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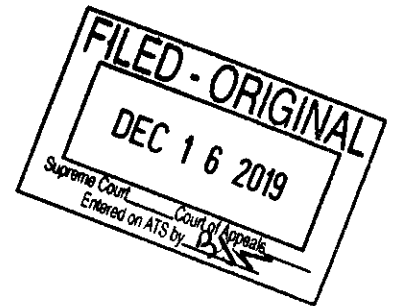
DEC 16 2019

SUPREME COURT  
COURT OF APPEALS

IN THE SUPREME COURT OF THE STATE OF IDAHO

DAN GOODRICK, )  
 Plaintiff/Appellant, )  
 vs. )  
 DEBBIE FIELD, et.al., )  
 Defendants/Appellees. )  
 \_\_\_\_\_ )

Docket No. 47536-2019  
 U.S. District Court, Idaho  
 Case No. 1:19-cv-00088-BLW



\_\_\_\_\_  
 APPELLANT'S OPENING BRIEF  
 IN PROPRIA PERSONA  
 \_\_\_\_\_

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## S T A T E M E N T O F J U R I S D I C T I O N

1. This Court had jurisdiction conferred upon it by Order of the U.S. District Court for Idaho on October 31, 2019 Certifying a Question of Law.

2. This Court has further jurisdiction under Idaho Appellate Rule 12.3(a).

## S T A T E M E N T O F I S S U E S

There is one issue before this Court that has been broken down into a ~~two-part~~ question concerning Idaho Code §§ 20-209(1). It is only this subsection that is relevant to this matter and all other subsections are irrelevant.

(a) Does Idaho Code §§ 20-209(1) require the Board of Correction to provide employment to all prisoners ?

(b) What is the minimum the Board must do to implement the statute mandate ?

## S T A T E M E N T O F T H E C A S E

This is a federal civil rights case pursuant to 42 U.S.C. § 1983 filed in U.S. District Court in Boise, Idaho. Appellant in his Complaint presented a unique and novel question that has never been addressed by the Idaho Supreme Court. Appellant alleged that he as well as all prisoners confined in Idaho correctional facilities under the care, custody, and control of the Idaho Board of Correction are to be employed (paying jobs) while they are imprisoned. Appellant submits that Idaho Code §§ 20-209(1) mandates such

employment and, that the three (3) member Board of Correction is commanded by the above-statute to provide employment (paying jobs) to ALL prisoners confined within IDOC correctional facilities.

The U.S. District Court in Boise, Idaho sent this case to this Court with an Order Certifying a Question of Law.

### S U M M A R Y A R G U M E N T

The U.S. District Court has never conducted an Initial Review Order in this case as it was required to do under 28 U.S. C § 1915 and 28 U.S.C. § 1915(a). As such, Appellees have yet to be served with a copy of the Complaint and, by law, until they are served they are not proper parties to this action. Appellant solely states this to create a record for an appeal in the event this matter has to be taken to the Ninth Circuit Court of Appeals.

The nexus of Appellant's Complaint revolves around the mandatory language of Idaho Code §§ 20-209(1). This statute since 1947 has and continues to command the three (3) member Idaho Board of Correction by its mandatory language to provide ALL prisoners that are under their care, custody, and control and confined in Idaho Correctional facilities with employment (paying jobs). The language of Idaho Code 20-209(1) is plain, clear, and unambiguous by the use of the mandatory word, "SHALL". Idaho Code §§ 20-209(1) succinctly states in pertinent part that:

(1) The state Board of Correction. . . SHALL PROVIDE for the. . . EMPLOYMENT OF ALL PRISONERS NOW AND HEREINAFTER COMMITTED TO ITS CUSTODY.

For decades the Idaho Supreme Court has held that the word

"SHALL" is the language of command. The Idaho Supreme Court has consistently applied the rule of statutory construction that the word "SHALL" connotes a mandatory act.

The statutory provisions of Idaho Code §§ 20-209(1) decrees and mandates in its plain, clear, and unambiguous language that the Board of Correction "SHALL" provide for the employment of ALL prisoners now and hereinafter committed.

Clearly subsection (1) of Idaho Code §§ 20-209 that has been in full force and effect since 1947 imposed and continues to impose a standard upon the three (3) member Board of Correction that they were and are obligated to follow and carry out to the letter of the law but yet, have knowingly and willingly ignored and refused to do so thus violating the law and their oath of office.

Notably, Idaho Code §§ 20-209(1) with its mandatory language leaves "no wiggle-room" or defense for Appellees. The language is mandatory, a command and meant to be carried out to the letter of the law as the language sets a certain course of action to be followed and implemented by the Board Of Correction and predicts a certain outcome by such course of action.

The Legislative history of Idaho requires Appellees to provide employment (paying jobs) to ALL prisoners **NOW** and **HEREINAFTER** committed.

It is axiomatic that the three (3) member Board of Correction had and continues to have since 1947 a legal and fiduciary duty and obligation to provide employment to ALL prisoners while they are confined in IDOC facilities. They have refused to do so and



to continue to knowingly, willingly and blatantly violate the law of which they took an oath to uphold.

## A R G U M E N T

### I.

**DOES IDAHO CODE 20-209(1) REQUIRE THE BOARD OF CORRECTION TO PROVIDE EMPLOYMENT TO ALL PRISONERS ?**

The question put to this Court is a "no-brainer" as the mandatory language speaks volumes as to its intent and pertaining to the employment of ALL prisoners. Idaho Code §§ 20-209(1) succinctly states in pertinent part that:

The state Board of Correction. . . **SHALL PROVIDE** for provide. . . **EMPLOYMENT OF ALL PRISONERS** NOW AND **HEREINAFTER COMMITTED.**

Statutory interpretation **MUST** begin with an analysis of the plain language of a statute and of its legislative history. See: Blum v. Stenson, 465 U.S. 886, 893 (1984); Andrus v. Allard, 444 U.S. 51 (1979).

