION**

Defendant Cunningham, Jeremy York	
Total Charges	3,046.80
Total Payments and Credits	42.00
Balance Due as of 9/6/2017	3,004.80

1004

JAN 20 2015

CHRISTOPHER D. RICH, Clerk
By MEG KEENAN
DEPUTY

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

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 JEREMY YORK CUNNINGHAM,)
)
 Defendant.)
 _____)

Criminal No. CR-FE-2014-5157

MOTION FOR RECONSIDERATION
OF SENTENCE

COMES NOW, the above-named Defendant, JEREMY YORK CUNNINGHAM, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby moves this Honorable Court, pursuant to Idaho Criminal Rule 35, for a reduction of its sentence imposed September 25, 2014.

DATED, this 20th day of January 2015.



BRIAN MARX
Attorney for Defendant

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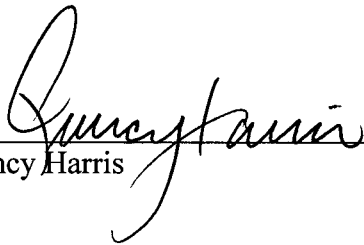
CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 26 day of January 2015, I mailed a true and correct copy of the foregoing to:

Barbara Duggan/Whitney Faulkner, Ada County Prosecutor's Office

by:

- Interdepartmental Mail
- Hand Delivery
- U.S. Mail, Postage Prepaid
- Fax



Quincy Harris

JAN 20 2015

CHRISTOPHER D. RICH, Clerk
By MEG KEENAN
DEPUTY

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

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

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 JEREMY YORK CUNNINGHAM,)
)
 Defendant.)
 _____)

Case No. CR-FE-2014-5157

BRIEF IN SUPPORT OF
DEFENDANT'S MOTION FOR
RECONSIDERATION OF SENTENCE

I. PROCEDURAL HISTORY

Mr. Cunningham was convicted after a jury trial. At the sentence hearing held in this matter this Court imposed a sentence of one and one half years fixed followed by three and one half years fixed for a total term not to exceed five years.

II. ARGUMENT

A) Criteria For Motion For Reconsideration Of Sentence.

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

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motion is directed at the sound discretion of the sentencing court. State v. Roach, 112 Idaho 173 (Ct.App. 1986). Traditionally, motions pursuant to ICR 35 are used to present new evidence that was not available at the time of sentencing.

B) Sentence Reduction In The Interest Of Justice.

The objective of sentencing against which the reasonableness of a sentence is measured is the protection of society, deterrence of crime, rehabilitation of the offender, and retribution. Achieving these objectives may still be accomplished by reducing the sentence in this case. A reduction in sentence will not hinder the treatment and supervision this Court feels is necessary for Mr. Cunningham.

III. CONCLUSION

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

DATED, this 2nd day of January 2015.



Brian Marx
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 20 day of January 2015, I mailed a true and correct copy of the foregoing to:

Barbara Duggan/Whitney Faulkner, Ada County Prosecutor's Office

by:

- Interdepartmental Mail
- Hand Delivery
- U.S. Mail, Postage Prepaid
- Fax



Quincy Harris

FEB 10 2015

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

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

7	STATE OF IDAHO,)	Case No. CR-FE-2014-5157
8)	
9	Plaintiff,)	
9	vs.)	ORDER DENYING MOTION FOR
10)	RECONSIDERATION OF SENTENCE
11	JEREMY YORK CUNNINGHAM,)	
12)	
12	Defendant.)	
13	_____)	

Pursuant to Idaho Criminal Rule 35, Defendant Jeremy York Cunningham, through counsel, filed a motion on January 20, 2015 to reduce his sentence. Motions under Rule 35 may be considered and determined by the court without oral argument or admission of additional testimony. I.C.R. 35(b). No response was filed by the State within fourteen days. This motion does not require additional testimony or oral argument, so the motion is fully submitted to the court for determination.

PROCEDURAL HISTORY

Pursuant to a jury verdict, Mr. Cunningham was found guilty of Possessing a Controlled Substance, a felony under Idaho Code § 37-2732(c). Sentence was imposed by a Judgment and Commitment entered September 29, 2014. Defendant was sentenced to one and one-half years fixed followed by three and one-half years indeterminate. Defendant was also ordered to pay a fine of \$1,000.00, plus fees, costs, and restitution. The maximum term of incarceration for this offense was up to seven years in prison. The maximum fine available was \$15,000.00.

The Defendant's motion for reconsideration is for leniency.

