

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. _____
)	
JOHN R.K. HOWARD	)	CRIMINAL COMPLAINT
DOB: [REDACTED])	
SSN: [REDACTED])	
)	
Defendant.)	
_____)	

PERSONALLY APPEARED before me this ____ day of _____ 2016, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608** as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by

kicking a coat hanger further inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.

BRENDA M. BAUGES
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this ____ day of _____ 2016.

MAGISTRATE

COPY



Office Of The
LINCOLN COUNTY PROSECUTING ATTORNEY

Post Office Drawer 860
Shoshone, Idaho 83352

Telephone: (208) 886-2454

Fax: (208) 886-9824

E. Scott Paul
Prosecuting Attorney
October 28, 2015

Lawrence Wasden
Idaho Attorney General
700 West Jefferson Street
Boise, ID 83720-0010

Dear Mr. Wasden,

Please find enclosed a supplement report of a crime committed in Lincoln County, Idaho, which the Lincoln County Sheriff's office was just made aware of.

I am writing to ask that the office of the Idaho Attorney General investigate and if necessary prosecute any and all criminal offenders. I have attached a summarized report and at your request can provide you more information.

The Lincoln County Sheriff's Office and to a great extent, my office are conflicted due to personal and professional relationships within the school administration and the teachers who may be witnesses and or possible defendants.

The conflicts are one reason for my request; the other is bases on my conversation with the responding officer. Deputy Denning tells me that the victim, who is an African American, alleges that the couches and assailants, who are Caucasian and Hispanic, would call him racial names such as "watermelon", "fried chicken", "kool-aid", etc. Both Sheriff Ellis and I are very concerned that the racial nature of how the victim was treated coincides with the nature of the crime and requires a disinterested investigation and possible prosecution to insure full accountability by each person involved with this horrible crime.

If I may provide you with any further information or answer any questions regarding this request, please contact me at my office number above or call me on my cell phone, [REDACTED]

I look forward to hearing from you soon.

Sincerely,

E. Scott Paul

E. Scott Paul
Lincoln County Prosecutor

Cc: Lincoln County Sheriff, Kevin Ellis

RR000391



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

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OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

November 5, 2015

E. Scott Paul
Lincoln County Prosecutor
P.O. Box 860
Shoshone, ID 83352

Re: Agreement on Prosecutorial/Investigative Assistance Request.
Date of Request: November 4, 2015
Date of Acceptance: November 5, 2015
Nature of Assistance Requested: Prosecutorial Review and Investigative Assistance
Name of Defendant/Matter: Juvenile Matter as discussed
in telephone conference November 4, 2015
Contact: E. Scott Paul, Lincoln County Prosecutor
Agency: Lincoln County Prosecutor's Office

Dear Mr. Paul:

Pursuant to the terms of Paragraph A(2)(b) of the Memorandum of Understanding Regarding Prosecutorial Assistance dated January 26, 2004 between the Attorney General (AG) and the Idaho Prosecuting Attorney's Association this letter of agreement is intended to memorialize our joint understandings regarding the request for assistance that the AG received from your office (County) on the above case/matter.

The nature and scope of the assistance requested by the County and which the AG has agreed to provide are as follows:

Nature of the Request:

- ☒ Providing prosecutorial assistance due to a conflict of interest.
- ☐ Providing prosecutorial assistance due to other reasons without local prosecutor involvement.
- ☐ Providing prosecutorial assistance with local prosecutor involvement.
- ☐ Providing only investigative assistance.
- ☐ Providing investigative assistance and, if determined by the investigation to be warranted, prosecutorial assistance without the involvement of the local prosecutor.

Scope of the Assistance to be provided:

Review and investigate incident reports, make the decision to file charges or decline prosecution, handle matter through final resolution in trial court.

The terms and conditions of the assistance to be provided are as follows:

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000392

Y Conflict of Interest Case:

The AG will assume full responsibility and authority for the case. All decisions regarding the case shall be the responsibility of the AG. The County Prosecutor will file a petition under the provisions of Idaho Code §31-2603 to appoint the Attorney General or his designee to handle the case.

A proposed petition and order for this offices appointment is enclosed.

_____ Prosecutorial/Investigative Assistance Case without Local Prosecutor Involvement:

The AG will assume full responsibility and authority for the case. All decisions regarding the case shall be the responsibility of the AG. The County Prosecutor will file an appropriate motion under the provisions of Idaho Code §31-2603 to allow the AG or his designee to appear in the case, or the AG will file a notice of appearance pursuant to Idaho Code § 67-1401(7).

_____ Prosecutorial/Investigative Assistance Case with Local Prosecutor Involvement:

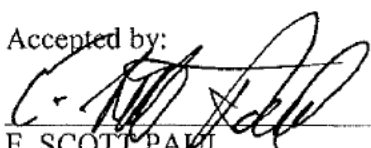
The County is seeking prosecutorial assistance or investigative assistance and the () AG () County Prosecutor will remain in control of the prosecution of the case and responsible for case management. The County Prosecutor will file a motion, if appropriate, under the provisions of Idaho Code § 31-2603 to allow the AG or his designee to appear in the case or the AG will file a notice of appearance pursuant to Idaho Code § 67-1401(7). The AG's responsibility and authority in the case will be as follows:

Payment of Costs:

In all cases the County will pay the out of pocket expenses incurred by the AG's Office. Out of pocket expenses include: all costs for witnesses, expert witnesses, transcription services, subpoenas, and any lodging expenses the AG's Office incurs in the course of the case; all expenses for travel other than in state vehicles, whether airfare or mileage reimbursement; and, a per diem reimbursement for meals. (The AG's Office will seek restitution for expenses when appropriate.) The AG will pay the salaries of all AG personnel involved in providing the assistance. All payments made to the AG's office shall go through Trudy Jackson, Business Manager, Office of Attorney General, P.O. Box 83720, Boise, Idaho 83720-0010.

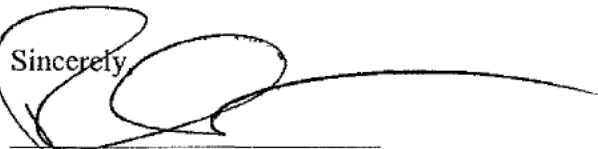
If your understanding, or the understanding of the County Commissioners, is different than that expressed in this letter, please let me know immediately. If at any time you or the Commissioners are dissatisfied with our office's involvement in this case, please do not hesitate to contact me immediately. We look forward to working with you on this case.

Accepted by:


E. SCOTT PAUL
Prosecuting Attorney
Lincoln County

Date: 11/10/15

Sincerely,


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

PRP: fn

cc: Trudy Jackson, Office of Attorney General

R. KEITH ROARK

HAILEY
515 SOUTH 1ST AVENUE
HAILEY, IDAHO 83333
TEL: (208) 788-2427
FAX: (208) 788-3918

RECEIVED

APR 06 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

April 4, 2016

Ms. Brenda Bauges
Dep. Attorney General
Office of the Idaho Attorney General
P.O. Box 83720
Boise, ID 83702-0010

Re: A [REDACTED] D [REDACTED] A [REDACTED] R [REDACTED] M [REDACTED]

Dear Ms. Bauges:

I represent the above entitled individual who, as you know, is the victim in Lincoln County Criminal Case No. CR-2016-0000216, ***State of Idaho v. John R.K. Howard***. My co-counsel is E. Lee Schlender of Mt. Home, Idaho.

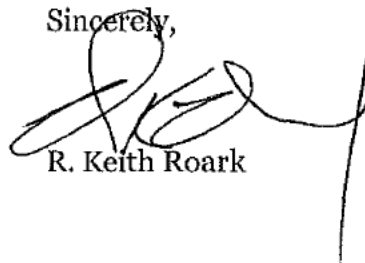
Mr. Schlender and I are preparing a tort claim/civil action against various individuals and entities for damages suffered by our client in the sexual assault of October 22, 2015 and other related and unrelated incidents. In order for us to properly evaluate our client's claims and identify those responsible for the damages he has suffered, we need to have all police reports, witness statements, interview transcripts, test results, photographs, drawings, documents and associated materials related to the incident of October 22, 2016.

We believe our client has a clear right to these requested materials pursuant to the Idaho Const. Art. I, § 22 and I.C. § 19-5306. We do not intend to nor will we share or otherwise disseminate any of the requested materials prior to the completion of such criminal and or juvenile cases as you may have filed or plan to file in the immediate

To: Brenda Bauges
April 4, 2016
Page 2

future. The requested materials should be mailed to my letterhead address. Please feel free to contact me regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Keith Roark', with a long vertical line extending downwards from the end of the signature.

R. Keith Roark

cc: E. Lee Schelender
Client



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

April 6, 2016

R. Keith Roark
The Roark Law Firm, LLP
515 South 1st Ave.
Hailey, ID 83333

Re: M[REDACTED] - Records Request

Dear Mr. Roark,

On April 6, 2016, we received your records request for the following materials:

"all police reports, witness statements, interview transcripts, test results, photographs, drawings, documents, and associated materials related to the incident of October 22, 2016."

You cite Idaho Const. Art. I, § 22 and I.C. § 19-5306 as authority for your request. However, neither Idaho Const. Art. I, § 22 nor I.C. § 19-5306 provides the victim a right to these materials. To the extent our office interprets your request as a public records request, this office is still only able to present you with limited information at this time due to the ongoing nature of the criminal case at issue.

Interpreting your request as a public records request, such request was reviewed by a Deputy Attorney General. Your request is granted in part and denied in part.

Your request is granted to the extent of the enclosed documents. It is denied to the extent that these documents have been redacted pursuant to Idaho Code § 74-105(1) and Idaho Code § 74-124(1)(c), which provide that active investigatory records are exempt from disclosure where disclosure would result in an unwarranted invasion of personal privacy.

Your request is also denied to the extent that other documents have not been provided. These documents are part of an active criminal case and are exempt from disclosure under Idaho Code § 74-105(1) and Idaho Code § 74-124(1)(a)-(b), which provide that active investigatory records are exempt from disclosure where disclosure would interfere with an enforcement proceeding or deprive a person of a right to a fair trial.

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

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To the extent this response constitutes a partial denial of your request, your sole remedy is set forth in Idaho Code § 74-115, pursuant to which you have the right to appeal by filing a petition in the Fourth Judicial District of Idaho within 180 calendar days of the date of mailing of this notice.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brenda Bauges", enclosed within a circular, loopy flourish.

Brenda Bauges
Deputy Attorney General
Criminal Law Division, Special Prosecutions Unit

Enclosures



ANDERSON, JULIAN & HULL LLP

Attorneys and Counselors at Law

Robert A. Anderson
Brian K. Julian
Alan K. Hull
Chris H. Hansen
Phillip J. Collaer
Michael P. Stefanic
Amy G. White
Mark D. Sebastian
Matthew O. Pappas

Rachael M. O'Bar
Robert A. Mills
Bret A. Walther
Yvonne A. Dunbar
Tracy J. Crane
Andrea J. Fontaine
Scott W. Marotz
Anne S. Magnelli
M. Blake Hill

C. W. Moore Plaza
250 South Fifth Street, Suite 700
Post Office Box 7426
Boise, Idaho 83707-7426
Telephone: (208)344-5800
Facsimile: (208)344-5510

e-mail: [REDACTED]
Web Site: www.ajhlaw.com
With Attorneys Licensed to Practice in
ID, CO, MT, OR, UT and WA

Wes L. Scrivner, Of Counsel

May 31, 2016

RECEIVED

JUN - 1 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

Michael J. Wood
Attorney at Law
184 Gooding Street West
Twin Falls, ID 83301

Brad Calbo
Calbo & DePew, PLLC
P. O. Box 9
Jerome, ID 83338

Re: M [REDACTED] v. Dietrich School District
AJH File No.: 2321-196

Dear Mr. Wood and Mr. Calbo:

Enclosed please find a copy of an audio recording which was provided to me by my client, Mike Torgerson, the Head Football Coach at Dietrich High School. The audio recording involves a conversation between Coach Torgerson, Assistant Coach Rick Astle (who is also my client), A [REDACTED] M [REDACTED], and three high school colleagues of Mr. M [REDACTED].

This audio recording was taken at the home of Rick Astle on the evening of Thursday, May 19, 2016. The contents of the audio recording speak for themselves.

Copies of this recording are being forwarded to Brenda Bauges with the Idaho Attorney General's Office as well as Keith Roark and Lee Schlender, who have filed a civil action against the District, its trustees, the District's lead administrators, as well as all the high school football coaches.


If there is any wish to interview any of my clients in connection with this recorded conversation, please coordinate such interviews through this office.

RR000398

May 31, 2016
Page 2

We thank you for your attention to the above. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. Julian", with a stylized flourish at the end.

Brian K. Julian

BKJ:dw
Enclosure

cc: Brenda Bauges, w/ encl.
Keith Roark, w. encl.
Lee Schlender, w. encl.

RR000399



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

June 1, 2016

Aaron Lucoff
United States Attorney's Office
800 Park Blvd., Ste. 600
Boise, ID 83712-9903

Re: Criminal Case Reports

Dear Mr. Lucoff,

Enclosed you will find reports by Office of the Attorney General (OAG) investigators relevant to the Dietrich criminal matters discussed, per your request. Also enclosed are charging documents in the OAG's criminal cases against John Howard and T■■■■ W■■■. Should you wish for further documentation, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brenda Bauges", is written over a circular blue ink stamp. The stamp contains the text "Brenda Bauges" in a stylized font.

Brenda Bauges
Deputy Attorney General
Criminal Law Division, Special Prosecutions Unit

Enclosure

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: ■■■■ ■■■■ FAX: ■■■■ ■■■■
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000400



NAACP
TRI-STATE CONFERENCE OF BRANCHES
(IDAHO-NEVADA-UTAH)
P.O. BOX 26622
SALT LAKE CITY, UT 84126-0622
TELEPHONE: (801) 250-5088 FAX: (801) 250-5111
Email: jdwnaACP@att.net



Jeanetta Williams
President

July 6, 2016

Judge John Butler
111 W. B St.
Shoshone, ID 83352

Fax: (208) 886-2458

Honorable Judge Butler,

As President of the NAACP Tri-State Conference of Idaho, Nevada and Utah, I am writing on the cases of John T. [REDACTED] and Howard W. [REDACTED] vs. the State of Idaho. There has been media attention on the town of Dietrich, Idaho and the assault of rape by penetration of a foreign object by two White young men upon an African American teen. As a Civil Rights Organization founded in 1909 and involved in many cases throughout our history, we are requesting a Change of Venue. In this small town of approximately 5,300 people which is 96.4% White, we are very concerned of the makeup and bias of the juries. Within this small town, where the victim is African American, there is an extremely low percentage of African American living in Dietrich.

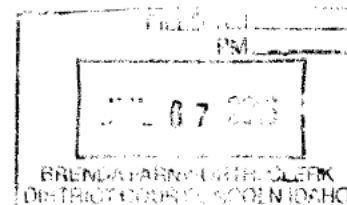
From Emmett Till, Rodney King and many others, there is a long history of juries acquitting White defendants charged with violence against African American victims. While we may not be able to root out all racial discrimination from the jury system, it is our belief that by moving the venue in this case will prove to be beneficial as it would constitute state action governed by the Constitution.

If there are immediate questions, I can be reached on my cell (801) [REDACTED]

Sincerely,

Jeanetta Williams
President, NAACP Tri-State Conference of Idaho, Nevada & Utah

Founded in 1909



RR000401



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

August 9, 2016

VIA FACSIMILE: [REDACTED]
St. Luke's Canyon View Behavioral Health Services
Attn: MEDICAL RECORDS
228 Shop Avenue West
Twin Falls, Idaho 83301

Re: Request for Medical Records – A [REDACTED] D [REDACTED] M [REDACTED]
DOB: [REDACTED]

Dear Sir or Madam:

Pursuant a phone conversation with Investigator Tony Pittz this date, this letter is to formally request a copy of the entire patient file for A [REDACTED] D [REDACTED] M [REDACTED] in conjunction with an ongoing prosecution being handled by our office. This request includes, but is not limited to, any and all records within your system, wherever stored, including paper, electronic, medical, billing, active, stored, and from all areas, including, without limitation, inpatient, outpatient, emergency room, radiology, laboratory, pathology, pharmacy, cardiology, physical therapy, neurology, etc., including any sent to you by doctors outside your system. This also includes, but is not limited to all chart notes, doctors notes, nurses notes, application for service, health history, x-rays, exam notes, treatment plans, prescriptions, lab orders, lab slips, delivery records (slips, invoices, shipping labels, etc...), third party referrals and records. It is my understanding that a signed release is already on file with your facility. If you have any questions, please do not hesitate to contact either myself or Deputy Attorney General Casey Hemmer at 208-332-3096.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Casey Hemmer".

Casey Hemmer
Deputy Attorney General

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000402

* * * COMMUNICATION RESULT REPORT (AUG. 9. 2016 3:50PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : AUG. 9. 2016 3:49PM

FILE MODE	OPTION	ADDRESS	RESULT	PAGE
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REASON FOR ERROR
 E-1) HANG UP OR LINE FAIL
 E-3) NO ANSWER

E-2) BUSY
 E-4) NO FACSIMILE CONNECTION



STATE OF IDAHO
 OFFICE OF THE ATTORNEY GENERAL
 LAWRENCE G. WARDEN

August 9, 2016

VIA FACSIMILE: 208-814-7940
 St. Luke's Canyon View Behavioral Health Services
 Attn: MEDICAL RECORDS
 228 Shop Avenue West
 Twin Falls, Idaho 83301

Re: Request for Medical Records -- A [REDACTED] D [REDACTED] M [REDACTED]
 DOB: [REDACTED]

Dear Sir or Madam:

Pursuant a phone conversation with Investigator Tony Pittz this date, this letter is to formally request a copy of the entire patient file for A [REDACTED] D [REDACTED] M [REDACTED] in conjunction with an ongoing prosecution being handled by our office. This request includes, but is not limited to, any and all records within your system, wherever stored, including paper, electronic, medical, billing, active, stored, and from all areas, including, without limitation, inpatient, outpatient, emergency room, radiology, laboratory, pathology, pharmacy, cardiology, physical therapy, neurology, etc., including any sent to you by doctors outside your system. This also includes, but is not limited to all chart notes, doctors notes, nurses notes, application for service, health history, x-rays, exam notes, treatment plans, prescriptions, lab orders, lab slips, delivery records (slips, invoices, shipping labels, etc...), third party referrals and records. It is my understanding that a signed release is already on file with your facility. If you have any questions, please do not hesitate to contact either myself or Deputy Attorney General Casey Hemmer at 208-332-3096.

Thank you for your assistance in this matter.

Sincerely,

Casey Hemmer
 Deputy Attorney General

Criminal Law Division
 P.O. Box 83720, Boise, Idaho 83720-0010
 Telephone: (208) 334-2400, FAX: (208) 864-8074
 Located at 700 W. State Street
 Joe R. Williams Building, 4th Floor

RR000403



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

November 7, 2016

E. Lee Schlender
SCHLENDER LAW OFFICES
2700 Holly Lynn Drive
Mountain Home, ID 83647

Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426

RE: A [REDACTED] M [REDACTED] v. Dietrich School District No. 314, *et al.*

Dear Sirs:

The Idaho Attorney General's office is in receipt of a subpoena for the files and documents generated and related to a criminal investigation regarding allegations raised by A [REDACTED] M [REDACTED] against A.H. (a juvenile), T.W. (a juvenile) and John Howard. Pursuant to that subpoena, enclosed, please find one (1) DVD containing the discovery materials requested.

Please contact me with any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "Casey Hemmer", is written over a horizontal line.

Casey Hemmer
Deputy Attorney General
Idaho Office of the Attorney General

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000404



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

December 1, 2016

E. Lee Schlender
SCHLENDER LAW OFFICES
2700 Holly Lynn Drive
Mountain Home, ID 83647

Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426

RE: A [REDACTED] M [REDACTED] v. Dietrich School District No. 314, *et al.*

Dear Sirs:

Enclosed, please find one (1) DVD containing the audio and video materials inadvertently left out of the previously provided discovery materials.

Please contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey Hemmer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Casey Hemmer
Deputy Attorney General
Idaho Office of the Attorney General

11/12

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

In the matter of an investigation re:
Dietrich School District

Case No. _____

**ORDER FOR APPOINTMENT OF
SPECIAL PROSECUTOR**

IT IS HEREBY ORDERED, AND THIS DOES ORDER, pursuant to I.C. §§ 31-2603 and 31-2604, that the Idaho Attorney General, or his designee, be appointed as Special Prosecutor throughout the duration of all further proceedings in this case, in that he/she is a suitable person to perform the duties required in investigating and prosecuting this case and he/she has agreed to serve as Special Prosecutor in this matter.

The Court further FINDS appointment of a Special Prosecutor is necessary and proper because

- X (a) there is a conflict of interest or appearance of impropriety prohibiting the Lincoln County Prosecuting Attorney from fulfilling ^{his} ~~her~~ duties, or
- (b) the Lincoln County Prosecuting Attorney seeks assistance in order to Utilize the unique expertise and additional resources of the Office of the Idaho Attorney General.

DATED this 12 day of November 2015.


District Court Judge

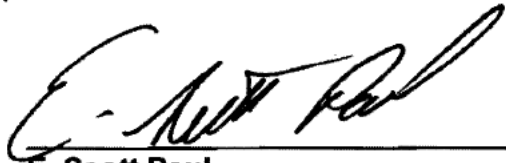
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

PETITION FOR APPOINTMENT OF SPECIAL PROSECUTOR

RR000407

4. I petition this Court to appoint the Idaho Attorney General, or his designee, as Special Prosecutor pursuant to I.C. §31-2603 throughout the duration of all further proceedings in this case.

DATED this 10 day of November 2015.



E. Scott Paul
Lincoln County Prosecuting Attorney

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. _____
)	
T [REDACTED] R [REDACTED] W [REDACTED],	)	SUMMONS
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETING TO:

T [REDACTED] R [REDACTED] W [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
DOB: [REDACTED]
SSN: [REDACTED]

YOU ARE HEREBY NOTIFIED that a Complaint has been filed against you in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Lincoln, State of Idaho, by the above-named Plaintiff. You are hereby commanded to appear on the _____ day of _____, 2016, before the Honorable _____ at _____ a.m./p.m. at the Lincoln County Courthouse, 111 West B Street, Shoshone, Idaho, to plead to and answer to a

charge made against you upon the Complaint of the Idaho Attorney General for violating Idaho Code Section 18-6608.

WITNESS my hand and seal of the District Court, Magistrate Division, this
____ day of _____, 2016.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Summons by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the _____ day of _____, 2016, in the County of _____.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. _____
)	
JOHN R.K. HOWARD,	)	ARREST WARRANT
)	
Defendant.)	
_____)	

Address: [REDACTED], [REDACTED], [REDACTED]			
DOB: [REDACTED]	SSN: [REDACTED]	Race:	
WT: 174 lbs	HT: 6'00"	EYES: Blue	HAIR: Brown

**TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE STATE
OF IDAHO:**

A **COMPLAINT UPON OATH** having been this day laid before me by Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, stating that the crime of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY**, has been committed, and accusing JOHN R.K. HOWARD thereof;

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above, and to bring him before me at my office in the County of Lincoln, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Lincoln County.

DATED This _____ day of March, 2016.

May be served:

Daytime or any public
place or at the Lincoln
County Jail _____

Magistrate Judge

Daytime or nighttime _____

Bond \$ _____

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing JOHN R.K. HOWARD into Court this _____ day of _____, 2016.

(Deputy Sheriff) (State Policeman)
(City Policeman)

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, JOHN R.K. HOWARD , having been brought before me under this Warrant, is committed for examination to the Sheriff of Lincoln County, Idaho, and is admitted to bail in the sum of \$_____, surety, cash or by undertaking of two (2) sufficient sureties, and is committed to the custody of the Sheriff of Lincoln County until such bail is given. This cause is continued for further appearance until the _____ day of _____, 2016.

Magistrate Judge

ORDER OF RELEASE

TO THE SHERIFF OF LINCOLN COUNTY, IDAHO:

YOU ARE HEREBY ORDERED to release the Defendant from your custody.

DATED: _____

Judge

NCIC ENTRY: (Additional Levels Inclusive)

- ☐ Idaho Only
- ☐ North West Shuttle (ID, WA, OR)
- ☐ Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO, AZ, NV)
- ☐ Nationwide

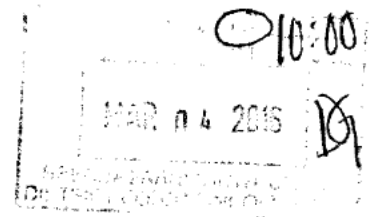
BY: _____

DATED: _____

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

CASE NO. CR-2016-214
CRIMINAL COMPLAINT

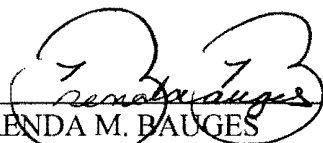
PERSONALLY APPEARED before me this 4 day of March 2016, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608** as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by

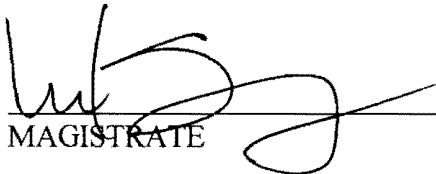
kicking a coat hanger further inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.


BREND A M. BAUGES
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this 4 day of March 2016.


MAGISTRATE

Brad Calbo, ISB No. 4929
Stacey DePew, ISB No. 7303
CALBO & DEPEW, PLLC
414 North Lincoln, Suite 5
P.O. Box 9
Jerome, Idaho 83338
Telephone: (208) 324-5431
Fax: (208) 324-5597

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN HOWARD,

Defendant.

) Case No. CR-2016-214

) **RESPONSE TO REQUEST FOR**
) **DISCOVERY AND INSPECTION**
) **AND NOTICE OF DEFENDANT'S**
) **INTENT TO REQUEST BOND**
) **REDUCTION AT PRELIMINARY**
) **HEARING**

COMES NOW, the Defendant, by and through his attorney and submits
the following Response to Request for Discovery:

1. The Defendant has no copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are intended to be produced as evidence at trial at this time.
2. The Defendant has no copy of photograph results or reports of physical or mental examinations, scientific tests of experiments made in connection with this case that the Defendant intends to provide as evidence at trial at this time.
3. The defense may call the Defendant in this action; Investigator for the Law Office of Stacey DePew in addition to those witnesses listed in the State's Response to Discovery and Supplemental Response to Discovery, if any. Defendant objects to the remainder of information requested as beyond the scope of permissible Discovery under I.C.R. 16.
4. That in the event the Defendant discovers additional evidence or witnesses to be called at trial, prior to and during trial, evidence will be subjected to inspection by the

RESPONSE TO REQUEST TO DISCOVERY - 1

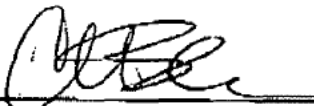
Prosecuting Attorney, and Defendant reserves the right to file Supplemental Responses with respect to any additional evidence or witnesses.

5. In response to the Prosecution's request for notice of alibi, the Defendant requests written notice of the exact location of the subject offense or offenses.

6. Further, please take note that counsel for the defendant will be requesting a substantial reduction in the bond currently set at the time and place currently set for the Preliminary Hearing in this matter. Please make sure to notify any and all necessary parties of the same.

DATED this 6th day of April, 2016.

CALBO & DEPEW, PLLC

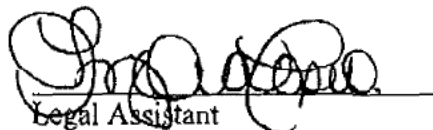


Brad Calbo
Stacey DePew

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY to the office of the Prosecuting Attorney on the 6th day of April, 2016 via Courthouse Box.

Lincoln County Prosecuting Attorney	<input type="checkbox"/> U.S. Mail
	<input type="checkbox"/> Hand-delivery
	<input checked="" type="checkbox"/> Fax
	<input type="checkbox"/> Courthouse Box


Legal Assistant

RESPONSE TO REQUEST TO DISCOVERY - 2

Attorney for Defendant

STATE OF IDAHO,

vs.

Defendant.

REQUEST FOR DISCOVERY AND INSPECTION

1. All materials or information within your possession or control, or which hereafter come into your possession or control, which tend to negate the guilt of the accused as to the offenses charged or which tend to reduce the punishment therefore. This request extends to all materials and information within the control of your staff and any investigators retained by you.

2. Any statements of the Defendant, either oral, written, or recorded, or copies thereof, within the possession and control of the State relevant to the defense or prosecution of this case.

1

3. Any statements of the State's witnesses, whether written, oral or recorded, having knowledge of relevant facts and whom may be called as witnesses at the trial of this matter.

4. Any written or recorded statements of confession, or copies thereof, made by the Defendant and any videotapes or movies of the Defendant while in custody and within the possession or control of the State, and also the substance of any relevant oral statement made by the Defendant, whether before or after arrest, to a peace officer, prosecuting attorney, or his agent.

5. A copy of Defendant's prior criminal record, if any.

6. All books, papers, buildings, places, or copies or portions thereof, and tangible objects including all photographs and papers which are in your possession or the possession of your investigator and staff or in your control which are material to the preparation of the defense and/or intended for use by you as evidence at trial and/or obtained from or belonging to the Defendant.

7. All reports or physical examinations made of the Defendant by any physician and the results of any scientific tests or experiments made in connection with this case, including blood alcohol, intoximeter or mobat analysis. If there are intoximeter or intoxilyzer tests, please produce all log sheets, certification of calibration, certificate of approval, certificate of analysis, and maintenance logs pertaining to the intoximeter or intoxilyzer machine which indicate that the instrument and solutions used have been approved by the Idaho State Police, Forensics Department. Please also produce the certificate of instruction of officer, operator certification and all other documents showing officer is certified to conduct such tests and is a breath testing specialist. If there are radar readings, please produce all readings, certification of calibration of machine, certificate of instruction for officer, and all other documents showing officer is qualified to conduct such readings.

8. All investigative records, police reports, notes and memoranda made by the police officer or investigator in connection with the investigation or prosecution of this case.

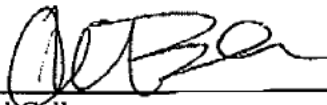
9. All other evidence relevant to the preparation of the defense, including a written list of the names and addresses of persons having knowledge of relevant facts who may be called as witnesses at trial, together with any record of felony convictions or such person; and all information on which the State intends to rely in the prosecution of this action. This request includes the names, addresses, telephone numbers and underlying facts and data forming an opinion by witnesses intended by the State to testify to an opinion, lay or expert, pursuant to Rules 701, 702, 703, 704 and 705 of the Idaho Rules of Evidence.

10. Defendant requests said books, documents and test samples, pursuant to Idaho Criminal Rule 16(b)(4) and (5), for the reason that they are material to the preparation of the defense. Said books, documents and test samples are within the possession, custody and control of the prosecuting attorney or are available to him by the exercise of due diligence.

The undersigned further requests permission to inspect and copy said information, evidence and materials at the Law Office of Calbo and DePew, 414 North Lincoln, Ste. 5, Jerome, Idaho.

DATED this 6th day of April, 2016.

CALBO & DEPEW, PLLC



Brad Calbo
Stacey DePew

↓

CERTIFICATE OF DELIVERY

The undersigned hereby certifies that on the 6th day of April, 2016, I served a true and correct copy of the foregoing document by the following method and addressed as follows:

Lincoln County Prosecuting Attorney

- ☐ U.S. Mail
- ☐ Hand-delivery
- ☒ Fax
- ☐ Courthouse Box


Legal Assistant

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	REQUEST FOR DISCOVERY
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

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

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the

possession, custody or control of Defendant, and which Defendant intends to introduce in evidence at trial or hearing.

(2) Reports of Examinations and Tests:

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

(3) Defense Witnesses:

The State requests Defendant to furnish the State with a list of names and addresses of witnesses Defendant intends to call at trial or hearing.

(4) Expert Witnesses:

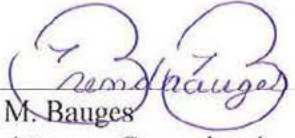
The State requests a written summary or report of any testimony that Defendant intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial or hearing. The summary provided must describe the witness's opinions, the facts and data for those opinions, and the witness's qualifications. In the event Defendant seeks to use an expert witness regarding mental health, the State specifically requests that such disclosure comply with the requirements of I.C. § 18-207.

(5) Request for Notice of Defense of Alibi:

Pursuant to I.C. § 19-519, the State hereby requests that Defendant state in writing, within ten (10) days after Defendant's arraignment, notice of his intention to offer a defense of alibi. Specifically, the State requests any specific place or places at which Defendant claims to have been

at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 8 day of April, 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	RESPONSE TO REQUEST
	)	FOR DISCOVERY
JOHN R.K. HOWARD ,)	
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

1. Documents Which Negate the Guilt of the accused:

Please see information provided in section 6 below.

2. Statements of the accused: Please see information provided in section 6 below.

3. **Statements by State's witnesses:** Statements of the State's witnesses are as noted in the materials provided in section 6 below.

4. **Substance of any relevant oral or written statements made by the Accused:** Statements of the accused are as noted in the materials provided in section 6.

The prosecution hereby incorporates by reference the statements made by or attributed to the accused at his arraignment, the grand jury proceedings, or any court proceedings in this case.

5. **Defendant's prior criminal record:** Please see information provided in section 6 below.

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused juvenile at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
IAR#1 Interview with A [REDACTED] M [REDACTED] 11.1.15	5	7
IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] F [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with F [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] F [REDACTED] 12-17-15	35	37
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	321	322
IAR#12-ADP ISP lab report on submitted evidence	323	324
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	43
Email 2	44	54

Description	Begin No.	End No.
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15 Part1.pdf	83	83
15-52972 Notes - 2016-03-15 Part2.pdf	84	84
15-52972 Notes - 2016-03-15 Part3.pdf	85	85
15-52972 Notes - 2016-03-15 Part4.pdf	86	86
15-52972 Notes - 2016-03-15 Part5.pdf	87	87
15-52972 Notes - 2016-03-15 Part6.pdf	88	88
15-52972 Notes - 2016-03-15 Part7.pdf	89	89
15-52972 Notes - 2016-03-15 Part8.pdf	90	90
15-52972 Notes - 2016-03-15 Part9.pdf	91	91
15-52972 Notes - 2016-03-15 Part10.pdf	92	92
15-52972 Notes - 2016-03-15 Part11.pdf	93	93
15-52972 Notes - 2016-03-15 Part12.pdf	94	94
15-52972 Notes - 2016-03-15 Part13.pdf	95	95
15-52972 Notes - 2016-03-15 Part14.pdf	96	96
15-52972 Notes - 2016-03-15 Part15.pdf	97	97
15-52972 Notes - 2016-03-15 Part16.pdf	98	98
15-52972 Notes - 2016-03-15 Part17.pdf	99	99
15-52972 Notes - 2016-03-15 Part18.pdf	100	100
15-52972 Notes - 2016-03-15 Part19.pdf	101	101
15-52972 Notes - 2016-03-15 Part20.pdf	102	102
15-52972 Notes - 2016-03-15 Part21.pdf	103	103
15-52972 Notes - 2016-03-15 Part22.pdf	104	104
15-52972 Notes - 2016-03-15 Part23.pdf	105	105
15-52972 Notes - 2016-03-15 Part24.pdf	106	106

Description	Begin No.	End No.
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Motion to Seal Search Warrant & Affidavit for Search Warrant	115	115
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search Warrant	117	118
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	119	120
Order Sealing Search Warrant and Affidavit for SW	121	122
Petition for Appointment of Special Prosecutor	123	124
Return of Search Warrant	125	126
Search Warrant	127	128
Howard:		
Arrest Warrant	129	131
Complaint	132	133
Motion to Seal PC Affidavit	134	135
Order to Seal PC Affidavit	136	136
Probable Cause Affidavit of Anthony Pitz	137	139
School:		
Blank Student Interview Form	140	140
Completed Student Interview Forms	141	148
Dietrich Football Coaches	149	149
Dietrich Football Team Roster	150	150
Dietrich High Blue Prints	151	151
Dietrich High Staff List	152	152
Dietrich High Student Roster	153	173
Dietrich School District Open Enrollment	174	178
Dietrich School District Policies	179	192
Fax to Dietrich School District Insurance Agent	193	194
Hardcastle Report of Initial Complaint	195	196
Hardcastle's Investigative Notes	197	265
Pictures of the Dietrich School boys' locker room	266	270
S ■■■■■ R ■■■■■ Statement	271	274
Shaw's Investigative Docs	275	293
Student Demographic Info	294	297
Student Discipline Files	298	303
Superintendent Hardcastle Investigation Overview	304	311
Witness Diagrams of Locker Room	312	320
Curriculum Vitae for Tomasine Quinney	325	327

Description	Begin No.	End No.
AUDIO:		
Interview with A ■■■ H ■■■ 12.17.15	328	328
Interview with A ■■■ P ■■■ 12.17.15	329	329
Interview with K ■■■ S ■■■ 12.17.15	330	330
Interview with K ■■■ P ■■■ 12.17.15	331	331
Interview with M ■■■ 11	332	332
Interview with S ■■■ V ■■■ 12.17.15	333	333
Interview with T ■■■ H ■■■ 12.17.15	334	335
sw at dietrich 11.10.15	336	336
VIDEOS:		
DietrichSchoolVid	337	337
M ■■■ A ■■■ 10-28-15 CARES	338	338

7. **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. The results of such testing can be found in IAR#12-ADP ISP lab report on submitted evidence disclosed with this response.

8. **Investigative records, police reports, notes and memoranda:** Please see information provided in section 6 above.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	■■■
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		■■■ ■■■ ■■■	■■■	■■■	■■■
H ■■■	O ■■■		■■■ ■■■ ■■■	■■■	■■■	■■■
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	■■■	■■■	■■■

Last	First	FIRM	Address	City	State	Zip
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
M [REDACTED]	Shelly		[REDACTED]	[REDACTED]		
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707-7426
W [REDACTED]	T [REDACTED]		[REDACTED]	[REDACTED]		

Expert Witnesses:

Last	First	FIRM	Address	City	State
Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
Tomasine Quinney	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

For expert opinions, qualifications, and underlying facts and data, as they relate to Tomasine Quinney, please see information provided in section 6 above. Expert opinions, qualifications, and underlying facts and data as they relate to Dr. Brian Johnson have been requested, and such information will be supplemented upon receipt. Also as to information relating to Dr. Brian Johnson, please see the State's Motion for Protection Order, filed concurrently herewith.

10. **Books, documents, and test samples:** Please see information provided in section 6 above.

In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16. The State also objects to the Defendant's request for discovery as outlined in the State's Motion for Protection Order, filed concurrently herewith.

DATED this 8 day of April 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

RECEIVED

COPY

LAWRENCE G. WARDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

APR 13 2016
OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,


Defendant.

Case No. CR-2016-214

DISCOVERY
RESPONSE TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery in part and objects in part. The State's specific objection is outlined in the State's Motion for Protective Order, filed concurrently herewith.

DATED this 8 day of April, 2016.

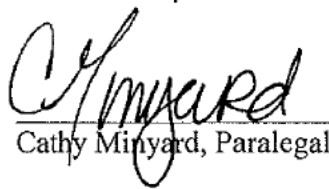

Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April, 2016, I caused to be served a true and correct copy of the foregoing Discovery Response to Court to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
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☐ Electronic Mail


Cathy Minyard, Paralegal

COPY

LAWRENCE G. WASDEN
Idaho Attorney General

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



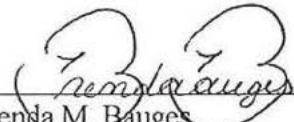
BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	NOTICE OF DISCOVERY
JOHN R.K. HOWARD,	)	REQUEST TO THE COURT
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has submitted its Request for Discovery to Defendant.

DATED this 8 day of April, 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of April, 2016, I caused to be served a true and correct copy of the foregoing Notice of Discovery Request to the Court to:

Brad Calbo
Calbo & DePew
P.O. Box 9
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

PAUL R. PANTHER
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	FIRST SUPPLEMENTAL
	)	RESPONSE TO REQUEST
JOHN R.K. HOWARD ,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following First Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

1. Documents Which Negate the Guilt of the accused:

Please see information provided in section 6 below.

2. Statements of the accused: Please see information provided in section 6 below.

3. **Statements by State's witnesses:** Statements of the State's witnesses are as noted in the materials provided in section 6 below.

4. **Substance of any relevant oral or written statements made by the Accused:** Statements of the accused are as noted in the materials provided in section 6.

The prosecution hereby incorporates by reference the statements made by or attributed to the accused at his arraignment, the grand jury proceedings, or any court proceedings in this case.

5. **Defendant's prior criminal record:** Please see information provided in section 6 below.

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused juvenile at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
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IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardeastle Interview	14	17
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IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	321	322
IAR#12-ADP ISP lab report on submitted evidence	323	324
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	43
Email 2	44	54

Description	Begin No.	End No.
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
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Misc. Notes	82	82
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15-52972 Notes - 2016-03-15 Part11.pdf	93	93
15-52972 Notes - 2016-03-15 Part12.pdf	94	94
15-52972 Notes - 2016-03-15 Part13.pdf	95	95
15-52972 Notes - 2016-03-15 Part14.pdf	96	96
15-52972 Notes - 2016-03-15 Part15.pdf	97	97
15-52972 Notes - 2016-03-15 Part16.pdf	98	98
15-52972 Notes - 2016-03-15 Part17.pdf	99	99
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15-52972 Notes - 2016-03-15 Part24.pdf	106	106

Description	Begin No.	End No.
Pleadings:		
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Affidavit for Search Warrant Docs (Marked Sealed)	111	114
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Search Warrant	127	128
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Arrest Warrant	129	131
Complaint	132	133
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Blank Student Interview Form	140	140
Completed Student Interview Forms	141	148
Dietrich Football Coaches	149	149
Dietrich Football Team Roster	150	150
Dietrich High Blue Prints	151	151
Dietrich High Staff List	152	152
Dietrich High Student Roster	153	173
Dietrich School District Open Enrollment	174	178
Dietrich School District Policies	179	192
Fax to Dietrich School District Insurance Agent	193	194
Hardcastle Report of Initial Complaint	195	196
Hardcastle's Investigative Notes	197	265
Pictures of the Dietrich School boys' locker room	266	270
S ■■■ R ■■■ Statement	271	274
Shaw's Investigative Docs	275	293
Student Demographic Info	294	297
Student Discipline Files	298	303
Superintendent Hardcastle Investigation Overview	304	311
Witness Diagrams of Locker Room	312	320
Curriculum Vitae for Tomasine Quinney	325	327

Description	Begin No.	End No.
AUDIO:		
Interview with A ■ H ■ 12.17.15	328	328
Interview with A ■ F ■ 12.17.15	329	329
Interview with K ■ S ■ 12.17.15	330	330
Interview with K ■ P ■ 12.17.15	331	331
Interview with M ■ 11	332	332
Interview with S ■ V ■ 12.17.15	333	333
Interview with T ■ H ■ 12.17.15	334	335
sw at dietrich 11.10.15	336	336
VIDEOS:		
DietrichSchoolVid	337	337
M ■ A ■ 10-28-15 CARES	338	338

7. **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. The results of such testing can be found in IAR#12-ADP ISP lab report on submitted evidence disclosed with this response.

8. **Investigative records, police reports, notes and memoranda:** Please see information provided in section 6 above.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Harcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		■ ■ ■ ■ ■ ■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■
H ■ ■ ■ ■	O ■ ■ ■ ■		■ ■ ■ ■ ■ ■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

Last	First	FIRM	Address	City	State	Zip
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707-7426
W [REDACTED]	T [REDACTED]		[REDACTED]			

Expert Witnesses:

Last	First	FIRM	Address	City	State
Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
Tomasine Quinney	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

For expert opinions, qualifications, and underlying facts and data, as they relate to Tomasine Quinney, please see information provided in section 6 above. Expert opinions, qualifications, and underlying facts and data as they relate to Dr. Brian Johnson have been requested, and such information will be supplemented upon receipt. Also as to information relating to Dr. Brian Johnson, please see the State's Motion for Protection Order, filed concurrently herewith.

10. **Books, documents, and test samples:** Please see information provided in section 6 above.

In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

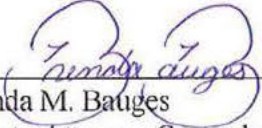
The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16. The State also objects to the Defendant's request for discovery as outlined in the State's Motion for Protection Order, filed concurrently herewith.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A [REDACTED] M [REDACTED] IEP	339	381
A [REDACTED] M [REDACTED] Medical Records	382	394
CARES Report	395	411

DATED this 19 day of April 2016.



Brenda M. Batiges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

APR 22 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,


Defendant.

Case No. CR-2016-214

FIRST SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery by hand-delivering three documents subject to the Court's Order on the State's Motion for Protective Order to the Defendant's counsel on April 15th.

DATED this 19 day of April, 2016.

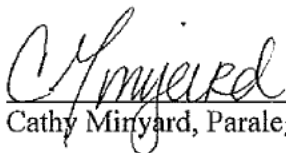

Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 2016, I caused to be served a true and correct copy of the foregoing Discovery Response to Court to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
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Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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Deputy Attorney General and
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	SECOND SUPPLEMENTAL
	)	RESPONSE TO REQUEST
JOHN R.K. HOWARD ,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Second Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

1. Documents Which Negate the Guilt of the accused:

Please see information provided in section 6 below.

2. Statements of the accused: Please see information provided in section 6 below.

3. **Statements by State's witnesses:** Statements of the State's witnesses are as noted in the materials provided in section 6 below.

4. **Substance of any relevant oral or written statements made by the Accused:** Statements of the accused are as noted in the materials provided in section 6.

The prosecution hereby incorporates by reference the statements made by or attributed to the accused at his arraignment, the grand jury proceedings, or any court proceedings in this case.

5. **Defendant's prior criminal record:** Please see information provided in section 6 below.

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused juvenile at trial.

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VIDEOS:		
DietrichSchoolVid	337	337
M [REDACTED] A [REDACTED] 10-28-15 CARES	338	338

7. **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. The results of such testing can be found in IAR#12-ADP ISP lab report on submitted evidence disclosed with this response.

8. **Investigative records, police reports, notes and memoranda:** Please see information provided in section 6 above.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

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Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
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Howard	John		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
H [REDACTED]	O [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338

Last	First	FIRM	Address	City	State	Zip
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M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
M [REDACTED]	Shelly		[REDACTED]	[REDACTED]		
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Rocloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707-7426
W [REDACTED]	T [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Expert Witnesses:

Last	First	FIRM	Address	City	State
Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
Tomasine Quinney	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

For expert opinions, qualifications, and underlying facts and data, as they relate to Tomasine Quinney, please see information provided in section 6 above. Expert opinions, qualifications, and underlying facts and data as they relate to Dr. Brian Johnson have been requested, and such information will be supplemented upon receipt. Also as to information relating to Dr. Brian Johnson, please see the State's Motion for Protection Order, filed concurrently herewith.

10. **Books, documents, and test samples:** Please see information provided in section 6 above.

In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16. The State also objects to the Defendant's request for discovery as outlined in the State's Motion for Protection Order, filed concurrently herewith.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. Documents and Tangible Objects: Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A ■■■ M ■■■ IEP	339	381
A ■■■ M ■■■ Medical Records	382	394
CARES Report	395	411


SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. Documents and Tangible Objects: Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	412	413

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and any defense request for expert witness information, as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

DATED this 2 day of May 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May, 2016, I caused to be served a true and correct copy of the foregoing Second Supplemental Discovery Response to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

CURRICULUM VITAE

BRIAN L. JOHNSON, M.D.

