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State v. Partee Clerk's Record Dckt. 45635

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In the
SUPREME COURT
of the
STATE OF IDAHO

STATE OF IDAHO,

Respondents-Respondents,

v.

GARY CARL PARTEE,

Petitioner-Appellant,

Appealed from the District Court of the Second
Judicial District of the State of Idaho, in and
for Clearwater County

Honorable GREGORY FITZMAURICE, District Judge

ERIC D. FREDERICKSEN
Attorney for Petitioner-Appellant

LAWRENCE G. WASDEN
Attorney for Respondents-Respondents

State of Idaho
vs.
Gary C Partee

Case No. CR-2016-951
Record on Appeal: Chronological Index
Idaho Appellate Rule 28

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CLEARWATER COUNTY DISTRICT COURT

CASE SUMMARY**CASE NO. CR-2016-951**

State of Idaho
vs.
Gary C Partee

§
§
§
§
§
§

Location: **Clearwater County District Court**
Judicial Officer: **FitzMaurice, Gregory**
Filed on: **11/30/2016**
Appear by: **08/08/2017**
Case Number History:
Appellate Case Number: **S.C. DOCKET #45635**

CASE INFORMATION

Offense **Statute** **Deg** **Date** **Case Type: Criminal**

Jurisdiction: **County**

1. Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver
TCN: ID1800002556 I37-2732(a)(1) FEL 11/29/2016 (A) {F}
2. Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver
TCN: ID1800002556 I37-2732(a)(1) FEL 11/29/2016 (A) {F}
3. Drug Paraphernalia-Use or Possess With Intent to Use
TCN: ID1800002556 I37-2734A(1) MIS 11/29/2016
4. Arrests & Seizures-Resisting or Obstructing Officers
TCN: ID1800002556 I18-705 MIS 11/29/2016
5. Litter on Occupied Private Property Prohibited
TCN: ID1800002556 M465-752-6-9-11 MIS 11/29/2016
6. Cruelty to Animals
TCN: ID1800002556 M465-746-6-2-2 MIS 11/29/2016
7. Wild Animals Prohibited
TCN: ID1800002556 M465-746-6-2-5 MIS 11/29/2016
8. Dog-License Required
TCN: ID1800002556 M465-746-6-2-13(3) MIS 11/29/2016

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number CR-2016-951
Court Clearwater County District Court
Date Assigned 12/13/2016
Judicial Officer FitzMaurice, Gregory

PARTY INFORMATION**State**

State of Idaho

Lead Attorneys

Tyler, Eric Clayne
208-476-5611(W)

Defendant

Partee, Gary C

DATE**EVENTS & ORDERS OF THE COURT****INDEX**

11/30/2016 New Case - Criminal
Party: Defendant Partee, Gary C
New Case Filed - Misdemeanor

CLEARWATER COUNTY DISTRICT COURT

CASE SUMMARY

CASE NO. CR-2016-951

11/30/2016	Prosecutor Assigned Party: Defendant Partee, Gary C <i>Prosecutor assigned Eric Clayne Tyler</i>
11/30/2016	Affidavit of Probable Cause Party: Defendant Partee, Gary C <i>Affidavit for Initial Determination of Probable Cause After Arrest Without Warrant</i>
11/30/2016	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Arraignment 11/30/2016 01:00 PM)</i>
11/30/2016	Order Party: Defendant Partee, Gary C <i>Order Determining Probable Cause After Arrest Without Warrant</i>
11/30/2016	Criminal Complaint Party: Defendant Partee, Gary C <i>Criminal Complaint</i>
11/30/2016	Affidavit Party: Defendant Partee, Gary C <i>Affidavit for Initial Determination of Probable Cause After Arrest Without Warrant</i>
11/30/2016	Motion Party: Defendant Partee, Gary C <i>Motion Regarding Bond on Arrest Without Warrant & Motion to Consolidate Cases</i>
11/30/2016	Order Party: Defendant Partee, Gary C <i>Order Regarding Bond on Arrest Without Warrant and Order to Consolidate Cases</i>
11/30/2016	Bond Set Party: Defendant Partee, Gary C <i>BOND SET: at \$15,000.00</i>
11/30/2016	Arraignment Party: Defendant Partee, Gary C <i>Hearing result for Arraignment scheduled on 11/30/2016 04:30 PM: Arraignment / First Appearance</i>
11/30/2016	Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Arraignment scheduled on 11/30/2016 04:30 PM: Court Minutes</i>
11/30/2016	Application for Public Defender Party: Defendant Partee, Gary C <i>Application For Appointment Of Attorney</i>
11/30/2016	Order Appointing Public Defender Party: Defendant Partee, Gary C <i>Order Appointing Public Defender</i>
11/30/2016	Order Appointing Public Defender Party: Defendant Partee, Gary C <i>Defendant: Partee, Gary C Order Appointing Public Defender Public defender Charles Eugene Kovis</i>
11/30/2016	Order Party: Defendant Partee, Gary C <i>Order Setting Time And Place</i>

CASE SUMMARY

CASE NO. CR-2016-951

11/30/2016	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Preliminary 12/12/2016 10:30 AM)</i>
11/30/2016	Pretrial Conference* Party: Defendant Partee, Gary C <i>Pre-Trial Date Notice</i>
11/30/2016	Order Party: Defendant Partee, Gary C <i>Order Of Commitment Pending Posting Of Bail</i>
11/30/2016	Waiver Party: Defendant Partee, Gary C <i>Waiver of Extradition</i>
11/30/2016	Arraignment (4:30 PM) (Judicial Officer: Robinson, Randall W.) <i>Hearing result for Arraignment scheduled on 11/30/2016 04:30 PM: Arraignment / First Appearance</i>
12/01/2016	Request for Discovery Party: Defendant Partee, Gary C <i>Request For Discovery</i>
12/01/2016	Motion Party: Defendant Partee, Gary C <i>Pre-Trial Motion - Dismiss Counts 7 and 8.</i>
12/02/2016	Order Party: Defendant Partee, Gary C <i>Order Upon Motion</i>
12/02/2016	Dismissed by Motion of the Prosecutor with Hearing Party: Defendant Partee, Gary C <i>Dismissed by Motion of the Prosecutor with hearing (M465-746-6-2-5 Wild Animals Prohibited)</i>
12/02/2016	Dismissed by Motion of the Prosecutor with Hearing Party: Defendant Partee, Gary C <i>Dismissed by Motion of the Prosecutor with hearing (M465-746-6-2-13(3) Dog-License Required)</i>
12/02/2016	Disposition 7. Wild Animals Prohibited Dismissed on Motion of Prosecutor TCN: ID1800002556 :
12/02/2016	Disposition 8. Dog-License Required Dismissed on Motion of Prosecutor TCN: ID1800002556 :
12/07/2016	Order Appointing Public Defender Party: Defendant Partee, Gary C <i>Order Appointing Public Defender</i>
12/07/2016	Order Appointing Public Defender Party: Defendant Partee, Gary C

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CASE NO. CR-2016-951

Defendant: Partee, Gary C Order Appointing Public Defender Public defender Neil Presley Cox Jr.

12/08/2016	Affidavit Party: Defendant Partee, Gary C <i>Affidavit of Dodge, Eric for Restitution</i>
12/09/2016	Stipulation Party: Defendant Partee, Gary C <i>Waiver of Preliminary Hearing and Stipulation for OR Release</i>
12/09/2016	Order of Release Party: Defendant Partee, Gary C <i>Order Of Release From Custody</i>
12/09/2016	Order Party: Defendant Partee, Gary C <i>Order Setting Time And Place</i>
12/09/2016	Change Assigned Judge Party: Defendant Partee, Gary C <i>Change Assigned Judge</i>
12/09/2016	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Arraignment 12/20/2016 01:00 PM)</i>
12/09/2016	Court Minutes Party: Defendant Partee, Gary C <i>Transcript of Proceedings Abstract of Court Record and Docket</i>
12/12/2016	CANCELED Preliminary Hearing (10:30 AM) (Judicial Officer: Robinson, Randall W.) <i>Vacated</i> <i>Hearing result for Preliminary scheduled on 12/12/2016 10:30 AM: Preliminary Hearing Waived (bound Over)</i>
12/13/2016	ROA - Converted Event Party: Defendant Partee, Gary C <i>State's Production of Discovery</i>
12/13/2016	Request for Discovery Party: Defendant Partee, Gary C <i>Request For Discovery and Demand for Alibi</i>
12/13/2016	Order Party: Defendant Partee, Gary C <i>Order Binding Over</i>
12/13/2016	Information Filed Party: Defendant Partee, Gary C <i>Information</i>
12/13/2016	Preliminary Hearing Waived (Bound Over) Party: Defendant Partee, Gary C <i>Hearing result for Preliminary scheduled on 12/12/2016 10:30 AM: Preliminary Hearing Waived (bound Over)</i>
12/20/2016	Arraignment Party: Defendant Partee, Gary C <i>Hearing result for Arraignment scheduled on 12/20/2016 01:00 PM: Arraignment / First Appearance</i>

CLEARWATER COUNTY DISTRICT COURT

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CASE NO. CR-2016-951

12/20/2016	<p>DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Arraignment scheduled on 12/20/2016 01:00 PM: District Court Hearing Held</i> Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100</p>
12/20/2016	<p>Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Arraignment scheduled on 12/20/2016 01:00 PM: Court Minutes</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (I37-2732(a)(1)(A) {F} Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver)</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (I37-2732(a)(1)(A) {F} Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver)</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (I18-705 Arrests & Seizures-Resisting or Obstructing Officers)</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (M465-752-6-9-11 Litter on Occupied Private Property Prohibited)</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (M465-746-6-2-2 Cruelty to Animals)</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (M465-746-6-2-5 Wild Animals Prohibited)</i></p>
12/20/2016	<p>A Plea is entered for Charge:* Party: Defendant Partee, Gary C <i>A Plea is Entered for Charge: - NG (M465-746-6-2-13(3) Dog-License Required)</i></p>
12/20/2016	<p>Arraignment (1:00 PM) (Judicial Officer: FitzMaurice, Gregory) <i>Hearing result for Arraignment scheduled on 12/20/2016 01:00 PM: Arraignment / First Appearance</i></p>
12/20/2016	<p>Plea 1. Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver Not Guilty TCN: ID1800002556 :</p>
12/20/2016	<p>Plea</p>

CASE SUMMARY

CASE NO. CR-2016-951

	2. Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver Not Guilty TCN: ID1800002556 :
12/20/2016	Plea 3. Drug Paraphernalia-Use or Possess With Intent to Use Not Guilty TCN: ID1800002556 :
12/20/2016	Plea 4. Arrests & Seizures-Resisting or Obstructing Officers Not Guilty TCN: ID1800002556 :
12/20/2016	Plea 5. Litter on Occupied Private Property Prohibited Not Guilty TCN: ID1800002556 :
12/20/2016	Plea 6. Cruelty to Animals Not Guilty TCN: ID1800002556 :
12/20/2016	Plea 7. Wild Animals Prohibited Not Guilty TCN: ID1800002556 :
12/20/2016	Plea 8. Dog-License Required Not Guilty TCN: ID1800002556 :
01/03/2017	Order Party: Defendant Partee, Gary C <i>Order Setting Trial And Scheduling Order</i>
01/03/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Status Conference 01/17/2017 02:00 PM)</i>
01/03/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Final Pretrial Conference 05/09/2017 01:30 PM)</i>
01/03/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Jury Trial 05/24/2017 09:00 AM) Day 1 of 3</i>
01/03/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Jury Trial 05/25/2017 09:00 AM) Day 2 of 3</i>

CLEARWATER COUNTY DISTRICT COURT

CASE SUMMARY

CASE NO. CR-2016-951

01/03/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Jury Trial 05/26/2017 09:00 AM) Day 3 of 3</i>
01/17/2017	Hearing Held Party: Defendant Partee, Gary C <i>Hearing result for Status Conference scheduled on 01/17/2017 02:00 PM: Hearing Held</i>
01/17/2017	DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Status Conference scheduled on 01/17/2017 02:00 PM: District Court Hearing Held</i> <i>Court Reporter: Keith Evans</i> <i>Number of Transcript Pages for hearing estimated: LESS THAN 100</i>
01/17/2017	Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Status Conference scheduled on 01/17/2017 02:00 PM: Court Minutes</i>
01/17/2017	Status Conference (2:00 PM) (Judicial Officer: FitzMaurice, Gregory) <i>Hearing result for Status Conference scheduled on 01/17/2017 02:00 PM: Hearing Held</i>
02/10/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Supplemental State's Production of Discovery</i>
02/10/2017	Exhibit List/Log Party: Defendant Partee, Gary C <i>State Witness and Exhibit List</i>
02/24/2017	Affidavit Party: Defendant Partee, Gary C <i>Affidavit of E. Clayne Tyler for Restitution</i>
03/20/2017	Motion Party: Defendant Partee, Gary C <i>Motion for Order Continuing Jury Trial and Pre-Trial</i>
03/21/2017	Court Minutes Party: Defendant Partee, Gary C <i>Court Minutes</i>
04/03/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Motion to Continue 04/18/2017 01:30 PM)</i>
04/03/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Notice Of Hearing</i>
04/18/2017	Hearing Held Party: Defendant Partee, Gary C <i>Hearing result for Motion to Continue scheduled on 04/18/2017 01:30 PM: Hearing Held</i>
04/18/2017	DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Motion to Continue scheduled on 04/18/2017 01:30 PM: District Court Hearing Held</i> <i>Court Reporter: Keith Evans</i>

CLEARWATER COUNTY DISTRICT COURT

CASE SUMMARY

CASE NO. CR-2016-951

*Number of Transcript Pages for hearing estimated:
LESS THAN 100*

04/18/2017	<p>Court Minutes Party: Defendant Partee, Gary C Hearing result for Motion to Continue scheduled on 04/18/2017 01:30 PM: Court Minutes</p>
04/18/2017	<p>Hearing Vacated Party: Defendant Partee, Gary C Hearing result for Final Pretrial Conference scheduled on 05/09/2017 01:30 PM: Hearing Vacated</p>
04/18/2017	<p>Hearing Vacated Party: Defendant Partee, Gary C Hearing result for Jury Trial scheduled on 05/25/2017 09:00 AM: Hearing Vacated Day 2 of 3</p>
04/18/2017	<p>Hearing Vacated Party: Defendant Partee, Gary C Hearing result for Jury Trial scheduled on 05/24/2017 09:00 AM: Hearing Vacated Day 1 of 3</p>
04/18/2017	<p>Hearing Vacated Party: Defendant Partee, Gary C Hearing result for Jury Trial scheduled on 05/26/2017 09:00 AM: Hearing Vacated Day 3 of 3</p>
04/18/2017	<p>Order of Release Party: Defendant Partee, Gary C Amended Order Of Release From Custody</p>
04/18/2017	<p>Motion to Continue (1:30 PM) (Judicial Officer: FitzMaurice, Gregory) Hearing result for Motion to Continue scheduled on 04/18/2017 01:30 PM: Hearing Held</p>
04/25/2017	<p>Scheduling Order Party: Defendant Partee, Gary C Amended Order Setting Trial And Scheduling Order</p>
04/25/2017	<p>Hearing Scheduled Party: Defendant Partee, Gary C Hearing Scheduled (Final Pretrial Conference 08/01/2017 01:30 PM)</p>
04/25/2017	<p>Hearing Scheduled Party: Defendant Partee, Gary C Hearing Scheduled (Jury Trial 08/23/2017 09:00 AM)</p>
05/09/2017	<p>CANCELED Pre Trial (1:30 PM) (Judicial Officer: FitzMaurice, Gregory) Vacated Hearing result for Final Pretrial Conference scheduled on 05/09/2017 01:30 PM: Hearing Vacated</p>
05/24/2017	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: FitzMaurice, Gregory) Vacated Day 1 of 3 Hearing result for Jury Trial scheduled on 05/24/2017 09:00 AM: Hearing Vacated</p>
05/25/2017	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: FitzMaurice, Gregory) Vacated Day 2 of 3 Hearing result for Jury Trial scheduled on 05/25/2017 09:00 AM: Hearing Vacated</p>
05/26/2017	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: FitzMaurice, Gregory) Vacated Day 3 of 3 Hearing result for Jury Trial scheduled on 05/26/2017 09:00 AM: Hearing Vacated</p>
06/28/2017	<p>Motion</p>

CASE SUMMARY

CASE NO. CR-2016-951

	<p>Party: Defendant Partee, Gary C <i>Motion to Consolidate</i></p>
06/28/2017	<p>Notice of Hearing Party: Defendant Partee, Gary C <i>Notice Of Hearing RE: Motion to Consolidate</i></p>
06/28/2017	<p>Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Motion 07/05/2017 10:00 AM)</i></p>
07/05/2017	<p>Hearing Held Party: Defendant Partee, Gary C <i>Hearing result for Motion scheduled on 07/05/2017 10:00 AM: Hearing Held</i></p>
07/05/2017	<p>DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Motion scheduled on 07/05/2017 10:00 AM: District Court Hearing Held</i> <i>Court Reporter: Keith Evans</i> <i>Number of Transcript Pages for hearing estimated:</i> <i>LESS THAN 100</i></p>
07/05/2017	<p>Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Motion scheduled on 07/05/2017 10:00 AM: Court Minutes</i></p>
07/05/2017	<p>Motion Hearing (10:00 AM) (Judicial Officer: FitzMaurice, Gregory) <i>Hearing result for Motion scheduled on 07/05/2017 10:00 AM: Hearing Held</i></p>
07/19/2017	<p>Order Party: Defendant Partee, Gary C <i>Order Consolidating Cases CR2016-951 and CR2017-95</i></p>
07/27/2017	<p>Information Filed Party: Defendant Partee, Gary C <i>Consolidated Information</i></p>
08/01/2017	<p>Hearing Held Party: Defendant Partee, Gary C <i>Hearing result for Final Pretrial Conference scheduled on 08/01/2017 01:30 PM: Hearing Held</i></p>
08/01/2017	<p>DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Final Pretrial Conference scheduled on 08/01/2017 01:30 PM: District Court Hearing Held</i> <i>Court Reporter: NONE Waived</i> <i>Number of Transcript Pages for hearing estimated:</i> <i>LESS THAN 100</i></p>
08/01/2017	<p>Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Final Pretrial Conference scheduled on 08/01/2017 01:30 PM: Court Minutes</i></p>
08/01/2017	<p>Pre Trial (1:30 PM) (Judicial Officer: FitzMaurice, Gregory) <i>Hearing result for Final Pretrial Conference scheduled on 08/01/2017 01:30 PM: Hearing Held</i></p>
08/03/2017	<p>Witness List Party: Defendant Partee, Gary C <i>Amended State's Witness and Exhibit List</i></p>

CASE SUMMARY

CASE NO. CR-2016-951

08/07/2017	Motion Party: Defendant Partee, Gary C <i>Stipulated Motion To Amend Consolidated Information</i>
08/07/2017	Subpoena Returned Party: Defendant Partee, Gary C <i>Subpoena Returned - Vincent Frazier, OPD</i>
08/07/2017	Subpoena Returned Party: Defendant Partee, Gary C <i>Subpoena Returned - Lahni Ireland, OPD</i>
08/07/2017	Subpoena Returned Party: Defendant Partee, Gary C <i>Subpoena Returned - Mathew Russell, OPD</i>
08/07/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>State's Requested Jury Instructions</i>
08/08/2017	Order Party: Defendant Partee, Gary C <i>Order To Amend Consolidated Information</i>
08/08/2017	Information Filed Party: Defendant Partee, Gary C <i>Amended Consolidated Information</i>
08/11/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Change of Plea 08/15/2017 01:45 PM)</i>
08/11/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Notice Of Hearing</i>
08/14/2017	Subpoena Returned Party: Defendant Partee, Gary C <i>Subpoena Returned - Tristyn Magers</i>
08/15/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Jury Panel</i>
08/15/2017	Hearing Vacated Party: Defendant Partee, Gary C <i>Hearing result for Change of Plea scheduled on 08/15/2017 01:45 PM: Hearing Vacated</i>
08/15/2017	CANCELED Change of Plea (1:45 PM) (Judicial Officer: FitzMaurice, Gregory) <i>Vacated</i> <i>Hearing result for Change of Plea scheduled on 08/15/2017 01:45 PM: Hearing Vacated</i>
08/16/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Second Supplemental State's Production Of Discovery</i>
08/18/2017	Acceptance of Service Party: Defendant Partee, Gary C <i>Acceptance Of Service - Eric Dodge</i>

CASE SUMMARY

CASE NO. CR-2016-951

08/18/2017	Subpoena Returned Party: Defendant Partee, Gary C <i>Subpoena Return - Mike Shore</i>
08/21/2017	Jury Instructions Filed Party: Defendant Partee, Gary C <i>Court's Proposed Jury Instructions</i>
08/23/2017	Jury Trial Started Party: Defendant Partee, Gary C <i>Hearing result for Jury Trial scheduled on 08/23/2017 09:00 AM: Jury Trial Started Day 1</i>
08/23/2017	DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Jury Trial scheduled on 08/23/2017 09:00 AM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100 Day 1</i>
08/23/2017	Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Jury Trial scheduled on 08/23/2017 09:00 AM: Court Minutes Day 1</i>
08/23/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Peremptory Challenges</i>
08/23/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Jury Chart</i>
08/23/2017	Witness List Party: Defendant Partee, Gary C <i>Witness List</i>
08/23/2017	Jury Trial (9:00 AM) (Judicial Officer: FitzMaurice, Gregory) <i>Day 1 Hearing result for Jury Trial scheduled on 08/23/2017 09:00 AM: Jury Trial Started</i>
08/24/2017	Jury Trial Started Party: Defendant Partee, Gary C <i>Hearing result for Jury Trial scheduled on 08/24/2017 09:00 AM: Jury Trial Started Day 2</i>
08/24/2017	DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Jury Trial scheduled on 08/24/2017 09:00 AM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100 Day 2</i>
08/24/2017	Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Jury Trial scheduled on 08/24/2017 09:00 AM: Court Minutes Day 2</i>
08/24/2017	Exhibit List/Log Party: Defendant Partee, Gary C <i>Exhibit List</i>
08/24/2017	Jury Instructions Filed Party: Defendant Partee, Gary C <i>Jury Instructions Given 1-23</i>

CASE SUMMARY**CASE NO. CR-2016-951**

08/24/2017	Verdict form Party: Defendant Partee, Gary C <i>Verdict Form</i>
08/24/2017	Found Guilty after Trial Party: Defendant Partee, Gary C <i>Found Guilty After Trial - Counts 2, 3 & 4</i>
08/24/2017	Bond Set Party: Defendant Partee, Gary C <i>BOND SET: \$100,000.00</i>
08/24/2017	Order for Pre-Sentence Report (PSI) Party: Defendant Partee, Gary C <i>Pre-Sentence Investigation Evaluation Ordered</i>
08/24/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>PSI Face Sheet Transmitted</i>
08/24/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled - Sentencing 10/24/2017 at 1:30 p.m.</i>
08/24/2017	Order Party: Defendant Partee, Gary C <i>Order Of Commitment Pending Posting Of Bail</i>
08/24/2017	Jury Trial (9:00 AM) (Judicial Officer: FitzMaurice, Gregory) <i>Day 2 Hearing result for Jury Trial scheduled on 08/24/2017 09:00 AM: Jury Trial Started</i>
08/29/2017	Motion Party: Defendant Partee, Gary C <i>Motion For Order Approving Attorney Fee</i>
08/29/2017	Order Party: Defendant Partee, Gary C <i>Order Approving Attorney's Fee</i>
08/31/2017	Affidavit Party: Defendant Partee, Gary C <i>Affidavit Of E. Clayne Tyler For Restitution - Idaho State Police Forensic Services</i>
09/20/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Motion to Withdraw 10/03/2017 02:45 PM)</i>
09/20/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Notice Of Hearing</i>
09/21/2017	Affidavit Party: Defendant Partee, Gary C <i>Affidavit of Frazier, Vince for Restitution</i>
10/03/2017	Hearing Held Party: Defendant Partee, Gary C <i>Hearing result for Motion to Withdraw scheduled on 10/03/2017 02:45 PM: Hearing Held</i>
10/03/2017	Court Minutes Party: Defendant Partee, Gary C

CASE SUMMARY

CASE NO. CR-2016-951

	<i>Hearing result for Motion to Withdraw scheduled on 10/03/2017 02:45 PM: Court Minutes</i>
10/03/2017	Motion to Withdraw as Attorney (2:45 PM) (Judicial Officer: FitzMaurice, Gregory) <i>Hearing result for Motion to Withdraw scheduled on 10/03/2017 02:45 PM: Hearing Held</i>
10/04/2017	Order Appointing Public Defender Party: Defendant Partee, Gary C <i>Order Appointing Public Defender</i>
10/04/2017	Notice of Appearance Party: Defendant Partee, Gary C <i>Defendant: Partee, Gary C Appearance Zach A. Battles</i>
10/13/2017	Pre-Sentence Report Party: Defendant Partee, Gary C <i>Presentence Report</i>
10/19/2017	Motion Party: Defendant Partee, Gary C <i>Motion for Mental Health Evaluation at County Expense (I.C. 18-211)</i>
10/19/2017	Affidavit Party: Defendant Partee, Gary C <i>Affidavit in Support of Mental Health Evaluation at County Expense (I.C. 18-211)</i>
10/19/2017	Order Party: Defendant Partee, Gary C <i>Order For Mental Health Examination</i>
10/23/2017	Hearing Vacated Party: Defendant Partee, Gary C <i>Hearing result for Sentencing scheduled on 10/24/2017 01:30 PM: Hearing Vacated</i>
10/24/2017	Request Party: Defendant Partee, Gary C <i>Request For Furlough</i>
10/24/2017	Order Party: Defendant Partee, Gary C <i>Order For Furlough - Denied</i>
10/24/2017	CANCELED Sentencing (1:30 PM) (Judicial Officer: FitzMaurice, Gregory) <i>Vacated</i> <i>Hearing result for Sentencing scheduled on 10/24/2017 01:30 PM: Hearing Vacated</i>
10/31/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Confidential Forensic Psychological Evaluation</i>
11/01/2017	Hearing Scheduled Party: Defendant Partee, Gary C <i>Hearing Scheduled (Sentencing 11/07/2017 10:30 AM)</i>
11/01/2017	ROA - Converted Event Party: Defendant Partee, Gary C <i>Notice Of Hearing</i>
11/02/2017	Motion Party: Defendant Partee, Gary C <i>Motion for Attorney Fees and For an Order Sealing this Motion, Affidavit, Exhibit, and Following Order Pursuant to I.C.A.R. 32(i)</i>

CASE SUMMARY

CASE NO. CR-2016-951

11/02/2017	Affidavit Party: Defendant Partee, Gary C <i>Affidavit of Robert J. Kwate</i>
11/07/2017	Hearing Held Party: Defendant Partee, Gary C <i>Hearing result for Sentencing scheduled on 11/07/2017 10:30 AM: Hearing Held</i>
11/07/2017	DC Hearing Held: Court Reporter: # of Pages: Party: Defendant Partee, Gary C <i>Hearing result for Sentencing scheduled on 11/07/2017 10:30 AM: District Court Hearing Held</i> <i>Court Reporter: Keith Evans</i> <i>Number of Transcript Pages for hearing estimated:</i> <i>LESS THAN 100</i>
11/07/2017	Court Minutes Party: Defendant Partee, Gary C <i>Hearing result for Sentencing scheduled on 11/07/2017 10:30 AM: Court Minutes</i>
11/07/2017	Order Party: Defendant Partee, Gary C <i>Custody Order</i>
11/07/2017	Sentencing (10:30 AM) (Judicial Officer: FitzMaurice, Gregory) <i>Hearing result for Sentencing scheduled on 11/07/2017 10:30 AM: Hearing Held</i>
11/07/2017	Disposition 2. Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver Guilty TCN: ID1800002556 :
11/07/2017	Disposition 3. Drug Paraphernalia-Use or Possess With Intent to Use Guilty TCN: ID1800002556 :
11/07/2017	Disposition 4. Arrests & Seizures-Resisting or Obstructing Officers Guilty TCN: ID1800002556 :
11/14/2017	Motion Party: Defendant Partee, Gary C <i>Motion for Reduction of Sentence</i>
11/16/2017	Order Party: Defendant Partee, Gary C <i>Order Denying Reduction of Sentence</i>
11/20/2017	Order Party: Defendant Partee, Gary C <i>Order For Attorney Fees And To Seal Motion, Affidavit, Exhibit And This Order Pursuant To I.C.A.R. 32(i)</i>
11/28/2017	ROA - Converted Event

CASE SUMMARY

CASE NO. CR-2016-951

	<p>Party: Defendant Partee, Gary C <i>Judgment Of Conviction - Retained Jurisdiction</i></p>
11/28/2017	<p>Order Party: Defendant Partee, Gary C <i>Order To Dismiss Counts I, V & VI</i></p>
11/28/2017	<p>Dismissed by Motion of the Prosecutor with Hearing Party: Defendant Partee, Gary C <i>Dismissed by Motion of the Prosecutor with hearing (I37-2732(a)(1)(A) {F} Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver)</i></p>
11/28/2017	<p>Dismissed by Motion of the Prosecutor with Hearing Party: Defendant Partee, Gary C <i>Dismissed by Motion of the Prosecutor with hearing (M465-752-6-9-11 Litter on Occupied Private Property Prohibited)</i></p>
11/28/2017	<p>Dismissed by Motion of the Prosecutor with Hearing Party: Defendant Partee, Gary C <i>Dismissed by Motion of the Prosecutor with hearing (M465-746-6-2-2 Cruelty to Animals)</i></p>
11/28/2017	<p>Order Party: Defendant Partee, Gary C <i>Order For Attorney Fees And To Seal Motion, Affidavit, Exhibit And This Order Pursuant Io I.C.A.R. 32(i)</i></p>
11/28/2017	<p>Disposition 1. Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver Dismissed on Motion of Prosecutor TCN: ID1800002556 :</p>
11/28/2017	<p>Disposition 5. Litter on Occupied Private Property Prohibited Dismissed on Motion of Prosecutor TCN: ID1800002556 :</p>
11/28/2017	<p>Disposition 6. Cruelty to Animals Dismissed on Motion of Prosecutor TCN: ID1800002556 :</p>
12/04/2017	<p>Notice of Appeal Party: Defendant Partee, Gary C <i>NOTICE OF APPEAL</i></p>
12/04/2017	<p>Appeal Filed in Supreme Court Party: Defendant Partee, Gary C <i>Appealed To The Supreme Court</i></p>
12/04/2017	<p>Motion Party: Defendant Partee, Gary C <i>Motion To Withdraw And To Appoint State Appellate Public Defender</i></p>
12/05/2017	<p>Motion Party: Defendant Partee, Gary C <i>Motion For Attorney Fees and For An Order Sealing This Motion, Affidavit, Exhibit and Following Order Pursuant to I.C.A.R. 32(i)</i></p>

CASE SUMMARY

CASE NO. CR-2016-951

12/05/2017	Affidavit Party: Defendant Partee, Gary C <i>Affidavit Of Robert J. Kwate</i>
12/05/2017	Order Party: Defendant Partee, Gary C <i>Order Allowing Withdrawal Of Attorney And Appointing State Appellant Public Defender's Office</i>
12/05/2017	Order Party: Defendant Partee, Gary C <i>Order For Attorney Fees And To Seal Motion , Affidavit, Exhibit And This Order Pursuant To I.C.A.R. 32(i)</i>
01/03/2018	Motion Party: Defendant Partee, Gary C <i>Motion for Attorney Fees and For an order Sealing this Motion, Affidavit, Exhibit, and Following Order Pursuant to I.C.A.R. 32 (i)</i>
01/03/2018	Affidavit Party: Defendant Partee, Gary C <i>Affidavit of Robert J. Kwate</i>
01/04/2018	Miscellaneous Party: Defendant Partee, Gary C <i>Clerk's Certificate Of Appeal Filed By The Supreme Court 12/11/17</i>
01/09/2018	Order Party: Defendant Partee, Gary C <i>Order For Attorney Fees And To Seal Motion, Affidavit, Exhibit And This Order Pursuant To I.C.A.R. 32(i)</i>
03/02/2018	Notice of Appeal Party: Defendant Partee, Gary C <i>AMENDED NOTICE OF APPEAL</i>
04/16/2018	 Appeal Cover/Title Page
04/16/2018	 Exhibit <i>Clerk's Certificate</i>
04/16/2018	 Clerk's Certificate of Service
04/16/2018	 Miscellaneous <i>Certificate To Record</i>

State of Idaho vs. Gary C Partee

Date	Code	User		Judge
11/30/2016	NCRM	ALUSTIG	New Case Filed - Misdemeanor	Randall W. Robinson
	PROS	ALUSTIG	Prosecutor assigned Eric Clayne Tyler	Randall W. Robinson
	AFPC	ALUSTIG	Affidavit for Initial Determination of Probable Cause After Arrest Without Warrant	Randall W. Robinson
	HRSC	ALUSTIG	Hearing Scheduled (Arraignment 11/30/2016 01:00 PM)	Randall W. Robinson
	ODPC	ALUSTIG	Order Determining Probable Cause After Arrest Without Warrant	Randall W. Robinson
	CRCO	CHRISTY	Criminal Complaint	Randall W. Robinson
	AFFD	CHRISTY	Affidavit for Initial Determination of Probable Cause After Arrest Without Warrant	Randall W. Robinson
	MOTN	CHRISTY	Motion Regarding Bond on Arrest Without Warrant & Motion to Consolidate Cases	Randall W. Robinson
	ORDR	CHRISTY	Order Regarding Bond on Arrest Without Warrant and Order to Consolidate Cases	Randall W. Robinson
	BSET	ALUSTIG	BOND SET: at \$15,000.00	Randall W. Robinson
	ARRN	ALUSTIG	Hearing result for Arraignment scheduled on 11/30/2016 04:30 PM: Arraignment / First Appearance	Randall W. Robinson
	CMIN	ALUSTIG	Hearing result for Arraignment scheduled on 11/30/2016 04:30 PM: Court Minutes	Randall W. Robinson
	AAAT	ALUSTIG	Application For Appointment Of Attorney	Randall W. Robinson
	ORPD	ALUSTIG	Order Appointing Public Defender	Randall W. Robinson
	ORPD	ALUSTIG	Defendant: Partee, Gary C Order Appointing Public Defender Public defender Charles Eugene Kovis	Randall W. Robinson
	ORSP	ALUSTIG	Order Setting Time And Place	Randall W. Robinson
	HRSC	ALUSTIG	Hearing Scheduled (Preliminary 12/12/2016 10:30 AM)	Randall W. Robinson
	PTRL	ALUSTIG	Pre-Trial Date Notice	Randall W. Robinson
	OCPB	ALUSTIG	Order Of Commitment Pending Posting Of Bail	Randall W. Robinson
	WAVE	ALUSTIG	Waiver of Extradition	Randall W. Robinson
12/1/2016	REQD	ALUSTIG	Request For Discovery	Randall W. Robinson
	MOTN	ALUSTIG	Pre-Trial Motion - Dismiss Counts 7 and 8.	Randall W. Robinson
12/2/2016	ORDR	ALUSTIG	Order Upon Motion	Randall W. Robinson
	DMOP	ALUSTIG	Dismissed by Motion of the Prosecutor with hearing (M465-746-6-2-5 Wild Animals Prohibited)	Randall W. Robinson
	DMOP	ALUSTIG	Dismissed by Motion of the Prosecutor with hearing (M465-746-6-2-13(3) Dog-License Required)	Randall W. Robinson
12/7/2016	ORPD	ALUSTIG	Order Appointing Public Defender	Randall W. Robinson

State of Idaho vs. Gary C Partee

Date	Code	User	Judge
12/7/2016	ORPD	ALUSTIG	Defendant: Partee, Gary C Order Appointing Public Defender Public defender Neil Presley Cox Jr.
12/8/2016	AFFD	ALUSTIG	Affidavit of Dodge, Eric for Restitution
12/9/2016	STIP	CHRISTY	Waiver of Preliminary Hearing and Stipulation for OR Release
	ORFC	CHRISTY	Order Of Release From Custody
	ORSP	CHRISTY	Order Setting Time And Place
	CHJG	CHRISTY	Change Assigned Judge
	HRSC	CHRISTY	Hearing Scheduled (Arraignment 12/20/2016 01:00 PM)
	CMIN	CHRISTY	Transcript of Proceedings Abstract of Court Record and Docket
12/13/2016	SDIS	ALUSTIG	State's Production of Discovery
	REQD	ALUSTIG	Request For Discovery and Demand for Alibi
	ORBO	ALUSTIG	Order Binding Over
	INFO	ALUSTIG	Information
	PHWV	CHRISTY	Hearing result for Preliminary scheduled on 12/12/2016 10:30 AM: Preliminary Hearing Waived (bound Over)
12/20/2016	ARRN	CHRISTY	Hearing result for Arraignment scheduled on 12/20/2016 01:00 PM: Arraignment / First Appearance
	DCHH	CHRISTY	Hearing result for Arraignment scheduled on 12/20/2016 01:00 PM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100
	CMIN	CHRISTY	Hearing result for Arraignment scheduled on 12/20/2016 01:00 PM: Court Minutes
	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (I37-2732(a)(1)(A) {F} Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver)
	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (I37-2732(a)(1)(A) {F} Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver)
	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)
	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (I18-705 Arrests & Seizures-Resisting or Obstructing Officers)

State of Idaho vs. Gary C Partee

Date	Code	User		Judge
12/20/2016	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (M465-752-6-9-11 Litter on Occupied Private Property Prohibited)	Gregory FitzMaurice
	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (M465-746-6-2-2 Cruelty to Animals)	Gregory FitzMaurice
	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (M465-746-6-2-5 Wild Animals Prohibited)	Gregory FitzMaurice
	PLEA	CHRISTY	A Plea is Entered for Charge: - NG (M465-746-6-2-13(3) Dog-License Required)	Gregory FitzMaurice
1/3/2017	ORSP	BARBIE	Order Setting Trial And Scheduling Order	Gregory FitzMaurice
	HRSC	BARBIE	Hearing Scheduled (Status Conference 01/17/2017 02:00 PM)	Gregory FitzMaurice
	HRSC	BARBIE	Hearing Scheduled (Final Pretrial Conference 05/09/2017 01:30 PM)	Gregory FitzMaurice
	HRSC	BARBIE	Hearing Scheduled (Jury Trial 05/24/2017 09:00 AM) Day 1 of 3	Gregory FitzMaurice
	HRSC	BARBIE	Hearing Scheduled (Jury Trial 05/25/2017 09:00 AM) Day 2 of 3	Gregory FitzMaurice
	HRSC	BARBIE	Hearing Scheduled (Jury Trial 05/26/2017 09:00 AM) Day 3 of 3	Gregory FitzMaurice
1/17/2017	HRHD	CHRISTY	Hearing result for Status Conference scheduled on 01/17/2017 02:00 PM: Hearing Held	Gregory FitzMaurice
	DCHH	CHRISTY	Hearing result for Status Conference scheduled on 01/17/2017 02:00 PM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100	Gregory FitzMaurice
	CMIN	CHRISTY	Hearing result for Status Conference scheduled on 01/17/2017 02:00 PM: Court Minutes	Gregory FitzMaurice
2/10/2017	SDIS	KPROFFITT	Supplemental State's Production of Discovery	Gregory FitzMaurice
	STEL	KPROFFITT	State Witness and Exhibit List	Gregory FitzMaurice
2/24/2017	AFFD	KJOHNSON	Affidavit of E. Clayne Tyler for Restitution	Gregory FitzMaurice
3/20/2017	MOTN	CHRISTY	Motion for Order Continuing Jury Trial and Pre-Trial	Gregory FitzMaurice
3/21/2017	CMIN	BARBIE	Court Minutes	Gregory FitzMaurice
4/3/2017	HRSC	CHRISTY	Hearing Scheduled (Motion to Continue 04/18/2017 01:30 PM)	Gregory FitzMaurice
		CHRISTY	Notice Of Hearing	Gregory FitzMaurice
4/18/2017	HRHD	CHRISTY	Hearing result for Motion to Continue scheduled on 04/18/2017 01:30 PM: Hearing Held	Gregory FitzMaurice

State of Idaho vs. Gary C Partee

Date	Code	User	Judge
4/18/2017	DCHH	CHRISTY	Hearing result for Motion to Continue scheduled on 04/18/2017 01:30 PM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100
	CMIN	CHRISTY	Hearing result for Motion to Continue scheduled on 04/18/2017 01:30 PM: Court Minutes
	HRVC	CHRISTY	Hearing result for Final Pretrial Conference scheduled on 05/09/2017 01:30 PM: Hearing Vacated
	HRVC	CHRISTY	Hearing result for Jury Trial scheduled on 05/25/2017 09:00 AM: Hearing Vacated Day 2 of 3
	HRVC	CHRISTY	Hearing result for Jury Trial scheduled on 05/24/2017 09:00 AM: Hearing Vacated Day 1 of 3
	HRVC	CHRISTY	Hearing result for Jury Trial scheduled on 05/26/2017 09:00 AM: Hearing Vacated Day 3 of 3
	ORFC	CHRISTY	Amended Order Of Release From Custody
4/25/2017	SCHE	BARBIE	Amended Order Setting Trial And Scheduling Order
	HRSC	BARBIE	Hearing Scheduled (Final Pretrial Conference 08/01/2017 01:30 PM)
	HRSC	BARBIE	Hearing Scheduled (Jury Trial 08/23/2017 09:00 AM)
6/28/2017	MOTN	ALUSTIG	Motion to Consolidate
	NOTH	ALUSTIG	Notice Of Hearing RE: Motion to Consolidate
	HRSC	ALUSTIG	Hearing Scheduled (Motion 07/05/2017 10:00 AM)
7/5/2017	HRHD	CHRISTY	Hearing result for Motion scheduled on 07/05/2017 10:00 AM: Hearing Held
	DCHH	CHRISTY	Hearing result for Motion scheduled on 07/05/2017 10:00 AM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100
	CMIN	CHRISTY	Hearing result for Motion scheduled on 07/05/2017 10:00 AM: Court Minutes
7/19/2017	ORDR	CHRISTY	Order Consolidating Cases CR2016-951 and CR2017-95
7/27/2017	INFO	ALUSTIG	Consolidated Information