Jh


ANALYSIS

1 Idaho Criminal Rule 35(b) allows a court to reduce sentence in its discretion. *State v.*
2 *Williams*, 135 Idaho 618, 21 P.3d 940 (Ct. App. 2001). The determination to grant or deny the
3 relief requested by Defendant is a matter committed to the Court's discretion. I.C.R. 35; *see*
4 *State v. Gardner*, 127 Idaho 156, 164, 989 P.2d 615, 623 (Ct. App. 1995). *State v. Hedgecock*,
5 147 Idaho 580, 586, 212 P.3d 1010, 1016 (Ct. App. 2009). The Court in *Hedgecock* held, "If a
6 sentence is found to be reasonable at the time of pronouncement, the defendant must then show
7 that it is excessive in view of the additional information presented with the motion for
8 reduction." *Id.* The Idaho Court of Appeals has held that a sentence imposed by a court is not to
9 be deemed excessive if within the statutory maximum required by law. *State v. Tisdale*, 107 481,
690 P.2d 936, 939 (Ct. App. 1984).

10 The Court has reviewed Defendant's memorandum and argument for a reduction of the
11 sentence. The Court has engaged in the analysis set forth in *State v. Toohil*, 103 Idaho 565, 650
12 P.2d 707 (Ct. App. 1982). In *Toohil*, our Supreme Court articulated four objectives of
13 criminal punishment: (1) protection of society, (2) deterrence of the individual and the public
14 generally, (3) possibility of rehabilitation, and (4) punishment or retribution for wrongdoing.
15 Moreover, it is clear, as a matter of policy in Idaho, that the primary consideration is "the good
16 order and protection of society." This sentence was within the maximum punishment available
17 and was reasonable at the time given.

18 The court considered the Defendant's criminal history, which included a prior felony
19 conviction for Burglary, with a previous probation violation, with the court retaining jurisdiction
20 for rehabilitative treatment, and then the Defendant committed this crime while still on
21 supervised felony probation. In spite of the rehabilitative efforts, Defendant continued to possess
22 methamphetamine which puts the community at risk. Given the Defendant's previous criminal
23 conduct, opportunities for rehabilitation, and commission of new crimes while on probation, the
24 court has balanced the *Toohil* considerations for rehabilitation of the defendant while protecting
25 society. The court does not find reconsideration of the sentence is in the best interests of justice
26 or adequate to protect the public. Therefore, the Defendant's motion is DENIED.

DATED this 9th day of February, 2015.



Lynn G. Norton, District Judge

CERTIFICATE OF MAILING

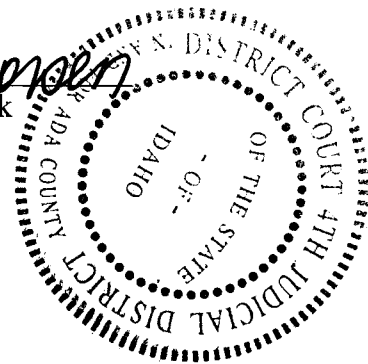
I hereby certify that on this 10th day of February, 2015, I mailed (served) a true and correct copy of the within instrument to:

Ada County Prosecutor's Office
Interdepartmental Mail

Ada County Public Defender's Office
Interdepartmental Mail

CHRISTOPHER RICH
Clerk of the District Court

By: *Lanine Hansen*
Deputy Court Clerk



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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

STATE OF IDAHO

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

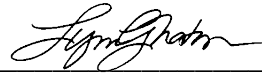
CASE NO. CR-FE-2014-5157

NOTICE OF HEARING

The Idaho Supreme Court vacated the award of \$2,240.00 in ACPO Drug Prosecution Restitution ordered in the Order for Restitution and Judgement entered Oct. 23, 2014 and Amended Judgment & Commitment entered Oct. 27, 2014. *State v. Cunningham*, 2017 Opinion No. 19 (2/27/17). The matter was remanded to this court.

A scheduling conference to set a restitution hearing is set on May 11, 2017 at 11 a.m.