PHONE [REDACTED]

EDUCATION

Undergraduate	1988 - 1991	Regis University	Denver, Colorado
		<i>B.S. Biology</i>	
		▪ Magna Cum Laude	
Medical School	1991 - 1995	University of Colorado School of Medicine	Denver, Colorado
		<i>M.D.</i>	
Residency	1995 - 1998	University of Colorado at Rose Medical Center	Denver, Colorado
		<i>Family Medicine</i>	
Fellowship	1998-1999	University of Colorado	Denver, Colorado
		<i>Advanced Training Track in Perinatal Care</i>	
		▪ Developed skills in operative obstetrics, OB ultrasound, tubal ligation and management of complicated pregnancies	
		▪ Taught family medicine residents at St. Anthony, Rose and University Hospitals as part of residency faculty	
		▪ Directed regional ALSO course	
		▪ Taught ultrasound course at the AAFP Family Centered Maternity Care conference in Providence, RI	

PRACTICE

1999-2001	Westlake Family Physicians	Greeley, Colorado
2000-2001	Rose Family Medicine Center Resident Precepting	Denver, Colorado
2001-2005	Moffat Family Clinic	Craig, Colorado
2001-2005	Emergency Physician - The Memorial Hospital	Craig, Colorado
2003-2005	Medical Director for Mine Rescue Team - Colowyo Mine	Meeker, Colorado
2005-2014	St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians)	Jerome, Idaho
2005-present	Emergency Physician – St. Luke's Jerome	Jerome, Idaho

HOSPITAL AFFILIATIONS

2005-present	St. Luke's Jerome (formerly St. Benedict's Family Medical Center)	Jerome, Idaho
2001-2005	The Memorial Hospital	Craig, Colorado
1999-2001	North Colorado Medical Center	Greeley, Colorado
1998-2001	Rose Medical Center	Denver, Colorado
1998-2000	St. Anthony Hospital	Denver, Colorado
1998-2000	Porter Adventist Hospital	Denver, Colorado
1998-1999	University Hospital	Denver, Colorado

LICENSURE

Idaho - M-9335

ACCREDITATIONS AND CONTINUING EDUCATION

Diplomate – American Board of Family Practice, 1998
Advanced Cardiac Life Support
Advanced Life Support in Obstetrics (past certification)
Advanced Life Support in Obstetrics Instructor Certification (past certification)
Advanced Trauma Life Support
Pediatric Advanced Life Support
Neonatal Resuscitation Program

PROFESSIONAL ACTIVITIES

St. Luke's Jerome

Chief of Staff – 2012-2013
Chair – Department of Medicine 2015-present

St. Benedict's Family Medical Center

Chair – Department of Primary Care 2008-2010

American Academy of Family Physicians

Member, 1991 – present

Idaho Academy of Family Physicians

Member, 2005-present

Colorado Academy of Family Physicians

Member, 1991 – 2005
Legislative Committee, 1998-2000

American Medical Association

Member, 1992 – present
Alternate Delegate (Colorado) 2001-2003
Delegate (Colorado) 2003-2005

Idaho Medical Association

Member 2005-present

Colorado Medical Society

Member, 1991 – 2005
Board of Directors 1997 - 1999
Council on Legislation 1995 – 2005
Delegate, 1993-1995, 2000

Weld County Medical Society

Member, 1999 – 2001
President-Elect 2001
Board of Directors 2000 – 2001

Denver Medical Society

Member, 1991-1995

COMMUNITY ACTIVITIES

Member, Colorado Railroad Historical Foundation 1995 – present
Medical Director for Crisis Pregnancy Center 2006-2011
Knights of Columbus 2001 - present
Participated in development of curriculum for domestic violence training in primary care residencies 1998
Volunteer, U.S. Fish and Wildlife Service 1995 - 1996
Founding Member, Two Ponds Preservation Foundation
Volunteer, Stout Street Medical Clinic for the Poor and Homeless 1992 - 1995
Volunteer, Church Sponsored 24-hour Crisis Hotline 1991 - 1993

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

MAY 06 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,


Defendant.

Case No. CR-2016-214

SECOND SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 2 day of May, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County


COPY

CERTIFICATE OF SERVICE

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	THIRD SUPPLEMENTAL
	)	RESPONSE TO REQUEST
JOHN R.K. HOWARD ,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Second Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

1. Documents Which Negate the Guilt of the accused:

Please see information provided in section 6 below.

2. Statements of the accused: Please see information provided in section 6 below.

3. **Statements by State's witnesses:** Statements of the State's witnesses are as noted in the materials provided in section 6 below.

4. **Substance of any relevant oral or written statements made by the Accused:** Statements of the accused are as noted in the materials provided in section 6.

The prosecution hereby incorporates by reference the statements made by or attributed to the accused at his arraignment, the grand jury proceedings, or any court proceedings in this case.

5. **Defendant's prior criminal record:** Please see information provided in section 6 below.

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused juvenile at trial.

Description	Begin No.	End No.
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IAR#10-ADP Closing Report	10	12
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Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	43
Email 2	44	54

Description	Begin No.	End No.
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15 Part1.pdf	83	83
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15-52972 Notes - 2016-03-15 Part4.pdf	86	86
15-52972 Notes - 2016-03-15 Part5.pdf	87	87
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15-52972 Notes - 2016-03-15 Part7.pdf	89	89
15-52972 Notes - 2016-03-15 Part8.pdf	90	90
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15-52972 Notes - 2016-03-15 Part11.pdf	93	93
15-52972 Notes - 2016-03-15 Part12.pdf	94	94
15-52972 Notes - 2016-03-15 Part13.pdf	95	95
15-52972 Notes - 2016-03-15 Part14.pdf	96	96
15-52972 Notes - 2016-03-15 Part15.pdf	97	97
15-52972 Notes - 2016-03-15 Part16.pdf	98	98
15-52972 Notes - 2016-03-15 Part17.pdf	99	99
15-52972 Notes - 2016-03-15 Part18.pdf	100	100
15-52972 Notes - 2016-03-15 Part19.pdf	101	101
15-52972 Notes - 2016-03-15 Part20.pdf	102	102
15-52972 Notes - 2016-03-15 Part21.pdf	103	103
15-52972 Notes - 2016-03-15 Part22.pdf	104	104
15-52972 Notes - 2016-03-15 Part23.pdf	105	105
15-52972 Notes - 2016-03-15 Part24.pdf	106	106

Description	Begin No.	End No.
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Motion to Seal Search Warrant & Affidavit for Search Warrant	115	115
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search Warrant	117	118
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	119	120
Order Sealing Search Warrant and Affidavit for SW	121	122
Petition for Appointment of Special Prosecutor	123	124
Return of Search Warrant	125	126
Search Warrant	127	128
Howard:		
Arrest Warrant	129	131
Complaint	132	133
Motion to Seal PC Affidavit	134	135
Order to Seal PC Affidavit	136	136
Probable Cause Affidavit of Anthony Pitz	137	139
School:		
Blank Student Interview Form	140	140
Completed Student Interview Forms	141	148
Dietrich Football Coaches	149	149
Dietrich Football Team Roster	150	150
Dietrich High Blue Prints	151	151
Dietrich High Staff List	152	152
Dietrich High Student Roster	153	173
Dietrich School District Open Enrollment	174	178
Dietrich School District Policies	179	192
Fax to Dietrich School District Insurance Agent	193	194
Hardcastle Report of Initial Complaint	195	196
Hardcastle's Investigative Notes	197	265
Pictures of the Dietrich School boys' locker room	266	270
S ■■■ R ■■■ Statement	271	274
Shaw's Investigative Docs	275	293
Student Demographic Info	294	297
Student Discipline Files	298	303
Superintendent Hardcastle Investigation Overview	304	311
Witness Diagrams of Locker Room	312	320
Curriculum Vitae for Tomasine Quinney	325	327

Description	Begin No.	End No.
AUDIO:		
Interview with A ■■■ H ■■■ 12.17.15	328	328
Interview with A ■■■ P ■■■ 12.17.15	329	329
Interview with K ■■■ S ■■■ 12.17.15	330	330
Interview with K ■■■ P ■■■ 12.17.15	331	331
Interview with M ■■■ 11	332	332
Interview with S ■■■ V ■■■ 12.17.15	333	333
Interview with T ■■■ H ■■■ 12.17.15	334	335
sw at dietrich 11.10.15	336	336
VIDEOS:		
DietrichSchoolVid	337	337
M ■■■ A ■■■ 10-28-15 CARES	338	338

7. **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. The results of such testing can be found in IAR#12-ADP ISP lab report on submitted evidence disclosed with this response.

8. **Investigative records, police reports, notes and memoranda:** Please see information provided in section 6 above.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		■■■ ■■■ ■■■	■■■	■■■	■■■
H ■■■	O ■■■		■■■ ■■■	■■■	■■■	■■■
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

Last	First	FIRM	Address	City	State	
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
M [REDACTED]	Shelly		[REDACTED]	[REDACTED]		
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Rocloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Expert Witnesses:

Last	First	FIRM	Address	City	State
Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
Tomasine Quinney	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

For expert opinions, qualifications, and underlying facts and data, as they relate to Tomasine Quinney, please see information provided in section 6 above. Expert opinions, qualifications, and underlying facts and data as they relate to Dr. Brian Johnson have been requested, and such information will be supplemented upon receipt. Also as to information relating to Dr. Brian Johnson, please see the State's Motion for Protection Order, filed concurrently herewith.

10. **Books, documents, and test samples:** Please see information provided in section 6 above.

In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16. The State also objects to the Defendant's request for discovery as outlined in the State's Motion for Protection Order, filed concurrently herewith.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A ■■■■■ M ■■■■■ IEP	339	381
A ■■■■■ M ■■■■■ Medical Records	382	394
CARES Report	395	411

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	412	413

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and any defense request for expert witness information, as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.


THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

3. **Statements by State's witnesses:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K ■■■■■ P ■■■■■. This office also received information from Shelly M ■■■■■ that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

DATED this 23 day of May 2016.


 Brenda M. Bauges
 Deputy Attorney General and
 Special Prosecuting Attorney for
 Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of May, 2016, I caused to be served a true and correct copy of the foregoing Third Supplemental Discovery Response to:

Brad Calbo
 Calbo & DePew
 P.O. Box 9
 414 N. Lincoln, Ste. 5
 Jerome, ID 83338
 Fax: (208) 324-5597

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P.O. Box 83720
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Telephone: (208) 332-3096
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,


Defendant.

Case No. CR-2016-214

**THIRD SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT**

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 23 day of May, 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

COPY

THIRD SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (HOWARD), Page 1

RR000465

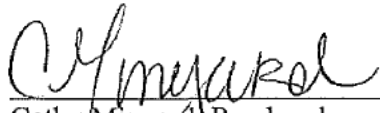
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	FOURTH SUPPLEMENTAL
	)	RESPONSE TO REQUEST
JOHN R.K. HOWARD ,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Second Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

1. Documents Which Negate the Guilt of the accused:

Please see information provided in section 6 below.

2. Statements of the accused: Please see information provided in section 6 below.

3. **Statements by State's witnesses:** Statements of the State's witnesses are as noted in the materials provided in section 6 below.

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John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
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15-52972 Notes - 2016-03-15_Part19.pdf	101	101
15-52972 Notes - 2016-03-15_Part20.pdf	102	102
15-52972 Notes - 2016-03-15_Part21.pdf	103	103
15-52972 Notes - 2016-03-15_Part22.pdf	104	104
15-52972 Notes - 2016-03-15_Part23.pdf	105	105
15-52972 Notes - 2016-03-15_Part24.pdf	106	106

Description	Begin No.	End No.
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Motion to Seal Search Warrant & Affidavit for Search Warrant	115	115
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search Warrant	117	118
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	119	120
Order Sealing Search Warrant and Affidavit for SW	121	122
Petition for Appointment of Special Prosecutor	123	124
Return of Search Warrant	125	126
Search Warrant	127	128
Howard:		
Arrest Warrant	129	131
Complaint	132	133
Motion to Seal PC Affidavit	134	135
Order to Seal PC Affidavit	136	136
Probable Cause Affidavit of Anthony Pitz	137	139
School:		
Blank Student Interview Form	140	140
Completed Student Interview Forms	141	148
Dietrich Football Coaches	149	149
Dietrich Football Team Roster	150	150
Dietrich High Blue Prints	151	151
Dietrich High Staff List	152	152
Dietrich High Student Roster	153	173
Dietrich School District Open Enrollment	174	178
Dietrich School District Policies	179	192
Fax to Dietrich School District Insurance Agent	193	194
Hardcastle Report of Initial Complaint	195	196
Hardcastle's Investigative Notes	197	265
Pictures of the Dietrich School boys' locker room	266	270
S■■■■ R■■■■ Statement	271	274
Shaw's Investigative Docs	275	293
Student Demographic Info	294	297
Student Discipline Files	298	303
Superintendent Hardcastle Investigation Overview	304	311
Witness Diagrams of Locker Room	312	320
Curriculum Vitae for Tomasine Quinney	325	327

Description	Begin No.	End No.
AUDIO:		
Interview with A ■ H ■ 12.17.15	328	328
Interview with A ■ P ■ 12.17.15	329	329
Interview with K ■ S ■ 12.17.15	330	330
Interview with K ■ P ■ 12.17.15	331	331
Interview with M ■ 11	332	332
Interview with S ■ V ■ 12.17.15	333	333
Interview with T ■ H ■ 12.17.15	334	335
sw at dietrich 11.10.15	336	336
VIDEOS:		
DietrichSchoolVid	337	337
McDaniels, Antwon 10-28-15 CARES	338	338

7. **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. The results of such testing can be found in IAR#12-ADP ISP lab report on submitted evidence disclosed with this response.

8. **Investigative records, police reports, notes and memoranda:** Please see information provided in section 6 above.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Harcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		■■■■■■■■■■■■■■■■■■■■	■■■■	■■	■■■■
H ■■■■	O ■■■■		■■■■ ■■■■	■■■■	■■	■■■■
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

Last	First	FIRM	Address	City	State	Zip
M [REDACTED]	A [REDACTED]		[REDACTED]	Dietrich	ID	83324
M [REDACTED]	Shelly		[REDACTED]	Dietrich	ID	83324
M [REDACTED]	Tim		[REDACTED]	Dietrich	ID	83324
M [REDACTED]	Jeremy		[REDACTED]	Dietrich	ID	83324
Rocloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Expert Witnesses:

Last	First	FIRM	Address	City	State
Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
Tomasine Quinney	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

For expert opinions, qualifications, and underlying facts and data, as they relate to Tomasine Quinney, please see information provided in section 6 above. Expert opinions, qualifications, and underlying facts and data as they relate to Dr. Brian Johnson have been requested, and such information will be supplemented upon receipt. Also as to information relating to Dr. Brian Johnson, please see the State's Motion for Protection Order, filed concurrently herewith.

10. **Books, documents, and test samples:** Please see information provided in section 6 above.

In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16. The State also objects to the Defendant's request for discovery as outlined in the State's Motion for Protection Order, filed concurrently herewith.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A ■■■■■ M ■■■■■ IEP	339	381
A ■■■■■ M ■■■■■ Medical Records	382	394
CARES Report	395	411

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	412	413

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and any defense request for expert witness information, as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

3. **Statements by State's witnesses:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K ■■■■■ P ■■■■■. This office also received information from Shelly M ■■■■■ that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. Documents and Tangible Objects: Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused defendant at trial.

Description	Begin No.	End No.
IAR#13-ADP Phone interview with Shelly M [REDACTED]	414	414
IAR#14-ADP Interview with Tracy P [REDACTED]	415	416
IAR#15-ADP Interview with K [REDACTED] P [REDACTED]	417	418
IAR#16-ADP Interview with A [REDACTED] M [REDACTED] 5/26/2016	419	420
IAR#17-ADP Phone Interview with Rick A [REDACTED] 5/27/2016	421	422
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	423	424
Letter from Anderson, Julian & Hull Re: M [REDACTED] v. Dietrich School District, dated May 31, 2016	425	426
Audio Recording included in Anderson, Julian & Hull Letter	427	427

9. Witnesses: Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
P [REDACTED]	Tracy		[REDACTED]			
A [REDACTED]	Rick	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

DATED this 2nd day of June 2016.


 Brenda M. Bauges
 Deputy Attorney General and
 Special Prosecuting Attorney for
 Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2016, I caused to be served a true and correct copy of the foregoing Fourth Supplemental Discovery Response to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

JUN 08 2016

**OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION**

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,


Defendant.

Case No. CR-2016-214

**FOURTH SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT**

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 2nd day of June, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

FOURTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (HOWARD), Page 1

COPY

RR000476

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2016, I caused to be served a true and correct copy of the foregoing Fourth Supplemental Discovery Response to Court to:

Brad Calbo
Calbo & DePew
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Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
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☐ Electronic Mail (Email)



Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	FIFTH SUPPLEMENTAL
	)	RESPONSE TO REQUEST
JOHN R.K. HOWARD ,	)	FOR DISCOVERY
)	
Defendant.)	
)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Second Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

1. Documents Which Negate the Guilt of the accused:

Please see information provided in section 6 below.

2. Statements of the accused: Please see information provided in section 6 below.

3. **Statements by State's witnesses:** Statements of the State's witnesses are as noted in the materials provided in section 6 below.

4. **Substance of any relevant oral or written statements made by the Accused:** Statements of the accused are as noted in the materials provided in section 6.

The prosecution hereby incorporates by reference the statements made by or attributed to the accused at his arraignment, the grand jury proceedings, or any court proceedings in this case.

5. **Defendant's prior criminal record:** Please see information provided in section 6 below.

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused juvenile at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
IAR#1 Interview with A [REDACTED] M [REDACTED] 11.1.15	5	7
IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] P [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with P [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] P [REDACTED] 12-17-15	35	37
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	321	322
IAR#12-ADP ISP lab report on submitted evidence	323	324
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	43
Email 2	44	54

Description	Begin No.	End No.
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15 Part1.pdf	83	83
15-52972 Notes - 2016-03-15 Part2.pdf	84	84
15-52972 Notes - 2016-03-15 Part3.pdf	85	85
15-52972 Notes - 2016-03-15 Part4.pdf	86	86
15-52972 Notes - 2016-03-15 Part5.pdf	87	87
15-52972 Notes - 2016-03-15 Part6.pdf	88	88
15-52972 Notes - 2016-03-15 Part7.pdf	89	89
15-52972 Notes - 2016-03-15 Part8.pdf	90	90
15-52972 Notes - 2016-03-15 Part9.pdf	91	91
15-52972 Notes - 2016-03-15 Part10.pdf	92	92
15-52972 Notes - 2016-03-15 Part11.pdf	93	93
15-52972 Notes - 2016-03-15 Part12.pdf	94	94
15-52972 Notes - 2016-03-15 Part13.pdf	95	95
15-52972 Notes - 2016-03-15 Part14.pdf	96	96
15-52972 Notes - 2016-03-15 Part15.pdf	97	97
15-52972 Notes - 2016-03-15 Part16.pdf	98	98
15-52972 Notes - 2016-03-15 Part17.pdf	99	99
15-52972 Notes - 2016-03-15 Part18.pdf	100	100
15-52972 Notes - 2016-03-15 Part19.pdf	101	101
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15-52972 Notes - 2016-03-15 Part21.pdf	103	103
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Completed Student Interview Forms	141	148
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Dietrich Football Team Roster	150	150
Dietrich High Blue Prints	151	151
Dietrich High Staff List	152	152
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S ■■■ R ■■■ Statement	271	274
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Student Discipline Files	298	303
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Interview with K ■ S ■ 12.17.15	330	330
Interview with K ■ P ■ 12.17.15	331	331
Interview with M ■ 11	332	332
Interview with S ■ V ■ 12.17.15	333	333
Interview with T ■ H ■ 12.17.15	334	335
sw at dietrich 11.10.15	336	336
VIDEOS:		
DietrichSchoolVid	337	337
M ■ A ■ 10-28-15 CARES	338	338

7. **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. The results of such testing can be found in IAR#12-ADP ISP lab report on submitted evidence disclosed with this response.

8. **Investigative records, police reports, notes and memoranda:** Please see information provided in section 6 above.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		■ ■ ■ ■ ■	■ ■ ■	■ ■	■ ■ ■
H ■ ■	O ■ ■		■ ■ ■ ■ ■	■ ■ ■	■ ■	■ ■ ■
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

Last	First	FIRM	Address	City	State	Zip
M [REDACTED]	A [REDACTED]		[REDACTED]	Dietrich	ID	83324
M [REDACTED]	Shelly		[REDACTED]	Dietrich	ID	83324
M [REDACTED]	Tim		[REDACTED]	Dietrich	ID	83324
M [REDACTED]	J [REDACTED]		[REDACTED]	Dietrich	ID	83324
Rocloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED]			

Expert Witnesses:

Last	First	FIRM	Address	City	State
Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
Tomasine Quinney	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

For expert opinions, qualifications, and underlying facts and data, as they relate to Tomasine Quinney, please see information provided in section 6 above. Expert opinions, qualifications, and underlying facts and data as they relate to Dr. Brian Johnson have been requested, and such information will be supplemented upon receipt. Also as to information relating to Dr. Brian Johnson, please see the State's Motion for Protection Order, filed concurrently herewith.

10. **Books, documents, and test samples:** Please see information provided in section 6 above.

In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16. The State also objects to the Defendant's request for discovery as outlined in the State's Motion for Protection Order, filed concurrently herewith.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A ■■■ M ■■■ IEP	339	381
A ■■■ M ■■■ Medical Records	382	394
CARES Report	395	411

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	412	413

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and any defense request for expert witness information, as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

3. **Statements by State's witnesses:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K ■■■ P ■■■. This office also received information from Shelly M ■■■ that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused defendant at trial.

Description	Begin No.	End No.
IAR#13-ADP Phone interview with S [REDACTED] M [REDACTED]	414	414
IAR#14-ADP Interview with Tracy P [REDACTED]	415	416
IAR#15-ADP Interview with K [REDACTED] P [REDACTED]	417	418
IAR#16-ADP Interview with A [REDACTED] M [REDACTED] 5/26/2016	419	420
IAR#17-ADP Phone Interview with Rick A [REDACTED] 5/27/2016	421	422
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	423	424
Letter from Anderson, Julian & Hull Re: M [REDACTED] v. Dietrich School District, dated May 31, 2016	425	426
Audio Recording included in Anderson, Julian & Hull Letter	427	427

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
P [REDACTED]	Tracy		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
A [REDACTED]	Rick	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

FIFTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused defendant at trial.

Description	Begin No.	End No.
Picture from Lee Schlender	428	428

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Schlender	Lee		2700 Holly Lynn Dr.	Mountain Home	ID	83647

DATED this 15th day of June 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 15th day of June, 2016, I caused to be served a true and correct copy of the foregoing Fourth Supplemental Discovery Response to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
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Cathy Minyard, Paralegal

people like me
The Worlds not used to people like me BY
They still have Hitler within their hearts they
Think that being different is a sign of
Weak and bullying can get them far
but what society doesnt know is that a kicked
in hanger can bruise and penetrate the heart
It leaves you walking on a stub because
of the burden put on you by the people
that you thought you ~~loved~~ once loved

like A [redacted] it
The Worlds not use to people like me
The ground and locks the door
for your opportunities and leave you
helpless without a sound
why lord why does this ^{mission} to us send
us to earth to be sent to the back
of the bus

C. Bradley Calbo, ISB No. 4929
 Stacey DePew, ISB No. 7303
 C. Ira Dillman, ISB No. 9081
CALBO & DEPEW, PLLC
 P.O. Box 9
 414 North Lincoln Avenue, Ste. 5
 Jerome, ID 83338
 Phone (208) 324-5431
 Fax: (208) 324-5597

Attorney for Defendant

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

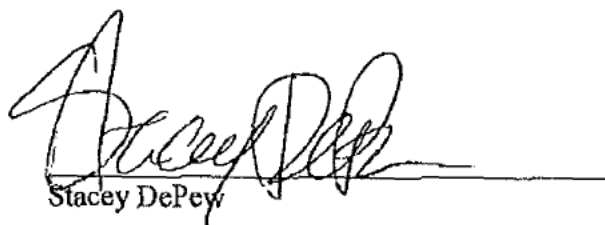
STATE OF IDAHO,)	
	)	Case No. CR-2016-214
Plaintiff,)	
)	
vs.	)	SUPPLEMENTAL REQUEST
	)	FOR DISCOVERY
)	
JOHN R.K. HOWARD,)	
)	
Defendant.)	

Comes now, the above named defendant, by and through his attorney of record
 and hereby requests the following items of supplemental discovery pursuant to I.C.R.
 16(b):

1. Medical records from St. Luke's Jerome related to A.D.'s medical treatment on
 or about 10/23/2015 to the present.
2. Medical records from St. Luke's Magic Valley related to A.D.'s medical
 treatment on or about 10/23/2015 to the present. Specifically, but not limited to,
 this request is for all records related to the sexual assault examination of A.D.

3. Any and all records related to Mr. M [REDACTED]'s psychological conditions and disabilities including, but not limited to the following:
- a. Any psychological evaluations conducted on A.D. including the provider and when they evaluation was conducted,
 - b. Any educational testing performed on A.D including his most recent IEP and all preceding IEPs.
 - c. Any medical records and information related to A.D's current medical treatment for any and all physical, education and psychological conditions, including, any information related to A.D's recent hospitalization and/or treatment current medication management/regiment plan which rendered him unable to testify at Mr. Howards June 10, 2016 scheduled preliminary hearing.
4. Any and all reports related to A.D.'s recantation prior to his hospitalization or treatment and/or counseling and all reports since that time to present.

Dated this 23rd day of June, 2016

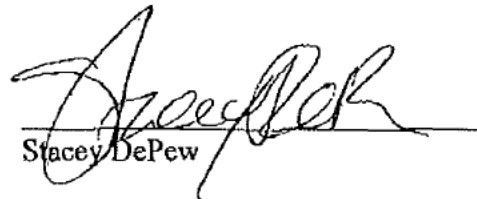

Stacey DePew

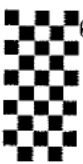
CERTIFICATE OF DELIVERY

I hereby certify that on the 23rd day of June, 2016, I served the
foregoing document by hand delivery to:

Idaho Attorney General's Office
Special Prosecuting Attorney
P.O. Box 83720
Boise, ID 83720

FAX: (208) 854-8083


Stacey DePew



CALBO & DEPEW, PLLC

PH: () FX: ()
414 NORTH LINCOLN, SUITE #5
JEROME, IDAHO 83338**FAX**TO: LINCOLN COUNTY
&
OFFICE OF THE ATTORNEY
GENERAL

FROM: BRAD CALBO

FAX: PAGES: 4 INCLUDING COVER

PHONE: DATE: 06/23/2016

RE: JOHN R.K. HOWARD CC:

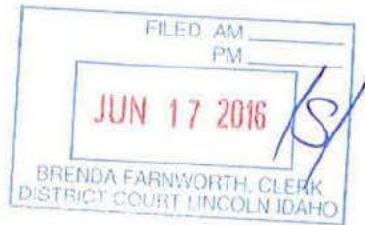
☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY

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LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
)	
JOHN R.K. HOWARD,	)	FIFTH SUPPLEMENTAL
	)	DISCOVERY RESPONSE
Defendant.	)	TO COURT
)	
)	
)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 15th day of June, 2016.


Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County


COPY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of June, 2016, I caused to be served a true and correct copy of the foregoing Fifth Supplemental Discovery Response to Court to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

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Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	RESPONSE TO DEFENDANT'S
	)	SUPPLEMENTAL REQUEST
JOHN R.K. HOWARD ,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Response to Defendant's Supplemental Request for Discovery pursuant to Idaho Criminal Rule 16:

1. Medical Records from St. Luke's Jerome: With respect to items 1-3, the State has previously provided counsel with all medical and educational records in its possession or control, subject to the Protective Order signed by Judge Ingram on April 15, 2016.

2. Medical Records from St. Luke's Magic Valley: With respect to items 1-3, the State has previously provided counsel with all medical and educational records in its possession or control, subject to the Protective Order signed by Judge Ingram on April 15, 2016.

RESPONSE TO DEFENDANT'S SUPPLEMENTAL REQUEST FOR DISCOVERY
(HOWARD), Page 1

3. Records Related to A.D.'S Psychological Conditions and Disabilities: With respect to items 1-3, the State has previously provided counsel with all medical and educational records in its possession or control, subject to the Protective Order signed by Judge Ingram on April 15, 2016.

4. Reports Related to A.D.'s Recantation: The State does not agree that A.D. has recanted. All reports related to statements made by A.D. have previously been disclosed.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

DATED this 24 day of June 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of June, 2016, I caused to be served a true and correct copy of the foregoing Response to Defendant's Supplemental Request for Discovery to:

Brad Calbo
Calbo & DePew
P.O. Box 9
Jerome, ID 83338
Fax: () -

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Cathy Minyard, Paralegal

LAWRENCE G. WARDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

JUN 28 2016

**OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION**

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

**STATE'S RESPONSE TO
DEFENDANT'S SUPPLEMENTAL
REQUEST FOR DISCOVERY TO
COURT**

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Supplemental Request for Discovery.

DATED this 24th day of June, 2016.

Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL REQUEST FOR
DISCOVERY TO COURT (HOWARD), Page 1

COPY


RR000497

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 24th day of June, 2016, I caused to be served a true and correct copy of the foregoing State's Response to Defendant's Supplemental Request for Discovery to Court to:

Brad Calbo
Calbo & DePew
P.O. Box 9
Jerome, ID 83338
Fax: (208) 324-5597

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Cathy Minyard, Paralegal



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

August 9, 2016

VIA FACSIMILE: (208) 736-0141

Michael Wood
184 Gooding Street West
Twin Falls, ID 83301

VIA FACSIMILE: (208) 324-5597

Christopher Bradley Calbo
P.O. Box 9
Jerome, ID 83338

RE: State of Idaho v. T■■■■ R■■ W■■
State of Idaho v. John R.K. Howard

Dear Sirs:

I am writing pursuant to my continuing discovery obligation to provide statements of witnesses, under Idaho Criminal Rule 16. On August 9, 2016, I spoke with Dr. Samuel Pullen, DO, regarding A■■■■ M■■■■. Specifically, I spoke with Dr. Pullen about A■■■■'s mental health diagnosis as indicated the CARES report, previously disclosed in discovery. During our conversation Dr. Pullen indicated that A■■■■ can have difficulty with linear timelines. For example, while he understands that events have happened to him, he may not be able to properly describe the specific time or day that they happened. Moreover, Dr. Pullen stated that because of A■■■■'s mental health issues, he is susceptible to leading questions. Specifically, Dr. Pullen indicated that A■■■■ may have a tendency to give an answer in accordance with whatever path the questioner leads him down.

Please contact me with any questions you may have.

Sincerely,

A blue ink signature of Casey Hemmer, written in a cursive style, is positioned above the typed name.

Casey Hemmer
Deputy Attorney General
Idaho Office of the Attorney General

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000499

* * * COMMUNICATION RESULT REPORT (AUG. 9.2016 3:11PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : AUG. 9.2016 3:10PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

280 MEMORY TX

912083245597

OK

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REASON FOR ERROR

E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010
208-332-3098**Idaho State
Attorney General
Criminal Law Division****Fax****To:** Christopher Calbo,
Calbo & Depew, PLLC**From:** Deputy Attorney General
Casey Hemmer**Fax:** [REDACTED]**Pages:** 2**Phone:** [REDACTED]**Date:** August 9, 2016**Re:** State v. Howard**cc:**☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

To: Christopher Calbo,
Calbo & Depew, PLLC

From: Deputy Attorney General
Casey Hemmer

Fax: [REDACTED]

Pages: 2

Phone: [REDACTED]

Date: August 9, 2016

Re: State v. Howard

cc:

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

RR000501

* * * COMMUNICATION RESULT REPORT (AUG. 9. 2016 3:10PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : AUG. 9. 2016 3:10PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

279 MEMORY TX

912087360141

OK

2/2

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010**Idaho State
Attorney General
Criminal Law Division****Fax****To:** Michael Wood,
Attorney at Law**From:** Deputy Attorney General
Casey Hemmer**Fax:****Pages:** 2**Phone:****Date:** August 9, 2016**Re:** State v. W**cc:**☐ **Urgent**☐ **For Review**☐ **Please Comment**☐ **Please Reply**☐ **Please Recycle**

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

To: Michael Wood,
Attorney at Law

From: Deputy Attorney General
Casey Hemmer

Fax: [REDACTED]

Pages: 2

Phone: [REDACTED]

Date: August 9, 2016

Re: State v. W [REDACTED]

cc:

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	SIXTH SUPPLEMENTAL
	)	RESPONSE TO REQUEST
JOHN R.K. HOWARD ,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Sixth Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

1. Documents Which Negate the Guilt of the accused:

Please see information provided in section 6 below.

2. Statements of the accused: Please see information provided in section 6 below.

3. **Statements by State's witnesses:** Statements of the State's witnesses are as noted in the materials provided in section 6 below.

4. **Substance of any relevant oral or written statements made by the Accused:** Statements of the accused are as noted in the materials provided in section 6.

The prosecution hereby incorporates by reference the statements made by or attributed to the accused at his arraignment, the grand jury proceedings, or any court proceedings in this case.

5. **Defendant's prior criminal record:** Please see information provided in section 6 below.

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused juvenile at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
IAR#1 Interview with A [REDACTED] M [REDACTED] 11.1.15	5	7
IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] P [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with P [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] P [REDACTED] 12-17-15	35	37
IAR#11-ADP Interview with S [REDACTED] M [REDACTED] 3-18-16	321	322
IAR#12-ADP ISP lab report on submitted evidence	323	324
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	43
Email 2	44	54

Description	Begin No.	End No.
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15_Part1.pdf	83	83
15-52972 Notes - 2016-03-15_Part2.pdf	84	84
15-52972 Notes - 2016-03-15_Part3.pdf	85	85
15-52972 Notes - 2016-03-15_Part4.pdf	86	86
15-52972 Notes - 2016-03-15_Part5.pdf	87	87
15-52972 Notes - 2016-03-15_Part6.pdf	88	88
15-52972 Notes - 2016-03-15_Part7.pdf	89	89
15-52972 Notes - 2016-03-15_Part8.pdf	90	90
15-52972 Notes - 2016-03-15_Part9.pdf	91	91
15-52972 Notes - 2016-03-15_Part10.pdf	92	92
15-52972 Notes - 2016-03-15_Part11.pdf	93	93
15-52972 Notes - 2016-03-15_Part12.pdf	94	94
15-52972 Notes - 2016-03-15_Part13.pdf	95	95
15-52972 Notes - 2016-03-15_Part14.pdf	96	96
15-52972 Notes - 2016-03-15_Part15.pdf	97	97
15-52972 Notes - 2016-03-15_Part16.pdf	98	98
15-52972 Notes - 2016-03-15_Part17.pdf	99	99
15-52972 Notes - 2016-03-15_Part18.pdf	100	100
15-52972 Notes - 2016-03-15_Part19.pdf	101	101
15-52972 Notes - 2016-03-15_Part20.pdf	102	102
15-52972 Notes - 2016-03-15_Part21.pdf	103	103
15-52972 Notes - 2016-03-15_Part22.pdf	104	104
15-52972 Notes - 2016-03-15_Part23.pdf	105	105
15-52972 Notes - 2016-03-15_Part24.pdf	106	106

Description	Begin No.	End No.
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Motion to Seal Search Warrant & Affidavit for Search Warrant	115	115
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search Warrant	117	118
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	119	120
Order Sealing Search Warrant and Affidavit for SW	121	122
Petition for Appointment of Special Prosecutor	123	124
Return of Search Warrant	125	126
Search Warrant	127	128
Howard:		
Arrest Warrant	129	131
Complaint	132	133
Motion to Seal PC Affidavit	134	135
Order to Seal PC Affidavit	136	136
Probable Cause Affidavit of Anthony Pitz	137	139
School:		
Blank Student Interview Form	140	140
Completed Student Interview Forms	141	148
Dietrich Football Coaches	149	149
Dietrich Football Team Roster	150	150
Dietrich High Blue Prints	151	151
Dietrich High Staff List	152	152
Dietrich High Student Roster	153	173
Dietrich School District Open Enrollment	174	178
Dietrich School District Policies	179	192
Fax to Dietrich School District Insurance Agent	193	194
Hardcastle Report of Initial Complaint	195	196
Hardcastle's Investigative Notes	197	265
Pictures of the Dietrich School boys' locker room	266	270
S ■■■ R ■■■ Statement	271	274
Shaw's Investigative Docs	275	293
Student Demographic Info	294	297
Student Discipline Files	298	303
Superintendent Hardcastle Investigation Overview	304	311
Witness Diagrams of Locker Room	312	320
Curriculum Vitae for Tomasine Quinney	325	327

Description	Begin No.	End No.
AUDIO:		
Interview with A ■ H ■ 12.17.15	328	328
Interview with A ■ P ■ 12.17.15	329	329
Interview with K ■ S ■ 12.17.15	330	330
Interview with K ■ P ■ 12.17.15	331	331
Interview with M ■ 11	332	332
Interview with S ■ V ■ 12.17.15	333	333
Interview with T ■ H ■ 12.17.15	334	335
sw at dietrich 11.10.15	336	336
VIDEOS:		
DietrichSchoolVid	337	337
M ■ A ■ 10-28-15 CARES	338	338

7. **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. The results of such testing can be found in IAR#12-ADP ISP lab report on submitted evidence disclosed with this response.

8. **Investigative records, police reports, notes and memoranda:** Please see information provided in section 6 above.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John					
H ■	O ■					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

Last	First	FIRM	Address	City	State	Zip
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED]			

Expert Witnesses:

Last	First	FIRM	Address	City	State
Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
Tomasine Quinney	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

For expert opinions, qualifications, and underlying facts and data, as they relate to Tomasine Quinney, please see information provided in section 6 above. Expert opinions, qualifications, and underlying facts and data as they relate to Dr. Brian Johnson have been requested, and such information will be supplemented upon receipt. Also as to information relating to Dr. Brian Johnson, please see the State's Motion for Protection Order, filed concurrently herewith.

10. **Books, documents, and test samples:** Please see information provided in section 6 above.

In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at [REDACTED] to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16. The State also objects to the Defendant's request for discovery as outlined in the State's Motion for Protection Order, filed concurrently herewith.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A ■■■■■ M ■■■■■ IEP	339	381
A ■■■■■ M ■■■■■ Medical Records	382	394
CARES Report	395	411

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	412	413

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and any defense request for expert witness information, as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

3. **Statements by State's witnesses:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K ■■■■■ P ■■■■■. This office also received information from Shelly M ■■■■■ that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused defendant at trial.

Description	Begin No.	End No.
IAR#13-ADP Phone interview with S [REDACTED] M [REDACTED]	414	414
IAR#14-ADP Interview with Tracy P [REDACTED]	415	416
IAR#15-ADP Interview with K [REDACTED] P [REDACTED]	417	418
IAR#16-ADP Interview with A [REDACTED] M [REDACTED] 5/26/2016	419	420
IAR#17-ADP Phone Interview with Rick A [REDACTED] 5/27/2016	421	422
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	423	424
Letter from Anderson, Julian & Hull Re: M [REDACTED] v. Dietrich School District, dated May 31, 2016	425	426
Audio Recording included in Anderson, Julian & Hull Letter	427	427

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
P [REDACTED]	Tracy		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
A [REDACTED]	Rick	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

FIFTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused defendant at trial.

Description	Begin No.	End No.
Picture from Lee Schlender	428	428

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Schlender	Lee		2700 Holly Lynn Dr.	Mountain Home	ID	83647

SIXTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

6. **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the accused defendant at trial.

Description	Begin No.	End No.
IAR#19 7.6.2016 Interview with the M [REDACTED]	429	430
CV for Rylene Nowlin	431	434
CV for Samuel Pullen	435	445
CV for Christina Scanlon	446	447
Voice Message from Outside Caller on 41216 1046 AM for 4140	448	448
Voice Message from Outside Caller on 41216 1048 AM for 4547	449	449
Voice Message from Outside Caller on 41216 1052 AM for 3089	450	450
Voice Message from Outside Caller on 41216 1147 AM for 3089	451	451
Voice Message from Outside Caller on 52416 842 AM for 3089	452	452
Anthony Pittz Notes	453	468
St. Luke's Canyon View Medical Records for A [REDACTED] M [REDACTED] *	469	491
ISP Forensic Services Evidence Submission Receipt	492	492
ISP Forensic Services Evidence Transfer Receipt	493	493
Email – Re: Question on your notes	494	495
Email – Re: Quick question	496	497
AUDIO:		
041216-104626-4140-1160412.96166143@audix-1	498	498
041216-104847-4547-1160412.96166399@audix-1	499	499
041216-105236-3089-1160412.96167935@audix-1	500	500
041216-114738-3089-1160412.96169727@audix-1	501	501
052416-084215-3089-1160524.97024767@audix-1	502	502

*An unredacted copy of the medical records from St. Luke's Canyon View has been provided to defense counsel in accordance with the Protective Order in this matter filed on April 15, 2016.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	FIRM	Address	City	State	Zip
A [REDACTED]	J [REDACTED]		294 S 850 E	Dietrich	ID	83324
A [REDACTED]	C [REDACTED]		347 S 750 E	Dietrich	ID	83324
Bingham	Spencer	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Dill	Wayne	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Edwards	Christopher	St. Luke's	414 Shoup Ave W, Ste. B	Twin Falls	ID	83301
Ellis	Mark	Shoshone Family Medical Center	113 S. Apple St.	Shoshone	ID	83352
H [REDACTED]	E [REDACTED]		441 S 750 E	Dietrich	ID	83324
Hoglund	Collette	St. Luke's	238 Shoup Ave W	Twin Falls	ID	83301
Hoskisson	Wayne	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Kraal	Kevin	St. Luke's	801 Pole Line Rd W	Twin Falls	ID	83301
Malan	Alicia	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Moncur	Delsa	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
N [REDACTED]	G [REDACTED]		[REDACTED]			
P [REDACTED]	K [REDACTED]					
Peterson	Brett	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
P [REDACTED]	A [REDACTED]		[REDACTED]			
R [REDACTED]	[REDACTED]					
S [REDACTED]	K [REDACTED]					
Siddiqui	Mohammed	St. Luke's	2350 Addison Ave E, Ste. A	Twin Falls	ID	83301
Urrutia	Johnny	Southern Idaho Pain Institute	176 Falls Ave	Twin Falls	ID	83301

Last	First	FIRM	Address	City	State	Zip
V. [REDACTED]	Perry		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
V. [REDACTED]	S. [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(11) Expert witnesses:

Last	First	FIRM	Address	City	State	Zip
Nowlin	Rylene	Idaho State Police	700 S. Stratford Dr., Ste. 125	Meridian	ID	83642
Pullen	Samuel	St. Luke's	414 Shoup Ave., Ste. B	Twin Falls	ID	83301
Scanlan	Christina	St. Luke's	414 Shoup Ave., Ste. B	Twin Falls	ID	83301

The Curriculum Vitae of Rylene Nowlin, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Rylene Nowlin, she may testify generally to DNA recovery and testing techniques, including touch DNA.

The Curriculum Vitae of Christina Scanlan and Samuel Pullen, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witnesses Christina Scanlan and Samuel Pullen, they may testify to signs and symptoms of psychological disorders including disorganized schizophrenia, schizoaffective disorder, and anxiety disorder, as well as other disorders identified in the victim's medical records, which have previously been disclosed. They may also testify that the victim exhibits signs and symptoms consistent with these disorders. Their testimony will be based off of their interactions with the victim as well as the medical reports disclosed in discovery.

DATED this 12 day of August, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 2016, I caused to be served a true and correct copy of the foregoing Sixth Supplemental Discovery Response to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)



Cathy Minyard, Paralegal

LAWRENCE G. WARDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

AUG 17 2016

**OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION**

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,


Defendant.

Case No. CR-2016-214

**SIXTH SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT**

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 12 day of August, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

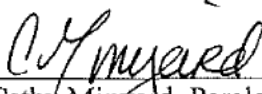
COPY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 2016, I caused to be served a true and correct copy of the foregoing Sixth Supplemental Discovery Response to Court to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)


Cathy Minyard, Paralegal

* * * COMMUNICATION RESULT REPORT (AUG. 29. 2016 1:48PM) * * *

FAX HEADER: ID ATTY GEN - CRIM DIV

TRANSMITTED/STORED : AUG. 29. 2016 1:47PM
FILE MODE OPTION

ADDRESS

RESULT

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738 MEMORY TX

912083245597

OK

3/3

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION

STATE OF IDAHO
Office of the Attorney General
Criminal Law Division
Joe R. Williams Building
700 W. State Street - 4th Floor
Boise, Idaho 83720
(208) 334-4528

Transmittal Cover

FAX Number: (208) 854-8074

TO: Brad Calbo
FAX NO.: (208) 324-5597
FROM: Casey J. Hemmer

Document Description: Motion to Appear by Phone

Total Number of Pages (Including This Page): 3

Sender: Deborah Forgy
Date: 8-29-16

Please advise me at (208) 334-4545 of any deficiency in this transmission.

NOTICE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this notice is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return these papers to us at the address shown above via first class mail.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD	)	INFORMATION
DOB: [REDACTED])	
SSN: [REDACTED])	
)	
Defendant.)	
_____)	

CASEY J. HEMMER, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Lincoln, and states that **JOHN R.K. HOWARD** is accused by this Information of the crime(s) of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608**; which crimes were committed as follows:

That the Defendant, **JOHN R.K. HOWARD**, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by

kicking a coat hanger further inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

DATED this 1st day of September, 2016.



CASEY J. HEMMER
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County



U.S. Department of Justice

*United States Attorney
District of Idaho*

*Mailing Address:
Washington Group Plaza IV, Suite 600
800 East Park Boulevard
Boise, Idaho 83712*

*Main Phone: 208/334-1211
Main Fax: 208/334-9375
Cv Div Fax: 208/334-1414
Cr Div Fax: 208/334-1038
DTF Div Fax: 208/334-1413*

June 9, 2016

Michael Steen
Deputy Attorney General
Attorney General's Office
Post Office Box 83720
Boise, Idaho 83720-0010

RE: *United States vs. John Howard*
U.S. Attorney No. S-2016R00261

Dear Deputy Steen:

We have received your recent investigative inquiry regarding the above captioned matter. A file has been opened in our office and assigned to United States Attorney Wendy J. Olson.

As you may know, should a charging document be filed in this matter, the federal government is required by statute — the Federal Rules of Criminal Procedure 16 and 26.2 — to disclose certain information upon the defendant's request. In anticipation of such a request, please forward the following as soon as possible or at your earliest convenience:

- (1) The defendant's own oral, written, and recorded statements;
- (2) The defendant's prior criminal record;
- (3) Evidentiary documents and objects or descriptions thereof;
- (4) Any examination and/or test reports; and
- (5) The content and bases of any expert testimony upon which the government intends to rely. While Rule 16 does not permit a defendant to discover reports,

memoranda, or other internal government documents prepared by the government in connection with the investigation or prosecution of a case, it is all too often too difficult to discern at such an early stage what is and what is not discoverable. Accordingly, please forward all reports for my review.

Documents and/or Reports already in electronic format should be provided on CDs. Electronic format includes WordPerfect (.wpd), Word (.doc), Excel (.xls), Adobe (.pdf). Contact the AUSA for compatibility of other formats. Photographs shall be in .jpg format. Do not submit photos in .raw format. If possible, please submit videos in either .wma or .mpg format. The filename shall reflect the content, as an example: CIWire_SmithBuy_10142007.mpg. Audio recordings should be submitted in Windows compatible format, i.e., .wav, .wma, or .mpg format. The filename shall also reflect the content, as an example: CIWire_SmithBuy_10142007.wav. Transcripts of audio/video recordings shall be submitted in hard copy and an electronic copy in ASCII text format (filename.txt).

In addition, Rule 26.2 (*Jencks Act*) requires us to produce witness statements, which include: (1) written statements that are signed or otherwise adopted or approved by a witness; (2) substantially verbatim recordings or transcriptions of oral statements; and (3) grand jury testimony.

While notes or summaries of notes taken by prosecutors or their agents during an interview with a witness do not ordinarily meet Rule 26.2's (*Jencks Act*) definition of a witness statement, they are often constitutionally discoverable as impeachment information where a witness provides inconsistent statements. Accordingly, you are required to maintain all rough notes, interview notes and similar items, and I ask that you instruct all others working on this case to do the same.

In addition to the Government's statutory duty to disclose, we have a constitutional duty to disclose exculpatory and impeachment information. Exculpatory evidence is any fact or evidence that may be favorable to the defendant or that might tend to show that the defendant did not commit any of the crimes that are charged against him/her or that punishment should be mitigated; we are required to advise the defendant of this evidence. [Impeachment information is information which could be used by a defendant to impeach the credibility of a prosecution witness, including law enforcement officers, and, as a consequence, also make a defendant's conviction less likely, or punishment less severe, e.g., payments to informants, plea and cooperation and non-prosecution agreements, criminal histories, etc.] If you are aware of any evidence that is even arguably exculpatory or could be used for impeachment, please provide such evidence and contact me so that we may discuss it.