State of Idaho vs. Gary C Partee

Date	Code	User	Judge
8/1/2017	HRHD	CHRISTY	Hearing result for Final Pretrial Conference scheduled on 08/01/2017 01:30 PM: Hearing Held
	DCHH	CHRISTY	Hearing result for Final Pretrial Conference scheduled on 08/01/2017 01:30 PM: District Court Hearing Held Court Reporter: NONE Waived Number of Transcript Pages for hearing estimated: LESS THAN 100
	CMIN	CHRISTY	Hearing result for Final Pretrial Conference scheduled on 08/01/2017 01:30 PM: Court Minutes
8/3/2017	WITN	KJOHNSON	Amended State's Witness and Exhibit List
8/7/2017	MOTN	BARBIE	Stipulated Motion To Amend Consolidated Information
	SUBR	BARBIE	Subpoena Returned - Vincent Frazier, OPD
	SUBR	BARBIE	Subpoena Returned - Lahni Ireland, OPD
	SUBR	BARBIE	Subpoena Returned - Mathew Russell, OPD
	SRJI	BARBIE	State's Requested Jury Instructions
8/8/2017	ORDR	BARBIE	Order To Amend Consolidated Information
	INFO	BARBIE	Amended Consolidated Information
8/11/2017	HRSC	CHRISTY	Hearing Scheduled (Change of Plea 08/15/2017 01:45 PM)
		CHRISTY	Notice Of Hearing
8/14/2017	SUBR	KJOHNSON	Subpoena Returned - Tristyn Magers
8/15/2017	PANL	BARBIE	Jury Panel
	HRVC	CHRISTY	Hearing result for Change of Plea scheduled on 08/15/2017 01:45 PM: Hearing Vacated
8/16/2017	SDIS	LMCMILLAN	Second Supplemental State's Production Of Discovery
8/18/2017	ACSR	ALUSTIG	Acceptance Of Service - Eric Dodge
	SUBR	ALUSTIG	Subpoena Return - Mike Shore
8/21/2017	JUIN	CHRISTY	Court's Proposed Jury Instructions
8/23/2017	JTST	CHRISTY	Hearing result for Jury Trial scheduled on 08/23/2017 09:00 AM: Jury Trial Started Day 1
	DCHH	CHRISTY	Hearing result for Jury Trial scheduled on 08/23/2017 09:00 AM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100 Day 1
	CMIN	CHRISTY	Hearing result for Jury Trial scheduled on 08/23/2017 09:00 AM: Court Minutes Day 1

State of Idaho vs. Gary C Partee

Date	Code	User		Judge
8/23/2017	PERC	CHRISTY	Peremptory Challenges	Gregory FitzMaurice
	JURY	CHRISTY	Jury Chart	Gregory FitzMaurice
	WITN	CHRISTY	Witness List	Gregory FitzMaurice
8/24/2017	JTST	CHRISTY	Hearing result for Jury Trial scheduled on 08/24/2017 09:00 AM: Jury Trial Started Day 2	Gregory FitzMaurice
	DCHH	CHRISTY	Hearing result for Jury Trial scheduled on 08/24/2017 09:00 AM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100 Day 2	Gregory FitzMaurice
	CMIN	CHRISTY	Hearing result for Jury Trial scheduled on 08/24/2017 09:00 AM: Court Minutes Day 2	Gregory FitzMaurice
	EXLT	CHRISTY	Exhibit List	Gregory FitzMaurice
	JUIN	CHRISTY	Jury Instructions Given 1-23	Gregory FitzMaurice
	VERD	CHRISTY	Verdict Form	Gregory FitzMaurice
	FOGT	CHRISTY	Found Guilty After Trial - Counts 2, 3 & 4	Gregory FitzMaurice
	BSET	CHRISTY	BOND SET: \$100,000.00	Gregory FitzMaurice
	PSIO1	CHRISTY	Pre-Sentence Investigation Evaluation Ordered	Gregory FitzMaurice
	PSIO2	CHRISTY	PSI Face Sheet Transmitted	Gregory FitzMaurice
			Document sealed	
	HRSC	CHRISTY	Hearing Scheduled - Sentencing 10/24/2017 at 1:30 p.m.	Gregory FitzMaurice
	OCPB	BARBIE	Order Of Commitment Pending Posting Of Bail	Gregory FitzMaurice
	MOTN	BARBIE	Motion For Order Approving Attorney Fee	Gregory FitzMaurice
	ORDR	BARBIE	Order Approving Attorney's Fee	Gregory FitzMaurice
8/31/2017	AFFD	BARBIE	Affidavit Of E. Clayne Tyler For Restitution - Idaho State Police Forensic Services	Gregory FitzMaurice
9/20/2017	HRSC	BARBIE	Hearing Scheduled (Motion to Withdraw 10/03/2017 02:45 PM)	Gregory FitzMaurice
		BARBIE	Notice Of Hearing	Gregory FitzMaurice
9/21/2017	AFFD	ALUSTIG	Affidavit of Frazier, Vince for Restitution	Gregory FitzMaurice
10/3/2017	HRHD	CHRISTY	Hearing result for Motion to Withdraw scheduled on 10/03/2017 02:45 PM: Hearing Held	Gregory FitzMaurice
	CMIN	CHRISTY	Hearing result for Motion to Withdraw scheduled on 10/03/2017 02:45 PM: Court Minutes	Gregory FitzMaurice
10/4/2017	ORPD	BARBIE	Order Appointing Public Defender	Gregory FitzMaurice
	APER	BARBIE	Defendant: Partee, Gary C Appearance Zach A. Battles	Gregory FitzMaurice
10/13/2017	PSIR	CHRISTY	Presentence Report	Gregory FitzMaurice
			Document sealed	
10/19/2017	MOTN	CHRISTY	Motion for Mental Health Evaluation at County Expense (I.C. 18-211)	Gregory FitzMaurice

State of Idaho vs. Gary C Partee

Date	Code	User	Judge
10/19/2017	AFFD	CHRISTY	Affidavit in Support of Mental Health Evaluation at County Expense (I.C. 18-211)
	ORDR	BARBIE	Order For Mental Health Examination
10/23/2017	HRVC	CHRISTY	Hearing result for Sentencing scheduled on 10/24/2017 01:30 PM: Hearing Vacated
10/24/2017	REQT	BARBIE	Request For Furlough
	ORDR	BARBIE	Order For Furlough - Denied
10/31/2017	REPT	CHRISTY	Confidential Forensic Psychological Evaluation Document sealed
11/1/2017	HRSC	CHRISTY	Hearing Scheduled (Sentencing 11/07/2017 10:30 AM)
		CHRISTY	Notice Of Hearing
11/2/2017	MOTN	KJOHNSON	Motion for Attorney Fees and For an Order Sealing this Motion, Affidavit, Exhibit, and Following Order Pursuant to I.C.A.R. 32(i) Document sealed
	AFFD	KJOHNSON	Affidavit of Robert J. Kwate Document sealed
11/7/2017	HRHD	CHRISTY	Hearing result for Sentencing scheduled on 11/07/2017 10:30 AM: Hearing Held
	DCHH	CHRISTY	Hearing result for Sentencing scheduled on 11/07/2017 10:30 AM: District Court Hearing Held Court Reporter: Keith Evans Number of Transcript Pages for hearing estimated: LESS THAN 100
	CMIN	CHRISTY	Hearing result for Sentencing scheduled on 11/07/2017 10:30 AM: Court Minutes
	ORDR	BARBIE	Custody Order
11/14/2017	MOTN	CHRISTY	Motion for Reduction of Sentence
11/16/2017	ORDR	CHRISTY	Order Denying Reduction of Sentence
11/20/2017	ORDR	BARBIE	Order For Attorney Fees And To Seal Motion, Affidavit, Exhibit And This Order Pursuant To I.C.A.R. 32(i) Document sealed
11/28/2017	JDCV	BARBIE	Judgment Of Conviction - Retained Jurisdiction
	ORDR	BARBIE	Order To Dismiss Counts I, V & VI
	DMOP	BARBIE	Dismissed by Motion of the Prosecutor with hearing (I37-2732(a)(1)(A) {F} Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver)
	DMOP	BARBIE	Dismissed by Motion of the Prosecutor with hearing (M465-752-6-9-11 Litter on Occupied Private Property Prohibited)

State of Idaho vs. Gary C Partee

Date	Code	User		Judge
11/28/2017	DMOP	BARBIE	Dismissed by Motion of the Prosecutor with hearing (M465-746-6-2-2 Cruelty to Animals)	Gregory FitzMaurice
	ORDR	BARBIE	Order For Attorney Fees And To Seal Motion, Affidavit, Exhibit And This Order Pursuant To I.C.A.R. 32(i) Document sealed	Gregory FitzMaurice
12/4/2017	NOTA	BARBIE	NOTICE OF APPEAL	Gregory FitzMaurice
	APSC	BARBIE	Appealed To The Supreme Court	Gregory FitzMaurice
	MOTN	BARBIE	Motion To Withdraw And To Appoint State Appellate Public Defender	Gregory FitzMaurice
12/5/2017	MOTN	LMCMILLAN	Motion For Attorney Fees and For An Order Sealing This Motion, Affidavit, Exhibit and Following Order Pursuant to I.C.A.R. 32(i) Document sealed	Gregory FitzMaurice
	AFFD	LMCMILLAN	Affidavit Of Robert J. Kwate Document sealed	Gregory FitzMaurice
	ORDR	BARBIE	Order Allowing Withdrawal Of Attorney And Appointing State Appellant Public Defender's Office	Gregory FitzMaurice
	ORDR	BARBIE	Order For Attorney Fees And To Seal Motion , Affidavit, Exhibit And This Order Pursuant To I.C.A.R. 32(i) Document sealed	Gregory FitzMaurice
1/3/2018	MOTN	ALUSTIG	Motion for Attorney Fees and For an order Sealing this Motion, Affidavit, Exhibit, and Following Order Pursuant to I.C.A.R. 32 (i) Document sealed	Gregory FitzMaurice
	AFFD	ALUSTIG	Affidavit of Robert J. Kwate Document sealed	Gregory FitzMaurice
1/4/2018	MISC	BARBIE	Clerk's Certificate Of Appeal Filed By The Supreme Court 12/11/17	Gregory FitzMaurice
1/9/2018	ORDR	BARBIE	Order For Attorney Fees And To Seal Motion, Affidavit, Exhibit And This Order Pursuant To I.C.A.R. 32(i) Document sealed	Gregory FitzMaurice
3/2/2018	NOTA	CHRISTY	AMENDED NOTICE OF APPEAL	Gregory FitzMaurice

OROFINO POLICE DEPT

FILED

11/30/16

02016-95

9:00

OROFINO, ID

10 59

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 2ND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER
STATE OF IDAHO

10159

vs.

PARTEE

Last Name

GARY

First Name

C.

Middle Initial

COMPLAINT AND SUMMONS

☐ Infraction Citation

OR

☒ Misdemeanor Citation

☐ Accident Involved

☐ Commercial Vehicle Driven by this Driver

IPUC #

USDOT TK Census #

☐ Operator ☐ Class A ☐ Class B ☐ Class C ☐ Class D ☐ Other

☐ GVWR 26001 + ☐ 16 + Persons ☐ Placard Hazardous Materials DR# 16-1678

Home Address 10478 HWY 12 OROFINO, ID

Business Address

Ph #

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds, and believe the above-named Defendant,

[Redacted]

State ID

Sex: ☒ M ☐ F

Height 600

Wt. 140

Hair BRO

Eyes H2L

Veh. Lic.#

State

Yr. of Vehicle

Make

Model

Color

Did commit the following act(s) on 11/29, 20 16 at 1511 o'clock P M.

C.M.I.

Vio. #1 DOTS, SPECIAL PROVISIONS 6-2-13

Code Section

Vio. #2 ENTER AN OCCUPIED PRIVATE PROPERTY

Code Section

6-9-11

Location

10478 HWY 12

Hwy.

Mp.

CLEARWATER

County, Idaho.

Date

11/29/16

Officer/Party

Serial #/Address

Dept.

Date

Witnessing Officer

Serial #/Address

Dept.

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to appear before the Clerk of the Magistrate's Court of the

District Court of CLEARWATER County,

OROFINO

Idaho,

located at COURTHOUSE

on the _____ day of _____,

20 _____, at 1 o'clock P M.

Defendant's Name:

I acknowledge receipt of this summons and I promise to appear at the time indicated.

IN CUSTODY

Defendant's Signature

I hereby certify service upon the defendant personally on 11/29, 20 16

[Signature]

Officer

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.

COURT COPY VIOLATION #1

Alexander Clark Business Forms - Boise, Idaho - (208) 322-0611

VERSION 1

OROFINO POLICE DEPT.

FILED CR2016-951 11/29/16
8:00 10155

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 2ND JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER
 STATE OF IDAHO

10155

vs.

PARTEE

Last Name

GARY

First Name

Middle Initial

C.

COMPLAINT AND SUMMONS

☐ Infraction Citation

OR

☒ Misdemeanor Citation

☐ Accident Involved

☐ Commercial Vehicle Driven by this Driver

IPUC #

USDOT TK Census #

☐ Operator ☐ Class A ☐ Class B ☐ Class C ☐ Class D ☐ Other

☐ GVWR 26001 + ☐ 16 + Persons ☐ Placard Hazardous Materials DR# 16-1678

Home Address 10478 HWY 12 OROFINO, ID

Business Address _____ Ph # _____

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds, and believe the above-named Defendant,

State ID

Sex: ☒ M ☐ F

Height 600 Wt. 140 Hair BRO Eyes HZL

Veh. Lic.# _____ State _____ Yr. of Vehicle _____ Make _____

Model _____ Color _____

Did commit the following act(s) on 11/29, 20 16 at 1511 o'clock P M.

C. M.I. PARTEE Vio. #1 CRUELTY TO ANIMALS 6-2-2 Code Section

Vio. #2 WILD ANIMALS PROHIBITED 6-2-5 Code Section

Location 10478 HWY 12 OROFINO, ID

Hwy. _____ Mp. CLEARWATER County, Idaho.

Date 11/29/16 Officer/Party [Signature] Serial #/Address 606 Dept. OPD

Date _____ Witnessing Officer _____ Serial #/Address _____ Dept. _____

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to appear before the Clerk of the Magistrate's Court of the

District Court of CLEARWATER County, OROFINO, Idaho,

located at COURTHOUSE on the _____ day of _____,

20 _____, at 1 o'clock P M.

I acknowledge receipt of this summons and I promise to appear at the time indicated.

IN CUSTODY

Defendant's Signature

I hereby certify service upon the defendant personally on 11/29, 20 16

Officer

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.

COURT COPY VIOLATION #1

Alexander Clark Business Forms - Boise, Idaho - (208) 322-0611

VERSION 1

OROFINO POLICE DEPT.

FILED 11/30/16
8:00 AM

CR0016-751

10161

IDAHO UNIFORM CITATION

IN THE DISTRICT COURT OF THE 2ND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER
STATE OF IDAHO

10161

VS.

Barthe

Last Name

Barry

First Name

C

Middle Initial

COMPLAINT AND SUMMONS

☐ Infraction Citation

OR

☒ Misdemeanor Citation

☐ Accident Involved

☐ Commercial Vehicle Driven by this Driver

IPUC #

USDOT TK Census #

☐ Operator ☐ Class A ☐ Class B ☐ Class C ☒ Class D ☐ Other

☐ GVWR 26001 + ☐ 16 + Persons ☐ Placard Hazardous Materials DR#

Home Address *10478 Hwy 12 Orofino, ID*

Business Address Ph #

THE UNDERSIGNED OFFICER (PARTY) HEREBY CERTIFIES AND SAYS:

I certify I have reasonable grounds, and believe the above-named Defendant,

[Redacted] State *ID* Sex: ☒ M ☐ F

Height *6'0* Wt. *180* Hair *Brn* Eyes *H21*

Veh. Lic.# *-* State *-* Yr. of Vehicle *-* Make *-*

Model *-* Color *-*

Did commit the following act(s) on *11/29*, 20 *16* at *3:30* o'clock *P* M.

C M.I. Vio. #1 *Resisting and obstructing* *18-705*
Code Section

Vio. #2 *Possession of paraphernalia* *37-2734(A)*
Code Section

Barry FIRST Location *10478 Hwy 12 Orofino, ID*

Hwy. *12* Mp. *-* CLEARWATER County, Idaho.

11/29/16 E. Dodge Date Officer/Party Serial #/Address Dept. *OPD*

Date Witnessing Officer Serial #/Address Dept.

THE STATE OF IDAHO TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to appear before the Clerk of the Magistrate's Court of the
District Court of CLEARWATER County, OROFINO, Idaho,
located at COURTHOUSE on the _____ day of _____, 20 _____, at *1* o'clock *P* M.

I acknowledge receipt of this summons and I promise to appear at the time indicated.

In Custody
Defendant's Signature

I hereby certify service upon the defendant personally on _____, 20 _____

Officer

NOTICE: See reverse side of your copy for PENALTY and COMPLIANCE instructions.

COURT COPY VIOLATION #1

Alexander Clark Business Forms - Boise, Idaho - (208) 322-0611

VERSION 1

Orofino Police Department Incident Report No:P2016-01678

Clayne Tyler

Prosecuting Attorney

County of Clearwater

Post Office Box 2627

Orofino, Idaho 83544

Telephone: (208) 476-5611

Fax: (208) 476-9710

Deputy: Lori Gilmore

FILED 11/30/16
8:00 AM
AH
AT

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO

Plaintiff,

vs. Partee, Gary C.



Defendant

COURT CASE NO.: CA2016-951

AFFIDAVIT FOR INITIAL
DETERMINATION OF PROBABLE
CAUSE AFTER ARREST
WITHOUT WARRANT

STATE OF IDAHO

)

) ss.

County of Clearwater

)

COMES NOW , the undersigned Peace Officer, who, being first duly sworn on oath,
deposes and says:

1. The Affiant, 6C1 - Dodge, Eric, is a duly qualified Peace Officer serving with the
Orofino Police Department, and has been so employed for 13 years.

2. That the above-referenced Defendant has been arrested on 11/29/16 15:30 for the
crime/crimes of (City code)Dogs, Special provisions/ Litter on occupied private property/
Cruelty to animals/ wild animals prohibited/ (I.C.)Possession of paraphernalia/ resisting
and obstructing without a warrant, and your Affiant asks that a Magistrate, after your Affiant
lays a Complaint before him, to attach this Affidavit to the Complaint, and then determine
whether there is probable cause to believe that said offense has been committed and the
Defendant has committed it.

3. That the basis for said arrest is contained in the following narrative and/or attached paperwork:

That on or about 11/29/16 15:30, **SEE ATTACHED REPORTS** which your Affiant alleges is sufficient to establish probable cause that the said Defendant **Partee, Gary C.**, committed said crime/crimes herein alleged.

4. Your Affiant believes the Defendant would not appear without bond because:

☐ The Defendant is from out of town.

☐ The Defendant is not employed in this area.

☐ A records check on the individual and the reply indicates the Defendant has failed to appear on prior occasions.

Other:

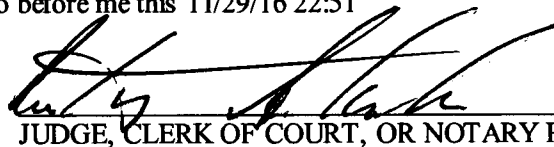
Therefore, bond is requested.

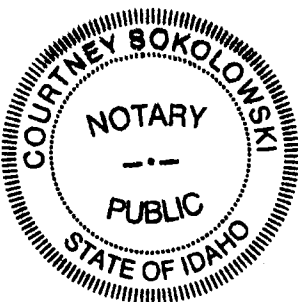
That the above information is true and correct to the best of your Affiant's information and belief.

"You do solemnly swear or affirm that the testimony you shall give in the matter in issue shall be the truth, the whole truth, and nothing but the truth."


AFFIANT SIGNATURE

SUBSCRIBED and SWORN to before me this 11/29/16 22:51


JUDGE, CLERK OF COURT, OR NOTARY PUBLIC



COURTNEY SOKOLOWSKI
Notary public in and for the State of Idaho,
residing at , CLEARWATER COUNTY,
therein. Commission expires FEB 1 2022.

P.O. Box 2603
Orofino, ID 83544-2603

STATE OF IDAHO
COUNTY OF CLEARWATER

State of Idaho

Plaintiff,

- VS -

PARTEE, GARY CARL

10478 HWY 12

OROFINO, ID 83544

Defendant

Probable Cause - Legal Heading First Line
Probable Cause - Legal Heading Second Line
Probable Cause - Legal Heading Third Line

PARTEE, GARY CARL has been arrested and charged with:

18-705 - OBSTRUCT OR RESIST OFFICER

37-2734A(1) - DRUG PARAPHERNALIA-USE OR POSSESS

M465-6-9-11 - LITTER ON OCCUPIED PRIVATE PROPERTY

M465-746-6-2-13 - DOGS, SPECIAL PROVISIONS

M465-746-6-2-2 - CRUELTY TO ANIMALS

M465-746-6-2-5 - WILD ANIMALS PROHIBITED

Probable cause for this arrest is as follows:

In an attempt to serve a search warrant at Partee's residence I conducted the knock and announce at the west side door. After knocking I heard a female inside of the residence as who was knocking. I announced; "Police Department, search warrant". No response was heard from inside of the residence. I did hear what sounded like running from inside of the residence. Believing the occupants were attempting to hide, or destroy evidence inside of the residence. I attempted to force entry by kicking the door. After the second kick I heard a male voice yell at me to hold on. I demanded the male open the door. Within a few seconds the door was opened by a male, identified as Gery Partee.

I directed him back and he refused to move and had to be forced out of the way. Parte passively resisted and again had to be pushed from out of the way.

During the course of the search warrant I located a bedroom to the left and rear. Inside of the room I located a notice from the City of Orofino to Partee regarding the public nuisance and trash at the residence. Inside of the same room I also located writing on the wall towards Partee as well as a metal plate reflecting Partee's name. Inside of the same room I located numerous items commonly used for the smoking of methamphetamine and separate items for the smoking marijuana.

It was noted Partee was in possession of a rattlesnake in the living room area. I noted the atrium where the snake was contained did not meet the requirements of the State provisions for the containment of such an animal. The provisions state such an animal must be contained behind double walls and or screens or safety glass to prevent fang penetration, and must be locked. The atrium was homemade from what appeared to be the rear window of a vehicle and expanding foam insulation. Neither of the contents met the provisions and therefore violates Orofino City Ordinance.

It was also noted that Partee had three cats and one dog. During the course of the search I did not observe adequate water or wholesome food or a clean or wholesome living environment for any of the animals. I also noted the dog on the property was not licensed was not legally licensed and it was also found he did not have any records of a licensed animal within the City of Orofino record system. It was evident the animal was over the 16 week age which is required by City Ordinance.

Partee has been issued citations over the past year for the conditions of his property and no actions have been taken. The stench of the residence and the property is foul at best and difficult to stand within any proximity. As was suggested in his letter for the public nuisance from the City of Orofino, Partee has failed to take any actions to remedy the problem or take steps to clean the property as has been required.

Probable Cause - Text Block Following Explanation

Signed

Probable Cause - Explanation Signature Title

Sworn to and subscribed before me, on this _____ day of _____, _____.

Signed

Probable Cause - Notary Signature Title

Probable Cause - Notary Text Block

Probable Cause - Closing Text Block

Probable Cause - Determination Heading

Probable Cause - Determination First Text Block

18-705 - OBSTRUCT OR RESIST OFFICER
37-2734A(1) - DRUG PARAPHERNALIA-USE OR POSSESS
M465-6-9-11 - LITTER ON OCCUPIED PRIVATE PROPERTY
M465-746-6-2-13 - DOGS, SPECIAL PROVISIONS
M465-746-6-2-2 - CRUELTY TO ANIMALS
M465-746-6-2-5 - WILD ANIMALS PROHIBITED

Probable Cause - Determination Options
Probable Cause - Determination Options
Probable Cause - Determination Options
Probable Cause - Determination Options
Probable Cause - Determination Options
Probable Cause - Determination Options

ATTEST:

Signed

Probable Cause - Determination Signature Title

Date / Time

Clearwater County Clerk of Courts

BY: _____

11/30/16
12:44 PM
att

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO

Plaintiff,

vs.

Partee, Gary C

[REDACTED]

[REDACTED]

Defendant

CASE NO. CR 2016-951

ORDER DETERMINING PROBABLE
CAUSE AFTER ARREST WITHOUT
WARRANT

After considering the affidavit of 6C1 - Dodge, Eric the court finds
that Officer 6C1 - Dodge, Eric had probable cause to arrest the defendant on
the 11/29/16 22:51 for the crime(s) of:

(City code) Dogs, special provisions/ Litter on occupied private property/ cruelty to animals/ wild
animal prohibited/ (I.C.) Possession of paraphernalia/ resisting and obstructing an officer

without first obtaining a warrant for the arrest of the defendant. The court finds there is probable
cause to believe that said crime(s) was / were committed and that the said defendant committed it
/ them.

Bail is hereby set at \$ Bond amount. The defendant, Partee, Gary C. unless released by the
court on his / her own recognizance, is remanded to the custody of the Clearwater County
Sheriffs until such bond is posted.

Other findings or orders:

Dated this 30 day of November, 2016

[Signature]
Magistrate

E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
Clearwater County
P. O. Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,
CITY OF OROFINO,

Plaintiff,

vs.

GARY CARL PARTEE,
[REDACTED]
[REDACTED]

Defendant.

CASE NO. CR2016-951

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this 30 day of NOV, 2016,
Vincent Farina, of the Orofino Police Department, who, being first duly sworn
on oath, complains and says:

COUNT I
POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE
Felony, I. C. 37-2732(c)(1)

That the Defendant, GARY CARL PARTEE on or about the 29th day of
November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did
knowingly and unlawfully possess a controlled substance, to-wit: a set of scales and/or a
light bulb containing Methamphetamine, a Schedule II controlled substance.

All of which is contrary to Section 37-2732(c)(1) of the Idaho Code and against
the peace and dignity of the State of Idaho.

COUNT II
POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE,
WITH THE INTENT TO DELIVER
Felony, I.C. 37-2732(a)(1)(A)

That the Defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did actually, intentionally and unlawfully possess a controlled substance, to-wit: a bindle of Methamphetamine, a Schedule II controlled substance, with the intent to deliver some or all of the aforementioned controlled substance.

All of which is contrary to Section 37-2732(a)(1)(A) of the Idaho Code and against the peace and dignity of the State of Idaho.

COUNT III
POSSESSION OF DRUG PARAPHERNALIA
Misd., I.C. 37-2734A

That the Defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016 in the City of Orofino, County of Clearwater, State of Idaho, did use and/or possess with the intent to use drug paraphernalia.

All of which is contrary to Section 37-2734A of the Idaho Code and against the peace and dignity of the State of Idaho.

COUNT IV
RESISTING AND OBSTRUCTING AN OFFICER
Misd., I.C. 18-705

That the Defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did wilfully resist, obstruct and/or delay a public officer, to-wit: Officer Eric Dodge of the Orofino Police Department, in the discharge or attempt to discharge a duty of his office, by refusing to comply with the orders of the officers and/or to stop resisting after being ordered to do so.

All of which is contrary to I.C. § 18-705 and against the peace and dignity of the State of Idaho.

COUNT V
LITTER ON OCCUPIED PRIVATE PROPERTY
Misd., Orofino City Code 6-9-11

That the Defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016, in the City of Orofino, County of Clearwater, State of Idaho did unlawfully throw, deposit, place, leave and/or dump debris, garbage, litter and/or rubbish on occupied private property.

All of which is contrary to the Orofino City Code Section 6-9-11 and against the peace and dignity of the State of Idaho.

COUNT VI
CRUELTY TO ANIMALS
Misd., Orofino City Code 6-2-2

That the defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did intentionally and unlawfully act in a cruel manner to an animal within the city limits of Orofino, to-wit: GARY CARL PARTEE did fail to provided his animals with sufficient water and wholesome food and/or a clean wholesome environment in which to live.

All of which is contrary to Orofino City Code 6-2-2 and against the peace and dignity of the State of Idaho.


COMPLAINANT

SUBSCRIBED and SWORN to before me this 30th day of November, 2016.


JUDGE

11/30/2016
4:24 PM
BY: [Signature]

Orofino Police Department Incident Report No:P2016-01678

Clayne Tyler

Prosecuting Attorney

Deputy: Lori Gilmore

County of Clearwater

Post Office Box 2627

Orofino, Idaho 83544

Telephone: (208) 476-5611

Fax: (208) 476-9710

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO

Plaintiff,

vs. Partee, Gary C



Defendant

COURT CASE NO.: LR 2016-951

AFFIDAVIT FOR INITIAL
DETERMINATION OF PROBABLE
CAUSE AFTER ARREST
WITHOUT WARRANT

STATE OF IDAHO)
County of Clearwater) ss.
)

COMES NOW , the undersigned Peace Officer, who, being first duly sworn on oath,
deposes and says:

1. The Affiant, 6C1 - Dodge, Eric, is a duly qualified Peace Officer serving with the
Orofino Police Department, and has been so employed for 13 years.

2. That the above-referenced Defendant has been arrested on 11/29/16 15:30 for the
crime/crimes of **Possession with intent to deliver/ possession of a controlled substance** without
a warrant, and your Affiant asks that a Magistrate, after your Affiant lays a Complaint before
him, to attach this Affidavit to the Complaint, and then determine whether there is probable cause
to believe that said offense has been committed and the Defendant has committed it.

3. That the basis for said arrest is contained in the following narrative and/or attached
paperwork:

That on or about 11/30/16 13:46, **SEE ATTACHED REPORTS** which your Affiant alleges is sufficient to establish probable cause that the said Defendant **Partee, Gary C**, committed said crime/crimes herein alleged.

4. Your Affiant believes the Defendant would not appear without bond because:

☐ The Defendant is from out of town.

☐ The Defendant is not employed in this area.

☐ A records check on the individual and the reply indicates the Defendant has failed to appear on prior occasions.

Other:

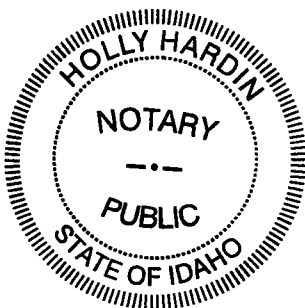
Therefore, bond is requested.

That the above information is true and correct to the best of your Affiant's information and belief.

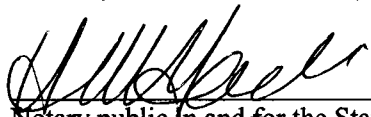
"You do solemnly swear or affirm that the testimony you shall give in the matter in issue shall be the truth, the whole truth, and nothing but the truth."


AFFIANT SIGNATURE

SUBSCRIBED and SWORN to before me this 11/30/16 13:46



JUDGE, CLERK OF COURT, OR NOTARY PUBLIC


Notary public in and for the State of Idaho,
residing at Crater Lake, OR
therein. Commission expires 03/05/2018.

37-2732(A)(1)(A) - CONTROLLED SUBSTANCE-DELIVERY
37-2732(C) (2) - POSSESSION CONTROLLED SUBSTANCE

Probable Cause - Determination Options
Probable Cause - Determination Options

ATTEST:

Signed _____
Probable Cause - Determination Signature Title

Date / Time _____

Clearwater County Clerk of Courts
BY: _____

1 E. CLAYNE TYLER, ISBN 5277
Prosecuting Attorney
2 County of Clearwater
Post Office Box 2627
3 Orofino, Idaho 83544
Telephone: (208) 476-5611
4 Deputy: Lori M. Gilmore, ISBN 5877

5 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
6 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

7 STATE OF IDAHO,)

CASE NO. CR2016- 951

8 Plaintiff,)

9 v.)

MOTION REGARDING
BOND ON ARREST
WITHOUT WARRANT

10 GARY CARL PARTEE,)

MOTION TO CONSOLIDATE CASES

11 Defendant.)

12
13 COMES NOW, E. Clayne Tyler, Prosecuting Attorney in and for Clearwater County, and
14 moves the Court for bond to be set on the above named individual as follows:

15 On the felony charge of COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE,
16 METHAMPHETAMINE, a violation of Idaho Code Section 37-2732(c)(1), which carries a
17 maximum penalty of not more than seven (7) years imprisonment, or fined not more than fifteen
18 thousand dollars (\$15,000), or both.

19 On the felony charge of COUNT II: POSSESSION OF A CONTROLLED
20 SUBSTANCE, METHAMPHETAMINE, WITH THE INTENT TO DELIVER, a violation of
21 Idaho Code Section 37-2732(a)(1)(A), which carries a maximum penalty of a term of years not to
22 exceed life imprisonment, or fined not more than twenty-five thousand dollars (\$25,000), or
23 both.

24 On the misdemeanor charge of COUNT III: POSSESSION OF DRUG
25 PARAPHERNALIA, a violation of Idaho Code Section 37-2734A, which carries a maximum
26 penalty of not more than one (1) year imprisonment, fine not more than one thousand dollars
27 (\$1,000), or both.

On misdemeanor charge of COUNT IV: RESISTING AND OBSTRUCTING AN OFFICER, a violation of Idaho Code Section 18-705, which carries a maximum not exceeding one (1) year in the county jail and a fine not exceeding one thousand dollars (\$1,000).

On misdemeanor charge of COUNT V: LITTER ON OCCUPIED PRIVATE PROPERTY, a violation of Orofino City Code Section 6-9-11, which carries a maximum penalty of not more than six (6) months in the county jail and a fine not exceeding one thousand dollars (\$1,000).

On misdemeanor charge of COUNT VI: CRUELTY TO ANIMALS, a violation of Orofino City Code Section 6-2-2, which carries a maximum penalty of not more than six (6) months in the county jail and a fine not exceeding one thousand dollars (\$1,000).

Bond is requested in the amount of: \$ 25,000.

The factors to be considered pursuant to I.C.R. 46 when determining bail, and the amount thereof (Defendant's employment status and history and financial condition; Defendant's family relationships; Defendant's past and present residences; Defendant's character and reputation; Persons who agree to assist the defendant in attending court; The nature of the current charges along with factors which may bear on the likelihood of conviction and possible penalty; the Defendant's prior criminal history; the Defendant's history of failure to appear; Facts which may indicate violations of law if the Defendant is released without restrictions; Other facts indicating the Defendant has strong ties to the community and is not likely to flee the jurisdiction; Reasonable restrictions or conditions which may be placed upon the Defendant as conditions of bail) support this bond request for the following reasons: Def. is not known to

be employed and the charges are very serious. A bond
is appropriate.

That the State requests the following special restrictions be imposed as a condition of Bond: *No contact with any witness or victim other than law enforcement witnesses, Do not commit any further misdemeanor or felony offenses, appear in Court for all further scheduled*

1 *proceedings, do not possess or consume alcohol, nor allow any alcohol to be present in the*
2 *primary residence of the defendant, _____*
3 _____
4 _____

5 Further, the State requests that this case be consolidated with the misdemeanor charges
6 that have been filed in the complaint which consists of previously charged misdemeanor offenses
7 arising from the same circumstances or events leading to this offense.

8 Dated this 30th day of Nov., 2016.

9
10 
11 _____
12 PROSECUTING ATTORNEY
13
14
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21
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23
24
25
26
27
28

11/30/2014
4:24 PM
AT
11/30/2014
4:24 PM
cf

1 E. CLAYNE TYLER, ISBN 5277
Prosecuting Attorney
2 County of Clearwater
Post Office Box 2627
3 Orofino, Idaho 83544
Telephone: (208) 476-5611
4 Deputy: Lori M. Gilmore, ISBN 5877

5
6 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

7 STATE OF IDAHO,) CASE NO. CR 2016-951
8 Plaintiff,)
9 v.) ORDER REGARDING
10 GARY CARL PARTEE,) BOND ON ARREST
11 [REDACTED]) WITHOUT WARRANT
12 Defendant.) ORDER TO CONSOLIDATE CASES

13 The undersigned Judge having examined the Affidavit for Initial Determination of Probable
Cause, along with the documents attached thereto, if any, and the Complaint having been laid before
me, I hereby determine that there

14 X is _____ is not
15
16 probable cause to believe that the offense(s) charged in the complaint has/have been committed by
the Defendant.

17 The court also finds that there

18 X is _____ is not
19 reason to believe the Defendant may not appear in court if released on his/her own recognizance.
20 Bond is hereby set in the amount of \$ 15,000, pending Defendant's initial court
appearance. The Defendant's release is conditioned upon his/her violating no criminal laws, nor
21 having any contact with the alleged victim(s) or other witnesses during his/her release, and upon
the following additional restrictions: _____
22 _____
23 _____

24 FURTHER, the State's Motion to Consolidate Cases is hereby:

25 X Approved _____ Denied _____ N/A
26 DATED this 30th day of November, 2016.

27 Randall W. Polman
28 MAGISTRATE

11/30/14
3:28 PM
ALT

APPLICATION FOR PUBLIC DEFENDER

Name: Gary Partee Phone (208) 827 3108
 Address: 10478 Hwy 12 Orofino ID 83544
 (Street) (City) (State) (Zip)

Have you had a public defender before? Yes ☒ No ☐
 If yes, when _____
 Were you able to make bond? Yes ☐ No ☒
 Who posted your bond? _____
 Are you employed? Yes ☐ No ☒
 If yes, where? _____
 How long there? _____
 What is your monthly gross pay? \$ _____
 Do you have income from any other source? Yes ☐ No ☒
 What source? _____
 How much? \$ _____
 Are you married? Yes ☐ No ☒
 If yes, is your spouse employed Yes ☐ No ☒
 Where? _____
 Spouses monthly gross pay \$ _____
 Are you supporting any children? Yes ☐ No ☒
 If yes, how many? _____
 Do you pay child support through the courts? Yes ☒ No ☐
 If yes, how much? \$ _____
 Are you current on your child support? Yes ☐ No ☒
 Do you own land and/or a house? Yes ☐ No ☒
 What is it worth? \$ _____
 How much do you owe on it? \$ _____
 Do you have any cash or financial assets available? Yes ☐ No ☒
 If yes, how much? \$ _____
 What is the total value of all of your property? \$ _____
 Will anyone assist you financially? Yes ☐ No ☒
 Name _____
 Address _____
 If you are under legal age, who is your parent or guardian?
 Name _____ Phone () _____
 Address _____

I am requesting that a lawyer be appointed to represent me, I understand that I may be required to reimburse the public defender at the end of my case to the best of my ability, and I swear under penalty of perjury that the answers above are true and correct to the best of my knowledge.

Date 11-30-2016

Applicants Signature

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

FILED 11/30/16 AT
5:28 PM
CLERK OF DISTRICT COURT

STATE OF IDAHO, Plaintiff,

Case No. CR 2016-951

vs.

Gary Pardee
Defendant.

**ORDER APPOINTING
ATTORNEY**

The Court having made the determination that the defendant is financially unable to obtain counsel;

IT IS ORDERED that Charles Kavis

Is appointed to represent said defendant.

Dated this 30 day of November, 20 16.

[Signature]

Judge

Present Status _____

Bail Set at _____

Preliminary Hearing Set for _____ at _____ o'clock.

Coy of Complaint attached.

Date 11/30/16

☒ Court

☒ Defense Attorney Email

☒ Prosecutor Email & CH Mail

☒ Defendant Hand Delivered

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO

Plaintiff,

VS.

Gary Parter

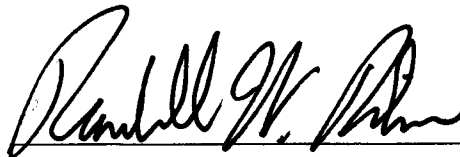
Defendant.

Case No. CR2016-951
ORDER SETTING TIME AND PLACE

IT IS HEREBY ORDERED THAT the above entitled case now pending before this Court be set
for Preliminary on the 12 day of December,
20 16, at the hour of 10:30 AM in the courtroom of the above entitled Court in the City of
Orofino, County of Clearwater, State of Idaho, and that the Defendant be in Court at that time.

FAILURE OF THE DEFENDANT TO APPEAR at the above time and place may result in his bond,
if any he has posted, being forfeited and a bench warrant being issued.

Dated this 30 day of November, 20 16.


Judge

Date 11/30/16

- ☒ Copy Delivered to Attorney - Email
- ☒ Copy Delivered to Prosecuting Attorney - Email & CHmail
- ☒ Defendant - Jail

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

FILED 11/30/16 AT
5:20 PM
BY ATJ

☐ STATE OF IDAHO
☒ CITY OF Orofino

Plaintiff,

vs.

Gary Partee

Defendant.

CASE NO. CR2016-951

Pre-Trial Date Notice

NOTICE IS HEREBY GIVEN TO THE ABOVE DEFENDANT that a

PRE-TRIAL CONFERENCE

has been set for the charge against you at 10:30 A .M. on the 12 day of

December , 20 16 , in the courtroom of the above Court.

THIS CHARGE IS A MISDEMEANOR - YOU ARE HEREBY NOTIFIED that if you do
not appear in court at said time and place for

PRE-TRIAL

any bond posted may be forfeited by the Court and a warrant may be issued for your arrest
without further notice.