DATED Signed: 3/24/2017 09:21 AM



Lynn G. Norton
District Judge

CERTIFICATE OF SERVICE

I certify that on March 24, 2017, I served a copy of this order upon:

Ada County Prosecuting Attorney
E-serve

Ada County Public Defender
E-serve

CHRISTOPHER RICH
Clerk

Janine Hansen
Deputy Clerk



Description	Judge Norton 051117 Janine Korsen Penny Tardiff		
Date	5/11/2017	Location	1A-CRT504
Time	Speaker	Note	
11:04:27 AM		St. v. Jeremy Cunningham CRFE14-5157 Scheduling Conference	
11:04:35 AM	Defendant	is present, out of custody.	
11:04:42 AM	State Attorney - Whitney Faulkner		
11:04:50 AM	Public Defender - Brian Marx		
11:04:52 AM	Judge Norton	reviews the file and the Idaho Supreme Court decision and advises we need to set this for a restitution hearing.	
11:06:09 AM	State Attorney -	inquires if this will be set for a Thursday.	
11:06:19 AM	Judge Norton	advises no.	
11:06:22 AM	Public Defender -	advises this should take no more than an hour.	
11:06:30 AM	Judge Norton	comments and sets it for July 7 at 10:00 for a restitution hearing.	

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www.fortherecord.com

Description	Judge Norton 070717 Janine Korsen Penny Tardiff		
Date	7/7/2017	Location	1A-CRT503
Time	Speaker	Note	
09:58:07 AM		St. v. Jeremy Cunningham CRFE14-5157 Restitution Hearing	
09:58:43 AM	Defendant	is not present.	
09:58:43 AM	State Attorney - Whitney Faulkner		
09:58:43 AM	Public Defender - Brian Marx		
09:58:43 AM	Judge Norton	inquires if his client is coming.	
09:58:43 AM	Public Defender -	advises he thought he was.	
09:58:43 AM	Judge Norton	will wait for a minute then.	
10:06:06 AM	Public Defender -	still doesn't know where he is.	
10:06:06 AM	Judge Norton	comments and will proceed without him and inquires.	
10:06:06 AM	State Attorney -	advises \$906.75 is the total the State is seeking today.	
10:06:06 AM	Judge Norton	inquires if she has shared that amount with Mr. Marx.	
10:06:06 AM	State Attorney -	advises she has.	
10:06:06 AM	Judge Norton	inquires.	
10:06:06 AM	Public Defender -	responds and asks that witnesses be excluded.	
10:06:06 AM	State Attorney -	advises there is only one witness here.	
10:06:06 AM	Judge	inquires.	

	Norton	
10:06:06 AM	State Attorney -	calls her witness.
10:06:06 AM	Witness - Kylie Bolland	is sworn by the Clerk.
10:06:06 AM	State Attorney -	begins direct examination.
10:06:06 AM	State Attorney -	Exhibit 1, previously marked, is identified and offered.
10:06:06 AM	Public Defender -	objects, lack of foundation.
10:06:06 AM	State Attorney -	comments.
10:06:06 AM	Judge Norton	comments.
10:06:06 AM	State Attorney -	continues direct examination.
10:13:06 AM	State Attorney -	moves to admit Exhibit 1 again.
10:13:06 AM	Public Defender -	has same objection.
10:14:02 AM	Judge Norton	comments and will admit Exhibit 1.
10:14:02 AM	State Attorney -	continues direct examination.
10:14:02 AM	State Attorney -	Exhibit 2, previously marked, is identified and offered.
10:14:02 AM	Public Defender -	objects, same objection.
10:14:02 AM	Judge Norton	comments and will admit Exhibit 2.
10:24:22 AM	State Attorney -	continues direct examination.
10:24:22 AM	Public Defender -	has no cross examination.
10:24:22 AM	Witness -	steps down and is excused.

	Kylie Bolland	
10:24:22 AM	Judge Norton	inquires if any additional evidence.
10:24:22 AM	State Attorney -	has none.
10:24:22 AM	Public Defender -	has no evidence.
10:24:22 AM	Judge Norton	comments.
10:24:22 AM	State Attorney -	argues the amount of restitution.
10:24:22 AM	Public Defender -	argues in opposition to the amount of restitution.
10:24:22 AM	Judge Norton	comments and finds that \$906.75 was actually incurred in this case and orders \$1006.75 and adds the \$100 for the PSI.
10:24:22 AM	State Attorney -	can submit a restitution order.
10:24:22 AM	Judge Norton	will prefer it digitally and she will vacate the original restitution order and will send out an amended judgment also.

Produced by FTR Gold™
www.fortherecord.com

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

3
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5 THE STATE OF IDAHO,

6 Plaintiff,

7 vs.