June 9, 2016
Page 3
Deputy Michael Steen

With advance notice to the defendant, evidence of other crimes, wrongs, or acts committed by the defendant(s) may be admissible to prove motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake, or accident. If you are aware of any such "other acts" evidence, whether or not criminal charges were levied, please let me know as soon as possible.

If there is any sensitive information that you believe should not be turned over to the defense, such as identities of confidential informants, details of ongoing investigations, or information concerning victims or vulnerable witnesses, please advise me immediately so that we can take the steps necessary to protect the information.

If you have any questions or concerns, please contact the assigned United States Attorney in Boise at (208) 334-1211.

Sincerely,

WENDY J. OLSON
United States Attorney

s/ Aaron N. Lucoff

Aaron N. Lucoff
Criminal Chief

/abr



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

June 17, 2016

Aaron N. Lucoff
Criminal Chief
United States Attorney – District of Idaho
Washington Group Plaza, Suite 600
800 East Park Boulevard
Boise, ID 83712

Re: *United States v. John Howard*
U.S. Attorney No. S-2016R00261

Dear Mr. Lucoff:

I have received your June 9, 2016, letter to Michael Steen requesting documents related to the investigation and pending case in Dietrich, Idaho. Enclosed, please find one DVD containing copies of our discovery file on this matter. If you should require any additional information, please contact me at [REDACTED].

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey Hemmer", is written over a horizontal line.

Casey Hemmer
Deputy Attorney General

CH/cam
Enclosures

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: [REDACTED] FAX: [REDACTED]
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000524



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

July 13, 2016

Lincoln County Sheriff's Office
ATTN: Civil Division
111 West B Street
Shoshone, ID 83352

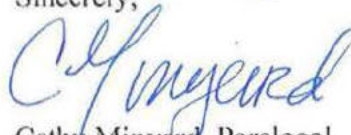
Re: State v. Howard
Preliminary Hearing – July 29, 2016
Subpoena Service

Dear Sir or Madam:

Please serve the enclosed subpoenas and send the returns of service to our office in the enclosed envelope. Please note that most of the persons to be served are minors and should be served in care of their parents as listed on the enclosed subpoenas. If you have any questions, please call me at (208) 332-3096. Thank you for your assistance.

1. K [REDACTED] W [REDACTED] S [REDACTED], C/O Acey & Jayln S [REDACTED], [REDACTED]
2. S [REDACTED] S [REDACTED] R [REDACTED], C/O Leeta Hedrick, [REDACTED]
3. E [REDACTED] "T [REDACTED]" H [REDACTED], C/O Magdalena Venegas, [REDACTED]
4. A [REDACTED] P [REDACTED], C/O Frank & Dolly P [REDACTED], [REDACTED]
5. G [REDACTED] N [REDACTED], C/O Sean & Jami N [REDACTED], [REDACTED]
6. Superintendent Benjamin G. Hardcastle, Dietrich School District #314, 406 N. Park, Dietrich, ID
7. P [REDACTED] S [REDACTED] V [REDACTED], C/O Perry & Gina V [REDACTED], [REDACTED]
8. A [REDACTED] M [REDACTED], C/O Tim & Shelly M [REDACTED], [REDACTED]

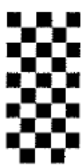
Sincerely,


Cathy Minyard, Paralegal
Criminal Law Division

Enclosures

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: [REDACTED] FAX: [REDACTED]
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000525



Williams, Meservy & Lothspeich, LLP
Attorneys at Law

153 East Main Street
Post Office Box 168
Jerome, Idaho 83338-0168



ROBERT E. WILLIAMS
JAMES C. MESERVY
JOHN B. LOTHSPICH
BRIAN J. WILLIAMS - ASSOCIATE
THEODORE R. LARSEN - ASSOCIATE
EUGENE D. FRIDRICKSEN - RETIRED

TELEPHONE: (208) 324-2303
TELESCOPIER: (208) 324-3135
E-MAIL: bwill@cableone.net

July 21, 2016

Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County
PO Box 83720
Boise, ID 83720-0010

Re: State of Idaho v. John R.K. Howard
Lincoln County Case No. CR-2016-214

Dear Mr. Hemmer:

I am in receipt of a Subpoena from your office for my client, O████ "A████" A████ H████. We previously received a similar Subpoena which was later rescinded. Your office informed me that my client would not be needed as a witness. To clarify, please call me on Monday.

If you have any questions, please feel free to contact me.

Very truly yours,


BRIAN J. WILLIAMS

BJW:ml

Attorney for Defendant

STATE OF IDAHO,

VS.

Defendant.

**MOTION TO CONTINUE
ARRAIGNMENT**

1. Counsel for the defendant will be unavailable due to previously made arrangements to travel out of state on a family vacation to Hawaii;
2. Additionally, counsel was recently retained on the matter.
3. Counsel for the defendant is not currently in possession of discovery and will likely not be adequately informed to effectively represent the defendant at the currently scheduled time;

4. Mr. Howard resides in Texas and attends school there.
5. Due to graduation ceremonies and other end of the school year events for Mr. Howard counsel would also like to request that the following dates be deemed as unavailable:
 - a. May 12, 2016 – May 13, 2016 -- Shattered Dreams: Drunk Driving Reenactment.
 - b. May 21, 2016 -- Prom.
 - c. May 27, 2016 – Last day of school.
 - d. May 28, 2016 – Graduation.
6. The Defendant has retained private counsel, he and his parents regularly communicate with counsel. Mr. Howard fully intends to appear in Idaho when required but is seeking a continuance based on the foregoing.

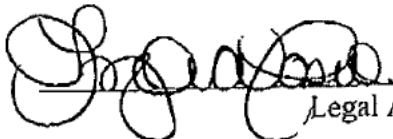
Respectfully submitted this 8th day of April, 2016.


Brad Calbo
Stacey DePew

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that on the 8th day of April, 2016, I caused a true and accurate copy of the foregoing via FAX:

Brenda Bauges
Special Prosecuting Attorney
Office of the Attorney General
FAX: (208) 854-8083


Legal Assistant

LAWRENCE G. WASDEN
Idaho Attorney General

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

CASEY J. HEMMER, ISB # 7224
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
	)	Case No. CR-2016-0000214
Plaintiff,)	
)	
vs.	)	MOTION FOR STATE TO
	)	APPEAR BY TELEPHONE
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

COMES NOW, Casey J. Hemmer , Deputy Attorney General and Special Prosecuting Attorney for Lincoln County, and moves this court for permission to appear by telephone for the Arraignment hearing scheduled for September 6, 2016 at 300 p.m.. This motion is made upon the following grounds: Allowing the state to appear by telephone will save the county time and expense

The State's Attorney, Casey J. Hemmer can be reached by telephone number [REDACTED]

DATED this 29 day of August 2016.



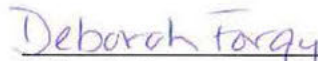
Casey J. Hemmer
Deputy Attorney General and

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day of August 2016 I caused to be faxed a true and correct copy of the foregoing Motion for State to Appear by Telephone to:

Brad Calbo
P.O. Box 9
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail (Email)



Deborah Forgry, Legal Secretary

LAWRENCE G. WASDEN
Idaho Attorney General

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


JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD,	)	MOTION TO DISQUALIFY
)	
Defendant.)	
_____)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney for Lincoln County, State of Idaho, and moves this Court to disqualify the Honorable Robert J. Elgee from hearing the above-referenced case. This motion is made pursuant to Idaho Criminal Rule 25(a), without cause.

DATED this 7th day of September, 2016.



CASEY J. HEMMER
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

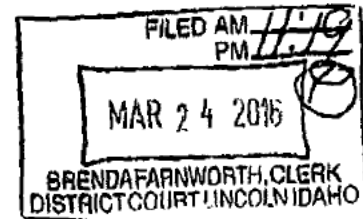
I HEREBY CERTIFY that on this 7th day of September, 2016, I caused to be served a true and correct copy of the foregoing Motion to Disqualify to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail (Email)


Cathy Minyard, Paralegal

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff,

vs.

John R.K. Howard

Defendant.

DOB:

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Arraignment Friday, April 22, 2016 01:30 PM
Judge: Mark A. Ingram

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 Thursday, March 24, 2016.

Defendant: John R.K. Howard

Mailed X Hand Delivered E-Mail

Private Counsel:

Mailed Hand Delivered E-Mail

Prosecutor: Brenda M Bauges

Mailed Hand Delivered E-Mail

Faxed 1-208-854-8083

Dated: Thursday, March 24, 2016

Brenda Farnworth
Clerk Of The District Court

By:

Keo M. Kelley
Keo M. Kelley, Deputy Clerk
DOC22-7/96



U


IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

Case No. CR-2016-214

NOTICE OF APPEARANCE

)))))))))

DATED this 6th day of April, 2016. .


BRAD CALBO
Attorney for Defendant

J

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that on the 6th day of April, 2016, I served a true and correct copy of the foregoing document by the following method and addressed as follows:

Lincoln County Prosecuting
Attorney

- ☐ U.S. Mail
- ☐ Hand-delivery
- ☒ Fax
- ☐ Courthouse Box


Legal Assistant

constitutional provisions, or the agencies own statements to Defendant, either oral or written.

2. Defendant requests that this Court specifically order that no member of the Prosecuting Attorney's Office, law enforcement, or any person or agency specified in Rule 16 of the Idaho Rules of Criminal Procedure or their respective agents attempt to obtain confidential information pertaining to Defendant.
3. Defendant does not authorize any person, other than counsel on Defendant's behalf, to waive said privileges.
4. Defendant hereby exercises Defendant's right to silence, right against self-incrimination, and Defendant's right to counsel under both the federal and state constitutions.
5. **The Defendant does not wish to be interviewed, contacted or questioned, about any matter, whatsoever, whether connected with the currently pending investigation or not, unless Defendant's attorney is present.** The Defendant wishes all of Defendant's contacts with state agents to take place through legal counsel.
6. Defendant further moves this Court to enter a prophylactic order requiring the Prosecuting Attorney's Office and any other law enforcement persons, and their agents to obtain the consent of Defendant's counsel before attempting to contact or interview the Defendant and to provide said counsel reasonable opportunity to be present **PRIOR** to any contact with the Defendant.
7. Additionally, counsel for the Defendant hereby notifies the court and the Prosecuting Attorney's Office, and all personnel associated therewith, that Defendant, as of today's date, revokes any and all previously stated or signed purported waivers of confidentiality and/or privilege, including but not limited to medical, psychological, custodial, marital, religious, education, and/or job related waivers. Defendant does not consent to release of any records to the prosecution, law enforcement, or any agents acting on behalf of the prosecution or law enforcement.
8. Defendant further revokes any and all previously stated or signed purported waivers of Defendant's constitutional right to silence, right against self-incrimination, and right to counsel.
9. The Defendant files this motion and makes all other motions and objections in this case, whether or not specifically noted at the time of the making of the motion or objection, on the following grounds and pursuant to the following authority: The Due Process Clause; the Right to a Fair Trial by an Impartial Jury; the Right to Counsel; Equal Protection; the Confrontation Clause; the Right to Compulsory Process; the Right to Remain Silent and to Appeal; and the Right to be Free from


**NOTICE OF INVOCATION OF ALL STATUTORY AND
CONSTITUTIONAL RIGHTS AND PRIVILEGES AND REVOCATION OF ANY
AND ALL PREVIOUSLY GIVEN WAIVERS OF SAID PRIVILEGES - 2**

↓

Cruel and Unusual Punishment pursuant to the Federal and Idaho State
Constitutions generally and specifically pursuant to the First, Fourth, Fifth, Sixth,
Eight, Ninth, Tenth and Fourteenth Amendments to the United States
Constitutions and their Idaho State equivalents.

DATED this 6th day of April, 2016.

CALBO & DEPEW, PLLC



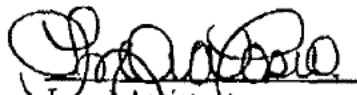
Brad Calbo
Stacey DePew

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing
**NOTICE OF INVOCATION OF ALL STATUTORY AND CONSTITUTIONAL
RIGHTS AND PRIVILEGES AND REVOCATION OF ANY AND ALL
PREVIOUSLY GIVEN WAIVERS OF SAID PRIVILEGES** to the office of the
Prosecuting Attorney, on the 6th day of April, 2016 via Courthouse Box.

Lincoln County Prosecuting Attorney

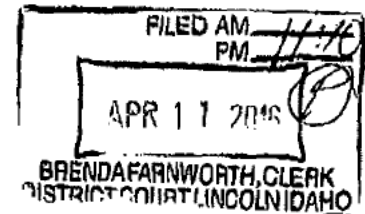
- ☐ U.S. Mail
- ☐ Hand-delivery
- ☒ Fax
- ☐ Courthouse Box



Legal Assistant

**NOTICE OF INVOCATION OF ALL STATUTORY AND
CONSTITUTIONAL RIGHTS AND PRIVILEGES AND REVOCATION OF ANY
AND ALL PREVIOUSLY GIVEN WAIVERS OF SAID PRIVILEGES - 3**

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Motion Friday, April 15, 2016 10:30 AM
Judge: Mark A. Ingram

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 11, 2016.

Defendant: John R.K. Howard

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail _____

Brad Calbo

Fax 324-5597

P.O. Box 9
Jerome ID 83338

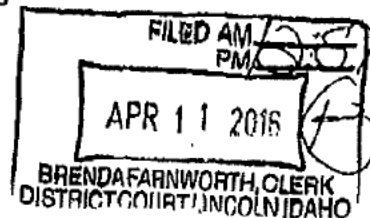
Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail _____ Fax 854-8083

Dated: Monday, April 11, 2016
Brenda Farnworth
Clerk Of The District Court

By: [Signature]
Keo M Kelley, Deputy Clerk
DOC22 796

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

Defendant.

DOB:

Case No: CR-2016-0000214

NOTICE OF HEARING
AMENDED

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

Motion Friday, April 15, 2016 10:30 AM
Judge: Mark A. Ingram

Motion to continue hearing Friday, April 15, 2016 10:30 AM
Judge: Mark A. Ingram

Arraignment Friday, April 22, 2016 01:30 PM
Judge: Mark A. Ingram

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 11, 2016.

Defendant: John R.K. Howard

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail _____

Brad Calbo

Faxed 324-5597

P.O. Box 9
Jerome ID 83338

Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail _____ Faxed 854-8083

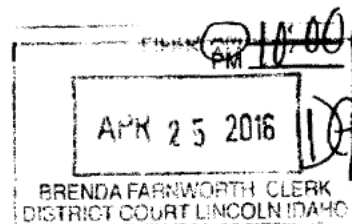
Dated: Monday, April 11, 2016

Brenda Farnworth
Clerk Of The District Court

By:

Keo M Kelley Deputy Clerk
DOC22 7/96

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Preliminary Friday, June 10, 2016 02:00 PM
Judge: Mark A. Ingram

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 25, 2016.

Defendant: John R.K. Howard

Mailed_____ Hand Delivered_____ E-Mail_____

Private Counsel:

Mailed_____ Hand Delivered_____ E-Mail_____
Faxed to (208) 324-5597

Brad Calbo

P.O. Box 9
Jerome ID 83338

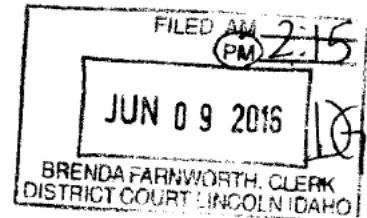
Prosecutor: Brenda M Bauges

Mailed_____ Hand Delivered_____ E-Mail____x____

Dated: Monday, April 25, 2016
Brenda Farnworth
Clerk Of The District Court

By: 
Deysi Garcia, Deputy Clerk
DOC22 7/96

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
[REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Preliminary Friday, July 29, 2016 02:00 PM
Judge: Mark A. Ingram

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 Thursday, June 9, 2016.

Defendant: John R.K. Howard

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail _____

Brad Calbo

Faxed to 324-5597

P.O. Box 9
Jerome ID 83338

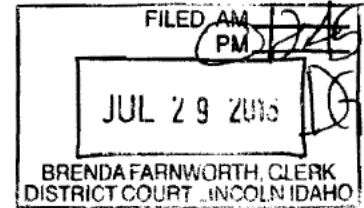
Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail x _____

Dated: Thursday, June 9, 2016
Brenda Farnworth
Clerk Of The District Court

By:
Deysi Garcia, Deputy Clerk
DOC22 7/96

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
[REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Arraignment Tuesday, September 6, 2016 09:00 AM
Judge: John K Butler

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, August 1, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail_x____

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Brenda M Bauges

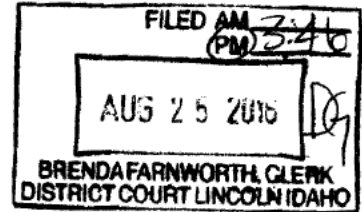
Mailed____ Hand Delivered____ E-Mail_x____

Dated: Monday, August 1, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deys Garcia, Deputy Clerk
DOC22 7196

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Arraignment Thursday, September 1, 2016 01:30 PM
Judge: Robert Elgee

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 Thursday, August 25, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail_x__

Brad Calbo

P.O. Box 9
Jerome ID 83338

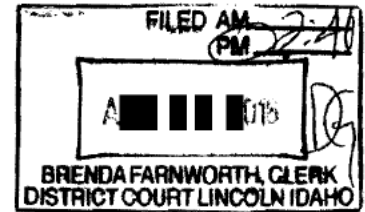
Prosecutor: Casey J Hemmer

Mailed____ Hand Delivered____ E-Mail_x__

Dated: Thursday, August 25, 2016
Brenda Farnworth
Clerk Of The District Court

By:
Deysi Garcia, Deputy Clerk
DOC 22 7/96

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
[REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

**AMENDED
NOTICE OF HEARING**

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

HEARING TO BE HELD IN GOODING COUNTY DISTRICT COURT

Arraignment Tuesday, September 06, 2016 03:00 PM
Judge: Eric Wildman (SRBA)

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 26, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail__X__

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Casey J Hemmer

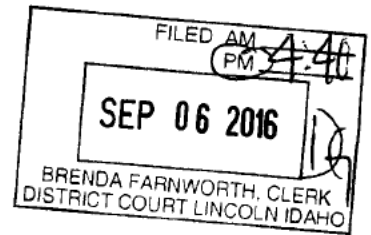
Mailed____ Hand Delivered____ E-Mail__X__

Dated: Friday, August 26, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deysi Garcia, Deputy Clerk
DOC22 7/96

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Mr. Calbo to initiate call. Blaine County # () .
Hearing to be held in Blaine County.

Telephonic Scheduling Conference Monday, September 12, 2016 11:00 AM
Judge: Robert Elgee

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 Tuesday, September 6, 2016.

Defendant: John R.K. Howard

Mailed_____ Hand Delivered_____ E-Mail_____

Private Counsel:

Mailed_____ Hand Delivered_____ E-Mail_x__

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Casey J Hemmer

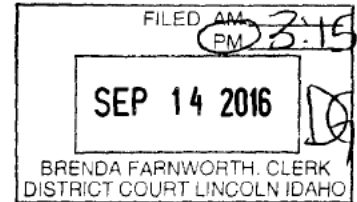
Mailed_____ Hand Delivered_____ E-Mail_x__

cc: Crystal Rigby

Dated: Tuesday, September 6, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deysi Galarza, Deputy Clerk
DOC22 7/96




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
	)	Case No. CR 2016-214
Plaintiff,)	
Vs	)	NOTICE OF HEARING
)	
JOHN R.K. HOWARD,)	
)	
Defendant.)	

Notice is hereby given that the above-entitled case is set for a
Status Conference on October 24, 2016 at 1:30 PM at the JEROME COUNTY
COURTHOUSE in Jerome, Idaho.

DATED this 14 day of September, 2016.

Brenda Farnworth, Clerk

By 
Deputy Clerk

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of September, 2016, I caused to be served a true and correct copy of the attached document on:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

C. Bradley Calbo
Attorney at Law
P.O. Box 9
Jerome, Idaho 83338

Deysi Garcia
~~Kristina Glascock~~, Clerk

By 
~~Deputy Clerk~~

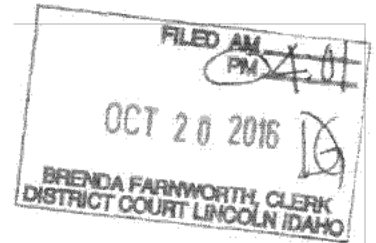
Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800

STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
[REDACTED]

DOB: [REDACTED] Defendant.



Case No: CR-2016-0000214

NOTICE OF HEARING

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

Telephonic Status Tuesday, October 25, 2016 01:00 PM
Judge: Randy J Stoker

*****Mr. Hemmer to initiate conference call. Twin Falls Court number: [REDACTED]*****

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 Thursday, October 20, 2016.

Defendant: John R.K. Howard

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail X _____

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Casey J Hemmer

Mailed _____ Hand Delivered _____ E-Mail X _____

CC: Dorothy McMullen-Judge Stoker's Clerk

Dated: Thursday, October 20, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deysi Garcia, Deputy Clerk
DOC22 7/96

Order

FILED AM 4:00 PM
MAR 28 2016
BRENDA FARNWORTH, CLERK
DISTRICT COURT LINCOLN IDAHO

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video record the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED.**

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED.**

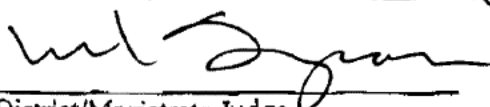
THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED**

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 25 day of March, 2016



District/Magistrate Judge

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

06.08.12

2

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of March 20 , I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

D. Johnson
KMVT
734 1074

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Trial Court Administrator

- ☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

Brenda Bauges
Special Prosecutor

- ☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder


Clerk

Attorney for Defendant

Defendant.

**ORDER RE:
MOTION TO CONTINUE
ARRAIGNMENT**

RR000552

CLERK'S CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that on the ____ day of April, 2016, I served a true and correct copy of the foregoing document by the following method and addressed as follows:

Brenda Bauges
Special Prosecuting Attorney
Office of the Attorney General

- ☐ U.S. Mail
- ☐ Hand-delivery
- ☐ Fax (208) 854-8083
- ☐ Courthouse Box

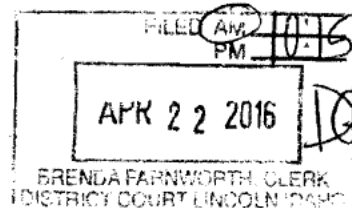
Calbo & DePew, PLLC

- ☐ U.S. Mail
- ☐ Hand-delivery
- ☐ Fax (208) 324-5597
- ☐ Courthouse Box

Clerk

ORDER RE: MOTION TO CONTINUE HEARING

PAGE 2



ORDER

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video/audio record the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

One camera, set location

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☐ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☐ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 22 day of April, 2016 Mark Dyman
Justice/Judge

CERTIFICATE OF MAILING

I hereby certify that on the 22 day of April, 2016, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Brenda Bauges

- ☐ U.S. Mail
☐ Hand delivered
☐ Faxed
☐ Court Folder

Email

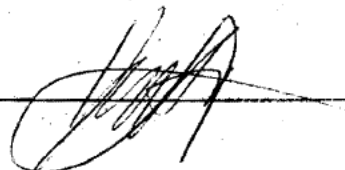
Brad Calbo

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Alex Biggins

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Shelli Tubs
Trial Court administrator
Clerk



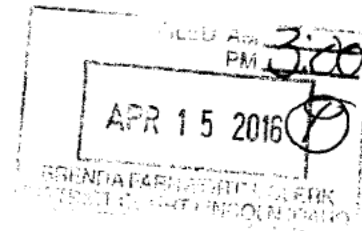


ORIGINAL

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	PROTECTIVE ORDER
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

The Court grants the State's motion for a protective order restricting the manner of disclosure of certain documents, reviewed by the Court *in camera*, containing the victim's personal, medical, and developmental/educational information.

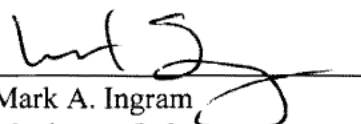
IT IS HEREBY ORDERED, that the following provisions shall control the disclosure of these records:

have agreed *Continue to the Idaho Criminal Rules, the parties*
The State is relieved of any obligation to provide copies of these documents directly to the Defendant.

The State shall provide the Defendant's attorney an unredacted copy of these documents. The Defendant's attorney shall not disseminate any information contained in these documents unless necessary and essential for the preparation of a defense.

If the Defendant is provided information in these documents, the Defendant is prohibited from further disseminating that information absent an order of this Court for good cause shown.

SO ORDERED this 15th day of April 2016.


Mark A. Ingram
Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of April 2016, I cause to be served a true and correct copy of the foregoing Protective Order was served to:

Brad Calbo
Calbo & DePew
P.O. Box 9
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☒ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

Brenda M. Bauges
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

☐ U.S. Mail Postage Prepaid
☒ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

By 
Deputy Clerk

05/24/2016 12:31 KHV

(FAX)

P.002/003

Order

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video record the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☐ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 25 day of May, 2016


District/Magistrate Judge

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

05.03.17

2

CERTIFICATE OF MAILING

I hereby certify that on the 2 day of JUNE, 20 16, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Michael wood
Attorney for defendant

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Brenda Bauges
Prosecutor

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

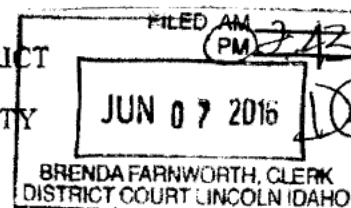
Paul Johnson
KMVT

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Shelly Tubbs
Trial Court Administrator

LG
Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR LINCOLN COUNTY



STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant,

CASE NO. CR-2016-214

ORDER ON VIDEO RECORD,
BROADCAST OR PHOTOGRAPH
OF COURT PROCEEDING AND
AMENDING ALL PRIOR ORDERS

The Court having received multiple media requests in the above-entitled matter and good cause appearing;

IT IS HEREBY ORDERED that:

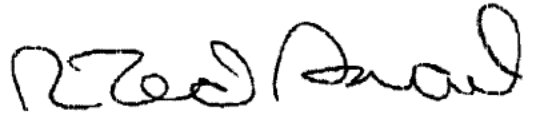
1. All media outlets providing proof of credentials to the Court Marshal and/or Sheriff of Lincoln County and having complied with Idaho Administrative Rule 45 and having made the proper request to the Court **may participate in making a video record** of the proceedings held June 10, 2016, PROVIDED THAT:
 - a. Only **ONE** video camera will be allowed in the courtroom. The media must pool resources and agree on one camera. If they cannot agree, no video cameras will be allowed.
 - b. Video **MAY NOT BE TAKEN** of any alleged victim.
2. Any request to directly broadcast the proceedings from inside the courtroom during the proceedings is **DENIED**.
3. All media outlets providing proof of credentials to the Court Marshal and/or Sheriff of Lincoln County and having complied with Idaho Administrative Rule 45 and having

made the proper request to the Court **may participate in making a photographic record** of the proceedings held June 10, 2016, PROVIDED THAT:

- a. Only ONE camera capable of photography will be allowed in the courtroom. The media must pool resources and agree on one camera. If they cannot agree, no cameras capable of photography will be allowed.
 - b. Photographs MAY NOT BE TAKEN of any alleged victim.
4. The video camera and photographic camera allowed in the courtroom shall operate from a place approved by the Court through the Court Marshal and/or Lincoln County Sheriff.
 5. Idaho Administrative Rule 45 shall otherwise apply to these proceedings and the media shall be expected to know the rules and follow accordingly.

IT IS SO ORDERED.

DATED June 7, 2016.



R. TED ISRAEL
SENIOR MAGISTRATE JUDGE

cc: KMVT
KTVB
Twin Falls Times-News
All other news outlets requesting access
State
Defendant
Trial Court Administration

IN THE DISTRICT COURT OF THE 5th JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Lincoln

State
PLAINTIFF(S)

V.

John R.K. Howard
DEFENDANT(S)

REQUEST TO OBTAIN
APPROVAL TO VIDEO
RECORD, BROADCAST OR
PHOTOGRAPH A COURT
PROCEEDING

I hereby request approval to:

☒ video record [] broadcast [] photograph the following court proceeding:

Case No.: CR-2016-214
Date: 7/29/16
Time: 2:00 p.m.
Location: Lincoln Co. Court
Presiding Judge: Hon. Mark Ingram

I have read Rule 45 of the Idaho Court Administrative Rules permitting cameras in the courtroom, and will comply in all respects with the provisions of that rule, and will also make certain that all other persons from my organization participating in video or audio recording or broadcasting or photographing of the court proceedings have read Rule 45 of the Idaho Court Administrative Rules and will comply in all respects with the provisions of that rule.

Gary Saleman
Print Name

[Signature]
Signature

KTVB
News Organization Represented

[REDACTED]
Phone Number

7/26/16
Date

Please fax back to 375-7770

State of Idaho
vs.
John Howard
CR-2016-214

ORDER

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to **video record** the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to **broadcast** the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

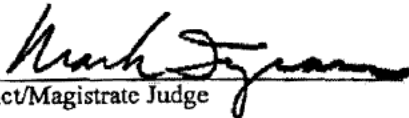
☐ DENIED.

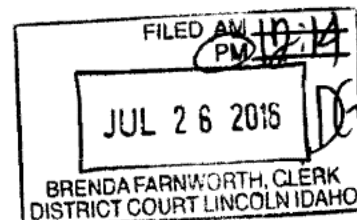
THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to **photograph** the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

DATED this 28 day of July, 2016.


District/Magistrate Judge



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO)
Plaintiff(s),)
)
)
vs.)
)
JOHN R. K. HOWARD)
Defendant(s).)
)

REQUEST TO OBTAIN APPROVAL
TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT
PROCEEDING

I hereby request approval to:

☒ video record ☐ broadcast ☒ photograph the following court proceeding:

Case No.: CR-2016-214
Date: 7/29/16
Time: 2 P.M.
Location: MAIN COURT ROOM
Presiding Judge: MARK A. INGRAM

I have read the Rule 45 of the Idaho Court Administrative Rules regarding cameras in the courtroom, and will comply in all respects with the provisions of that rule, and will also make certain that all other persons from my organization participating in video or audio recording or broadcasting or photographing of the court proceedings have read Rule 45 of the Idaho Court Administrative Rules and will comply in all respects with the provisions of that rule.

ALEX RIBBINS
Print Name
[Signature]
Signature
TIMES-NEWS
News Organization Represented
7/26/16
Date

Phone Number

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

06.08.10

RR000564

State of Idaho

vs.

John R. K. Howard

CR 2016-214

ORDER

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video/audio record the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 27 day of JULY, 2016

Justice/Judge

Mark D. [Signature]

CERTIFICATE OF MAILING

I hereby certify that on the 27 day of JULY, 2016, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Alex Riggins

☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

Attorney General Office

☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

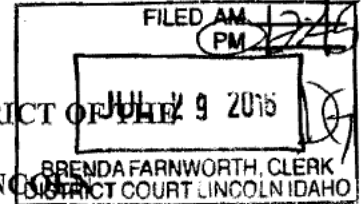
Brad Calbo

☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

CC: TCA

Clerk





IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.) Case No. CR-2016-214
)
 John R. K. Howard)
)
 Defendants.)
)
)

ORDER HOLDING DEFENDANT TO ANSWER TO DISTRICT COURT

[X] Defendant having freely, knowingly and voluntarily waived a preliminary hearing, I order that the defendant be held to answer in the District Court to the charge(s) of:

Forcible penetration by use of a foreign object, 18-6608

[] From the evidence presented, I find that the charge(s)/offense(s) of:

has/have been committed and there is sufficient cause to believe the defendant is guilty thereof. I order that the defendant be held to answer to the charge(s) in the District Court.

The defendant shall appear in District Court for Arraignment on Tuesday, the 16 day of September, 2016 at 9:00 a.m.

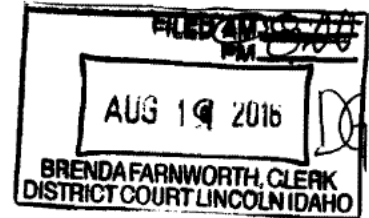
IT IS SO ORDERED.

DATED this 29 day of July, 2016

Mark Syman
Magistrate Judge

C. Bradley Calbo, ISB No. 4929
Stacey DePew, ISB No. 7303
CALBO & DEPEW, PLLC
414 North Lincoln Avenue, Ste. 5
P.O. Box 9
Jerome, ID 83338
Phone (208) 324-5431
Fax: (208) 324-5597
www.calboanddepew.com

Attorneys for Defendant



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

Case No. CR- 2016-214

**ORDER RE:
MOTION TO DISQUALIFY
JUDGE PURSUANT TO I.C.R. 25**

COMES NOW, the Honorable John K. Butler, District Judge, having been disqualified in the above-entitled cause and requests this matter be re-assigned to another District Judge for all further proceedings.

DATED:

SIGNED:

John K. Butler
District Judge

CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that on the 19 day of August, 2016 I caused a true and accurate copy of the foregoing to be forwarded to the following using the method indicated:

Casey Hemmer
~~Brenda Bauges~~
P.O. Box 83720
Boise, ID 83720

- ☐ U.S. Mail
☐ Hand-delivery
☐ Fax *Email*
☐ Courthouse Box

Calbo & DePew
P.O. Box 9
Jerome, ID 83338

- ☐ U.S. Mail
☐ Hand-delivery *Email*
☐ Fax
☐ Courthouse Box

Shelli Tubbs
~~Linda Wright~~
Trial Court Administrator
P.O. Box 126
Twin Falls, ID 83303

- ☐ U.S. Mail
☐ Hand-delivery *Email*
☐ Fax
☐ Courthouse Box


Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.


Case No. CR-2016-0000214

**ORDER GRANTING STATE'S
MOTION TO APPEAR BY
TELEPHONE**

The Court having received the State's Motion to Appear by Telephone for the Arraignment on September 6, 2016 at 3:00 p.m. and with good cause;

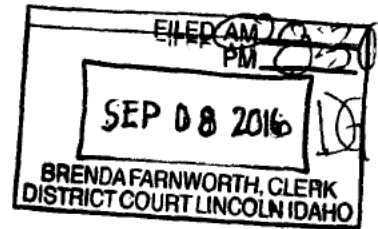
IT IS HEREBY ORDERED that the State's Motion is GRANTED. The court will call Casey J. Hemmer at () on September 6, 2016 at 3:00 p.m.

DATED this 1 day of September 2016.


Eric Wildman
District Judge

ORDER GRANTING STATE'S MOTION TO APPEAR BY TELEPHONE (Howard),

RR000570



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD,	)	ORDER TO DISQUALIFY
)	
Defendant.)	
_____)	

THE ABOVE ENTITLED MATTER having come before this Court and good cause appearing;

IT IS HEREBY ORDERED that the Honorable Robert J. Elgee be disqualified in the above entitled case pursuant to Idaho Criminal Rule 25(a).

DATED this 7 day of September 2016.



Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8 day of September, 2016, I caused to be served a true and correct copy of the foregoing Order to Disqualify to:


Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720
FAX: () -

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

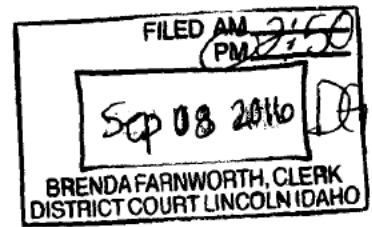
Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: () -

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

By


Deputy Clerk

5th District TCA



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

John R.K. Howard,

Defendant.

Case No. CR-2016-214

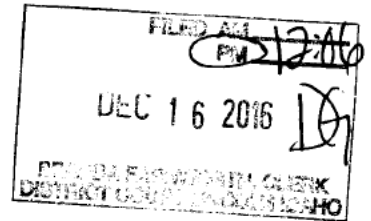
Order of Assignment by
Administrative District Judge

The above-entitled is assigned to the Honorable Randy J. Stoker, District Judge, for
all further proceedings.

Dated: September 8, 2016

G. RICHARD BEVAN
Administrative District Judge
Fifth Judicial District

C:



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

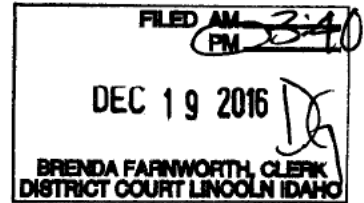
THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-1144
)	
vs.	)	Order of Assignment by
	)	Administrative District Judge
JOHN R. K. HOWARD,)	
)	
Defendant.)	

The above-entitled is assigned to the Honorable Randy J. Stoker, District Judge, for
all further proceedings.

Dated: December 16, 2016

G. RICHARD BEVAN
Administrative District Judge
Fifth Judicial District

C:



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

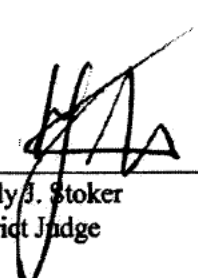
Case No. CR-2016-214

ORDER TO DISMISS

The Court having heard the motion heretofore made in the case of *State v. John R.K. Howard*, by, Deputy Attorney General Casey J. Hemmer, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the charge of Forcible Penetration by Use of a Foreign Object, Felony is hereby dismissed.

DATED this 19 day of Dec 2016



Randy J. Stoker
District Judge

CLERK'S CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 20 day of December, 2016, I caused to be served
a true and correct copy of the foregoing Order to Dismiss to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

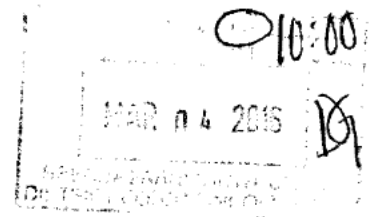
☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

By: 
Deputy Clerk

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

CASE NO. CR-2016-214
CRIMINAL COMPLAINT

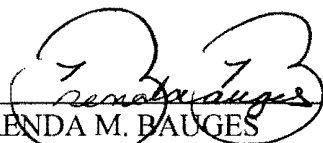
PERSONALLY APPEARED before me this 4 day of March 2016, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608** as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by

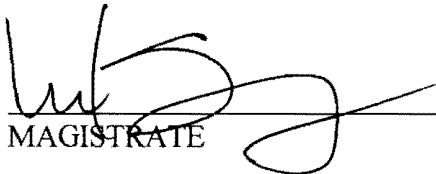
kicking a coat hanger further inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.


BREND A M. BAUGES
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this 4 day of March 2016.


MAGISTRATE

C. Bradley Calbo, ISB No. 4929
Stacey DePew, ISB No. 7303
CALBO & DEPEW, PLLC
P.O. Box 9
414 North Lincoln Avenue, Ste. 5
Jerome, ID 83338
Phone (208) 324-5431
Fax: (208) 324-5597

Attorney for Defendant

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

**WAIVER OF TIME FOR
PRELIMINARY HEARING**

COMES NOW, the above-named defendant and hereby waives the time limit for his Preliminary Hearing and in so doing, acknowledges that he has been advised and understands the following:

1. That he has an absolute right to require the State to present evidence establishing probable cause that a crime has been committed and that he is the person who committed it within 14 days of his arraignment if he is in custody and 21 days if he is out of custody;
2. That by waiving the time limit for the Preliminary Hearing his case will reset for preliminary hearing, potentially outside of the time limits for said hearing;

WAIVER OF TIME FOR PRELIMINARY HEARING

Page 1

1 3. That he has had a full and fair opportunity to discuss the issue of waiver of this time limit
2 with his attorney.

3 DATED this ____ day of April, 2016.

4
5 
6 John R.K. Howard
7 Defendant

8
9 Brad Calbo
10 Attorney for Defendant
11
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22
23
24
25

CERTIFICATE OF DELIVERY

I hereby certify that on the 22nd day of April 2016, I served the foregoing
document by hand delivery to:

Brenda M. Bauges
Special Prosecuting Attorney
P.O. Box 83720
Boise, ID 83720

FAX: () -


Stacey DeFew

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

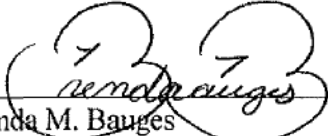
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
)	
vs.	)	RESPONSE TO MOTION TO
	)	CONTINUE ARRAIGNMENT
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and hereby leaves the Defendant's motion to continue the arraignment currently scheduled for April 22, 2016 in the discretion of the Court. To the extent the Court grants the Defendant's request, the State objects to considering the listed dates in the Defendant's motion as "unavailable" dates. The dates listed, for the most part, are events which the Defendant wishes to engage in, not events in which the Defendant is required

to engage. The Defendant is charged with a serious crime and court appearances should have priority over the Defendant's other engagements.

DATED this 11 day of April 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of April 2016, I caused to be served a true and correct copy of the foregoing Notice of Non-Objection to Motion to Continue Arraignment to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

* * * COMMUNICATION RESULT REPORT (APR. 11. 2016 3:22PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : APR. 11. 2016 3:22PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

168 MEMORY TX

912088862458

OK

3/3

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010**Idaho State
Attorney General
Criminal Law Division****Fax****To:** Magistrate Court Clerk –
Criminal Division**From:** Cathy for Brenda Bauges**Fax:** () -**Pages:** 3**Phone:** () -**Date:** 4/11/16**Re:** State v. Howard –
Response to Motion to Continue**cc:**☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Enclosed for filing, please find the State's Response to the Defendant's Motion to Continue in the above matter. Please return a conformed copy of the first page of the Response to me via fax at () -. If you have any questions, please call me at () -.

Thank you,

Cathy Minyard
Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office - Criminal Division
Phone: () -
Fax: (208) 854-8074

RR000584

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

To: Magistrate Court Clerk –
Criminal Division

From: Cathy for Brenda Bauges

Fax: () - -

Pages: 3

Phone: () - -

Date: 4/11/16

Re: State v. Howard –
Response to Motion to Continue

cc:

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Enclosed for filing, please find the State's Response to the Defendant's Motion to Continue in the above matter. Please return a conformed copy of the first page of the Response to me via fax at () - . If you have any questions, please call me at () - .

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office - Criminal Division

Phone: () - -

Fax: () - -

* * * COMMUNICATION RESULT REPORT (APR. 11. 2016 3:14PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : APR. 11. 2016 3:14PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

167 MEMORY TX

912083245597

OK

3/3

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010
208-854-8083**Idaho State
Attorney General
Criminal Law Division****Fax****To:** C. Bradley Cabo, Cabo & DePew **From:** Cathy for Brenda Bauges**Fax:** () **Pages:** 3**Phone:** () **Date:** 4/11/16**Re:** State v. Howard **cc:**☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

To: C. Bradley Cabo, Cabo & DePew **From:** Cathy for Brenda Bauges

Fax: () - **Pages:** 3

Phone: () - **Date:** 4/11/16

Re: State v. Howard **cc:**

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

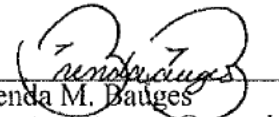
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:
O [REDACTED] "A [REDACTED]" A [REDACTED] H [REDACTED]
c/o Brian J. Williams, Williams, Mervy & Lothspeich, LLP
153 East Main St.
Jerome, ID 83338

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 26 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000588

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

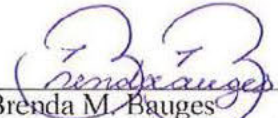
THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

E [REDACTED] "I [REDACTED]" H [REDACTED]
C/O MAGDALENA VENEGAS
[REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000590

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

P [REDACTED] S [REDACTED] V [REDACTED]
C/O PERRY & GINA V [REDACTED]
[REDACTED], [REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000592

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083


IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:
BENJAMIN G. HARDCASTLE
SUPERINTENDENT – DIETRICH SCHOOL DISTRICT #314
406 N. Park
Dietrich, ID 83324

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000594

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

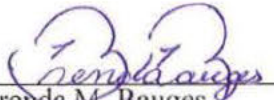
THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

K [REDACTED] W [REDACTED] S [REDACTED]
C/O ACEY & JAYLN S [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA - CRIMINAL (HOWARD) - 1

RR000596

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

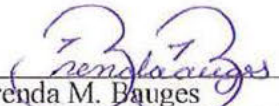
THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

S [REDACTED] S [REDACTED] R [REDACTED]
C/O LEETA HEDRICK
[REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000598

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

G [REDACTED] N [REDACTED]
C/O SEAN & JAMI N [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

A [REDACTED] P [REDACTED]
C/O FRANK & DOLLY P [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000602

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

A [REDACTED] M [REDACTED]
C/O TIM & SHELLY M [REDACTED]
[REDACTED], [REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on June 10, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 25 day of April, 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000604

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

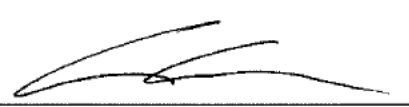
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	

THE STATE OF IDAHO SENDS GREETINGS TO:
O [REDACTED] "A [REDACTED]" A [REDACTED] H [REDACTED]
c/o Brian J. Williams, Williams, Mervy & Lothspeich, LLP
153 East Main St.
Jerome, ID 83338

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000606

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

A [REDACTED] M [REDACTED]
C/O TIM & SHELLY M [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000608

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

E [REDACTED] "T [REDACTED]" H [REDACTED]
C/O MAGDALENA VENEGAS
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000610

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs,)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

P [REDACTED] S [REDACTED] V [REDACTED]
C/O PERRY & GINA V [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000612

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

K [REDACTED] W [REDACTED] S [REDACTED]
C/O ACEY & JAYLN S [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000614

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

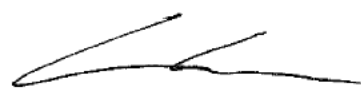
THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

G [REDACTED] N [REDACTED]
C/O SEAN & JAMI N [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000616

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

S [REDACTED] S [REDACTED] R [REDACTED]
C/O LEETA HEDRICK

[REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000618

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

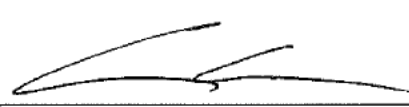
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:
BENJAMIN G. HARDCASTLE
SUPERINTENDENT – DIETRICH SCHOOL DISTRICT #314
406 N. Park
Dietrich, ID 83324

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000620

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

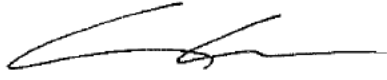
THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	SUBPOENA - CRIMINAL
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

A [REDACTED] P [REDACTED]
C/O FRANK & DOLLY H [REDACTED]
[REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (HOWARD) - 1

RR000622

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of _____, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

10:00
MAR 04 2016
ID

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

CASE NO. CR-2016-214

ARREST WARRANT

Address: [REDACTED], [REDACTED], [REDACTED]			
DOB: [REDACTED]	SSN: [REDACTED]	Race:	
WT: 174 lbs	HT: 6'00"	EYES: Blue	HAIR: Brown

TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE STATE OF IDAHO:

A COMPLAINT UPON OATH having been this day laid before me by Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, stating that the crime of: FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, has been committed, and accusing JOHN R.K. HOWARD thereof;

ARREST WARRANT (HOWARD), Page 1

ORIGINAL

RR000624

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above, and to bring him before me at my office in the County of Lincoln, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Lincoln County.

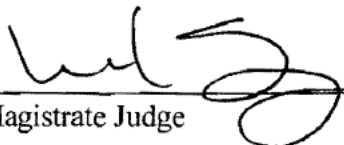
DATED This 4th day of March, 2016.

May be served:

Daytime or any public
place or at the Lincoln
County Jail _____

Daytime or nighttime X

Bond \$ 75,000⁰⁰



Magistrate Judge

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing JOHN R.K. HOWARD into Court this _____ day of _____, 2016.

(Deputy Sheriff) (State Policeman)
(City Policeman)

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, JOHN R.K. HOWARD , having been brought before me under this Warrant, is committed for examination to the Sheriff of Lincoln County, Idaho, and is admitted to bail in the sum of \$_____, surety, cash or by undertaking of two (2) sufficient sureties, and is committed to the custody of the Sheriff of Lincoln County until such bail is given. This cause is continued for further appearance until the _____ day of _____, 2016.

Magistrate Judge

ORDER OF RELEASE

TO THE SHERIFF OF LINCOLN COUNTY, IDAHO:

YOU ARE HEREBY ORDERED to release the Defendant from your custody.