You are required to be personally present at that time, with your counsel if you have one.

You are further notified that no plea bargaining will be allowed after the conclusion of the
pre-trial hearing. Any request for pre-trial continuance must be made three days prior to the date of
hearing excluding weekends and holidays.

- (☒) Prosecuting Attorney - Email & CH Mail
(☒) Personally delivered to the defendant this date.
() Mailed to the defendant this date.
(☒) Defense Attorney - Email

Mailing Address:

DATED this 30 day of November , 20 16

Abbigail Hills

DEPUTY CLERK

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER, MAGISTRATE DIVISION

FILED 11/30/16 AT
5:20 PM CLERK OF DISTRICT COURT
BY att

STATE OF IDAHO,

Plaintiff,

Case No. CR2016-951

Vs

Gary C. Pardee

Defendant.

ORDER OF COMMITMENT
PENDING POSTING OF BAIL

The above-named Defendant having heretofore arraigned on the charge shown in

complaint of file herein and having been brought before this court for arraignment for possession of a

controlled and fixing of bail; substance, methamphetamine; possession of a controlled substance

methamphetamine with the intent to deliver; possession of drug paraphernalia; Resisting and obstructing
an officer; Litter on occupied private property; cruelty to animals

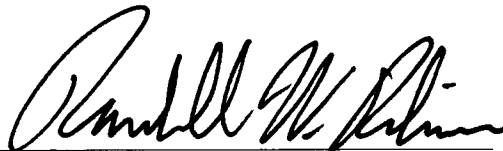
NOW THEREFORE, the defendant is hereby remanded to the custody of the Sheriff of

Clearwater County pending his/her posting bail in the amount of \$ 15,000.

RELEASE is also conditioned upon defendant violating no criminal laws, nor having any
contact with the alleged victim(s) or other witnesses during defendant's release, upon the following
additional restrictions: _____

DATED this 30 day of November, 2016.

Date 11/30/16



Judge

Copies to:

- ☒ Defendant - Jail
☒ Prosecutor -
☒ CCSO/Jail
☒ Attorney

ORDER OF COMMITMENT
PENDING POSTING OF BAIL

5:28 PM 11/30/16

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

Gary Pardee,

Defendant.

CASE NO. CR2016-951

WAIVER OF EXTRADITION

I, Gary Pardee do hereby freely and voluntarily state that I am the identical person against whom criminal proceedings charging me with the commission of a felony, have been instituted in the City of Orofino, County of Clearwater, State of Idaho, without requisition papers, warrant or rendition or other legal forms of process having for their object to the aforesaid County and State.

This agreement and waiver is made by me without reference to my guilt or innocence and shall not be considered in any manner prejudicing my case and not in any sense an admission of guilt.

THIS STATEMENT AND WAIVER, done at the City of Orofino, County of Clearwater, State of Idaho, this 30th day of March, 2016.

Signed:

Defendant

WITNESSED BY:

Russell W. Robinson Magistrate Judge

12/1/2016

13:54 PST

TO: 12084768910

FROM: 2084166591

Page: 2

12/01/2016
1:58 PM
BY: [signature]

Charles E. Kavis
Attorney at Law
210 E. 7th Street
Post Office Box 9292
Moscow, Idaho 83843
Telephone: (208) 882-3939
Fax: (208) 882-5379
Idaho State Bar # 4700

Attorney for Defendant

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR-16-951
)	
Plaintiff,)	
)	
vs.	)	REQUEST FOR DISCOVERY
)	
GARY PARTEE,)	
)	
Defendant.)	
_____)	

TO: E. CLAYNE TYLER, PROSECUTING ATTORNEY:

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

ONE: Disclose to defense any and all material or information within your possession or control or which may hereafter come into your possession or control which tends to negate the guilt of the accused as to the offense charged or which would tend to reduce the punishment therefore.

REQUEST FOR DISCOVERY

1

TWO: Permission to the defendant to inspect and copy or photograph any relevant, written, or recorded statements made by the defendant or copies thereof within the possession, custody or control of the state.

THREE: The substance of any relevant, oral statement made by the defendant or copies there within the possession, custody or control of the state.

FOUR: Permission of the defendant to inspect and copy or photograph any written or recorded statements of a co-defendant and the substance of any relevant, oral statement made by a co-defendant, whether before or after arrest, in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.

FIVE: Furnish to the defendant a copy of the prior criminal record of the defendant, if any.

SIX: Permission of the defendant to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are in the possession, custody, or control of the prosecuting attorney and which 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.

SEVEN: Permit the defendant 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 the particular case or copies thereof within the possession, custody, or control of the prosecuting attorney.

EIGHT: Furnish to the defendant 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,

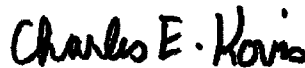
together with any record of prior felony convictions of any such person which is within the knowledge of the prosecuting attorney.

NINE: Furnish to the defendant statements made by the prosecution's witnesses or prosecuting witnesses or prosecuting attorney or agents or to any official involved in the investigatory process of the case.

TEN: Furnish to the defendant reports and memoranda made by any police officer or investigator in connection with the investigation or prosecution of the case.

The undersigned further requests permission to inspect and copy said information, evidence and materials not required to be furnished within fourteen (14) days from receipt of this notice or at such other time as counsel may agree.

Dated this 1st day of December, 2016.

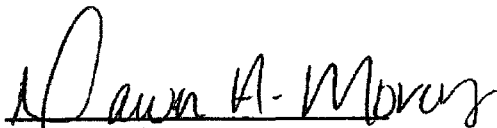


Charles E. Kovis

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December, 2016, a true and correct copy of the foregoing instrument was faxed to:

E. CLAYNE TYLER
PROSECUTING ATTORNEY
CLEARWATER COUNTY COURTHOUSE
P.O. BOX 2627
OROFINO ID 83544
FAX: (208) 476-8989



Dawn A. Morey
Legal Assistant to Charles E. Kovis

2:21 PM 2/1/14

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,
CITY OF Orofino

Plaintiff

Vs.

Carly Partee
Defendant

CASE NUMBER CR 2016-951

PRE-TRIAL MOTION, ORDER,
AND NOTICE OF HEARING

COMES NOW the Prosecutor in the above matter, and the above-named Defendant, and moves the Court as follows:

- () 1. This matter be set for the _____ day of _____, 201____, at _____, M for:
() a. Continued Pre-Trial #____ () b. Change of Plea and Sentencing
() c. Jury Trial () d. Court Trial
() e. Motion Hearing () f. Other _____
(X) 2. This matter be dismissed in the interest of justice on Motion of the Prosecutor for the following reasons. Counts 7 & 8.
() 3. This matter be amended to violation of I.C. _____.
() 4. Other: _____

- () 5. **Defendant:** That my signature below acknowledges that I have a **right to a trial** (jury trial if misdemeanor), the right to see and hear **all the witnesses** who appear against me and to **cross-examine them**. That I am **not compelled to testify or make any statements** and that **no negative inferences** would arise should I choose not to testify, but that I would have the opportunity to testify if I so desired. That I could have my attorney with me at all times to assist me during the trial or I could try the case myself without the aid of an attorney. **By entering a guilty plea I waive all these rights, and I do hereby waive my rights and PLEAD GUILTY to the charge.**

Defendant/Defendant's Attorney

YOU ARE CAUTIONED THAT RECOMMENDATIONS TO THE COURT ARE NOT BINDING UNLESS THE COURT AGREES TO BE SO BOUND.

- () 6. SEE RECOMMENDATIONS ON REVERSE
() 7. Recommend this matter be handled by the Clerk of the Court without a Court appearance.
() 8. The Defendant having been notified _____ of the _____, did fail to appear _____, the _____ day of _____, 201____ by _____ o'clock ____ M. Therefore, a bench warrant is requested for the arrest of the said Defendant with bond in amount of \$ _____.

DATED: _____

Defendant


Prosecutor

Defendant's Attorney

MOTION AND ORDER IS: ☐ APPROVED ☐ DENIED

MAGISTRATE JUDGE

12/2/2016
8:49 AM
AT

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)
)
Plaintiff,) CASE NO. CR2016-951
)
vs.) ORDER UPON MOTION
)
Gary Partee,)
)
Defendant.)
_____)

COMES NOW the above named court and upon a motion to dismiss counts 7 and 8 filed on the 1st day of December, 2016, orders that the above named motion is:

() Continued

() Approved as to time for change of plea/sentencing

(X) Approved – the above entitled ~~matter~~ *is* HEREBY DISMISSED *counts return to us, prohibited (6-2-5) and days, special para,*

() Denied

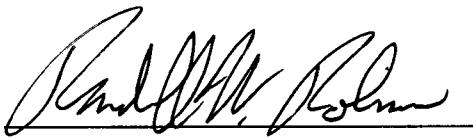
() GUILTY PLEA ACCEPTED, THE DEFENDANT IS HEREBY FOUND
GUILTY

Fine/Bond Amount: \$ _____

() Other _____

DATED 12-2-2016

CC:
E. Clayne Tyler
Charles Kovis


Magistrate

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO, Plaintiff,

Case No. CR 2016-716, 845, 951

vs.

Gary Pardee
Defendant.

**ORDER APPOINTING
ATTORNEY**

The Court having made the determination that the defendant is financially unable to obtain counsel;

IT IS ORDERED that Neil Cox

Is appointed to represent said defendant.

Dated this 7 day of December, 20 16.

Randall W. Palmer

Judge

Present Status _____

Bail Set at _____

Preliminary Hearing Set for _____ at _____ o'clock.

Coy of Complaint attached.

Date 12/7/2016

☒ Court

☒ Defense Attorney - Email

☒ Prosecutor - Email & H Mail

☒ Defendant - Hand Delivered

Orofino Police Department Case #: P2016-01695

E. Clayne Tyler, ISBN 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
Deputy: Lori M. Gilmore, ISBN 5877

12/8/16
1:22 pm
QH,

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
CITY OF OROFINO,	)	CASE NO. CR <u>2016-951</u>
)	
Plaintiff,	)	AFFIDAVIT OF
)	
vs.	)	<u>DODGE, ERIC</u>
	)	FOR RESTITUTION
Gary Partee/ Beau Lynch/ Jennifer Jolley/ Nicole Schlieper)	
Defendant.)	
_____)	

STATE OF IDAHO)
) ss.
County of Clearwater)

COMES NOW, DODGE, ERIC, and upon oath, declares, and states as follows:

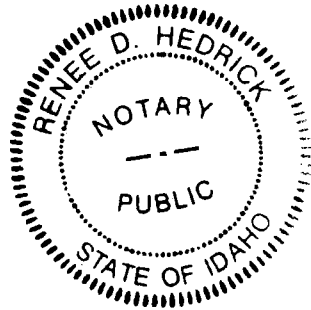
1. That your affiant is a duly qualified officer with the Orofino Police Department.
2. Pursuant to Idaho Code § 37-2732(k), Orofino Police Department incurred costs in connection with the investigation of said case as set forth in Exhibit "A" attached hereto.
3. Therefore, your affiant respectfully requests the Court order the above named Defendant to pay restitution in the amount of \$ **\$3216.86** to said Orofino Police Department – Drug Restitution Fund.

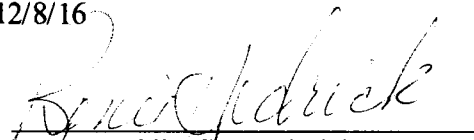
Further your affiant sayeth not.

DATED this 12/08/16 07:53


Affiant

SUBSCRIBED and SWORN to before me this 12/8/16

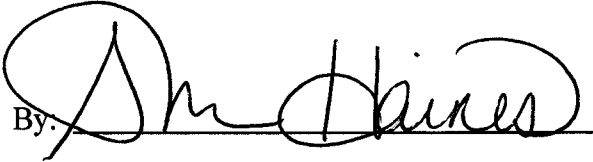



Notary Public, State of Idaho,
residing at Orofino, therein.
My commission expires 5/2021

CERTIFICATE OF MAILING/DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed to the following on the 8th day of December, 2016:

Neil Cox
Attorney at Law
924 5th St.
Clarkston, WA 99403

By: 

OROFINO POLICE DEPARTMENT RESTITUTION REQUEST FORM

CASE #: 2016-1678 **SUSPECT(S):** Partee, Gary/ Jolley, Jennifer/ Lynch, Beau/ Obrien, Jerry/ Schlieper, Nicole

CHARGES: Possession of a controlled substance/ Possession of paraphernalia/ Possession with intent to deliver

☐ PENDING

☐ CITED

☒ ARRESTED

☐ AT LARGE

REGULAR HOUR DOCUMENTATION

OFFICER	TASK	HOURS	HOURLY WAGE	TOTAL
Frazier, Vince	Supervisor	14	35.17	\$492.38
Russell, Matt	Canine	14	27.91	\$390.74
Atha, Kyle	Security/ Transport	10	27.91	\$279.00
Dodge, Eric	Case officer	24	26.78	\$642.72
Shore, Mike	Search	16	29.72	\$475.52
Wilson, Jeff	Transport command vehicle	2	48.25	\$96.50

OVERTIME HOUR DOCUMENTATION

OFFICER	TASK	HOURS	HOURLY WAGE	TOTAL

EQUIPMENT/SUPPLIES/MISC. EXPENSES

ITEM	REASON/HOW USED	UNIT COST	# OF UNITS	TOTAL
Postage	Evidence sent to lab	\$10	2	\$20
Shore's patrol vehicle	Damaged during transport by Jolley		1	\$800
Fire extinguisher	control dog	\$20	1	\$20

SUBMITTING OFFICER: Eric Dodge

DATE: 12/3/16

E. CLAYNE TYLER" ISB 5277
 Prosecuting Attorney
 County of Clearwater
 Post Office Box 2627
 Orofino, Idaho 83544
 Telephone: (208) 476-5611

Deputy: Lori Gilmore.

FILED 12/9/2016 AT
4:20 pm OROFINO, IDAHO
 BY lf

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. 2016 - 951
)	
Plaintiff,)	
	)	WAIVER OF PRELIMINARY HEARING
vs.)	
	)	STIPULATION FOR OWN
	)	RECOGNIZANCE RELEASE
GARY PARTEE)	
)	
Defendant.)	

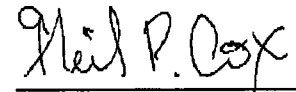
COMES NOW, GARY PARTEE, together with his attorney of record, Neil Cox, Cox Law Office, and the State of Idaho:

1. Mr. Partee understands that he has a right to a preliminary hearing in this matter at which the State would be required to call witnesses and present evidence, subject to cross examination by his attorney, to establish that it is more likely than not likely that each of the elements of the felony offenses alleged in the Criminal Complaint were committed by him. Further, that he would have the right to call his own witnesses, if he wished, in such proceeding. Further, that if the State was unable to present sufficient evidence to establish probable cause that the offenses were committed by Mr. Partee, that those offenses would be dismissed without prejudice, subject to re-filing. Further, that such hearing is required to be held within 14 days of his initial appearance in front of the Magistrate Judge if he is incarcerated, and 21 days if he is not. Mr. Partee hereby waives his right to a preliminary hearing, understanding that he cannot revoke the waiver once made, and does so freely and voluntarily and upon advice of his attorney, Mr. Cox. Mr. Partee agrees to be bound over to the District Court.

2. The parties further stipulate to the O.R. release of Mr. Partee on conditions as may be within the Court's discretion, such conditions to include having no contact with Trystan Majors.

Dated this 9th day of December, 2016.


E. Clayne Tyler
Clearwater County Prosecuting Attorney



Neil P. Cox
Attorney for Gary Partee


Gary Partee

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER, MAGISTRATE DIVISION

FILED 12/9/2016 AT 4:27 p.m.
BY af CLERK OF DISTRICT COURT

STATE OF IDAHO,

Plaintiff,

Case No. CR2016-951

vs.

ORDER OF RELEASE
FROM CUSTODY

Gary Partee Defendant.

The above named Defendant having been arrested upon the charge of Felony - Possession Controlled Substance and having been brought before this court and it appearing that the defendant is presently incarcerated and that in this case the defendant should be released on his own cognizance;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the Sheriff of Clearwater County immediately release the defendant from custody.

RELEASE is also conditioned upon defendant violating no criminal laws, nor having any contact with the alleged victim(s) or other witnesses during defendant's release, upon the following additional restrictions: No Contact with Trishyn Mayers

DATED this 9th day of December, 20 16.

Randall W. Robinson
Judge

THIS IS TO CERTIFY THAT on the 9th day of December, 20 16,
Gary Partee was released from the custody of the Sheriff of Clearwater County upon a written Order by the presiding Magistrate.

DATED this 9th day of December, 20 16.

Chris Goetz

Sheriff

By Katrina

Deputy

FILED 12/9/2014 AT
4:34 pm CLERK OF DISTRICT COURT
BY AF

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO

Plaintiff,

Case No. CR2014-951
ORDER SETTING TIME AND PLACE

vs.

Gary Parter

Defendant.

IT IS HEREBY ORDERED THAT the above entitled case now pending before this Court be set
for Arraignment - Dist. Ct. on the 20th day of December,
20 14, at the hour of 1:00 pm in the courtroom of the above entitled Court in the City of
Orofino, County of Clearwater, State of Idaho, and that the Defendant be in Court at that time.

FAILURE OF THE DEFENDANT TO APPEAR at the above time and place may result in his bond,
if any he has posted, being forfeited and a bench warrant being issued.

Dated this 9th day of December, 20 14.

Randall W. Robinson

Judge

Date 12/9/2014

☒ Copy Delivered to Attorney - Emas 1
☒ Copy Delivered to Prosecuting Attorney + Emas 1
☒ Defendant @ CCSO JAS 1

FILED 11/29/2014 AT
4:50 p.m. OROFINO, IDAHO
BY af

Second Judicial District Court, State of Idaho
In and For the County of Clearwater
150 Michigan Ave
Orofino, Idaho 83544
Magistrate Division

STATE OF IDAHO

vs.
Gary C Partee

Plaintiff,

Defendant.

TRANSCRIPT OF PROCEEDINGS
ABSTRACT OF COURT RECORD AND DOCKET

Case No: CR-2016-000951

DISPOSITION BY COURT

DATE

11/30/14

Complaint filed by Vincent Frazier alleging the commission of the crime ☒ felony or
☒ indictable misdemeanor by the defendant in violation of.

COUNT 1: Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver Code: I37-2732(a)(1)(A) F

COUNT 2: Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture or Deliver Code: I37-2732(a)(1)(A) F

COUNT 3: Drug Paraphernalia-Use or Possess With Intent to Use Code: I37-2734A(1)

COUNT 4: Arrests & Seizures-Resisting or Obstructing Officers Code: I18-705

COUNT 5: Litter on Occupied Private Property Prohibited Code: M465-752-6-9-11

COUNT 6: Cruelty to Animals Code: M465-746-6-2-2

COUNT 7: Wild Animals Prohibited Code: M465-746-6-2-5

COUNT 8: Dog-License Required Code: M465-746-6-2-13(3)

Dismissed

 Summons issued or Warrant of arrest issued bond of endorsed on warrant.

 Summons/Warrant of arrest returned and served by .

Defendant appeared in court ☒ without counsel/ with counsel .

☒ Complaint was read to defendant by the Magistrate; defendant was advised of his right to counsel either of his own choosing or that one would be provided for him if he did not have the funds to obtain one. Defendant waived right to counsel, ☒ requested counsel be appointed and signed an affidavit showing that he could not employ counsel.

 Court denied Public Defender.

Charles Davis ☒ appointed or retained by defendant.

☒ Bond fixed at \$15,000. Posted by cash, surety (Bonding Co.), or other .

in the sum of , Receipt No. .

 Defendant released on his own recognizance. Committed to custody of sheriff.

No Contact Order issued for:

Defendant was advised of his right to and the purposes of a preliminary hearing: of his right to trial on the charge before a jury in District Court; of his right to remain silent. ☒ Defendant understood the charges in the complaint.

Preliminary hearing set for the 12th day of December, 2014 at 10:30 A.M. Continued to the day of at M. Cont'd to at M.; Cont'd to at M.

Other proceedings:

12/9/2014

Defendant failed to appear for preliminary hearing and bond ordered forfeited. ___ Bench Warrant issued, bond set at ___
Preliminary hearing ___ held or ☒ waived. Proceedings reported by ___ Court Reporter Not on Record
or ___ electronic recorder. Tape/Disk: C by stipulation Foot/Time: ___; Tape/Disk: C ___
Foot/Time: ___; Tape/Disk: C ___ Foot/Time: ___
Witnesses sworn and testified for State were: _____

Defendant called no witnesses ___; or witnesses sworn and testified for defendant were _____

Exhibits _____

12/9/2014

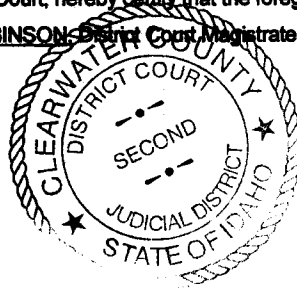
___ Matter taken under advisement ___ Bond continued or ___
___ Court found that there was probable cause to hold defendant for trial.
☒ Defendant ordered held for trial in the District Court on the charge of Ch 1-6

☒ Arraignment set for the 20th day of December, 2014 at 1:00 p.m.
___ Court found that there was not probable cause to hold defendant for trial. Case dismissed.

12/9/2014

___ Defendant recommitted to custody of Sheriff. ___ Bond amount reset for \$ ___
Other proceedings Def. released upon stip Br release-OK.

I, the undersigned, deputy clerk of the District Court, hereby certify that the foregoing is a true copy of the abstract of record, transcript of proceedings and docket of RANDALL W. ROBINSON, District Court Magistrate, showing all proceedings in the above entitled matter.



CARRIE BIRD
Clerk of the District Court
By C. Heron Deputy Clerk

E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
Clearwater County
P. O. Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org
Deputy: Lori M. Gilmore ISBN: 5877

12/13/2016
10:14 AM
att

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. CR2016-951
)	
Plaintiff,)	
)	
v.	)	STATE'S PRODUCTION
	)	OF DISCOVERY
GARY PARTEE,)	
)	
Defendant.)	


COMES NOW, the undersigned Prosecuting Attorney in and for Clearwater County, and provides the following regarding Discovery:

A list of the witnesses the State intends to call at trial is listed in Exhibit "A" attached hereto.

All evidence discoverable in the State's possession is listed in Exhibit "B". Said discovery pages 1-145, a DVD containing audio and video, and a CD containing pictures were provided to the Defendant's attorney on December 8, 2016 via Courthouse mail.

The State acknowledges its continuing duty to disclose should additional information become known, and further acknowledges its duty to provide exculpatory evidence.

DATED this 13 day of December, 2016.



E. CLAYNE TYLER
Prosecuting Attorney

CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was ☐ mailed, postage prepaid, ☐ delivered by Courthouse mail, ☐ hand delivered, or ☐ faxed on the 13th day of December, 2016, to:

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403

A handwritten signature in cursive script, appearing to read "Sharon Haines", is written over a horizontal line.

Sharon Haines
Paralegal

EXHIBIT A

The State reserves the right to call, at trial or any proceeding in this matter, any witness listed in or named in any discovery response or filing with the court, including those of the defendant, to include but not limited to the following:

WITNESSES:

Mitchell Jared, CCSO
Michael Deitrick, CCSO
Renee Hedrick, OPD
Jeff Wilson, OPD
Eric Dodge, OPD
Vincent Frazier, OPD
Kyle Atha, OPD
Matthew Russell, OPD
Mike Shore, OPD
Jennifer Jolley
Beau Lynch
Jerry O'Brien
Nicole Schlieper

EXHIBIT B

In addition to the list of exhibits identified herein, or in any subsequent document filed herein, the State hereby discloses and reserves the right to utilize as an exhibit at any trial or proceeding in this matter any document, recording, photograph, video tape, audio tape, or any other item of physical or documentary evidence either produced or identified or referred to in this or any prior or subsequent court filing.

Case Summary, pages 1-12
Police Reports, pages 13-20
Property Receipt, pages 21-22
Property/Evidence Summary, pages 23-89
Photographs, pages 90-100
Prelog Submission Form, page 101
Search Warrant, pages 102-127
Probable Cause Affidavit, pages 128-132
Criminal History, pages 133-142
Citations, pages 143-145
DVD containing audio and video
CD containing photographs

12/13/2016
10:16 AM
ALT

E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
Clearwater County
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org
Chief Deputy: Lori M. Gilmore ISBN:5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

v.

GARY PARTEE,

Defendant.

CASE NO. CR2016-951

STATE'S REQUEST FOR DISCOVERY
AND DEMAND FOR ALIBI

TO: GARY PARTEE and his attorney of record, NEIL COX:

PLEASE TAKE NOTICE that the undersigned pursuant to Rule 16 of the Idaho Criminal Rules
request discovery and inspection of the following:

I

To inspect, copy and photograph, books, papers, reports, photographs, documents, video, audio,
electronic recordings, tangible objects or copies or portions thereof, or any other thing in the possession,
custody or control of the defendant, and which the defendant intends to introduce in evidence at the trial.
This request specifically includes all such materials in the possession or custody of the defendant, but also
all such materials within the control of the defendant even if not in the immediate possession or custody
of the defendant.

II

To provide a written summary or report of any testimony that the defense intends to introduce
pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial, or at any hearing. Said summary
must describe the witness's opinions, the facts and data for those opinions, and the witness's
qualifications. Disclosure of expert opinions regarding mental health shall also comply with the

REQUEST FOR DISCOVERY & DEMAND FOR ALIBI

1

1 disclosure requirements of Idaho Code Section 18-207.

2 Further, this request shall include, but is not limited to, any opinions, results or reports relating to
3 any physical or mental or medical examinations of any person or item or process related to this case,
4 care and treatment of the defendant, or of scientific tests, experiments, or evidence reviews or evaluations
5 made in connection with the particular case, within the possession or control of the defendant, which the
6 defendant intends to introduce in evidence at the trial, or at any hearing, or which were prepared by a
7 witness whom the defendant intends to call at the trial, or at any hearing, when the results or reports relate
8 to testimony of the witness.


9 III

10 Furnish the Clearwater County Prosecutor's office with a list of names and addresses of any
11 witnesses she intends to call at trial.

12 This shall be a continuing request pursuant to Idaho Criminal Rule 16 (i).

13 FURTHER, THE STATE HEREBY DEMANDS OF THE DEFENDANT NOTICE OF
14 DEFENSE OF ALIBI PURSUANT TO IDAHO CODE 19-519 AND IDAHO CRIMINAL RULE 12-1.

15 DATED this 13th day of December, 2016.

16
17 
18 E. CLAYNE TYLER
19 Prosecuting Attorney
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING OR DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed/delivered to the following on this 13th day of December, 2016:

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403


Sharon Haines
Paralegal

12/13/2016
4:54 PM

E. CLAYNE TYLER, ISBN 5277
Prosecuting Attorney
Clearwater County
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611

Deputy: Lori M. Gilmore ISBN:5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,) CASE NO. CR2016-951

Plaintiff,

v.

GARY CARL PARTEE,

Defendant.

ORDER BINDING OVER

A Criminal Complaint having been filed in the District Court of the Second Judicial District of the State of Idaho, in and for the County of Clearwater, by Sgt. Vincent Frazier of the Orofino Police Department, charging the defendant, GARY CARL PARTEE, with having committed the felony crimes of COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a violation of Idaho Code Section 37-2732(c)(1), COUNT II: POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, WITH THE INTENT TO DELIVER, a violation of Idaho Code Section 37-2732(a)(1)(A), and the misdemeanor crimes of: COUNT III: POSSESSION OF DRUG PARAPHERNALIA, a violation of Idaho Code Section 37-2734A, COUNT IV: RESISTING AND OBSTRUCTING AN OFFICER, a violation of Idaho Code Section 18-705, and COUNT V: LITTER ON OCCUPIED PRIVATE PROPERTY, a violation of Orofino City Code Section 6-9-11 and COUNT VI: CRUELTY TO ANIMALS, a violation of Orofino City Code Section 6-2-2.

The defendant having been brought before the Honorable Randall Robinson, Magistrate of said District Court on the 30th day of November, 2016, the said defendant being personally present; Neil Cox having been appointed as attorney for the defendant, the defendant having

ORDER BINDING OVER - 1

1 waived his right to a preliminary hearing; and it therefore having been determined that the crime
2 charged was committed, and that there is sufficient cause to believe that the above-named
3 defendant may have perpetrated the said crime;

4 NOW, THEREFORE, IT IS HEREBY ORDERED that the defendant, GARY CARL
5 PARTEE, be and he hereby is held and bound over to the District Court of the Second Judicial
6 District of the State of Idaho, in and for the County of Clearwater, to answer to the felony crime
7 of COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a
8 violation of Idaho Code Section 37-2732(c)(1), COUNT II: POSSESSION OF A
9 CONTROLLED SUBSTANCE, METHAMPHETAMINE, WITH THE INTENT TO DELIVER,
10 a violation of Idaho Code Section 37-2732(a)(1)(A). Bond is hereby set in the penal sum of
11 _____ pending the appearance of the defendant at the time and place fixed for hearing
12 in said District Court.

13 DATED this 13th day of December, 2016 .

14
15
16 
17 MAGISTRATE JUDGE

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611

12/13/2016
4:54 PM
dht

4 Chief Deputy: Lori M. Gilmore ISBN: 5877

5
6 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

7 STATE OF IDAHO,) CASE NO. CR2016-951
8 Plaintiff,)
9 v.) INFORMATION
10 GARY CARL PARTEE,)
11 Defendant.)

12 E. CLAYNE TYLER, Prosecuting Attorney in and for the County of Clearwater, for and
13 on behalf of the State of Idaho, comes into the above-entitled Court in the year 2016 and gives
14 the Court to understand and be informed that the above-named defendant, GARY CARL
15 PARTEE, is accused by this Information of the felony crime of COUNT I:
16 MANUFACTURING A CONTROLLED SUBSTANCE, a violation Idaho Code § 37-
17 2732(a)(1)(B), committed as follows:

18 **COUNT I**
19 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE**
20 **Felony, I. C. 37-2732(c)(1)**

21 That the Defendant, GARY CARL PARTEE on or about the 29th day of
November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did knowingly and
22 unlawfully possess a controlled substance, to-wit: a set of scales and/or a light bulb containing
Methamphetamine, a Schedule II controlled substance.

23 All of which is contrary to Section 37-2732(c)(1) of the Idaho Code and against the peace
24 and dignity of the State of Idaho.

25
26
27
28 INFORMATION

1 **COUNT II**
2 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE,**
3 **WITH THE INTENT TO DELIVER**
4 **Felony, I.C. 37-2732(a)(1)(A)**

5 That the Defendant, GARY CARL PARTEE, on or about the 29th day of November,
6 2016, in the City of Orofino, County of Clearwater, State of Idaho, did actually,
7 intentionally and unlawfully possess a controlled substance, to-wit: a bindle of
8 Methamphetamine, a Schedule II controlled substance, with the intent to deliver some or
9 all of the aforementioned controlled substance.

10 All of which is contrary to Section 37-2732(a)(1)(A) of the Idaho Code and against
11 the peace and dignity of the State of Idaho.

12 **COUNT III**
13 **POSSESSION OF DRUG PARAPHERNALIA**
14 **Misd., I.C. 37-2734A**

15 That the Defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016 in the
16 City of Orofino, County of Clearwater, State of Idaho, did use and/or possess with the intent to use
17 drug paraphernalia.

18 All of which is contrary to Section 37-2734A of the Idaho Code and against the peace and dignity
19 of the State of Idaho.

20 **COUNT IV**
21 **RESISTING AND OBSTRUCTING AN OFFICER**
22 **Misd., I.C. 18-705**

23 That the Defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016,
24 in the City of Orofino, County of Clearwater, State of Idaho, did wilfully resist, obstruct and/or
25 delay a public officer, to-wit: Officer Eric Dodge of the Orofino Police Department, in the
26 discharge or attempt to discharge a duty of his office, by refusing to comply with the orders of
27 the officers and/or to stop resisting after being ordered to do so.

28 All of which is contrary to I.C. § 18-705 and against the peace and dignity of the State of
Idaho.

INFORMATION

1
2 **COUNT V**
3 **LITTER ON OCCUPIED PRIVATE PROPERTY**
4 **Misd., Orofino City Code 6-9-11**

5 That the Defendant, GARY CARL PARTEE, on or about the 29th day of November,
6 2016, in the City of Orofino, County of Clearwater, State of Idaho did unlawfully throw, deposit,
7 place, leave and/or dump debris, garbage, litter and/or rubbish on occupied private property.


8 All of which is contrary to the Orofino City Code Section 6-9-11 and against the peace and
9 dignity of the State of Idaho.

10 **COUNT VI**
11 **CRUELTY TO ANIMALS**
12 **Misd., Orofino City Code 6-2-2**

13 That the defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016, in
14 the City of Orofino, County of Clearwater, State of Idaho, did intentionally and unlawfully act in
15 a cruel manner to an animal within the city limits of Orofino, to-wit: GARY CARL PARTEE did
16 fail to provided his animals with sufficient water and wholesome food and/or a clean wholesome
17 environment in which to live.

18 All of which is contrary to Orofino City Code 6-2-2 and against the peace and
19 dignity of the State of Idaho.

20 DATED this 5th day of December, 2016.

21
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28

E. CLAYNE TYLER
PROSECUTING ATTORNEY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C PARTEE,

Defendant.

CASE NO. CR. 2016-951

COURT MINUTES

Gregory FitzMaurice, District Judge Presiding

Lori M. Gilmore, Attorney for the State

Neil Cox, Attorney for the Defendant

Keith Evans, Court Reporter

Christy Gering, Court Clerk

Dated: 12/20/2016 Courtroom-1 Time: 1:06 P.M.

Subject of Proceedings: Arraignment

=====

MINUTE ENTRY:

- 1:06 Honorable Gregory FitzMaurice, District Judge presiding. Lori Gilmore present in Court, representing the State. Neil Cox present in Court, representing the defendant. Defendant, Gary Partee, present. Court advises that this is the time and place set for an arraignment.
- 1:08 Court explains purpose of today's arraignment.
- 1:27 In response to inquiry from the Court, defendant states he heard and understood his rights as they were read at 1:16pm along with defendant Seth Crawford.
- 1:28 Defendant confirms he read the criminal information.
- 1:28 Court advises defendant of the charges and possible penalties as set forth in the Information: Count 1 –Controlled Substance-Manufacture or Deliver, or Possess with Intent to Manufacture (methamphetamine); Count 2 – Controlled Substance-Manufacture or Deliver, or Possess with Intent to Deliver; Count 3-Drug Paraphernalia-Use or Possess with Intent to Use(Misdemeanor); Count 4-Arrests & Seizures-Resisting or Obstructing Officers(Misdemeanor); Count 5- Litter on Occupied Private Property Prohibited(Misdemeanor); Count 6-Cruely to Animals(Misdemeanor); Count 7-Wild animals Prohibited(Misdemeanor); Count 8-Dog License Required(Misdemeanor).

- 1:32 Defendant confirms he understands the charges and possible penalties.
- 1:32 Court request plea from Mr. Cox.
- 1:32 Mr. Cox request a plea of not guilty is entered on the record.
- 1:32 Court asks Mr. Partee how he pleads to all accounts.
- 1:32 Mr. Partee pleads not guilty to all accounts.
- 1:32 Court requests amount of time to try case. Mr. Cox and Ms. Gilmore confirm 3 days.
- 1:33 Court sets jury trial for May 24, 2017 at 9 am for 3 days. Final Pretrial Conference set for May 9, 2017 at 1:30 pm.
- 1:36 Defense requests a status conference.
- 1:36 Court sets status conference on January 17, 2017 at 2 pm.
- 1:37 Court is in recess.

By: _____

GREGORY FITZMAURICE
District Judge

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER**

STATE OF IDAHO,)	
	)	CASE NO. CR2016-951
Plaintiff,)	
Vs	)	ORDER SETTING TRIAL AND
	)	SCHEDULING ORDER
GARY C. PARTEE,)	
)	
Defendant.)	

IT IS HEREBY ORDERED THAT:

1. A Jury Trial (scheduled for three days) shall commence **on May 24, 2017, at the hour of 9:00 a.m.;**
2. A Final Pre-Trial Conference shall be held on **May 9, 2017, at the hour of 1:30 p.m.;** Defendant shall be in attendance at the pretrial conference. His failure to appear will result in a bench warrant being issued for his arrest; A Status Conference shall be held on **January 17, 2017, at the hour of 2:00 p.m.**
3. All plea negotiations to be resolved and placed in writing by the pre-trial date;
4. Any proposed jury instructions shall be submitted to the Court at least five (5) days prior to the scheduled trial date, in addition proposed jury instructions shall be submitted electronically;
5. Any pretrial motions must be noticed up with the clerk pursuant to ICR 12;
6. Any proposed exhibits must be submitted to the court clerk by the final pre-trial date.

SO ORDERED this 3rd day of January, 2017.


Gregory FitzMaurice
District Judge

CERTIFICATE OF MAILING

I, the undersigned Deputy Clerk of the above entitled Court, do hereby certify that a copy of the ORDER FOR TRIAL was mailed to, faxed to, or delivered by me on the 3rd-day of January, 2017 to:

Clayne Tyler
Prosecutor
Courthouse Mail

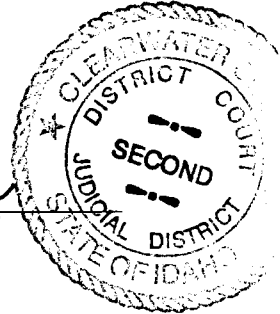
☐ U.S. Mail
☐ Fax
☒ Courthouse Tray & Emailed

Neil Cox
Defense Attorney
924 5th St.
Clarkston, WA 99403

☒ U.S. Mail
☐ Emailed
☐ Courthouse Tray
☐ Hand Delivered

Carrie Bird, Clerk

By: Barbri Dwyer
Deputy Clerk



IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C PARTEE,

Defendant.

CASE NO. CR. 2016-951

COURT MINUTES

Gregory FitzMaurice, District Judge Presiding
E. Clayne Tyler, Attorney for the State
Neil Cox, Jr., Attorney for the Defendant
Keith Evans, Court Reporter
Christy Gering, Court Clerk
Dated: 01/17/2017 Courtroom-1 Time: 2:03 P.M.
Subject of Proceedings: Status Conference

=====

MINUTE ENTRY:

- 2:03 Honorable Gregory FitzMaurice, District Judge presiding. E. Clayne Tyler, present representing the State. Neil Cox, Jr., attorney for the defendant, present telephonically. Gary Partee, defendant, not present. Court advises that this is the time and place set for a status conference in this matter.
- 2:03 Mr. Cox speaks to the court regarding his client.
- 2:04 Mr. Tyler recommends the trial calendar remain as it is and Mr. Tyler and Mr. Cox will have a discussion.
- 2:05 Mr. Cox agrees with Mr. Tyler.
- 2:05 Court agrees with Mr. Tyler and Mr. Cox.
- 2:05 Court is in recess.

By: _____

GREGORY FITZMAURICE
District Judge

E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
Clearwater County
P. O. Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org

FILED 2-10-2017 AT
3:18 PM OROFINO, IDAHO
BY CLH VP

Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR2016-951
)	
Plaintiff,)	
)	
v.	)	SUPPLEMENTAL
	)	STATE'S PRODUCTION
	)	OF DISCOVERY
GARY PARTEE,)	
)	
Defendant.)	
_____)	


COMES NOW, the undersigned Prosecuting Attorney in and for Clearwater County, and provides the following regarding Discovery:

A list of the witnesses the State intends to call at trial is listed in Exhibit "A" attached hereto.

All evidence discoverable in the State's possession is listed in Exhibit "B". Said discovery pages 1-145, a DVD containing audio and video, and a CD containing pictures were provided to the Defendant's attorney on December 8, 2016 via Courthouse mail. Lab Results issue date 12/13/2016 provided to Neil Cox on the December 14, 2016, Lab Results issue date 1/24/2017, Etrace document pages 1-5, and Firearms Trace Summary provided to Neil Cox on January 25, 2017, Lab results issue date 1/30/17 provided to Neil Cox on January 30, 2017 and Report of Eric Dodge OPD Case No. 2016-1678 and OPD Case No. 2016-1995. Photographs printed and on CD were provided on February 10, 2017.

The State acknowledges its continuing duty to disclose should additional information become known, and further acknowledges its duty to provide exculpatory evidence.

DATED this 10th day of February, 2017.


E. CLAYNE TYLER
Prosecuting Attorney

CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was ☒ mailed, postage prepaid, ☐ delivered by Courthouse mail, ☐ hand delivered, or ☐ faxed on the 13th day of February, 2017, to:

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403


Sharon Haines
Paralegal

EXHIBIT A

The State reserves the right to call, at trial or any proceeding in this matter, any witness listed in or named in any discovery response or filing with the court, including those of the defendant, to include but not limited to the following:

WITNESSES:

Mitchell Jared, CCSO
Michael Deitrick, CCSO
Renee Hedrick, OPD
Jeff Wilson, OPD
Eric Dodge, OPD
Vincent Frazier, OPD
Kyle Atha, OPD
Matthew Russell, OPD
Mike Shore, OPD
Jennifer Jolley
Beau Lynch
Jerry O'Brien
Nicole Schlieper
David Sincerebeaux, ISP Forensic Services

EXHIBIT B

In addition to the list of exhibits identified herein, or in any subsequent document filed herein, the State hereby discloses and reserves the right to utilize as an exhibit at any trial or proceeding in this matter any document, recording, photograph, video tape, audio tape, or any other item of physical or documentary evidence either produced or identified or referred to in this or any prior or subsequent court filing.