8 JEREMY YORK CUNNINGHAM,

9 Defendant.
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Case No. CR-FE-2014-0005157

**SECOND AMENDED
JUDGMENT & COMMITMENT**

13 **RESTITUTION AMENDMENT**

14
15 On the 25th day of September, 2014, before the Honorable Lynn G. Norton, District
16 Judge, personally appeared Barbara Duggan, Deputy Prosecuting Attorney for the County of
17 Ada, State of Idaho, and the Defendant with his attorney, Brian Marx, for the pronouncement
18 of judgment in this case.

19
20 The Defendant has been convicted upon a finding of guilty by jury to the offense(s)
21 of COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C.
22 §37-2732(c) of the Amended Information (Count II having been dismissed pursuant to plea
23 agreement). The Court asked the Defendant if he had any legal cause to show why judgment
24 should not be pronounced against him. No objection was made by either the State or the
25 Defense to the entry of judgment.
26
27

28 IT IS FURTHER ADJUDGED that the Defendant is guilty as charged and convicted;
29 that the offense for which the Defendant is adjudged guilty herein was committed on or about
April 11, 2014.

1
2 IT IS ADJUDGED that the Defendant is sentenced, pursuant to Idaho Code
3 §19-2513, to the custody of the Idaho State Board of Correction to be held and incarcerated
4 by said Board in a suitable place for a period of time as follows:
5

6 For a minimum fixed and determinate period of confinement of one and one-half
7 (1½) year(s); with the fixed minimum period followed by an indeterminate period of custody
8 of up to three and one-half (3½) years, for a total term not to exceed five (5) years.
9

10 Pursuant to Idaho Code §18-309, the Defendant shall be given credit for the time
11 already served in this case in the amount of one hundred sixty-eight (168) days.
12

13 IT IS FURTHER ORDERED that the Defendant shall pay up to one hundred dollars
14 (\$100.00) for Presentence Investigation Report fees, pursuant to I.C. §19-2516; a fine of
15 seven hundred fifty dollars (\$750.00); and shall remit court costs of seventeen dollars fifty
16 cents (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars
17 (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of ten
18 dollars (\$10.00); ISTARs Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee
19 of three dollars (\$3.00); Victim's Compensation Fund in the amount of seventy-five dollars
20 (\$75.00); Drug Hotline Fee, pursuant to I.C. §37-2735A, in the amount of ten dollars
21 (\$10.00); Domestic Violence Fee of thirty dollars (\$30.00); Public Defender Reimbursement
22 Fee, pursuant to I.C. §19-854(c), in the amount of one thousand dollars (\$1,000.00); and
23 Emergency Surcharge Fee of one hundred dollars (\$100.00).
24
25
26

27 **Pursuant to I.C. §19-5304 and §37-2732(k), the Defendant shall pay restitution**
28 **in the amount of \$1,006.75. Restitution payments shall be made through the Clerk of**
29 **the District Court.**

1 IT IS FURTHER ORDERED that the Defendant be committed to the custody of the
2 Sheriff of Ada County, Idaho, for delivery forthwith to the custody of the Idaho State Board
3 of Correction at the Idaho State Penitentiary or other facility within the state designated by
4 the State Board of Correction.
5

6 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment
7 and Commitment to the said Sheriff, which shall serve as the commitment of the Defendant.
8

9 Dated this 7th day of July 2017.
10

11 
12 _____
13 LYNN G. NORTON
14 District Judge
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on July 7, 2017, I emailed (served) a true and correct copy of the within instrument to:

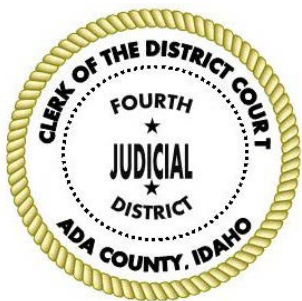
ADA COUNTY PROSECUTOR
VIA — EMAIL

ADA COUNTY PUBLIC DEFENDER
VIA — EMAIL

ADA COUNTY JAIL
VIA — EMAIL

DEPARTMENT OF CORRECTION
VIA — EMAIL

PROBATION & PAROLE—PSI DEPARTMENT
VIA — EMAIL



CHRISTOPHER D. RICH
Clerk of the District Court

By: Shary Abbott
Deputy Court Clerk
Signed: 7/7/2017 02:33 PM

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JUL 07 2017

CHRISTOPHER D. RICH, Clerk
By GRICELDA TORRES
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

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

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

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Case No. CR-FE-2014-5157


NOTICE OF APPEAL

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

NOTICE IS HEREBY GIVEN THAT:

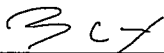
- 1) The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the Second Amended Judgment & Conviction entered against him in the above-entitled action on July 7, 2017, the Honorable Lynn G. Norton, District Judge presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-9).
- 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:
- 4) Did the district court err in granting the State's request for cost of prosecution?
- 5) 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) and Psychosexual Evaluation.