DATED:

Judge

NCIC ENTRY: (Additional Levels Inclusive)

☐ Idaho Only

☐ North West Shuttle (ID, WA, OR)

☐ Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO, AZ, NV)

☒ Nationwide

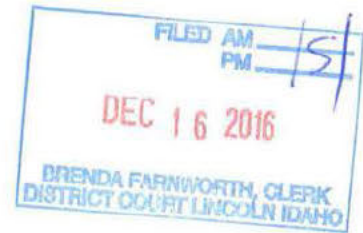
BY: _____

DATED: _____

LAWRENCE G. WASDEN
Idaho Attorney General

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

CASEY J. HEMMER, ISB#7224
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () - -
Facsimile: () - -



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD

DOB:

SSN:

Defendant.

CASE NO. 16-1144

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this 16th day of December 2016, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: INJURY TO CHILDREN, FELONY, § 18-1501(1) as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did under circumstances likely to produce great bodily harm, inflict unjustifiable physical pain or mental suffering upon the person of A.W.M., a child under the age of eighteen (18) years.

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

Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.



CASEY J. HEMMER
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this 16th day of December, 2016.



MARK A. INGRAM
MAGISTRATE

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () - -
Facsimile: () - -

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,
vs.

JOHN R.K. HOWARD
DOB: - - - -
SSN: - - - -

Defendant.

CASE NO. 16-1144
INFORMATION

CASEY J. HEMMER, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Lincoln, and states that JOHN R.K. HOWARD is accused by this Information of the crime(s) of: INJURY TO CHILDREN, FELONY, § 18-1501(1); which crimes were committed as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did under circumstances likely to produce great bodily harm, inflict unjustifiable physical pain or mental suffering upon the person of A.W.M., a child under the age of eighteen (18) years.

INFORMATION (HOWARD), Page 1

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

DATED this 16th day of December, 2016.



CASEY J. HEMMER
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

December 21, 2016

R. Keith Roark
The Roark Law Firm, LLP
Attorneys at Law
515 1st Ave South
Hailey, ID 83333

Re: Public Records Request

Dear Mr. Roark,

On December 18, 2016, we received your public records request via email for the following materials:

"...copies of all correspondence between you and the attorneys for Mr. W [REDACTED] and Mr. Howard and copies of their written plea agreements. Furthermore, demand is renewed that you turn copies of your complete files in these case [sic] over to my co-counsel and myself."

Pursuant to Idaho Code § 74-103(1), I am writing to notify you that the public records you have requested, excluding any such records exempt from disclosure under Idaho law, will be provided to you on or before January 3, 2017, which is within ten (10) working days from receipt of your request.

Sincerely,

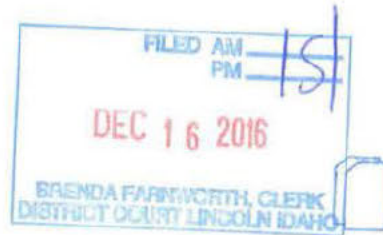
A handwritten signature in black ink, appearing to be "P. Panther", with a long horizontal line extending to the right.

Paul R. Panther
Deputy Attorney General
Chief, Criminal Law Division

PRP/fn

C. Bradley Calbo, ISB. No. 4929
Stacey DePew, ISB. No. 7303
C. Ira Dillmans, ISB No. 9081
CALBO & DEPEW, PLLC
414 N. Lincoln, Ste. 5
PO Box 9
Jerome, ID 83338
Telephone: (208) 324-5431
Fax: (208) 324-5597

Attorneys for Defendant



COPY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R. K HOWARD,

Defendant.

Case No. CR- 16-1144

**MOTION TO DISQUALIFY
JUDGE PURSUANT TO I.C.R. 25**

COMES NOW the above named defendant, by and through his attorney of record, Brad Calbo, and moves to disqualify Judge John Butler in the above-entitled case. Pursuant to I.C.R. 25 this motion to disqualify is made without cause.

Dated this 16th day of December, 2016.

151
Brad Calbo

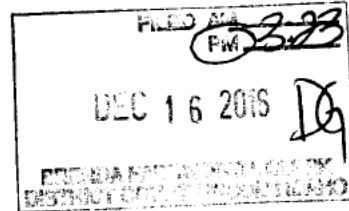
CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that on the 16th day of December, 2016, I caused a true and accurate copy of the forgoing to be forwarded to the following using the method indicated.

Lincoln County Special Prosecuting Attorney ☐ U.S. Mail
 ☒ Hand-delivery
☐ Fax
☐ Courthouse Box

Legal Assistant

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
[REDACTED]

DOB: [REDACTED]
Defendant.

Case No: CR-2016-0001144

NOTICE OF HEARING

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

Sentencing Friday, February 24, 2017 01:30 PM
Judge: Randy J Stoker

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, December 16, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail_x__

Brad Calbo

P.O. Box 9
Jerome ID 83338

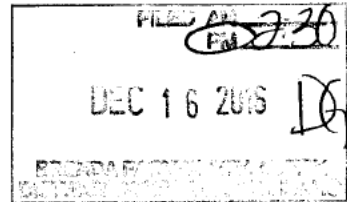
Prosecutor: Casey J Hemmer

Mailed____ Hand Delivered____ E-Mail_x__

Dated: Friday, December 16, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deysi Garcia, Deputy Clerk
DOC22 7/96



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN**

State of Idaho,

Plaintiff,

vs.

John R. K Howard,

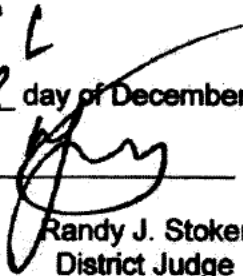
Defendant.

Case No. CR-2016-1144

ORDER

IT IS HEREBY ORDERED that the defendant, John R. K Howard, shall have no contact with the victim in this case, whether by phone, in person, or through third parties. It is further ordered that counsel shall not communicate with members of the media about this case.

Dated this 16th day of December 2016.


Randy J. Stoker
District Judge



copy

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

VS.

JOHN R. K HOWARD,

Defendant.

Case No. CR- 16-1144

**ORDER RE:
MOTION TO DISQUALIFY
JUDGE PURSUANT TO I.C.R. 25**

COMES NOW, the Honorable John K. Butler, District Judge, having been disqualified in the above-entitled cause and requests this matter be re-assigned to another District Judge for all further proceedings.

DATED: _____

SIGNED: _____

John K. Butler
District Judge

CERTIFICATE OF DELIVERY

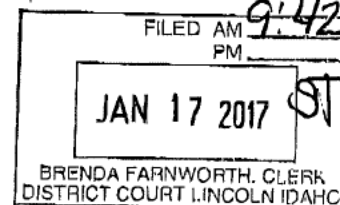
I, the undersigned hereby certify that on the ____ day of _____, 2016 I caused a true and accurate copy of the foregoing to be forwarded to the following using the method indicated:

Lincoln County Special Prosecuting Attorney	<input type="checkbox"/> U.S. Mail
	<input type="checkbox"/> Hand-delivery
	<input type="checkbox"/> Fax
	<input type="checkbox"/> Courthouse Box

Calbo & DePew	<input type="checkbox"/> U.S. Mail
P.O. Box 9	<input type="checkbox"/> Hand-delivery
Jerome, ID 83338	<input type="checkbox"/> Fax
	<input type="checkbox"/> Courthouse Box

Linda Wright	<input type="checkbox"/> U.S. Mail
Trial Court Administrator	<input type="checkbox"/> Hand-delivery
P.O. Box 126	<input type="checkbox"/> Fax
Twin Falls, ID 83303	<input type="checkbox"/> Courthouse Box

Deputy Clerk



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

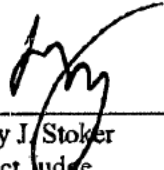
Defendant.

Case No. CR-2016-1144

ORDER

The Court being fully advised in this matter **HEREBY ORDERS** that the limitation which prohibits counsel from communicating with members of the media about this case, set forth in this Court's December 16, 2016, Order, is hereby lifted.

DATED this 17 day of January 2017.



Randy J. Stoker
District Judge

CLERK'S CERTIFICATE OF SERVICE

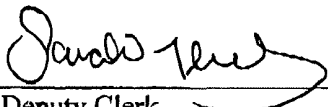
I HEREBY CERTIFY that on this 1st day of January 2017, I caused to be served a true and correct copy of the foregoing Order to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Fax: (208) 854-8083

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail (Email)

By: 
Deputy Clerk



LINCOLN COUNTY COURT SERVICES

111 WEST B STREET, SUITE C

SHOSHONE, IDAHO 83352

TELEPHONE-(208)886-2173

FACSIMILE-(208)886-2458

TO: Casey J HemmerFROM: Lincoln County CourtsFAX: (208) 884-8083DATE: 1/17/17

MESSAGE: _____

WE'RE TRANSMITTING 3 PAGES, INCLUDING THIS PAGE. If you don't receive all pages, call court services at the above number. The documents accompanying this telecopy transmission contain information which is confidential and/or privileged. The information is intended for the use of the individual/entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this telecopied information is strictly prohibited. If you've received this telecopy in error, please notify us by telephone without delay.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R. K. HOWARD,

Defendant.

CASE NO. CR- 16-1144

 Guilty Plea Advisory Form

 X Guilty Plea Advisory Form Alford Plea

(Approved For Use in Twin Falls District Court)
(Revised as of March 2012)



COPY

STATEMENT OF CONSTITUTIONAL RIGHTS
(Please initial each response)

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

I understand that by pleading guilty I am **waiving** my right to remain silent before and during trial.

J. H.

2. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the judge for an attorney who will be paid by the county. You may be required to reimburse the county for the cost of this representation. J. H.

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

I understand that by pleading guilty I am **waiving** my right to be presumed innocent. J. H.

4. You have the right to a speedy and public jury trial before twelve persons. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. You are not required to do so, however. The state must convince all of the jurors of your guilt beyond a reasonable doubt.

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

J. H.

5. You have the right to confront the witnesses testifying against you. This occurs during a jury trial. At trial, the state must prove its case by calling witnesses to testify under oath in front of you, the

jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call witnesses of your choosing to testify on your behalf. If you do not have the funds to bring those witnesses to court, the state will pay the cost of bringing your witnesses to court and will compel their attendance by the use of the subpoena power of the court.

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

QUESTIONS REGARDING ABILITY TO ENTER PLEA

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

Please Circle and Initial One

1. Do you read and write the English language? YES J.H. NO _____

If not, have you been provided with an interpreter to help you fill out this form? .. YES _____ NO _____

Do you want an Interpreter? YES _____ NO _____

2. What is your age? 19

3. What is your true and legal name? John R.K Howard

4. What was the highest grade of school you completed? 12

If you did not complete high school, have you received either a general education diploma or high school equivalency diploma? YES _____ NO _____

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

6. Have you ever been diagnosed with a mental health disorder? YES J.H. NO _____

If so, what was the diagnosis and when was it made? Depression, 2011

7. Are you currently prescribed any medication? Paxal YES J.H. NO _____

If so, have you taken your prescription medication during the past 48 hours? YES J.H. NO _____

8. In the last 48 hours, have you taken any medications or drugs, or drank any alcoholic beverages which you believe affect your ability to make a reasoned and informed decision in this case? YES _____ NO J.H.

9. Are you under the influence of any alcohol, drugs, or other medication at this time? YES _____ NO J.H.

10. Do you claim that you are incapable of understanding or do not understand these proceedings? YES _____ NO J.H.

11. Is there anything going on in your life that affects your ability to enter a voluntary guilty plea? YES _____ NO J.H.

12. Do you claim that you are mentally incapable of understanding these proceedings or what it means to plead guilty to a crime? YES NO J.H.
13. Are you having any difficulty in understanding what you are doing by filling out this form? YES NO J.H.
14. Is there any other reason that you cannot make a reasoned and informed decision in this case? YES NO J.H.

Plea Agreement

15. Is your guilty plea the result of a plea agreement? YES NO J.H.

If so, what are the terms of that plea agreement? (If available, a written plea agreement **must** be attached hereto as "Addendum 'A'")

See attached Rule 11 plea agreement: Defendant to plead guilty to Felony Injury To Child, I.C. 18-1501 pursuant to Rule 11 of the Idaho Criminal Rules and subject to the following provisions: The parties will stipulate that Mr. Howard receive a withheld judgment; The State will request no more than 3 years of probation; The Defense will request not less than 2 years probation; The State will request 300 hours of community service; The defense is free to argue for less community service; Fines and costs are to be assessed at the Court's discretion; Defendant will be subject to classes at the discretion of the probation department, including race-based sensitivity classes and anti-bullying classes, if available. If Defendant successfully completes probation with no violations the State will agree that the charge be reduced to a misdemeanor pursuant to I.C. 19-2604 with Defense free to argue that the case be dismissed.

16. Have you read this plea agreement? YES NO J.H.
17. Do you understand this plea agreement? YES NO J.H.
18. Is there anything about this plea agreement that you don't understand? YES NO J.H.

19. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea agreement:

- a. I understand that my plea agreement is a **binding** plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. J.H.
- b. I understand that my plea agreement is a **non-binding** plea agreement. This means that the court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, up to the maximum sentence stated above. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. _____.

20. Is this plea agreement acceptable to you? YES NO J.H.

21. Has your attorney told you that you must accept this plea agreement? YES NO J.H.

22. Has your attorney or anyone else forced or coerced you in any way into accepting this plea agreement?.....YES NO JH

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

24. Has anyone told you what your sentence will be?YES NO JH

If so, what have you been promised? See rule 11 agreement.

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

If so, what issue(s) are you reserving the right to appeal? (A copy of the written conditional plea must be attached.)

26. Have you waived your right to appeal your **judgment of conviction** as part of your plea agreement?YES NO JH

27. Have you waived your right to appeal your **sentence** as part of your plea agreement?.....

Under what conditions can you appeal your sentence? YES NO JH

28. Do you understand that by pleading guilty you will waive (or give up) any **defenses**, both factual and legal, that you believe you may have in this case?YES NO JH

29. Do you understand that this includes waiver of any claimed violations of your **Constitutional rights**?.....YES NO JH

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

31. Do you understand that by pleading guilty, you give up the right to pursue any motions (including motions to suppress or dismiss) that otherwise could have been filed and pursued in your case?YES NO JH

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

33. Have you discussed the elements of the offense(s) for which you are charged with your attorney?
..... YES JH NO

POTENTIAL SENTENCE

34. I am charged with the following crimes:
Felony Injury To Child – I.C. 18-1501

The maximum prison sentence and fine for Count I is 10 years prison and a \$50,000 fine.

35. In this case the court will impose a "unified sentence" consisting of a fixed term (or portion) and an indeterminate term (or portion). If you are required to serve this sentence in the penitentiary you will not be eligible for parole until you have served the fixed portion and thereafter will be paroled only if the parole board so determines. Do you understand these principles?
..... YES JH NO

36. Do you understand that there are **other direct consequences** that arise from entry of a felony charge that are explained below. YES JH NO

37. As a term of your plea agreement, are you pleading guilty to more than one crime? YES NO JH
If so, do you understand that your sentences for each crime could be ordered to be served either **concurrently** (at the same time) or **consecutively** (one after the other)? YES NO

38. Do you understand that if you plead guilty and you commit crimes in the future, this conviction would be considered in the future case and could cause a more severe penalty in the future case? YES JH NO

ADDITIONAL DIRECT CONSEQUENCES OF A GUILTY PLEA

39. Are you currently on probation or parole? YES NO JH
If so, do you understand that a plea of guilty in this case could be the basis of a violation of that **probation or parole (WHICH MEANS THAT ANY SUSPENDED SENTENCE COULD BE IMPOSED AND ANY PAROLE REVOKED)**? YES NO

40. Are you aware that if you are not a **citizen** of the United States, the entry of a plea or making of factual admissions could: (1) result in your deportation or removal from the United States; (2) preclude you from obtaining legal status in the United States; or (3) prevent you from obtaining United States citizenship? YES JH NO

41. Does the crime to which you will plead guilty require you to register as a **sex offender**? (I.C. § 18-8304) YES NO JH

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

43. Are you pleading guilty to a crime for which you may be required to pay the costs of prosecution and investigation? (I.C. § 37-2732(k)), (I.C.R. 33(d)(2)) YES ___ NO JH

If so, have you and the state agreed upon the amount of this reimbursement? .. YES ___ NO ___
If you have, what is the amount? _____

44. Have you agreed to pay restitution as a condition of your plea agreement? YES ___ NO JH

If so, to whom and how much? _____

45. If the amount of restitution has not been agreed upon, do you understand that you cannot withdraw your guilty plea even if the restitution amount is determined to be higher than you thought it might be or should be? YES JH NO ___

46. Is a driver's license suspension required as a result of a guilty plea in this case? YES ___ NO JH

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

47. Is there a mandatory license suspension applicable to this case? YES ___ NO JH

If so, do you understand that if there is a mandatory license suspension applicable to this case that you cannot under any circumstances have restricted privileges during this period of suspension? YES JH NO ~~___~~

48. Is there a discretionary license suspension applicable to this case? YES ___ NO JH

If so, do you understand that the decision to grant you restricted driving (IF ALLOWED BY LAW) privileges is up to the Judge? YES ___ NO ___

49. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse or psychosexual evaluation is required? (I.C. § 18-918(7)(a)), (I.C. § 18-8005(9)), or (I.C. § 18-8317) YES ___ NO JH

50. Are you pleading guilty to a crime for which you will be required to submit a DNA sample and Right Thumbprint impression to the state? (I.C. § 19-5506) YES JH NO ___

51. Are you pleading guilty to a crime for which the court could impose a fine for a crime of violence of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307) YES JH NO ___

52. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to vote in Idaho? (Id. Const. art.6, §3) YES JH NO ___

53. Do you understand that if you plead guilty to a felony during the period of your sentence, you will lose your right to hold public office in Idaho? (Id. Const. art.6, §3) YES JH NO ___

54. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform jury service in Idaho? (Id. CONST. art. 6, § 3) YES JH NO ___

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

RELATIONSHIP WITH YOUR ATTORNEY

56. Have you had sufficient time to discuss your case with your attorney? YES JH NO _____

57. Have you had adequate time to fill out this form? YES JH NO _____

58. Have you had adequate access to your attorney's assistance in filling out this form? YES JH NO _____

59. Have you told your attorney everything you know about your case? YES JA NO _____

60. Is there anything you have requested your attorney do that has not been done? .. YES NO JA _____

If yes, please explain. _____

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

62. Are there any additional items you want to view before entering a guilty plea..... YES NO JH _____

If so, what? _____

63. Do you want your attorney to undertake further investigation of your case? YES NO JH _____

64. Has your attorney properly or adequately investigated your case? YES JH NO _____

65. Have you told your attorney about any witnesses, including any who would show your innocence?..... YES JH NO _____

66. Have you and your attorney discussed any potential motions that you would like filed in your case? YES JH NO _____

67. Are there any motions or other requests for relief (including motions to suppress or dismiss) that you believe should still be filed in this case? YES NO JH _____

If so, what motions or requests? _____

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

69. Are you satisfied with your attorney's representation? YES JA NO

If not, please state why you are dissatisfied _____

70. Has your attorney made any promises or commitments about what your sentence would be?

..... YES JA NO

ENTRY OF PLEA

71. Are the answers throughout this form your own answers? YES JA NO

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

73. Do you understand the consequences of entering a guilty plea? YES JA NO

74. Why are you pleading guilty to the charge(s) in this case? Pursuant to Alford -
sufficient evidence for jury to convict me.

75. Are you pleading guilty just to get out of jail? YES NO JA

76. Do you understand that even if the state agrees to release you from jail pending sentencing that the court may decide not to release you? YES JA NO

77. Are you pleading guilty "just to get this over with"? YES NO JA

78. Have you read all of the charges in the information or indictment filed against you? YES JA NO

79. Are you admitting to all of the elements of the crime(s) to which you are pleading guilty? YES NO JA

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

81. Explain what you did that makes you guilty of the charges against you. (NON ALFORD PLEA)

Alford Plea

82. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue(s) with your attorney? YES NO J.H.

If so, what? _____

83. Do you need any additional time before you enter your guilty plea(s)? YES NO J.H.

84. Do you understand that if the Court accepts your guilty plea(s) that you may not be able to withdraw your plea(s) at a later date? YES NO J.H.

85. Is there any other matter not covered by your answers to the foregoing questions that affects your decision to plead guilty that you want to tell the Court about? YES NO J.H.

If so, what? _____

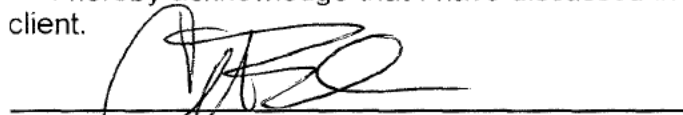
86. I hereby enter a plea of guilty to the Charge(s) of: Felony Injury To Child, I.C. 18-1501.

I have answered the questions on pages 1-10 of this Guilty Plea Advisory form truthfully, understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this form freely and voluntarily **WITH A COMPLETE UNDERSTANDING OF THE CHARGE(S) TO WHICH I AM PLEADING GUILTY AND WITH KNOWLEDGE OF THE POTENTIAL CONSEQUENCES OF THIS PLEA.** Furthermore, no one has forced me or threatened me to plead guilty.

Dated this 16th day of December, 2016.


DEFENDANT

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


DEFENDANT'S ATTORNEY

POST PLEA RIGHTS

A presentence investigation will be ordered by the Court unless both you and the State waive that report and the Court approves that waiver. The Court may order evaluations as part of this investigation **AND THESE REPORTS WILL BE USED TO DETERMINE YOUR SENTENCE.** You have **the right to remain silent during all proceedings and interviews from now until sentencing WHICH INCLUDES THE PRESENTENCE INVESTIGATION AND ANY COURT ORDERED EVALUATIONS.**

The information in the presentence interview and any evaluations (which will include any statements you make in these processes) will be used by the Court in determining your sentence. In particular if you are ordered to undergo a psychosexual evaluation (which can include a polygraph examination), a domestic violence evaluation, a substance abuse evaluation or a mental health examination (which can include a psychological or psychiatric examination) you will be asked extensive questions and your answers to those questions may be used against you during sentencing.

1. Have you discussed the right to remain silent with your attorney? YES JH NO ____
2. Do you understand the nature of these rights? YES JH NO ____
3. Do you understand that you may waive these rights? YES JH NO ____
4. Have you waived any of these rights in your plea agreement? YES JH NO ____
5. Do you have any questions concerning either these rights or the waiver of these rights?
..... YES ____ NO JH
6. Have you discussed with your attorney your rights regarding your attorney's attendance and
presence during the presentence investigation or these various evaluations? ... YES JH NO ____
7. Do you want the court to order any particular evaluations to assist the court in determining your
sentence in this case?..... YES ____ NO JH

If yes, which evaluations and why. _____

I acknowledge the foregoing post plea rights. [Signature] DATE 12-16-16
Defendant

I acknowledge that I have discussed the post plea rights listed above with my client.

[Signature] DATE 12/16/16
Defendant's Attorney

1. Defendant is charged by Information in this matter with the following criminal acts:

a. Injury to Children, a violation of Idaho Code §18-1501(1).

2. Defendant agrees to plead guilty, pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), to the following crime as it appears in the Information:

a. Injury to Children, a violation of Idaho Code Section 18-1501(1). That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did under circumstances likely to produce great bodily harm, inflict unjustifiable physical pain or mental suffering upon the person of A.W.M., a child under the age of eighteen (18) years.

3. In exchange for Defendant's plea of guilty to felony Injury to Children, the parties agree to the following sentencing recommendations pursuant to Idaho Criminal Rule 11(f)(1)(C):

- a. The parties stipulate that Defendant be granted a withheld judgment.
- b. The State will recommend a term of probation not to exceed three (3) years.
- c. Defendant will recommend a term of probation of not less than two (2) years.
- d. The State will recommend three hundred (300) hours of community service as a term of probation. Defendant is free to argue for less.
- e. Fines and costs are to be assessed at the Court's discretion.
- f. Defendant agrees to complete any classes as recommended by his probation officer, including a race-based sensitivity class and anti-bullying

class, if they are available.

- g. Defendant waives any *Estrada* rights and agrees to cooperate with the pre-sentence investigation process.
- h. Pursuant to Idaho Criminal Rule 11(f)(1) and State v. Murphy, 125 Idaho 456, 872 P.2d 719 (1994), Defendant specifically waives and gives up his right to appeal the judgment and sentence imposed by this Court.
- i. Defendant waives any right to file an Idaho Criminal Rule 35 motion for reduction of sentence.
- j. All other terms of the sentence, including but not limited to, discretionary jail days, are left to the discretion of the Court.

4. Upon successful completion of probation, including no proven or admitted probation violations or new crimes, the State will stipulate that Defendant's conviction be reduced to a misdemeanor pursuant to Idaho Code § 19-2604(1)(b). Defendant will be free to argue that the guilty plea be set aside and the conviction be dismissed pursuant to Idaho Code § 19-2604(1)(b).

5. Defendant acknowledges that he is entering into this stipulated, binding plea agreement knowingly, voluntarily, and intelligently, and that his decision is not the result of threats or coercion by any individual, including his attorneys, any representative of the State, or this Court.

6. Defendant acknowledges that he is aware of the maximum penalty of the crime of Injury to Children (Felony).

7. Defendant acknowledges that he is aware of his right to plead not guilty, the right to have a trial by a jury of his peers, the right to require the State to prove the charges against

him beyond a reasonable doubt, the right to confront and cross-examine witnesses and to present witnesses and evidence on his own behalf, and the right to remain silent and not be compelled to be a witness at the trial or to incriminate himself in any way.

8. Defendant understands that, by pleading guilty, he is waiving the right to have a trial by jury, that he gives up the right to require the State to prove the charges against him beyond a reasonable doubt, that he gives up the right to confront and cross-examine witnesses and to present witnesses and evidence on his own behalf in defense of the charges, and that he gives up his right to remain silent.

9. Defendant understands that Rules 4 and 11(c) of the Idaho Appellate Rules provide him the right to file an appeal from any sentence this Court may impose following this plea of guilty to the crime of Injury to Children, and also understands and acknowledges that he is knowingly, voluntarily, and intelligently waiving his rights to appeal.

10. Defendant understands that Idaho Criminal Rule 35 provides him the right to file a motion to reduce any sentence this Court may impose following his plea of guilty, and also understands and acknowledges that he is knowingly, voluntarily, and intelligently waiving his right to file a motion pursuant to Idaho Criminal Rule 35 requesting a reduction of his suspended sentence, or otherwise request leniency that could result in a reduction of his sentence.

11. The parties acknowledge that nothing in this agreement limits the victims' rights to provide victim impact statements or otherwise abridges their rights under Idaho Code § 19-5306 or the Idaho Constitution.

12. Defendant and the State have entered into this stipulated plea agreement with the intent that the Defendant cannot appeal his sentence or file a motion for leniency pursuant to

Rule 35, regardless of the sentence entered by this Court, unless this Court entered an illegal sentence.

13. The parties agree that this agreement constitutes the entire agreement between Defendant and the State of Idaho, and that no other promises or inducements have been made, either directly or indirectly by the State of Idaho or any of its agents regarding the disposition of this case. Additionally, Defendant states that no person has threatened or coerced him, directly or indirectly, to enter into this agreement.

14. Counsel for Defendant specifically states that he has read this agreement, has read and explained said agreement to Defendant, and to the best of his knowledge and belief, Defendant understands this agreement.

15. Defendant specifically states that he has read this agreement, that he has had this agreement read and explained to him by his attorney, and that he is entering into this agreement knowingly, intelligently and voluntarily, and with a full understanding of its contents.


16. Defendant understands that the Court is not bound to accept this Agreement and that if the Court should reject said Agreement, Defendant shall be allowed an opportunity by the Court to withdraw his plea of guilty to the charge and proceed to a trial on the original charge pursuant to Idaho Criminal Rule 11(f)(4).

17. Should the Court reject this Agreement and Defendant withdraw his guilty plea, this Agreement, Defendant's withdrawn guilty plea, and any statements made in the course of any proceedings hereunder shall not be admissible against Defendant at trial, pursuant to Idaho Rule of Evidence 410.

DATE: 12-16-16


CASEY J. HEMMER
Deputy Attorney General
Special Prosecuting Attorney

DATE: 12-16-16


BRAD CALBO
Attorney for Defendant

DATE: ~~12-16-16~~ 12-16-16


JOHN R.K. HOWARD
Defendant

C. Bradley Calbo, ISB No. 4929
Stacey DePew, ISB No. 7303
C. Ira Dillman, ISB No. 9081
CALBO & DEPEW, PLLC
414 North Lincoln Avenue, Ste. 5

Phone ()
Fax: ()
www.calboanddepew.com

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R. K. HOWARD,

Defendant.

Case No. CR- 16-1144

**WAIVER OF PRELIMINARY
HEARING**

COMES NOW, the above-named defendant and hereby waives his Preliminary Hearing
and in so doing, acknowledges that he has been advised and understands the following:

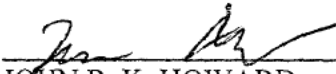
1. That he has an absolute right to require the State to present evidence establishing
probable cause that a crime has been committed and that he is the person who committed
it;
2. That by waiving his Preliminary Hearing his case will be bound over to the District Court
where he will be required to enter a plea of either guilty or not guilty to the charges filed
against him;




COPY

- 1 3. That he is waiving his Preliminary Hearing voluntarily, knowingly, and in the absence of
2 any undue influence.
3 4. That he has had a full and fair opportunity to discuss the issue of waiver with his
4 attorney.

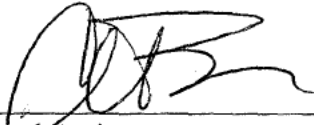
5 DATED this 16th day of Dec, 2016.
6

7
8 
JOHN R. K. HOWARD
9 Defendant

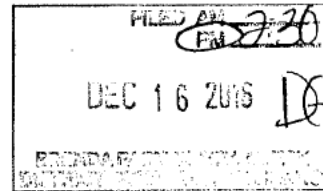
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11 
12 C. BRADLEY CALBO
Attorney for Defendant
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CERTIFICATE OF MAILING

I, the undersigned, hereby certifies that on the 16 day of ~~July~~ ^{Dec}, 2016, I served a true and accurate copy of the foregoing document to the Attorney General, Special Prosecuting Attorneys, via hand delivery.



Legal Assistant



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN**

State of Idaho,

Plaintiff,

vs.

John R. K Howard,

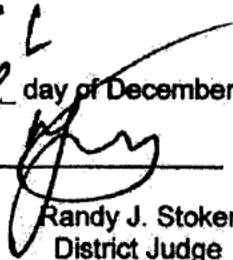
Defendant.

Case No. CR-2016-1144

ORDER

IT IS HEREBY ORDERED that the defendant, John R. K Howard, shall have no contact with the victim in this case, whether by phone, in person, or through third parties. It is further ordered that counsel shall not communicate with members of the media about this case.

Dated this 16th day of December 2016.


Randy J. Stoker
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 16 day of December 2016, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Casey Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720

☐ U.S. Mail
☐ Hand delivered
☐ Faxed
☐ Court Folder
☒ Email

Brad Calbo
Defense Counsel
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338

☐ U.S. Mail
☐ Hand delivered
☐ Faxed
☐ Court Folder
☒ Email

Clerk



MICHAEL J. WOOD
 ATTORNEY AT LAW
 184 Gooding St. West
 Twin Falls, Idaho 83301
 (208) 736-8190
 (208) 736-0141 fx

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR -16-0213
)	
vs.)	
)	
T. [REDACTED] R. W. [REDACTED],	)	REQUEST FOR DISCOVERY
	)	AND INSPECTION
Defendant.)	
)	

TO: LAWRECE WASDEN, Special Prosecutor of the County of Lincoln, State of Idaho,
 and his agents: The Defendant in the above-entitled case by and through his attorney, Michael J.
 Wood, and his agents, does hereby request, pursuant to Rule 16 of the Idaho Criminal Rules and
 the legal authority cited, discovery and inspection of the following information, evidence, and
 materials:

1. Pursuant to Idaho Code §18-6708, Rule 16 of the Idaho Criminal Rules, Article I
 §13 of the Idaho Constitution, the Fifth and Fourteenth Amendments of the United States
 Constitution, and United States Code Annotated 18-2518, the Defense requests immediate
 disclosures of the dates and times of any interceptions of any wire or oral communications of
 Defendant, the contents of any wire or oral communications of Defendant captured by

Request For Discovery And Inspection
 Page 1

investigating agents of the State of Idaho or evidence derived therefrom, a copy of any Application and Order authorizing interception of any oral or wire communications by defendant, the date of the entry and the period authorized by said Order, any authorization to intercept wire or oral communications of Defendant or intercept surveillance of telephones listed in Defendant's name, or at Defendant's home or place of business OR ANY COUNTY JAIL WHICH HOUSED THE DEFENDANT.

2. Any material or information within your possession or control, or which hereafter comes 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. This request extends to material and information in the possession or control of members of your staff and of any others who have participated in the investigation or evaluation of the case who either regularly report, or with reference to the particular case have reported to the office of the prosecuting attorney;

3. Any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody, or control of the State or the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant oral statement made by the Defendant whether before or after arrest to a peace officer, prosecuting attorney, or his agent; and any recorded testimony of the Defendant before a grand jury which relates to the offense charged;

4. The prior criminal record of the Defendant, if any, as is now or may become available to the prosecuting attorney;

5. Any written or recorded statements of a co-defendant or a defendant criminally charged based on facts derived from the same incident that formed the basis for this criminal

action; including but not limited to the substance of any relevant oral statements made by a co-defendant, whether before or after arrest in response to interrogation by any person.

6. Any books, papers, documents, photographs, VIDEO OR AUDIO RECORDINGS, tangible objects, buildings or places, or copies or portions thereof, which are in the possession, custody, or control of the prosecuting attorney 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;

7. Any results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with this particular case, or of individuals expected to be called as witnesses as a portion of the State of Idaho's proof of the filed charges or copies thereof, within the possession, custody, or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence;

8. A written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, specifically but not limited to ANY confidential informant employed in the investigation of this criminal action, together with any record of prior convictions of any such person and citizenship status which is within the knowledge of the prosecuting attorney or his agents or to any official involved in the investigatory process of the case;

9. The statements and or police reports made by the above listed prosecution witness or any prospective prosecution witnesses to the prosecuting attorney or his agents or to any official involved in the investigatory process of this case.

10. Any reports and memoranda in your possession which were made by a police

officer or investigator in connection with the investigation or prosecution of the case

11. The Defense requests pursuant to Idaho Rule of Criminal Procedure 16(b)(8) and I.R.E. 705 that the Prosecution provide the Defense with the qualifications of any person to be tendered as an expert witness in this prosecution pursuant to IRE 702; the facts and data upon which the offered expert bases any opinion or inference they will be offering in this prosecution; a complete content of any expert opinion the prosecution will offer as assisting the trier of fact to understand the evidence or determine any fact at issue in this criminal prosecution.

12. Defendant requests a list of any witnesses, the content of their testimony, and any prior written, recorded, or reported statements as to the subject matter sought to be admitted under IRE 404. By this request Defendant asks for any evidence which prosecution proffers as admissible pursuant to IRE 404 together with the specific criteria and legal theory of relevance relied upon to support the admissibility of said evidence under IRE 404. This request includes all statements by any witness who will testify to such evidence and any reports of investigation of such evidence carried out by police, Health and Welfare, medical, or any other parties.

13. The Defense requests to be delivered any and all Confidential Informant or cooperating individual supervision documents, Confidential Informant or cooperating individual Statements, full records of payment to the Confidential Informant or cooperating individual, police reports of any crimes in which the Confidential Informant or cooperating individual was a suspect, police records and reports of any crimes in which the Confidential Informant or cooperating individual was charged, police records and reports of any crimes in which the Confidential Informant or cooperating individual was convicted; the identity of any Probation or Parole officer that was supervising the Confidential Informant or Cooperating

Request For Discovery And Inspection
Page 4

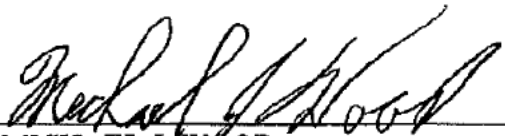
individual , and any and all Probation or Parole records pertaining to the Confidential Informant or cooperating individual employed in the criminal investigation that produced this criminal action;

14. The Defense requests access to the original tapes or digital audio of all taped telephone contacts and/or "body wire" surveillance contacts by any person at any time with the Defendant and/or other persons during the course of the criminal investigation of the Defendant.

15. The Defense requests copies of any video recorded or audio recorded interview carried out by any person interviewing the complaining witnesses in this criminal action. This request for disclosure of copies includes the interview protocol or standard operating procedure under which any CARES interviewer or police officer or school official was instructed in carrying out their interview. This request includes a request for any written critique or commentary carried out by the public or law enforcement agency with which the interviewer is affiliated.

Defendant requests that the above information be delivered to counsel within fourteen (14) days of the date of this request, or if not deliverable, the undersigned requests permission to inspect and copy said information, evidence and materials on the 25th day of MARCH, 2015 at Three p.m..

DATED This 11th day of MARCH, 2016


MICHAEL J. WOOD
Attorney for Defendant

Request For Discovery And Inspection
Page 5

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing
REQUEST FOR DISCOVERY AND INSPECTION to be DELIVERED BY FAX
MACHINE to the IDAHO ATTORNEY GENERALS OFFICE on the 12th day of MARCH, 2015.

MTW

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
vs.)	
	)	REQUEST FOR DISCOVERY
T [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

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

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the

possession, custody or control of Defendant, and which Defendant intends to introduce in evidence at trial or hearing.

(2) Reports of Examinations and Tests:

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

(3) Defense Witnesses:

The State requests Defendant to furnish the State with a list of names and addresses of witnesses Defendant intends to call at trial or hearing.

(4) Expert Witnesses:


The State requests a written summary or report of any testimony that Defendant intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial or hearing. The summary provided must describe the witness's opinions, the facts and data for those opinions, and the witness's qualifications. In the event Defendant seeks to use an expert witness regarding mental health, the State specifically requests that such disclosure comply with the requirements of I.C. § 18-207.

(5) Request for Notice of Defense of Alibi:

Pursuant to I.C. § 19-519, the State hereby requests that Defendant state in writing, within ten (10) days after Defendant's arraignment, notice of his intention to offer a defense of alibi. Specifically, the State requests any specific place or places at which Defendant claims to have been

at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 21 day of March, 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

LAWRENCE G. WASDEN
Idaho Attorney General

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


BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
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P.O. Box 83720
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Telephone: (208) 332-3096
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
vs.)	
	)	DISCOVERY
T [REDACTED] R [REDACTED] W [REDACTED],	)	RESPONSE TO COURT
)	
Defendant.)	
)	
)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery in part and objects in part. The State's specific objection is outlined in the State's Motion for Protective Order, filed concurrently herewith.

DATED this 21 day of March, 2016.



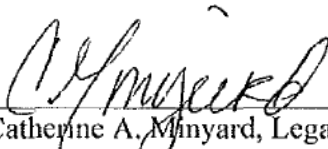
Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of March, 2016, I caused to be served a true and correct copy of the foregoing Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Catherine A. Minyard, Legal Secretary

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
)	
vs.	)	RESPONSE TO REQUEST
	)	FOR DISCOVERY
T ■■■■■ R ■■■■ W ■■■■,)	
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) Interceptions of Wire or Oral Communications of Defendant:

None known to the prosecution at this time.

(2) Documents Which Negate the Guilt of Defendant:

See information provided in #6 below.

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

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Email 5	60	61
Email 6	62	62

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A [REDACTED] H [REDACTED] Statement	66	67
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15-52972 Notes - 2016-03-15 Part15.pdf	97	
15-52972 Notes - 2016-03-15 Part16.pdf	98	
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Search Warrant	134	135
Summons	136	137
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Dietrich Football Team Roster	148	148
Dietrich High Blue Prints	149	149
Dietrich High Staff List	150	150
Dietrich High Student Roster	151	171
Dietrich School District Open Enrollment	172	176
Dietrich School District Policies	177	190
Fax to Dietrich School District Insurance Agent	191	192
Hardcastle Report of Initial Complaint	193	194
Hardcastle's Investigative Notes	195	263
Pictures of the Dietrich School boys' locker room	264	268
S. R. Statement	269	272
Shaw's Investigative Docs	273	291
Student Demographic Info	292	295
Student Discipline Files	296	301
Superintendent Hardcastle Investigation Overview	302	309
Witness Diagrams of Locker Room	310	317
AUDIO:	318	318
Interview with A ■ H ■ 12.17.15	319	319
Interview with A ■ F ■ 12.17.15	320	320
Interview with K ■ S ■ 12.17.15	321	321
Interview with K ■ P ■ 12.17.15	322	322
Interview with M ■ 11	323	323
Interview with S ■ V ■ 12.17.15	317	317
Interview with T ■ H ■ 12.17.15	318	318

Description	Begin No.	End No.
sw at dietrich 11.10.15	319	319
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED] A [REDACTED] 10-28-15 CARES	321	321

(7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]		[REDACTED]			
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]			
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707-7426
W [REDACTED]	T [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

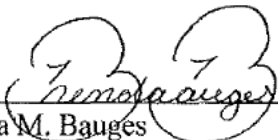
(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

DATED this 21 day of March 2016.

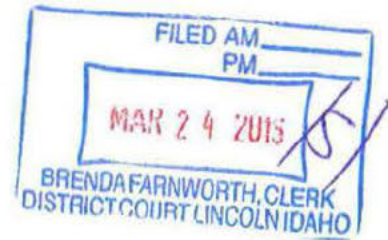


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

LAWRENCE G. WASDEN
Idaho Attorney General

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Deputy Attorney General
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BRENDA M. BAUGES ISB#8185
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P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T ■■■■■ R ■■■■■ W ■■■■■

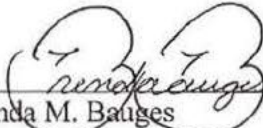
Defendant.

Case No. CR-2016-213

DISCOVERY
RESPONSE TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery in part and objects in part. The State's specific objection is outlined in the State's Motion for Protective Order, filed concurrently herewith.

DATED this 21 day of March, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

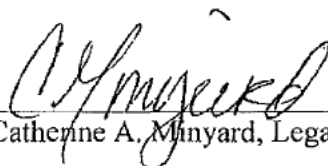
COPY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of March, 2016, I caused to be served a true and correct copy of the foregoing Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
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Catherine A. Minyard, Legal Secretary

LAWRENCE G. WASDEN
Idaho Attorney General

PAUL R. PANTHER
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BRENDA M. BAUGES ISB#8185
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

Defendant.

Case No. CR-2016-213

FIRST SUPPLEMENTAL
RESPONSE TO REQUEST
FOR DISCOVERY

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following First Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) **Interceptions of Wire or Oral Communications of Defendant:**

None known to the prosecution at this time.

(2) **Documents Which Negate the Guilt of Defendant:**

See information provided in #6 below.

FILE COPY

FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W [REDACTED]), Page 1

RR000682

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

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15-52972 Notes - 2016-03-15 Part12.pdf	94	
15-52972 Notes - 2016-03-15 Part13.pdf	95	
15-52972 Notes - 2016-03-15 Part14.pdf	96	
15-52972 Notes - 2016-03-15 Part15.pdf	97	
15-52972 Notes - 2016-03-15 Part16.pdf	98	
15-52972 Notes - 2016-03-15 Part17.pdf	99	
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Dietrich School District Policies	177	190
Fax to Dietrich School District Insurance Agent	191	192
Hardcastle Report of Initial Complaint	193	194
Hardcastle's Investigative Notes	195	263
Pictures of the Dietrich School boys' locker room	264	268
S. R. Statement	269	272
Shaw's Investigative Docs	273	291
Student Demographic Info	292	295
Student Discipline Files	296	301
Superintendent Hardcastle Investigation Overview	302	309
Witness Diagrams of Locker Room	310	317
AUDIO:	318	318
Interview with A [REDACTED] H [REDACTED] 12.17.15	319	319
Interview with A [REDACTED] P [REDACTED] 12.17.15	320	320
Interview with K [REDACTED] S [REDACTED] 12.17.15	321	321
Interview with K [REDACTED] P [REDACTED] 12.17.15	322	322
Interview with M [REDACTED] 11	323	323
Interview with S [REDACTED] V [REDACTED] 12.17.15	317	317
Interview with T [REDACTED] H [REDACTED] 12.17.15	318	318

Description	Begin No.	End No.
sw at dietrich 11.10.15	319	319
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED] A [REDACTED] 10-28-15 CARES	321	321

- (7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.
- (8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]		[REDACTED]			
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	J [REDACTED]		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High	406 N. Park Street	Dietrich	ID	83324

		School				
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:


(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

DATED this 3 day of March 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County



LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],


Defendant.

Case No. CR-2016-213

FIRST SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery in part and objects in part. The State's specific objection is outlined in the State's Motion for Protective Order, filed on March 23, 2016.

DATED this 31 day of March, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

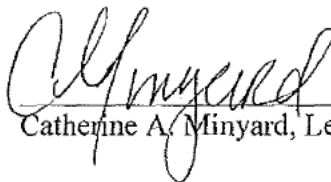
COPY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of March, 2016, I caused to be served a true and correct copy of the foregoing First Supplemental Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail



Catherine A. Minyard, Legal Secretary

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
)	
vs.	)	SECOND SUPPLEMENTAL
	)	RESPONSE TO REQUEST
T■■■■ R■■■ W■■■,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following First Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) Interceptions of Wire or Oral Communications of Defendant:

None known to the prosecution at this time.

(2) Documents Which Negate the Guilt of Defendant:

See information provided in #6 below.

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
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AG Investigator Reports:		
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IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Harcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] P [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with P [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] P [REDACTED] 12-17-15	35	37
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	
Email 2	44	54
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15 Part1.pdf	83	
15-52972 Notes - 2016-03-15 Part2.pdf	84	
15-52972 Notes - 2016-03-15 Part3.pdf	85	
15-52972 Notes - 2016-03-15 Part4.pdf	86	
15-52972 Notes - 2016-03-15 Part5.pdf	87	
15-52972 Notes - 2016-03-15 Part6.pdf	88	
15-52972 Notes - 2016-03-15 Part7.pdf	89	
15-52972 Notes - 2016-03-15 Part8.pdf	90	
15-52972 Notes - 2016-03-15 Part9.pdf	91	
15-52972 Notes - 2016-03-15 Part10.pdf	92	
15-52972 Notes - 2016-03-15 Part11.pdf	93	
15-52972 Notes - 2016-03-15 Part12.pdf	94	
15-52972 Notes - 2016-03-15 Part13.pdf	95	
15-52972 Notes - 2016-03-15 Part14.pdf	96	
15-52972 Notes - 2016-03-15 Part15.pdf	97	
15-52972 Notes - 2016-03-15 Part16.pdf	98	
15-52972 Notes - 2016-03-15 Part17.pdf	99	
15-52972 Notes - 2016-03-15 Part18.pdf	100	
15-52972 Notes - 2016-03-15 Part19.pdf	101	
15-52972 Notes - 2016-03-15 Part20.pdf	102	
15-52972 Notes - 2016-03-15 Part21.pdf	103	
15-52972 Notes - 2016-03-15 Part22.pdf	104	
15-52972 Notes - 2016-03-15 Part23.pdf	105	
15-52972 Notes - 2016-03-15 Part24.pdf	106	
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint	115	116
Motion to Seal PC Affidavit	117	118

Description	Begin No.	End No.
Motion to Seal Search Warrant & Affidavit for Search Warrant	119	119
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search Warrant	121	122
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	123	124
Order Sealing Search Warrant and Affidavit for SW	125	126
Petition for Appointment of Special Prosecutor	127	128
Probable Cause Affidavit of Anthony Pitz	129	131
Return of Search Warrant	132	133
Search Warrant	134	135
Summons	136	137
School:		
Blank Student Interview Form	138	138
Completed Student Interview Forms	139	146
Dietrich Football Coaches	147	147
Dietrich Football Team Roster	148	148
Dietrich High Blue Prints	149	149
Dietrich High Staff List	150	150
Dietrich High Student Roster	151	171
Dietrich School District Open Enrollment	172	176
Dietrich School District Policies	177	190
Fax to Dietrich School District Insurance Agent	191	192
Hardcastle Report of Initial Complaint	193	194
Hardcastle's Investigative Notes	195	263
Pictures of the Dietrich School boys' locker room	264	268
S. R. Statement	269	272
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Student Demographic Info	292	295
Student Discipline Files	296	301
Superintendent Hardcastle Investigation Overview	302	309
Witness Diagrams of Locker Room	310	317
AUDIO:	318	318
Interview with A ■ H ■ 12.17.15	319	319
Interview with A ■ P ■ 12.17.15	320	320
Interview with K ■ S ■ 12.17.15	321	321
Interview with K ■ F ■ 12.17.15	322	322
Interview with M ■ 11	323	323
Interview with S ■ V ■ 12.17.15	317	317
Interview with T ■ H ■ 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED] A [REDACTED] 10-28-15 CARES	321	321

(7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Harcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707-7426
W [REDACTED]	T [REDACTED]					

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642


SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

(7) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Curriculum Vitae of Tomasine Quinney	326	328

The Curriculum Vitae of Tomasine Quinney, disclosed in this supplement, and the corresponding lab report, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Tomasine Quinney.