Case Summary, pages 1-12
Police Reports, pages 13-20
Property Receipt, pages 21-22
Property/Evidence Summary, pages 23-89
Photographs, pages 90-100
Prelog Submission Form, page 101
Search Warrant, pages 102-127
Probable Cause Affidavit, pages 128-132
Criminal History, pages 133-142
Citations, pages 143-145
DVD containing audio and video
CD containing photographs
Lab Results dated 12/13/2016
Lab Results dated 1/24/17
Prelog Submission Form
Etrace Documents
Lab Results dated 1/30/17
Report of Officer Dodge OPD Case No. 16-1678
OPD Case No: 2016-1695 consisting of Officer Reports,
Property and Evidence
Lewiston Police Department Reports
Chain of Custody
DVD containing audio/video OPD Case No. 16-1695
Photographs from OPD Case No. 16-1695
CD containing photographs from OPD Case No. 16-1695

E. CLAYNE TYLER, ISBN 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Fax: (208) 476-8989
Email: prosecutor@clearwatercounty.org

FILED 2-10-2017 AT
BY 3:18 PM ah vp CLERK OF COURT

Deputy: Lori M. Gilmore, ISBN 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR2016-951
)	
Plaintiff,	)	STATE'S WITNESS AND EXHIBIT
	)	LIST
vs.)	
)	
GARY C. PARTEE,)	
)	
Defendant.)	
_____)	

COMES NOW, the undersigned Prosecuting Attorney/ Deputy Prosecuting Attorney for the County of Clearwater advises the Court that the State expects to call the following primary witnesses at the trial scheduled in this matter:

Witnesses:

Mitchell Jared, CCSO
Michael Deitrick, CCSO
Renee Hedrick, OPD
Jeff Wilson, OPD
Eric Dodge, OPD
Vincent Frazier, OPD
Kyle Atha, OPD
Matthew Russell, OPD
Mike Shore, OPD
Jennifer Jolley
Beau Lynch
Jerry O'Brien

STATES WITNESS AND EXHIBIT LIST - 1

Nicole Schlieper
David Sincerebeaux, ISP Forensic Services

Further, the State advises the Defense and the Court that there are other witnesses previously listed with the Court as witnesses, whom the State may need to call depending on how evidence and testimony are presented and occur at trial on the matter. The State respectfully submits that these witnesses should also be eligible as witnesses should the state need to call them.

For exhibits the state expects to introduce or anticipates the use of the following:

Exhibits:

Audio/ Video Recordings

Chain of Custody

Lab Results

Photographs

State reserves the right to call any witnesses or use any exhibit at the trial in this matter which has been previously provided in State's discovery or in the Defendant's discovery and/or witness and exhibit list.


Dated this 10th day of February, 2017.


Prosecuting Attorney/Deputy

CERTIFICATE OF MAILING OR DELIVERY

I, the undersigned, hereby certify that on the 13th day of February, 2017, a true and correct copy of the foregoing STATE'S WITNESS AND EXHIBIT LIST was X mailed or ___ delivered in courthouse mail to the following:

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403

A handwritten signature in cursive script, appearing to read "Sharon Haines", written over a horizontal line.

Sharon Haines
Paralegal

E. CLAYNE TYLER, ISBN 5277
Prosecuting Attorney
Clearwater County
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org

12/22/2017
2/24/2017
12:30 PM
KJ

Deputy: Lori M. Gilmore ISBN:5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR2016-951; CR2017-95
)	
Plaintiff,)	
v.)	
	)	AFFIDAVIT OF E. CLAYNE TYLER FOR
GARY PARTEE,	)	RESTITUTION
)	
Defendant.)	

STATE OF IDAHO)
) ss.
County of Clearwater)

COMES NOW, E. Clayne Tyler, and upon oath, declares, and states as follows:

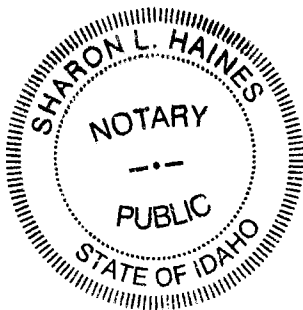
1. That your affiant is the Prosecuting Attorney for Clearwater County.
2. That Moscow Police Department completed a digital examination of evidence seized in this case. Attached here as Exhibit "A" is a true and complete copy of the Request for Reimbursement submitted by them.
5. Therefore, your affiant respectfully moves the court for an Order of Restitution in the amount of \$464.60 to be paid by Gary Partee and Jennifer Jolley joint and several to the Moscow Police Department, 118 East 4th Street, Moscow, Idaho. 83843.

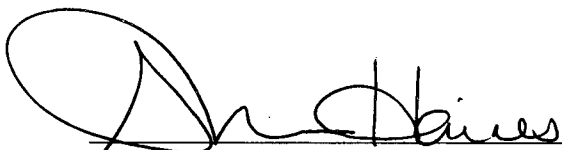
Further your affiant sayeth not.

DATED this 23rd day of Feb., 2017


E. CLAYNE TYLER
Prosecuting Attorney

SUBSCRIBED and SWORN to before me this 23rd day of Feb, 2017.

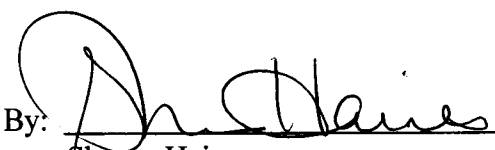


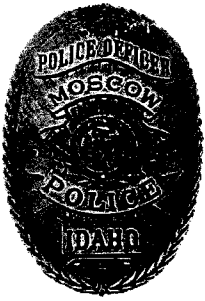

Notary Public, State of Idaho,
residing at Clarkston, WA
My commission expires 12/01/2022

CERTIFICATE OF MAILING/DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was delivered U.S. First Class Mail to the following on the 24th day of Feb, 2017.

Neil Cox
Attorney at Law
924 5th Street
Clarkston, WA 99403

By: 
Sharon Haines
Paralegal



**City of Moscow
Police Department**

Protecting Our Community
With Commitment, Honor,
and Integrity

James Fry
Police Chief

Paul Kwiatkowski
Captain
Operations Commander

Tyson Berrett
Captain
Campus Commander

Roger Lanier
Captain
Services Commander

118 East 4th Street
P.O. Box 9203
Moscow ID 83843
Business (208) 883-7054
Fax (208) 882-4020

Website: www.ci.moscow.id.us
Hearing Impaired (208) 883-7019
City Hall (208) 883-7000

Bill Lambert
Mayor

Gary J. Riedner
City Supervisor



TO: Eric Dodge
Orofino Police Department

From: Det. Eric Kjorness

Re: Request for reimbursement for MPD Case #16-M11026

Date: 02/01/2017

As part of the digital forensic services performed I would asked that if the suspect enters a plea or is found guilty that restitution be ordered in this case for the time and equipment costs associated with the work done on the mobile devices, SIM cards and other electronics which were examined.

I have put a total of 10 hours into the data extraction, examination, and electronic reporting associated with this case. The current rate for this per the City of Moscow is: \$46.46 @ hour.

In this case the total would be: \$464.60. Please make payments payable to:

City of Moscow Idaho
ATTN: Finance
206 East Third Street
Moscow, ID 83843

This letter is in no way to be considered a bill or invoice. It is only a request for restitution from the suspect.

Please let me know if you have any questions.

Eric Kjorness



FILED 3-20-2017
12:42 PM
BY _____ ORCEN/CLERK

Neil P. Cox
Attorney for Defendant
924 Fifth Street
Clarkston, WA 99403
Telephone: (509) 758-6092
Facsimile: (509) 758-9820
ISBA No. 5166

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO: CR 16-951
)	
Plaintiff,	)	MOTION FOR ORDER CONTINUING
vs.	)	JURY TRIAL AND PRE-TRIAL
)	
GARY PARTEE,)	
)	
Defendant.)	

Neil P. Cox, attorney for Defendant, Gary Partee MOVES this Court for an Order continuing the jury trial, which is currently scheduled for May 24 through May 26, 2017 and the Pre-trial Conference of May 9, 2017.

The basis for this Motion is that a new felony case has been filed against Mr. Partee. The Clearwater County Prosecutor has indicated that he will be filing a motion to join the two cases. Furthermore, your undersigned has had minimal contact with Mr. Partee to date. While I hope that will change, I am requesting additional time to prepare in this matter.

DATE: 3-20-17

By: Neil P. Cox
Neil P. Cox
Attorney for Defendant

Motion

CERTIFICATE OF DELIVERY

I certify that on March 20, 2017, I faxed this document to the office of the Clearwater County Prosecutor.

Neil P. Cox

Motion

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C PARTEE,

Defendant.

CASE NO. CR. 2016-951

COURT MINUTES

Gregory FitzMaurice, District Judge Presiding

E. Clayne Tyler, Attorney for the State

Neil Cox, Jr., Attorney for the Defendant

Keith Evans, Court Reporter

Christy Gering, Court Clerk

Dated: 03/21/2017 Courtroom-1 Time: 1:41 P.M.

Subject of Proceedings: Telephonic Status Conference

=====

MINUTE ENTRY:

1:41 Honorable Gregory FitzMaurice, District Judge presiding. E. Clayne Tyler, present representing the State. Neil Cox, Jr., attorney for the defendant, present telephonically. Gary Partee, defendant, not present. Court advises that this is the time and place set for a status conference in this matter.

1:42 Mr. Cox speaks to the court regarding lack of contact with his client do to difficulty reaching defendant.

1:42 In response to Court inquiry Mr. tyler advises that this case as well as a pending felony case in Magistrate Court would be joined together.

1:43 Court advises that a notice of hearing will be sent for a Motion hearing scheduled April 18, 2017, at 1:30 p.m. Mr. Cox and defendant must be present in Court. Court further advises it will Arraign defendant at that time if his other case is bound over at that time.

1:44 Court is in recess.

By:



GREGORY FITZMAURICE
District Judge

COURT MINUTES

Christ Gering – Deputy Court Clerk - 1

Second Judicial District Court, State of Idaho
In and For the County of Clearwater
150 Michigan Ave
Orofino, Idaho 83544

STATE OF IDAHO,
Plaintiff.

vs.

Gary C Partee
PO Box 122
Orofino, ID 83544

Defendant.

FILED April 3, 2017 AT

3:01 pm OROFINO, IDAHO

BY gf

Case No: CR-2016-000951

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Motion to Continue - Tuesday, April 18, 2017 @ 1:30 PM
Judge: Gregory FitzMaurice

DEFENDANT MUST BE PRESENT.

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Monday, April 3, 2017.

Defendant: Gary C Partee

Mailed _____ Hand Delivered _____ Faxed _____

Private Counsel:

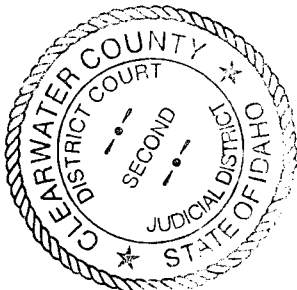
Mailed _____ Hand Delivered _____ Emailed ☒

Neil Presley Cox Jr.
924 5th Street
Clarkston WA 99403

FACSIMILE: (509) 758-9820

Prosecutor: Eric Clayne Tyler

Mailed _____ Hand Delivered & Emailed ☒



Dated: Monday, April 3, 2017

Carrie Bird
Clerk Of The District Court

By:

C. Hering
Deputy Clerk
DOC22 7/96

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C PARTEE,

Defendant.

CASE NO. CR. 2016-951

COURT MINUTES

Gregory FitzMaurice, District Judge Presiding

E. Clayne Tyler, Attorney for the State

Neil Cox, Jr., Attorney for the Defendant

Keith Evans, Court Reporter

Christy Gering, Court Clerk

Dated: 04/18/2017 Courtroom-1 Time: 1:37 P.M.

Subject of Proceedings: Motion to Continue

=====

MINUTE ENTRY:

- 1:37 Honorable Gregory FitzMaurice, District Judge presiding. E. Clayne Tyler, present representing the State. Neil Cox, Jr., attorney for the defendant, present. Gary Partee, is present. Court advises that this is the time and place set for a Motion to Continue.
- 1:37 Court advises parties of the Motion and Order to Continue Jury Trial and Final Pretrial filed by Mr. Cox
- 1:38 Mr. Cox advises of the circumstances warranting a continuance of Jury Trial and Final Pre-Trial Conference and that the defendant is willing to waive his right to a speedy trial.
- 1:39 Court advises counsel of his concerns regarding the case continuing to drag on.
- 1:41 Mr. Tyler explains the reasons for the delays in this case and companion cases.
- 1:42 In response to Court's inquiry Mr. Tyler states that he believes that the new case against the defendant subject to a joinder of cases.
- 1:42 Mr. Cox speaks to the Court regarding the need for a continuance resulting from lack of contact by the defendant.

COURT MINUTES

Christ Gering – Deputy Court Clerk - 1

- 1:44 Mr. Tyler has no objections to a continuance.
- 1:44 In response to Court inquiry defendant states that he would like a continuance of his Jury Trial.
- 1:45 Court advises defendant of his right to a speedy trial. Defendant understands his rights and wishes to waive his right to a speedy trial.
- 1:46 Court advises it will vacate the present trial setting and that it will be rescheduled as a second setting as the Court has limited dates available.
- 1:47 Court set Jury Trial for August 23, 2017, and Final Pre-Trial Conference for August 01, 2017, at 1:30 pm.
- 1:47 Court advises defendant that he will add additional conditions of release in this case: That defendant must make telephone contact with his attorney every two week.
- 1:48 Court is in recess.

By:



GREGORY FITZMAURICE
District Judge

FILED 4/18/2017 AT 5:54 p.m. OF FINO IDAHO
BY cf

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNT OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

Gary C. Parter

Defendant.

CASE NO. CR 2016- 951


ORDER OF RELEASE
FROM CUSTODY

- Amended -

The above named defendant having been incarcerated upon the charge of Possession of Controlled Substances and having been brought before this Court and it appearing that the defendant is presently incarcerated and that in this case the defendant should be released.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT the Clearwater County Sheriff's Office release the defendant from custody. No contact with Trishyn Magers; Make contact with attorney Neil Cox every two weeks; Commit no law violations; no contact with alleged victim or witnesses.

DATED this 18th day of April, 2017.


Gregory FitzMaurice
District Judge

COPIES TO: 1 Clearwater County Sheriff - Email & Hand-Delivered
1 Defendant
1 Prosecuting Attorney C. Tyler - Email & Hand-Delivered
1 Defendant's Attorney - Neil Cox - Email
1 Probation and Parole - Email

ORDER OF RELEASE FROM CUSTODY

FILED April 25, 2016
3:36 P.M. OROFINO, IDAHO
BY BP

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER**

STATE OF IDAHO,)	
	)	CASE NO. CR2016-951
Plaintiff,)	
	)	AMENDED
Vs	)	ORDER SETTING TRIAL AND
	)	SCHEDULING ORDER
GARY C. PARTEE,)	
)	
Defendant.)	

IT IS HEREBY ORDERED THAT:

1. A Jury Trial (scheduled for one day) shall commence **on August 23, 2017, at the hour of 9:00 a.m.;**
2. A Final Pre-Trial Conference shall be held on **August 1, 2017, at the hour of 1:30 p.m.;** Defendant shall be in attendance at the pretrial conference. His failure to appear will result in a bench warrant being issued for his arrest;
3. All plea negotiations to be resolved and placed in writing by the pre-trial date;
4. Any proposed jury instructions shall be submitted to the Court at least five (5) days prior to the scheduled trial date, in addition proposed jury instructions shall be submitted electronically;
5. Any pretrial motions must be noticed up with the clerk pursuant to ICR 12;
6. Any proposed exhibits must be submitted to the court clerk by the final pre-trial date.

SO ORDERED this 25th day of April, 2017.


Gregory Fitzmaurice
District Judge

CERTIFICATE OF MAILING

I, the undersigned Deputy Clerk of the above entitled Court, do hereby certify that a copy of the ORDER FOR TRIAL was mailed to, faxed to, or delivered by me on the 25th day of April, 2017, to:

Clayne Tyler
Prosecutor
Courthouse Mail

☐ U.S. Mail
☐ Fax
☒ Courthouse Tray & Emailed

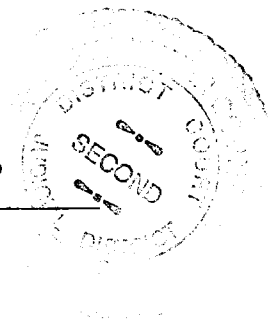
Neil Cox, Jr.
Defense Attorney
924 5th Street
Clarkston, WA 99403

☒ U.S. Mail
☐ Emailed
☐ Courthouse Tray
☐ Hand Delivered

Carrie Bird, Clerk

By:

Bonnie Depp
Deputy Clerk



E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org

6/28/2017
3:16 PM
AH


Chief Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
	)	CASE NO. CR2016-951 & CR2017-95
Plaintiff,)	
)	
v.	)	MOTION TO CONSOLIDATE
)	
GARY PARTEE,)	
)	
Defendant.)	
_____)	

COMES NOW, the State of Idaho, by and through the E. Clayne Tyler, Clearwater County Prosecuting Attorney, and moves the Court to consolidate Clearwater County Case No. CR2016-951 with case CR2017-95. Clearwater County Case No. CR2016-951 consists of previously charged offenses arising from the same circumstances or events leading to the charges in Clearwater County Case No. CR2017-95.

DATED this 28th day of June, 2017.



E. CLAYNE TYLER
PROSECUTING ATTORNEY

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION TO CONSOLIDATE was delivered to the following on the 28th day of June, 2017.

Neil Cox
Attorney for the Defendant
924 5th Street
Clarkston, WA 99403

By: 

E. CLAYNE TYLER: ISBN 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
Fax: (208) 476-8989
Email:prosecutor@clearwatercounty.org

6/28/2017
3:16 PM
AH

Deputy: Lori Gilmore, ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR 2016-951 & CR2017-95
)	
)	
Plaintiff,	)	NOTICE OF HEARING RE:
	)	MOTION TO CONSOLIDATE
vs.)	
)	
GARY PARTEE,)	
)	
Defendant.)	
_____)	

NOTICE IS HEREBY GIVEN that a hearing will be held on the 5th day of July,
2017, at the hour of 10:00 o'clock a.m. to hear the State's MOTION TO CONSOLIDATE
filed in this matter.

NOTICE is further given that the defendant may call witnesses and present exhibits at
said hearing.

DATED this 28th day of June, 2017.

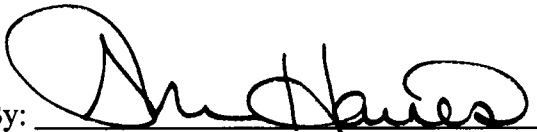


E. CLAYNE TYLER
Prosecuting Attorney

CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed or delivered to the following on the 28th day of June, 2017.

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403

By: 

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C PARTEE,

Defendant.

CASE NO. CR. 2016-951; CR2017-95

COURT MINUTES

Gregory FitzMaurice, District Judge Presiding

E. Clayne Tyler, Attorney for the State

Neil Cox, Jr., Attorney for the Defendant

Keith Evans, Court Reporter

Christy Gering, Court Clerk

Dated: 07/05/2017 Courtroom-1 Time: 10:01 A.M.

Subject of Proceedings: Motion Hearing

=====

MINUTE ENTRY:

10:01 Honorable Gregory FitzMaurice, District Judge presiding. E. Clayne Tyler, present representing the State. Neil Cox, Jr., attorney for the defendant, present. Gary Partee, is present. Court advises that this is the time and place set for a Motion Hearing. Court advises that there will be several motions being heard today.

10:02 Court advises of the defenses Motion to Dismiss Delivery charge or suppress statements made by the defendant. Court further advises that the motion arises from an immunity agreement made between the state and the defendant. Court further advises that he has received an unsigned copy of the agreement from the state prior to going on the record and asks that the unsigned be added as an exhibit with all parties signatures.

10:04 Mr. Cox advises that there should have been an additional page with some handwritten information of the document.

10:04 Court further advises that he needs a readable copy of the complete agreement on the record and suggests that a complete copy be added as exhibits. Court would note that on the 4th page of the unsigned agreement there is a handwritten portion missing from the document and that the police report will be included in the document.

10:06 Mr. Cox has no evidence on his motion.


COURT MINUTES

Christ Gering – Deputy Court Clerk - 1

- 10:06 Court asks for factual basis for the motion from Mr. Cox.
- 10:07 Mr. Cox advises he does not believe that evidence is necessary and gives argument.
- 10:08 In response to Court inquiry, Mr. Cox advises that he had anticipated that the state would have an officer as a witness to the contract.
- 10:10 Mr. Cox concedes that there is no evidence that the defendant failed to perform in paragraphs 2 and 3 of the contract.
- 10:10 In response to Court inquiry, Mr. Tyler advises that Officer Dodge testified at the preliminary hearing as to how defendant failed to perform the contract.
- 10:11 Court advises he will proceed with argument today and requires a stipulation setting forth the agreement on the breach in contract filed with the Court within 2 days.
- 10:11 Mr. Tyler advises that from what he can recall Officer Dodge testified that the agreement was signed by defendant and that he was to get consideration under the agreements and that a cell phone was provided to the defendant to keep in contact with the police and the defendant was released from jail. Officer Dodge was only able to make contact a couple times with defendant and failed to make contact with the officer.
- 10:12 Mr. Cox provides argument on his motion.
- 10:17 In response to Court inquiry, Mr. Cox rescinds his motion to dismiss.
- 10:18 Mr. Cox confirms he is motioning for suppression of statements.
- 10:19 Mr. Tyler advises of statements made by defendant pursuant to the contract.
- 10:19 Mr. Tyler provides argument.
- 10:21 Mr. Cox provides rebuttal.
- 10:21 Court states he will take it under advisement and takes up the State's Motion for Consolidation.
- 10:22 Mr. Tyler provides argument.
- 10:24 Mr. Cox provides argument.
- 10:26 Court advises he will take the matter under advisement.

10:26 Counsel has nothing further at this time.

10:27 Court is in recess.

By: 

GREGORY FITZMAURICE
District Judge

FILED 7/19/2017 AT
4:42 p.m. OROFINO, IDAHO
BY [Signature]

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

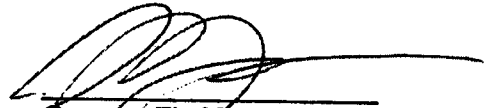
STATE OF IDAHO,	)	CASE NO. CR16-951
	)	CR17-95
Plaintiff,)	
	)	ORDER CONSOLIDATING
vs.	)	CASES CR 16-951 and
	)	CR 17-95
GARY PARTEE,)	
)	
Defendant.)	
_____)	

The State has filed a motion to consolidate Clearwater County cases CR 16-951 and CR 17-95. The State alleges that Case CR 16-951 consists of previously charged offenses arising from the same circumstances or events leading to the charges in Case CR 17-95.

Idaho Criminal Rule 8(a) authorizes the State to join two or more charges where they "are based on the same act or transaction ... or constitut[e] parts of a common scheme or plan." When the joined offenses meet the commonality requirements of Rule 8(a) the defendant can prevent joinder by showing that joinder will result in unfair prejudice. *State v. Field*, 144 Idaho 559, 564–65, 165 P.3d 273, 278–79 (2007); *State v. Anderson*, 138 Idaho 359, 361, 63 P.3d 485, 487 (Ct.App.2003).

Based on the files in these cases, the argument by the parties at hearing on July 5, 2017, the fact that the charges are based on the same transaction, and the lack of prejudice to the defendant, the Court finds that consolidation of the cases in the interest of justice and judicial economy.

DATED this 19 day of July, 2017.



Gregory FitzMaurice
District Judge

Order consolidating cases-2

CERTIFICATE OF SERVICE

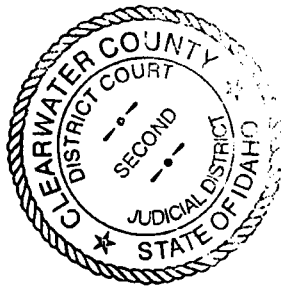
I, the undersigned Deputy Clerk of the above entitled Court, do hereby certify that on this 19th day of July, 2017, served a true and correct copy of the Order by mail, fax, or courthouse delivery to:

Neil P. Cox
924 Fifth Street
Clarkston, WA 99403

☒ Mail *Email*
☐ Fax
☐ Courthouse mail

Clayne Tyler
Prosecuting Attorney
P.O. Box 2627
Orofino, ID 83544-2627

☒ Mail *Email*
☐ Fax
☐ Courthouse mail



Carrie Bird, Clerk of Court

By: *C. Mering*
Deputy Clerk

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611

FILED July 27, 2017
8:25 AM OROFINO, IDAHO
BY OH

4 Chief Deputy: Lori M. Gilmore ISBN: 5877

5
6 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

7 STATE OF IDAHO,) CASE NO. CR2016-951
8 Plaintiff,)
9 v.) CONSOLIDATED
10 GARY CARL PARTEE,) INFORMATION
11 Defendant.)

12 E. CLAYNE TYLER, Prosecuting Attorney in and for the County of Clearwater, for and
13 on behalf of the State of Idaho, comes into the above-entitled Court in the year 2017 and gives
14 the Court to understand and be informed that the above-named defendant, GARY CARL
15 PARTEE, is accused by this Information of the felony crime of COUNT I: POSSESSION OF A
16 CONTROLLED SUBSTANCE, METHAMPHETAMINE, a violation of Idaho Code Section 37-
17 2732(c)(1), COUNT II: DELIVERY OF A CONTROLLED SUBSTANCE,
18 METHAMPHETAMINE, a violation of Idaho Code Section 37-2732(a)(1)(A), COUNT III:
19 POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a violation of
20 Idaho Code Section 37-2732(c)(1) and COUNT IV: POSSESSION OF A CONTROLLED
21 SUBSTANCE, METHAMPHETAMINE, WITH THE INTENT TO DELIVER, a violation of
22 Idaho Code Section 37-2732(a)(1)(A), and the misdemeanor crimes of: COUNT V:
23 POSSESSION OF DRUG PARAPHERNALIA, a violation of Idaho Code Section 37-2734A,
24 COUNT VI: RESISTING AND OBSTRUCTING AN OFFICER, a violation of Idaho Code
25 Section 18-705, and COUNT VII: LITTER ON OCCUPIED PRIVATE PROPERTY, a violation
26 of Orofino City Code Section 6-9-11 and COUNT VIII: CRUELTY TO ANIMALS, a violation
27 of Orofino City Code Section 6-2-2., committed as follows:

28 INFORMATION

1 **COUNT I**
2 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE**
3 **Felony, I. C. 37-2732(c)(1)**

4 That the Defendant, GARY CARL PARTEE on or about the 29th day of
5 November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did
6 knowingly and unlawfully possess a controlled substance, to-wit: 19.94 grams of
7 Methamphetamine, a Schedule II controlled substance.

8 All of which is contrary to Section 37-2732(c)(1) of the Idaho Code and against
9 the peace and dignity of the State of Idaho.

10 **COUNT II**
11 **DELIVERY OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE**
12 **FELONY, I.C. § 37-2732 (a)(1)(A)**

13 That the Defendant, GARY CARL PARTEE, on or between the 29th day of May, 2016
14 and the 29th day of November, 2016, both dates approximate and inclusive, in the City of
15 Orofino, County of Clearwater, State of Idaho, did intentionally, knowingly and/or
16 unlawfully deliver a controlled substance, to-wit: Methamphetamine, a Schedule II
17 controlled substance to one or more persons.

18 All of which is contrary to Section 37-2732 (a)(1)(A) of the Idaho Code and against the
19 peace and dignity of the State of Idaho.

20 **COUNT III**
21 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE**
22 **Felony, I. C. 37-2732(c)(1)**

23 That the Defendant, GARY CARL PARTEE on or about the 29th day of
24 November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did knowingly
25 and unlawfully possess a controlled substance, to-wit: a set of scales and/or a light bulb
26 containing Methamphetamine, a Schedule II controlled substance.

27 All of which is contrary to Section 37-2732(c)(1) of the Idaho Code and against the
28 peace and dignity of the State of Idaho.

INFORMATION

1 **COUNT IV**
2 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE,**
3 **WITH THE INTENT TO DELIVER**
4 **Felony, I.C. 37-2732(a)(1)(A)**

5 That the Defendant, GARY CARL PARTEE, on or about the 29th day of November,
6 2016, in the City of Orofino, County of Clearwater, State of Idaho, did actually,
7 intentionally and unlawfully possess a controlled substance, to-wit: a bindle of
8 Methamphetamine, a Schedule II controlled substance, with the intent to deliver some or
9 all of the aforementioned controlled substance.

10 All of which is contrary to Section 37-2732(a)(1)(A) of the Idaho Code and against
11 the peace and dignity of the State of Idaho.

12 **COUNT V**
13 **POSSESSION OF DRUG PARAPHERNALIA**
14 **Misd., I.C. 37-2734A**

15 That the Defendant, GARY CARL PARTEE, on or about the 29th day of November, 2016
16 in the City of Orofino, County of Clearwater, State of Idaho, did use and/or possess with the
17 intent to use drug paraphernalia.

18 All of which is contrary to Section 37-2734A of the Idaho Code and against the peace and
19 dignity of the State of Idaho.

20 **COUNT VI**
21 **RESISTING AND OBSTRUCTING AN OFFICER**
22 **Misd., I.C. 18-705**

23 That the Defendant, GARY CARL PARTEE, on or about the 29th day of November,
24 2016, in the City of Orofino, County of Clearwater, State of Idaho, did wilfully resist,
25 obstruct and/or delay a public officer, to-wit: Officer Eric Dodge of the Orofino Police
26 Department, in the discharge or attempt to discharge a duty of his office, by refusing to
27 comply with the orders of the officers and/or to stop resisting after being ordered to do so.

28 All of which is contrary to I.C. § 18-705 and against the peace and dignity of the State
of Idaho.

INFORMATION

Misd., Orofino City Code 6-9-11

All of which is contrary to the Orofino City Code Section 6-9-11 and against the peace and dignity of the State of Idaho.

Misd., Orofino City Code 6-2-2

All of which is contrary to Orofino City Code 6-2-2 and against the peace and dignity of the State of Idaho.

DATED this 26th day of July, 2017.

~~E. CLAYNE TYLER~~
~~PROSECUTING ATTORNEY~~

INFORMATION

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR. 2016-951
vs.)	
)	
GARY C PARTEE,	)	COURT MINUTES
)	
Defendant.)	

Gregory FitzMaurice, District Judge Presiding
E. Clayne Tyler, Attorney for the State
Neil Cox, Jr., Attorney for the Defendant
No Court Reporter
Christy Gering, Court Clerk
Dated: 08/01/2017 Courtroom-1 Time: 1:27 P.M.
Subject of Proceedings: Final Pretrial Conference

=====

MINUTE ENTRY:

- 1:27 Honorable Gregory FitzMaurice, District Judge presiding. E. Clayne Tyler, present representing the State. Neil Cox, Jr., attorney for the defendant, present. Gary Parte is present. Court advises that this is the time and place set for a Final Pretrial Conference.
- 1:28 In response to Court inquiry, Mr. Tyler advises they will be holding the trial all settlement offers have been rejected.
- 1:29 Court advises that all jury instructions must submitted 5 days prior to the trial and that any plea agreements entered after today will not be binding to the Court . Court further advises that the Jury Trial will begin at 9:00 a.m. but counsel will need to be present at 8:30a.m.
- 1:30 Mr. Tyler advises that is not intending to try all the misdemeanor charges consolidated into the case.
- 1:30 Court advises that Mr. Tyler submit which charges will vetted out in the jury instructions.
- 1:31 Court is in recess.

By: 
GREGORY FITZMAURICE
District Judge

E. CLAYNE TYLER, ISBN 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Fax: (208) 476-8989
Email: prosecutor@clearwatercounty.org

FILED August 3, 2017 AT
10:18 AM
BY KJ OROFINO, IDAHO

Deputy: Lori M. Gilmore, ISBN 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. CR2016-951
)	
Plaintiff,	)	AMENDED STATE'S WITNESS AND
	)	EXHIBIT LIST
vs.)	
)	
GARY C. PARTEE,)	
)	
Defendant.)	
_____)	

COMES NOW, the undersigned Prosecuting Attorney/ Deputy Prosecuting Attorney for the County of Clearwater advises the Court that the State expects to call the following primary witnesses at the trial scheduled in this matter:

Witnesses:

Eric Dodge, OPD
Vincent Frazier, OPD
Kyle Atha, OPD
Matthew Russell, OPD
Mike Shore, formerly OPD
Renee Hedrick, formerly OPD
Lahni Ireland, OPD
Jeff Wilson, OPD
Jennifer Jolley
Beau Lynch
Jerry O'Brien
Nicole Schlieper

AMENDED STATES WITNESS AND EXHIBIT LIST - 1

David Sincerebeaux, ISP Forensic Services
Tristyn Magers

Further, the State advises the Defense and the Court that there are other witnesses previously listed with the Court as witnesses, whom the State may need to call depending on how evidence and testimony are presented and occur at trial on the matter. The State respectfully submits that these witnesses should also be eligible as witnesses should the state need to call them.

For exhibits the state expects to introduce or anticipates the use of the following:

Exhibits:

Audio/ Video Recordings

Chain of Custody Item No. 2016-01695-027

Property/Evidence Transfer Receipt Item No. 2016-01695-28

Idaho State Police Forensic Service Evidence Submission Receipt Items No. 2016-1695-027 and 2016-1695-028

Chain of Custody Item No. 2016-01678-015

Chain of Custody Item No. 2016-01678-022

Chain of Custody Item No. 2016-1678-037

Chain of Custody Item No. 2016-1678-041

Lab Results OPD Case No. 16-01678 Report No. 2

Photographs

Testimonial Agreement

State reserves the right to call any witnesses or use any exhibit at the trial in this matter which has been previously provided in State's discovery or in the Defendant's discovery and/or

AMENDED STATES WITNESS AND EXHIBIT LIST - 2

witness and exhibit list.

Dated this 3rd day of August, 2017.

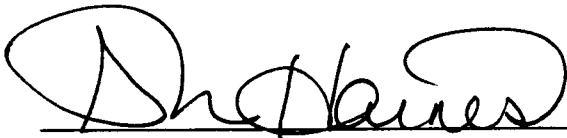


PROSECUTING ATTORNEY/DEPUTY

CERTIFICATE OF MAILING OR DELIVERY

I, the undersigned, hereby certify that on the 3 day of August, 2017, a true and correct copy of the foregoing AMENDED STATE'S WITNESS AND EXHIBIT LIST was X mailed or ___ delivered in courthouse mail to the following:

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403

A handwritten signature in black ink, appearing to read "Sharon Haines", written over a horizontal line.

Sharon Haines
Paralegal

E. CLAYNE TYLER ISBN:5277
 Prosecuting Attorney
 Clearwater County
 Post Office Box 2627
 Orofino, Idaho 83544-2627
 Telephone: (208) 476-5611
 Email: prosecutor@clearwatercounty.org

Chief Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. CR2016-951
)	
Plaintiff,)	
v.	)	STIPULATED MOTION TO
	)	AMEND CONSOLIDATED
GARY CARL PARTEE,	)	INFORMATION
)	
Defendant,)	

COMES NOW, the State of Idaho, by and through the Clearwater County Prosecuting Attorney's Office, and the Defendant, by and through his attorney of record, Neil P. Cox, and jointly moves the Court to dismiss certain counts pled in the Consolidated Information, and to allow the State to amend the Consolidated Information filed herein. This motion is made pursuant to I.C.R. 7(d) (Information may be amended prior to the State resting its case to eliminate surplusage) and I.C.R. 7(e) (Information may be amended prior to State resting its case so long as new or different offenses are not charged).

The State is seeking to eliminate unnecessary or duplicated misdemeanor charges by this amendment and is not adding or modifying any remaining offense.

The State requests a dismissal of the following counts: Count V: Misdemeanor

STIPULATED MOTION TO AMEND CONSOLIDATED INFORMATION-1

CR2016-951
 August 7, 2017
 3:30 p.
 L. Biral
 BP

Possession of Drug Paraphernalia; Count VI: Misdemeanor Resisting and Obstructing an Officer;
Count VII: Misdemeanor Littering; and Count VIII: Misdemeanor Cruelty to Animals.

Remaining for trial are the following:

Count I: Possession of Methamphetamine (I.C. 37-2732(c)(1) [19.94 grams on Nov. 29]

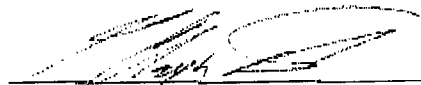
Count II: Delivery of Methamphetamine (I.C. 37-2732(a)(1)(A)

Count III: Possession of Methamphetamine (I.C. 37-2732(c)(1) [scales and lightbulb].

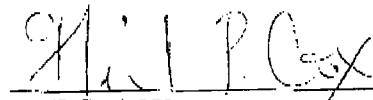
Count IV: Possession of Methamphetamine with Intent to Deliver (I.C. 37-2732(a)(1)(A))

[Nov. 29th].

DATED: August 7, 2017.



E. CLAYNE TYLER
Clearwater County Prosecuting Attorney's Office




NEIL P. COX
Attorney for Defendant, Gary Partee

STIPULATED MOTION TO AMEND CONSOLIDATED INFORMATION-2

CERTIFICATE OF MAILING/DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was delivered to the following on the 13th day of August, 2017:

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403

By: 

STIPULATED MOTION TO AMEND CONSOLIDATED INFORMATION-3

ATTORNEY: E. CLAYNE TYLER ISBN: 5277
ADDRESS: Prosecuting Attorney, Clearwater County
TELEPHONE: Post Office Box 2627, Orofino, ID 83544
DEPUTY: (208) 476-5611
EMAIL: Lori M. Gilmore, ISBN: 5877
prosecutor@clearwatercounty.org

CR2016-951
August 7, 2017
3:33
E. Bird
BP

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C. PARTEE,

Defendant.

CASE NO. : CR2016-951

SUBPOENA

RECEIVED
AUG 03 2017
OROFINO POLICE

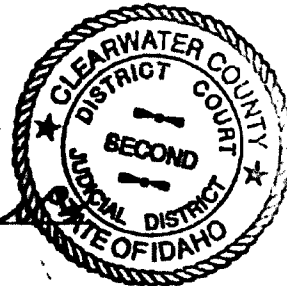
TO: VINCENT FRAZIER, OPD

YOU ARE COMMANDED to appear before the District Court of the Second Judicial District, in and for the County of Clearwater, at the courtroom in the Courthouse, in Orofino in said County, on the 23rd, 24th & 25th day of August, 2017 at the hour of 9:00 o'clock a.m. and until released by the Court, as a witness in a criminal action being prosecuted by the State of Idaho against the above named defendant.

Given under my hand this 2 day of August, 2017.

CARRIE BIRD
Clerk of the District Court

By: [Signature]
Deputy



RETURN OF SERVICE

I HEREBY CERTIFY That I served the within Subpoena on the 3 day of August, 2017, on Vincent Frazier, being the party named in said document by showing the original to the said named party and personally informing said party of the contents.

Dated Aug 3, 2017.

[Signature]
OFFICER

PLEASE CONTACT THIS OFFICE PRIOR TO YOUR ARRIVAL

ATTORNEY: E. CLAYNE TYLER ISBN: 5277
ADDRESS: Prosecuting Attorney, Clearwater County
TELEPHONE: Post Office Box 2627, Orofino, ID 83544
DEPUTY: (208) 476-5611
EMAIL: Lori M. Gilmore, ISBN: 5877
prosecutor@clearwatercounty.org

CR2016 951
August 7, 2017
3:33
C. Bird
BP

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C. PARTEE,

Defendant.

CASE NO. : CR2016-951

SUBPOENA

RECEIVED
AUG 03 2017
OROFINO POLICE

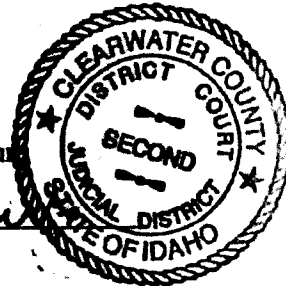
TO: LAHNI IRELAND, OPD

YOU ARE COMMANDED to appear before the District Court of the Second Judicial District, in and for the County of Clearwater, at the courtroom in the Courthouse, in Orofino in said County, on the 23rd, 24th & 25th day of August, 2017 at the hour of 9:00 o'clock a.m. and until released by the Court, as a witness in a criminal action being prosecuted by the State of Idaho against the above named defendant.

Given under my hand this 2 day of August, 2017.

CARRIE BIRD
Clerk of the District Court

By: [Signature]
Deputy



RETURN OF SERVICE

I HEREBY CERTIFY That I served the within Subpoena on the 3 day of August, 2017, on Lahni Ireland, being the party named in said document by showing the original to the said named party and personally informing said party of the contents.

Dated Aug 3 2017.

[Signature]
OFFICER

PLEASE CONTACT THIS OFFICE PRIOR TO YOUR ARRIVAL

ATTORNEY: E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney, Clearwater County
ADDRESS: Post Office Box 2627, Orofino, ID 83544
TELEPHONE: (208) 476-5611
DEPUTY: Lori M. Gilmore, ISBN: 5877
EMAIL: prosecutor@clearwatercounty.org

CR2016-951
August 7, 2017
3:33 P.
C. Bird
BP

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C. PARTEE,

Defendant.