CR - FE - 2014 - 5157
 NOTA
 Notice of Appeal
 350854



- 6) Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
 - a) Restitution hearing held July 7, 2017 (Court Reporter: Penny Tardiff. No estimation of pages is listed on Register of Actions).
- 7) Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
- 8) I certify:
 - a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) Penny Tardiff;
 - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, I.A.R. 27(f));
 - c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
 - d) That Ada County will be responsible for paying for the reporter's transcript(s), 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 7th day of July 2017.



Brian C. Marx
Attorney for Defendant

CERTIFICATE OF MAILING

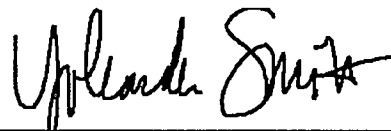
I HEREBY CERTIFY, that on July 7, 2017, I served a true and correct copy of the foregoing to:

Idaho Attorney General
Via Email: ecf@ag.idaho.gov

Idaho Appellate Public Defender
Via Email: documents@sapd.state.id.us

Penny Tardiff
Court Reporter
Via Email: transcripts@adaweb.net

Whitney Faulkner
Ada County Prosecutor's Office
Via Email: acpocourtdocs@adaweb.net



Yolanda Smith

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

JAN M. BENNETTS
 Ada County Prosecuting Attorney

Whitney A. Faulkner
 Deputy Prosecuting Attorney
 200 West Front Street, Room 3191
 Boise, Idaho 83702
 Telephone: (208) 287-7700
 Fax: (208)-287-7709
acpocourtdocs@adaweb.net

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.)
)
 JEREMY YORK CUNNINGHAM,)
)
 Defendant.)
 _____)

Case No. CR-FE-2014-5157

**AMENDED ORDER FOR
 RESTITUTION AND JUDGMENT**

WHEREAS, [REDACTED], a Judgment of Conviction was entered against the defendant, JEREMY YORK CUNNINGHAM, and pursuant to Idaho Code §37-2732(k) the defendant, JEREMY YORK CUNNINGHAM, shall make restitution to the law enforcement agency(ies) in the amount of **\$1,006.75**, as follows:

RESTITUTION – LAW ENFORCEMENT AGENCIES

ACPO DRUG PROSECUTION RESTITUTION	\$906.75
DRUG ENFORCEMENT DONATION ACCOUNT	\$100.00
TOTAL:	\$1,006.75

Post judgment interest on said restitution amount will accrue from the **23rd day of October, 2014**, the date the original Order for Restitution and Judgment was signed, at the rate specified in Idaho Code §28-22-104.

IT IS SO ORDERED.

DATED _____
Signed: 7/10/2017 12:04 PM



Judge

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on Signed: 7/10/2017 02:54 PM, I served the foregoing document upon the following attorneys, persons and agencies at the addresses listed below.

Brian Marx
200 W. Front St. Rm 3191
Boise, ID 83702

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

Whitney A. Faulkner
200 W. Front St. Rm 3191
Boise, ID 83702

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

CHRISTOPHER D. RICH
Ada County Clerk of the Court

Jessa Britanaine
Deputy Clerk

JAN M. BENNETTS
Ada County Prosecuting Attorney

Whitney Faulkner
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

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
JEREMY YORK CUNNINGHAM,)
)
Defendant.)
)
)
)
_____)

Case No. CR-FE-2014-0005157
CERTIFICATE OF RECORDS

STATE OF IDAHO)
) ss:
County of Ada)

Kylie Bolland, being first duly sworn, deposes and says:

1. I am employed by the Ada County Prosecuting Attorney and as such have access to payroll records maintained by Ada County in the regular course of its business.
2. I am aware that the Ada County Prosecutor's Office keeps records regarding the attorney time spent prosecuting drug cases in anticipation of submitting a request for restitution pursuant to I.C. §37-2732(k).
3. I have reviewed the time log in this case, which documents the prosecutor time spent prosecuting the above referenced drug case. Erin Pittenger spent a total of .2 hours working on this case, Heather Reilly spent .1 hours working on this case, Kale Gans

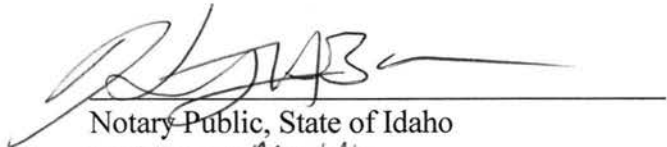
spent .7 hours working on this case, James Vogt spent 3.5 hours working on this case, and Barbara Duggan spent 11.5 hours working on this case. I've applied the appropriate payroll rate for said attorneys and calculated the aggregate actual prosecution cost to be a total of \$906.75

4. Pursuant to Idaho Code §37-2732(k), the State requests restitution in the amount of \$906.75.
5. The foregoing is true and correct to the best of my information and belief.