DATED this 6 day of April 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County



Colonel Ralph W. Powell
Director

Idaho State Police

Service Since 1939



C.L. "Butch" Otter
Governor

TOMASINE QUINNEY
Forensic Scientist – Biology/DNA Database
Idaho State Police Forensic Services
700 S. Stratford Drive, Suite. 125
Meridian, ID 83642-6202
(208) 884-7346 Office
(208) 884-7197 Fax

Education:

May 2011 California State University, Sacramento – Sacramento, CA
Bachelor of Science - Biological Science - Forensics

Experience:

Oct. 2014- Idaho State Police Forensic Services
Present Forensic Scientist 2 (Biology Casework)

Sept. 2014- Idaho State Police Forensic Services
Oct. 2014 Forensic Scientist 2 (DNA Database)

Sept. 2012- Idaho State Police Forensic Services
Sept. 2014 Forensic Scientist 1 (DNA Database)

Professional Organizations; Committees; Working Groups:

Feb. 2015- Northwest Association of Forensic Scientists
Present
Feb. 2014- American Academy of Forensic Scientist
Present (Associate Member)

Continuing Education; Association Meetings; Conferences:

2015 Professional Meeting: Green Mountain DNA Conference, Burlington, VT
In Service training: Courtroom Presentation of Evidence, Meridian, ID

2014 ASCLD/LAB Assessor Course, Meridian, ID
Professional Meeting: American Academy of Forensic Scientist, Seattle, WA

2013 Workshop: Promega 2013 Technology Tour Seminar, San Antonio, TX

700 South Stratford Drive • Meridian, Idaho 83642-6251

EQUAL OPPORTUNITY EMPLOYER

Revised 116-5334 326

RR000698

Tomasine Quinney

Professional Meeting: Association of Forensic DNA Analysts
Administrators, San Antonio, TX

In-Service Training: DNA Analysis of Convicted Offender Samples (ISP)

2012 Ethics in Forensic Science, Western Virginia University

2010 Annual Biomedical Research Conference for Minority Students, Charlotte,
NC

Research, Presentations:

2010 Identification of Antibody to Group A Streptococcal Antigen in Pediatric Neuropsychiatric Disorders, **Tomasine Quinney**, and Christine Kirvan, Ph.D., Department of Biological Sciences, California State University, Sacramento, presented at the Annual Biomedical Research Conference for Minority Students, Charlotte, NC

2010 The Quantity of Male DNA Found on a Female's Mouth after Kissing, **Tomasine Quinney**, Sukhvir Dhillon, Ruth Ballard, Ph.D., Department of Biological Sciences, California State University, Sacramento, poster presentation

Tomasine Quinney

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185

Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

RECEIVED

APR 13 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],


Defendant.

Case No. CR-2016-213

SECOND SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery in part and objects in part. The State's specific objection is outlined in the State's Motion for Protective Order, filed on March 23, 2016.

DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

COPY

SECOND SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W [REDACTED]), Page 1

RR000701

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of April, 2016, I caused to be served a true and correct copy of the foregoing Second Supplemental Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T ■■■■■ R ■■■ W ■■■■

Defendant.

Case No. CR-2016-213

**THIRD SUPPLEMENTAL
RESPONSE TO REQUEST
FOR DISCOVERY**

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Third Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) Interceptions of Wire or Oral Communications of Defendant:

None known to the prosecution at this time.

(2) Documents Which Negate the Guilt of Defendant:

See information provided in #6 below.

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
IAR#1 Interview with A [REDACTED] M [REDACTED] 11.1.15	5	7
IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] P [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with P [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] P [REDACTED] 12-17-15	35	37
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Assistance request letter	40	40
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Emails:		
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Email 2	44	54
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
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15-52972 Notes - 2016-03-15 Part6.pdf	88	
15-52972 Notes - 2016-03-15 Part7.pdf	89	
15-52972 Notes - 2016-03-15 Part8.pdf	90	
15-52972 Notes - 2016-03-15 Part9.pdf	91	
15-52972 Notes - 2016-03-15 Part10.pdf	92	
15-52972 Notes - 2016-03-15 Part11.pdf	93	
15-52972 Notes - 2016-03-15 Part12.pdf	94	
15-52972 Notes - 2016-03-15 Part13.pdf	95	
15-52972 Notes - 2016-03-15 Part14.pdf	96	
15-52972 Notes - 2016-03-15 Part15.pdf	97	
15-52972 Notes - 2016-03-15 Part16.pdf	98	
15-52972 Notes - 2016-03-15 Part17.pdf	99	
15-52972 Notes - 2016-03-15 Part18.pdf	100	
15-52972 Notes - 2016-03-15 Part19.pdf	101	
15-52972 Notes - 2016-03-15 Part20.pdf	102	
15-52972 Notes - 2016-03-15 Part21.pdf	103	
15-52972 Notes - 2016-03-15 Part22.pdf	104	
15-52972 Notes - 2016-03-15 Part23.pdf	105	
15-52972 Notes - 2016-03-15 Part24.pdf	106	
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint	115	116
Motion to Seal PC Affidavit	117	118

Description	Begin No.	End No.
Motion to Seal Search Warrant & Affidavit for Search Warrant	119	119
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search Warrant	121	122
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	123	124
Order Sealing Search Warrant and Affidavit for SW	125	126
Petition for Appointment of Special Prosecutor	127	128
Probable Cause Affidavit of Anthony Pitz	129	131
Return of Search Warrant	132	133
Search Warrant	134	135
Summons	136	137
School:		
Blank Student Interview Form	138	138
Completed Student Interview Forms	139	146
Dietrich Football Coaches	147	147
Dietrich Football Team Roster	148	148
Dietrich High Blue Prints	149	149
Dietrich High Staff List	150	150
Dietrich High Student Roster	151	171
Dietrich School District Open Enrollment	172	176
Dietrich School District Policies	177	190
Fax to Dietrich School District Insurance Agent	191	192
Hardcastle Report of Initial Complaint	193	194
Hardcastle's Investigative Notes	195	263
Pictures of the Dietrich School boys' locker room	264	268
S. R. Statement	269	272
Shaw's Investigative Docs	273	291
Student Demographic Info	292	295
Student Discipline Files	296	301
Superintendent Hardcastle Investigation Overview	302	309
Witness Diagrams of Locker Room	310	317
AUDIO:	318	318
Interview with A [REDACTED] H [REDACTED] 12.17.15	319	319
Interview with A [REDACTED] P [REDACTED] 12.17.15	320	320
Interview with K [REDACTED] S [REDACTED] 12.17.15	321	321
Interview with K [REDACTED] H [REDACTED] 12.17.15	322	322
Interview with M [REDACTED] 11	323	323
Interview with S [REDACTED] V [REDACTED] 12.17.15	317	317
Interview with T [REDACTED] H [REDACTED] 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED], A [REDACTED] 10-28-15 CARES	321	321

(7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]		[REDACTED]			
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED]			

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Curriculum Vitae of Tomasine Quinney	326	328

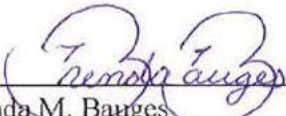
The Curriculum Vitae of Tomasine Quinney, disclosed in this supplement, and the corresponding lab report, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Tomasine Quinney.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the Defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A [REDACTED] M [REDACTED] IEP	329	371
A [REDACTED] M [REDACTED] Medical Records	372	384
CARES Report	385	401

DATED this 19 day of April 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

APR 22 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T ■■■■■ R ■■■ W ■■■■

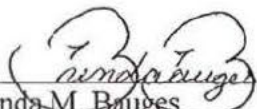
Defendant.

Case No. CR-2016-213

THIRD SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery by hand-delivering three documents subject to the Court's Order on the State's Motion for Protective Order to the Defendant's counsel on April 15th.

DATED this 19 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

COPY

THIRD SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W ■■■■■), Page 1

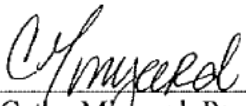
RR000711

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 2016, I caused to be served a true and correct copy of the foregoing Third Supplemental Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
)	
vs.	)	FOURTH SUPPLEMENTAL
	)	RESPONSE TO REQUEST
T [REDACTED] R [REDACTED] W [REDACTED]	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Fourth Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) Interceptions of Wire or Oral Communications of Defendant:

None known to the prosecution at this time.

(2) Documents Which Negate the Guilt of Defendant:

See information provided in #6 below.

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
IAR#1 Interview with A [REDACTED] M [REDACTED] 11.1.15	5	7
IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] P [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with P [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] P [REDACTED] 12-17-15	35	37
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	
Email 2	44	54
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15 Part1.pdf	83	
15-52972 Notes - 2016-03-15 Part2.pdf	84	
15-52972 Notes - 2016-03-15 Part3.pdf	85	
15-52972 Notes - 2016-03-15 Part4.pdf	86	
15-52972 Notes - 2016-03-15 Part5.pdf	87	
15-52972 Notes - 2016-03-15 Part6.pdf	88	
15-52972 Notes - 2016-03-15 Part7.pdf	89	
15-52972 Notes - 2016-03-15 Part8.pdf	90	
15-52972 Notes - 2016-03-15 Part9.pdf	91	
15-52972 Notes - 2016-03-15 Part10.pdf	92	
15-52972 Notes - 2016-03-15 Part11.pdf	93	
15-52972 Notes - 2016-03-15 Part12.pdf	94	
15-52972 Notes - 2016-03-15 Part13.pdf	95	
15-52972 Notes - 2016-03-15 Part14.pdf	96	
15-52972 Notes - 2016-03-15 Part15.pdf	97	
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15-52972 Notes - 2016-03-15 Part20.pdf	102	
15-52972 Notes - 2016-03-15 Part21.pdf	103	
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15-52972 Notes - 2016-03-15 Part23.pdf	105	
15-52972 Notes - 2016-03-15 Part24.pdf	106	
Pleadings:		
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Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint	115	116
Motion to Seal PC Affidavit	117	118

Description	Begin No.	End No.
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S. R. Statement	269	272
Shaw's Investigative Docs	273	291
Student Demographic Info	292	295
Student Discipline Files	296	301
Superintendent Hardcastle Investigation Overview	302	309
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Interview with A ■■■ H ■■■ 12.17.15	319	319
Interview with A ■■■ P ■■■ 12.17.15	320	320
Interview with K ■■■ S ■■■ 12.17.15	321	321
Interview with K ■■■ H ■■■ 12.17.15	322	322
Interview with M ■■■ 11	323	323
Interview with S ■■■ V ■■■ 12.17.15	317	317
Interview with T ■■■ H ■■■ 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED] A [REDACTED] 10-28-15 CARES	321	321

(7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	J [REDACTED]		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Curriculum Vitae of Tomasine Quinney	326	328

The Curriculum Vitae of Tomasine Quinney, disclosed in this supplement, and the corresponding lab report, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Tomasine Quinney.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the Defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A [REDACTED] M [REDACTED] IEP	329	371
A [REDACTED] M [REDACTED] Medical Records	372	384
CARES Report	385	401

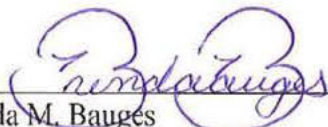
FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	402	403

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

DATED this 2 day of May 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May 2016, I caused to be served a true and correct copy of the foregoing Fourth Supplemental Response to Request for Discovery to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)


Cathy Minyard, Paralegal

CURRICULUM VITAE

BRIAN L. JOHNSON, M.D.

PHONE [REDACTED] • E-MAIL [REDACTED]

EDUCATION

Undergraduate	1988 - 1991	Regis University	Denver, Colorado
		<i>B.S. Biology</i>	
		▪ Magna Cum Laude	
Medical School	1991 - 1995	University of Colorado School of Medicine	Denver, Colorado
		<i>M.D.</i>	
Residency	1995 - 1998	University of Colorado at Rose Medical Center	Denver, Colorado
		<i>Family Medicine</i>	
Fellowship	1998-1999	University of Colorado	Denver, Colorado
		<i>Advanced Training Track in Perinatal Care</i>	
		▪ Developed skills in operative obstetrics, OB ultrasound, tubal ligation and management of complicated pregnancies	
		▪ Taught family medicine residents at St. Anthony, Rose and University Hospitals as part of residency faculty	
		▪ Directed regional ALSO course	
		▪ Taught ultrasound course at the AAFP Family Centered Maternity Care conference in Providence, RI	

PRACTICE

1999-2001	Westlake Family Physicians	Greeley, Colorado
2000-2001	Rose Family Medicine Center Resident Precepting	Denver, Colorado
2001-2005	Moffat Family Clinic	Craig, Colorado
2001-2005	Emergency Physician - The Memorial Hospital	Craig, Colorado
2003-2005	Medical Director for Mine Rescue Team - Colowyo Mine	Meeker, Colorado
2005-2014	St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians)	Jerome, Idaho
2005-present	Emergency Physician – St. Luke's Jerome	Jerome, Idaho

HOSPITAL AFFILIATIONS

2005-present	St. Luke's Jerome (formerly St. Benedict's Family Medical Center)	Jerome, Idaho
2001-2005	The Memorial Hospital	Craig, Colorado
1999-2001	North Colorado Medical Center	Greeley, Colorado
1998-2001	Rose Medical Center	Denver, Colorado
1998-2000	St. Anthony Hospital	Denver, Colorado
1998-2000	Porter Adventist Hospital	Denver, Colorado
1998-1999	University Hospital	Denver, Colorado

LICENSURE

Idaho - M-9335

ACCREDITATIONS AND CONTINUING EDUCATION

Diplomate – American Board of Family Practice, 1998
Advanced Cardiac Life Support
Advanced Life Support in Obstetrics (past certification)
Advanced Life Support in Obstetrics Instructor Certification (past certification)
Advanced Trauma Life Support
Pediatric Advanced Life Support
Neonatal Resuscitation Program

PROFESSIONAL ACTIVITIES

St. Luke's Jerome

Chief of Staff – 2012-2013
Chair – Department of Medicine 2015-present

St. Benedict's Family Medical Center

Chair – Department of Primary Care 2008-2010

American Academy of Family Physicians

Member, 1991 – present

Idaho Academy of Family Physicians

Member, 2005-present

Colorado Academy of Family Physicians

Member, 1991 – 2005
Legislative Committee, 1998-2000

American Medical Association

Member, 1992 – present
Alternate Delegate (Colorado) 2001-2003
Delegate (Colorado) 2003-2005

Idaho Medical Association

Member 2005-present

Colorado Medical Society

Member, 1991 – 2005
Board of Directors 1997 - 1999
Council on Legislation 1995 – 2005
Delegate, 1993-1995, 2000

Weld County Medical Society

Member, 1999 – 2001
President-Elect 2001
Board of Directors 2000 – 2001

Denver Medical Society

Member, 1991-1995

COMMUNITY ACTIVITIES

Member, Colorado Railroad Historical Foundation 1995 – present
Medical Director for Crisis Pregnancy Center 2006-2011
Knights of Columbus 2001 - present
Participated in development of curriculum for domestic violence training in primary care residencies 1998
Volunteer, U.S. Fish and Wildlife Service 1995 - 1996
Founding Member, Two Ponds Preservation Foundation
Volunteer, Stout Street Medical Clinic for the Poor and Homeless 1992 - 1995
Volunteer, Church Sponsored 24-hour Crisis Hotline 1991 - 1993

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T ■■■■■ R ■■■■■ W ■■■■■,


Defendant.

Case No. CR-2016-213

FOURTH SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 2 day of May, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

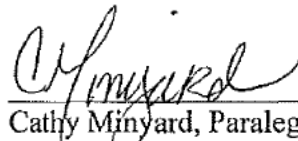
COPY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of May, 2016, I caused to be served a true and correct copy of the foregoing Fourth Supplemental Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
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☐ Electronic Mail


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

PAUL R. PANTHER
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
)	
vs.	)	FIFTH SUPPLEMENTAL
	)	RESPONSE TO REQUEST
T [REDACTED] R [REDACTED] W [REDACTED] ,	)	FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Fourth Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) Interceptions of Wire or Oral Communications of Defendant:

None known to the prosecution at this time.

(2) Documents Which Negate the Guilt of Defendant:

See information provided in #6 below.

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

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IAR#10-ADP Closing Report	10	12
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Email 4	58	59
Email 5	60	61
Email 6	62	62

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A [REDACTED] H [REDACTED] Statement	66	67
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Misc. Notes	82	82
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Dietrich Football Team Roster	148	148
Dietrich High Blue Prints	149	149
Dietrich High Staff List	150	150
Dietrich High Student Roster	151	171
Dietrich School District Open Enrollment	172	176
Dietrich School District Policies	177	190
Fax to Dietrich School District Insurance Agent	191	192
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Hardcastle's Investigative Notes	195	263
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Interview with K [REDACTED] S [REDACTED] 12.17.15	321	321
Interview with K [REDACTED] P [REDACTED] 12.17.15	322	322
Interview with M [REDACTED] 11	323	323
Interview with S [REDACTED] V [REDACTED] 12.17.15	317	317
Interview with T [REDACTED] H [REDACTED] 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED] A [REDACTED] 10-28-15 CARES	321	321

(7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	J [REDACTED]		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Last	First	FIRM	Address	City	State	Zip
Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707-7426
W [REDACTED]	T [REDACTED]		[REDACTED]			

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Curriculum Vitae of Tomasine Quinney	326	328

The Curriculum Vitae of Tomasine Quinney, disclosed in this supplement, and the corresponding lab report, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Tomasine Quinney.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the Defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A [REDACTED] M [REDACTED] IEP	329	371
A [REDACTED] M [REDACTED] Medical Records	372	384
CARES Report	385	401

FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	402	403

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.


FIFTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

(9) **Statements and/or Police Reports:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K ■ P ■. This office also received information from Shelly M ■ that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

DATED this 23rd day of May 2016.




Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 23rd day of May 2016, I caused to be served a true and correct copy of the foregoing Fifth Supplemental Response to Request for Discovery to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
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Cathy Minyard, Paralegal

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Special Prosecuting Attorneys
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Boise, Idaho 83720-0010
Telephone: (208) 332-3096
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RECEIVED

MAY 26 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],


Defendant.

Case No. CR-2016-213

FIFTH SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 23 day of May, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
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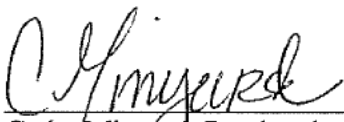
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
)	
vs.	)	SIXTH SUPPLEMENTAL
)	RESPONSE TO REQUEST
T [REDACTED] R [REDACTED] W [REDACTED])	FOR DISCOVERY
)	
Defendant.)	
_____)	

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Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W [REDACTED]	T [REDACTED]		[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Curriculum Vitae of Tomasine Quinney	326	328

The Curriculum Vitae of Tomasine Quinney, disclosed in this supplement, and the corresponding lab report, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Tomasine Quinney.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the Defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A [REDACTED] M [REDACTED] IEP	329	371
A [REDACTED] M [REDACTED] Medical Records	372	384
CARES Report	385	401

FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	402	403

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

FIFTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

(9) **Statements and/or Police Reports:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K P. This office also received information from Shelly M that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

SIXTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#13-ADP Phone interview with Shelly M	404	404
IAR#14-ADP Interview with Tracy F	405	406
IAR#15-ADP Interview with K F	407	408
IAR#16-ADP Interview with A M 5/26/2016	409	410
IAR#17-ADP Phone Interview with Rick A 5/27/2016	411	412
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	413	414

Description	Begin No.	End No.
Letter from Anderson, Julian & Hull Re: M [REDACTED] v. Dietrich School District, dated May 31, 2016	415	416
Audio Recording included in Anderson, Julian & Hull Letter	417	417

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
H [REDACTED]	Tracy		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
A [REDACTED]	Rick	Dietrich High School	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

DATED this 2nd day of June 2016.



 Brenda M. Bauges
 Deputy Attorney General and
 Special Prosecuting Attorney for
 Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June 2016, I caused to be served a true and correct copy of the foregoing Sixth Supplemental Response to Request for Discovery to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)

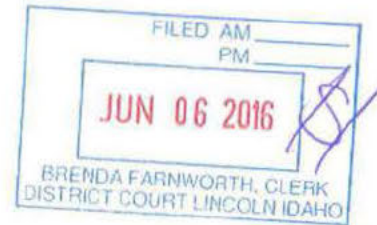


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

JUN 08 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

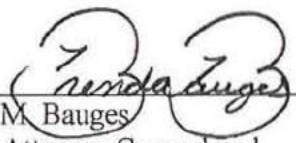
Defendant.

Case No. CR-2016-213

SIXTH SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 2nd day of June, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

COPY

SIXTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W [REDACTED]), Page 1

RR000747

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of June, 2016, I caused to be served a true and correct copy of the foregoing Sixth Supplemental Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
)	
vs.	)	SEVENTH SUPPLEMENTAL
	)	RESPONSE TO REQUEST
T [REDACTED] F [REDACTED] W [REDACTED],	)	FOR DISCOVERY
)	
Defendant.)	
)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Fourth Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) Interceptions of Wire or Oral Communications of Defendant:

None known to the prosecution at this time.

(2) Documents Which Negate the Guilt of Defendant:

See information provided in #6 below.

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
IAR#1 Interview with A [REDACTED] M [REDACTED] 11.1.15	5	7
IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] P [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with P [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] P [REDACTED] 12-17-15	35	37
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	
Email 2	44	54
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15 Part1.pdf	83	
15-52972 Notes - 2016-03-15 Part2.pdf	84	
15-52972 Notes - 2016-03-15 Part3.pdf	85	
15-52972 Notes - 2016-03-15 Part4.pdf	86	
15-52972 Notes - 2016-03-15 Part5.pdf	87	
15-52972 Notes - 2016-03-15 Part6.pdf	88	
15-52972 Notes - 2016-03-15 Part7.pdf	89	
15-52972 Notes - 2016-03-15 Part8.pdf	90	
15-52972 Notes - 2016-03-15 Part9.pdf	91	
15-52972 Notes - 2016-03-15 Part10.pdf	92	
15-52972 Notes - 2016-03-15 Part11.pdf	93	
15-52972 Notes - 2016-03-15 Part12.pdf	94	
15-52972 Notes - 2016-03-15 Part13.pdf	95	
15-52972 Notes - 2016-03-15 Part14.pdf	96	
15-52972 Notes - 2016-03-15 Part15.pdf	97	
15-52972 Notes - 2016-03-15 Part16.pdf	98	
15-52972 Notes - 2016-03-15 Part17.pdf	99	
15-52972 Notes - 2016-03-15 Part18.pdf	100	
15-52972 Notes - 2016-03-15 Part19.pdf	101	
15-52972 Notes - 2016-03-15 Part20.pdf	102	
15-52972 Notes - 2016-03-15 Part21.pdf	103	
15-52972 Notes - 2016-03-15 Part22.pdf	104	
15-52972 Notes - 2016-03-15 Part23.pdf	105	
15-52972 Notes - 2016-03-15 Part24.pdf	106	
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint	115	116
Motion to Seal PC Affidavit	117	118

Description	Begin No.	End No.
Motion to Seal Search Warrant & Affidavit for Search Warrant	119	119
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search Warrant	121	122
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	123	124
Order Sealing Search Warrant and Affidavit for SW	125	126
Petition for Appointment of Special Prosecutor	127	128
Probable Cause Affidavit of Anthony Pitz	129	131
Return of Search Warrant	132	133
Search Warrant	134	135
Summons	136	137
School:		
Blank Student Interview Form	138	138
Completed Student Interview Forms	139	146
Dietrich Football Coaches	147	147
Dietrich Football Team Roster	148	148
Dietrich High Blue Prints	149	149
Dietrich High Staff List	150	150
Dietrich High Student Roster	151	171
Dietrich School District Open Enrollment	172	176
Dietrich School District Policies	177	190
Fax to Dietrich School District Insurance Agent	191	192
Hardcastle Report of Initial Complaint	193	194
Hardcastle's Investigative Notes	195	263
Pictures of the Dietrich School boys' locker room	264	268
S. R. Statement	269	272
Shaw's Investigative Docs	273	291
Student Demographic Info	292	295
Student Discipline Files	296	301
Superintendent Hardcastle Investigation Overview	302	309
Witness Diagrams of Locker Room	310	317
AUDIO:	318	318
Interview with A [REDACTED] H [REDACTED] 12.17.15	319	319
Interview with A [REDACTED] P [REDACTED] 12.17.15	320	320
Interview with K [REDACTED] S [REDACTED] 12.17.15	321	321
Interview with K [REDACTED] P [REDACTED] 12.17.15	322	322
Interview with M [REDACTED] 11	323	323
Interview with S [REDACTED] V [REDACTED] 12.17.15	317	317
Interview with T [REDACTED] H [REDACTED] 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED] A [REDACTED] 10-28-15 CARES	321	321

(7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	[REDACTED]	[REDACTED]	[REDACTED]
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W[REDACTED]	T[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) **Objections to Discovery:**

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Curriculum Vitae of Tomasine Quinney	326	328

The Curriculum Vitae of Tomasine Quinney, disclosed in this supplement, and the corresponding lab report, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Tomasine Quinney.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the Defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A [REDACTED] M [REDACTED] IEP	329	371
A [REDACTED] M [REDACTED] Medical Records	372	384
CARES Report	385	401

FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	402	403

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

FIFTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

(9) **Statements and/or Police Reports:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K ■■■ P ■■■. This office also received information from Shelly M ■■■ that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

SIXTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#13-ADP Phone interview with Shelly M ■■■	404	404
IAR#14-ADP Interview with Tracy P ■■■	405	406
IAR#15-ADP Interview with K ■■■ P ■■■	407	408
IAR#16-ADP Interview with A ■■■ M ■■■ 5/26/2016	409	410
IAR#17-ADP Phone Interview with Rick A ■■■ 5/27/2016	411	412
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	413	414

Description	Begin No.	End No.
Letter from Anderson, Julian & Hull Re: M [REDACTED] v. Dietrich School District, dated May 31, 2016	415	416
Audio Recording included in Anderson, Julian & Hull Letter	417	417

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
P [REDACTED]	Tracy		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
A [REDACTED]	Rick	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

SEVENTH SUPPLEMENTAL RESPONSE:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Picture from Lee Schlender	418	418

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	FIRM	Address	City	State	Zip
Schlender	Lee		2700 Holly Lynn Dr.	Mountain Home	ID	83647

DATED this 15th day of June 2016.



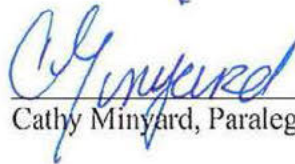
Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of June 2016, I caused to be served a true and correct copy of the foregoing Seventh Supplemental Response to Request for Discovery to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
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Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],


Defendant.

Case No. CR-2016-213

SEVENTH SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 15th day of June, 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

COPY

SEVENTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W [REDACTED]), Page 1


RR000760

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of June, 2016, I caused to be served a true and correct copy of the foregoing Seventh Supplemental Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)



Cathy Minyard, Paralegal



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

August 9, 2016

VIA FACSIMILE: (208) 736-0141

Michael Wood
184 Gooding Street West
Twin Falls, ID 83301

VIA FACSIMILE: (208) 324-5597

Christopher Bradley Calbo
P.O. Box 9
Jerome, ID 83338

RE: State of Idaho v. T■■■■ R■■ W■■
State of Idaho v. John R.K. Howard

Dear Sirs:

I am writing pursuant to my continuing discovery obligation to provide statements of witnesses, under Idaho Criminal Rule 16. On August 9, 2016, I spoke with Dr. Samuel Pullen, DO, regarding A■■■■ M■■■■. Specifically, I spoke with Dr. Pullen about A■■■■'s mental health diagnosis as indicated the CARES report, previously disclosed in discovery. During our conversation Dr. Pullen indicated that A■■■■ can have difficulty with linear timelines. For example, while he understands that events have happened to him, he may not be able to properly describe the specific time or day that they happened. Moreover, Dr. Pullen stated that because of A■■■■'s mental health issues, he is susceptible to leading questions. Specifically, Dr. Pullen indicated that A■■■■ may have a tendency to give an answer in accordance with whatever path the questioner leads him down.

Please contact me with any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "Casey Hemmer", is written over a horizontal line.

Casey Hemmer
Deputy Attorney General
Idaho Office of the Attorney General

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000762

* * * COMMUNICATION RESULT REPORT (AUG. 9.2016 3:11PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : AUG. 9.2016 3:10PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

280 MEMORY TX

912083245597

OK

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REASON FOR ERROR

E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010
208-332-3098
208-854-8083**Idaho State
Attorney General
Criminal Law Division****Fax****To:** Christopher Calbo,
Calbo & Depew, PLLC**From:** Deputy Attorney General
Casey Hemmer**Fax:** 208-324-5597**Pages:** 2**Phone:** [REDACTED]**Date:** August 9, 2016**Re:** State v. Howard**cc:**☐ **Urgent**☐ **For Review**☐ **Please Comment**☐ **Please Reply**☐ **Please Recycle**

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

To: Christopher Calbo,
Calbo & Depew, PLLC

From: Deputy Attorney General
Casey Hemmer

Fax: 208-324-5597

Pages: 2

Phone: [REDACTED]

Date: August 9, 2016

Re: State v. Howard

cc:

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

* * * COMMUNICATION RESULT REPORT (AUG. 9. 2016 3:10PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : AUG. 9. 2016 3:10PM
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RESULT

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REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
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E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010
208-332-3096
208-854-8083**Idaho State
Attorney General
Criminal Law Division****Fax****To:** Michael Wood,
Attorney at Law**From:** Deputy Attorney General
Casey Hemmer**Fax:** 208-736-0141**Pages:** 2**Phone:** [REDACTED]**Date:** August 9, 2016**Re:** State v. W [REDACTED]**cc:**☐ **Urgent**☐ **For Review**☐ **Please Comment**☐ **Please Reply**☐ **Please Recycle**

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

To:	Michael Wood, Attorney at Law	From:	Deputy Attorney General Casey Hemmer
Fax:	208-736-0141	Pages:	2
Phone:	[REDACTED]	Date:	August 9, 2016
Re:	State v. W [REDACTED]	cc:	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
)	
vs.	)	EIGHTH SUPPLEMENTAL
	)	RESPONSE TO REQUEST
T [REDACTED] R [REDACTED] W [REDACTED],	)	FOR DISCOVERY
)	
Defendant.)	
)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and makes the following Eighth Supplemental Response to Request for Discovery pursuant to Idaho Criminal Rule 16:

16(a) Automatic Disclosure: The discovery provided to the Defendant complies with the prosecution's obligation under I.C.R. 16(a).

16(b) Disclosure pursuant to written request by Defendant:

(1) Interceptions of Wire or Oral Communications of Defendant:

None known to the prosecution at this time.

(2) Documents Which Negate the Guilt of Defendant:

See information provided in #6 below.

- (3) **Statements of Defendant:** Statements of the defendant are as noted in the attached reports.

The prosecution hereby incorporates by reference the statements made by or attributed to the defendant at his arraignment, the grand jury proceedings, or any court proceedings in this case.

- (4) **Defendant's Prior Record:** See information provided in #6 below.
- (5) **Statement of Co-Defendant:** See information provided in #6 below.
- (6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Craigslist posts RE Dietrich	1	4
AG Investigator Reports:		
IAR#1 Interview with A [REDACTED] M [REDACTED] 11.1.15	5	7
IAR#1 MCS Opening Report	8	9
IAR#10-ADP Closing Report	10	12
IAR#2 MCS ICSO Reports	13	13
IAR#2-ADP Search Warrant Service and Hardcastle Interview	14	17
IAR#3-ADP Evidence collection from M [REDACTED]	18	19
IAR#4-ADP Interview with A [REDACTED] H [REDACTED] 12-17-15	20	22
IAR#5-ADP Interview with K [REDACTED] S [REDACTED] 12-17-15	23	25
IAR#6-ADP Interview with A [REDACTED] P [REDACTED] 12-17-15	26	28
IAR#7-ADP Interview with P [REDACTED] V [REDACTED] 12-17-15	29	31
IAR#8-ADP Interview with E [REDACTED] H [REDACTED] 12-17-15	32	34
IAR#9-ADP Interview with K [REDACTED] P [REDACTED] 12-17-15	35	37
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
Emails:		
Email 1	43	
Email 2	44	54
Email 3	55	57
Email 4	58	59
Email 5	60	61
Email 6	62	62

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
H [REDACTED]:		
A [REDACTED] H [REDACTED] Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
15-52972 Notes - 2016-03-15 Part1.pdf	83	
15-52972 Notes - 2016-03-15 Part2.pdf	84	
15-52972 Notes - 2016-03-15 Part3.pdf	85	
15-52972 Notes - 2016-03-15 Part4.pdf	86	
15-52972 Notes - 2016-03-15 Part5.pdf	87	
15-52972 Notes - 2016-03-15 Part6.pdf	88	
15-52972 Notes - 2016-03-15 Part7.pdf	89	
15-52972 Notes - 2016-03-15 Part8.pdf	90	
15-52972 Notes - 2016-03-15 Part9.pdf	91	
15-52972 Notes - 2016-03-15 Part10.pdf	92	
15-52972 Notes - 2016-03-15 Part11.pdf	93	
15-52972 Notes - 2016-03-15 Part12.pdf	94	
15-52972 Notes - 2016-03-15 Part13.pdf	95	
15-52972 Notes - 2016-03-15 Part14.pdf	96	
15-52972 Notes - 2016-03-15 Part15.pdf	97	
15-52972 Notes - 2016-03-15 Part16.pdf	98	
15-52972 Notes - 2016-03-15 Part17.pdf	99	
15-52972 Notes - 2016-03-15 Part18.pdf	100	
15-52972 Notes - 2016-03-15 Part19.pdf	101	
15-52972 Notes - 2016-03-15 Part20.pdf	102	
15-52972 Notes - 2016-03-15 Part21.pdf	103	
15-52972 Notes - 2016-03-15 Part22.pdf	104	
15-52972 Notes - 2016-03-15 Part23.pdf	105	
15-52972 Notes - 2016-03-15 Part24.pdf	106	
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint	115	116
Motion to Seal PC Affidavit	117	118

Description	Begin No.	End No.
Motion to Seal Search Warrant & Affidavit for Search Warrant	119	119
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search Warrant	121	122
Order Sealing Search Warrant & Affidavit for Search Warrant (Marked Sealed)	123	124
Order Sealing Search Warrant and Affidavit for SW	125	126
Petition for Appointment of Special Prosecutor	127	128
Probable Cause Affidavit of Anthony Pitz	129	131
Return of Search Warrant	132	133
Search Warrant	134	135
Summons	136	137
School:		
Blank Student Interview Form	138	138
Completed Student Interview Forms	139	146
Dietrich Football Coaches	147	147
Dietrich Football Team Roster	148	148
Dietrich High Blue Prints	149	149
Dietrich High Staff List	150	150
Dietrich High Student Roster	151	171
Dietrich School District Open Enrollment	172	176
Dietrich School District Policies	177	190
Fax to Dietrich School District Insurance Agent	191	192
Harcastle Report of Initial Complaint	193	194
Harcastle's Investigative Notes	195	263
Pictures of the Dietrich School boys' locker room	264	268
S. R. Statement	269	272
Shaw's Investigative Docs	273	291
Student Demographic Info	292	295
Student Discipline Files	296	301
Superintendent Harcastle Investigation Overview	302	309
Witness Diagrams of Locker Room	310	317
AUDIO:	318	318
Interview with A ■ H ■ 12.17.15	319	319
Interview with A ■ P ■ 12.17.15	320	320
Interview with K ■ S ■ 12.17.15	321	321
Interview with K ■ P ■ 12.17.15	322	322
Interview with M ■ 11	323	323
Interview with S ■ V ■ 12.17.15	317	317
Interview with T ■ H ■ 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M [REDACTED], A [REDACTED] 10-28-15 CARES	321	321

(7) **Reports of Examinations and Tests:** Evidence and biological samples were sent to the Idaho State Police Forensic Laboratory for DNA testing. Discovery will be supplemented upon the receipt of the results of such testing.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
Billings	Patricia	CARES	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Denning	Scott	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Ellis	Kevin	Lincoln County Sheriff's Office	111 W B St	Shoshone	ID	83352
Hardcastle	Ben	Dietrich School District	406 N. Park Street	Dietrich	ID	83324
Howard	John		[REDACTED]			
H [REDACTED]	O [REDACTED]		[REDACTED]			
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	B	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M [REDACTED]	A [REDACTED]		[REDACTED]	[REDACTED]		
M [REDACTED]	Shelly		[REDACTED]			
M [REDACTED]	Tim		[REDACTED]			
M [REDACTED]	Jeremy		[REDACTED]			
Roeloffs	Sara	CARES - St. Luke's Twin Falls	2550 Addison Ave. East, Suite G	Twin Falls	ID	83301
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Walther	Bret	Anderson, Julian & Hull	250 South 5th Street, Suite 700	Boise	ID	83707- 7426
W■■■■	T■■■■		■■■■ ■■■■	■■■■■	■	■■■■

(9) **Statements and/or Police Reports:** See information provided in #6 above.

(10) **Police Reports:** See information provided in #6 above.

(11) **Expert witnesses:**

Dr. Brian Johnson	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
ISP Laboratory Forensic Analyst	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

Information relating to qualifications, facts and data relied upon for opinions and inferences, and the content of any expert opinion will be requested and discovery will be supplemented upon receipt.

(12) **Witnesses and Testimony:** See information provided in #6 and #8 above. When and/or if the State intends to offer 404(b) evidence, it will file the appropriate notice as required pursuant to I.R.E. 404(b).

(13) **Confidential Informant Documents:** No confidential informant known to the prosecution at this time.

(14) **Surveillance Contacts with the Defendant:** None known to the prosecution at this time.

(15) **Audio and Video Recordings:** See information provided in #6 above. However, with regard to any CARES information request, please see the State's Motion for Protection Order filed concurrently herewith. Additionally, only the information in a standard CARES report is in the possession of the prosecution at this time.

(16) In addition to the above, the prosecution maintains an "open file" for the Defendant's review. Please call Cathy Minyard at 332-3096 to schedule an appointment to review the prosecutor's file.

16(e)(1)(C) Objections to Discovery:

The State hereby objects to any request for discovery which is outside the scope of Idaho Criminal Rule 16.

FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#11-ADP Interview with Shelly M [REDACTED] 3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evidence	324	325

(11) **Expert witnesses:**

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic Services	700 S. Stratford Dr., Suite 125	Meridian	ID	83642

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Curriculum Vitae of Tomasine Quinney	326	328

The Curriculum Vitae of Tomasine Quinney, disclosed in this supplement, and the corresponding lab report, disclosed in the first supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Tomasine Quinney.

THIRD SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial, hand-delivered to the Defendant's counsel on April 15th, 2016 pursuant to Court order.

Description	Begin No.	End No.
A [REDACTED] M [REDACTED] IEP	329	371
A [REDACTED] M [REDACTED] Medical Records	372	384
CARES Report	385	401

FOURTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
CV for Dr. Brian Johnson	402	403

The Curriculum Vitae of Dr. Brian Johnson, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Dr. Brian Johnson. Additionally, Dr. Brian Johnson may be called upon to give his expert opinion regarding whether his medical examination of the victim was consistent with the report of incident. Dr. Brian Johnson will testify that the victim presented consistently with the report and the lack of obvious physical trauma does not negate this conclusion.

FIFTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	FIRM	Address	City	State	Zip
Torgerson	Mike	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

(9) **Statements and/or Police Reports:** The Office of the Attorney General received a report from Sergeant Denning with the Lincoln County Sheriff's Office that the alleged victim in this matter has made recanting statements to the parents of K ■ P ■. This office also received information from Shelly M ■ that Mike Torgerson may have been present when these statements were made. The Office of the Attorney General intends to investigate these claims and will supplement discovery with any additional information it obtains.

SIXTH SUPPLEMENTAL RESPONSE TO DISCOVERY:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#13-ADP Phone interview with Shelly M ■	404	404
IAR#14-ADP Interview with Tracy P ■	405	406
IAR#15-ADP Interview with K ■ P ■	407	408
IAR#16-ADP Interview with A ■ M ■ 5/26/2016	409	410
IAR#17-ADP Phone Interview with Rick A ■ 5/27/2016	411	412
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	413	414

Description	Begin No.	End No.
Letter from Anderson, Julian & Hull Re: M [REDACTED] v. Dietrich School District, dated May 31, 2016	415	416
Audio Recording included in Anderson, Julian & Hull Letter	417	417

9. **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below. Various juvenile witnesses are not expressly listed below but are mentioned in the discovery materials. Please contact the prosecutor for further information. Any witness named or called to testify by defense or included on the defense witness list.

Last	First	FIRM	Address	City	State	Zip
P [REDACTED]	Tracy		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
A [REDACTED]	Rick	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

SEVENTH SUPPLEMENTAL RESPONSE:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
Picture from Lee Schlender	418	418

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	Firm	Address	City	State	Zip
Schlender	Lee		2700 Holly Lynn Dr.	Mountain Home	ID	83647

EIGHTH SUPPLEMENTAL RESPONSE:

(6) **Documents and Tangible Objects:** Please find below a list of documents and/or tangible objects obtained from the defendant or intended for use against the defendant at trial.

Description	Begin No.	End No.
IAR#19 7.6.2016 Interview with the M [REDACTED]	419	420
CV for Rylene Nowlin	421	424
CV for Samuel Pullen	425	435
CV for Christina Scanlan	436	437
Voice Message from Outside Caller on 41216 1046 AM for 4140	438	438
Voice Message from Outside Caller on 41216 1048 AM for 4547	439	439
Voice Message from Outside Caller on 41216 1052 AM for 3089	440	440
Voice Message from Outside Caller on 41216 1147 AM for 3089	441	441
Voice Message from Outside Caller on 52416 842 AM for 3089	442	442

Description	Begin No.	End No.
Anthony Pittz Notes	443	458
St. Luke's Canyon View Medical Records for A [REDACTED] M [REDACTED]*	459	481
ISP Forensic Services Evidence Submission Receipt	482	482
ISP Forensic Services Evidence Transfer Receipt	483	483
Email – Re: Question on your notes	484	485
Email – Re: Quick question	486	487
AUDIO:		
041216-104626-4140-1160412.96166143@audix-1	488	488
041216-104847-4547-1160412.96166399@audix-1	489	489
041216-105236-3089-1160412.96167935@audix-1	490	490
041216-114738-3089-1160412.96169727@audix-1	491	491
052416-084215-3089-1160524.97024767@audix-1	492	492

*An unredacted copy of the medical records from St. Luke's Canyon View has been provided to defense counsel in accordance with the Protective Order in this matter filed on April 15, 2016.

(8) **Witnesses:** Any witness named in attached reports including, but not limited to, those listed below.

Last	First	Firm	Address	City	State	Zip
A [REDACTED]	J [REDACTED]		[REDACTED]			
A [REDACTED]	G [REDACTED]					
Bingham	Spencer	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Dill	Wayne	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Edwards	Christopher	St. Luke's	414 Shoup Ave W, Ste. B	Twin Falls	ID	83301
Ellis	Mark	Shoshone Family Medical Center	113 S. Apple St.	Shoshone	ID	83352
H [REDACTED]	E [REDACTED]		[REDACTED]			
Hoglund	Collette	St. Luke's				
Hoskisson	Wayne	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Kraal	Kevin	St. Luke's	801 Pole Line Rd W	Twin Falls	ID	83301

Last	First	Firm	Address	City	State	Zip
Malan	Alicia	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
Moncur	Delsa	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
N [REDACTED]	G [REDACTED]		[REDACTED]			
P [REDACTED]	K [REDACTED]					
Peterson	Brett	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
P [REDACTED]	A [REDACTED]		[REDACTED]			
R [REDACTED]	S [REDACTED]					
S [REDACTED]	K [REDACTED]					
Siddiqui	Mohammed	St. Luke's	2350 Addison Ave E, Ste. A	Twin Falls	ID	83301
Urrutia	Johnny	Southern Idaho Pain Institute	176 Falls Ave	Twin Falls	ID	83301
V [REDACTED] [REDACTED]	P [REDACTED]		[REDACTED]			
V [REDACTED] [REDACTED]	S [REDACTED]					

(11) Expert witnesses:

Last	First	FIRM	Address	City	State	Zip
Nowlin	Rylene	Idaho State Police	700 S. Stratford Dr., Ste. 125	Meridian	ID	83642
Pullen	Samuel	St. Luke's	414 Shoup Ave., Ste. B	Twin Falls	ID	83301
Scanlan	Christina	St. Luke's	414 Shoup Ave., Ste. B	Twin Falls	ID	83301

The Curriculum Vitae of Rylene Nowlin, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witness Rylene Nowlin, she may testify generally to DNA recovery and testing techniques, including touch DNA.

The Curriculum Vitae of Christina Scanlan and Samuel Pullen, disclosed in this supplement, and the corresponding medical reports, disclosed in the third supplemental response to discovery, are disclosed in compliance with Idaho Criminal Rule 16(b)(7), Idaho Rule of Evidence 705, and Defendant's Request for Discovery and Inspection item (11), as to the expert witnesses Christina Scanlan and Samuel Pullen, they may testify to signs and symptoms of psychological disorders including disorganized schizophrenia, schizoaffective disorder, and anxiety disorder, as well as other disorders identified in the victim's medical records, which have previously been disclosed. They may also testify that the victim exhibits signs and symptoms consistent with these disorders. Their testimony will be based off of their interactions with the victim as well as the medical reports disclosed in discovery.

DATED this 12 day of August 2016.



Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August 2016, I caused to be served a true and correct copy of the foregoing Eighth Supplemental Response to Request for Discovery to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)



Catly Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED

AUG 17 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],


Defendant.

Case No. CR-2016-213

EIGHTH SUPPLEMENTAL
DISCOVERY RESPONSE
TO COURT

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

DATED this 12 day of August, 2016.


Casey J. Hemmer
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

COPY

EIGHTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W [REDACTED]), Page 1

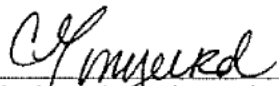
RR000779

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 2016, I caused to be served a true and correct copy of the foregoing Eighth Supplemental Discovery Response to Court to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail (Email)



Cathy Minyard, Paralegal

From: Minyard, Catherine
Sent: Monday, May 02, 2016 3:12 PM
To: Deysi Sandoval [REDACTED]
Subject: State v. W [REDACTED] - Motion & Proposed Order for Change of Venue
Attachments: Motion for Change of Venue (pdf).PDF; Order Allowing Change of Venue (pdf).pdf

State v. W■■■■, Lincoln County Case No. CR-2016-213

Deysi –

Attached, please find a Motion for Change of Venue and a Proposed Order Allowing Change of Venue. Please file the motion and forward the order to the judge for his review. If you have any questions, please call me at (208) 332-3096.

Thank you,

Cathy Minyard
Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office - Criminal Division
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: (208) 332-3096
Fax: (208) 854-8074

* * * COMMUNICATION RESULT REPORT (MAY. 2.2016 3:14PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : MAY. 2.2016 3:11PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

206 MEMORY TX

912087360141

OK

18/18

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010
208-332-3086
208-854-8083**Idaho State
Attorney General
Criminal Law Division****Fax**

To: Michael J. Wood, Attorney	From: Brenda Bauges, Deputy Attorney General
Fax: (208) 736-0141	Pages: 18
Phone: (208) 736-8190	Date: 05/02/16
Re: State v. W [REDACTED]	cc:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

RECEIVED

MAY 02 2016

LAWRENCE G. WASDEN
Idaho Attorney General

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

Defendant.