CASE NO. : CR2016-951

SUBPOENA

RECEIVED
AUG 03 2017
OROFINO POLICE

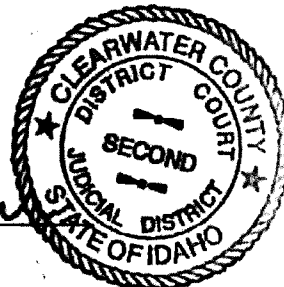
TO: MATHEW RUSSELL, OPD

YOU ARE COMMANDED to appear before the District Court of the Second Judicial District, in and for the County of Clearwater, at the courtroom in the Courthouse, in Orofino in said County, on the 23rd, 24th & 25th day of August, 2017 at the hour of 9:00 o'clock a.m. and until released by the Court, as a witness in a criminal action being prosecuted by the State of Idaho against the above named defendant.

Given under my hand this 2 day of August, 2017.

CARRIE BIRD
Clerk of the District Court

By: [Signature]
Deputy



RETURN OF SERVICE

I HEREBY CERTIFY That I served the within Subpoena on the 3 day of August, 2017, on Math Russell, being the party named in said document by showing the original to the said named party and personally informing said party of the contents.

Dated Aug 3, 2017.

[Signature]
OFFICER

PLEASE CONTACT THIS OFFICE PRIOR TO YOUR ARRIVAL

E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
Clearwater County
P. O. Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org

CR2016-951
August 7, 2017
3:31 PM
C. Bird
BP

Deputy: Lori M. Gilmore ISBN: 5877


IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR 2016-951
)	
Plaintiff,)	
)	
vs.	)	STATE'S REQUESTED
	)	JURY INSTRUCTIONS
GARY C. PARTEE,)	
)	
Defendant.)	

E. CLAYNE TYLER, Prosecuting Attorney in and for the County of Clearwater, State of Idaho, respectfully submits State's Requested Jury Instructions No. 1 through No. 10.

DATED the 17 day of August, 2017.

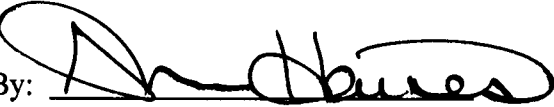
Respectfully submitted,


E. CLAYNE TYLER
Prosecuting Attorney

CERTIFICATE OF MAILING/DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed to the undersigned this 7th day of August, 2017 to the following:

Neil Cox
Attorney for the Defendant
via email

By: 

ICJI 208 "ON OR ABOUT"-EXPLAINED

STATE'S REQUESTED JURY INSTRUCTION NO. 1.

INSTRUCTION NO. _____

It is alleged that the crime charged was committed "on or about" or "on" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

[It need only show that the crime was committed on or after [statute of limitation bar date].]

Comment

I.C. s 19-1414; *State v. Mundell*, 66 Idaho 297, 158 P.2d 818 (1945). The last bracketed portion should be given if the statute of limitation is raised as a defense.

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 422 CONTROLLED SUBSTANCE DEFINED

STATE'S REQUESTED JURY INSTRUCTION NO. 2.

INSTRUCTION NO. ____

Under Idaho law, methamphetamine is a controlled substance.

Comment

I.C. §§ 37-2705 to 37-2713A.

The question whether a substance is designated in the Act as a controlled substance is a question of law for the court, not the jury. State v. Hobbs, 101 Idaho 262, 263, 611 P.2d 1047, 1048 (1980).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 428 DELIVERY DEFINED

STATE'S REQUESTED JURY INSTRUCTION NO. 3.:

INSTRUCTION NO. _____

The term "deliver" means the transfer or attempted transfer, either directly or indirectly, from one person to another.

Comment

I.C. § 37-2701(g).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 421 POSSESSION DEFINED

STATE'S REQUESTED JURY INSTRUCTION NO. 4.

INSTRUCTION NO. _____

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it. More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

Comment

There is no need to attempt to distinguish further between actual and constructive possession and sole and joint possession. State v. Seitter, 127 Idaho 356, 900 P.2d 1367 (1995).

The first bracketed sentence is to be given only when a violation of the tax stamp law is charged. I.C. § 63-4202(3).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 403 POSSESSION OF A CONTROLLED SUBSTANCE

STATE'S REQUESTED JURY INSTRUCTION NO. 5.

INSTRUCTION NO. _____

In order for the defendant to be guilty of Count I: Possession of a Controlled Substance, the state must prove each of the following:

1. On or about November 29, 2016
2. in the state of Idaho
3. the defendant Gary C. Partee possessed approximately 19.94 grams of crystalline material containing any amount of methamphetamine, and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 37-2732(a). If the charge is possession of a controlled substance by an inmate, see ICJI 604.

If the defendant is charged with "second offense" drug possession, I.C. § 37-2739, that issue should be presented in a bifurcated proceeding.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732© does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

In order to establish possession of a controlled substance, a defendant need not have actual physical possession of the substance; the state need only prove that the defendant had such dominion and control over the substance to establish constructive possession. *State v. Kopsa*, 126 Idaho 512, 887 P.2d 57 (Ct. App. 1994). Constructive possession of a controlled substance exists where a nexus between the accused and the substance is sufficiently proven so as to give rise to the reasonable inference that the accused was not simply a bystander but, rather, had the power and intent to exercise dominion and control over the substance. *State v. Rozajewski*, 130 Idaho 644, 945 P.2d 1390 (Ct. App. 1997).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

Even trace or residual quantities of cocaine fall within the scope of I.C. § 37-2732©. *State v. Groce*, 133 Idaho 144, 983 P.2d 217 (Ct. App. 1999).

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 404 DELIVERY OF A CONTROLLED SUBSTANCE

STATE'S REQUESTED JURY INSTRUCTION NO. 6.

INSTRUCTION NO. _____

In order for the defendant to be guilty of Count II, Delivery of a Controlled Substance, the state must prove each of the following:

1. On or between May 29, 2016 and November 29, 2016
2. in the state of Idaho
3. the defendant Gary C. Partee delivered any amount of methamphetamine to another,
and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 37-2732(a). See ICJI 428 for the definition of "deliver." If the charge is delivery of a controlled substance by an inmate, see ICJI 604.

If the defendant is charged with "second offense" drug delivery, I.C. § 37-2739, that issue should be presented in a bifurcated proceeding.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 403 POSSESSION OF A CONTROLLED SUBSTANCE

STATE'S REQUESTED JURY INSTRUCTION NO. 7.

INSTRUCTION NO. _____

In order for the defendant to be guilty of Count III, Possession of a Controlled Substance, the state must prove each of the following:

1. On or about November 29, 2016
2. in the state of Idaho
3. the defendant Gary C. Partee possessed a set of scales and/or lightbulb containing any amount of methamphetamine, and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 37-2732(a). If the charge is possession of a controlled substance by an inmate, see ICJI 604.

If the defendant is charged with "second offense" drug possession, I.C. § 37-2739, that issue should be presented in a bifurcated proceeding.

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732© does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

In order to establish possession of a controlled substance, a defendant need not have actual physical possession of the substance; the state need only prove that the defendant had such dominion and control over the substance to establish constructive possession. *State v. Kopsa*, 126 Idaho 512, 887 P.2d 57 (Ct. App. 1994). Constructive possession of a controlled substance exists where a nexus between the accused and the substance is sufficiently proven so as to give rise to the reasonable inference that the accused was not simply a bystander but, rather, had the power and intent to exercise dominion and control over the substance. *State v. Rozajewski*, 130 Idaho 644, 945 P.2d 1390 (Ct. App. 1997).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

Even trace or residual quantities of cocaine fall within the scope of I.C. § 37-2732©. *State v. Groce*, 133 Idaho 144, 983 P.2d 217 (Ct. App. 1999).

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 403A POSSESSION OF A CONTROLLED SUBSTANCE
WITH INTENT TO DELIVER

STATE'S REQUESTED JURY INSTRUCTION NO. 8.

INSTRUCTION NO. _____

In order for the defendant to be guilty of Count IV, Possession of a Controlled Substance, the state must prove each of the following:

1. On or about November 29, 2016
2. in the state of Idaho
3. the defendant Gary C. Partee possessed a bindle containing any amount of methamphetamine, and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance, and
5. the defendant intended to deliver that substance to another.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

[The possession of [one or more] controlled substances[, even in multiple packages,] is not sufficient by itself to prove an intent to deliver. The state must prove one or more additional circumstances from which you can infer that intent. The additional circumstances could include, but are not limited to, the possession of controlled substances in quantities greater than would be kept for personal use; or the existence of items customarily used to weigh, package, or process controlled substances; or the existence of money and/or records which indicate sales or deliveries of controlled substances.

You are not required to infer an intent to deliver from any such additional circumstances. Whether any such additional circumstances have been proven, whether an intent to deliver should be inferred from them, and the weight to be given such inference are for you to decide. You should consider all of the evidence when deciding whether the state has proven an intent to deliver beyond a reasonable doubt.]

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

Comment

I.C. § 37-2732(a). See ICJI 428 for definition of "deliver."

If the defendant is charged with "second offense" drug possession, I.C. § 37-2739, that issue should be presented in a bifurcated proceeding.

Included Offense: ICJI 225. I.C. § 19-2132. Pursuant to the 1988 amendments to I.C. § 19-2132, a defendant has an obligation to request jury instruction on included offenses. The district court does not have a duty *sua sponte* to instruct the jury on included offenses. *State v. Porter*, 130 Idaho 772, 948 P.2d 127 (1997). Courts have inherent authority to instruct a jury on included offenses, and such authority does not infringe upon the power of charging and prosecuting, which is reserved to the executive branch. Accordingly, the district court has the authority, but not the duty, to *sua sponte* instruct on included offenses provided the giving of such instructions was reasonable based on the evidence presented. *State v. Rae*, 139 Idaho 650, 84 P.3d 586 (Ct. App. 2004)

In *State v. Fox*, 124 Idaho 924, 866 P.2d 181 (1993), the Supreme Court held that I.C. § 37-2732(c) does not set forth any mental state as an element of the crime of possession of a controlled substance. "Thus, as [this statute] does not expressly require any mental element and I.C. § 18-114 only requires a general intent, we conclude that the offense only requires a general intent, that is, the knowledge that one is in possession of the substance." The Court held that the defendant's lack of knowledge that the substance was illegal (as a controlled substance) was irrelevant.

In order to establish possession of a controlled substance, a defendant need not have actual physical possession of the substance; the state need only prove that the defendant had such dominion and control over the substance to establish constructive possession. *State v. Kopsa*, 126 Idaho 512, 887 P.2d 57 (Ct. App. 1994). Constructive possession of a controlled substance exists where a nexus between the accused and the substance is sufficiently proven so as to give rise to the reasonable inference that the accused was not simply a bystander but, rather, had the power and intent to exercise dominion and control over the substance. *State v. Rozajewski*, 130 Idaho 644, 945 P.2d 1390 (Ct. App. 1997).

Separate convictions for manufacturing a controlled substance and possession of a controlled substance with intent to deliver require different set of facts and thus do not violate state and federal constitutional protection against double jeopardy. *State v. Ledbetter*, 118 Idaho 8, 794 P.2d 278 (Ct. App. 1990).

Even trace or residual quantities of cocaine fall within the scope of I.C. § 37-2732(c). *State v. Groce*, 133 Idaho 144, 983 P.2d 217 (Ct. App. 1999).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

The statute does not contain a mental element. The committee concluded, based upon *State v. Lamphere*, 130 Idaho 630, 945 P.2d 1 (1997), a mental element as set forth in element 4 should be included.

The bracketed paragraphs regarding the intent to deliver are prompted by *State v. O'Mealey*, 95 Idaho 202, 506 P.2d 99 (1973), and *State v. O'Campo*, 103 Idaho 62, 644 P.2d 985 (Ct. App. 1982).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

ICJI 225 INCLUDED OFFENSES -- TRANSITION

STATE'S REQUESTED JURY INSTRUCTION NO. 9.

INSTRUCTION NO. _____

If your unanimous verdict is that the defendant is not guilty of possession of a bindle containing methamphetamine with intent to deliver, you must acquit him of that charge. In that event, you must next consider the included offense of Possession of Methamphetamine .

[Repeat as needed.]

Comment

I.C. s 19-2132.

This instruction is intended to be inserted at the beginning of the instruction on the elements of an included offense.

The Committee used the phrase "included offense" rather than "lesser included offense" because an included offense is not always lesser in terms of punishment. *State v. Gilman*, 105 Idaho 891, 673 P.2d 1085 (Ct. App. 1983).

A trial court does not have a duty to instruct *sua sponte* on an included offense. A trial court is required to instruct the jury on included offenses only if: (1) one of the parties requests the instruction, and (2) a reasonable view of the evidence would support a finding that the defendant committed the included offense but did not commit the greater offense. *State v. Porter*, 130 Idaho 772, 948 P.2d 127 (1997); I.C. s 19-2132.

An offense is an included offense if it meets the requirements of either the "statutory theory" or the "pleading theory."

(1) The statutory theory focuses solely upon the statutory definitions of the two offenses. An offense is an included offense if, considering only the statutory definitions of both crimes, you could not commit the charged offense without also committing the included offense. This would occur in either of two situations:

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

(a) All of the statutory elements of the included offense are statutory elements of the charged offense. For example, voluntary manslaughter is an included offense of second degree murder because second degree murder contains all of the elements of manslaughter plus the additional element of malice. *State v. Atwood*, 105 Idaho 315, 669 P.2d 204 (Ct. App. 1983). Conversely, under the statutory theory robbery would not be an included offense of felony murder even where the murder was committed during the course of a robbery because the statutory definition of felony murder does not always require the commission of a robbery. There are other felonies upon which felony murder can be based. *Sivak v. State*, 112 Idaho 197, 731 P.2d 192 (1986).

(b) The charged offense could not be committed without committing the included offense, even though all of the elements of the included offense are not elements of the charged offense. For example, if the victim is under sixteen years of age, lewd and lascivious conduct is an included offense of statutory rape because the defendant's conduct leading up to the rape would constitute the crime of lewd and lascivious conduct as well. *State v. Petty*, 73 Idaho 136, 248 P.2d 218 (1952); *State v. Gilman*, 105 Idaho 891, 673 P.2d 1085 (Ct. App. 1983). None of the elements of the two offenses are identical, however.

(2) The pleading theory focuses upon the charging language in the complaint, indictment, or information. Under the pleading theory, an offense is an included offense if:

(a) The offense is alleged in the complaint, indictment, or information as being the manner or means by which the charged offense was committed. For example, in *State v. Anderson*, 82 Idaho 293, 352 P.2d 972 (1960), driving while under the influence and reckless driving were included offenses in the charge of negligent homicide because the information charging the defendant with negligent homicide alleged that he committed such offense by driving while under the influence of alcohol and in a reckless manner.

(b) The offense is alleged in the complaint, indictment, or information as being an element of the charged offense. For example, under the pleading theory robbery would be an included offense of felony murder if it was alleged in the indictment or information that the murder occurred during the commission of a robbery. *Sivak v. State*, supra.

The Idaho Appellate Courts had previously recognized a third category of included offenses in which the evidence at trial showed the commission of a lesser similar offense. *State v. Boyenger*, 95 Idaho 396, 509 P.2d 1317 (1973) (the crime of receiving money or property by false pretenses was held to be an included offense of the crime of false or fraudulent use of a credit card); *State v. Mason*, 111 Idaho 660, 726 P.2d 772 (Ct. App. 1986) (exhibiting a deadly weapon was held to be an included offense of the crime of aggravated assault). This third category of included offenses has since been rejected. *State v. Rosencrantz*, 130 Idaho 666, 946 P.2d 628 (1997) (eluding and reckless driving were not included offenses of aggravated DUI); *State v. Curtis*, 130 Idaho 522, 944 P.2d 119 (1997) (inattentive driving is not an included offense of DUI).

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

There can be more than one included offense. *State v. Olsen*, 103 Idaho 278, 674 P.2d 734 (1982) (trial court correctly instructed the jury regarding six offenses included in the charged offense).

The charged offense gives the defendant presumptive notice of any included offense. *State v. Padilla*, 101 Idaho 713, 620 P.2d 286 (1980); *State v. Gilman*, *supra*.

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

STATE'S REQUESTED JURY INSTRUCTION NO. 10.:

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR2016-951
)	
Plaintiff,)	
	)	VERDICT
v.)	
)	
GARY C. PARTEE,)	
)	
Defendant.)	

We, the Jury, unanimously find the defendant, Gary C. Partee,

COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE METHAMPHETAMINE:

MARK ONLY ONE OF THE FOLLOWING COUNT I VERDICTS

☐ GUILTY

☐ NOT GUILTY

COUNT II: DELIVERY OF A CONTROLLED SUBSTANCE METHAMPHETAMINE:

MARK ONLY ONE OF THE FOLLOWING COUNT II VERDICTS

☐ GUILTY

☐ NOT GUILTY

COUNT III: POSSESSION OF A CONTROLLED SUBSTANCE METHAMPHETAMINE:

MARK ONLY ONE OF THE FOLLOWING COUNT III VERDICTS

☐ GUILTY

☐ NOT GUILTY

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

**COUNT IV: POSSESSION OF A CONTROLLED SUBSTANCE METHAMPHETAMINE
WITH THE INTENT TO DELIVER:**

_____ GUILTY

_____ NOT GUILTY

If your unanimous verdict is that the defendant is guilty of possession of a bindle containing methamphetamine with the intent to deliver, do not consider the included offense set forth below for Possession of Methamphetamine.

If your unanimous verdict is that the defendant is not guilty of possession of a bindle containing methamphetamine with intent to deliver, you must acquit him of that charge. In that event, you must next consider the included offense of Possession of Methamphetamine.

COUNT IV INCLUDED OFFENSE - POSSESSION OF METHAMPHETAMINE:

_____ GUILTY

_____ NOT GUILTY

DATED THIS _____ DAY OF _____, 2017.

PRESIDING OFFICER

GIVEN: _____
NOT GIVEN: _____
IN PART: _____
BY INSTR. NO. _____
REFUSED: _____

E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
Clearwater County
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org

FILED August 8, 2017 AT
2:00 PM
BY BO OROFINO, IDAHO

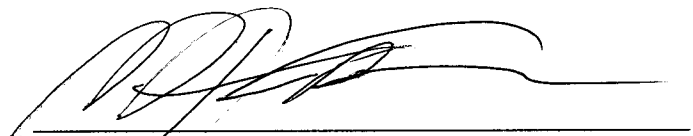
Chief Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. CR2016-951
)	
Plaintiff,)	
v.	)	ORDER TO AMEND
	)	CONSOLIDATED INFORMATION
GARY CARL PARTEE,)	
)	
Defendant.)	

BASED UPON the Stipulated Motion to Amend filed herein, IT IS HEREBY
ORDERED that the State is granted leave to Amend the Consolidated Information.

DATED: August 8, 2017



DISTRICT JUDGE

CERTIFICATE OF MAILING/DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was delivered to the following on the 8th day of August, 2017:

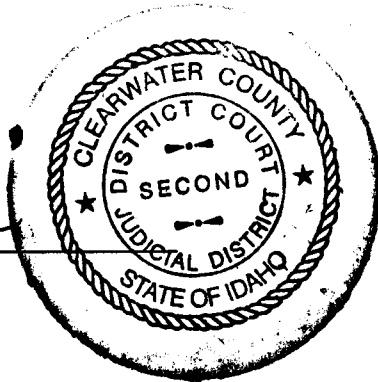
Neil Cox
Attorney for Defendant
Email

E. Clayne Tyler
Prosecuting Attorney
Email

CARRIE BIRD
CLERK OF THE COURT

By: _____

Deputy



ORDER TO AMEND CONSOLIDATED INFORMATION-2

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611

FILED August 18, 2017 AT
2:32 PM BY BO

4 Chief Deputy: Lori M. Gilmore ISBN: 5877

5
6 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

7 STATE OF IDAHO,) CASE NO. CR2016-951
8 Plaintiff,)
v.) AMENDED
9) CONSOLIDATED
10 GARY CARL PARTEE,) INFORMATION
Defendant.)
11 -----

12 E. CLAYNE TYLER, Prosecuting Attorney in and for the County of Clearwater, for and
13 on behalf of the State of Idaho, comes into the above-entitled Court in the year 2017 and gives
14 the Court to understand and be informed that the above-named defendant, GARY CARL
15 PARTEE, is accused by this Information of the felony crime of COUNT I: POSSESSION OF A
16 CONTROLLED SUBSTANCE, METHAMPHETAMINE, a violation of Idaho Code Section 37-
17 2732(c)(1), COUNT II: DELIVERY OF A CONTROLLED SUBSTANCE,
18 METHAMPHETAMINE, a violation of Idaho Code Section 37-2732(a)(1)(A), COUNT III:
19 POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a violation of
20 Idaho Code Section 37-2732(c)(1) and COUNT IV: POSSESSION OF A CONTROLLED
SUBSTANCE, METHAMPHETAMINE, WITH THE INTENT TO DELIVER, a violation of
Idaho Code Section 37-2732(a)(1)(A), committed as follows:

21 **COUNT I**
22 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE**
Felony, I. C. 37-2732(c)(1)

23 That the Defendant, GARY CARL PARTEE on or about the 29th day of
24 November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did
25 knowingly and unlawfully possess a controlled substance, to-wit: 19.94 grams of
Methamphetamine, a Schedule II controlled substance.

26 All of which is contrary to Section 37-2732(c)(1) of the Idaho Code and against
27 the peace and dignity of the State of Idaho.

28
AMENDED CONSOLIDATED INFORMATION -1

1 **COUNT II**
2 **DELIVERY OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE**
3 **FELONY, I.C. § 37-2732 (a)(1)(A)**

4 That the Defendant, GARY CARL PARTEE, on or between the 29th day of May, 2016
5 and the 29th day of November, 2016, both dates approximate and inclusive, in the City of
6 Orofino, County of Clearwater, State of Idaho, did intentionally, knowingly and/or
unlawfully deliver a controlled substance, to-wit: Methamphetamine, a Schedule II
controlled substance to one or more persons.

7 All of which is contrary to Section 37-2732 (a)(1)(A) of the Idaho Code and against the
8 peace and dignity of the State of Idaho.

9 **COUNT III**
10 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE**
11 **Felony, I. C. 37-2732(c)(1)**

12 That the Defendant, GARY CARL PARTEE on or about the 29th day of
13 November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did
knowingly and unlawfully possess a controlled substance, to-wit: a set of scales
and/or a light bulb containing Methamphetamine, a Schedule II controlled substance.

14 All of which is contrary to Section 37-2732(c)(1) of the Idaho Code and against the peace
15 and dignity of the State of Idaho.

16 **COUNT IV**
17 **POSSESSION OF A CONTROLLED SUBSTANCE, METHAMPHETAMINE,**
18 **WITH THE INTENT TO DELIVER**
19 **Felony, I.C. 37-2732(a)(1)(A)**

20 That the Defendant, GARY CARL PARTEE, on or about the 29th day of
21 November, 2016, in the City of Orofino, County of Clearwater, State of Idaho, did
actually, intentionally and unlawfully possess a controlled substance, to-wit: a bundle
of Methamphetamine, a Schedule II controlled substance, with the intent to deliver
some or all of the aforementioned controlled substance.

22 All of which is contrary to Section 37-2732(a)(1)(A) of the Idaho Code and against the
23 peace and dignity of the State of Idaho.

24 DATED this 7th day of August, 2017.

25
26
27 
28 E. CLAYNE TYLER
PROSECUTING ATTORNEY

Second Judicial District Court, State of Idaho
and For the County of Clearwater
150 Michigan Ave
Orofino, Idaho 83544

STATE OF IDAHO,
Plaintiff.

vs.

Gary C Partee
PO Box 122
Orofino, ID 83544

Defendant.

FILED August 11, 2017 AT
3:43 pm OROFINO, IDAHO
BY [Signature]

Case No: CR-2016-000951

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Change of Plea - Tuesday, August 15, 2017 @ 1:45 PM
Judge: Gregory FitzMaurice

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Friday, August 11, 2017.

Defendant: Gary C Partee

Mailed _____ Hand Delivered _____ Faxed _____

Private Counsel:

Mailed _____ Hand Delivered _____ Emailed ☒

Neil Presley Cox Jr.
924 5th Street
Clarkston WA 99403

Prosecutor: Eric Clayne Tyler

Mailed _____ Hand Delivered _____ Emailed ☒



Dated: Friday, August 11, 2017

Carrie Bird
Clerk Of The District Court

By: [Signature]
Deputy Clerk
DOC22 7/96

FILED August 14, 2017 AT
1:28 PM OROFINO, IDAHO
BY KJ

DAVID C RESSER
(208) 245-2555

BENEWAH COUNTY SHERIFF
701 W COLLEGE AVE STE 301
ST MARIES, ID 83861

Paper ID: 201700407

STATE OF IDAHO

-- VS --

PLAINTIFF(S)

COURT: CLEARWATER

CASE NO: CR2016-951

GARY C PARTEE

DEFENDANT(S)

PAPER(S) SERVED:
SUBPOENA

I, DAVID C RESSER, SHERIFF OF BENEWAH, STATE THAT THE ABOVE DESCRIBED DOCUMENTS WERE DELIVERED TO ME FOR SERVICE ON THE 3RD DAY OF AUGUST 2017.

I HEREBY CERTIFY THAT, ON THE 6TH DAY OF AUGUST 2017, AT 12:03 O'CLOCK P.M., I, DEPUTY BRENDON ASBURY, BEING DULY AUTHORIZED, SERVED THE ABOVE DESCRIBED DOCUMENTS IN THE ABOVE-ENTITLED MATTER UPON

***** TRISTYN DAWN MAGERS *****

PERSONALLY AT: 701 W COLLEGE AVE SUITE 301 ST MARIES ID 83861

WITHIN THE COUNTY OF BENEWAH, STATE OF IDAHO.

DATED THIS 7TH DAY OF AUGUST 2017.

DAVID C RESSER
SHERIFF

SHERIFF'S FEES: 0.00
TOTAL COLLECTED TO DATE: 0.00
AMOUNT UNCOLLECTED: 0.00

BY

Brendon Asbury 2208

DEPUTY BRENDON ASBURY
SERVING OFFICER

BY

A. Morris

DEPUTY AMBER MORRIS
RETURNING OFFICER

ATTORNEY: E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney, Clearwater County
ADDRESS: Post Office Box 2627, Orofino, ID 83544
TELEPHONE: (208) 476-5611
DEPUTY: Lori M. Gilmore, ISBN:5877
EMAIL: prosecutor@clearwatercounty.org

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. : CR2016-951
)	
Plaintiff,)	
	)	SUBPOENA
vs.)	
)	
GARY C. PARTEE,)	
)	
Defendant.)	
_____)	

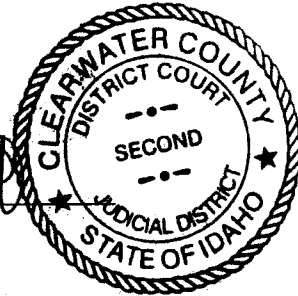
TO: TRISTYN MAGERS

YOU ARE COMMANDED to appear before the District Court of the Second Judicial District, in and for the County of Clearwater, at the courtroom in the Courthouse, in Orofino in said County, on the **23rd, 24th & 25th day of August, 2017 at the hour of 9:00 o'clock a.m.** and until released by the Court, as a witness in a criminal action being prosecuted by the State of Idaho against the above named defendant.

Given under my hand this 3rd day of August, 2017.

CARRIE BIRD
Clerk of the District Court

By: [Signature]
Deputy



RETURN OF SERVICE

I **HEREBY CERTIFY** That I served the within Subpoena on the ____ day of _____, 201____, on _____, being the party named in said document by showing the original to the said named party and personally informing said party of the contents.

Dated _____, 201____.

OFFICER

PLEASE CONTACT THIS OFFICE PRIOR TO YOUR ARRIVAL

R16-951
347-95

Sister Gary Portee

August 23, 2017

08/15/2017 16:24:56 JY376 BARBIE DEYO

CLEARWATER COUNTY

PAGE 1

DOCKET HOPPER TAGS

August 18, 2017
1:27 PM
80

SELECTION: Panel Year = 2017 Panel Number = 3 Docket Number = 1

Jury Panel Year: 2017 Jury Panel: 3 Docket No: 1 Type: F ALPHA

Report No. Name Report No. Name

9 ADAMS, ALYSSA DAWN	130 ADAMS, JEFFREY ALLEN
126 ADAMS, KATHY A	99 ALLPRESS, JAMES RAY
104 ANDERSON, JUSTIN EMANUEL	124 ATKINSON, AMBER LYN
3 BERQUIST, PETER DUSTIN	98 BLAKE, CHANTEL ELAINE
97 BONNER, MARCELLA JANE	146 BREZNAI, DANIEL JOHN
160 BRICK, CLARE ANNE	66 BURKE, JENNIFER RUTH
94 CLACK, STEVEN ROBERT	113 COMINI, PAMELA LYMAN N
46 COURSEY, JENNIFER JEANNE	164 CRAWFORD, TOMAS MICHAEL
80 CURNUTT, DONALD D	132 DEFOE, FRANK EDWARD
111 ENGLE, ERIC W	143 FORD, DARYL NICOLE
23 GANGEWER, KIRK DAVID	87 GEARHART, BRIAN JAMES
134 GENTRY, HANS LAYFAYETTE	19 GILLESPIE, TANYA GERALDINE

DOCKET HOPPER TAGS

Jury Panel Year: 2017 Jury Panel: 3 Docket No: 1 Type: F ALPHA
Report No. Name Report No. Name

100 GRAY, VANESSA FAYE

21 GRIFFITH, PHYLLIS LYNN

33 HAZEN, HERB JAMES

31 HEYWOOD, TIMOTHY JOE

81 HILLS, ABBIGAIL MAY

32 HUTCHINSON, JULIE ANN

54 JARED, BARBARA J

76 JONES, BRADY MONROE

45 JONSON, RONALD DOUGLAS

84 KING, DAVID ALLEN

117 LARSEN, DORIAN LAMONTE

108 LEE, ROBERTA LEE

55 LOWARY, ROY D

5 LUTHER, THOMAS DAVID

168 MADSEN, CASSIE LOUISE

151 MANFULL, CHRISTOPHER ZANE

1 MARKS, SALLY ANN

167 MCCORKLE, KURT CAMERON

10 MILLS, LANCE RAY

105 MITCHELL, SHARLENE RENEE

25 MOORE, JULIA MARIE

4 NEIDER, WILLIAM GEORGE

58 PADILLA, ERIKA GUADALUPE

139 PINQUE, NICHOLAS JACOB

163 SHULTZ, SCOTT DEFOREST

7 SKYLES, BONNIE JANE

DOCKET HOPPER TAGS

Jury Panel Year: 2017 Jury Panel: 3 Docket No: 1 Type: F A L P H A

Report No.	Name	Report No.	Name
------------	------	------------	------

42 SMITH, ADAM JAY

122 SPENCER, JENNAE JANICE

49 STEPHENSON, NICOLE LYNN

8 STEWART, JACQUELYN DAWN

82 SWAYNE, KENNY MARK

128 THERIEN, HOWARD BYRON

70 TILLEY, LUCAS JAMES

102 TILLSON, THOMAS REED

161 UMPHENOUR, PATRICIA N

44 UPTON, STEPHANIE JOAN

89 VANBUREN, SHARON LEE

154 VAUGHAN, DREAMA RENE

2 WALKER, CHERYL LYNN

147 WALKER, CORA PEARL

85 WILMAN, PHILLIP GLEN

***** END OF REPORT *****

Case No. CR 2016-951
Filed August 16 2017
at 3:35 o'clock P M
Carrie Bird
[Signature]

E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
Clearwater County
P. O. Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Email: prosecutor@clearwatercounty.org

Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR2016-951
)	
Plaintiff,)	
)	
v.	)	SECOND SUPPLEMENTAL
	)	STATE'S PRODUCTION
	)	OF DISCOVERY
GARY PARTEE,)	
)	
Defendant.)	
_____)	

COMES NOW, the undersigned Prosecuting Attorney in and for Clearwater County, and provides the following regarding Discovery:

A list of the witnesses the State intends to call at trial is listed in Exhibit "A" attached hereto.

All evidence discoverable in the State's possession is listed in Exhibit "B". Said discovery pages 1-232 and 4 DVD's were provided to defense counsel on the 9th day of February, 2017, pages 233-236 and a CD with photos were provided to defense counsel on the 10th day of February, 2017, and pages 237-240 were provided to Defense Counsel on the 15th day of June, 2017 by U.S. Mail. A DVD containing OPD/CCSO audio/video from Zuercher Case Nos. 16-1678 and 16-1695 was hand delivered to Defense Counsel on the 20th day of June, 2017.

The State acknowledges its continuing duty to disclose should additional information become known, and further acknowledges its duty to provide exculpatory evidence.

DATED this 16th day of August, 2017.



E. CLAYNE TYLER
Prosecuting Attorney

CERTIFICATE OF DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was ☐ mailed, postage prepaid, ☐ delivered by Courthouse mail, ☐ hand delivered, or ☒ *emailed* on the 16th day of August, 2017, to:

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403



Sharon Haines
Paralegal

EXHIBIT A

The State reserves the right to call, at trial or any proceeding in this matter, any witness listed in or named in any discovery response or filing with the court, including those of the defendant, to include but not limited to the following:

WITNESSES:

Mitchell Jared, CCSO
Michael Deitrick, CCSO
Renee Hedrick, OPD
Lahni Ireland, OPD
Jeff Wilson, OPD
Eric Dodge, OPD
Vincent Frazier, OPD
Kyle Atha, OPD
Matthew Russell, OPD
Mike Shore, OPD
Jennifer Jolley
Beau Lynch
Jerry O'Brien
Nicole Schlieper
David Sincerebeaux, ISP Forensic Services

EXHIBIT B

In addition to the list of exhibits identified herein, or in any subsequent document filed herein, the State hereby discloses and reserves the right to utilize as an exhibit at any trial or proceeding in this matter any document, recording, photograph, video tape, audio tape, or any other item of physical or documentary evidence either produced or identified or referred to in this or any prior or subsequent court filing.

1. Incident Summary and Officer Narratives OPD Case No. 16-1678, pages 1-27
2. Property/Evidence/Chain of Custody OPD Case No. 16-1678, pages 28-34
3. PreLog Submission Form, OPD Case No. 16-1678, page 35
4. Search Warrant, pages 36-41
5. PreLog Submission Form, OPD Case No. 16-1678, page 42
6. Firearm Trace Summary, page 43-46
7. Moscow Police Department Report, pages 47-53
8. Chain of Custody, OPD Case No. 16-1678, pages 54-62
9. Incident Summary and Officer Narratives, OPD Case No. 16-1695, pages 63-77
10. Property/Evidence/Chain of Custody OPD Case No. 16-1695, pages 78-79
11. Search Warrant, pages 80-81
12. Prelog Submission Form OPD Case No. 16-1695, page 82
13. ATF Trace Summary, pages 83-88
14. Chain of Custody OPD Case No. 16-1695, pages 89-123
15. Lewiston Police Department Office Reports, pages 124-155
16. Russ Herzog Missing Property List, pages 156-157
17. Lab Results OPD Case No. 16-1678, Report 1 & 2, pages 158-165
18. Search Warrant, pages 166-191
19. Photographs, pages 192-216
20. PC Affidavit, pages 217-222
21. Criminal History, pages 223-232
22. DVD Disc 1 of OPD Case No. 16-1678, containing Audio/Video
23. DVD Disc 1 of OPD 16-1678 (should have been marked Disc 2), containing Audio
24. DVD Disc 3 of OPD 16-1678
25. DVD OPD Case No. 16-1695
26. Photographs, pages 233-236
27. OPD Case No. Photographs 16-1695
28. Lab Results, OPD Case No. 16-1695, pages 237-238
29. Chain of Custody Transfer Receipt, page 239
30. Evidence Submission Receipt, pages 240
31. DVD containing additional video/audio from OPD Case No. 16-1695 and 16-1678

Case No. CR2016-951
Filed August 18, 2017
at 1:41 o'clock P M
C.B.rol
By CH Clerk
Deputy

E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611

Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C. PARTEE,

Defendant.

CASE NO. CR2016-951

ACCEPTANCE OF SERVICE

I, ERIC DODGE, a witness in the above-entitled action, does hereby admit and acknowledge that the SUBPOENA in this action has been served upon me with same affect as if it had been personally served upon me by the Sheriff.

I acknowledge that I have received a true and correct copy and that service was made upon me at 570 Granite Peak Drive Apt # 302, Casper, WY 82609, on the 17 day of August, 2017.


ERIC DODGE

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2017.

Notary Public, State of Wyoming
Residing at _____, therein
My Commission Expires:

ACCEPTANCE OF SERVICE

- 1 -

ATTORNEY: E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney, Clearwater County
ADDRESS: Post Office Box 2627, Orofino, ID 83544
TELEPHONE: (208) 476-5611
DEPUTY: Lori M. Gilmore, ISBN: 5877
EMAIL: prosecutor@clearwatercounty.org

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. : CR2017-95 & CR2016-951
)	
Plaintiff,)	
	)	SUBPOENA
vs.)	
)	
GARY C. PARTEE,)	
)	
Defendant.)	
_____)	

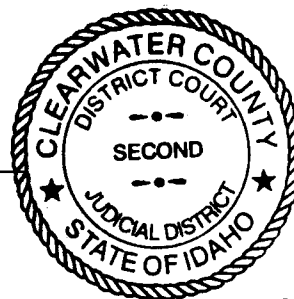
TO: ERIC DODGE

YOU ARE COMMANDED to appear before the District Court of the Second Judicial District, in and for the County of Clearwater, at the courtroom in the Courthouse, in Orofino in said County, on the **23rd, 24th & 25th day of August, 2017 at the hour of 9:00 o'clock a.m.** and until released by the Court, as a witness in a criminal action being prosecuted by the State of Idaho against the above named defendant.

Given under my hand this 25th day of July, 2017.

CARRIE BIRD
Clerk of the District Court

By: Kalee Johnson
Deputy



RETURN OF SERVICE

I HEREBY CERTIFY That I served the within Subpoena on the _____ day of _____, 201____, on _____, being the party named in said document by showing the original to the said named party and personally informing said party of the contents.

Dated _____, 201____.

OFFICER

PLEASE CONTACT THIS OFFICE PRIOR TO YOUR ARRIVAL

Case No. CR2014-951
Filed August 18, 2017
at 3:37 o'clock P M
C. Bird
Clerk
By Att Deputy

08/15/17
16:37

Nez Perce County Sheriff
Statement of Process Costs

Page: 394
1

Responsible Party:

CLEARWATER COUNTY PROSECUTOR
"PO BOX 2627
Orofino, ID 83544

[Process Number: 17-C2259
[Court Case No.: CR2016951
[Subpoena-Criminal

STATE OF IDAHO (Plaintiff)

GARY CARL PARTEE (Defendant)
"2280 OLD PULLMAN HWY MOSCOW, ID 83843

DAVID MICHAEL SHORE (Witness)
1224 F ST Lewiston, ID 83501

Date	Seq	Docno	Typ	Description	Amount
FINAL REFUND DUE :					0.00

I hereby certify that the refund due is correct and payable. If not contacted within ten days, this statement will be considered correct.

Joe Rodriguez, Sheriff
Nez Perce County Sheriff
1150 WALL ST
Lewiston, Idaho 83501

By: _____
Deputy

ATTORNEY: E. CLAYNE TYLER ISBN: 5277
Prosecuting Attorney, Clearwater County
ADDRESS: Post Office Box 2627, Orofino, ID 83544
TELEPHONE: (208) 476-5611
DEPUTY: Lori M. Gilmore, ISBN: 5877
EMAIL: prosecutor@clearwatercounty.org

17-02259
RECEIVED
HOUR 0808 A.M. P.M.

AUG 09 2017

NEZ PERCE COUNTY SHERIFFS OFFICE
LEWISTON, IDAHO 83501

BY: *[Signature]*

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. : CR2016-951
)	
Plaintiff,)	
)	
vs.	)	SUBPOENA
)	
GARY C. PARTEE,)	
)	
Defendant.)	

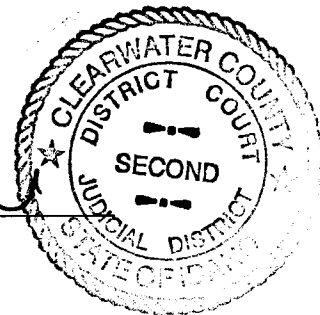
TO: MIKE SHORE

YOU ARE COMMANDED to appear before the District Court of the Second Judicial District, in and for the County of Clearwater, at the courtroom in the Courthouse, in Orofino in said County, on the 23rd, 24th & 25th day of August, 2017 at the hour of 9:00 o'clock a.m. and until released by the Court, as a witness in a criminal action being prosecuted by the State of Idaho against the above named defendant.

Given under my hand this 2 day of August, 2017.

CARRIE BIRD
Clerk of the District Court

By: *[Signature]*
Deputy



RETURN OF SERVICE

I HEREBY CERTIFY That I served the within Subpoena on the 10 day of Aug, 2017, on D Mike Shore, being the party named in said document by showing the original to the said named party and personally informing said party of the contents.

Dated 8-10, 2017.

[Signature]
OFFICER

PLEASE CONTACT THIS OFFICE PRIOR TO YOUR ARRIVAL

☒ ORIGINAL

FILED August 21, 2017 AT
12:51 p.m. OROFINO, IDAHO
BY gj

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER**

STATE OF IDAHO,	)	CASE NO. CR2016-951
)	
Plaintiff,)	
	)	COURT'S PROPOSED
vs.	)	INSTRUCTIONS
)	
GARY CARL PARTEE,)	
)	
Defendant.)	
_____)	

INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charge(s) against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you

understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

ICJI 101.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 2

This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as the prosecution. The state is represented at this trial by the prosecuting attorney, Clayne Tyler. The defendant, Gary Carl Partee, is represented by a lawyer, Neil Cox.