Of equal importance, Courts have held that when a statute is plain, clear, and unadmbiguous, it speaks for itself and must be given the interpretation that the language implies. Satterfield v. Simon & Schuster, Inc., 569 F.3d 946, 980 (9th Cir. 2009); citing, McDonald v. Sun Oil, Inc., 548 F.3d 774, 780 (9th Cir. 2008).

When the language if unambiguous, the Court's inquiry begins and ends witht he statutory test. Id. McDonald, 548 F.3d at 780. See: U.S. v. Graf, 610 F.3d 1148, 1166 (9th Cir. 2010).

## II.

### WHAT IS THE MINIMUM THE BOARD MUST DO TO IMPLEMENT THE STATUTE'S MANDATE ?

This statute, Idaho Code §§ 20-209(1) is silent as to any minimum the Board of Correction must do to implement the statute's mandate. As seen by its mandatory language, Idaho Code §§ 20-209(1) states in relevant that the Board of Correction **MUST** provide for the employment of **ALL** prisoners now and hereinafter committed and this has been in full force and effect since 1947. The language is plain, clear, and unambiguous. There is no "bare minimum" that the Board must meet but, the Board of Correction is to provide for the employment of all prisoners committed now and hereinafter to its care; nothing less. This employment (paying jobs) is to be afforded each and every prisoner incarcerated in an IDOC facility as she is confined and under the care, custody, and control of the Idaho Board of Correction.

This Court has held that when a statute is plain, clear, and unambiguous, it speaks for itself and must be given the interpretation that the language implies. Moon v. Investment Board, 97 Idaho 595 (1972); State v. Jonasson, 78 Idaho 205 (1956). See also: Walker v. Hensley Trucking, 107 Idaho 572 (1984); State v. Moore, 111 Idaho 584 (Ct. App. 1986).

As a matter of law, the Idaho Supreme Court has held that the word "**SHALL**" is mandatory and not discretionary. State v. Lopez, 100 Idaho at 102; Hollingsworth v. Koelsch, 76 Idaho 203 (1955); Munroe v. Sullivan Mining Co., 69 Idaho 348 (1949).

Under Art. II § 1; Art. III § 1 & 15 and Art. V § 2 & 13 of the Idaho Constitution, neither the Idaho Supreme Court or any Court in the state of Idaho can change or rewrite the law as that is solely the province of the Idaho Legislature to make the laws and the duty of the Court to construe them and, if a law as construed by the Court, is to be changed, that is a legislative, not a judicial function. See: In the Matter: The Tax Appeal of Roman Catholic Diocese of Boise, 93.5 ISCR 230; Curtis v. Firth, 93.6 ISCR at 327. See also: State v. Lindquist, 99 Idaho 766 (1979); Mead v. Arnell, 117 Idaho 660 (1999).

The **SOLE FUNCTION** of the Court is to enforce the terms of the statute. Sherwood v. Carter, 119 Idaho 246 (1991); Sweeny v. Otter, 119 Idaho 35 (1991). Simply put, Idaho courts cannot change or rewrite the law as that is entirely the responsibility of the Idaho Legislature. Mead supra.

Statutes give fair warning to a person of common intelligence that certain acts are not permissible and violate the law. State v. Dolby, 124 Idaho 271 (Ct. App. 1993); IDK v. Clark County, 836 F.2d 1185 (1988). **JUDICIAL NOTICE** is requested as this statute, Idaho Code §§ 20-209(1) has been in full force and effect since 1947 and the Board of Correction and their colleagues have refused to comply with the law and mandates thereof.

It should be noted that higher ranking officials are held to a higher standard of legal knowledge than their subordinates. See: Williams v. Goord, 142 F.Supp. 2d 416, 430 (S.D.N.Y. 2001).


C O N C L U S I O N

IN CONCLUSION, Appellees have no defense as they have knowingly willingly and blatantly violated the mandates of Idaho Code §§ 20-209(1) since 1947 to the present time and have no defense or excuse as they have been "on notice" for all of these years of their legal and fiduciary duty imposed upon them law.

Idaho Code §§ 20-209(1) is plain, clear, and unambiguous with its mandatory language commanding a specific course of action while predicting a certain outcome. Simply put, ALL prisoners when committed to the IDOC under the care, custody, and control of the Board of Correction **MUST** be employed (paying job) while they are incarcerated in an Idaho correctional facility.

The statute, Idaho Code §§ 20-209(1) in its mandatory and commanding language speaks for itself. Appellees have no defense or excuse for violating the law and this Court cannot lawfully deviate from its mandates. There is no "minimum" implementing by the Board in this statute. They must provide employment for ALL PRISONERS while they are incarcerated.

Dated this 12<sup>th</sup> day of  
December, 2019.

  
\_\_\_\_\_  
Dan Goodrick, Appellant

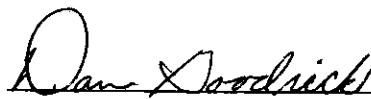
C E R T I F I C A T E O F S E R V I C E

I HEREBY CERTIFY THAT, on this 12<sup>th</sup> day of December, 2019 I caused the foregoing, APPELLANT'S OPENING BRIEF TO BE SERVED UPON THE BELOW PARTIES BY GIVING THE SAME TO THE ISCI paralegal to make appropriate copies and mail by U.S. Mail, First Class postage to:

Clerk of the Courts  
Idaho Supreme Court  
P.O. Box 83720  
Boise, Idaho 83720-0101

Mark Kubinski  
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U.S. District Court  
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\_\_\_\_\_  
Dan Goodrick, Appellant