Case No. CR-2016-213

INFORMATION

BRENDA M. BAUGES, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Lincoln, and states that T [REDACTED] R [REDACTED] W [REDACTED] is accused by this Information of the crime of: FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608 which crime was committed as follows:

That the Defendant, T [REDACTED] R [REDACTED] W [REDACTED], on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by inserting a hanger inside the anal opening of A.W.M. against his will for the purpose of sexual abuse.

COPY

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

DATED this 26 day of April, 2016.

A handwritten signature in cursive script, appearing to read "Brenda M. Bauges", is written over a horizontal line.

Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County



U.S. Department of Justice

United States Attorney District of Idaho

Mailing Address:
Washington Group Plaza IV, Suite 600
800 East Park Boulevard
Boise, Idaho 83712

*Main Phone: 208/334-1211
Main Fax: 208/334-9375
Cv Div Fax: 208/334-1414
Cr Div Fax: 208/334-1038
DTF Div Fax: 208/334-1413*

June 9, 2016

Michael Steen
Deputy Attorney General
Attorney General's Office
Post Office Box 83720
Boise, Idaho 83720-0010

RE: *United States vs. John Howard*
U.S. Attorney No. S-2016R00261

Dear Deputy Steen:

We have received your recent investigative inquiry regarding the above captioned matter. A file has been opened in our office and assigned to United States Attorney Wendy J. Olson.

As you may know, should a charging document be filed in this matter, the federal government is required by statute — the Federal Rules of Criminal Procedure 16 and 26.2 — to disclose certain information upon the defendant's request. In anticipation of such a request, please forward the following as soon as possible or at your earliest convenience:

- (1) The defendant's own oral, written, and recorded statements;
- (2) The defendant's prior criminal record;
- (3) Evidentiary documents and objects or descriptions thereof;
- (4) Any examination and/or test reports; and
- (5) The content and bases of any expert testimony upon which the government intends to rely. While Rule 16 does not permit a defendant to discover reports,

memoranda, or other internal government documents prepared by the government in connection with the investigation or prosecution of a case, it is all too often too difficult to discern at such an early stage what is and what is not discoverable. Accordingly, please forward all reports for my review.

Documents and/or Reports already in electronic format should be provided on CDs. Electronic format includes WordPerfect (.wpd), Word (.doc), Excel (.xls), Adobe (.pdf). Contact the AUSA for compatibility of other formats. Photographs shall be in .jpg format. Do not submit photos in .raw format. If possible, please submit videos in either .wma or .mpg format. The filename shall reflect the content, as an example: CIWire_SmithBuy_10142007.mpg. Audio recordings should be submitted in Windows compatible format, i.e., .wav, .wma, or .mpg format. The filename shall also reflect the content, as an example: CIWire_SmithBuy_10142007.wav. Transcripts of audio/video recordings shall be submitted in hard copy and an electronic copy in ASCII text format (filename.txt).

In addition, Rule 26.2 (*Jencks Act*) requires us to produce witness statements, which include: (1) written statements that are signed or otherwise adopted or approved by a witness; (2) substantially verbatim recordings or transcriptions of oral statements; and (3) grand jury testimony.

While notes or summaries of notes taken by prosecutors or their agents during an interview with a witness do not ordinarily meet Rule 26.2's (*Jencks Act*) definition of a witness statement, they are often constitutionally discoverable as impeachment information where a witness provides inconsistent statements. Accordingly, you are required to maintain all rough notes, interview notes and similar items, and I ask that you instruct all others working on this case to do the same.

In addition to the Government's statutory duty to disclose, we have a constitutional duty to disclose exculpatory and impeachment information. Exculpatory evidence is any fact or evidence that may be favorable to the defendant or that might tend to show that the defendant did not commit any of the crimes that are charged against him/her or that punishment should be mitigated; we are required to advise the defendant of this evidence. [Impeachment information is information which could be used by a defendant to impeach the credibility of a prosecution witness, including law enforcement officers, and, as a consequence, also make a defendant's conviction less likely, or punishment less severe, e.g., payments to informants, plea and cooperation and non-prosecution agreements, criminal histories, etc.] If you are aware of any evidence that is even arguably exculpatory or could be used for impeachment, please provide such evidence and contact me so that we may discuss it.

June 9, 2016
Page 3
Deputy Michael Steen

With advance notice to the defendant, evidence of other crimes, wrongs, or acts committed by the defendant(s) may be admissible to prove motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake, or accident. If you are aware of any such "other acts" evidence, whether or not criminal charges were levied, please let me know as soon as possible.

If there is any sensitive information that you believe should not be turned over to the defense, such as identities of confidential informants, details of ongoing investigations, or information concerning victims or vulnerable witnesses, please advise me immediately so that we can take the steps necessary to protect the information.

If you have any questions or concerns, please contact the assigned United States Attorney in Boise at (208) 334-1211.

Sincerely,

WENDY J. OLSON
United States Attorney

s/ Aaron N. Lucoff

Aaron N. Lucoff
Criminal Chief

/abr



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

June 17, 2016

Aaron N. Lucoff
Criminal Chief
United States Attorney – District of Idaho
Washington Group Plaza, Suite 600
800 East Park Boulevard
Boise, ID 83712

Re: *United States v. John Howard*
U.S. Attorney No. S-2016R00261

Dear Mr. Lucoff:

I have received your June 9, 2016, letter to Michael Steen requesting documents related to the investigation and pending case in Dietrich, Idaho. Enclosed, please find one DVD containing copies of our discovery file on this matter. If you should require any additional information, please contact me at [REDACTED].

Thank you for your assistance in this matter.

Sincerely,

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

Casey Hemmer
Deputy Attorney General

CH/cam
Enclosures

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000788



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

August 11, 2016

Michael Jay Wood
184 Gooding Street West
Twin Falls, ID 83301

RE: State of Idaho v. T■■■■■ W■■■■■
Lincoln County Case No. CR-2016-213

Dear Mr. Wood:

I am writing to follow up on our phone conversation this morning. As we discussed, I propose the following resolution on the T■■■■■ W■■■■■ case:

- The State will dismiss the current charge of Forcible Penetration with Foreign Object;
- The State will refile the case in juvenile court on a charge of felony Injury to Child;
- Mr. W■■■■■ will plead guilty to felony Injury to Child in juvenile court;
- The State will recommend that the case be adjudicated as an Informal Adjustment, I.C. §§20-510, 20-511;
- The State will recommend suspended jail time, not to exceed 180 days;
- The State will recommend community service, not to exceed 100 hours;
- The State will recommend a two (2) year period of probation;
- The parties agree to recommend that the case remain sealed;
- The State will not object to a motion for expungement pursuant to I.C. §20-525A(3) as long as Mr. W■■■■■ has no new crimes, no proven probation violations (informal adjustment violations), and he completes all terms of his probation;
- The defense may argue for whatever jail, community service and probation terms it wishes;
- The State is unaware of any restitution at this time;
- All other terms are to be left to the discretion of the court.

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 854-8074
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR000789

Please let me know whether this agreement is acceptable or if you have any further questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Casey Hemmer', with a stylized flourish at the end.

Casey Hemmer
Deputy Attorney General

RR000791

summoned to appear on 9-14-16 and 80 to appear on 9-15-16. Court will conduct Voir Dire on jurors numbered 1 thru 80. Counsel will voir dire after that. If after voir dire there are 35 or more jurors passed for cause, then first remaining jurors will be ordered to appear for JT on 9-21-16 at that time preempts (11) would be exercised. If there are not 35 jurors passed for cause then those remaining would be ordered to return on 9-21-16. Would continue voir dire on 9-15-16 and once that panel is passed for cause then first remaining jurors necessary to create a 35 jury panel will be ordered to return on 9-21-16. In event we are unable to obtain 35 jurors for trial in Lincoln County, I will then order venue changed to Jerome County and will in advance have clerk summon 84 jurors to appear in Jerome County.

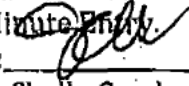
Status hearing will be in Lincoln County at 9:00 a.m. Ms. Baugus you may appear by phone. Please notify my clerk.

Ms. Baugus addresses the court regarding a change of attorneys.

Court in Recess.

End Minute Entry.

Attest:


Shelly Creek
Deputy Clerk

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

RECEIVED

MAR 29 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

Defendant.

Case No. CR-2016-213

MOTION FOR PROTECTIVE
ORDER

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, and hereby moves this Court for a Protective Order pursuant to Idaho Criminal Rule 16(l), restricting the manner of disclosure of medical, health, and developmental/educational documents pertaining to the victim. The State requests a hearing on this motion. The documents at issue will only be referenced generally in this filing, but the State will make the documents available to the Court at the hearing on this motion and requests the Court conduct its review *in camera*.

Idaho Criminal Rule 16(l) states that if a party presents the Court with a "sufficient showing," the Court may order discovery be denied, restricted, "or make any other order as is appropriate." Victims in a criminal case have a constitutional and statutory right to have their

MOTION FOR PROTECTIVE ORDER PURSUANT TO I.C.R. 16(l) ([REDACTED]), Page 1

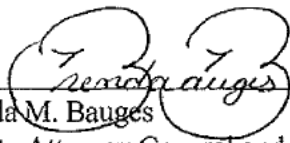
COPY

RR000793

privacy protected throughout the criminal justice process. See Idaho Const. Art. 1 § 22(1); I.C. § 19-5306(1)(a).

The very nature of these documents--which contain personal information, developmental/education information, and medical/prescription history--implicates the victim's privacy rights. That State asserts a protective order is thus necessary to protect the victim's right to privacy to the maximum extent possible. Additionally, the Defendant in this case is a juvenile currently attending high school, as is the victim. The surrounding circumstances of the conduct alleged by the State in this case are those of a harassing and bullying nature. The State seeks to avoid the potential that the information contained in these documents will be used to further harass or bully the victim. To balance the victim's right to privacy and the Defendant's right to a full and fair defense and to aid in the preparation of that defense under these circumstances, the State moves this Court to enter an order relieving the State from its obligation to supply a copy, even in redacted form, specifically for the Defendant. The State would disclose the documents to the Defendant's attorney of record, and would request the Court further order that the information in those documents shall not be disseminated unless necessary and essential to the preparation of the defense. To the extent that information is disclosed to the Defendant under these circumstances, the State would request that the Court enter an order prohibiting the Defendant from disseminating such information to others, absent a court order upon good cause shown.

DATED this 21 day of March 2016.



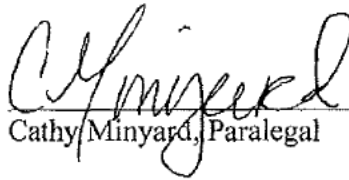
Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of March 2016, I cause to be served a true and correct copy of the foregoing Motion for Protective Order was served to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
vs.)	
	)	MOTION FOR CHANGE
T [REDACTED] R [REDACTED] W [REDACTED]	)	OF VENUE
)	
Defendant.)	
)	
)	
)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, for the County of Lincoln, State of Idaho, and hereby moves this Honorable Court pursuant to Idaho Criminal Rule 21 to transfer the above-referenced case to another county in the Fifth Judicial District, or a closely situated judicial district, as the court deems appropriate. This motion is made on the State's concern that a fair and impartial trial cannot be had in Lincoln County. The basis for this motion is discussed in further detail below.

DISCUSSION

Idaho Criminal Rule 21(a) allows a court to transfer a proceeding “if the court is satisfied that a fair and impartial trial cannot be had in the county where the case is pending.” This case has garnered significant interest and opinions amongst the community, with news coverage on the subject matter since October of 2015, which has continued through the most recent hearing in this case. Please see the following electronic sources as examples of local media outlets’ coverage of this case:

http://magicvalley.com/news/local/crime-and-courts/dietrich-high-students-expelled-amid-rape-allegations/article_cba484f5-22fc-5795-97a6-ba078e3441dd.html

http://magicvalley.com/news/opinion/editorial/our-view-dietrich-parents-deserve-answers/article_3a229871-fe57-56c2-86d4-cbeeb40e8d74.html

http://magicvalley.com/news/local/crime-and-courts/dietrich-school-leaders-notify-parents-of-rape-allegations/article_59d138b9-4931-5488-8fc8-163aea634671.html

http://magicvalley.com/news/local/crime-and-courts/teens-charged-in-dietrich-high-school-sex-assault/article_bca2d948-db6c-576b-ac2e-99e1bc1d4cd3.html

http://magicvalley.com/news/local/crime-and-courts/update-dietrich-teen-arraigned-in-locker-room-sex-assault-case/article_7549bf63-2788-53d1-bffc-483479a2935e.html

http://magicvalley.com/news/local/crime-and-courts/year-old-accused-in-dietrich-high-school-sexual-assault-arrested/article_72f177fe-e936-5b86-acde-05338f5950b6.html

http://magicvalley.com/news/local/crime-and-courts/dietrich-teen-testifies-teammates-conspired-to-attack-him/article_93919f28-17c7-5f75-817a-89ad4d175b34.html

<http://www.kmvt.com/content/news/Dietrich-teens-appear-in-court-for-alleged-sexual-assault-on-student.html>

<http://newsradio1310.com/dietrich-teen-testifies-in-locker-room-sexual-assault-case/>

The comments to some of these news articles are quite telling and indicate that once viewed, the information disseminated has resulted in strong opinions on the subject of this case. This matter was also intensely discussed in electronic posts to the “Craigslist” website around the time of the

initial disclosure of the conduct at issue, please see attached documentation. This case has evoked great emotion in this community, from those desiring prosecution and those condemning prosecution, such that the State has concerns that a fair trial cannot be accomplished in Lincoln County.

CONCLUSION

Based on the foregoing, the State respectfully requests this Court to order a change of venue.

DATED this 2nd day of May, 2016.



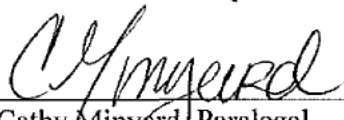
Brenda M. Banges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May, 2016, I cause to be served a true and correct copy of the foregoing Motion for Change of Venue was served to:

Michael J. Wood
Attorney at Law
184 Gooding Street West
Twin Falls, ID 83301
FAX: (208) 736-0141

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile



Cathy Minyard, Paralegal

is & raves

reply

prohibited

Posted: about 21 hours ago

reply

▲

reply

reply

Can you possibly fabricate more BS? (Dietrich and Lincoln Co.)

What are you folks doing throwing whatever comes to mind to see if it sticks? Shame on you Superintendent and Principal, It is easy to let everyone assume that only two kids were involved in the "alleged" incident. The truth, two kids were expelled one was out of district and one out of state, deny that you fact ducking asswipes. Deny that the other two boy's are in attendance again? But that is to be expected considering the entitled parents and nepotism. But, my favorite is Sheriff Ellis claiming his deputies are in the school. Hence, can't comment or look into the case. Really, when maybe the deputies are on the sidelines during a game at the best. It is hard to keep an eye on the schools when you can't get out of the courthouse.

- do NOT contact me with unsolicited services or offers

post id: 5313301007

posted: about 21 hours ago

email to friend

hosted at

is & raves

reply

prohibited

Posted: 3 days ago

reply

▲

reply

reply

Small town cover ups

Dietrich is small. There's always cover ups to crimes in small towns. Who remembers the young boy left for dead on the highway in Shoshone years ago. The guy that did it is walking free today. Daddy was a former cop and he just goes on with his life. Discussing.

- do NOT contact me with unsolicited services or offers

post id: 5309093002

posted: 3 days ago

email to friend

hosted at

is & raves

reply

prohibited

Posted: 3 days ago

reply

▲

reply

reply

This whole Dietrich thread

Guns don't kill people. An individual has to pick up a gun and kill someone.

"Mormons" didn't save anyone in Dietrich. Individuals regardless of what church they attend, committed this act and regardless of Catholic, Mormon

RR000801

replies

reply

anonymous ID

Posted: 3 days ago

1.000X ▲ 00000

0000

★ This whole Dietrich thread

Guns don't kill people. An individual has to pick up a gun and kill someone.

"Mormons" didn't rape someone in Dietrich. Individuals, regardless of what church they attend, committed this act and regardless of Catholic, Mormon or whatever they are, if an investigation finds the crime was committed they will be and should be punished. Lives will be ruined and lives have been ruined. Rape is a cowardly despicable act and when perpetrated upon a child should be punishable by death. That is how a man who is so cowardly and low should leave this world.

Enough with using this poor girls horrible experience as your personal opportunity to religion-bash. You are riding on her coat-tails when she is the victim, not you.

I could give a flying fuck what church you go to. If you rape a young girl prepare to pay the consequences and prepare to recon with your maker later on or hopefully sooner. And shame on you who are using her tragic demise as an opportunity to vent your anti-religious beliefs.

- do NOT contact me with unsolicited services or offers

post id: 5309863717

posted: 3 days ago

small to normal

00000

replies

reply

anonymous ID

Posted: 4 days ago

1.000X ▲ 00000

0000

Summing up Dietrich Mormons (Dietrich)

"And thus I clothe my naked villainy. With odd old ends stol'n out of holy writ, And seem a saint, when most I play the devil."

- do NOT contact me with unsolicited services or offers

post id: 5308743301

posted: 4 days ago

small to normal

00000

OL: 1000 posts > personalities > rants & raves

[account] post

reply 1 included 1 Posted: 4 days ago views 1 state 1

Re: Dietrich cover-up (Dietrich)

I can't agree with you more! The LDS and his appalling of the nation in relation of this situation. How dare those "privileged" kids get away with such a heinous act! I sincerely hope that justice will be served to the perpetrators! This kind of crap shifts a terrible light on our beliefs of sustaining the lives of the dead. This is NOT a clear representation of the teachings of Jesus Christ. Heaven help those that have perverted and turned away from the foundation of the gospel. I pray for your sins.

• do NOT contact me via email or on social media

posted: 4/20/2020 - posted: 4 days ago - 1 post | 1 comment - 1 view | 0

OL: 1000 posts > personalities > rants & raves

[account] post

reply 1 included 1 Posted: 4 days ago views 1 state 1

Dietrich "cover-up" (Shoshone)

You wanna know what's going on in Dietrich? Ask the phantoms! They will tell you what happened. It's too bad that the adults in that town can't own up to the "sins" of their children. The notion of "kids will be kids" isn't going to fly this time. Criminal charges should be filed and huge consequences should follow. Shame on you, you SCUM for trying to hide this despicable act.

• do NOT contact me via email or on social media

posted: 4/20/2020 - posted: 4 days ago - 1 post | 1 comment - 1 view | 0

OL: 1000 posts > personalities > rants & raves

[account] post

reply 1 included 1 Posted: 17 days ago views 1 state 1

Dietrich the cover up is worse than the crime, (disgusting public school)

You self-important, entitled, infatuated hillbillies. You hand-picked your school administration, the relief society takes over the school board and you just know, if you cover up the crime another sin will be involved with this.

• do NOT contact me via email or on social media

posted: 4/3/2020 - posted: 17 days ago - 1 post | 1 comment - 1 view | 0

OL: 1000 posts > personalities > rants & raves

[account] post

reply 1 included 1 Posted: 8 days ago views 1 state 1

Dietrich (Trailer trash)

Someone smells fishy, but that could just be from the trash in the backyard of the guy who got his ass on top of two middle houses baked to death with their kids. I'm sure if the alleged crime was carried out by non-LDS members it would be well known who was involved. Welcome to white trashville!

• do NOT contact me via email or on social media

posted: 4/16/2020 - posted: 8 days ago - 1 post | 1 comment - 1 view | 0

2 / 26788

reply

prohibited

Posted: 4 days ago

1 day

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Re: Dietrich cover-up (Dietrich)

I can't agree with you more! I'm LDS and am appalled at the narrow-mindedness of this situation. How dare these "privileged" kids get away with such a heinous act! I sincerely hope that justice will be served to the perpetrators! This kind of crap sheds a terrible light on our beliefs of sustaining the laws of the land. This is NOT a clear representation of the teachings of Jesus Christ. Heaven help those that have perverted and turned away from the foundation of the gospel. I pray for your sins.

- do NOT contact me with unsolicited services or offers

post id: 530665550

posted: 4 days ago

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1 day of 1

2 / 26788

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Dietrich "cover-up" (Shoshone)

You wanna know what's going on in Dietrich? Ask the students! They will tell you what happened. It's too bad that the adults in that town can't own up to the "sins" of their children. The notion of "kids will be kids" isn't going to fly this time. Criminal charges should be filed and huge consequences should follow. Shame on you, you SCUM for trying to hide this despicable act.

- do NOT contact me with unsolicited services or offers

post id: 5305517788

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Dietrich the cover up is worse than the crime. (Missoula public school)

RR000804

to 8. raven

reply

unpublished

Posted: 17 days ago

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print

⚡ Dietrich the cover up is worse than the crime, (disgusting public school)

You self- important, entitled, inbred hillbillies. You hand picked your school administration. the relief society ladies rule the school board and you just know if you cover up the crime another sin will be overlooked with time.

- do NOT contact me with unsolicited services or offers

post id: 5267331920

posted: 17 days ago

email to friend

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to 8. raven

reply

unpublished

Posted: 8 days ago

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⚡ Dietrich (Trailer trash)

Something smells fishy, but that could just be from the trash in the backyard of the guy who put trusses on top of two trailers houses tacked together with duct tape. I'm sure if the alleged crime was carried out by non LDS members it would be well known who was involved. Welcome to white trashville!

- do NOT contact me with unsolicited services or offers

post id: 5361557786

posted: 8 days ago

email to friend

back to top

CL: twofalls > persons > roots & causes

[account] post

reply

protected

Posted 8 days ago

1 like

0 replies

10/11/2022

viewed 2 days ago

commented 4 days ago

created 10/11/2022

viewed 2/1

Dietrich school "cover up" (Dietrich)

What is going to fly? Any time the LDS Church members get involved, it can't be good. No one is talking! Hmmm... Poor victim. If there is a cover-up to some sort of abuse by a member of "the church" it will certainly be "hush-hush" by the church leadership - who has zero training. I feel bad for the victim in this case. Where are you, Dr. Phil?

- do NOT contact with anyone involved in this case or others

CL: twofalls > persons > roots & causes

[account] post

reply

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Posted 6 days ago

1 like

0 replies

10/11/2022

viewed 8 days ago

commented 4 days ago

created 10/11/2022

viewed 2/1

Dietrich Mormons (Dietrich)

I don't know if the suspects are Mormon or not, but there is plenty of bad crime going around. If you are going to "test" the suspects as Mormon, then why don't you tell us the relation of all the other people around. Really, please tell. And know that the LDS church doesn't condone criminal activities

- do NOT contact with anyone involved in this case or others

CL: twofalls > persons > roots & causes

[account] post

reply

protected

Posted 6 days ago

1 like

0 replies

10/11/2022

viewed 6 days ago

commented 4 days ago

created 10/11/2022

viewed 2/1

Re Dietrich Mormons (Dietrich)

Hey mormon. The whole point is that if they WERE NOT Mormons it wouldn't be hush-hush that they will be exposed as well the cover up. Just wait. It's going to be fine!

- do NOT contact with anyone involved in this case or others

CL: twofalls > persons > roots & causes

[account] post

reply

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Posted 6 days ago

1 like

0 replies

10/11/2022

viewed 6 days ago

commented 4 days ago

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viewed 2/1

Dietrich conspiracy! (Dietrich)

You really think it's a cover up? How do you know? You do realize that courts involving mormons are handled differently, right? You seem a little too giddy for your britches.

- do NOT contact with anyone involved in this case or others

CL: twofalls > persons > roots & causes

[account] post

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Posted 6 days ago

1 like

0 replies

10/11/2022

viewed 6 days ago

commented 4 days ago

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Snoopy mormons (Dietrich)

I've watched you Mormons at that town for years sweep your crimes under the carpet. Be it shady real estate deals, incest, molestation, water rights, gay, extra victims, take your pick. Mormons not only condone it there, they practice it. Once this case gets out and it will you won't want tell anyone you live there!

- do NOT contact with anyone involved in this case or others

& raves

reply

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Posted: 9 days ago

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Dietrich school "cover up" (Dietrich)

Shit is going to fly! Any time the LDS Church members get involved...it can't be good. No one is talking! Hmmm. Poor victim. If there is a cover-up to some sort of abuse by a member of "the church" it will certainly be "handled" by the church leadership...who has zero training. I feel bad for the victim in this case. Where are you, Dr. Phil?

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Dietrich Mormons (Dietrich)

I don't know if the suspects are Mormon or not, but there is plenty of bad crime going around. If you are going to "out" the suspects as Mormon, then why don't you tell us the religion of all the other perps around. Really, please tell. And know that the LDS church doesn't condone criminal activities.

- do NOT contact me with unsolicited services or offers

post id: 5305362319

posted: 6 days ago

email to friend

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& raves

reply

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Re Dietrich Mormons (Dietrich)

Hey moron. The whole point is that if they WERE NOT Mormons it wouldn't be hushed up. But they will be exposed as will the cover up. Just wait. It's going to be fun!

- do NOT contact me with unsolicited services or offers

RR000807

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2. Re Dietrich Mormons (Dietrich)

Hey mormon. The whole point is that if they WERE NOT Mormons it wouldn't be hushed up. But they will be exposed as will the cover up. Just wait. It's going to be fun!

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post id: 530560505

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3. Dietrich conspiracy! (Dietrich)

You really think it's a cover up? How do you know? You do realize that cases involving minors are handled differently, right? You seem a little too giddy for your britches.

- do NOT contact me with unsolicited services or offers

post id: 530560505

posted: 6 days ago

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4. Snooty mormons (Dietrich)

I've watched you Mormons in that town for years sweep your crimes under the carpet. Be it shady real estate deals, incest, molestation, water rights, city code violations, take your pick. Mormons not only condone it there, they practice it. Once this one gets out (and it will) you won't want tell anyone you live there!

- do NOT contact me with unsolicited services or offers

post id: 530575156

posted: 6 days ago

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Italy, 1990-2000. *Health Affairs* 2000; 19: 1035-1042.

Dietrich

If you know, or think about a crime, or fear a crime committed against a child you are as GUILTY as the perpetrator if you have not done the right thing by reporting the facts (if you in fact know anything). Should it be found out that you have knowledge and are loathe about it you might find yourself the center of attention. Please if you are SURE...do the right thing by the child!

* 1998-2000, 2002-2003, 2005-2006, 2008-2009, 2011-2012, 2014-2015, 2017-2018, 2020-2021, 2022-2023, 2024-2025, 2026-2027, 2028-2029, 2030-2031, 2032-2033, 2034-2035, 2036-2037, 2038-2039, 2040-2041, 2042-2043, 2044-2045, 2046-2047, 2048-2049, 2050-2051, 2052-2053, 2054-2055, 2056-2057, 2058-2059, 2060-2061, 2062-2063, 2064-2065, 2066-2067, 2068-2069, 2070-2071, 2072-2073, 2074-2075, 2076-2077, 2078-2079, 2080-2081, 2082-2083, 2084-2085, 2086-2087, 2088-2089, 2090-2091, 2092-2093, 2094-2095, 2096-2097, 2098-2099, 2100-2101, 2102-2103, 2104-2105, 2106-2107, 2108-2109, 2110-2111, 2112-2113, 2114-2115, 2116-2117, 2118-2119, 2120-2121, 2122-2123, 2124-2125, 2126-2127, 2128-2129, 2130-2131, 2132-2133, 2134-2135, 2136-2137, 2138-2139, 2140-2141, 2142-2143, 2144-2145, 2146-2147, 2148-2149, 2150-2151, 2152-2153, 2154-2155, 2156-2157, 2158-2159, 2160-2161, 2162-2163, 2164-2165, 2166-2167, 2168-2169, 2170-2171, 2172-2173, 2174-2175, 2176-2177, 2178-2179, 2180-2181, 2182-2183, 2184-2185, 2186-2187, 2188-2189, 2190-2191, 2192-2193, 2194-2195, 2196-2197, 2198-2199, 2200-2201, 2202-2203, 2204-2205, 2206-2207, 2208-2209, 2210-2211, 2212-2213, 2214-2215, 2216-2217, 2218-2219, 2220-2221, 2222-2223, 2224-2225, 2226-2227, 2228-2229, 2230-2231, 2232-2233, 2234-2235, 2236-2237, 2238-2239, 2240-2241, 2242-2243, 2244-2245, 2246-2247, 2248-2249, 2250-2251, 2252-2253, 2254-2255, 2256-2257, 2258-2259, 2260-2261, 2262-2263, 2264-2265, 2266-2267, 2268-2269, 2270-2271, 2272-2273, 2274-2275, 2276-2277, 2278-2279, 2280-2281, 2282-2283, 2284-2285, 2286-2287, 2288-2289, 2290-2291, 2292-2293, 2294-2295, 2296-2297, 2298-2299, 2300-2301, 2302-2303, 2304-2305, 2306-2307, 2308-2309, 2310-2311, 2312-2313, 2314-2315, 2316-2317, 2318-2319, 2320-2321, 2322-2323, 2324-2325, 2326-2327, 2328-2329, 2330-2331, 2332-2333, 2334-2335, 2336-2337, 2338-2339, 2340-2341, 2342-2343, 2344-2345, 2346-2347, 2348-2349, 2350-2351, 2352-2353, 2354-2355, 2356-2357, 2358-2359, 2360-2361, 2362-2363, 2364-2365, 2366-2367, 2368-2369, 2370-2371, 2372-2373, 2374-2375, 2376-2377, 2378-2379, 2380-2381, 2382-2383, 2384-2385, 2386-2387, 2388-2389, 2390-2391, 2392-2393, 2394-2395, 2396-2397, 2398-2399, 2400-2401, 2402-2403, 2404-2405, 2406-2407, 2408-2409, 2410-2411, 2412-2413, 2414-2415, 2416-2417, 2418-2419, 2420-2421, 2422-2423, 2424-2425, 2426-2427, 2428-2429, 2430-2431, 2432-2433, 2434-2435, 2436-2437, 2438-2439, 2440-2441, 2442-2443, 2444-2445, 2446-2447, 2448-2449, 2450-2451, 2452-2453, 2454-2455, 2456-2457, 2458-2459, 2460-2461, 2462-2463, 2464-2465, 2466-2467, 2468-2469, 2470-2471, 2472-2473, 2474-2475, 2476-2477, 2478-2479, 2480-2481, 2482-2483, 2484-2485, 2486-2487, 2488-2489, 2490-2491, 2492-2493, 2494-2495, 2496-2497, 2498-2499, 2500-2501, 2502-2503, 2504-2505, 2506-2507, 2508-2509, 2510-2511, 2512-2513, 2514-2515, 2516-2517, 2518-2519, 2520-2521, 2522-2523, 2524-2525, 2526-2527, 2528-2529, 2530-2531, 2532-2533, 2534-2535, 2536-2537, 2538-2539, 2540-2541, 2542-2543, 2544-2545, 2546-2547, 2548-2549, 2550-2551, 2552-2553, 2554-2555, 2556-2557, 2558-2559, 2560-2561, 2562-2563, 2564-2565, 2566-2567, 2568-2569, 2570-2571, 2572-2573, 2574-2575, 2576-2577, 2578-2579, 2580-2581, 2582-2583, 2584-2585, 2586-2587, 2588-2589, 2590-2591, 2592-2593, 2594-2595, 2596-2597, 2598-2599, 2600-2601, 2602-2603, 2604-2605, 2606-2607, 2608-2609, 2610-2611, 2612-2613, 2614-2615, 2616-2617, 2618-2619, 2620-2621, 2622-2623, 2624-2625, 2626-2627, 2628-2629, 2630-2631, 2632-2633, 2634-2635, 2636-2637, 2638-2639, 2640-2641, 2642-2643, 2644-2645, 2646-2647, 2648-2649, 2650-2651, 2652-2653, 2654-2655, 2656-2657, 2658-2659, 2660-2661, 2662-2663, 2664-2665, 2666-2667, 2668-2669, 2670-2671, 2672-2673, 2674-2675, 2676-2677, 2678-2679, 2680-2681, 2682-2683, 2684-2685, 2686-2687, 2688-2689, 2690-2691, 2692-2693, 2694-2695, 2696-2697, 2698-2699, 2700-2701, 2702-2703, 2704-2705, 2706-2707, 2708-2709, 2710-2711, 2712-2713, 2714-2715, 2716-2717, 2718-2719, 2720-2721, 2722-2723, 2724-2725, 2726-2727, 2728-2729, 2730-2731, 2732-2733, 2734-2735, 2736-2737, 2738-2739, 2740-2741, 2742-2743, 2744-2745, 2746-2747, 2748-2749, 2

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reply | @johndoe123 | Posted 5 days ago • 1 upvote • 0 replies

Re know the facts (Dietrich)

Tell us that too if it is some Mormon looking to avoid the attention...so high and mighty you are. Just means you have a number to fall. These the accused are related to the people who trust to have the mother of the victim fued for saying vagina in a biology lesson. The real pussies are the Members of Diemich.

* Do not contact me until I have my copy of the offer.

Order	Order Date	Order Date	Order Date
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2 raves

reply

replied

Posted: 5 days ago

1 day



next

2011

Dietrich

If you know facts about a crime, never mind a crime committed against a child you are as GUILTY as the perpetrator if you have not done the right thing by reporting the facts (if you in fact know anything). Should it be found out that you have knowledge and are bragging about it you might find yourself the center of attention. Please if you are SURE, do the right thing by the child!

- do NOT contact me with unsolicited services or offers

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posted: 5 days ago

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1 day

5 raves

reply

replied

Posted: 5 days ago

1 day



next

2011

Re know the facts (Dietrich)

I'd say that too if I was some Mormon looking to avoid the attention...so high and mighty you are. Just means you have further to fall. Ironie the accused are related to the people who tried to have the father of the victim fired for saying vagina in a biology lesson. The real pussies are the Mormons of Dietrich.

- do NOT contact me with unsolicited services or offers

post id: 5300456618

posted: 5 days ago

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1 day

MICHAEL J. WOOD
 184 GOODING ST W
 TWIN FALLS, IDAHO 83301
 (208)736-8190
 (208)736-0141

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] W [REDACTED],

Defendant.

Case No. CR-2016- 213

MOTION AND ORDER FOR
PREPARATION OF
PRELIMINARY HEARING
TRANSCRIPT

COMES NOW, the above-named Defendant by and through his undersigned counsel, and hereby moves the Court pursuant to Rule 5.2 of the Idaho Rules of Criminal Practice and Procedure, for an order requiring the reporter or reporters of the preliminary hearing heretofore held in the above-entitled case to prepare a transcript only of the testimony of witnesses adduced at said hearing held on the 22ND day of APRIL, 2016, before the Honorable MARK INGRAM.

This motion is made and based upon the records, files, and pleadings in the above-entitled action and for the following reasons:

1. That Defendant is entitled to said PRELIMINARY hearing transcript pursuant to the above cited rule;

MOTION FOR PREPARATION OF PRELIMINARY TRANSCRIPT

2. That said transcript is necessary to aid the undersigned counsel in adequate trial preparation, or for purpose of a hearing as provided for by Idaho Code Section 19-815(A).

DATED This 25TH day of MAY, 2016.


MICHAEL J. WOOD

MOTION FOR PREPARATION OF PRELIMINARY TRANSCRIPT

RR000812

RR000813

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that a true and correct copy of the foregoing MOTION AND ORDER FOR PREPARATION OF PRELIMINARY HEARING TRANSCRIPT, was delivered BYFAX to Idaho attorney General Lawrence Wasden this 25th day of MAY, 2016.



MOTION FOR PREPARATION OF PRELIMINARY TRANSCRIPT

MICHAEL J. WOOD (ISB# 2865)
 Attorney at Law
 184 GOODING STREET WEST
 SUITE G
 TWIN FALLS, IDAHO 83301
 (208) 736-8190
 (208) 736-0141 fx

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-2016-213
)	
vs.)	
)	
T [REDACTED] R. W [REDACTED],	)	MOTION TO COMPEL DISCOVERY AND
	)	INSPECTION
Defendant.)	
)	

COMES NOW the Defendant by and through his counsel, Michael Wood, and respectfully moves this Court to Order the prosecution to provide by physical delivery of the item, reports and documents listed in paragraph A,B,C and D to the Defense within FIVE (5) days of hearing of this motion, pursuant to I.C.R. 16, Idaho Criminal Rule 16(b)(4)(6)(7)(9), Idaho Criminal Rule 16(a), ICR 16(B)(4)(5), ICR 16(b)(8), and the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and Article One Sec thirteen of the Idaho Constitution, :

- A) The items requested in Defendants' prior Request for Discovery and Inspection listed in paragraphs No. 1 through 15 and :

- B) All "Interview Notes" of interviews or investigations in any way related to this criminal prosecution. More specifically but not solely (exclusively), the "interview notes" which were not attached to the disclosures of reports of investigative interviews carried out by Attorney General Investigator Tony Piitz.
- C) All documents in any way related to the early June 2016 commitment of A [REDACTED] M [REDACTED] to the custody and care of Canyon View Psychiatric and Addiction Treatment Center in Twin Falls, Idaho.
- D) Any audio recording, text message and or investigative or interview notes of any telephone or other communication by Shelly or Tim M [REDACTED] with employees or agents of the Idaho Attorney Generals' Office. More specifically but not exclusively; those communications by Shelly M [REDACTED] referred to on page 404 of the documents disclosed to Defendant by the Office of the Attorney General in compliance with its lawful discovery obligations in this criminal action.

As grounds for the request of Defendant for A , B, C, and D above the Defense states as follows:

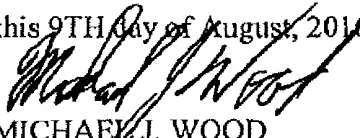
1. The information is sought properly pursuant to Idaho Criminal Rule 16 and specifically Idaho Criminal Rule 16(b)(1)(2)(4)(5)(6)(7)(8)(9) and are material to the preparation of the Defense of the alleged criminal violations..
2. The information sought is exculpatory pursuant to Idaho Criminal Rule 16(a).
3. The information sought is necessary to preserve Defendants' rights to confront the

witnesses against him at trial, fair trial, meaningful representation by counsel and Due Process of Law pursuant to the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and Article One Sec thirteen of the Idaho Constitution.

4. The information sought is properly discoverable pursuant to ICR 16(b)(9).
5. The information sought is discoverable because the standard for relevance of pretrial discovery is a broader standard than relevance at trial. The document or item is relevant for discovery purposes if it is reasonably calculated to lead to the discovery of admissible evidence at trial and as long as its probative value is not outweighed by any privacy interest or confidentiality or privilege. This information is properly discoverable in a civil proceeding between citizens of Idaho. The State of Idaho may not refuse discovery when it is the party without violating the Due Process of Law guarantees of the Fifth and Fourteenth Amendments of the United States Constitution and Equal Protection of the Law guarantees of the Fourteenth Amendment of the United States Constitution.


WHEREFORE, the Defense moves this Court to Order the prosecution to provide by physical delivery to the Defense within five (5) days of hearing of this motion the items listed in Sections A,B,C and D of this Motion.

Respectfully submitted this 9TH day of August, 2016


MICHAEL J. WOOD
Attorney for Defendant

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing
MOTION TO COMPEL DISCOVERY AND INSPECTION to be FAXED TO the
OFFICE OF THE IDAHO ATTORNEY GENERAL on the 9TH day of AUGUST, 2016.



MICHAEL J. WOOD
Attorney at Law

MICHAEL J. WOOD
ATTORNEY AT LAW
184 Gooding St. W.
Twin Falls, Idaho 83301
Office (208) 736-8190 Fax (208) 736-0141



FAX COVER SHEET

Date:

August 9 2016

To:

Idaho Attorney General's Office

Company

Criminal Division - Casey Hemmer

Fax #:

[REDACTED]

Number of pages

5

From:

Michael Wood

Fax#:

(208) 736-0141

Phone #:

(208) 736-8190

Re:

W [REDACTED]

Message:

Motion To Compel Discovery

MICHAEL J. WOOD
 Attorney At Law
 184 GOODING ST. W.
 Twin Falls, ID 83301
 (208) 736-8190
 (208) 736-0141 fx

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R. W [REDACTED]

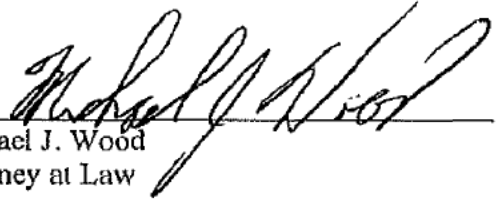
Defendant.

Case No: CR 2016-213

ENTRY OF APPEARANCE

COMES NOW, MICHAEL J. WOOD, and enters his appearance as attorney of record on behalf of the above-named Defendant in this criminal action. As counsel he requests notice of all court proceedings be mailed to him at the above address.

Respectfully submitted this 11th day of MARCH, 2016.


 Michael J. Wood
 Attorney at Law

ENTRY OF APPEARANCE

1

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing ENTRY OF APPEARANCE to be faxed to the office of the IDAHO ATTORNEY GENERAL on the 12th day of MARCH, 2016.



ENTRY OF APPEARANCE

2

RR000821

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800

STATE OF IDAHO,
Plaintiff.

vs.

T [REDACTED] R W [REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000213

NOTICE OF HEARING

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

Preliminary Friday, April 22, 2016 02:00 PM
Judge: Mark A. Ingram

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, March 18, 2016.

Defendant: T [REDACTED] R W [REDACTED]

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed x _____ Hand Delivered _____ E-Mail _____

Michael J Wood

184 Gooding Street W
Twin Falls ID 83301

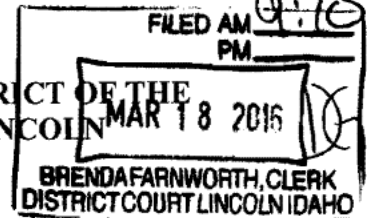
Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail x _____

Dated: Friday, March 18, 2016
Brenda Farnworth
Clerk Of The District Court

By: [Signature]
Deysi Garcia Deputy Clerk
DOC22 7/96

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN



STATE OF IDAHO
Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED]
Defendant.

CASE NO. CR-2016-213

NO CONTACT ORDER I.C. § 18-920
I.C.R. 46.2

TO THE DEFENDANT: You have been charged with the following crime (s):

<u>Count</u>	<u>Statute</u>	<u>Charge Description</u>
I.	18-6608	FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT

Against the alleged victim(s):

Alleged Victim's Name

DOB

DL

Address

1. A. M.

[REDACTED]

[REDACTED]

You are ORDERED to have no contact or attempt contact with the victim(s) listed above. You are not to contact the victim(s) in person or through any third person in writing or e-mail, by telephone, pager, facsimile or by any other means. You are not to harass, follow, or communicate with the named alleged victim(s) or to go within 300 feet of the following locations:

Alleged Victim's home [REDACTED]

Alleged Victim's school [REDACTED]

Alleged Victim's work [REDACTED]

This Order is subject to the following exceptions:

☒ No exceptions

☐ Telephone contact allowed between the hours of ____ a.m. and ____ p.m. for the following purpose: _____

☐ To exchange children through third party: _____

☐ To obtain necessary personal property from the residence listed above with the assistance of law enforcement.

☐ To participate in legal proceedings involving the victim(s) or to communicate through attorneys about legal issues involving the victim(s).

☐ To respond to emergencies involving your natural or adopted children.

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under I.C. § 18-920 for which bail will only be set by a Judge. It is punishable by up to one year in jail and a fine up to \$1,000.

THIS ORDER CAN ONLY BE MODIFIED BY A JUDGE and shall remain in effect until 11:59 p.m. on 10-18-16 or until the underlying charge is dismissed by a Judge, whichever occurs first.

RIGHT TO A HEARING: You and the alleged victim have the right to a hearing on the continuation of this Order within a reasonable time. To request a hearing contact Deyzi Garcia, Court Clerk @ 886-2173.

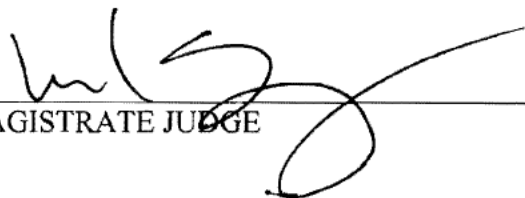
If any other Domestic Violence or Criminal Protection Order is in place the most restrictive terms will control any conflict in the Orders. Dismissal of any other Order will not result in a dismissal of this Order.

This order may subject you to Federal firearms prohibition on the ownership or possession of firearms. 18 USC § 922.

You are notified that if this No Contact Order is issued as a condition of bail or release on your own recognizance and includes an area of geographical restriction monitored by electronic or global positioning system tracking, then intentionally leaving the area of restriction, except for the purpose of obtaining emergency medical care, may be prosecuted as the crime escape and subject you to the penalties set forth in I.C. § 18-2505 or I.C. § 18-2506.

IT IS SO ORDERED.

Dated this 18 day of March, 2016



MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

☒ I certify that on March __, 2016, I serve a true and correct copy of this document on the defendant by hand delivery.

(Person making delivery)

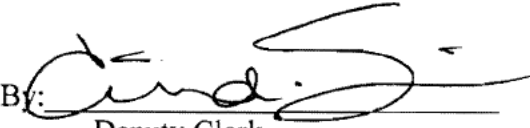
I acknowledge receipt of this order dated: _____

(Defendant)

☒ I certify that on 3/18/16, I served a copy of the attached to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

____ U.S. Mail Postage Prepaid
☒ Hand Delivered
____ Overnight Mail
____ Facsimile

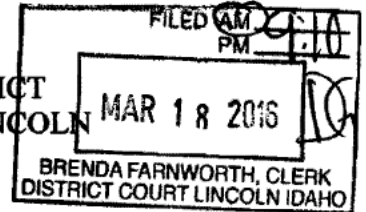
By: 
Deputy Clerk

Brenda Bauges
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
Fax: (208) 854-8083

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
____ Facsimile
Email

By: 

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN
MAGISTRATE DIVISION



CR-2016-0000213

State of Idaho vs. T [REDACTED] R W [REDACTED]

Hearing type: Arraignment

Hearing date: 3/18/2016

Time: 8:59 am

Judge: Mark A. Ingram

Minutes Clerk: Deysi Garcia

Defense Attorney: Michael Wood

Prosecutor: Brenda Bauges

☒ -Verified Name INTERPRETER _____
☒ Appeared in person _____ In custody _____ Bond set \$ _____ OR release _____
Failed to appear _____ Warrant issued _____ Bond forfeited _____
☒ Rights given ☒ Rights form signed ☒ Rights understood
☒ Penalties given ☒ Penalties understood

Counsel: _____ -Def. sworn _____ P.D. appointed _____ Reimburse P.D. _____

_____ Waived _____ P.D. denied ☒ Hire own Michael J. Wood
_____ Plead guilty _____ Def. questioned of threats or promises

Mr. Wood ask to be set far out since they need time to prepare.

Court explains the right to have a speedy preliminary hearing to Mr. W [REDACTED]

Mr. Ward waives his right to a speedy preliminary hearing; understands his right to a speedy preliminary hearing.

903-Ms. Bauges asks for a No Contact Order

Mr. Wood-Does have an objection.

Court-Issues a No Contact Order.

_____ Plead not guilty

Preliminary set April 22, 2016 at 2:00PM

RECEIVED

APR 04 2016

OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

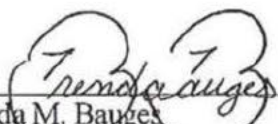
Defendant.

Case No. CR-2016-213

NOTICE OF HEARING

TO: T [REDACTED] R [REDACTED] W [REDACTED] and his Attorney of Record, you will please take notice that on the 22nd day of April, 2016, at the hour of 2:00 p.m., or as soon thereafter as counsel can be heard, Brenda M. Bauges, Deputy Attorney General will move this Honorable Court for its Order on the State's Motion for Protective Order in the above-entitled action.

DATED this 29 day of March, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of March, 2016, I caused to be served a true and correct copy of the foregoing Notice of Hearing to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T ■■■■■ R ■■■■■ W ■■■■■,

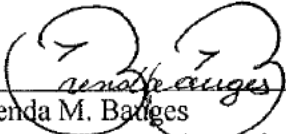
Defendant.

Case No. CR-2016-213

AMENDED NOTICE
OF HEARING

TO: T ■■■■■ R ■■■■■ W ■■■■■ and his Attorney of Record, you will please take notice that on the 15th day of April, 2016, at the hour of 11:00 a.m., or as soon thereafter as counsel can be heard, Brenda M. Bauges, Deputy Attorney General will move this Honorable Court for its Order on the State's Motion for Protective Order in the above-entitled action.