The defendant is charged by the state of Idaho with violations of law. The charges against the defendant are contained in the Information. The clerk shall read the Information and state the defendant's plea.

The Information is simply a description of the charge; it is not evidence.

ICJI 102.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 3

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

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

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

ICJI 103.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are

not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms “circumstantial evidence,” “direct evidence” and “hearsay evidence.” Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

ICJI 104.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 5

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

ICJI 105.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 6

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

ICJI 106.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 7

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note-taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

ICJI 107.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 8

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

Do not discuss this case during the trial with anyone, including any of the attorneys, parties, witnesses, your friends, or members of your family. “No discussion” also means no emailing, text messaging, tweeting, blogging, posting to electronic bulletin boards, and any other form of communication, electronic or otherwise.

Do not discuss this case with other jurors until you begin your deliberations at the end of the trial. Do not attempt to decide the case until you begin your deliberations.

I will give you some form of this instruction every time we take a break. I do that not to insult you or because I don’t think you are paying attention, but because experience has shown this is one of the hardest instructions for jurors to follow. I know of no other situation in our culture where we ask strangers to sit together watching and listening to something, then go into a little room together and not talk about the one thing they have in common: what they just watched together.

There are at least two reasons for this rule. The first is to help you keep an open mind. When you talk about things, you start to make decisions about them and it is extremely important that you not make any decisions about this case until you have heard all the evidence and all the rules for making your decisions, and you won’t have that until the very end of the trial. The second reason for the rule is that we want all of you working together on this decision when you deliberate. If you have conversations in groups of two or three during the trial, you

won't remember to repeat all of your thoughts and observations for the rest of your fellow jurors when you deliberate at the end of the trial.

Ignore any attempted improper communication. If any person tries to talk to you about this case, tell that person that you cannot discuss the case because you are a juror. If that person persists, simply walk away and report the incident to the bailiff.

Do not make any independent personal investigations into any facts or locations connected with this case. **Do not** look up any information from any source, including the Internet. **Do not** communicate any private or special knowledge about any of the facts of this case to your fellow jurors. **Do not** read or listen to any news reports about this case or about anyone involved in this case, whether those reports are in newspapers or the Internet, or on radio or television.

In our daily lives we may be used to looking for information on-line and to "Google" something as a matter of routine. Also, in a trial it can be very tempting for jurors to do their own research to make sure they are making the correct decision. You must resist that temptation for our system of justice to work as it should. I specifically instruct that you must decide the case only on the evidence received here in court. If you communicate with anyone about the case or do outside research during the trial it could cause us to have to start the trial over with new jurors and you could be held in contempt of court.

While you are actually deliberating in the jury room, the bailiff will take into possession all cell phones and other means of electronic communications. Should you need to communicate with me or anyone else during the deliberations, please notify the bailiff.

ICJI 108

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 9

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on any or all of the offenses charged.

ICJI 110.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 10

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

ICJI 201.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 11

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

ICJI 301.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 12

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

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

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

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

ICJI 202.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 13

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

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

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

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

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

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

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

ICJI 204.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 14

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

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

ICJI 206.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 15

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

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

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

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

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

ICJI 207.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 16

In order for the defendant to be guilty of Count I, Possession of a Controlled Substance, Methamphetamine, the State must prove each of the following:

1. On or about November 29, 2016,
2. in the state of Idaho,
3. Gary Carl Partee, possessed approximately 19.94 grams of a
crystalline substance containing any amount of methamphetamine,
and
4. the defendant either knew it was methamphetamine or believed it
was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

ICJI 403

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 17

In order for the defendant to be guilty of Count II, Delivery of a Controlled Substance, Methamphetamine, the State must prove each of the following:

1. On or between May 29, 2016 and November 29, 2016,
2. in the state of Idaho,
3. the defendant, Gary Carl Partee, delivered any amount of methamphetamine to another,
and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

ICJI 404

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 18

In order for the defendant to be guilty of Count III, Possession of a Controlled Substance, Methamphetamine, the State must prove each of the following:

1. On or about November 29, 2016,
2. in the state of Idaho,
3. Gary Carl Partee, possessed a set of scales and/or a light bulb,
containing any amount of methamphetamine,
and
4. the defendant either knew it was methamphetamine or believed it
was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

ICJI 403

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 19

In order for the defendant to be guilty of Count IV, Possession of a Controlled Substance, methamphetamine with the intent to deliver, the State must prove each of the following:

1. On or about November 29, 2016,
2. in the state of Idaho,
3. the defendant possessed a bundle of methamphetamine which contained any amount of methamphetamine,
and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.
5. the defendant intended to deliver it to another.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

ICJI 403A

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 20

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it, the term “possession” also includes holding, selling, manufacturing, acquiring, producing, purchasing, shipping, transporting, transferring, or importing into Idaho a controlled substance. More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

ICJI 421.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 21

Under Idaho law, Methamphetamine is a controlled substances.

ICJI 422.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 22

The term "deliver" means the transfer or attempted transfer, either directly or indirectly, from one person to another.

ICJI 428.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 23

It is alleged that the crime charged was committed “on or about” or “on” a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

ICJI 208

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 24

If your unanimous verdict is that the defendant is not guilty of possession of a bindle of methamphetamine with the intent to deliver, you must acquit him of that charge. In that event, you must next consider the included offense of possession of methamphetamine.

ICJI 225

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

INSTRUCTION NO. 25

You have now completed your duties as jurors in this case and are discharged with the sincere thanks of this Court. The question may arise as to whether you may discuss this case with the attorneys or with anyone else. For your guidance, the Court instructs you that whether you talk to the attorneys, or to anyone else, is entirely your own decision. It is proper for you to discuss this case, if you wish to, but you are not required to do so, and you may choose not to discuss the case with anyone at all. If you choose to, you may tell them as much or as little as you like, but you should be careful to respect the privacy and feelings of your fellow jurors. Remember that they understood their deliberations to be confidential. Therefore, you should limit your comments to your own perceptions and feelings. If anyone persists in discussing the case over your objection, or becomes critical of your service, either before or after any discussion has begun, please report it to me.

ICJI 232.

GIVEN	_____
REFUSED	_____
MODIFIED	_____
COVERED	_____
OTHER	_____

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR2016-951
)	
Plaintiff,)	
	)	VERDICT FORM
vs.)	
)	
GARY CARL PARTEE,)	
)	
Defendant.)	
_____)	

We, the Jury, unanimously find the defendant, Gary Carl Partee,

COUNT 1

_____ **GUILTY** of Possession of Methamphetamine
_____ **NOT GUILTY** of Possession of Methamphetamine

COUNT II

_____ **GUILTY** of Delivery of a Controlled Substance, Methamphetamine
_____ **NOT GUILTY** of Delivery of a Controlled Substance, Methamphetamine

COUNT III

_____ **GUILTY** of Possession of a Controlled Substance, Methamphetamine
_____ **NOT GUILTY** of Possession of a Controlled Substance, Methamphetamine

COUNT IV

_____ **GUILTY** of Possession of a Controlled Substance, Methamphetamine, with the
Intent to Deliver
_____ **NOT GUILTY** of Possession of a Controlled Substance, Methamphetamine,
with the Intent to Deliver

If your unanimous verdict is that the defendant is GUILTY of possession of a bindle of containing methamphetamine with the intent to deliver (Count IV), sign the verdict and tell the bailiff you are done.

If your unanimous verdict is that the defendant is NOT GUILTY of possession of a bindle containing methamphetamine with the intent to deliver (Count IV), you must next consider the included offense of Possession of Methamphetamine:

COUNT IV

_____ **GUILTY** of Possession of a Controlled Substance, Methamphetamine.

_____ **NOT GUILTY** of Possession of a Controlled Substance, Methamphetamine.

Dated this _____ day of August, 2017

Presiding Officer

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-2016-951
)	
vs.)	
)	
GARY C. PARTEE,	)	COURT MINUTES
)	
Defendant.)	

Gregory FitzMaurice, District Judge Presiding

E. Clayne Tyler, Attorney for the State

Neil Cox, Attorney for the Defendant

Christy L. Gering, In-Court Clerk

Jessica Squires, Minutes Clerk

Keith Evans, Court Reporter

Date: 8/23/2017 Tape: Courtroom-1 Time: 8:39 a.m.

Subject of Proceeding: Jury Trial – Day 1

=====

MINUTE ENTRY:

8:39 Honorable Gregory FitzMaurice presiding. Court gives introductions. Parties present: E. Clayne Tyler, Attorney for the State; Neil Cox, Attorney for the Defendant; Gary Partee, Defendant. Jury is not present. Court takes up preliminary matters before the jury is brought in.

Mr. Tyler motions to dismiss Count 1 of the Amended Consolidated Information.

Mr. Cox objects to the amendment and gives argument.

Court speaks and dismisses Count 1.

Mr. Tyler speaks.

Court speaks and advises he will not renumber the counts and will be referred to as Counts 2, 3 and 4.

Mr. Tyler advises Jennae Spencer, a prospective juror, was arrested last night and will not be appearing for jury service.

Court notes she was not on the struck panel.

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8:45 Court is in recess.

9:21 Court reconvenes. Honorable Gregory FitzMaurice presiding. Court gives introductions. Parties present: E. Clayne Tyler, Attorney for the State; Neil Cox Attorney for the Defendant; Gary Partee, Defendant. Jury is present. Court advises this is the time set for conducting a jury trial.

Court introduces himself and court staff.

Court addresses Nicole Stephenson who has brought a child with her. Court excuses Nicole Stephenson with no objection.

Court instructs the clerk to call the roll of the jury. Clerk calls roll.

Court gives introductions of counsel and parties to the case.

Court read a brief statement of the case and the charging portion of the Information to the prospective jurors.

Clerk administers Voir Dire Oath to Jurors.

Court instructs clerk to call 3 jurors at random to replace those who failed to appear jurors 13, 14 & 15. Cheryl Walker called to replace juror #13, Kurt McKorkel called to replace juror #14, Erica Padilla called to replace juror #15.

Court explains the process of calling 27 jurors at lot.

Court instructs the clerk to call the roll of the first 27 jurors as seated.

In response to inquiry from the Court, counsel stipulate to the first 27 jurors as seated.

Court explains nature and purpose of voir dire.

Court requests Jurors 1-27 stand and introduce themselves.

Court conducts Voir Dire.

Counsel stipulates to Sharon Van Buren being excused for cause.

Sharon Van Buren #9 excused for cause.

Frank Defoe called at random to replace juror #9.

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Court continues conducting Voir Dire.

Counsel stipulates to Roy Lowry being excused for cause. Court excuses juror for cause.

Jeffrey Adams called at random to replace juror #3. Juror introduces himself. Court questions juror.

Court continues with conducting Voir Dire.

Counsel stipulates to Cheryl Walker #13 being excused for cause. Court excuses juror for cause.

Daniel Breznai called at random to replace juror #13. Juror introduces himself. Court questions juror.

Court continues with conducting Voir Dire.

Counsel stipulates to Dreama Vaughan being excused. Court excuses juror for cause.

Vanessa Gray called at random to replace #17. Juror introduces herself. Court questions.

Court continues with conducting Voir Dire.

Court admonishes the jury.

10:18 Court is in recess for fifteen minutes.

Court conducts voir dire in the jury room. # 6 Timothy Heywood excused with no objections.

10:39 Court reconvenes with all parties present. Jury is present.

Court advises Juror #6 was excused. Hans Gentry called at random to replace juror #6

Counsel stipulates to Hans Gentry #6 being excused for cause. Court excuses juror for cause.

Amber Atkinson called at random to replace juror #6. Juror introduces himself. Court questions juror.

Counsel stipulates to Amber Atkinson #6 being excused for cause. Court excuses

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juror for cause.

Brady Jones called at random to replace juror #6. Juror introduces himself. Court questions juror.

Court continues conducting Voir Dire.

Court advises this concludes his Voir Dire.

Mr. Tyler conducts Voir Dire.

Erika Padilla excused for cause.

Herb Hazen called at random to replace Juror#15. Juror introduces himself. Court questions juror. Mr. Tyler questions juror.

Mr. Tyler continues conducting Voir Dire.

Mr. Tyler moves to excuse Brady Jones for cause. Mr. Cox has no objection.

Court excused Brady Jones for cause.

James Allpress called at random to replace Juror #6. Juror introduces himself. Court questions juror. Mr. Tyler questions juror.

Mr. Tyler continues conducting Voir Dire.

Mr. Cox conducts Voir Dire.

Mr. Cox has no further questions.

Mr. Tyler passes the panel for cause.

In response to inquiry from the Court, Mr. Cox passes the panel for cause.

Court explains the peremptory process to the jury.

Court admonishes the jury.

11:18 Court is in recess to conduct the peremptory process in the jury room. Court will reconvene at 11:45.

11:42 Court reconvenes with all parties present. Jury is present.

Court excuses jurors who have been excused by peremptory challenges in random

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order.

Court announces the jury: #1 Clare Brick, #2 Sharlene Mitchell, #3 Donald Curnutt, #4 Pamela Comini, #5 Vanessa Gray, #6 Tanya Gillespie, #7 Nicholas Pinque, #8 Howard Therien, #9 Frank Defoe, #10 Thomas Luther, Jr., #11 Sally Marks, #12 Jennifer Coursey, #13 Nicholas Pinque; Court has each juror take their seat in the jury box.

11:47 In response to inquiry from the Court, Mr. Tyler and Mr. Cox pass the jury as seated.

11:48 Clerk administers Oath to Trial Jurors.

11:48 Court thanks jurors who were not selected and excuses the remaining jury panel. Court advises the jurors are welcome to stay and watch the trial if they wish.

11:51 Court gives introduction to trial procedure. Court advises jurors not to park in the Family Eye Care parking lot; Court will recess until 1:15 for lunch. Court admonishes the jury. Court advises counsel to return by 1:10.

12:03 Court is in recess.

1:34 Court reconvenes with all parties present. Jury is not present. Court speaks to the defendant regarding the importance of being timely. Court further orders the defendant, during the remainder of the trial, that he is not allowed to leave the confines of downtown Orofino while on recess for breaks and lunch. Defendant understands.

1:36 Court requests the bailiff retrieve the jury.

1:38 Jury is present.

1:38 Court apologizes to the jury for the delay.

1:38 Court instructs the bailiff to provide the jurors with their notebooks.

1:40 Court gives preliminary instructions.

1:54 Clerk reads the Information and states the defendant's plea of not guilty.

1:56 Mr. Tyler gives opening remarks.

2:04 Mr. Cox gives opening remarks.

2:10 Mr. Cox concludes opening statement. Court advises Mr. Tyler may call his first

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witness at this time.

2:10 Mr. Tyler calls Officer Matt Russell, sworn.

2:11 Mr. Tyler conducts direct-examination of the witness.

2:23 Mr. Cox objects to questioning.

2:23 Court sustains the objection.

2:24 Mr. Tyler continues with direct-examination.

2:24 Mr. Tyler identifies State's Exhibit 1 and provides it to the witness.

2:24 Mr. Tyler moves for the admission of State's Exhibit 1.

2:24 Mr. Cox has no objection to the admission of State's Exhibit 1.

2:24 Court admits State's Exhibit 1 with no objection. Mr. Tyler requests permission to publish the exhibit to the jury. Court grants and advises the jury of what "published to the jury" means.

2:24 Court advises State's Exhibit 1 has been published to the jury.

2:25 Mr. Tyler continues with direct-examination.

2:27 Mr. Tyler identifies State's Exhibits 2 and provides it to the witness.

2:28 Court admits State's Exhibit 2 with no objection. Mr. Tyler requests permission to publish the exhibit to the jury. Court grants publication.

2:28 Court advises State's Exhibit 2 has been published to the jury.

2:29 Mr. Tyler continues with direct-examination.

2:31 Mr. Tyler identifies State's Exhibit 3 and provides it to the witness.

2:32 Mr. Tyler questions the witness regarding the exhibit.

2:32 Mr. Tyler moves for the admission of State's Exhibit 3.

2:32 Mr. Cox objects to its reference is to green leafy substance and that hasn't been charged.

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- 2:33 Objection sustained and lay a better foundation.
- 2:33 Mr. Tyler identifies State's Exhibit 5 and provides it to the witness.
- 2:33 Mr. Tyler questions the witness regarding the exhibits.
- 2:34 Mr. Tyler moves for the admission of State's Exhibit 5.
- 2:34 Court admits State's Exhibit 5 with no objections.
- 2:34 Mr. Tyler moves for State's Exhibit 3 to be admitted.
- 2:34 Mr. Cox withdraws his objection to State's Exhibit 3. Court admits State's Exhibit 3.
- 2:35 Mr. Tyler identifies State's Exhibit 6 and provides it to the witness.
- 2:35 Mr. Tyler questions the witness regarding the exhibit.
- 2:35 Mr. Tyler moves for the admission of State's Exhibit 6.
- 2:35 Court admits State's Exhibit 6 with no objections.
- 2:35 Mr. Tyler requests permission to publish the State's Exhibit's 3, 5, and 6 to the jury.
Court grants publication.
- 2:38 Mr. Tyler continues direct-examination.
- 2:40 Mr. Tyler identifies State's Exhibit 7 and provides it to the witness.
- 2:41 Mr. Tyler questions the witness regarding the exhibit.
- 2:42 Mr. Tyler moves for the admission of State's Exhibit 7.
- 2:42 Mr. Cox questions the witness in aid of objection.
- 2:43 Mr. Cox has no objection to the admission of State's Exhibit 7.
- 2:44 Court admits State's Exhibit 7. Mr. Tyler requests permission to publish the exhibit
to the jury. Court grants publication.
- 2:43 Mr. Tyler continues direct-examination.
- 2:44 Mr. Cox objects. Court advises Mr. Tyler he may reword the question.

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- 2:45 Mr. Tyler identifies State's Exhibit 8 and provides it to the witness.
- 2:45 Mr. Tyler questions the witness regarding the exhibit.
- 2:45 Mr. Tyler moves for admission of State's Exhibit 8.
- 2:45 Mr. Cox has no objection to the admission of State's Exhibit 8.
- 2:45 Court admits State's Exhibit 8. Mr. Tyler requests permission to publish the exhibit to the jury. Court grants publication.
- 2:46 Mr. Tyler continues direct-examination.
- 2:47 Mr. Tyler identifies State's Exhibit 9 and provides it to the witness.
- 2:47 Mr. Tyler questions witness regarding the exhibit.
- 2:47 Mr. Tyler moves for the admission of State's Exhibit 9.
- 2:47 Mr. Cox has no objections.
- 2:47 Court admits State's Exhibit 9.
- 2:48 Mr. Tyler continues direct-examination.
- 2:50 Mr. Tyler identifies State's Exhibit 10 and provides it to the witness.
- 2:50 Mr. Tyler questions the witness regarding the exhibit.
- 2:50 Mr. Tyler moves for admission of State's Exhibit 10.
- 2:51 Mr. Cox has no objection to the admission of State's Exhibit 10.
- 2:51 Court admits State's Exhibit 10.
- 2:52 Mr. Tyler continues direct-examination.
- 2:52 Mr. Tyler identifies State's Exhibit 11 and provides it to the witness.
- 2:52 Mr. Tyler questions the witness regarding the exhibit.
- 2:53 Mr. Tyler moves for admission of State's Exhibit 11.
- 2:53 Mr. Cox objects to the admission of State's Exhibit 11 based on relevance.

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- 2:53 Court sustains objection and requests Mr. Tyler provide better evidentiary foundation.
- 2:53 Mr. Tyler continues questioning witness regarding the exhibit.
- 2:54 Mr. Tyler moves for admission of State's Exhibit 11.
- 2:54 Mr. Cox questions witness in aid of objection. Mr. Cox renews his objection.
- 2:53 Court over rules objection based on the reference to the plastic bags adjacent to the tray, Court admits State's Exhibit 11 for that purpose only.
- 2:55 Court advises the jury that they are only to take in consideration the plastic bags in State's Exhibit 11. Court advises State's Exhibit 11 may be published to the jury.
- 2:56 Mr. Tyler continues direct-examination.
- 2:58 Mr. Tyler identifies State's Exhibit 12 and provides it to the witness.
- 2:58 Mr. Tyler questions the witness regarding the exhibit.
- 2:59 Mr. Tyler moves for admission of State's Exhibit 12.
- 2:59 Mr. Cox has no objection to the admission of State's Exhibit 12.
- 2:59 Court admits State's Exhibit 12. Mr. Tyler requests permission to publish the exhibit to the jury. Court grants publication
- 3:00 Mr. Tyler continues direct-examination.
- 3:01 Mr. Tyler identifies State's Exhibit 13 and provides it to the witness.
- 3:01 Mr. Tyler questions the witness regarding the exhibit.
- 3:01 Mr. Tyler moves for admission of State's Exhibit 13.
- 3:01 Mr. Cox has no objection to the admission of State's Exhibit 13.
- 3:01 Court admits State's Exhibit 13. Mr. Tyler requests permission to publish the exhibit to the jury. Court grants publication.
- 3:02 Mr. Tyler continues direct-examination.
- 3:05 Mr. Cox objects.

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- 3:05 Court sustains objection.
- 3:07 Mr. Tyler identifies State's Exhibit 14 and provides it to the witness.
- 3:07 Mr. Tyler questions the witness regarding the exhibit.
- 3:07 Mr. Tyler moves for admission of State's Exhibit 14.
- 3:07 Mr. Cox questions witness in aid of objection.
- 3:08 Mr. Cox objects on lack of foundation.
- 3:08 Court overrules objection and admits State's Exhibit 14. Mr. Tyler requests permission to publish the exhibit to the jury. Court grants publication.
- 3:10 Court admonishes jury.
- 3:11 Court is in recess.
- 3:24 Court reconvenes all parties are present. Jury is present.
- 3:25 Mr. Tyler continues direct-examination of the witness.
- 3:26 Mr. Tyler identifies State's Exhibit 15 and provides it to the witness.
- 3:26 Mr. Tyler questions the witness regarding the exhibit.
- 3:26 Mr. Tyler moves for admission of State's Exhibit 15.
- 3:26 Mr. Cox has no objection to the admission of State's Exhibit 15.
- 3:26 Court admits State's Exhibit 15. Mr. Tyler requests permission to publish the exhibit to the jury. Court grants publication.
- 3:27 Mr. Tyler asks for a brief recess. Court grants request.
- 3:27 Court reconvenes.
- 3:27 Mr. Cox begins cross-examination of the witness.
- 3:34 Mr. Tyler objects hearsay. Court overrules and instructs the jury to strike the portion of the testimony where the witness refers to being told.
- 3:34 Mr. Cox continues cross-examination.

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- 3:41 Mr. Tyler conducts re-direct examination of the witness.
- 3:43 Objection by Mr. Cox regarding lack of foundation.
- 3:43 Court sustains objection.
- 3:47 Mr. Cox conducts re-cross examination.
- 3:48 Witness is excused.
- 3:48 Officer David Michael Shore called by Mr. Tyler.
- 3:49 David Michael Shore, sworn. Direct-examination conducted by Mr. Tyler.
- 4:01 Mr. Tyler identifies State's Exhibits 21, 22, and 23, and provides them to the witness.
- 4:01 Mr. Tyler questions the witness regarding the exhibits.
- 4:05 Mr. Cox objects.
- 4:05 Court sustains objection.
- 4:06 Mr. Tyler provides State's Exhibit 24 to the witness.
- 4:06 Mr. Tyler moves for the admission of State's Exhibit 21
- 4:06 Mr. Cox questions witness in aid of an objection. Mr. Cox objects due to partial lack of foundation.
- 4:08 Court conditionally admitted State's Exhibit 21 subject to a motion to strike, and counsel must prove the rest of the chain of custody contained therein.
- 4:09 Mr. Tyler continues direct-examination.
- 4:09 Mr. Tyler moves for the admission of State's Exhibit 22.
- 4:09 Mr. Cox questions witness in aid of an objection. Mr. Cox objects.
- 4:11 Court sustains objection.
- 4:11 Mr. Tyler continues direct-examination.
- 4:15 Mr. Cox conducts cross-examination.

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- 4:15 Mr. Cox requests to approach the witness. Court grants request.
- 4:15 Mr. Tyler requests item be marked as an exhibit.
- 4:16 Court advises the item will be marked as Defendant's Exhibit A and will be admitted.
- 4:17 Witness excused.
- 4:17 Mr. Tyler requests to discuss a matter outside the presence of the jury.
- 4:17 Jury is dismissed.
- 4:18 Mr. Tyler discusses an issue that has arisen with the evidence keeper, Renee Hedrick. She was admitted to the ER at 5:30 this morning and is unable to testify today.
- 4:18 Colloquy regarding upcoming witnesses.
- 4:20 Court speaks and suggests they allow Mr. Sincerbeaux to testify out of order.
- 4:21 Mr. Cox has no problem with the lab expert in to testify today.
- 4:21 Stipulation that Mr. Cox may motion to strike tomorrow if Mr. Tyler cannot tie up the chain of custody.
- 4:22 Mr. Cox requests a few minutes to speak to expert. Court grants request.
- 4:22 Court is in recess.
- 4:34 Court reconvenes with all parties present. Jury is present.
- 4:35 Mr. Tyler calls David Sincerbeaux, sworn.
- 4:35 Mr. Tyler conducts direct-examination of the witness.
- 4:44 Mr. Cox conducts cross-examination of the witness.
- 4:46 Mr. Tyler objects – calls for speculation. Objection overruled.
- 4:46 Mr. Tyler objects – calls for speculation. Asked and answered. Court instructs counsel to move on.
- 4:47 Mr. Cox continues with cross-examination.

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- 4:49 Mr. Tyler objects – testimony items being redacted.
- 4:50 Court will allow question.
- 4:50 Mr. Cox continues cross-examination.
- 4:51 Mr. Tyler objects and questions the witness in aid of objection.
- 4:51 Court will allow the question.
- 4:52 Mr. Cox continues with cross-examination.
- 4:52 Mr. Tyler objects- speculation.
- 4:52 Court will allow the question.
- 4:52 Mr. Cox continues with cross-examination.
- 4:58 Re-direct examination conducted by Mr. Tyler.
- 5:02 Re-cross examination conducted by Mr. Cox.
- 5:03 Mr. Tyler objects.
- 5:03 Court sustains objection.
- 5:03 Witness is excused.
- 5:03 Court advises Court will be in recess for the day. Court advises the jury they can take their notes to the jury room with them but are instructed to leave the Exhibits on their chair. Court admonishes the jury. Court advises this matter will resume tomorrow morning at 9:00 a.m.
- 5:04 Court dismisses the jury.
- 5:05 Court advises he would like to have a preliminary jury instruction meeting at 8:30 a.m.
- 5:06 Court takes up State's Exhibit 24 and possible redacted information. Court instructs counsel to discuss this issue and the matter will be taken up in the morning.
- 5:07 Mr. Tyler speaks and advises he thinks that if it is redacted it should all be redacted and it should come in with explanation.


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5:08 Court speaks advising he feels there should either be redaction, explanation or both.

5:08 Mr. Cox speaks.

5:09 Court is in recess.

Approved: _____


Gregory FitzMaurice
District Judge

Christy L. Gering
Deputy Clerk

FILED 8/23/2017 AT
12:06 p.m. OROFINO, IDAHO
BY Jf.

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,
CITY OF OROFINO

Plaintiff,

vs.

Gary Partee,

Defendant.

CASE NO. CR-2016-951

PEREMPTORY CHALLENGES

DATE: August 23, 2017

E. Clayne Tyler
Attorney for Plaintiff

Neil Cox
Attorney for Defendant

PLAINTIFF PEREMPTORIES:

- 1 Jeffrey Adams
- 2 James Allpress
- 3 Jacquelyn Stewart
- 4 Justin Anderson
- 5 Daniel Breznai
- 6 Kathy Adams
- 7 Kirk Gangewer

DEFENDANT PEREMPTORIES:

- 1 Jennifer Burke
- 2 Herb Hazen
- 3 Christopher Mantfull
- 4 Kurt McCorkle
- 5 Steven Clack
- 6 Chantel Blake
- 7 Brian Gearhart

PEREMPTORY CHALLENGES

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-2016-951
)	
vs.)	
)	
GARY C. PARTEE,	)	COURT MINUTES
)	
Defendant.)	

Gregory FitzMaurice, District Judge Presiding
E. Clayne Tyler, Attorney for the State
Neil Cox, Attorney for the Defendant
Christy L. Gering, In-Court Clerk
Jessica Squires, Minutes Clerk
Keith Evans, Court Reporter
Date: 8/24/2017 Tape: Courtroom-1 Time: 8:31 a.m.
Subject of Proceeding: Jury Trial – Day 2

=====

MINUTE ENTRY:

- 8:31 Honorable Gregory FitzMaurice presiding. Court gives introductions. Parties present: E. Clayne Tyler, Attorney for the State; Neil Cox, Attorney for the Defendant; Gary Partee, Defendant. Jury is not present. Court takes up preliminary matters before the jury is brought in.
- 8:32 Colloquy between the Court and parties regarding Jury Instructions.
- 8:41 Court is in recess.
- 8:43 Court reconvenes with all parties present. Jury is not present.
- 8:43 Court proposes that in reference to Exhibit 24, the first blocked paragraphs containing suspects names Nicole Schleiper and Gary C. Partee would not be modified. The lab item information contained in the next blocked paragraph in reference to lab item 6, the lab item would be shown, the exhibit number would be shown, the description straw would be shown but the conclusions and interpretations whereby methamphetamine (c11) and extracted return with evidence would be redacted. Court advises that the redaction would not block the state from seeking testimony from witnesses regarding the items.

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- 8:45 Court is in recess.
- 9:01 Court reconvenes with all parties present. Jury is not present.
- 9:01 Court advises Mr. Cox wishes to make a statement prior to the jury returning.
- 9:01 Mr. Cox motions to allow witness Tristyn Magers be called back to testify out of the presence of the defendant for her to identify the defendant.
- 9:03 Court denies motion.
- 9:03 Court requests the jury.
- 9:05 Jury is now present.
- 9:05 Court welcomes and speaks with jury.
- 9:06 Mr. Tyler calls Renee Hedrick, sworn.
- 9:07 Mr. Tyler conducts direct-examination of the witness.
- 9:08 Mr. Tyler identifies State's Exhibit 21, 22 & 23 and requests the witness is provided with the exhibits.
- 9:13 Mr. Cox has no questions.
- 9:13 Witness is excused.
- 9:13 Mr. Tyler requests a moment to get his next witness.
- 9:15 Mr. Tyler calls Tristyn Magers, sworn.
- 9:16 Mr. Tyler conducts direct-examination of the witness.
- 9:21 Objection by Mr. Cox. Court sustains and requests Mr. Tyler re-phrase the question.
- 9:21 Mr. Tyler continues with direct-examination.
- 9:23 Mr. Cox conducts cross-examination.
- 9:34 Objection by Mr. Tyler. Court sustains.

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- 9:34 Mr. Cox continues with cross-examination.
- 9:35 Objection by Mr. Tyler. Court overrules.
- 9:36 Mr. Cox continues with cross-examination.
- 9:45 Objection by Mr. Tyler – speculation. Court overrules and will allow the question.
- 9:45 Mr. Cox continues with cross-examination.
- 9:53 Objection by Mr. Tyler. Court sustained – asked and answered.
- 9:54 Re-direct by Mr. Tyler.
- 10:01 Re-cross by Mr. Cox.
- 10:03 Witness is excused.
- 10:03 Court advises will take a break until 10:20.
- 10:04 Court admonishes jury.
- 10:04 Jury is released.
- 10:05 Court is in recess.
- 10:19 Court reconvenes with all parties present. Jury is not present.
- 10:20 Court speaks with counsel regarding contact with a previous witness outside during the break and the possibility of a juror witnessing the contact.
- 10:24 Jury is now present.
- 10:24 Court speaks with the jury. Court excuses all jurors except for juror #12 Jennifer Coursey.
- 10:24 Court questions juror regarding what she had seen or heard between Mr. Tyler and the previous witness.
- 10:27 Mr. Cox questions juror.
- 10:27 Juror Jennifer Coursey is excused.
- 10:28 Counsel has no objections to Ms. Coursey continuing to act as a juror.

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10:29 Court speaks with the Bailiff regarding the jurors need to be in the presence of a bailiff at all times.

10:31 Jury is now present.

10:31 Mr. Tyler calls Vincent Frazier, sworn.

10:32 Mr. Tyler conducts direct examination of the witness.

10:45 Mr. Tyler identifies State's Exhibit 19 and questions the witness regarding the exhibit.

10:46 Mr. Tyler moves for the admission of State's Exhibit 19. Mr. Cox has no objections.

10:46 Court grants the admission of State's Exhibit 19.

10:46 Mr. Tyler requests permission to publish to the jury by playing the audio recording.

10:48 Mr. Tyler publishes State's Exhibit 19 to the jury by playing the CD an audio recording.

10:50 Mr. Cox conducts cross-examination of the witness.

10:58 Re-direct by Mr. Tyler.

11:05 Re-cross by Mr. Cox.

11:08 Objection by Mr. Tyler – relevance. Court overrules and will allow the question.

11:08 Mr. Cox continues with re-cross.

11:08 Objection by Mr. Tyler – speculation. Court overrules and will allow the question.

11:08 Mr. Cox continues with re-cross.

11:10 Objection by Mr. Tyler – relevance. Court overrules and will allow the question.

11:11 Witness excused.

11:12 Mr. Tyler calls Officer Eric Dodge.

11:13 Officer Eric Dodge, sworn.

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11:22 Mr. Tyler requests the witness is provided with Exhibits 12, 13, 21, 22 & 23.

11:23 Mr. Tyler identifies Exhibits 12,13,21,22, &23, and continues direct examination.

11:26 Mr. Tyler requests the witness is provided with Exhibit 27.

11:26 Mr. Tyler identifies State's Exhibit 27 and hands it to the witness.

11:26 Mr. Tyler moves for the admission of State's Exhibit 27. Mr. Cox has no objection.

11:27 Court admits State's Exhibit 27 with no objections.

11:27 Mr. Tyler continues with direct-examination.

11:28 Mr. Tyler requests the witness is provided with Exhibit 24.

11:28 Mr. Tyler provides Exhibit 24 to the Court.

11:28 Court requests sidebar with counsel.

11:29 Witness is handed State's Exhibit 24.

11:29 Mr. Tyler continues with direct-examination.

11:34 Mr. Tyler moves for the admission of State's Exhibit's 21, 22, 23 & 24.

11:34 Mr. Cox speaks of his objections to State's Exhibit 21-24.

11:35 Court takes up 21 & 22.

11:37 Jury is released.

11:38 Recess.

11:40 Court reconvenes with all parties present. Jury is not present.

11:41 Court takes up State's Exhibit 24 with reference to the light bulb and inquires of Mr. Tyler the relevance.

11:41 Mr. Tyler argues for the admission of State's Exhibit 23.

11:42 Court responds.

11:42 Colloquy regarding Exhibits.

11:45 Mr. Cox argues

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- 11:45 Exhibits 21, 22, 24 with exception of lab item #5, admitted. Exhibit 23 denied.
- 11:46 Colloquy regarding Exhibit 24, item #5 redacted. Mr. Cox has no other objections.
- 11:47 Colloquy regarding lunch break.
- 11:49 Court advises that during the lunch break, the defendant must remain in Orofino and is not to come in contact with any jurors.
- 11:53 Jury is present.
- 11:54 Court publishes to the jury Exhibits 21, 22, and redacted 24, and further advises that Exhibit 23 is denied.
- 11:57 Court admonishes jury.
- 11:58 Jury is released.
- 11:59 Court is in recess.
- 1:14 Court reconvenes with all parties present. Jury is present.
- 1:14 Mr. Tyler continues with direct-examination.
- 1:15 Mr. Tyler identifies State's Exhibit 16, 17, & 18, and moves for admission.
- 1:16 Mr. Cox advises he feels some information needs to be redacted.
- 1:17 Jury is released.
- 1:17 Mr. Cox speaks regarding objects to the admission of the defendant's social security number being included in the exhibit.
- 1:18 Mr. Tyler has no objection and would have redacted it had it been brought to his attention.
- 1:19 Mr. Cox objects to admittance of Exhibit 17. Court denies.
- 1:19 Mr. Cox objection to 18 as a prior bad act. Court will grant the redaction of the language with reference to the portion referencing a public nuisance.
- 1:20 Court in recess to allow the exhibits to be redacted.
- 1:21 Court reconvenes with all parties present. Jury is not present.

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- 1:22 Mr. Cox is satisfied with the redaction of the exhibits.
- 1:23 Jury is now present.
- 1:24 Court advises jury that Exhibits 16, 17 & 18 have been admitted and that some portions of the exhibits have been redacted and they are not to try and determine what is contained in the redacted portion of the Exhibits.
- 1:25 Exhibits published to the jury.
- 1:25 Mr. Tyler continues with direct-examination of the witness.
- 1:27 Mr. Tyler provides witness with Exhibit 26 –a video/audio recording, and moves for admission.
- 1:27 Mr. Cox has no objections. Exhibit 26 is published to the jury.
- 1:39 Court excuses jury.
- 1:39 Court is in recess.
- 1:57 Court reconvenes with all parties present. Jury is not present.
- 1:58 Mr. Cox raises an objection to portions of the recording.
- 2:00 Mr. Tyler argues.
- 2:02 Court speaks regarding the objection. Court has not seen or heard the exhibit he can take a break and listen to it which would then give him the ability to rule on the objection.
- 2:03 Mr. Tyler advises he wishes to continue with the trial and have a cautionary instruction provided at the end.
- 2:04 Mr. Cox has no objection to cautionary instruction.
- 2:04 Court advises he will provide cautionary instruction at the end of the recording. Counsel has no objections.
- 2:05 Jury returns.
- 2:06 Court speaks and explains recess and air conditioning issues.
- 2:08 Court gives a cautionary instruction with reference to State's Exhibit 26.

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- 2:09 State's Exhibit 26 played for the jury.
- 2:32 Audio recording end.
- 2:33 Mr. Cox conducts cross-examination.
- 2:37 Objection by Mr. Tyler. Court will allow.
- 2:38 Mr. Cox continues cross-examination.
- 3:05 Mr. Tyler conducts re-direct examination.
- 3:07 Objection by Mr. Cox. Court sustained.
- 3:07 Mr. Tyler continues re-direct examination.
- 3:07 Objection by Mr. Cox. Court sustained.
- 3:07 Mr. Tyler continues re-direct examination.
- 3:12 Objection by Mr. Cox. Court sustained and instructed that portion regarding occupants statements of the answer is to be ignored.
- 3:12 Mr. Tyler continues re-direct examination.
- 3:16 Re-cross by Mr. Cox.
- 3:19 Witness is excused.
- 3:19 Mr. Tyler advises the state rests.
- 3:19 Court advises the court will take a recess.
- 3:20 Jury is released.
- 3:20 Mr. Cox motions for dismissal of State's case and provides basis for due to lack of substance and specific date in relevance to Count 2- Delivery of Controlled Substance, Mr. Cox has no basis for the dismissal in regards to Counts 2 and 3.
- 3:21 Mr. Tyler responds.
- 3:22 Court speaks to Count 2 Delivery and denies the motion to dismiss; Court speaks to Court 3 Possession and denies the motion to dismiss; Court speaks to Count 4

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Possession with Intent to Deliver and denies the motion to dismiss. Court finds the requirement of proof has been met.

3:25 Court is in recess for 10 minutes.

3:37 Court reconvenes with all parties present. Jury is not present.

3:37 Court inquires of counsel if his client will be testifying.

3:38 Court questions the defendant, Gary Partee regarding his decision not to testify.

3:39 Gary Partee advises he understands and has made the decision not to testify.

3:41 Jury is now present.

3:41 Mr. Cox advises the defense rests.

3:41 Court speaks to the jury regarding the process of the trial from here.

3:43 Court admonishes the jury.

3:44 Jury is released.

3:45 Court takes up jury instructions.

3:47 Counsel stipulate to the jury instructions with 1 -22 and the verdict form.

3:48 Court advises that the jury will be provided with the jury instructions 1-22, instruction 23 will not sent to the jurors at this time. One verdict form will be provided to the jurors. Court further advises that there are 2 audio videos Exhibits 19 and 26, which the jury will be allowed to review in the courtroom with the bailiff and a clerk present only.

3:50 Court is in recess.

4:06 Court reconvenes. All parties present. Jury is present.

4:08 Jury instructions read.

4:18 Court strikes entire paragraph of Jury Instruction 19.

4:18 Counsel has no objection.

4:22 Mr. Tyler gives closing argument.

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4:42 Court is in recess.

4:44 Court reconvenes with all parties present.

4:44 Mr. Tyler continues with closing arguments.

4:54 Mr. Cox gives closing argument.

4:59 Mr. Tyler objects – presenting facts not in evidence. Court speaks to the jury and overrules the objection.

5:00 Mr. Cox continues with closing.

5:09 Mr. Tyler gives final closing remarks.

5:21 Court speaks to the jury regarding the alternate juror and the process of the alternate. The juror needs to remain in the area in case their presence is needed

5:22 Phyllis Griffith was drawn at lot. Court explains the process to her and asks her to give her number where she can be reached to the clerk.

5:24 Clerk gives oath to bailiff.

5:24 Court advises they will be provided menus if they wish to order dinner in at county expense.

5:25 Jury is released.

5:26 Court speaks with Phyllis Griffith.

5:27 Phyllis Griffith is excused.

5:27 Court instructs counsel and the defendant to provide a phone number where they can be reached.

5:28 Recess.

5:38 Court reconvenes all parties are present. Jury is not present.

5:38 Court advises of a written question from the jury admitted as Court's Exhibit 1. Court speaks with counsel regarding the question and proposes to write an answer back correcting instruction 16.