Kylie Bolland

SUBSCRIBED AND SWORN to before me this 6 day of March, 2017.




Notary Public, State of Idaho
Residing at: Meridian
Commission Expires: 4-25-22

ADA COUNTY PUBLIC DEFENSE
Attorneys for Defendant

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

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

STATE OF IDAHO,

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-5157

ORDER APPOINTING STATE
APPELLATE PUBLIC DEFENDER
ON DIRECT APPEAL

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

IT IS SO ORDERED

DATED: Signed: 7/31/2017 05:15 PM _____.



Lynn G. Norton
District Judge

CERTIFICATE OF MAILING

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have mailed one copy of the Order Appointing State Appellate Public Defender on Direct Appeal as notice pursuant to the Idaho Rules to each of the parties of record in this case in envelopes addressed as follows:

Idaho Attorney General
Via Email: ecf@ag.idaho.gov

Idaho State Appellate Public Defender
Via Email: documents@sapd.state.id.us

Whitney Faulkner
Ada County Prosecutor's Office
Via Email: acpocourtdocs@adaweb.net

Brian Marx
Ada County Public Defender's Office
Via Email: public.defender@adacounty.id.gov

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

Date: August 1, 2017

By *Jamie Hansen*
Deputy Clerk Signed: 8/1/2017 09:36 AM



IN THE SUPREME COURT OF THE STATE OF IDAHO

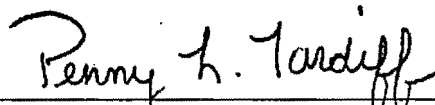
STATE OF IDAHO,)
Plaintiff-Respondent,) Supreme Court Docket
vs.) 45253
JEREMY YORK CUNNINGHAM,)
Defendant-Appellant.)

NO. _____ FILED
A.M. 12:35 P.M.

SEP 06 2017
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on September 6, 2017, I lodged a transcript 25 pages in length for the above-referenced appeal with the District Court Clerk of Ada County in the Fourth Judicial District.


(Signature of Reporter)

Penny L. Tardiff CSR

9-6-2017

Hearing Date: 7/7/2017

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.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.


Supreme Court Case No. 45253

CERTIFICATE OF EXHIBITS

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 6th day of September, 2017.

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

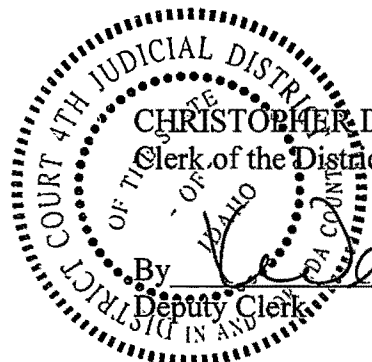


EXHIBIT LIST

Judge Lynn Norton
Judge

Janine Korsen
Clerk

Page 1 of 1Page

Date July 7, 2017

Disposition Restitution Hearing

Case No. CRFE2014-5157

State of Idaho

Whitney Faulkner
Deputy Prosecuting Attorney

Vs.

Jeremy York Cunningham

Brian Marx
Deputy Public Defender

By	No.	Description	Status
State	1	Drug Case Restitution Sheet	Admitted 7-7-2017
State	2	Certificate of Records	Admitted 7-7-2017

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.
JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Supreme Court Case No. 45253

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:

LIMITED 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: SEP 06 2017

COURT 4TH JUDICIAL DISTRICT
OF THE STATE OF IDAHO
COUNTY OF ADA
CHRISTOPHER D. RICH
Clerk of the District Court
By [Signature]
Deputy Clerk

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

STATE OF IDAHO,

Plaintiff-Respondent,
vs.

JEREMY YORK CUNNINGHAM,

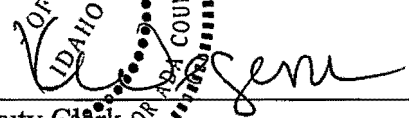
Defendant-Appellant.

Supreme Court Case No. 45253

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 7th day of July, 2017.

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