5:39 Counsel has no objections.

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- 5:39 Court will admit his written answer as Court's Exhibit 2, and advises counsel of his exact answer.
- 5:40 Counsel has no objections.
- 5:40 Court is in recess.
- 7:11 Court reconvenes with all parties present. Jury is not present.
- 7:11 Court advises that he is in receipt of a second note from the jury admitted as Court's Exhibit 5, containing 2 parts advises they would like to hear the audio video again. Court advises that in the counsel's absence he had allowed the jurors to listen to Exhibit 19 during which they had a difficult time hearing and would like it played through the computer speakers. Question 2 references date discrepancy on Exhibits.
- 7:14 Court advises of his proposed answer for the second part of the jurors question. Counsel has no objections. Court enters the note as Court's Exhibit 4.
- 7:15 Mr. Cox objects to the jury listening to the audio tapes on a different device.
- 7:16 Mr. Tyler provides argument to objection.
- 7:16 Court speaks regarding changing listening devices.
- 7:17 Mr. Cox objects to either audio/recording being played through a different device.
- 7:17 Mr. Tyler has no objects to either audio/recording being played through another device.
- 7:17 Court orders that any review of audio/recording evidence must be reviewed in the same manner as previously heard during the trial. Court advises of his proposed written answer.
- 7:18 Counsel has no objections. Court will admit note ad Court's Exhibit 5.
- 7:19 Court is in recess.
- 8:59 Court reconvenes with all parties present. Jury is not present.
- 9:00 Court advises that the bailiff has indicated that the jury has reached a verdict.
- 9:00 Clerk calls the roll of the jury.
- 9:01 Counsel stipulate the jury is properly seated.

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- 9:01 Jury Foreman advises they have reached a verdict in this matter and hands the Court with the verdict form.
- 9:02 Court instructs the clerk to read the verdict. The defendant is found guilty on all counts: Ct. 2 Delivery of Controlled Substance Methamphetamine; Ct. 3 – Possession of Controlled Substance Methamphetamine; Ct. 4 – Possession of Controlled Substance Methamphetamine with Intent to Deliver.
- 9:02 Court inquires of the jury if this is their verdict. Jurors advise this is their verdict.
- 9:02 In response to inquiry from the Court, Mr. Cox asks for polling of the jury.
- 9:03 Court polls each juror. All jurors remain unanimous verdicts of guilty on all counts: Ct. 2 Delivery of Controlled Substance Methamphetamine; Ct. 3 – Possession of Controlled Substance Methamphetamine; Ct. 4 – Possession of Controlled Substance Methamphetamine with Intent to Deliver.
- 9:07 Court directs that the verdict be recorded by the Clerk. Court thanks the jurors for their time and service and discharges the jury.
- 9:09 Jury is released.
- 9:09 Court thanks counsel for their professionalism
- 9:10 Colloquy with counsel regarding sentencing date.
- 9:11 Court schedules Sentencing on October 24, 2017, at 1:30 p.m.
- 9:11 Court instructs clerk to collect and destroy jurors notes.
- 9:11 Court advises that the defendant is ordered to contact the Department of Probation and Parole by noon tomorrow.
- 9:12 Mr. Tyler motions for defendant to be remanded into custody pending sentencing.
- 9:12 Mr. Cox provides argument.
- 9:13 Mr. Tyler gives rebuttal.
- 9:13 Court revokes the defendant's release and sets bond in the amount of \$100,000.00 and advises the Department of Probation and Parole will be made aware of his incarceration for the purpose of the PSI.
- 9:15 Mr. Cox gives statement to the Court.

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9:16 Court speaks with the defendant regarding communication with his significant other.

9:18 Court is in recess.

Approved: 
Gregory FitzMaurice
District Judge

FILED 8/24/2017 AT 9:42 p.m.
BY [Signature] OROFINO IDAHO

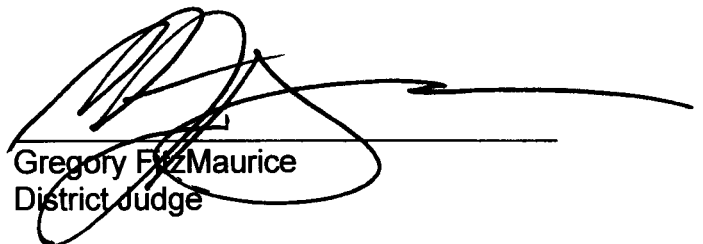
IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)
CITY OF OROFINO)
)
Plaintiff,)
vs.)
)
Gary Partee,)
)
Defendant.)
_____)

CASE NO. CR-2016-951

JURY INSTRUCTIONS GIVEN

Jury instructions 1 – 23 given by the Court.



Gregory F. Maurice
District Judge

August 24, 2017

JURY INSTRUCTIONS GIVEN

INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charge(s) against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

ORIGINAL

INSTRUCTION NO. 2

This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as the prosecution. The state is represented at this trial by the prosecuting attorney, Clayne Tyler. The defendant, Gary Carl Partee, is represented by a lawyer, Neil Cox.

The defendant is charged by the state of Idaho with violations of law. The charges against the defendant are contained in the Information. The clerk shall read the Information and state the defendant's plea.

The Information is simply a description of the charge; it is not evidence.

INSTRUCTION NO. 3

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

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

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

INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are

not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms “circumstantial evidence,” “direct evidence” and “hearsay evidence.” Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

INSTRUCTION NO. 5

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

INSTRUCTION NO. 6

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

INSTRUCTION NO. 7

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note-taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

INSTRUCTION NO. 8

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

Do not discuss this case during the trial with anyone, including any of the attorneys, parties, witnesses, your friends, or members of your family. “No discussion” also means no emailing, text messaging, tweeting, blogging, posting to electronic bulletin boards, and any other form of communication, electronic or otherwise.

Do not discuss this case with other jurors until you begin your deliberations at the end of the trial. Do not attempt to decide the case until you begin your deliberations.

I will give you some form of this instruction every time we take a break. I do that not to insult you or because I don’t think you are paying attention, but because experience has shown this is one of the hardest instructions for jurors to follow. I know of no other situation in our culture where we ask strangers to sit together watching and listening to something, then go into a little room together and not talk about the one thing they have in common: what they just watched together.

There are at least two reasons for this rule. The first is to help you keep an open mind. When you talk about things, you start to make decisions about them and it is extremely important that you not make any decisions about this case until you have heard all the evidence and all the rules for making your decisions, and you won’t have that until the very end of the trial. The second reason for the rule is that we want all of you working together on this decision when you deliberate. If you have conversations in groups of two or three during the trial, you won’t remember to repeat all of your thoughts and observations for the rest of your fellow jurors when you deliberate at the end of the trial.

Ignore any attempted improper communication. If any person tries to talk to you about this case, tell that person that you cannot discuss the case because you are a juror. If that person persists, simply walk away and report the incident to the bailiff.

Do not make any independent personal investigations into any facts or locations connected with this case. **Do not** look up any information from any source, including the Internet. **Do not** communicate any private or special knowledge about any of the facts of this case to your fellow jurors. **Do not** read or listen to any news reports about this case or about anyone involved in this case, whether those reports are in newspapers or the Internet, or on radio or television.

In our daily lives we may be used to looking for information on-line and to “Google” something as a matter of routine. Also, in a trial it can be very tempting for jurors to do their own research to make sure they are making the correct decision. You must resist that temptation for our system of justice to work as it should. I specifically instruct that you must decide the case only on the evidence received here in court. If you communicate with anyone about the case or do outside research during the trial it could cause us to have to start the trial over with new jurors and you could be held in contempt of court.

While you are actually deliberating in the jury room, the bailiff will take into possession all cell phones and other means of electronic communications. Should you need to communicate with me or anyone else during the deliberations, please notify the bailiff.

INSTRUCTION NO. 9

Each count charges a separate and distinct offense. You must decide each count separately on the evidence and the law that applies to it, uninfluenced by your decision as to any other count. The defendant may be found guilty or not guilty on any or all of the offenses charged.

INSTRUCTION NO. 10

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 11

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 12

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

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

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

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

INSTRUCTION NO. 13

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

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

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

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

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

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

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

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

INSTRUCTION NO. 14

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

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

INSTRUCTION NO. 15

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

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

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

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

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

INSTRUCTION NO. 16

In order for the defendant to be guilty of Count II, Delivery of a Controlled Substance, Methamphetamine, the State must prove each of the following:

1. On or between May 29, 2016 and November 29, 2016,
2. in the state of Idaho,
3. the defendant, Gary Carl Partee, delivered any amount of methamphetamine to another,
and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 17

In order for the defendant to be guilty of Count III, Possession of a Controlled Substance, Methamphetamine, the State must prove each of the following:

1. On or about November 29, 2016,
2. in the state of Idaho,
3. Gary Carl Partee, possessed a set of scales, containing any amount of methamphetamine,
and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 18

In order for the defendant to be guilty of Count IV, Possession of a Controlled Substance, Methamphetamine with the Intent to Deliver, the State must prove each of the following:

1. On or about November 29, 2016,
2. in the state of Idaho,
3. the defendant possessed a bundle of methamphetamine which contained any amount of methamphetamine,
and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.
and
5. the defendant intended to deliver it to another.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

If your unanimous verdict is that the defendant is not guilty of possession of a bundle of methamphetamine with the intent to deliver, you must acquit him of that charge. In that event, you must next consider the included offense of possession of methamphetamine.

In order for the defendant to be guilty of Possession of a Controlled Substance, Methamphetamine, the State must prove each of the following:

1. On or about November 29, 2016,
 2. in the state of Idaho,
 3. the defendant possessed a bundle of methamphetamine which contained any amount of methamphetamine,
- and
4. the defendant either knew it was methamphetamine or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 19

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it, the term “possession” also includes holding, selling, manufacturing, acquiring, producing, purchasing, shipping, transporting, transferring, or importing into Idaho a controlled substance. More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

INSTRUCTION NO. 20

Under Idaho law, Methamphetamine is a controlled substances.

INSTRUCTION NO. 21

The term "deliver" means the transfer or attempted transfer, either directly or indirectly, from one person to another.

INSTRUCTION NO. 22

It is alleged that the crime charged was committed “on or about” or “on” a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

INSTRUCTION NO. 23

You have now completed your duties as jurors in this case and are discharged with the sincere thanks of this Court. The question may arise as to whether you may discuss this case with the attorneys or with anyone else. For your guidance, the Court instructs you that whether you talk to the attorneys, or to anyone else, is entirely your own decision. It is proper for you to discuss this case, if you wish to, but you are not required to do so, and you may choose not to discuss the case with anyone at all. If you choose to, you may tell them as much or as little as you like, but you should be careful to respect the privacy and feelings of your fellow jurors. Remember that they understood their deliberations to be confidential. Therefore, you should limit your comments to your own perceptions and feelings. If anyone persists in discussing the case over your objection, or becomes critical of your service, either before or after any discussion has begun, please report it to me.

FILED 8/24/2017 AT
9:42 p.m. GROFENO, IDAHO
BY df

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. CR2016-951
)	
Plaintiff,)	
	)	VERDICT FORM
vs.)	
)	
GARY CARL PARTEE,)	
)	
Defendant.)	
_____)	

We, the Jury, unanimously find the defendant, Gary Carl Partee,

COUNT II

HBT **GUILTY** of Delivery of a Controlled Substance, Methamphetamine
_____ **NOT GUILTY** of Delivery of a Controlled Substance, Methamphetamine

COUNT III

HBT **GUILTY** of Possession of a Controlled Substance, Methamphetamine
_____ **NOT GUILTY** of Possession of a Controlled Substance, Methamphetamine

COUNT IV

HBT **GUILTY** of Possession of a Controlled Substance, Methamphetamine, with the
Intent to Deliver
_____ **NOT GUILTY** of Possession of a Controlled Substance, Methamphetamine,
with the Intent to Deliver

If your unanimous verdict is that the defendant is **GUILTY** of possession of a bundle of
containing methamphetamine with the intent to deliver (Count IV), sign the verdict and tell the
bailiff you are done.

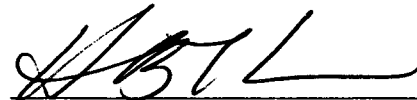
If your unanimous verdict is that the defendant is NOT GUILTY of possession of a bindle containing methamphetamine with the intent to deliver (Count IV), you must next consider the included offense of Possession of Methamphetamine:

COUNT IV

_____ **GUILTY** of Possession of a Controlled Substance, Methamphetamine.

_____ **NOT GUILTY** of Possession of a Controlled Substance, Methamphetamine.

Dated this 24th day of August, 2017



Presiding Officer

Assigned to: _____

Assigned: _____

Second Judicial District Court, State of Idaho

In and For the County of Clearwater

ORDER FOR PRESENTENCE REPORT AND EVALUATIONS

FILED

8/24/2017
9:42 am
lf

AT

4:30

STATE OF IDAHO

Plaintiff,

vs.

Gary C Partee
PO Box 122
Orofino, ID 83544

Case No: CR-2016-000951

**ORDER FOR PRE – SENTENCE INVESTIGATION
REPORT AND NOTICE OF HEARING**

CHARGE(s):

I37-2732(a)(1)(A) F Controlled Substance-Manufacture or Deliver,
or Possess with Intent to Manufacture or Deliver

I37-2732(c)(1) Controlled Substance- Possession of

I37-2732(a)(1)(A) F Controlled Substance-Manufacture or Deliver,
or Possess with Intent to Manufacture or Deliver

I18-705 Arrests & Seizures-Resisting or Obstructing Officers

M465-752-6-9-11 Litter on Occupied Private Property Prohibited

M465-746-6-2-2 Cruelty to Animals

M465-746-6-2-5 Wild Animals Prohibited

M465-746-6-2-13(3) Dog-License Required

ROA : PSIO1- Order for Presentence Investigation Report

On Thursday, August 24, 2017, a **Pre-sentence Investigation Report** was ordered by the Honorable Gregory FitzMaurice to be completed for Court appearance on:

Tuesday, October 24, 2017 at: 1:30 PM at the above stated courthouse. PSI is due by 10/13/2017.

☐ **Behavioral Health Assessments waived by the Court (PSIO1 ROA code)**

☒ **Waiver under IC 19-2524 2 (e) allowing assessment and treatment services by the same person or facility**

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

☐ Sex Offender ☐ Domestic Violence ☐ Other _____ Evaluator: _____

PLEA AGREEMENT: State recommendation

WHJ/JOC ☐ Probation ☐ PD Reimb ☐ Fine ☐ ACJ ☐ Restitution ☐ Other: _____

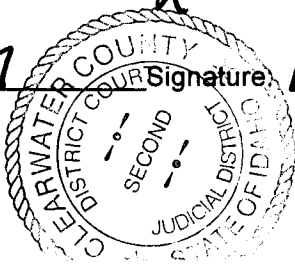
DEFENSE COUNSEL: Neil Presley Cox Jr.

PROSECUTOR: Eric Clayne Tyler

THE DEFENDANT IS IN CUSTODY: ☒ YES ☐ NO If yes where: CCSO

DO YOU NEED AN INTERPRETER? ☒ NO ☐ YES if yes, what is the language? _____

Date: 8/24/2017 Signature: _____



Entered at the Direction of the Court
By: C. Herney for Gregory FitzMaurice
Judge District Judge

FILED 8/24/2017 AT 9:41 p.m. CLERK OF DISTRICT COURT
BY [Signature]

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

Mary Porter

Defendant.

CASE NO. CR 2016-951

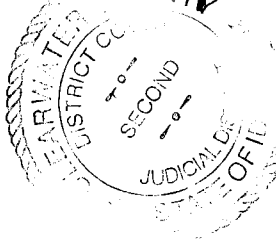
ORDER OF COMMITMENT PENDING
POSTING OF BOND

TO THE SHERIFF OF CLEARWATER COUNTY, IDAHO:

The above named defendant IS HEREBY ORDERED BY THE COURT remanded
to the custody of the Clearwater County Sheriff pending posting of bond in the amount of
\$ 100,000.00.

The Court hereby orders SPECIAL CONDITIONS OF BOND RELEASE AS
FOLLOWS: Must call P+P to schedule PSI appt. by noon on 8/25/2017.
Must appear for all appt. with P+P; Must appear for sentencing
on October 24, 2017 at 1:30 p.m.

DATED this 24th day of August, 2017.



Entered at the Direction of the Court

By: C. Hering, Deputy Clerk

Gregory FitzMaurice
District Judge

COPIES TO: ☒ Clearwater County Sheriff
☒ Defendant
☒ Prosecuting Attorney C. Tyler
☒ Defendant's Attorney N. Cox
☒ Probation and Parole

ORDER OF COMMITMENT PENDING
POSTING OF BOND

FILED 08/29/17 AT
2:40 PM GROSVENOR, IDAHO
 BY [Signature]

Neil P. Cox
 Attorney for Defendant
 924 Fifth Street
 Clarkston, WA 99403
 Telephone: (509) 758-6092
 Facsimile: (509) 758-9820
 ISBA No. 5166

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO: CR 2016-776 CR 2014-951
	)	CR 2016-845
Plaintiff,	)	MOTION FOR ORDER APPROVING
vs.	)	ATTORNEY FEE
)	
GARY PARTEE,)	
)	
Defendant.)	
_____)	

Neil P. Cox, attorney for Defendant, Gary Partee MOVES this Court for an Order approving Mr. Cox's attorney fees to date for representation in this matter, in the amount of \$5,160.50.

Mr. Cox's invoice is attached hereto.

DATE: 8-29-17

By: [Signature]
 Neil P. Cox
 Attorney for Defendant

Motion

Neil P. Cox
 Attorney for Defendant
 924 Fifth Street
 Clarkston, WA 99403
 Telephone: (509) 758-6092
 Facsimile: (509) 758-9820
 ISBA No. 5166

FILED 8/29/2017 AT
3:24 p.m. GROF NO. IDAHO
 BY lf 60

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO: <u>CR 2014-951</u>
)	
Plaintiff,	)	ORDER APPROVING
vs.	)	ATTORNEY'S FEE
)	
GARY PARTEE,)	
)	
Defendant.)	
)	

This Court reviewed the Motion for Order Approving Attorney's Fee filed by Defendant, Gary Partee's attorney, Neil P. Cox. The Court has reviewed attorney Cox's invoice and finds the fees requested to be reasonable and necessarily incurred in the representation of Gary Partee. Therefore, the Court does now **ORDER**:

Neil P. Cox shall be paid his attorney's fees at County expense, in the amount of 5,160.50. Mr. Cox's invoice is attached.

August 29, 2017

DATE


 CLEARWATER COUNTY JUDGE

Order

Law Office of Neil P Cox PS

924 Fifth Street
Clarkston, WA 99403

Invoice

Date	Invoice #
8/28/2017	20289

Bill To
Gary Partee CR2016-776 CR2016-845

				Terms
Date	Quantity	Description	Rate	Amount
5/4/2017	1	Meet with client	85.00	85.00
5/8/2017	2	Work on Motion and Memo to Dismiss delivery charge; draft Affidavit of Neil Cox; research: telephone call to prosecutor	85.00	170.00
5/12/2017	1	Finalize memorandum	85.00	85.00
5/15/2017	0.5	Prepare/do phone hearing	85.00	42.50
5/16/2017	0.1	Review order re: sealing	85.00	8.50
5/25/2017	0.13	Telephone call from client	85.00	11.05
6/2/2017	0.13	Telephone call to client	85.00	11.05
6/5/2017	4.5	Prepare for; attend preliminary hearing	85.00	382.50
6/5/2017	91.8	Mileage - 45.9 and 45.9 miles @ .50 per mile - two trips to Orofino on 6/5	0.50	45.90
6/7/2017	0.25	Telephone call from client; Telephone call to Bill Fitzgerald	85.00	21.25
6/14/2017	0.1	Review e-mail from court clerk	85.00	8.50
6/17/2017	0.5	(2017 case) review discovery response & request; review & copy lab report from prosecutor	85.00	42.50
6/20/2017	1.5	Prepare & attend court	85.00	127.50
6/20/2017	45.9	Mileage charge for travel to Clearwater County	0.50	22.95
7/5/2017	1.3	Prepare for & attend court; meet with client	85.00	110.50
7/5/2017	45.9	Mileage charge for travel to Clearwater County	0.50	22.95
7/19/2017	0.3	Review court's 2 orders	85.00	25.50
7/25/2017	0.13	Telephone call to client	85.00	11.05
8/1/2017	1.6	Draft subpoenas; attend pre-trial; meet w/client	85.00	136.00
8/1/2017	45.9	Mileage charge for travel to Clearwater County	0.50	22.95
8/2/2017	2	Trial preparation	85.00	170.00
8/3/2017	0.13	Telephone call from prosecutor	85.00	11.05
8/7/2017	1	Review State's amended witness list; review, sign, fax stipulation to amend info; review State's instructions; telephone call from court clerk	85.00	85.00
8/8/2017	0.75	Review amended information/order; attempt to reach client; review interview disks	85.00	63.75
8/9/2017	0.5	Telephone call to client: trial prep	85.00	42.50
8/10/2017	0.13	Telephone call from client	85.00	11.05
8/10/2017	2.9	Paralegal transcription time	15.00	43.50
8/11/2017	2.5	Meet w/client in Orofino/meet w/potential witnesses	85.00	212.50
			Total	

Law Office of Neil P Cox PS

924 Fifth Street
Clarkston, WA 99403**Invoice**

Date	Invoice #
8/28/2017	20289

Bill To
Gary Partee CR2016-776 CR2016-845

Terms

Date	Quantity	Description	Rate	Amount
8/11/2017	45.9	Mileage charge for travel to Clearwater County	0.50	22.95
8/14/2017	0.75	Meet w/client	85.00	63.75
8/15/2017	0.26	Telephone call to prosecutor; Telephone call to court	85.00	22.10
8/16/2017	2.25	Trial prep; telephone call to sheriff's department	85.00	191.25
8/17/2017	2	View evidence at police department; review 1st batch of jurors; meet w/client	85.00	170.00
8/17/2017	1.9	Telephone call to prosecutor; trial prep	85.00	161.50
8/21/2017	1.75	Trial prep	85.00	148.75
8/22/2017	4	Trial prep; meet w/client in Orofino	85.00	340.00
8/23/2017	10.25	Trial prep; trial	85.00	871.25
8/24/2017	13	Trial prep; trial; review jury's questions; receive verdict	85.00	1,105.00
8/24/2017	45.9	Mileage charge for travel to Clearwater County	0.50	22.95
8/28/2017	0.1	Send e-mail to prosecutor	85.00	8.50
			Total	\$5,160.50

E. Clayne Tyler, ISBN 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
Deputy: Lori M. Gilmore, ISBN 5877
Email: prosecutor@clearwatercounty.org

Case No. CR2016-951
Filed August 2, 2017
at 11:43 o'clock A M
C. Bird
Clerk
By BP Deputy

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
CITY OF OROFINO,	)	CASE NO. CR2016-951
)	
Plaintiff,	)	AFFIDAVIT OF E. CLAYNE TYLER
vs.	)	FOR RESTITUTION-IDAHO STATE
	)	POLICE FORENSIC SERVICES
GARY CARL PARTEE,)	
)	
Defendant.)	
_____)	

STATE OF IDAHO)
) ss.
County of Clearwater)

COMES NOW, E. CLAYNE TYLER, and upon oath, declares, and states as follows:

1. That your affiant is the Prosecuting Attorney for Clearwater County.
2. That Idaho State Police Forensic Services incurred costs directly associated with this case as follows:
 - a. Controlled Substance Analysis (2 samples) Laboratory Case No. C2016-2285, Report No. 1, in the amount \$200.00, see Exhibit "A".
 - b. Controlled Substance Analysis (4 samples) Laboratory Case No. C2016-2285, Report No. 2, in the amount of \$400.00, see Exhibit "B".

AFFIDAVIT OF RESTITUTION

1

c. Reimbursement for Personnel and Travel for David Sincerbeaux, in the amount of \$521.94

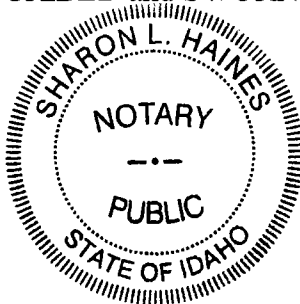
4. Therefore your affiant respectfully moves the Court for an Order of restitution in the amount of \$1,121.94 to be paid to Idaho State Police Forensic Services, 700 South Stratford, Meridian, ID 83642-6202.

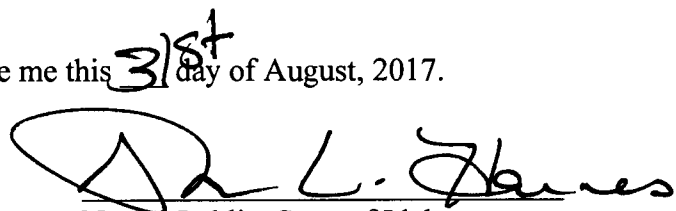
Further your affiant sayeth not.

DATED this 31st day of August, 2017.


E. CLAYNE TYLER

SUBSCRIBED and SWORN to before me this 31st day of August, 2017.

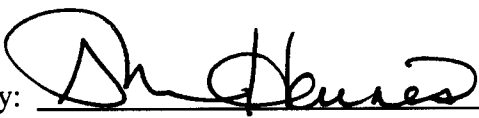



Notary Public, State of Idaho,
residing at Orofino, therein.
My commission expires 12/17/2022

CERTIFICATE OF MAILING/DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed to the following on the 31st day of August, 2017.

Neil Cox
Attorney for Defendant
924 5th St.
Clarkston, WA 99403

By: 
Sharon Haines

Idaho State Police Drug Restitution

As provided in Idaho Code 37-2732(k), the Idaho State Police requests restitution from the defendant, **GARY C PARTEE and CHRISTOPHER J PARTEE** in the amount of **\$200** in association with Laboratory Case No. **C2016-2285**. This amount is based upon the testing of the sample(s) submitted to this laboratory. The amount requested reflects a portion of the cost incurred to the laboratory during the analysis of drug evidence.

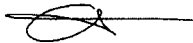
Test	Cost
Controlled Substance Analysis (2 sample(s) @ \$100 ea.)	\$200

Please present this restitution request form and a copy of the laboratory report to the court at the time of sentencing.

Please make checks payable to: Forensic Services
700 South Stratford
Meridian, Idaho 83642-6202

Thank you for your cooperation in this matter.

Sincerely,



Anne Nord
Coeur d'Alene Laboratory Manager
Forensic Services

Idaho State Police Drug Restitution

As provided in Idaho Code 37-2732(k), the Idaho State Police requests restitution from the defendant, **NICOLE C SCHLIEPER** and **GARY C PARTEE** in the amount of **\$400** in association with Laboratory Case No. **C2016-2285**. This amount is based upon the testing of the sample(s) submitted to this laboratory. The amount requested reflects a portion of the cost incurred to the laboratory during the analysis of drug evidence.

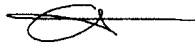
Test	Cost
Controlled Substance Analysis (4 sample(s) @ \$100 ea.)	\$400

Please present this restitution request form and a copy of the laboratory report to the court at the time of sentencing.

Please make checks payable to: Forensic Services
700 South Stratford
Meridian, Idaho 83642-6202

Thank you for your cooperation in this matter.

Sincerely,



Anne Nord
Coeur d'Alene Laboratory Manager
Forensic Services



Idaho State Police



Controlled Substance Restitution

As provided in Idaho Code 37-2732(k), the Idaho State Police requests restitution from the defendant(s), **Gary C. Partee**, in the amount of **\$521.94** in association with CaseNo. **CR2016-0951**, Lab Case C2016-2258. This restitution is in addition to any previously submitted analysis restitution requests.

Total Personnel 9.8 hrs x \$37.32	365.74
Total Travel (per diem, lodging, transportation)	156.20
Grand Total	521.94

Please present this restitution request form and a copy of the laboratory report to the court at the time of sentencing. This request is for cost incurred by the Idaho State Police lab for costs associated with travel and testimony in this case 8/23/17.

Mileage 284 miles @ 55 cents per mile = \$156.20.

Please make checks payable to: Forensic Services
700 South Stratford Drive
Meridian, Idaho 83642-6202

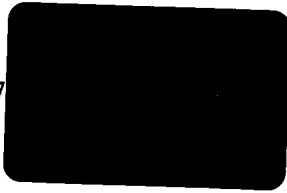
Thank you for your cooperation in this matter.

Sincerely,

Anne Nord
Laboratory Manager
Forensic Services

8/28/17

8/28/2017



C2016-2285

ATTORNEY: E. CLAYNE TYLER ISBN: 5277
 Prosecuting Attorney, Clearwater County
 ADDRESS: Post Office Box 2627, Orofino, ID 83544
 TELEPHONE: (208) 476-5611
 DEPUTY: Lori M. Gilmore, ISBN: 5877
 EMAIL: prosecutor@clearwatercounty.org

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. : CR2016-951
)	
Plaintiff,)	
	)	SUBPOENA
vs.)	
)	
GARY C. PARTEE,)	
)	
Defendant,)	

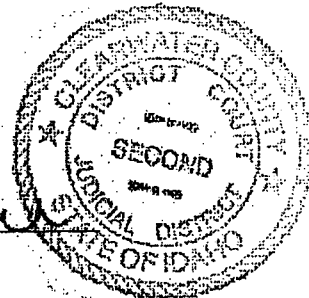
TO: DAVID SINCERBEAUX, ISP FORENSIC SERVICES

YOU ARE COMMANDED to appear before the District Court of the Second Judicial District, in and for the County of Clearwater, at the courtroom in the Courthouse, in Orofino in said County, on the 23rd, 24th & 25th day of August, 2017 at the hour of 9:00 o'clock a.m. and until released by the Court, as a witness in a criminal action being prosecuted by the State of Idaho against the above named defendant.

Given under my hand this 2 day of August, 2017.

CARRIE BIRD
 Clerk of the District Court

By [Signature]
 Deputy



RETURN OF SERVICE

I HEREBY CERTIFY That I served the within Subpoena on the ___ day of _____, 201____, on _____, being the party named in said document by showing the original to the said named party and personally informing said party of the contents.

Dated _____, 201____.

OFFICER _____

PLEASE CONTACT THIS OFFICE PRIOR TO YOUR ARRIVAL

Second Judicial District Court, State of Idaho
In and For the County of Clearwater

150 Michigan Ave
Orofino, Idaho 83544

STATE OF IDAHO,
Plaintiff.

vs.

Gary C Partee
PO Box 122
Orofino, ID 83544

Defendant.

CR-2016-951
September 20, 2017
10:11 A
C. Bird
B.D.
Case No: CR-2016-000951

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Motion to Withdraw Tuesday, October 3, 2017 02:45 PM
Judge: Gregory FitzMaurice

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Wednesday, September 20, 2017.

Defendant: Gary C Partee

Mailed _____ Hand Delivered Jail X Faxed _____

Private Counsel:

Emailed X Hand Delivered _____ Faxed _____

Neil Presley Cox Jr.
924 5th Street
Clarkston WA 99403

Prosecutor: Eric Clayne Tyler

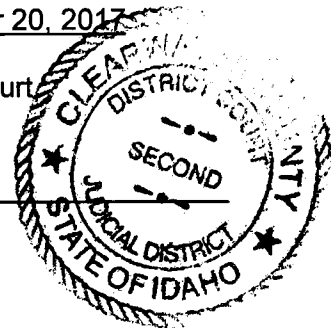
Emailed X Hand Delivered _____ Faxed _____

Dated: Wednesday, September 20, 2017

Carrie Bird
Clerk Of The District Court

By:

Barbri Day
Deputy Clerk
DOC22 7/96



Case No. CR 2016-951
Filed Sept. 21, 2017
at 1:49 P M
By C. Birel
GH

Orofino Police Department Case #: P2016-01695

E. Clayne Tyler, ISBN 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544-2627
Telephone: (208) 476-5611
Deputy: Lori M. Gilmore, ISBN 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER


STATE OF IDAHO,)	
CITY OF OROFINO,	)	CASE NO. CR <u>2016-951</u>
)	
Plaintiff,	)	AFFIDAVIT OF
)	
vs.	)	<u>Frazier, Vince</u>
	)	FOR RESTITUTION
Partee, Gary)	
Defendant.)	
_____)	

STATE OF IDAHO)
) ss.
County of Clearwater)

COMES NOW, Frazier, Vince, and upon oath, declares, and states as follows:

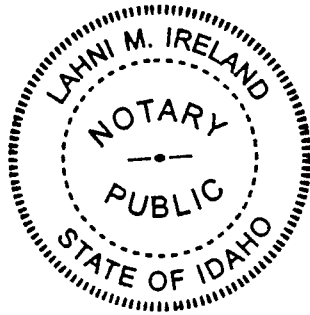
1. That your affiant is a duly qualified officer with the Orofino Police Department.
 2. Pursuant to Idaho Code § 37-2732(k), Orofino Police Department incurred costs in connection with the investigation of said case as set forth in Exhibit "A" attached hereto.
 3. Therefore, your affiant respectfully requests the Court order the above named Defendant to pay restitution in the amount of \$ 815.61 to said Orofino Police Department – Drug Restitution Fund.
- Further your affiant sayeth not.


DATED this 08/24/17 21:00



Affiant

SUBSCRIBED and SWORN to before me this 9/19/17





Notary Public, State of Idaho,
residing at Orofino, therein.
My commission expires 2023.

OROFINO POLICE DEPARTMENT RESTITUTION REQUEST FORM

CASE #: 2016-1695

SUSPECT(S): Partee, Gary

CHARGES: Possession of a controlled substance/ Possession of paraphernalia

☐ PENDING

☐ CITED

☒ ARRESTED

☐ AT LARGE

REGULAR HOUR DOCUMENTATION

OFFICER	TASK	HOURS	HOURLY WAGE	TOTAL
Frazier, Vince	Supervisor/Court Time	20	35.90	718
Russell, Matt	Canine/Court Time	3.5	27.89	97.61

OVERTIME HOUR DOCUMENTATION

OFFICER	TASK	HOURS	HOURLY WAGE	TOTAL

EQUIPMENT/SUPPLIES/MISC. EXPENSES

ITEM	REASON/HOW USED	UNIT COST	# OF UNITS	TOTAL

SUBMITTING OFFICER: Sgt Vincent Frazier

DATE: 9/19/2017

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR. 2016-951
)	
vs.	)	COURT MINUTES
)	
GARY C PARTEE,)	
)	
Defendant.)	
)	
)	

Gregory FitzMaurice, District Judge Presiding
E. Clayne Tyler, Attorney for the State
Neil Cox, Jr., Attorney for the Defendant
No Court Reporter
Christy Gering, Court Clerk
Dated: 10/03/2017 Courtroom-1 Time: 2:57 P.M.
Subject of Proceedings: Motion to Withdraw

=====

MINUTE ENTRY:

- 2:57 Honorable Gregory FitzMaurice, District Judge presiding. E. Clayne Tyler, present representing the State. Neil Cox, Jr., attorney for the defendant, present by telephone. Gary Partee, is present. Court advises that this is the time and place set for a Motion to Withdraw filed by Mr. Cox.
- 2:58 Court advises he has received several letters from the defendant indicating he is unhappy with Mr. Cox's representation. Defendant, Mr. Partee confirms that is correct.
- 2:58 In response to Court inquiry, Mr. Cox feel the letters and motion speak for themselves and does not feel he needs to make additional statements.
- 2:58 In response to Court inquiry, Mr. Tyler advises he wishes to leave it to the Court's discretion.
- 2: 58 Court asks Mr. Partee if he has any objections to Mr. Cox withdrawing as his attorney and advises him that if the withdrawal is granted he will be appointed new counsel.
- 2:59 Mr. Cox states that he does not know if it will be necessary for Mr. Cox to withdraw but wishes to make some statements to the Court.

- 3:00 Court advises Mr. Partee that it may not be wise to make statements to the Court without advise from his counsel.
- 3:01 In response to Court inquiry, Mr. Partee has no objections to Mr. Cox withdrawing.
- 3:01 Court advises the defendant of actions which led up to the motion to withdraw and advises that he will appoint counsel from another area to represent the defendant.
- 3:03 Mr. Partee states that he spoke with Mr. Cox three weeks prior to trial and indicated that he wished to make a plea deal and Mr. Cox had told the defendant he would provide paperwork on Monday and when he was presented with the plea deal it was not the terms which were previously agreed.
- 3:05 Court advises that he finds a breakdown in relationship and grants the motion to withdraw. He will draw and order for the withdrawal and appointment of counsel.
- 3:05 Mr. Cox advises he will be available to the newly appointed counsel if they need the file or information on this case.
- 3:06 Court advises he will try to find alternate counsel this evening and will give Mr. Partee notice as soon as alternative counsel has been appointed.
- 3:06 Court is in recess.

By: 

GREGORY FITZMAURICE
District Judge

FILED 10/4/2017 AT 4:12 p.m.
BY JP 30 DEPT. OF IDAHO

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY PARTEE,

Defendant.

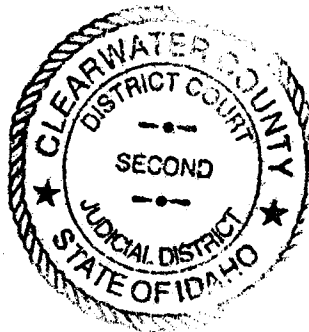
Case No. CR-2016-951

**ORDER APPOINTING PUBLIC
DEFENDER**

IT IS ORDERED that Zach Battles of Kwate Law Offices is appointed to represent the defendant in the above entitled case.

DATED this 4th day of October, 2017.

Entered at the Direction of the Court



By: C. Hering, Deputy Clerk
Gregory FitzMaurice
District Judge

ORDER APPOINTING PUBLIC DEFENDER - 1

CERTIFICATE OF SERVICE

I do hereby certify that a full,
true and correct copy of the foregoing
was hand-delivered, mailed or emailed to:

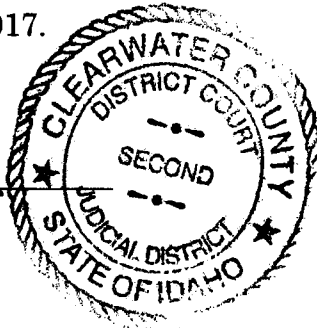
E. Clayne Tyler
Prosecutor

Zach Battles
Attorney at Law

Gary Partee
Defendant
CCSO/Jail

on this 5th day of October, 2017.

L. Hering
Deputy Clerk



CR2016-951
10/19/2017
11:03
C Bird
A
R

Zachary A. Battles
Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83501
Telephone: (208) 746-7060
Fax: (208) 746-2660
Idaho State Bar# 9554

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,	)	Case No. CR 2017-00951
)	
Plaintiff,	)	MOTION FOR MENTAL HEALTH
	)	EVALUATION AT COUNTY
vs.	)	EXPENSE (I.C. §18-211)
)	
Gary C. Partee,)	
)	
Defendant.)	
)	

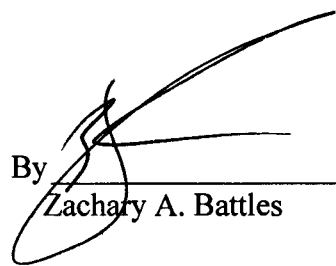
COMES NOW the attorney for the defendant the above-entitled matter and hereby moves
the court for an order that he receive a mental health evaluation at County expense.

This motion is based upon Idaho Code §18-211 and based on the affidavit of Zachary A.
Battles, filed contemporaneously herewith, and the records and files contained herein.

The evaluation should be at County expense because the defendant is a public defender client
and cannot afford the evaluation.

DATED this 18th day of October, 2017.

KWATE LAW OFFICES, PLLC
Attorney for Defendant

By 
Zachary A. Battles

CERTIFICATE OF SERVICE

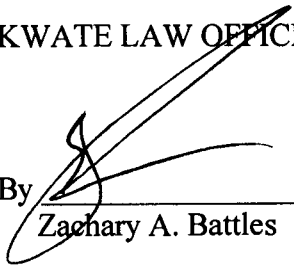
I hereby certify that on the 18th day of October, 2017, a true and correct copy of the foregoing instrument was:

☒ Mailed
☐ Faxed
☐ Hand Delivered
☐ Overnight mail

to the following:

Clearwater County Prosecuting Attorney
Post Office Box 2627
Orofino, Idaho 83544

KWATE LAW OFFICES, PLLC

By 
Zachary A. Battles

Inmate Request
Clearwater County Jail

Inmate Name: Gary Patter

Request To: My Attorney Zack Battles

Date of Request: 10-15-2017

Nature of Request: I would like a

Mental Health Evaluation & if fit
I would like one shot at Mental
Health Court. If I am given the
only shot at fixin my life I will
succeed guaranteed if they doubt me
then what really do they have to lose
because cus if I lose, I lose my life
and I have seen how hard that is
affecting me & mine. So please if
you can, lets do that and if so
we do not need to file an appeal.
but it just costs more time and
money. I think enough time & money
has ben wasted here. Thank you

Gary Patter
Inmate Signature

Date Received: _____

Received By: _____

208-746-2660

**Inmate Request
Clearwater County Jail**Inmate Name: Gary PasteeRequest To: Jail AdministratorDate of Request: 10-7-2017Nature of Request: I spoke to Rus last week

about some things and he insisted I should speak to the Doctor about some Antidepressants. I think it's a lot worse than just Antidepressants but nonetheless I haven't received any cooperation from the staff except to talk to them & half of them believe me the other half think I'm trying to get an easy way out. Either way none of them are doctors. And none of this is easy. As well none of it is there concern. I need an evaluation is all I'm saying. Everything is confusing and nothing is making sense to me let alone them.


Inmate Signature

Date Received: _____

Received By: _____

emailed Christy Gerhing and Clayne Tyler 10-9-17

Faxed to defense atty Zach Battles 208-746-2660 10-11-17

CLEARWATER COUNTY JAIL
STANDARD CORRESPONDENCE FORM

Grievance

Appeal

Non-emergency

Emergency

Offender Name:

Gary Partee

County:

Clearwater

Facility where housed:

Clearwater Co Jail

Date:

10-11-2017

Issue/Concern:

I have been hearing voices & now I'm seeing things that I know aren't there. I don't know where they are but they are very much there. 2 weeks ago they wanted me to hurt someone & last week they wanted me to hurt myself which I almost did.

(Description of the issue must be legibly handwritten only on the lines provided)

I tried to solve this problem informally by:

speaking to staff about getting medication & or help and I was put off and I was getting worse.

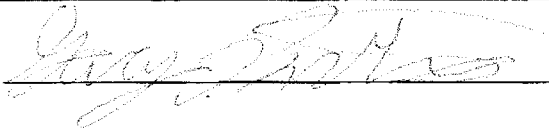
My proposed solution:

I need some kind of evaluation and need to see a doctor.

(If appeal)

The specific relief I am seeking is:

Offender signature:



Do not write below

Date:

Staff signature

(acknowledging receipt)

Copy of form is returned to offender

If Appeal, copy of submitted grievance as well as Facility Administrator's decision must be attached.

Appendix A
September 2008

Received 10-9-17 SBusta

Case No. CR2016-051
Filed 10/19/2017
at 11:03 o'clock A M
C. Bird
By [Signature] Clerk
Deputy

Zachary A. Battles
Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83501
Telephone: (208) 746-7060
Fax: (208) 746-2660
Idaho State Bar # 9554

Attorney for Defendant

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,	)	Case No. CR 2017-00951
)	
Plaintiff,	)	AFFIDAVIT OF ZACHARY A. BATTLES
	)	IN SUPPORT OF MOTION FOR
vs.	)	MENTAL HEALTH EVALUATION
)	
Gary C. Partee,)	
)	
Defendant.)	

ZACHARY A. BATTLES, being first duly sworn on oath, deposes and says that:

1. I am the court appointed attorney for the defendant in the above-entitled matter.
2. I have had several telephone conversations with the defendant to discuss his case and upcoming sentencing.
3. I've also received several letters from the defendant. (Attached are copies.)
4. Based upon my discussions with the defendant and his letters, I do not believe he is mentally capable of making decisions in his legal matter as to how he wishes to proceed and needs to have a mental health evaluation.

AFFIDAVIT OF ZACHARY A. BATTLES
IN SUPPORT OF MOTION FOR
MENTAL HEALTH EVALUATION



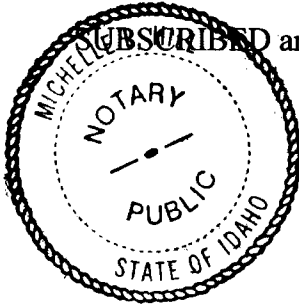
ORIGINAL

FURTHER YOUR AFFIANT SAITH NAUGHT.

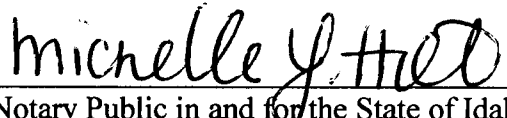
DATED this 18th day of October, 2017.



Zachary A. Battles



SUBSCRIBED and SWORN to before me this 18th day of October, 2017.



Notary Public in and for the State of Idaho.
Residing at Lewiston, therein.
My commission expires: June 23, 2018.

CERTIFICATE OF SERVICE

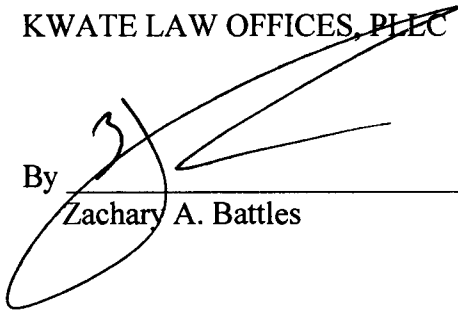
I hereby certify that on the 18th day of October, 2017, a true and correct copy of the foregoing instrument was:

☒ Mailed
☐ Faxed
☐ Hand Delivered
☐ Overnight mail

to the following:

Clearwater County Prosecuting Attorney
Post Office Box 2627
Orofino, Idaho 83544

KWATE LAW OFFICES, PLLC

By 

Zachary A. Battles

AFFIDAVIT OF ZACHARY A. BATTLES
IN SUPPORT OF MOTION FOR
MENTAL HEALTH EVALUATION

FILED October 19, 2017 4:03 PM

Clearwater County District Court
Orofino, Idaho
BY: Christy Gering, Deputy Clerk

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ~~NEZ PERCE~~ *Clearwater*

State of Idaho,

Plaintiff,

vs.

Gary C. Partee,

Defendant.

Case No. *CR 2016-951*

ORDER FOR MENTAL
HEALTH EXAMINATION

The Court having read the Motion for Mental Health Evaluation, and being fully advised in the premises hereof,

IT IS HEREBY ORDERED that the defendant, Gary C. Partee, undergo a mental health examination.

IT IS FURTHER ORDERED that the director of the Department of Health and Welfare is to designate at least one (1) qualified psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant to assist counsel with defense or understand the proceedings.

IT IS FURTHER ORDERED that the Department of Health and Welfare provide three (3) copies of the evaluation to this Court.

ORDER FOR MENTAL
HEALTH EXAMINATION

1



ORIGINAL

DATED this 19th day of October, 2017.


Judge

CERTIFICATE OF SERVICE

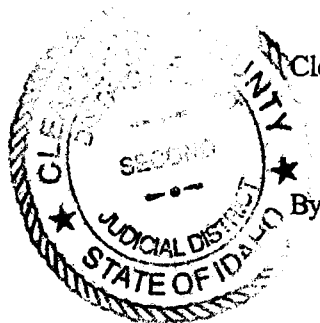
I HEREBY CERTIFY that on this 19th day of October, 2017, I caused a true and correct copy of the foregoing to be delivered to the following:

Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83501
+ Email

Department of Health & Welfare
Fax: Email Joyce Lyons

Clearwater
~~Nez Perce~~ County Prosecutor
~~Post Office Box 1267~~ Email
~~Lewiston, Idaho 83501~~

Clerk of the District Court



By


Deputy Clerk

FILED October 24, 2017 AT
3:35 PM BO OROFINO, IDAHO
 BY BO ✓

Zachary A. Battles
 Kwater Law Offices, PLLC
 1502 G Street
 Lewiston, Idaho 83501
 Telephone: (208) 746-7060
 Fax: (208) 746-2660
 Idaho State Bar # 9554

Attorney for Defendant

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,	)	Case No. CR 2016-00951
)	
Plaintiff,)	
)	
vs.	)	REQUEST FOR FURLOUGH
)	
Gary A. Partee,)	
)	
Defendant.)	

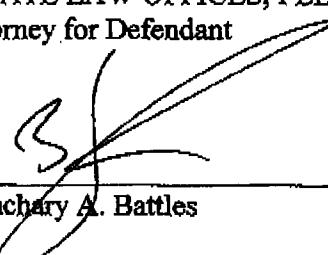
COMES NOW, Gary A. Partee, by and through his attorney of record, Zachary A. Battles of Kwater Law Offices, PLLC, and requests that he be released on furlough from the Clearwater County Jail prior to October 31, 2017, for about five (5) hours.

Based upon information given to counsel from the defendant, the following information is supplied in support of this motion:

1. The defendant needs approximately five (5) hours to move his belongings out of his house he's being evicted from and time to move his two pets to foster homes.

DATED this 24th day of October, 2017.

KWATE LAW OFFICES, PLLC
Attorney for Defendant

By 
Zachary A. Battles

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day October, 2017, a true and correct copy of the foregoing instrument was:

☐ Mailed
☒ Faxed
☐ Hand Delivered
☐ Overnight mail

to the following:

E. Clayne Tyler
Clearwater County Prosecutor's Office
Post Office Box 2627
Orofino, Idaho 83544

KWATE LAW OFFICES, PLLC

By 
Zachary A. Battles

FILED October 24, 2017 AT
4:24 p.m.
 BY BO BOFIND, IDAHO

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,

Plaintiff,

vs.

Gary C. Partee,

Defendant.

Case No. CR 2016-00951

ORDER FOR FURLOUGH

Denied

After reviewing the records and files herein and after considering the Request for Furlough,

IT IS HEREBY ORDERED THAT Gary C. Partee be released on Furlough from the
 Clearwater County Jail for furlough on the ____ day of October, 2017, at ____ .m. and shall
 return on the ____ day of October, 2017, by ____ .m.

DATED this 24th day of October, 2017.

Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 2017, I caused a true and correct copy of the foregoing to be delivered to the following:

Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83501
Fax: 208-746-2660

Clearwater County Prosecutor
Post Office Box 2627
Orofino, Idaho 83544
Fax: 208-476-8989

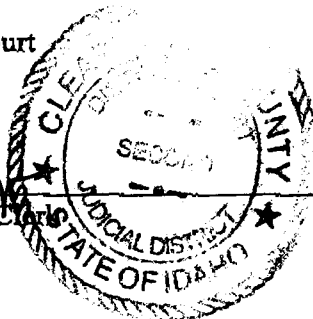
Clearwater County Jail
Email

Christy Gering,
Clerk of the District Court

By

Barri Dey

Deputy Clerk



Second Judicial District Court, State of Idaho
In and For the County of Clearwater
150 Michigan Ave
Orofino, Idaho 83544

STATE OF IDAHO,
Plaintiff.

vs.

Gary C Partee
PO Box 122
Orofino, ID 83544

Defendant.

FILED 11/1/2017 AT
12:19 p.m. OROFINO, IDAHO
BY [Signature]

Case No: CR-2016-000951

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Sentencing - Tuesday, November 7, 2017 @ 10:30 AM
Judge: Gregory FitzMaurice

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Wednesday, November 1, 2017.

Defendant: Gary C Partee

Mailed _____ Hand Delivered ✓ @ CC SO Jax! Faxed _____

Private Counsel:

Mailed _____ Hand Delivered _____ Emailed ✓

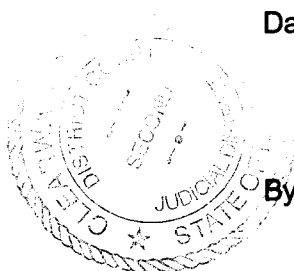
Zach A. Battles
Kwate Law Office
1502 G. Street
Lewiston ID 83501

Prosecutor: Eric Clayne Tyler

Mailed _____ Hand Delivered _____ Emailed ✓

Dated: Wednesday, November 1, 2017

Carrie Bird
Clerk Of The District Court



By:

[Signature]
Deputy Clerk
DOC22 7/96

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR. 2016-951
vs.)	
)	
GARY C PARTEE,	)	COURT MINUTES
)	
Defendant.)	
)	

Gregory FitzMaurice, District Judge Presiding
E. Clayne Tyler, Attorney for the State
Zach A. Battles., Attorney for the Defendant
Keith Evans, Court Reporter
Christy Gering, Court Clerk
Dated: 11/07/2017 Courtroom-1 Time: 10:27 A.M.
Subject of Proceedings: Sentencing

=====

MINUTE ENTRY:

- 10:27 Honorable Gregory FitzMaurice, District Judge presiding. E. Clayne Tyler, present representing the State. Zach A. Battles attorney for the defendant, present. Gary Parte is present. Court advises that this is the time and place set for a Sentencing.
- 10:28 Court advises that the defendant was found guilty by jury, and that he is in receipt of a PSI Report dated October 12, 2017, and filed with the Court October 13, 2017, and a confidential psychological evaluation report requested by Mr. Battles on behalf of the defendant dated October 31, 2017.
- 10:29 In response to Court inquiry, Mr. Battles advises that he believes that defendant is competent to stand trial today.
- 10:29 Court advises of the hearing proceedings.
- 10:30 In response to Court inquiry, Mr. Battles has no changes or corrections to the PSI Report.
- 10:31 Mr. Tyler has no changes or corrections to the PSI Report.
- 10:31 Mr. Battles has no witnesses or evidence in mitigation.
- 10:31 Mr. Tyler has no witnesses or evidence in aggravation.
- 10:31 Court advises he has some questions regarding the Affidavit of Restitution filed in

August 2017 requesting restitution to the state police in the amount of \$1,121.94 and another affidavit of restitution from Vincent Frazier file September 21, 2017 for \$851.61 and an affidavit of restitution from Eric Dodge for \$2,316.82, and the court does not know how to reconcile all three affidavits.

- 10:32 Mr. Battles advises that he and the defendant do not know if the restitution amounts are correct and asks to set a restitution hearing at a later date.
- 10:32 Mr. Tyler has no objections to setting a restitution hearing at a later date and advises that he needs some time to sort out the restitution amounts.
- 10:33 Mr. Battles provides argument in mitigation.
- 10:36 In response to Court inquiry, Mr. Battles advises that the defendant is not resistant to treatment and would fully embody any treatment opportunities given to him.
- 10:39 Mr. Tyler provides argument in aggravation.
- 10:44 Court questions Mr. Tyler on what the State's recommendation would have been if the defendant had cooperated with state in a previous agreement made in this case.
- 10:45 Mr. Battles advises that the defendant believes that state agreed to dismiss the charges with his cooperation, but Mr. Battles does not have a copy of the agreement and cannot say for sure.
- 10:45 Mr. Tyler advises that the agreement provides that in the event the defendant cooperated he would have gotten a recommendation of probation, however that did not include the delivery offense.
- 10:48 Mr. Battles provides rebuttal.
- 10:49 Defendant, Mr. Partee provides statement to the Court.
- 10:57 In response to Court inquiry, defendant knows of no reason why he should not be sentenced today.
- 10:58 Court speaks with the defendant regarding his choices and living situation leading to offenses and the Court's sentencing options.
- 11:05 Court imposes a sentence of five years of incarceration in the Idaho State Penitentiary consisting of 3 years determinate and 2 years indeterminate to be ran concurrently on all three charges, Court will give credit for time served, and imposes court costs in the amount of 285.50 per count for a total of \$856.50, no fine is imposed. Court will retain jurisdiction for 365 days. Court advises that if the defendant fails to complete the program the court will impose sentence.

11:08 Court advises the defendant of his right to an appeal and advises that Court will allow thirty days for counsel to work out the restitution preferably by stipulation.

11:09 Counsel has nothing further.

11:10 Court is in recess.

By:

A handwritten signature in black ink, appearing to read 'Gregory Fitzmaurice', written over a horizontal line.

GREGORY FITZMAURICE
District Judge

FILED 11/7/2017 AT 11:12 a.m. ORFENO, IDAHO
BY [Signature]

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,

Plaintiff,

vs.

GARY C. PARTEE,

Defendant.

Case No. CR-2016-951

CUSTODY ORDER


TO THE SHERIFF OF CLEARWATER COUNTY, STATE OF IDAHO:

You are ORDERED TO TAKE INTO CUSTODY the above named defendant and keep her in your custody for the following reason:

Defendant has been sentenced to the custody of the Idaho State Board of Correction with the Court retaining jurisdiction. A formal commitment will follow.

Sentence: 3 years determinate, followed by an indeterminate term not to exceed an additional 2 years; jurisdiction is retained for 365 days. Credit for time served.

DATE: November 7, 2017



Gregory FitzMaurice
District Judge

Zachary A. Battles
Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83501
Telephone: (208) 746-7060
Fax: (208) 746-2660
Idaho State Bar# 9554

Attorney for Defendant

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,	)	Case No. CR 2016-00951
)	
Plaintiff,)	
)	
vs.	)	RULE 35 MOTION TO
	)	REDUCE SENTENCE
Gary C. Partee,)	
)	
Defendant.)	

COMES NOW the defendant, Gary C. Partee, by and through his attorney of record, Zachary A. Battles of Kwate Law Offices, PLLC, and moves the Court for an order reducing sentence which was imposed on the defendant on the 7th day of November, 2017.

DATED this 14th day of November, 2017.

KWATE LAW OFFICES, PLLC
Attorney for Defendant

By Zachary A. Battles

RULE 35 MOTION TO
REDUCE SENTENCE

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November, 2017, a true and correct copy of the foregoing instrument was:

☐ Mailed
☒ Faxed
☐ Hand Delivered
☐ Overnight mail

to the following:

Clearwater County Prosecuting Attorney
Post Office Box 2627
Orofino, Idaho 83544

KWATE LAW OFFICES, PLLC

By


Zachary A. Battles

FILED 11/16/2017 AT 12:01 p.m. GREGG COUNTY, IDAHO
BY af

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

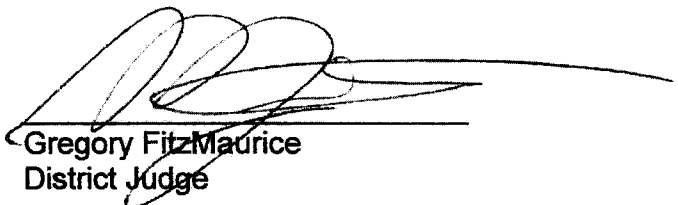
STATE OF IDAHO)	CASE NO. CR16-00951
)	
Plaintiff,	)	ORDER DENYING REDUCTION
	)	OF SENTENCE
vs.)	
)	
GARY C. PARTEE,)	
)	
Defendant.)	
_____)	

Defendant Gary C. Partee has filed a Motion for the Reduction of Sentence, I.C.R. 35, with no supporting documentation.

A motion for reduction of sentence is a plea for leniency, addressed to the sound discretion of the court. The motion may be granted without oral argument. *I.C.R. 35(b)*. The defendant must show that that the sentence is excessive in light of new or additional information supplied to the Court. *State v. Halbesleben*, 147 Idaho 161, 170, 206 P.3d 867, 876 (Ct. App. 2009).

As defendant has not provided any new or additional information for the Court's consideration, the Motion is DENIED.

DATED this 16 day of November, 2017.



Gregory Fitzmaurice
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of November, 2017, a copy of the foregoing Order was served by the method indicated below and addressed to the following:

Zachary Battles
Kwate Law Offices
1502 G St.
Lewiston, ID 83501

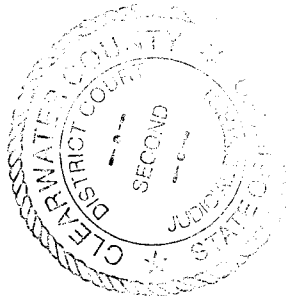
☒ _____

FIRST-CLASS MAIL
COURTHOUSE FILE
OVERNIGHT MAIL
~~FAX TRANSMISSION~~ Email

E. Clayne Tyler
Prosecuting Attorney

☒ _____

FIRST-CLASS MAIL
COURT MAIL
OVERNIGHT MAIL
~~FAX TRANSMISSION~~ Email



CLERK OF THE COURT

By

C. Hering
Deputy Clerk

1 E. CLAYNE TYLER ISBN:5277
Prosecuting Attorney
2 Clearwater County
Post Office Box 2627
3 Orofino, Idaho 83544-2627
Telephone: (208) 476-5611

4 Chief Deputy: Lori M. Gilmore ISBN:5877

CR 2016-951
November 28, 2017
11:23 A.
C. Bird
BP

6 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
7 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

8 STATE OF IDAHO,

9 Plaintiff,

10 v.

11 GARY C. PARTEE,

12 Defendant.

) CASE NO. CR2016-951
)
)
)

) JUDGMENT OF CONVICTION--
) RETAINED JURISDICTION
)
)
)

13
14 On the 7th day of November, 2017, personally appeared E. Clayne Tyler, Prosecuting
15 Attorney in and for the County of Clearwater, State of Idaho, the defendant, GARY C. PARTEE, and
16 the defendant's attorney of record, Zachary Battles.

17 The Court having reviewed the pre-sentence investigation report and having inquired of the
18 defendant if there were any changes or corrections to be made in the pre-sentence investigation and
19 any statements made in aggravation or mitigation, the Court inquired if the defendant understood the
20 charges filed against him and if there were any legal cause to show why judgment should not be
21 pronounced against him.

22 The defendant then having been found guilty of the charges of: COUNT II: DELIVERY OF
23 A CONTROLLED SUBSTANCE, METHAMPHETAMINE, a violation of Idaho Code 37-
24 2732(a)(1)(A), COUNT III: POSSESSION OF METHAMPHETAMINE, a violation of Idaho Code
25 § 37-2732(c)(1) and COUNT IV: POSSESSION OF A CONTROLLED SUBSTANCE,
26 METHAMPHETAMINE WITH THE INTENT TO DELIVER, a violation of Idaho Code § 37-
27 2732(a)(1)(A).

28 The Court hearing no reason not to proceed, rendered judgment as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1 1. Defendant is found guilty of the felony charges of: COUNT II: DELIVERY OF A
2 CONTROLLED SUBSTANCE, METHAMPHETAMINE, a violation of Idaho Code 37-
3 2732(a)(1)(A), COUNT III: POSSESSION OF METHAMPHETAMINE, a violation of Idaho Code
4 § 37-2732(c)(1) and COUNT IV: POSSESSION OF A CONTROLLED SUBSTANCE,
5 METHAMPHETAMINE WITH THE INTENT TO DELIVER, a violation of Idaho Code § 37-
6 2732(a)(1)(A) and is hereby SENTENCED to the custody of the Idaho State Board of Corrections
7 for a period of not less than three (3) years nor more than five (5) years, consisting of a determinate
8 period of three (3) years, during which time the defendant shall not be eligible for parole, discharge,
9 credit, or reduction of sentence for good conduct (except as provided by Section 20-101D, Idaho
10 Code) and a subsequent indeterminate period of time not exceeding two (2) years per count.
11 Sentences shall run concurrent. Defendant shall receive credit for time served of ninety (90) days.

12 2. The Court suspends the sentences and JURISDICTION IS RETAINED. The period
13 of the Retained Jurisdiction shall not to exceed three hundred sixty-five (365) days.

14 3. Defendant is ordered to pay court costs of \$285.50 per count, imposed as a matter of
15 law. Payments shall be made to the Clerk of the Court, P.O. Box 586, Orofino, ID 83544.

16 **NOTICE OF APPEAL**

17 You, GARY C. PARTEE, are hereby notified that you have a right to appeal this order.
18 Any notice of appeal must be filed within forty-two (42) days of the entry of the written order in
19 this matter. You are also notified that motions pursuant to Idaho Criminal Rule 35 to correct an
20 illegal sentence or to reduce a sentence must be filed within one hundred twenty (120) days of
21 entry of the judgment imposing the sentence or of the filing of an order relinquishing retained
22 judgment. You may also move to reduce a sentence within fourteen (14) days of the filing of an
23 order revoking your probation.

24 DATED this 28th day of November, 2017, *NUNC PRO TUNC* the 7th day of
25 November, 2017.

26
27 
28 DISTRICT JUDGE

1
2 **CERTIFICATE OF MAILING/DELIVERY**

3 The undersigned hereby certifies that a true and correct copy of the foregoing
4 JUDGMENT OF CONVICTION--RETAINED JURISDICTION was delivered to the following
5 on the 28th day of November, 2017:

6 E. Clayne Tyler
7 Prosecuting Attorney
8 ~~Courthouse Mail & Email~~
9 Orofino, ID 83544

10 Zachary Battles
11 Attorney for Defendant
12 via email

13 Clearwater County Jail
14 Hand Delivered

15 Probation and Parole
16 via email

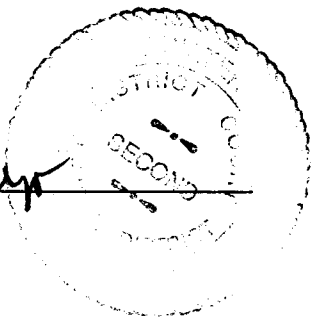
17 IDOC Central Records
18 via email

19 CCD - Sentencing
20 via email

21 CARRIE BIRD
22 CLERK OF THE COURT

23
24
25
26
27
28
By: Borlin Depp

Deputy



E. CLAYNE TYLER, ISBN: 5277
Prosecuting Attorney
County of Clearwater
Post Office Box 2627
Orofino, Idaho 83544
Telephone: (208) 476-5611
Fax: (208) 476-8989
Email: prosecutor@clearwatercounty.org

CR2016-951
November 20, 2017
11:23 A
C. Bird
BP

Deputy: Lori M. Gilmore ISBN: 5877

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CASE NO. CR2016-951
)	
Plaintiff,)	
)	
v.	)	ORDER TO DISMISS COUNTS I, V & VI
)	
GARY C. PARTEE,)	
)	
Defendant.)	
_____)	

IT IS HEREBY ORDERED as follows:

That Counts I, V and VI are hereby dismissed.

DATED this 28th day of November, 2017.


DISTRICT JUDGE

CERTIFICATE OF MAILING/DELIVERY

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed or hand delivered to the following on this 28th day of November, 2017

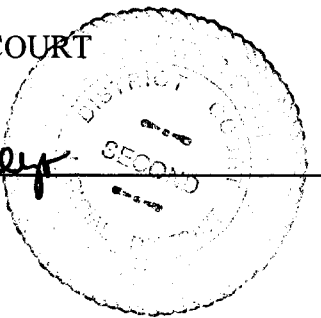
E. Clayne Tyler
Prosecuting Attorney
Email

Zachary Battles
Attorney for Defendant
Email

CARRIE BIRD
CLERK OF THE COURT

By: _____

Deputy



Case No. CR2016-0951
Filed 12/4/2017
at 9:00 o'clock
C. Bivd
Bo

Zachary A. Battles
Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83501
Telephone: (208) 746-7060
Fax: (208) 746-2660
Idaho State Bar # 9554

Attorney for Defendant/Appellant

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,	)	Case No. CR 2016-00951
)	
Plaintiff/Respondent,)	
)	
vs.	)	NOTICE OF APPEAL
)	
Gary C. Partee,)	
)	
Defendant/Appellant.)	
)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND ITS ATTORNEYS, E. CLAYNE TYLER, POST OFFICE BOX 2627, OROFINO, IDAHO 83544, AND LAWRENCE G. WASDEN, ATTORNEY GENERAL, POST OFFICE BOX 83720, BOISE, IDAHO 83720-0010, AND TO THE CLERK OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant, Gary C. Partee, appeals against the above named respondent to the Idaho Supreme Court from the Judgment of Conviction - Retained Jurisdiction entered in the above-entitled matter on the 28th day of November, 2017, Honorable Judge Gregory FitzMaurice presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the Judgment described in paragraph 1 above is appealable pursuant to Idaho Appellate Rules 11(c) (4), (9).

3. A preliminary statement of the issue which the appellant may assert on appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.

a. That the defendant's sentence was excessive.

4. Is a reporter's transcript requested at this time? No.

5. The appellant requests the following documents to be included in the Clerk's record in addition to those automatically included under Rule 28, I.A.R.: The presentence report and any updates and reports from the Idaho Board of Corrections.

6. I certify:

a. That a copy of this notice of appeal has been served on the court reporter.

b. That the appellant is exempt from paying the estimated transcript fee because appellant is indigent, without funds, and the undersigned counsel has been appointed to represent the defendant.

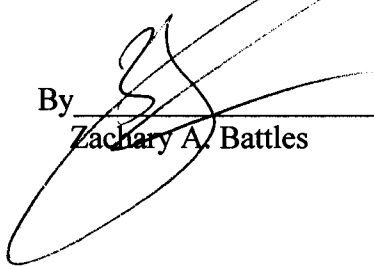
c. That the appellant is exempt from paying the estimated fee for the preparation of the record because appellant is indigent, without funds, and the undersigned counsel has been appointed to represent the defendant.

d. That appellant is exempt from paying the appellant filing fee because appellant is indigent, without funds, and the undersigned counsel has been appointed to represent the defendant.

e. That service has been made upon all parties required to be served pursuant to Rule 20 and the Attorney General of the State of Idaho pursuant to Idaho Code Section 671401(1).

DATED this 25th day of November, 2017.

KWATE LAW OFFICES, PLLC
Attorney for Defendant/Appellant

By 
Zachary A. Battles

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of Dec, 2017, a true and correct copy of the foregoing instrument was:

☒ Mailed
☐ Faxed
☐ Hand Delivered
☐ Overnight mail

to the following:

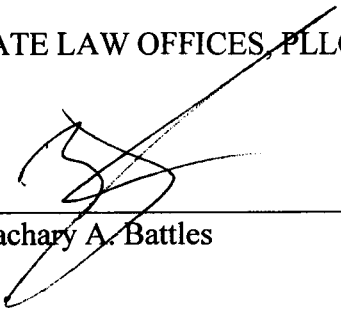
Clearwater County Prosecutor's Office
Post Office Box 2627
Orofino, Idaho 83501

Idaho State Appellate Public Defender's
Office
322 E Front Street, Suite 570
Boise, Idaho 83702

Lawrence Wasden
Attorney General
Post Office Box 83720
Boise, Idaho 83720

KWATE LAW OFFICES, PLLC

By


Zachary A. Battles

Case No. CR2016-951
Filed 12/4/2017
at 10:00
by C. Bird
By BO

Zachary A. Battles
Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83501
Telephone: (208) 746-7060
Fax: (208) 746-2660
Idaho State Bar # 9554

Attorney For Defendant/Appellant

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,	)	Case No. CR 2016-00951
)	
Plaintiff/Respondent,)	
)	
vs.	)	MOTION TO WITHDRAW AND TO
	)	APPOINT STATE APPELLATE
Gary C. Partee,	)	PUBLIC DEFENDER
)	
Defendant/Appellant.)	
)	
)	

COMES NOW, Zachary A. Battles of Kwate Law Offices, PLLC, pursuant to Idaho Code § 19-870 (1)(b), and hereby moves the court for an order appointing the State Appellate Public Defender's Office to represent the Defendant/Appellant in all further appellate proceedings and allowing Kwate Law Offices, PLLC to withdraw as counsel of record.

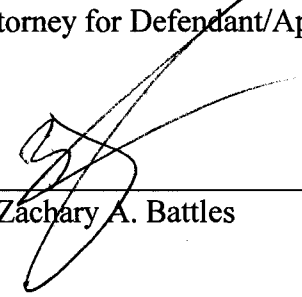
This motion is brought on the grounds and for the reasons that the Defendant/Appellant is currently being represented by the office of the Public Defender, Clearwater County; the State Appellate Public Defender's Office is required by statute to represent the Defendant/Appellant in

MOTION TO WITHDRAW AND
TO APPOINT STATE APPELLATE
PUBLIC DEFENDER

all felony appellate proceedings; and it is in the interest of justice, for them to do so in this case since the Defendant/Appellant is indigent, and any further proceedings on this case will be appeals.

DATED this 30th day of November, 2017.

KWATE LAW OFFICES, PLLC
Attorney for Defendant/Appellant

By 
Zachary A. Battles

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December, 2017, a true and correct copy of
the foregoing instrument was:

☒ Mailed
☐ Faxed
☐ Hand Delivered
☐ Overnight mail

to the following:

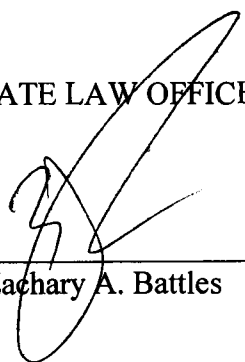
Clearwater County Prosecutor's Office
Post Office Box 2627
Orofino, Idaho 83544

Idaho State Appellate Public Defender's Office
322 E Front Street, Ste 570
Boise, Idaho 83702

Lawrence Wasden
Attorney General
Post Office Box 83720
Boise, Idaho 83720

KWATE LAW OFFICES, PLLC

By


Zachary A. Battles

FILED December 5, 2017 AT
12:10 P.M.
BY BO CLERK OF DISTRICT COURT

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

State of Idaho,	)	Case No. CR 2016-00951
)	
Plaintiff/Respondent,	)	ORDER ALLOWING WITHDRAWAL
	)	OF ATTORNEY AND APPOINTING
vs.	)	STATE APPELLANT PUBLIC
	)	DEFENDER'S OFFICE
Gary C. Partee,)	
)	
Defendant/Appellant.)	
)	
)	

The attorney for the Defendant/Appellant having moved the court for an order allowing him to withdraw from her representation of the Defendant/Appellant in said matter, and good cause appearing therefor;

IT IS HEREBY ORDERED that Zachary A. Battles and Kwater Law Offices, PLLC, and hereby is, allowed to withdraw as the attorney for the Defendant/Appellant in said matter.

IT IS HEREBY FURTHER ORDERED that the Idaho State Public Defender's Office is hereby ordered to represent the Defendant/Appellant in any proceedings for appeal in said matter.

DATED this 5th day of December, 2017.



Judge

ORDER ALLOWING WITHDRAWAL
OF ATTORNEY AND APPOINTING
STATE APPELLANT PUBLIC
DEFENDER'S OFFICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of December, 2017, I caused a true and correct copy of the foregoing to be delivered to the following:

Kwate Law Offices, PLLC
1502 G Street
Lewiston, Idaho 83401
Fax: 208-746-2660

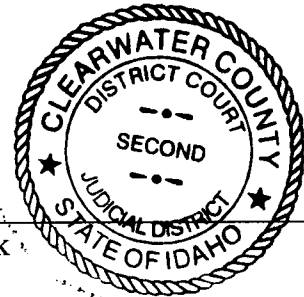
Idaho State Appellant Public Defender's Office
322 E Front Street, Ste 570
Boise, Idaho 83702

Clearwater County Prosecutor's Office
Post Office Box 2627
Orofino, Idaho 83544
(Court Basket)

Lawrence G. Wasden
Attorney General
Post Office Box 83720
Boise, Idaho 83720

Carrie Bird,
Clerk of the District Court

By Bali Darg
Deputy Clerk



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
E-mail: documents@sapd.state.id.us

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED: *[Signature]*
2018 FEB 27 PM 3:58
CLERK DISTRICT COURT

DEPUTY

FILED: 03/02/2018 AT
11:40 AM
BY: *[Signature]*

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR CLEARWATER COUNTY

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	CASE NO. CR 2016-951
)	
v.	)	S.C. DOCKET NO. 45635
)	
GARY C. PARTEE,	)	AMENDED
	)	NOTICE OF APPEAL
Defendant-Appellant.)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO AND THE PARTY'S ATTORNEYS, E. CLAYNE TYLER, CLEARWATER COUNTY, PROSECUTOR, P.O. BOX 2627, ORIFINO, ID 83544, 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 - Retained Jurisdiction entered in the above entitled action on the 28th day of November, 2017, the Honorable Gregory FitzMaurice, 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 is are appealable orders under and pursuant to Idaho Appellate Rules (I.A.R.) 11(c)(4)(1-9).

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

(a) Was there sufficient evidence to convict Appellant?

(b) That the defendant's sentence was excessive.

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

5. **Reporter's Transcript.** ~~Is a reporter's transcript requested at this time? No.~~ 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 Hearing held on July 5, 2017 (Court Reporter: Keith Evans, estimation of less than 100 pages is listed on the Register of Actions);

(b) Jury Trial held on July 23-24, 2017 to include the voir dire, opening statements, closing arguments, jury instruction conferences, any hearings regarding questions from the jury during deliberations, return of the verdict, polling of the jurors, and any argument on motion or objections (Court Reporter: Keith Evans, estimation of less than 200 pages is listed on the Register of Actions);

(c) Motion Hearing held October 3, 2017 (Court Reporter: Keith Evans, no estimation of pages is listed on the Register of Actions); and

(d) Sentencing Hearing held on November 7, 2017 (Court Reporter: Keith Evans, estimation of less than 100 pages is listed on the Register of Actions).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2), and all exhibits, recordings, and documents for I.A.R. 31. The Appellant requests the following documents to be included in the Clerk's Record, in addition to those automatically included under I.A.R. 28(b)(2) and I.A.R. 31: ~~The presentence report and any updates and reports from the Idaho Board of Corrections.~~

(a) Affidavit of Initial Determination of Probable Cause after Arrest Without Warrant filed November 30, 2016;

(b) Affidavit of Initial Determination of Probable Cause after Arrest Without Warrant filed November 30, 2016;

(c) Affidavit of Dodge, Eric for Restitution filed December 8, 2016;

(d) Transcript of Proceedings Abstract of Court Record and Docket filed December 9, 2016;

(e) State's Witness and Exhibit List filed February 10, 2017;

(f) Affidavit of E. Clayne Tyler for Restitution filed February 24, 2017;

(g) Amended State's Witness and Exhibit List filed August 3, 2017;

(h) State's Requested Jury Instructions filed August 7, 2017;

(i) Jury Panel filed August 15, 2017;

(j) Court Proposed Jury Instructions filed August 21, 2017;

(k) Peremptory Challenges filed August 23, 2017;

- (l) Jury Chart filed August 23, 2017;
- (m) Witness List filed August 23, 2017;
- (n) Exhibit List filed August 24, 2017;
- (o) Jury Instructions Give 1-23 filed August 24, 2017;
- (p) Affidavit of E. Clayne Tyler for Restitution - Idaho State Police Forensic Services filed August 31, 2017;
- (q) Affidavit of Frazier, Vince for Restitution filed September 21, 2017;
- (r) Affidavit in Support of Mental Health Evaluation at County Expense (I.C. 18-211) filed October 19, 2017;
- (s) Affidavit of Robert J. Kwate filed December 5, 2017;
- (t) Affidavit of Robert J. Kwate filed January 3, 2018; and
- (u) 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 maybe sought later by motion to the Idaho Supreme Court.

7. I certify:

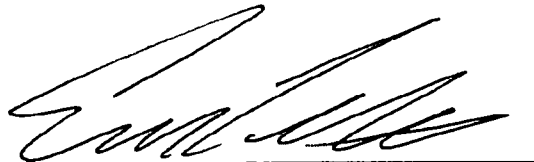
- (a) That a copy of this Amended Notice of Appeal has been served on the court reporter(s), Keith Evans;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent ~~without funds, and the undersigned counsel has been appointed to represent the defendant.~~ (I.C. §§ 31-3220, 31-3220A, I.A.R. 27(f));

(c) ~~The appellant is exempt from paying the appellant filing fee because appellant is indigent, without funds, and the undersigned counsel has been appointed to represent the defendant.~~ 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 appellant is exempt from paying the estimated transcript fee because appellant is indigent, without finds, and the undersigned counsel has been appointed to represent the defendant.~~ That arrangements have been made with Clearwater 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 27th day of February, 2017.



ERIK R. LEHTINEN
Chief, Appellate Unit

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 28th day of February, 2017, caused a true and correct of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

ZACHARY A BATTLES
KWATE LAW OFFICES PLLC
1502 G STREET
LEWISTON ID 83501

KEITH EVANS
K&K REPORTING
PO BOX 574
LEWISTON ID 83501

E CLAYNE TYLER
CLEARWATER COUNTY PROSECUTOR
PO BOX 2627
ORIFINO ID 83544

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



MARY ANN LARA
Administrative Assistant

ERL/mal

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	CASE NO. CR2016-951
)	
Respondent/Respondent,	)	DOCKET NO. #45635
)	
	)	NOTICE OF LODGING
	)	TRANSCRIPT AND
Vs.	)	CLERK'S RECORD
)	
GARY CARL PARTEE,)	
)	
Petitioner/Appellant.)	
_____)	

NOTICE IS HEREBY GIVEN that on May 17, 2018, the
Clerk's Record and Transcripts were lodged in the above-referenced appeal.

The parties shall have twenty-eight (28) days from the date of service of the appeal
record to file any objections, together with a Notice of Hearing, with the District Court. If
no objection is filed, the record will be deemed settled and will be filed with the Supreme
Court.

If there are multiple (Appellants) (Respondents), I will serve the record, and any
transcript, upon the parties upon receipt of a stipulation of the parties, or court order
Stating which party shall be served. If no stipulation or order is filed in seven (7) days, I

NOTICE OF LODGING TRANSCRIPT
AND CLERK'S RECORD - 1

will serve the party whose name appears first in the case title.

DATED this 21st day of May, 2018.

CARRIE BIRD, Clerk

By Barbie Deyo
Deputy



Cc: Clerk of the Court
Idaho Supreme Court
P.O. Box 83720
Boise, ID 83720-0101

NOTICE OF LODGING TRANSCRIPT
AND CLERK'S RECORD - 2

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,)	
)	
Respondents-Respondents,	)	SUPREME COURT NO. 45635
)	
v.	)	CERTIFICATE TO RECORD
)	
GARY CARL PARTEE,)	
)	
Petitioner-Appellant.)	
)	

I, Barbie Deyo, Deputy Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for the County of Clearwater, do hereby certify that the above foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsels.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 4TH day of December, 2017.

CARRIE BIRD, Clerk

By Barbie Deyo
Deputy Clerk



CERTIFICATE TO RECORD

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CLEARWATER

STATE OF IDAHO,	)	CR2016-951
)	
Respondents-Respondents,	)	SUPREME COURT NO. 45635
)	
V.	)	CERTIFICATE OF SERVICE
)	
GARY CARL PARTEE,)	
)	
Petitioner-Appellant.)	

I, Barbie Deyo, Deputy Clerk of the District Court of the
Second Judicial District of the State of Idaho, in and for the
County of Clearwater, do hereby certify that copies of the
Clerk's Record were -mailed to Lawrence G. Wasden, Attorney
General, P.O. Box 83720, Boise, Idaho 83720-0010 and Eric D.
Frederickson, State Appellate Public Defender, 322 E. Front
Street, Ste. 570, Boise, Idaho, 83702 this 21st day of
May, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
the seal of the said Court this 21st day of May,
2018.

CARRIE BIRD, Clerk

By Barbie Deyo
Deputy