DATED this 7 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

AMENDED NOTICE OF HEARING (W ■■■■■), Page 1

RR000829

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2016, I caused to be served a true and correct copy of the foregoing Amended Notice of Hearing to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail


Cathy Minyard, Paralegal

* * * COMMUNICATION RESULT REPORT (APR. 7. 2016 3:13PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : APR. 7. 2016 3:12PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

160 MEMORY TX

912088862458

OK

3/3

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010**Idaho State
Attorney General
Criminal Law Division****Fax**

To: Lincoln County Magistrate Court	From: Cathy for Brenda Bauges
Fax: () () ()	Pages: 3
Phone: () () ()	Date: 4/8/16
Re: State v. W ()	cc: Michael Wood, Attorney at Law () () ()

☐ Urgent
 ☐ For Review
 ☐ Please Comment
 ☐ Please Reply
 ☐ Please Recycle

Per our telephone conversation, please file the enclosed Amended Notice of Hearing as requested. Thank you.

* * * COMMUNICATION RESULT REPORT (APR. 7. 2016 3:14PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : APR. 7. 2016 3:13PM
FILE MODE OPTION

ADDRESS

RESULT

PAGE

161 MEMORY TX

912087360141

OK

3/3

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-3) NO ANSWERE-2) BUSY
E-4) NO FACSIMILE CONNECTION700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010
208-854-8083**Idaho State
Attorney General
Criminal Law Division****Fax**

To: Lincoln County Magistrate Court	From: Cathy for Brenda Bauges
Fax: (208) 886-2173	Pages: 3
Phone: (208) 886-2173	Date: 4/8/16
Re: State v. W. [REDACTED]	cc: Michael Wood, Attorney at Law

☐ Urgent
 ☐ For Review
 ☐ Please Comment
 ☐ Please Reply
 ☐ Please Recycle

Per our telephone conversation, please file the enclosed Amended Notice of Hearing as requested. Thank you.

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

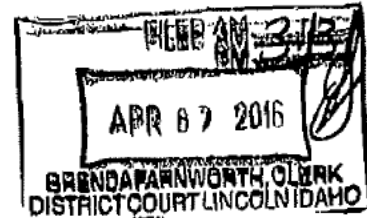
To:	Lincoln County Magistrate Court	From:	Cathy for Brenda Bauges
Fax:	() - -	Pages:	3
Phone:	() - -	Date:	4/8/16
Re:	State v. W	cc:	Michael Wood, Attorney at Law () - -

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Per our telephone conversation, please file the enclosed Amended Notice of Hearing as requested. Thank you.

RR000833

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

T [REDACTED] R W [REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000213

NOTICE OF HEARING
AMENDED

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

Motion Friday, April 15, 2016 11:00 AM
Judge: Mark A. Ingram

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 Thursday, April 7, 2016.

Defendant: T [REDACTED] R W [REDACTED]

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail _____

Michael J Wood

Served by Attorney General

184 Gooding Street W
Twin Falls ID 83301

Prosecutor: Brenda M Bauges

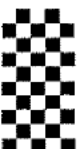
Mailed _____ Hand Delivered _____ E-Mail _____ Faxed 854-8083

Dated: Thursday, April 7, 2016

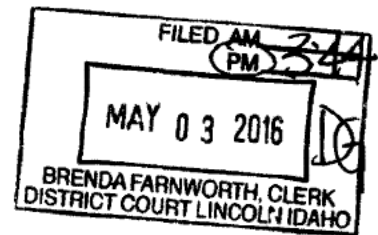
Brenda Farnworth
Clerk Of The District Court

By: [Signature]

Keo M Kelley, Deputy Clerk
DOC22 7/96



Fifth Judicial District Court, State of Idaho
n and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

T R W

DOB: Defendant.

Case No: CR-2016-0000213

NOTICE OF HEARING

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

TO BE HELD IN JEROME COUNTY

Arraignment Monday, May 23, 2016 09:00 AM
Judge: John K Butler

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 Tuesday, May 3, 2016.

Defendant: T R W

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail____
Faxed__x__

Michael J Wood

184 Gooding Street W
Twin Falls ID 83301

Prosecutor: Brenda M Bauges

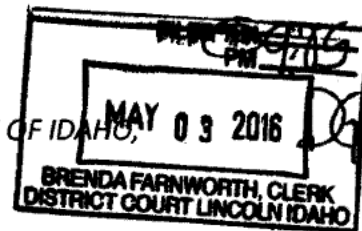
Mailed____ Hand Delivered____ E-Mail__x__

CC: Traci Brandebourg-Judge Butler's Clerk

Dated: Tuesday, May 3, 2016
Brenda Farnworth
Clerk Of The District Court

By:
Deysi Garcia, Deputy Clerk
DOC22 7/96

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF LINCOLN
District Court Criminal Minute Entry – Arraignment



CR-2016-0000213

State of Idaho vs. T [REDACTED] R W [REDACTED]

Hearing type: Arraignment

Hearing date: 5/3/2016

Time: 9:02 am

Judge: John K Butler

Minutes Clerk: Deysi Garcia

Defense Attorney: Michael Wood

Prosecutor: Brenda Bauges

Court calls case at time noted above, confirms the true and correct name of defendant, who is also present personally.

Brendan Bauges is present on behalf of the State

Michael Wood is present on behalf of the defendant

The Court briefly reviews the nature of the charges, maximum penalties and plea options.

Defendant and Counsel have received a copy of the Information filed by the State and have reviewed the charges contained therein.

904-Mr. Wood asks for a continuance since the Information filed does not reflect the bound over of preliminary; A formal reading of the information is waived by the defendant at this time. 906-Explains why he needs the continuance.

All motions to be filed by May 10th. Continued Arraignment to May 17th, 2016.

907-Mr. Wood-He has trial that day.

908-Court asks if we can do it in Jerome

Ms. Bauges-No objection for the change in location

Court-May 23rd at 9:00 AM in Jerome County, notes that the State has filed a motion to change venue and asks Mr. Wood if he is going to answer.

Mr. Wood-Yes and if the Court grants the State's motion they ask to change venue after arraignment. Court-Response to change of venue by May 23; Court orders defendant to reappear the 23rd at 9:00 in Jerome County.

End Minute Entry.

Attest:

Deysi Garcia, Deputy Clerk

A handwritten signature in black ink, appearing to be "Deysi Garcia", written over the printed name of the Deputy Clerk.



**Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800**

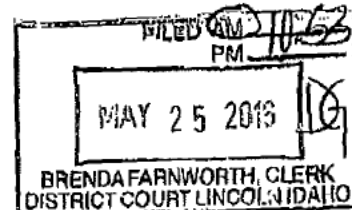
STATE OF IDAHO,
Plaintiff.

vs.

T R W
[Redacted]

Defendant.

DOB: [Redacted]



Case No: CR-2016-0000213

NOTICE OF HEARING

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

Status Tuesday, June 21, 2016 09:00 AM
Judge: John K Butler

Pretrial Conference Tuesday, September 6, 2016 09:00 AM
Judge: John K Butler

Jury Selection Wednesday, September 14, 2016 09:00 AM &
Thursday, September 15, 2016 09:00 AM
Judge: John K Butler

Jury Trial Wednesday, September 21, 2016 09:00 AM through
Friday, September 23, 2016
Judge: John K Butler

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, May 25, 2016.

Defendant: T R W

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Faxed to: (208) 736-0141

Michael J Wood

Prosecutor: Brenda M Bauges

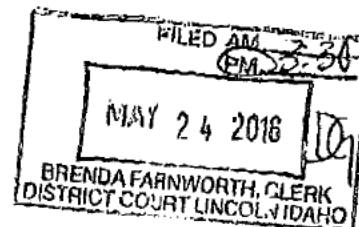
Mailed _____ Hand Delivered _____ E-Mail x _____

day, May 25, 2016

Brenda Farnworth
Clerk Of The District Court

By:

Deysl Garcia, Deputy Clerk



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN**

STATE OF IDAHO,

Plaintiff,

vs.

T. R. W.

Defendant.

Case No. CR-2016-213

**NOTICE OF (1) JURY TRIAL; (2) PRE-TRIAL CONFERENCE; (3) STATUS
CONFERENCE; (4) SCHEDULING ORDER; AND (5) DEFENDANT'S REQUESTS
FOR FINANCIAL ASSISTANCE, I.C. § 19-852(a)(2)**

PLEASE TAKE NOTICE that the above-entitled case is hereby set for a **JURY TRIAL** to commence on the 21st day of September, 2016 at 9:00 a.m., for 3 day(s). The trial shall be conducted at the Lincoln County Courthouse in Shoshone, Idaho from 9:00 a.m. to 5:00 P.M.

IT IS HEREBY ORDERED:

1. Discovery shall be expeditiously conducted by the parties in accordance with the provisions of Idaho Criminal Rule (I.C.R.) 16. The court anticipates and expects that the parties will timely disclose any and all actual or potential witnesses and/or exhibits at the earliest opportunity in response to any Rule 16 discovery request.

2. All pretrial motions listed in I.C.R. 12 must be filed and heard in accordance with the provisions and time requirements of I.C.R. 12. The preparation of any Preliminary Hearing Transcript (Transcript) shall not be the reason for the failure to comply with the I.C.R.12

1 - NOTICE OF (1) JURY TRIAL; (2) PRE-TRIAL CONFERENCE; (3) STATUS CONFERENCE; (4) SCHEDULING ORDER; AND (5) DEFENDANT'S REQUESTS FOR FINANCIAL ASSISTANCE, I.C. § 19-852(a)(2)

deadlines absent a factual or legal showing as to why the Transcript is necessary for the court's consideration of the defendant's I.C.R. 12 motion. Any such motion filed shall set forth the issues to be decided by the court and there shall be filed with the motion a memorandum/brief in support setting forth the legal basis/authority.

3. The court hereby sets a **STATUS CONFERENCE** for the 21st day of June, 2016 at 9:00 A.M. Prior to the Status Conference the parties shall have confirmed with their respective witnesses the Jury Trial date and their availability for trial. In the event that a witness is unavailable for trial counsel shall advise the court as to the reason for the unavailability and how the witness's testimony is material for the trial. If a witness, is determined by a party to be unavailable for the scheduled trial date, [i.e. a lab technician, etc.] the parties shall be prepared to conduct a deposition of such witness in accordance with I.C.R. 15 in order to preserve the testimony of such witness for trial absent a showing of good cause as to why the personal attendance of the witness is necessary to preserve the substantial rights of the parties. The parties shall also be prepared to discuss the status of plea negotiations and any outstanding discovery or evidentiary issues.

4. Pursuant to I.C.R. 18, a formal **PRETRIAL CONFERENCE**, shall be held on the 6th day of September, 2016 at 9:00 a.m.

a. The parties shall submit all proposed jury instructions, which include the elements, affirmative defenses, lesser included offenses and special verdict, together with the Exhibit List and Witness List, except exhibits or witnesses solely offered for the purpose of impeachment. Counsel shall retain the original of their respective exhibits. Any jury instruction submitted that is not a standard Idaho Criminal Jury Instruction (ICJI) shall be submitted with supporting legal authority.

b. If either party intends to introduce evidence covered by Idaho Rules of Evidence (I.R.E.) 404, 405, 406, 410, 412, 608, or 609, that party must disclose such evidence and file a Notice of Intent to offer such evidence at the earliest opportunity but not later than 14 days prior to the pretrial conference.

c. The parties at the time of the pretrial conference shall exchange with each other their exhibit and witness lists, except those exhibits and witnesses offered solely for the purpose of impeachment. The plaintiff shall pre-mark its exhibits beginning with Exhibit #101 and the defendant shall pre-mark his/her exhibits with Exhibit #201. Each party shall provide to the court copies of the pre-marked exhibits at the time of the pre-trial conference.

d. Prior to the pretrial conference the parties shall meet and confer to discuss the admissibility of exhibits proposed to be offered by the parties and each party shall stipulate to those exhibits that may be admitted without objection and any such exhibits so stipulated to shall be marked as admitted by the clerk of the court at the time of the pretrial conference.

2 - NOTICE OF (1) JURY TRIAL; (2) PRE-TRIAL CONFERENCE; (3) STATUS CONFERENCE; (4) SCHEDULING ORDER; AND (5) DEFENDANT'S REQUESTS FOR FINANCIAL ASSISTANCE, I.C. § 19-852(a)(2)

e. No witness shall be permitted to testify at trial other than those disclosed at the pretrial conference except as to those who are determined to be impeachment witnesses.

f. No exhibits will be admitted into evidence at trial other than those disclosed, listed, and marked in accordance with this Order, except when offered for impeachment purposes.

g. Notices to prospective jurors will be mailed seven (7) days prior to the commencement of the trial. Any change of plea or dismissal entered after notification to the prospective jurors may result in either or both parties and/or their respective counsel being assessed the cost of postage, copies, and other court administrative expenses in sending the juror notices.

h. This Order shall control the subsequent course of action unless modified for good cause shown to prevent manifest injustice.

i. The Court may impose appropriate sanctions for any violation of this Order.

j. The Court will not grant continuances unless extraordinary circumstances exist and all parties waive their right to speedy trial.

5. In the event that the defendant seeks to apply to the court for the employment of an expert witness or investigator pursuant to I.C. § 19-852(a)(2), the defendant or his attorney, if he is represented, must file the following documents UNDER SEAL (I.A.R. RULE 32(i)) in support of any request for the expenditure of public funds:

a. A Motion which contains the following specifics:

A. The need for the expenditure of such funds;

B. The expert/investigator credentials, and IF the expert/investigator is not from Idaho, then why the specific out-of-state expert/investigator is necessary;

C. How travel and other expenses are to be billed/measured; and

D. A certification that the expenditure of public funds is appropriate to make available "necessary services and facilities of representation" in keeping with I.C. § 19-852(a)(2);

b. An accompanying Affidavit of the defendant or counsel, if the defendant is represented, which contains the following:

A. A specific estimate of the amount of public funds to be expended in terms of hours and the work to be performed, including estimated expenses, rather than a request "not to exceed" a certain amount;

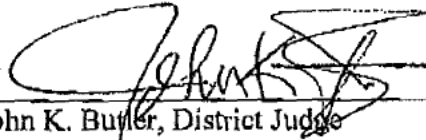
B. A certification that counsel has pursued the available market for experts/investigators and that the requested expert/investigator provides the most economical service available in his/her field; and

C. A certification that the expert/investigator will provide bills on a monthly basis for approval, with an affidavit or certification from the expert/investigator that specifies the work performed by the expert for that particular month.

c. The moving party shall present the judge with conformed copies of the motion and affidavit together with a proposed order. The original motion, affidavit and proposed order may be filed/served ex parte with the court and shall be filed UNDER SEAL with the court.

IT IS SO ORDERED.

DATED this 23 day of May, 2016


John K. Butler, District Judge

CERTIFICATE OF MAILING/DELIVERY

I, undersigned, hereby certify that on the 25 day of MAY, 2016, a true and correct copy of the foregoing NOTICE OF (1) JURY TRIAL; (2) PRE-TRIAL CONFERENCE; (3) STATUS CONFERENCE; (4) SCHEDULING ORDER; AND (5) DEFENDANT'S REQUESTS FOR FINANCIAL ASSISTANCE, I.C. § 19-852(a)(2) was mailed, postage paid, and/or hand-delivered to the following persons:

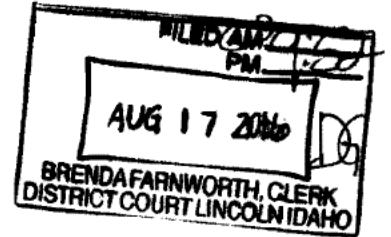
Brenda Bauges
Deputy Attorney General
Lincoln County Special Prosecutor
P.O. Box 83720
Boise, Idaho 83720-0010

Michael J. Wood
Attorney at Law
184 Gooding St. W.
Twin Falls, Idaho 83301


Deputy Clerk

5 - NOTICE OF (1) JURY TRIAL; (2) PRE-TRIAL CONFERENCE; (3) STATUS CONFERENCE; (4) SCHEDULING ORDER; AND (5) DEFENDANT'S REQUESTS FOR FINANCIAL ASSISTANCE, I.C. § 19-852(a)(2)

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

T [REDACTED] R W [REDACTED]
[REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000213

**AMENDED
NOTICE OF HEARING**

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

Pretrial Conference Tuesday, August 30, 2016 09:00 AM
Judge: John K Butler

Jury Selection Wednesday, September 14, 2016 09:00 AM &
Thursday, September 15, 2016 09:00 AM
Judge: John K Butler

Jury Trial Wednesday, September 21, 2016 09:00 AM through
Friday, September 23, 2016
Judge: John K Butler

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, August 17, 2016.

Defendant: T [REDACTED] R W [REDACTED]

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail x _____

Michael J Wood

184 Gooding Street W
Twin Falls ID 83301

Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail x _____

Dated: Wednesday, August 17, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deysi Garcia, Deputy Clerk
DOC22 7/96

RR000843

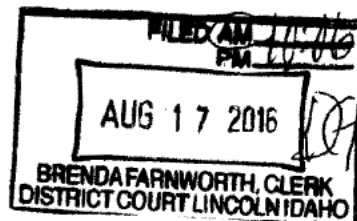
Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800

STATE OF IDAHO,
Plaintiff.

vs.

T [REDACTED] R W [REDACTED]

DOB: [REDACTED] Defendant.



Case No: CR-2016-0000213

2nd AMENDED
NOTICE OF HEARING

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

Pretrial Conference Tuesday, August 30, 2016 09:00 AM
Judge: John K Butler

Jury Selection Wednesday, September 14, 2016 09:00 AM &
Thursday, September 15, 2016 09:00 AM
Judge: John K Butler

Jury Trial Wednesday, September 21, 2016 09:00 AM through
Friday, September 23, 2016
Judge: John K Butler

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, August 17, 2016.

Defendant: T [REDACTED] R W [REDACTED]

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail x _____

Michael J Wood

184 Gooding Street W
Twin Falls ID 83301

Prosecutor: Casey J Hemmer & Jason Spillman

Mailed _____ Hand Delivered _____ E-Mail x _____

Dated: Wednesday, August 17, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deyan Garcia, Deputy Clerk

MICHAEL J. WOOD
 Attorney At Law
 184 GOODING ST. W.
 Twin Falls, ID 83301
 (208) 736-8190
 (208) 736-0141 fx

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R. W [REDACTED],

Defendant.

)
)
)
)
)
)
)
)
)

Case No: CR 2016-213

OBJECTION TO MOTION FOR CHANGE
 OF VENUE

COMES NOW THE DEFENDANT THROUGH DEFENSE COUNSEL MICHAEL J. WOOD and enters the DEFENSE OBJECTION to the MOTION TO CHANGE VENUE filed by The Prosecution in this criminal action. In support of its Objection the Defense states as Follows:

1. The Prosecution Motion requests a change of venue to another judicial district within the Fifth Judicial District. All counties in the Fifth Judicial District have equal access to the Media sources listed in the prosecution's motion. Especially with the only media sources listed being dot com sites, every person in The Fifth Judicial District has equal access to the listed dot com sites. There is no evidence That Lincoln County jurors presently have been rendered impartial so as to deprive either the State or the Defendant of a fair and

impartial jury trial of this criminal action at this time.

2. Change of venue pursuant to Rule 21 of the ICR is addressed to the sound discretion of The trial court. *State v. Yager*, 139 Idaho 680, 687, 85 P.3d 656, 663 (2004); *State v. Winn*, 121 Idaho 850, 856, 828 P.2d 879, 885 (1992); *State v. Needs*, 99 Idaho 883, 890, 591 P.2d 130, 137 (1979).
3. Publicity by itself does not require a change of venue. *Yager*, 139 Idaho at 687, 85 P.3d at 663; *State v. Bitz*, 93 Idaho 239, 243, 460 P.2d 374, 378 (1969) It is necessary for the Movant to show there is a reasonable likelihood that prejudicial news coverage prevents a Fair trial in violation of the Sixth Amendment to the United States Constitution. *Sheahan*, 139 Idaho at 278, 77 P.3d at 967; *Hall*, 111 Idaho at 829, 727 P.2d at 1257. The courts Generally require affidavits indicating prejudice in the subject jury pool, portrayal of the Nature and content of pretrial publicity alleged to have biased jurors, the extent that media publications are inflammatory, inaccurate, or beyond the scope of admissible Evidence, and the extent to which potential jurors have been incessantly exposed to a Particular version of events so as to precondition them to accept that version in a jury Trial. *Sheahan*, 139 Idaho at 278, 77 P.3d at 967; *Hall*, 111 Idaho at 829-30, 727 P.2d at 1257-58 In this criminal action none of the indicators of large scale impartiality have

Been provided the court.

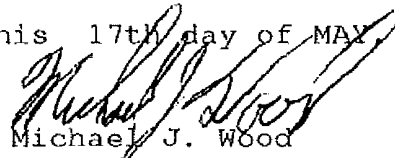
As in STATE V HADDEN, 152 Idaho 371, 271 P.3d 1227 (Idaho App. 2012):

There is no evidence that there has been any publicity of the facts surrounding the grand theft charge or that the community has formed any opinions of any kind as to the defendant's guilt or innocence of this pending charge. This court does recognize that "[P]rejudice seldom can be established or disproved with certainty" and that "it is sufficient for the accused to show 'a reasonable likelihood that prejudicial news [coverage] prior to trial will prevent a fair trial.'" *State v. Hall*, 111 Idaho 827, 829, 727 P.2d 1255, 1257 (Ct.App.1986).... *State v Hadden*, supraPg.378

4. Because pretrial publicity immediately prior to trial is an important factor for the trial Court to consider in its exercise of discretion in granting a Change of Venue, this motion While presently factually unsupportable should be reconsidered upon motion of either party during month immediately before jury trial. *Skilling v. United States*, 561 U.S. 358, 130 S.Ct. 2896 (2010).

WHEREFORE, the Defense enters the DEFENSE OBJECTION to the MOTION TO CHANGE VENUE filed by The Prosecution in this criminal action.


RESPECTFULLY submitted this 17th day of MAY, 2016.

A handwritten signature in black ink, appearing to read "Michael J. Wood", is written over the typed name.

Michael J. Wood
Attorney for Defendant

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing
OBJECTION TO MOTION TO CHANGE VENUE to be delivered via FAX, to the office of the
IDAHO ATTORNEY GENERAL Prosecutor on the 17TH day of MAY, 2016.



MICHAEL J. WOOD
Attorney at Law



Law Office of Michael J. Wood

184 GOODING Street West

Twin Falls, Idaho 83301

(208) 736-8190 - (208) 736-0141 Fax

FACSIMILE

DATE: 5-17-16 FAX 208-854-8023 NO.:

TO: Brenda Banges Attk NO. 5 PAGES (Including Cover Sheet)

FROM: _____

RE: W [REDACTED] - Objection - Change of Venue

If you have any problems receiving this fax, please contact our office.

3:00
MAR 04 2016
DH

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

Defendant.


Case No. CR- 2016-213

ORDER TO SEAL

The Motion to Seal the probable cause affidavit having come before the Court and good cause appearing;

IT IS HEREBY ORDERED, pursuant to I.C.A.R. 32(i), that the Probable Cause Affidavit in this matter is HEREBY SEALED until further order of the Court. The Court HEREBY FINDS the privacy interests in the Affidavit predominate over public disclosure of same and that sealing the Affidavit is necessary to preserve the right to a fair trial.

DATED this 4 day of March 2016.


Mark A. Ingram
Magistrate Judge

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO
Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],
Defendant.

CASE NO. CR-2016-213

NO CONTACT ORDER I.C. § 18-920
I.C.R. 46.2

TO THE DEFENDANT: You have been charged with the following crime (s):

<u>Count</u>	<u>Statute</u>	<u>Charge Description</u>
I.	18-6608	FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT

Against the alleged victim(s):

Alleged Victim's Name

DOB

DL

Address

1. A. M.

[REDACTED]

[REDACTED]

You are ORDERED to have no contact or attempt contact with the victim(s) listed above. You are not to contact the victim(s) in person or through any third person in writing or e-mail, by telephone, pager, facsimile or by any other means. You are not to harass, follow, or communicate with the named alleged victim(s) or to go within 300 feet of the following locations:

Alleged Victim's home [REDACTED]

Alleged Victim's school [REDACTED]

Alleged Victim's work [REDACTED]

This Order is subject to the following exceptions:

☐ The defendant shall be allowed to attend Dietrich School, located at 406 N. Park, Dietrich, ID 83324, for academic purposes/classes, but only to the extent such academic purposes/classes are authorized by Dietrich School. To the extent those purposes/classes require the defendant's presence at the area of campus known as "the shop," the defendant's presence at this location for those purposes shall be allowed. During the time the defendant is on campus as outlined above, the defendant shall have no avoidable contact with the alleged victim listed above.

☐ To participate in legal proceedings involving the victim(s) or to communicate through attorneys about legal issues involving the victim(s).

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under I.C. § 18-920 for which bail will only be set by a Judge. It is punishable by up to one year in jail and a fine up to \$1,000.

THIS ORDER CAN ONLY BE MODIFIED BY A JUDGE and shall remain in effect until 11:59 p.m. on _____ or until the underlying charge is dismissed by a Judge, whichever occurs first.

RIGHT TO A HEARING: You and the alleged victim have the right to a hearing on the continuation of this Order within a reasonable time. To request a hearing contact _____

If any other Domestic Violence or Criminal Protection Order is in place the most restrictive terms will control any conflict in the Orders. Dismissal of any other Order will not result in a dismissal of this Order.

This order may subject you to Federal firearms prohibition on the ownership or possession of firearms. 18 USC § 922.

You are notified that if this No Contact Order is issued as a condition of bail or release on your own recognizance and includes an area of geographical restriction monitored by electronic or global positioning system tracking, then intentionally leaving the area of restriction, except for the purpose of obtaining emergency medical care, may be prosecuted as the crime escape and subject you to the penalties set forth in I.C. § 18-2505 or I.C. § 18-2506.

IT IS SO ORDERED.

Dated this _____ day of _____, 2016

MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

☐ I certify that on March __, 2016, I serve a true and correct copy of this document on the defendant by hand delivery.

(Person making delivery)

I acknowledge receipt of this order dated: _____

(Defendant)

☐ I certify that on _____, I served a copy of the attached to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
____ Facsimile

By: _____
Deputy Clerk

Brenda Bauges
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
Fax: (208) 854-8083

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
____ Facsimile

By: _____

* * * COMMUNICATION RESULT REPORT (MAR. 31. 2016 3:05PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : MAR. 31. 2016 3:04PM

FILE MODE	OPTION	ADDRESS	RESULT	PAGE
147	MEMORY TX	912088862458	OK	4/4

REASON FOR ERROR
 E-1) HANG UP OR LINE FAIL
 E-3) NO ANSWER

E-2) BUSY
 E-4) NO FACSIMILE CONNECTION

700 W. State St.
 P.O. Box 83720
 Boise, ID 83720-0010
 208-332-3096
 208-854-8083

**Idaho State
 Attorney General
 Criminal Law Division**

Fax

To: Clerk of the Court — Lincoln County **From:** Cathy Minyard for Brenda Bauges

Fax: (208) 886-2458 **Pages:** 4

Phone: (208) 886-2173 **Date:** 3/31/16

Re: State v. W [REDACTED] — CR-2016-213 **cc:** Michael Wood — Attorney at Law

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Enclosed for filing, please find a Proposed Amended No Contact Order in the above matter for Judge Ingram's review and signature. If you have any questions, please call me at (208) 332-3096.

Thank you,

Cathy Minyard
 Paralegal — Special Prosecutions Unit
 Criminal Division
 Idaho Attorney General's Office
 700 W. State Street - 4th Floor
 Boise, ID 83702
 Phone: (208) 332-3096
 Fax: (208) 854-8074

RR000854

* * * COMMUNICATION RESULT REPORT (MAR. 31. 2016 3:06PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : MAR. 31. 2016 3:05PM

FILE MODE	OPTION	ADDRESS	RESULT	PAGE
148	MEMORY TX	912087360141	OK	4/4

REASON FOR ERROR
 E-1) HANG UP OR LINE FAIL
 E-3) NO ANSWER

E-2) BUSY
 E-4) NO FACSIMILE CONNECTION

700 W. State St.
 P.O. Box 83720
 Boise, ID 83720-0010
 208-332-3096
 208-854-8083

**Idaho State
 Attorney General
 Criminal Law Division**

Fax

To: Clerk of the Court – Lincoln County **From:** Cathy Minyard for Brenda Bauges
Fax: (208) 886-2458 **Pages:** 4
Phone: (208) 886-2173 **Date:** 3/31/16
Re: State v. W [REDACTED] – CR-2016-213 **cc:** Michael Wood – Attorney at Law
☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Enclosed for filing, please find a Proposed Amended No Contact Order in the above matter for Judge Ingram's review and signature. If you have any questions, please call me at (208) 332-3096.

Thank you,

Cathy Minyard
 Paralegal – Special Prosecutions Unit
 Criminal Division
 Idaho Attorney General's Office
 700 W. State Street - 4th Floor
 Boise, ID 83702
 Phone: (208) 332-3096
 Fax: (208) 854-8074

RR000855

700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010



**Idaho State
Attorney General
Criminal Law Division**

Fax

To: Clerk of the Court – Lincoln County **From:** Cathy Minyard for Brenda Bauges

Fax: () - **Pages:** 4

Phone: () - **Date:** 3/31/16

Re: State v. W - CR-2016-213 **cc:** Michael Wood – Attorney at Law

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Enclosed for filing, please find a Proposed Amended No Contact Order in the above matter for Judge Ingram's review and signature. If you have any questions, please call me at () - .

Thank you,

Cathy Minyard
Paralegal – Special Prosecutions Unit
Criminal Division
Idaho Attorney General's Office
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: () -
Fax: () -

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO
Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],
Defendant.

CASE NO. CR-2016-213

NO CONTACT ORDER I.C. § 18-920
I.C.R. 46.2

TO THE DEFENDANT: You have been charged with the following crime (s):

Count	Statute	Charge Description
I.	18-6608	FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT

Against the alleged victim(s):

Alleged Victim's Name

DOB

DL

Address

1. A. M.

[REDACTED]

[REDACTED]

You are ORDERED to have no contact or attempt contact with the victim(s) listed above. You are not to contact the victim(s) in person or through any third person in writing or e-mail, by telephone, pager, facsimile or by any other means. You are not to harass, follow, or communicate with the named alleged victim(s) or to go within 300 feet of the following locations:

Alleged Victim's home [REDACTED]

Alleged Victim's school [REDACTED]

Alleged Victim's work [REDACTED]

This Order is subject to the following exceptions:

☒ The defendant shall be allowed to attend Dietrich School, located at 406 N. Park, Dietrich, ID 83324, for academic purposes/classes, but only to the extent such academic purposes/classes are authorized by Dietrich School. To the extent those purposes/classes require the defendant's presence at the area of campus known as "the shop," the defendant's presence at this location for those purposes shall be allowed. During the time the defendant is on campus as outlined above, the defendant shall have no avoidable contact with the alleged victim listed above.

RECEIVED
APR 01 2016

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION



☒ To participate in legal proceedings involving the victim(s) or to communicate through attorneys about legal issues involving the victim(s).

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under I.C. § 18-920 for which bail will only be set by a Judge. It is punishable by up to one year in jail and a fine up to \$1,000.

THIS ORDER CAN ONLY BE MODIFIED BY A JUDGE and shall remain in effect until 11:59 p.m. on 10-1-16 or until the underlying charge is dismissed by a Judge, whichever occurs first.

RIGHT TO A HEARING: You and the alleged victim have the right to a hearing on the continuation of this Order within a reasonable time. To request a hearing contact Deysi Garcia at [REDACTED]

If any other Domestic Violence or Criminal Protection Order is in place the most restrictive terms will control any conflict in the Orders. Dismissal of any other Order will not result in a dismissal of this Order.

This order may subject you to Federal firearms prohibition on the ownership or possession of firearms. 18 USC § 922.

You are notified that if this No Contact Order is issued as a condition of bail or release on your own recognizance and includes an area of geographical restriction monitored by electronic or global positioning system tracking, then intentionally leaving the area of restriction, except for the purpose of obtaining emergency medical care, may be prosecuted as the crime escape and subject you to the penalties set forth in I.C. § 18-2505 or I.C. § 18-2506.

IT IS SO ORDERED.

Dated this 1 day of April, 2016

[Signature]
MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

april
☒ I certify that on ~~March~~ April, 2016, I serve a true and correct copy of this document on the defendant by hand delivery.

(Person making delivery)

I acknowledge receipt of this order dated: _____

(Defendant)

☒ I certify that on Ked Kelley, I served a copy of the attached to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
☒ Facsimile

By: _____
Deputy Clerk

Brenda Bauges
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
Fax: (208) 854-8083

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
☒ Facsimile

By: _____

MICHAEL J. WOOD
 Attorney At Law
 184 GOODING ST. W.
 Twin Falls, ID 83301
 (208) 736-8190
 (208) 736-0141 fx

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R. W [REDACTED]

Defendant.

Case No: CR 2016-213

PROTECTIVE ORDER

The Court issues this PROTECTIVE Order based upon the agreement of the
 Parties

IT IS HEREBY ORDERED, that the following provisions shall control the
 Dissemination of the medical records regarding the complaining witness in this
 Criminal action.

ORDER

The prosecution shall supply a copy of the reports the prosecution seeks to protect
 To defense counsel. Defense counsel may disseminate such disclosed
 Information to Defendant only having received defendants' guarantee that no
 Private information would be disseminated further. Defense counsel shall also
 Be allowed to disseminate said reports to those individuals who he reasonably
 Expects to provide to the defense consultation or testimony to facilitate a full

Evaluation of evidence or fair presentation of a defense at hearing or jury trial.

SO ORDERED this day of April 2016

MARK A. INGRAM
MAGISTRAT JUDGE

COPY

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



RECEIVED
APR 22 2016
OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

Defendant.

Case No. CR-2016-213

PROTECTIVE ORDER

The Court grants the State's motion for a protective order restricting the manner of disclosure of certain documents, reviewed by the Court *in camera*, containing the victim's personal, medical, and developmental/educational information.

IT IS HEREBY ORDERED, that the following provisions shall control the disclosure of these records:


Contrary to the Idaho Criminal Rules,
the parties have agreed

1 The State is relieved of any obligation to provide copies of these documents directly to the Defendant.

The State shall provide the Defendant's attorney an unredacted copy of these documents. The Defendant's attorney shall not disseminate any information contained in these documents unless necessary and essential for the preparation of a defense, such as expert consultations.

If the Defendant is provided information in these documents, the Defendant is prohibited from further disseminating that information absent an order of this Court for good cause shown.

SO ORDERED this 15 day of March 2016.


Mark A. Ingram
Magistrate Judge of the
STATE OF IDAHO
COUNTY OF LINCOLN } ss.

I hereby certify that the foregoing is a true copy of
the original instrument on file in my office.

Dated 4-15-16

Clerk, Auditor and Recorder

By 
Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of March 2016, I cause to be served a true and correct copy of the foregoing Protective Order was served to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

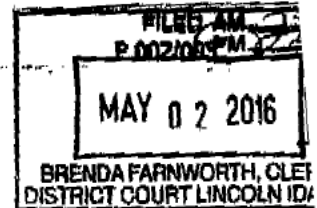
Brenda M. Bauges
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

☒ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

By 
Deputy Clerk

05/02/2016 14:53 KMT

(FAX)

**Order**

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video record the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED.**

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED.**

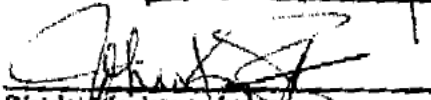
THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☐ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED**

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

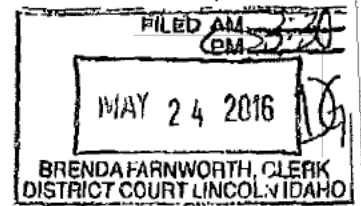
DATED this 2 day of May, 2016


District Magistrate Judge

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

06.08.12

2



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED]

Defendant.

Case No. CR-2016-213

ORDER RE: JURY SELECTION AND VENUE

The jury selection in the above-entitled matter will commence on September 14, 2016 at 9:00 a.m. The court will summon 160 prospective jurors for jury selection, with 80 prospective jurors summoned for September 14, 2016 and 80 prospective jurors summoned for September 15, 2016. The prospective jurors summoned for September 14, 2016 shall be numbered 1 through 80 and the prospective jurors summoned for September 15, 2016 shall be numbered 81-160.

The voir dire on September 14 and 15, 2016 shall be conducted by the Honorable John K. Butler, District Judge or such alternate district judge as designated by the Administrative District Judge. Each side shall have eleven (11) preemptory challenges.

After the court completes its voir dire of prospective jurors 1-80, counsel will then conduct their voir dire, subject to limitations, if any, set by the Court. When the panel is passed for cause and if there are 35 or more jurors who are passed for cause, then counsel shall exercise there preemptory challenges on the first remaining 35 jurors who have been passed for cause. The remaining 13 jurors shall constitute the jury for the above-entitled trial who shall be sworn and ordered to return on September 21, 2016 for the commencement of the trial beginning with the preliminary instructions of the court, opening statements and then testimony.

If after the first 80 jurors are passed for cause there is less then 27 jurors remaining, those remaining jurors are to be ordered to return to court on September 21, 2016 at 9:00 a.m. The court and counsel shall continue with jury selection of jurors 81-160 on September 15, 2016 at 9:00 am. The court will conduct voir dire first and then counsel. Once the panel has been passed for cause the first number of prospective jurors out of 81-160 which are necessary to have a final panel of 35 shall be ordered to return on September 21, 2016 at 9:00 a.m. at which time counsel shall exercise there preemptory challenges and the final panel sworn. **For example only, if there are only 12 jurors who are passed for cause on September 14, 2016 then the first 23 jurors on September 15, 2016 who are passed for cause will be ordered to return on September 21, 2016. The prospective jurors from September 14, 2016 would be jurors 1 thru 12 and the jurors from September 15, 2016 would be jurors 13-35 and the prospective jurors shall be seated in the same sequential order as they were originally sat.**


The Honorable John K. Butler, District Judge shall preside over the trial proceedings commencing September 21, 2016.

In the event that there are not 35 qualified jurors out of the 160 prospective jurors, the court will order that the venue of the trial shall be changed to Jerome County in accordance with

I.C.R. 21 and the court will make arrangements to have 84 Jerome County prospective jurors ready for the morning of September 21, 2016 at 9:00 a.m. **The Honorable John K. Butler, District Judge, shall continue the assignment over the trial unless the Administrative District Judge shall reassign this case to another Judge of the Fifth Judicial District.**

IT IS SO ORDERED.

DATED this 23 day of May, 2016.



John K. Butler, District Judge

CERTIFICATE OF MAILING/DELIVERY

I, undersigned, hereby certify that on the 25 day of MAY, 2016, a true and correct copy of the foregoing ORDER RE: JURY SELECTION AND VENUE was mailed, postage paid, and/or hand-delivered to the following persons:

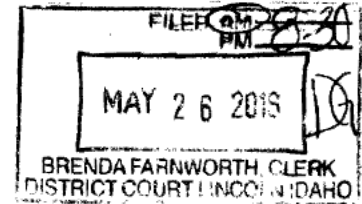
Brenda Bauges
Deputy Attorney General
Lincoln County Special Prosecutor
P.O. Box 83720
Boise, Idaho 83720-0010

Michael J. Wood
Attorney at Law
184 Gooding St. W.
Twin Falls, Idaho 83301


Deputy Clerk

4 - ORDER RE: JURY SELECTION AND VENUE

RR000868



MICHAEL J. WOOD
184 GOODING ST W
TWIN FALLS, IDAHO 83301
(208)736-8190
(208)736-0141

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] W [REDACTED]
Defendant.

Case No. CR16- 213

ORDER

THIS matter having come before the Court on application of Defendant for preparation of a typewritten transcript and good cause appearing therefore:

IT IS HEREBY ORDERED, AND THIS DOES ORDER that a typewritten transcript only of the testimony of witnesses who testified preliminary hearing proceedings in the above-entitled matter be prepared as soon as possible AT THE COST OF DEFENDANT.

DATED This 21 day of MAY, 2016.


HONORABLE JOHN B. MILLER
DISTRICT JUDGE

MOTION FOR PREPARATION OF PRELIMINARY TRANSCRIPT

05/24/2016 12:31 KHV

(FAX)

P.002/003

Order

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video record the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☐ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 25 day of May, 2016


District/Magistrate Judge

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

05.03.17

2

RR000870

CERTIFICATE OF MAILING

I hereby certify that on the 2 day of JUNE, 20 16, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Michael wood
Attorney for defendant

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Brenda Bauges
Prosecutor

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Paul Johnson
KMVT

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Shelly Tubbs
Trial Court Administrator

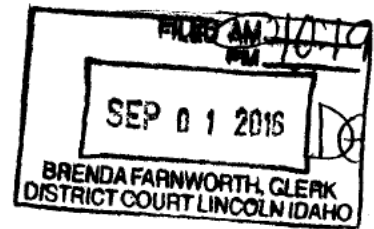
LG
Clerk

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

06.08.11

3

RR000871



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

Defendant.

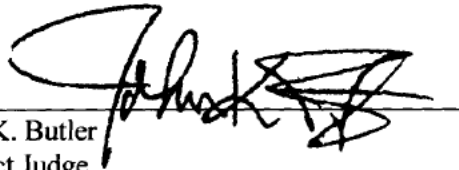
Case No. CR-2016-213

ORDER TO DISMISS

The Court having heard the motion heretofore made in the case of *State v. T [REDACTED] R [REDACTED] W [REDACTED]* by, Deputy Attorney General Casey J. Hemmer, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the charge of Forcible Penetration by Use of a Foreign Object, Felony is hereby dismissed WITHOUT prejudice.

DATED this 1 day of September 2016.


John K. Butler
District Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1 day of September 2016, I caused to be served a true and correct copy of the foregoing Order to Dismiss to:

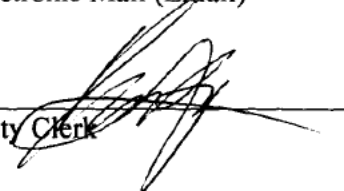
Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Fax: 208-854-8083

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ [REDACTED]
☐ Facsimile
☒ Electronic Mail (Email)

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

By: _____

Deputy Clerk 

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

9000
MAR 04 2016
ID

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED]

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

CASE NO. 2016-213

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this 4 day of March 2016, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that T [REDACTED] W [REDACTED] on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608** as follows:

That the Defendant, T [REDACTED] W [REDACTED], on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by inserting

COMPLAINT (W [REDACTED]), Page 1

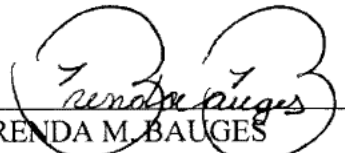
 **ORIGINAL**

RR000874

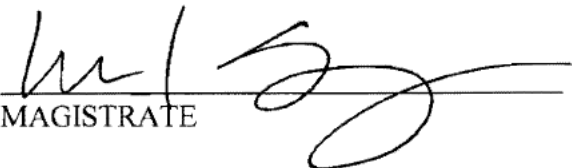
a coat hanger inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

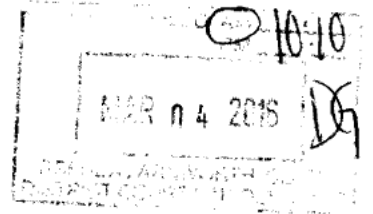
Said Complainant therefore prays that a Summons issue for the Defendant and that he may be dealt with according to law.


BRENDAM. BAUGES
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this 4 day of March 2016.


MAGISTRATE

**Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800**



STATE OF IDAHO,
Plaintiff.

vs.

T [REDACTED] R W [REDACTED]
[REDACTED]

DOB: [REDACTED]
Defendant.

Case No: CR-2016-0000213

NOTICE OF HEARING

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

Arraignment Friday, March 18, 2016 09:00 AM
Judge: Mark A. Ingram

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, March 4, 2016.

Defendant: T [REDACTED] R W [REDACTED]

To be served with summons

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

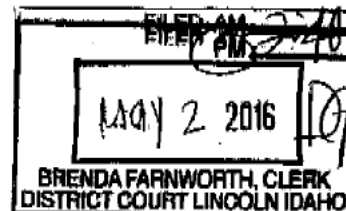
Mailed _____ Hand Delivered _____ E-Mail _____

Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail x _____

Dated: Friday, March 4, 2016
Brenda Farnworth
Clerk Of The District Court

By: [Signature]
Deysi Garcia, Deputy Clerk
DOC22 7/96



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO

Plaintiff(s).

vs.

T. [REDACTED] W. [REDACTED]

Defendant(s).

REQUEST TO OBTAIN APPROVAL
TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT
PROCEEDING

I hereby request approval to:

☒ video record ☒ broadcast ☐ photograph the following court proceeding:

Case No.:

CR-2016-213

Date:

5-2-16

Time:

0900

Location:

LINCOLN CO. COURT HOUSE

Presiding Judge:

JUDGE BUTLER

I have read the Rule 45 of the Idaho Court Administrative Rules regarding cameras in the courtroom, and will comply in all respects with the provisions of that rule, and will also make certain that all other persons from my organization participating in video or audio recording or broadcasting or photographing of the court proceedings have read Rule 45 of the Idaho Court Administrative Rules and will comply in all respects with the provisions of that rule.

PAUL BRASON

Print Name

Date

Signature

News Organization Represented

Mailing Address

Phone Number

Fax Number

1100 BLUE LAKES N.

734-1074

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

05.01.16

1

RR000877

CERTIFICATE OF MAILING

I hereby certify that on the 2 day of May, 2016, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Brenda M. Bauges
Special Prosecuting Attorney
(208) 332-3096

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Michael J. Wood
Defense Attorney
(208) 736-0141

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Cheri Mattson
Trial Court Administration

- ☐ U.S. Mail
☐ Hand delivered
☐ Faxed Email
☐ Court Folder

Paul Johnson
KMYT
(208) 734-1074

Clerk 

LAWRENCE G. WASDEN
Attorney General
State of Idaho

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-FE-16-213
)	
vs.	)	SUBPOENA - CRIMINAL
)	
T [REDACTED] R [REDACTED] W [REDACTED])	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

P [REDACTED] S [REDACTED] V [REDACTED]
C/O PERRY & GINA V [REDACTED]
[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on April 22, 2016, at the hour of 1:45 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County



ORIGINAL

SUBPOENA - CRIMINAL (W [REDACTED]) - 1

RR000879

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of April, 2016, in the County of Lincoln.

LAWRENCE G. WARDEN
Attorney General
State of Idaho

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

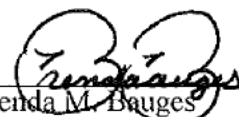
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-FE-16-213
)	
vs.	)	SUBPOENA - CRIMINAL
)	
T [REDACTED] R [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:
BENJAMIN G. HARDCASTLE
SUPERINTENDENT – DIETRICH SCHOOL DISTRICT #314
406 N. Park
Dietrich, ID 83324

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on April 22, 2016, at the hour of 1:45 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of April, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

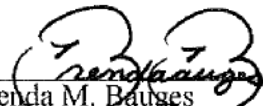
STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-FE-16-213
)	
vs.	)	SUBPOENA - CRIMINAL
)	
T [REDACTED] R [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

G [REDACTED] N [REDACTED]
C/O SEAN & JAMI N [REDACTED]
[REDACTED], [REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on April 22, 2016, at the hour of 1:45 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA - CRIMINAL (W [REDACTED]) - 1

RR000883

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of April, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-FE-16-213
)	
vs.	)	SUBPOENA - CRIMINAL
)	
T [REDACTED] R [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

A [REDACTED] P [REDACTED]
C/O FRANK & DOLLY F [REDACTED]
[REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on April 22, 2016, at the hour of 1:45 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA - CRIMINAL (W [REDACTED]) - 1

RR000885

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of April, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

PAUL R. PANTHER
Deputy Attorney General
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-FE-16-213
)	
vs.	)	SUBPOENA - CRIMINAL
)	
T [REDACTED] R [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	


THE STATE OF IDAHO SENDS GREETINGS TO:

E [REDACTED] "T [REDACTED]" H [REDACTED]
C/O MAGDALENA VENEGAS

[REDACTED]
[REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on April 22, 2016, at the hour of 1:45 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA - CRIMINAL (W [REDACTED]) - 1

RR000887

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of April, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

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

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STATE OF IDAHO,)	
)	
Plaintiff,)	CASE NO. CR-FE-16-213
)	
vs.)	SUBPOENA - CRIMINAL
)	
T [REDACTED] R [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

S [REDACTED] S [REDACTED] R [REDACTED]
C/O LEETA HEDRICK
[REDACTED]
[REDACTED], [REDACTED] [REDACTED]

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DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA - CRIMINAL (W [REDACTED]) - 1

RR000889

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of April, 2016, in the County of Lincoln.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

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

BRENDA M. BAUGES ISB#8185
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN


STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-FE-16-213
)	
vs.	)	SUBPOENA - CRIMINAL
)	
T [REDACTED] R [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	

THE STATE OF IDAHO SENDS GREETINGS TO:

K [REDACTED] W [REDACTED] S [REDACTED]
C/O ACEY & JAYLN S [REDACTED]
[REDACTED]
[REDACTED], [REDACTED]

YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on April 22, 2016, at the hour of 1:45 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 6 day of April, 2016.


Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBPOENA - CRIMINAL (W [REDACTED]) - 1

RR000891

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the ____ day of April, 2016, in the County of Lincoln.

RR000893

charge made against you upon the Complaint of the Idaho Attorney General for violating Idaho Code Section 18-6608.

WITNESS my hand and seal of the District Court, Magistrate Division, this
4 day of March, 2016.



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Summons by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the _____ day of _____, 2016, in the County of _____.

IN THE MAGISTRATE COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

* * * * *

STATE OF IDAHO,	)	CASE NO. CR-2016-213
	)	REPORTER'S TRANSCRIPT
Plaintiff,)	
)	
vs.)	
)	
T [REDACTED] R. W [REDACTED],)	
)	
Defendant.)	
-----)	

PRELIMINARY HEARING

FRIDAY, APRIL 22, 2016, 2:04 P.M.

BEFORE HONORABLE MARK A INGRAM

MAGISTRATE JUDGE PRESIDING

APPEARANCES OF COUNSEL:

MS. BRENDA M. BAUGES, Deputy Attorney General
Post Office Box 83720, Boise, ID 83720-0010

Appearing on behalf of Plaintiff.

MR. MICHAEL J. WOOD, Attorney at Law
184 Gooding Street West, Suite 2G
Twin Falls, ID 83301

Appearing on behalf of Defendant.

DENISE K. SCHLODER, CSR 652
OFFICIAL COURT REPORTER
JEROME COUNTY, JEROME, IDAHO

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I N D E X

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1 COURTROOM OF THE MAGISTRATE COURT
2 FIFTH JUDICIAL DISTRICT
3 LINCOLN COUNTY COURTHOUSE
4 LINCOLN COUNTY, SHOSHONE, IDAHO
5 APRIL 22, 2016, FRIDAY, 2:00 P.M.
6
7 THE COURT: We'll take up Case CR-16-213,
8 State of Idaho vs. T■■■■ W■■■. This is the time
9 scheduled for preliminary hearing in this matter.
10 Anything preliminarily?
11 MR. WOOD: Move to exclude witnesses.
12 THE COURT: If you have been summoned as a
13 witness in this matter, I will ask that you wait in
14 the hallway until you're called. You are not to
15 discuss your testimony with anybody in the hall or
16 have anybody discuss your testimony with you while
17 you are in the hall, and then after you've
18 testified, you are either free to go or you can
19 remain in the courtroom.
20 All right. Go ahead.
21 MS. BAUGES: The State calls S■■■■ R■■■■. And
22 he's downstairs, Your Honor.
23 THE COURT: Okay. You want to go --
24 MS. BAUGES: He's in the sheriff's office.
25 THE BAILIFF: Who do you need?

3

1 THE COURT: All right. If -- there's a
2 possibility you might be called as a witness and,
3 apparently, if you were present in a locker room,
4 you might fall under that category, so I'm going to
5 ask that you step out. Okay. Thank you.
6 Go ahead.
7 MS. BAUGES: Thank you, Your Honor.
8
9 DIRECT EXAMINATION BY MS. BAUGES:
10 Q. Could you please state your name and
11 spell your last name for the record.
12 A. S■■■■■■■■■■, R■■■■■■■■■■
13 Q. How old are you?
14 A. 17 years old.
15 Q. Do you attend school?
16 A. Yes, ma'am.
17 Q. Where?
18 A. Dietrich High School.
19 Q. Were you on the Dietrich football team in
20 October of 2015?
21 A. Yes, I was.
22 Q. So I'm going to direct your attention to
23 October 22nd, 2015. Did you have practice that day?
24 A. Yes, we did.
25 Q. Where did you have practice?

5

1 THE COURT: S■■■■ R■■■■.
2 All right. Mr. R■■■■ if you'd come in,
3 please. If you could just stand there, face the
4 clerk, raise your right hand, the clerk will swear
5 you in.
6
7
8 S■■■■ R■■■■
9 being produced as a witness on behalf of the
10 plaintiff, was duly sworn on his oath and testified
11 as follows:
12
13 THE COURT: I'm going to rely on counsel to be
14 aware of who's a witness and who isn't a witness in
15 terms of the Court's prior order excluding witnesses
16 until they testify.
17 MS. BAUGES: Your Honor, does that include
18 potential witnesses or just witnesses that --
19 THE COURT: It does include potential
20 witnesses.
21 MS. BAUGES: I believe anybody that has
22 knowledge of the -- that was in the locker room at
23 the time should be excluded, and I'm not aware of
24 everybody who that is, but I do see one person that
25 was in the locker room at the time.

4

1 A. At the football field.
2 Q. Okay. And is that football field in
3 Dietrich?
4 A. Yes, it is.
5 Q. County of Lincoln?
6 A. Yes.
7 Q. State of Idaho?
8 A. Uh-huh.
9 Q. Okay. Did anything unusual happen after
10 practice on that day?
11 A. Yes.
12 Q. Could you please describe that.
13 A. We were all in the locker room getting
14 changed, and a bunch of people were getting ready to
15 shower, and A■■■■ was about to get in the shower
16 when T■■■■ came up behind him with a hanger and put
17 it in his butt. And then John was sitting -- John
18 -- I can't remember his last name -- was sitting on
19 the bench by the lockers behind T■■■ -- or A■■■■
20 and was kicking it.
21 Q. And what happened after that? Do you
22 know?
23 A. A■■■■ pulled the hanger out and stumbled
24 towards the sink, and that's when I left.
25 Q. Did you hear anything during this time?

6

1 **A. Just laughing.**
2 Q. Who was laughing?
3 MR. WOOD: Objection. No foundation. He's
4 indicated he left the room. Could he see who was
5 laughing or not?
6 THE COURT: I don't know that it was a
7 chronological question.
8 MS. BAUGES: I can rephrase.
9 THE COURT: Okay. Go ahead.
10 BY MS. BAUGES:
11 Q. At the time that you were actually in the
12 locker room observing the hanger -- the hanger
13 incident we'll call it -- you said somebody was --
14 T [REDACTED] was shoving it in, and somebody else was
15 kicking it, and then there was staggering
16 afterwards. During that time frame, did you hear
17 anything?
18 **A. Yes. T [REDACTED] and John were laughing at**
19 **A [REDACTED]**
20 Q. Okay. Did you observe anything about
21 A [REDACTED]
22 **A. He looked like he was clearly in pain.**
23 MR. WOOD: Objection. No, I'll withdraw it.
24 Excuse me, sir.
25

7

1 markers?
2 THE COURT: You might try this one. Oh,
3 there's a whole set.
4
5 CROSS EXAMINATION BY MR. WOOD:
6 Q. Mr. R [REDACTED], would you mind coming around
7 and standing in front of the drawing board. And
8 could you please draw -- first, could you angle that
9 drawing board a little more towards myself and the
10 prosecutor but so that the judge can see it, please.
11 Can you see that?
12 THE COURT: I'm good. I can lean out.
13 BY MR. WOOD:
14 Q. Would you please draw, taking up as much
15 of that piece of paper as possible, the locker room,
16 the floor layout of the locker room.
17 Now, you were present in this room
18 throughout this incident with the hanger; is that
19 correct?
20 **A. Yes, sir.**
21 Q. You never left or you weren't taking a
22 shower or something like that?
23 **A. I was changing throughout the event.**
24 Q. And would you please put an "R" for the
25 location you made the observations you've described

9

1 BY MS. BAUGES:
2 Q. Could you please restate that.
3 **A. He looked like he was in pain.**
4 Q. Now, you said a person named T [REDACTED] was
5 the one who initially inserted the hanger into
6 Antwon's butt. Is that the word you used?
7 **A. Yes, it is.**
8 Q. Do you see that person, T [REDACTED] in the
9 courtroom today?
10 **A. Yes, I do.**
11 Q. Could you please point out where he's
12 seated and identify an article of clothing that he's
13 wearing.
14 **A. A blue tie and a gray shirt.**
15 MS. BAUGES: Thank you.
16 No further questions.
17 THE COURT: The record will reflect the
18 identification of the defendant.
19 MS. BAUGES: Thank you, Your Honor. No
20 further questions.
21 THE COURT: Mr. Wood.
22 MR. WOOD: May I retrieve the drawing board?
23 THE COURT: Sure. Until you get those knees
24 replaced, do you want me to carry it for you?
25 MR. WOOD: (Inaudible.) Do we have any

8

1 from. And you have drawn an R about halfway on that
2 wall of lockers that exists in that room; correct?
3 **A. Yes.**
4 Q. And there's a bench that runs around what
5 looks to me for guys to sit on. Were you seated on
6 that bench?
7 **A. I was standing in front of it.**
8 Q. You were standing in front of it
9 throughout everything you have told the judge --
10 **A. Yes.**
11 Q. -- is that correct? Excuse me?
12 **A. Yes.**
13 Q. Because we're on tape, you've got to
14 speak real loud.
15 **A. Yes.**
16 Q. I don't mean to be yelling at you either,
17 but I'm trying to talk loud enough that the mic's
18 picking me up. Okay? We've both got to do that.
19 Would you please put a "T" for where
20 T [REDACTED] was. Now, the whole time you were standing
21 there, did you ever see T [REDACTED] move from that
22 position?
23 **A. Not really. He followed A [REDACTED] over to**
24 **the sink area over here. He was walking towards it**
25 **when I was leaving.**

10

1 Q. And when you say "the sink area," you
2 point to the top of your diagram, a little square
3 that is right at the top of your diagram?
4 **A. Yeah. There's a doorway right here by
5 the lockers, and across from the doorway is sinks
6 and then a stall for a bathroom.**
7 Q. Okay. And it's your testimony under oath
8 that T [REDACTED] was at T and never really moved, huh?
9 **A. As I said before, he walked towards Tan-
10 -- or A [REDACTED] as I was leaving the building -- or
11 leaving the room.**
12 Q. Okay. Now, when you saw Mr. W [REDACTED] at T,
13 did you hear him say anything?
14 **A. I didn't really hear him say anything.**
15 Q. Excuse me?
16 **A. I didn't really hear him say anything.**
17 Q. And you're sure of that?
18 **A. Yes.**
19 Q. Could you please write down an "A" for
20 A [REDACTED] where A [REDACTED] was during this.
21 **A. Where he started?**
22 Q. Where he started. That would be good.
23 And what is he doing there?
24 **A. He was facing towards the sinks. He was
25 undressing, getting ready to take a shower.**

11

1 Q. Were you hearing A [REDACTED] say something at
2 A?
3 **A. I didn't really pay attention to what
4 anybody was saying.**
5 Q. So he might have been saying things, and
6 you didn't --
7 **A. He could have.**
8 Q. -- didn't notice? You've told us that
9 you saw A [REDACTED] move. Can you do a broken line in
10 the direction you saw him move. And as T [REDACTED] stood
11 there, are you telling us that he already had the
12 hanger in his hand, that T [REDACTED] had a hanger in his
13 hand as he stood there at T?
14 **A. Yes.**
15 Q. And you're sure of that?
16 **A. Yes.**
17 Q. How was he holding it?
18 **A. Like this. By his side.**
19 Q. Excuse me?
20 **A. By his side.**
21 Q. And what part of the hanger did he have
22 ahold of?
23 **A. The curved part that rests in the
24 shoulders of the shirts.**
25 Q. Excuse me?

13

1 Q. Where is A [REDACTED]'s locker?
2 **A. I think it's over here.**
3 Q. I'm not asking what you think. Do you
4 know where his locker is? You've just drawn a
5 circle. Would you put an "A" in that circle if
6 that's A [REDACTED]'s locker. I'm not trying to tell you
7 it's A [REDACTED]'s. If you think that's A [REDACTED]'s locker,
8 put an "A" in it. And you did, huh?
9 **A. Yes.**
10 Q. Now, it's an upside down A. It's right
11 side up to you, but upside down to me, huh?
12 **A. I guess, yeah.**
13 Q. Had you seen A [REDACTED] over by his locker?
14 **A. No.**
15 Q. What was he doing?
16 **A. He was undressing, getting ready to
17 shower.**
18 Q. He was undressing all the way over there
19 at A, huh?
20 **A. Uh-huh.**
21 Q. Why wasn't he undressing over at his
22 locker?
23 **A. He never really undressed by his locker.
24 He just -- his clothes were scattered all throughout
25 the locker room throughout the football season.**

12

1 **A. The curved part that rests in the
2 shoulders of a shirt.**
3 Q. Okay. And would you describe that hanger
4 to us.
5 **A. It was like a -- would you like me to
6 draw it?**
7 Q. No, sir. I'd like you to describe it to
8 us verbally.
9 **A. It was like an upside down V with a
10 horizontal bar that goes across the bottom of it
11 with a hook on top.**
12 Q. And the hangers that I think of are coat
13 hangers. Is that a fair description of what this
14 thing was?
15 **A. Yes.**
16 Q. And the coat hangers I'm familiar with
17 have a hook on top that comes off the top of the
18 incline sides. Is that a fair description of this
19 coat hanger?
20 **A. Yes.**
21 Q. And coat hangers can be made out of
22 various materials. So what material was this coat
23 hanger made out of?
24 **A. It was a brown plastic coat hanger.**
25 Q. You're sure of that?

14

1 **A. Yes, I am.**
2 Q. Was it different in size or shape from
3 the normal --
4 **A. No.**
5 Q. -- coat hanger? So the hook was a hook,
6 and it was bent down back towards the hanger --
7 **A. Yes.**
8 Q. -- correct? Excuse me?
9 **A. Yes.**
10 Q. And it is your testimony under oath that
11 T [REDACTED] had that coat hanger in his hand at T? Am I
12 understanding that correctly?
13 **A. Yes.**
14 Q. Did you see where T [REDACTED] W [REDACTED] got that
15 hanger?
16 **A. It was sitting on this bench.**
17 Q. So you're telling us you saw --
18 **A. (Unintelligible.)**
19 Q. -- you saw him pick it up?
20 **A. Uh-huh.**
21 Q. Excuse me?
22 **A. Yes.**
23 Q. And when did you see him pick it up?
24 **A. Before it all happened.**
25 Q. How long before it all happened?

15

1 **get out of there.**
2 Q. Just getting dressed and going home, huh?
3 Right?
4 **A. Yeah. I wasn't really listening to what**
5 **they were saying. I was watching.**
6 Q. And it is your testimony that you
7 actually saw T [REDACTED] place that coat hanger between
8 Antwon's buttocks?
9 **A. Yes.**
10 Q. And you are at R when that happens?
11 **A. Yes.**
12 Q. How many feet is that approximately? I
13 know you can't say for sure.
14 **A. Maybe 15.**
15 Q. How many?
16 **A. Maybe 10 or 15.**
17 Q. 10 or 15?
18 **A. (No audible response.)**
19 Q. And you couldn't tell from the angle that
20 you were looking at whether that coat hanger somehow
21 penetrated A [REDACTED]'s anus, could you?
22 **A. No, I could not.**
23 Q. All you know is that it went between his
24 buttocks; correct?
25 **A. Yes.**

17

1 **A. Maybe 30 seconds to a minute.**
2 Q. Did he say anything after he picked it
3 up?
4 **A. No.**
5 Q. Are you sure of that?
6 **A. Yes.**
7 Q. Now, would you please put a "JH" for the
8 location of John Howard. And you're putting that JH
9 right about the same place as the hanger originally
10 was; correct?
11 **A. Yes.**
12 Q. And you're sure of that?
13 **A. Yes.**
14 Q. And was he seated or standing?
15 **A. He was seated.**
16 Q. And how was he dressed?
17 **A. He had a pair of shorts and a shirt.**
18 Q. And was he saying anything?
19 **A. Not that I'm aware of.**
20 Q. Could he have said things that you didn't
21 hear?
22 **A. He probably could have, yes.**
23 Q. You're not really paying close attention
24 to these folks, are you?
25 **A. Not at the time. I was just trying to**

16

1 Q. So will you please put a circle along
2 that dotted line for the position A [REDACTED] was in when
3 he -- when you say T [REDACTED] placed the coat hanger
4 between his buttocks.
5 **A. What do you mean a circle? Which way he**
6 **was facing?**
7 Q. No. I'm --
8 **A. How would a circle help that?**
9 Q. I'm hoping just to mark it with a
10 location. So just a normal zero. So you have
11 A [REDACTED] virtually in the same location; true?
12 **A. He was facing towards the showers.**
13 Q. He's at an angle?
14 **A. Yes.**
15 Q. Has T [REDACTED] moved?
16 **A. No.**
17 Q. And how is A [REDACTED] dressed?
18 **A. He was wearing a pair of underwear and**
19 **then took them off.**
20 Q. So the underwear is on the floor at zero?
21 **A. Somewhere around there.**
22 Q. So even before A, huh?
23 **A. (No audible response.)**
24 Q. Excuse me?
25 **A. Yes.**

18

1 Q. So when A [REDACTED] is at A, he is totally
2 naked?
3 A. Yes.
4 Q. And you're sure of that?
5 A. Yes.
6 Q. Prior to or simultaneous with -- no,
7 strike that. Was T [REDACTED] standing or seated?
8 A. He was standing.
9 Q. And was A [REDACTED] standing or seated?
10 A. He was standing.
11 Q. How long was the hanger between A [REDACTED]'s
12 buttocks?
13 A. Well, I didn't exactly time it.
14 Q. And I understand that, sir. If you'd
15 just give us your best estimate. We are counting on
16 you to be as accurate as you can be, but I
17 understand that you didn't have a stopwatch.
18 A. I don't know how long it was in.
19 Q. Well, let's do it this way. Could it
20 have been for five seconds?
21 MS. BAUGES: Objection, asked and answered.
22 The witness has said he doesn't know.
23 MR. WOOD: It is not asked and answered. "I
24 don't know" invites approximation, and it invites
25 hypothetical --

19

1 particularly? What are the things he was doing that
2 caused you to believe that he was acting as if he's
3 in pain?
4 A. Well, the sounds he was making. He was
5 moaning as if in pain.
6 Q. Was me saying any words?
7 A. No, he was not. Not that I recall.
8 Q. And how far down that dotted line was
9 A [REDACTED] when you left the room?
10 A. Just about to the sink.
11 Q. How far would you say?
12 A. Maybe about here.
13 Q. And how many feet is that?
14 A. About 5 or so maybe.
15 Q. You've drawn another circle along the
16 dotted line that is much closer to the sinks, and
17 you say that's about 5 feet or so, huh?
18 A. Yes.
19 Q. Was the hanger still in his -- between
20 his buttocks when he reached that location?
21 A. As I said before, it was in there from
22 the time that it happened until the time I left.
23 Q. And so he still had that between his
24 buttocks within 5 feet of the sinks is your
25 testimony?

21

1 THE COURT: You may proceed.
2 THE WITNESS: It was in there from the time
3 that it went in until the time I left.
4 BY MR. WOOD:
5 Q. And how long would you say that was?
6 A. I don't know.
7 Q. Could it have been five seconds?
8 A. Maybe a minute or so.
9 Q. You're saying maybe a minute or so? So
10 you think it could have been as much as a minute --
11 A. Yeah.
12 Q. -- is that correct?
13 A. Yes.
14 Q. And in that minute, did you see who
15 pulled it out?
16 A. No, I did not.
17 Q. After it was placed between his buttocks,
18 which way did A [REDACTED] go?
19 A. Towards the line.
20 Q. Well, your line now portrays that towards
21 the sinks, huh?
22 A. Yes.
23 Q. Is he saying anything?
24 A. He was acting as if he was in pain.
25 Q. And can you describe that moment

20

1 A. Yes.
2 Q. And you understand you're under oath?
3 A. Yes.
4 Q. And you understand that we're looking for
5 accurate testimony; correct?
6 A. Yes.
7 Q. And you're being careful to be accurate?
8 A. Yes.
9 Q. Did T [REDACTED] say anything as he placed that
10 coat hanger between A [REDACTED]'s buttocks?
11 A. No, he did not.
12 Q. Did you ever hear him say anything --
13 with words, I'm saying. I'm asking about between
14 A [REDACTED] being at A and arriving at 5 feet to these
15 sinks, did you ever here T [REDACTED] say anything?
16 A. I heard him laughing.
17 Q. And you watched these proceedings, and
18 you stood there and watched?
19 A. As I said before, I was getting dressed,
20 and I left.
21 Q. So you continued in the operation of
22 getting dressed, getting your clothes on; correct?
23 You were involved -- that was your primary function
24 at that time was putting your clothes on --
25 A. Yes.

22

1 Q. -- and getting out of there? What door
2 did you leave by?
3 **A. This door.**
4 Q. So you went out that door that's up by
5 the sinks, and in approaching that door, where was
6 T■■■■?
7 **A. He was maybe about here following A■■■■.**
8 Q. So you've got him along that dotted line
9 too, although way up towards the A --
10 **A. Yes.**
11 Q. -- correct? Excuse me?
12 **A. Yes.**
13 Q. And so you walked down those lockers and
14 then around that little partition and then out the
15 door?
16 **A. Yes.**
17 Q. You didn't stop and become involved with
18 A■■■■ or have any exchanges with T■■■■ or John
19 Howard, did you?
20 **A. No.**
21 Q. And, in fact, your back was to John
22 Howard and T■■■■ as you traveled down those lockers
23 around the corner and out the door, wasn't it?
24 **A. Yes.**
25 Q. So you're telling us that you think

23

1 **A. Yes.**
2 Q. But at that time, you were around the
3 corner and headed out the door. You're not watching
4 what's going on; right?
5 **A. Yeah.**
6 Q. Excuse me?
7 **A. Yeah.**
8 Q. You saw a coat hanger go between A■■■■'s
9 buttocks one time?
10 **A. Yes.**
11 Q. That's all that had happened in that
12 locker room that day as far as you're concerned?
13 **A. As far as I seen.**
14 Q. As far as you saw, right. (Inaudible.)
15 At the time it was placed between his
16 buttocks, would you describe how that happened.
17 **A. T■■■■ placed it in there.**
18 Q. How?
19 **A. Went like this, and it went between his**
20 **butt.**
21 Q. Was John Howard kicking his hand during
22 that process? By "his," I mean T■■■■'s hand.
23 **A. No, he was not. T■■■■'s hand had left**
24 **the hanger before John Howard started kicking.**
25 Q. Excuse me?

25

1 T■■■■ was laughing based on what your ears told
2 you; correct?
3 **A. I watched him as I walked out of the**
4 **room. As I was walking over here, I turned around --**
5 Q. Wait a minute. You just told us you were
6 walking out of the room and your eyes --
7 **A. No. I told you I was facing the door.**
8 **My back was to T■■■■ as I was walking out the door.**
9 Q. And so you were turned around watching
10 T■■■■ as you walked out the door, huh?
11 **A. I was walking along here, and I could see**
12 **them until I turned here to go out the door.**
13 Q. And you claim you could see them
14 laughing?
15 **A. Yes.**
16 Q. And you're sure of that?
17 **A. Yes.**
18 Q. And you're sure that when A■■■■ got to
19 that -- why don't you put a "2" in that top circle,
20 that one that's 5 feet from the sink so I can call
21 it 2 circle. Okay. You're sure that that coat
22 hanger was still between A■■■■'s buttocks when he
23 reached circle 2?
24 **A. Yes.**
25 Q. Correct?

24

1 **A. T■■■■'s hand had left the hanger before**
2 **John Howard started kicking.**
3 Q. And so once it went between A■■■■'s
4 buttocks, you're saying T■■■■ took his hand off
5 that coat hanger right away?
6 **A. Yes.**
7 Q. And you're sure of that?
8 **A. Yes.**
9 Q. And that's when John Howard started
10 kicking at it?
11 **A. Yes.**
12 Q. And you're sure it was the hook end that
13 was up between A■■■■'s buttocks?
14 **A. Yes.**
15 Q. How many times did John Howard kick at
16 that coat hanger total?
17 **A. Maybe five or six.**
18 Q. And you're sure of that?
19 **A. Yes.**
20 Q. And as he was kicking it, did you hear
21 A■■■■ say anything?
22 **A. He was screaming.**
23 Q. What was he screaming? Was he screaming
24 words?
25 **A. No.**

26

1 Q. Did you hear John -- I'm sorry. Did you
2 hear T■■■■ W■■■ say anything as John Howard was
3 kicking that coat hanger?
4 **A. As I said before, I heard him laughing.**
5 Q. And it's your position that he continued
6 to laugh as the kicking went on?
7 **A. Yes.**
8 Q. Now, on direct I believe you testified
9 that A■■■■ pulled the hanger from between his
10 buttocks. Did I hear you right about that?
11 **A. He -- yeah. He was -- his hand was --**
12 Q. So he put -- you said yes? I did hear
13 you right about that? That was your testimony on
14 direct; right?
15 **A. Yes. He was reaching back to pull it out**
16 **as I was leaving the room.**
17 Q. And did you see him actually pull it out?
18 **A. No, I didn't see him actually pull it**
19 **out.**
20 Q. You didn't see anybody actually pull it
21 out, huh?
22 **A. No.**
23 MR. WOOD: I think that's all I've got on the
24 diagram. I'm going to move it, and then you can use
25 it if you want to redirect on it.

27

1 didn't you?
2 **A. I don't remember exactly what I told him.**
3 **That's been a while ago.**
4 Q. Well, wouldn't you have told him the
5 truth? You would have told Mr. Hardcastle the
6 truth, wouldn't you?
7 **A. Yes.**
8 Q. I mean, you were trying to be careful and
9 give Mr. Hardcastle accurate information --
10 **A. Yes.**
11 Q. -- weren't you?
12 **A. Yes.**
13 Q. I mean, he's like the district supervisor
14 of your school district where you go to school;
15 right?
16 **A. Yes.**
17 Q. You knew it was serious?
18 **A. Yes.**
19 Q. And he interviewed you within, what, a
20 couple of days of this incident on the 22nd?
21 **A. Yes.**
22 Q. Was it the very next day that he
23 interviewed you, that Mr. Hardcastle interviewed
24 you?
25 **A. I don't believe so.**

29

1 MS. BAUGES: Actually, you can just leave it
2 there, if you don't mind.
3 MR. WOOD: I just want to turn it around so
4 the judge can see it a little better. Go ahead and
5 climb back and sit down and I'll get this out of
6 your way.
7 MS. BAUGES: Actually, I'm going to use it
8 right now, so you can stay there, and we can leave
9 the exhibit right there, Counsel.
10 THE COURT: I'm not sure Mr. Wood's done.
11 MS. BAUGES: Oh, okay.
12 THE COURT: Are you done with this witness?
13 MR. WOOD: Oh, sir, would you mind initialling
14 that and put today's date on it.
15 THE COURT: Mr. Wood, do you have any other
16 questions of this witness?
17 MR. WOOD: Yes, I do.
18 S■■■■, you may sit down again.
19 BY MR. WOOD:
20 Q. Now, after this incident, you were
21 interviewed by Mr. Hardcastle at the Dietrich
22 school, weren't you?
23 **A. Yes, I was.**
24 Q. And you told Mr. Hardcastle that you saw
25 T■■■■ pull the coat hanger out of A■■■■s butt,

28

1 Q. What, was it like Monday or Tuesday of
2 the next week?
3 **A. I don't remember exactly what day it was.**
4 Q. But it was pretty quick after the
5 incident occurred?
6 **A. Maybe a week or so.**
7 Q. And you admit that you told him that
8 T■■■■ went over and pulled the coat hanger out of
9 A■■■■s butt?
10 **A. Yeah.**
11 Q. You did not tell Mr. Hardcastle that you
12 had seen T■■■■ stick that coat hanger in Antwon's
13 -- or between Antwon's buttocks, did you?
14 **A. I believe I did.**
15 Q. I'm not asking what you believe,
16 Mr. R■■■■ I'm asking what do you remember that you
17 can swear to under oath?
18 **A. I --**
19 Q. You don't remember telling Mr. Hardcastle
20 that you saw T■■■■ W■■■ stick that coat hanger
21 between A■■■■'s buttocks, do you?
22 **A. Yes, I do.**
23 Q. You did not tell Mr. Hardcastle that you
24 observed T■■■■ W■■■ laughing after the coat hanger
25 was placed between A■■■■'s buttocks, did you?

30

1 **A. Yes, I did.**
 2 Q. And you're sure of that?
 3 **A. Yes, I am.**
 4 MR. WOOD: One minute, please.
 5 (Discussion held off the record.)
 6 MR. WOOD: Thank you.
 7 THE COURT: Redirect.
 8 MS. BAUGES: Thank you, Your Honor.
 9
 10 REDIRECT EXAMINATION BY MS. BAUGES:
 11 Q. Why don't you come on over here by the
 12 diagram again. So when you drew this diagram, is
 13 this to scale?
 14 **A. No.**
 15 Q. Okay. So -- and by "scale," I mean is
 16 this the exact amount of feet or distance between
 17 these landmarks you've drawn?
 18 **A. No.**
 19 Q. This is just your best approximation;
 20 right?
 21 **A. Yes.**
 22 Q. Okay. And when you were testifying on
 23 cross, you were asked very specific, you know, 5
 24 feet, 10 feet, that kind of a thing. Are you
 25 guesstimating or are you absolutely positive, if we

31

1 **A. There was -- the entire football team was**
 2 **in there. Everybody was moving around.**
 3 Q. So when you answered questions about was
 4 he here the whole time, was that just at the time
 5 that the hanger was shoved up or what were you
 6 thinking about when you were answering those
 7 questions?
 8 **A. Just, yeah, at the time the hanger was**
 9 **placed.**
 10 Q. Okay. And if you have any questions
 11 about questions that are being asked, please feel
 12 free to ask for clarification. That's completely
 13 okay.
 14 So you said on this diagram, essentially
 15 -- actually, I'll ask you one more thing about this
 16 diagram. There's a number of boxes and things that
 17 haven't been labeled at this point, but I see that
 18 -- where you put the R where you are, there's some I
 19 think what have been described as benches. Did that
 20 obstruct your view at all of what happened?
 21 **A. No, it did not. Those are below knee**
 22 **level.**
 23 Q. Okay. You said you were getting dressed.
 24 Did the act of getting dressed distract you at all
 25 from what you saw?

33

1 tape measured those out, the exact distance?
 2 **A. Just guessing.**
 3 Q. You're just guessing. Okay. There were
 4 a couple of questions I just wanted to clarify. And
 5 you can go ahead and sit down now. There were a
 6 couple of questions I just wanted to clarify. You
 7 had testified that you had seen T [REDACTED] pick up the
 8 hanger; is that correct?
 9 **A. Yes.**
 10 Q. And then --
 11 MR. WOOD: Excuse me. I missed that. I
 12 apologize. Would you mind repeating that question?
 13 MS. BAUGES: That he had seen T [REDACTED] pick up
 14 the hanger.
 15 MR. WOOD: Okay. Thank you. Appreciate it.
 16 BY MS. BAUGES:
 17 Q. You got a few questions about: Was
 18 T [REDACTED] always here? Was T [REDACTED] always there? Was
 19 this a process? Were people moving throughout the
 20 locker room as this was going on?
 21 **A. Yes. Most --**
 22 Q. Did that include T [REDACTED]?
 23 **A. Yes. He wasn't in the exact same spot**
 24 **throughout the entire thing.**
 25 Q. Okay.

32

1 **A. I was facing towards the showers by the A**
 2 **while I was getting dressed.**
 3 Q. You said that you may not have been
 4 paying attention to what you were hearing. Were you
 5 paying attention to what you were seeing?
 6 **A. Yes. Everybody was talking throughout**
 7 **the locker room, and I couldn't clearly hear what**
 8 **anybody was saying.**
 9 Q. Okay. Now, you mentioned that A [REDACTED] was
 10 kind of at an angle?
 11 MR. WOOD: Was in a what? I'm sorry.
 12 MS. BAUGES: Was kind of at an angle facing
 13 the showers.
 14 THE WITNESS: Yes.
 15 BY MS. BAUGES:
 16 Q. So were you looking at A [REDACTED]'s profile,
 17 and by that I mean his side, or were you looking at
 18 him head on or his back? What part of A [REDACTED] could
 19 you see right before T [REDACTED] shoved the hanger?
 20 **A. Halfway between his profile and his back.**
 21 Q. Okay. You gave a statement to -- well,
 22 you were interviewed by school officials; correct?
 23 **A. Yes.**
 24 Q. Who?
 25 **A. Ben Hardcastle and Stephanie Shaw.**

34

1 Q. Okay. So there were two people there
2 when you were talking about this incident; correct?
3 **A. Yes.**
4 Q. Okay. Do you remember exactly what you
5 said to them?
6 **A. Not 100 percent, no.**
7 Q. Okay. Is what you're testifying here
8 today the best of your recollection of this incident
9 that happened in October?
10 **A. Yes.**
11 Q. Okay. So you just said you don't
12 remember exactly what you said to Mr. Hardcastle,
13 and I think you said -- was it Ms. Shaw?
14 **A. Mrs. Shaw, yes.**
15 Q. Mrs. Shaw. Thank you. You had a couple
16 questions about: You said this, didn't you? Is
17 your testimony that you actually remember saying
18 certain things to Mr. Hardcastle or Mrs. Shaw, or do
19 you remember what you said to them?
20 **A. I don't remember specifically what I**
21 **said, if that's what you're asking.**
22 Q. Okay. It's possible you could have said
23 something to the effect of who took out the hanger;
24 is that correct?
25 **A. Yes.**

35

1 **A. Uh-huh.**
2 Q. Okay. You also said something I just
3 wanted to clarify. You said the hanger went in one
4 time. Could you explain what you mean by that, the
5 hanger went in one time.
6 MR. WOOD: Objection. Misstates the
7 testimony. He said he didn't see it placed between
8 Antwon's buttocks more than once.
9 MS. BAUGES: I think the specific question,
10 Your Honor, was --
11 THE COURT: I agree. My recollection of the
12 testimony was as you recall.
13 BY MS. BAUGES:
14 Q. Do you need a repeat?
15 **A. Yes, please.**
16 Q. I think the question to you directly was,
17 "You only saw the hanger go in one time?" and I
18 think that you agreed. Could you explain that a
19 little bit more?
20 **A. The hanger was only placed between**
21 **A's buttocks one time.**
22 Q. Okay. But you did see it being kicked?
23 MR. WOOD: Objection. She's leading.
24
25

37

1 Q. But you aren't sure?
2 MR. WOOD: Objection. She's leading. Telling
3 a witness it's possible that he said this --
4 THE COURT: That is a leading question.
5 MS. BAUGES: Okay.
6 BY MS. BAUGES:
7 Q. So I think -- going back to the last
8 question, you don't remember exactly what you said?
9 **A. No, I don't.**
10 Q. But you could have said something?
11 **A. Yes, ma'am.**
12 Q. Okay. Is this locker room very big?
13 **A. Not huge.**
14 Q. Okay. About what size, would you say,
15 taking -- using this courtroom as a guide?
16 **A. Maybe from the edge of that -- where the**
17 **thermometer -- not thermometer, the thermostat is at**
18 **over.**
19 Q. Okay. And then how deep?
20 **A. About like this.**
21 Q. About like this. Okay. So you -- were
22 you fairly close --
23 **A. Yeah.**
24 Q. -- to A[REDACTED] and T[REDACTED] when this was
25 going on?

36

1 BY MS. BAUGES:
2 Q. What did you see after that?
3 **A. I saw John kicking it.**
4 Q. Okay.
5 **A. After T[REDACTED] had let go of it.**
6 Q. Okay. Did it appear to you that it was
7 going further in or could you see?
8 MS. BAUGES: Objection. She's leading.
9 THE COURT: I'm going to let the comment
10 stand.
11 THE WITNESS: Yes, it looked like it was going
12 farther.
13 BY MS. BAUGES:
14 Q. Okay. Now, when you demonstrated how
15 T[REDACTED] put in the hanger on cross, I would like to
16 ask you how much force was used, if you could see,
17 when T[REDACTED] put the hanger in between the buttocks.
18 **A. I didn't see exactly how much force was**
19 **used.**
20 Q. Okay. So when you were kind of
21 reenacting it in court, that wasn't necessarily the
22 amount of force that was used?
23 **A. No.**
24 MS. BAUGES: Okay.
25 No further questions, Your Honor.

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1 THE COURT: S█████ thank you very much. You
2 may step down.
3 MR. WOOD: May I approach the drawing board?
4 THE COURT: Sure.
5 MR. WOOD: I would like to move into evidence
6 as Defense A this diagram that Mr. R█████ initialed
7 and dated 4/22/16.
8 MS. BAUGES: The State has no objection for
9 appellate record purposes, but as the witness
10 stated, it's not to scale. He's not sure of the
11 dimensions, so I would say to demonstrate what we
12 were talking about in testimony.
13 THE COURT: It's to be admitted to demonstrate
14 the witness's testimony.
15 MS. BAUGES: Thank you, Your Honor.
16 THE COURT: Thank you.
17 (Defendant's Exhibit A, S█████ R█████'s
18 Drawing, admitted.)
19 Next witness.
20 MS. BAUGES: The State calls A█████ M█████,
21 Your Honor.
22 THE COURT: I'm going to guess that thing's
23 going to come back out, isn't it, Mike?
24 Sir, if you'd come in, please, and just
25 wait right there for a second. This lady over here

39

1 2015?
2 **A. I was 17.**
3 Q. Were you on the Dietrich football team in
4 October of 2015?
5 **A. Yes, I was.**
6 Q. So let me direct your attention to
7 October 22nd, 2015. Did you have football practice
8 that day?
9 **A. I did.**
10 Q. Okay. So you were on the Dietrich
11 football -- or you were on the football team?
12 **A. Yeah.**
13 Q. Okay. Where was football practice?
14 **A. It was at the school.**
15 Q. Okay.
16 **A. The Dietrich High School on left field.**
17 Q. Did anything unusual happen after
18 practice that day?
19 **A. Yes.**
20 Q. Could you describe what happened?
21 **A. Well, it was like any other football**
22 **practice, but it kind of ended up bad. Well, first**
23 **I went to the school. I was running a bit late for**
24 **practice so, like --**
25 Q. And, A█████, I'm just going to stop real

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1 is going to swear you in. You need to raise your
2 right hand and face her.
3
4
5 A█████ M█████
6 being produced as a witness on behalf of the
7 plaintiff, was duly sworn on his oath and testified
8 as follows:
9
10 THE COURT: So, A█████ come on over here.
11 There's a little gate in front of that chair. Why
12 don't you just let yourself in and have a seat.
13 That's good.
14 Go ahead.
15
16 DIRECT EXAMINATION BY MS. BAUGES:
17 Q. Could you please state your name and
18 spell it for the record. Just your last name.
19 **A. M█████**
20 Q. Okay. Now, go ahead and state your full
21 name?
22 **A. A█████ D█████ A█████ M█████**
23 Q. How old are you, A█████?
24 **A. I'm 18.**
25 Q. Okay. How old were you on October 22nd,

40

1 quick. I want to direct your attention to after
2 football practice.
3 **A. After football practice.**
4 Q. Okay?
5 **A. Okay.**
6 Q. Did anything unusual happen after
7 football practice?
8 **A. Yes. I got a hanger shoved up my rectum.**
9 Q. Okay. Do you know who shoved the hanger
10 up your rectum?
11 **A. Yes.**
12 Q. And how do you know that?
13 **A. Because while it was happening, I looked**
14 **back, and I could tell. And I know the people that**
15 **it was happening with.**
16 Q. So when you looked back -- well, let me
17 ask you. You said you got a hanger shoved up your
18 rectum?
19 **A. Yes.**
20 Q. Can you describe that in a little bit
21 more detail?
22 **A. Well -- well --**
23 Q. Take your time.
24 **A. All right. Well, after practice I was in**
25 **the locker room, and one of my friends, he told me**

42

1 to come here, and I went over to him and gave him a
2 hug. He told me to give him a hug. He had his
3 hands out like he was going to give me a hug. And I
4 gave him a hug, and he signaled for one of my other
5 friends to come over, and he stuck a hanger up my
6 butt. And then, like, he forced it in, and then
7 another kid came over and kicked it in. And then he
8 pulled it out, and it was bleeding.
9 And I didn't tell until after it
10 happened, the day after it happened, because one of
11 my little brothers said something to my parents, and
12 they noticed.
13 Q. And let me stop you right there. I'm
14 going to go back to the hanger. So you previously
15 testified you looked over your shoulder. Who did
16 you see over your shoulder?
17 A. A [REDACTED] was (unintelligible.) I hugged
18 A [REDACTED] and then T [REDACTED] he shoved it up there, and I
19 saw him. Then, like, I fell into my friend's arms,
20 T [REDACTED] H [REDACTED]
21 Q. And let me stop you right there again,
22 because I want to focus on what you just told me.
23 A. Okay.
24 Q. So you said a person named -- it was a
25 person named T [REDACTED]?

43

1 Q. Okay. Okay. When you say "it hit," what
2 do you mean it hit?
3 A. It hit the side, like the inside, and
4 then it got shoved in, and I screamed. And then it
5 got kicked in deeper by John Howard.
6 Q. Was there a difference in force between
7 when it was initially inserted and what you describe
8 as the kicking?
9 A. What do you -- I don't --
10 Q. That was a bad question. Could you feel
11 -- well, let me ask this: You said the first time
12 it went in, and I mean actually went up your anus --
13 A. Yes.
14 Q. -- you looked back, and you identified
15 that that was T [REDACTED] correct?
16 A. Yeah.
17 Q. Okay. And then you said you felt it get
18 pushed -- or, excuse me, kicked deeper in?
19 MR. WOOD: Objection. She's leading. The
20 function of direct is not --
21 THE COURT: She's restating the witness's
22 testimony --
23 MR. WOOD: -- to repeat the testimony.
24 THE COURT: -- and I haven't heard the
25 question.

45

1 A. Yeah.
2 Q. Do you see that person in the courtroom
3 today?
4 A. Yes.
5 Q. Could you point to where he's seated and
6 pick out an article of clothing that he's wearing?
7 A. Blue tie, first row, the first --
8 Q. Do you want to go ahead and point to
9 where he is. Blue tie?
10 A. Yeah.
11 THE COURT: The record will reflect
12 identification of the defendant.
13 MS. BAUGES: Okay.
14 BY MS. BAUGES:
15 Q. Now, I want to go into a little more
16 detail, and I apologize.
17 A. That's all right.
18 Q. So you said -- so you felt an object go
19 up your rectum?
20 A. Yes.
21 Q. Okay. When you very first felt that
22 object touch your skin, did it go all the way up
23 your rectum or was there a pause or --
24 A. There was -- it hit, and then it got
25 shoved deeper in.

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1 MR. WOOD: Judge -- and I see this technique
2 all the time, and I want to lodge an objection to
3 it. I know that it's local practice to let the
4 lawyer go back over and repeat all the -- she's just
5 buttressing her witness. I object to it. It's a
6 violation of due process of law. The prosecutor is
7 testifying in this case, and I strongly object to
8 what is local practice. Thank you.
9 THE COURT: Objection noted. It's a
10 restatement of testimony in anticipation, I hope, of
11 a question.
12 BY MS. BAUGES:
13 Q. And then you testified that John kicked
14 it further in. And how did you know that, that it
15 was John?
16 A. Because I looked behind me again. I fell
17 forward, and then I looked behind me again to see
18 what was happening, and it was John kicking it in
19 deeper and deeper. And I turned around again, and I
20 landed in my friend's arms.
21 Q. Okay. How did you feel when this
22 happened?
23 A. Pretty upset and --
24 Q. How did you physically feel when this
25 happened?

46

1 MR. WOOD: Excuse me?
2 Q. How did you physically feel when this
3 happened?
4 MR. WOOD: Thank you.
5 **A. I just -- I felt really bad, a little bit**
6 **betrayed, but -- and confused at the same time.**
7 Q. Okay. So you've just expressed emotions.
8 How did you physically feel? How did your body
9 feel?
10 **A. Terrible.**
11 Q. Could you explain that a little bit more?
12 **A. Pain that I have never felt took over my**
13 **body. It just hurt a lot, and -- but I kept it to**
14 **myself.**
15 Q. Did you make --
16 **A. I screamed, but afterwards, I kept it to**
17 **myself.**
18 Q. A [REDACTED] did you want this to happen?
19 **A. Never.**
20 Q. Did you give permission for this to
21 happen?
22 **A. No, I did not.**
23 MS. BAUGES: No further questions, Your Honor.
24 THE COURT: Mr. Wood.
25 MR. WOOD: May I approach the drawing board

47

1 THE COURT: There you go. Great.
2 BY MR. WOOD:
3 Q. That's great, A [REDACTED]. Would you start
4 out by drawing the outline of the locker room with
5 the stalls, with the benches the way it was on
6 October the 22nd, the day you're telling us about.
7 And draw it big so it fills that whole sheet of
8 paper. Okay?
9 **A. Sure.**
10 Q. Thank you.
11 THE COURT: Take your time, A [REDACTED]. If that's
12 -- if you got it wrong, go ahead and start over.
13 MR. WOOD: No big hurry, A [REDACTED]. The judge
14 will take it out on me if it takes too long.
15 THE WITNESS: You just want me to draw what it
16 was like or just --
17 BY MR. WOOD:
18 Q. Yeah, I want to -- you know, I know,
19 like, there's shower stalls and benches and lockers.
20 I want a complete picture of the floor layout with
21 all that stuff in it. Does that make sense?
22 **A. Yeah.**
23 Q. Okay.
24 **A. Okay.**
25 Q. You got it?

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1 again?
2 THE COURT: You may.
3
4 CROSS EXAMINATION BY MR. WOOD:
5 Q. A [REDACTED], is it okay if I call you A [REDACTED]?
6 **A. Yeah.**
7 Q. That I call you by your first name?
8 **A. Yeah.**
9 Q. Would you come down off the witness stand
10 and approach that drawing board that I put out
11 there.
12 **A. Okay.**
13 Q. And there's some markers up on the
14 judge's bench right behind your left shoulder.
15 THE COURT: In this little basket, A [REDACTED]
16 MR. WOOD: You can move those down where
17 they're closer. Would you angle that drawing board
18 a little bit towards -- more towards me so I can
19 see.
20 Can you see it okay, Judge?
21 THE COURT: I'm fine.
22 MR. WOOD: How about that? Is that okay?
23 THE COURT: That's not so good.
24 MR. WOOD: Put it back a little more towards
25 him.

48

1 **A. I think so.**
2 Q. A [REDACTED] before I forget, will you --
3 THE COURT: Hold on. Hold on, Mike, until I
4 take care of this. Go ahead.
5 BY MR. WOOD:
6 Q. A [REDACTED] before I forget, will you please
7 write in the upper left-hand corner there "A [REDACTED]
8 4/22/16." Okay. You've drawn us a floor plan,
9 A [REDACTED] right?
10 **A. Yeah.**
11 Q. Is that the room that the things you told
12 the judge about happened to you in?
13 **A. Yes.**
14 Q. Okay. Would you please -- have you ever
15 drawn a diagram of that room before?
16 **A. No, I haven't.**
17 Q. Nobody -- no lawyer's asked you to make
18 them a picture; huh?
19 **A. No.**
20 Q. Would you please -- you have described
21 that at some point a guy named -- what's that guy's
22 first name that asked you for the hug?
23 **A. A [REDACTED] H [REDACTED]**
24 Q. A [REDACTED]?
25 **A. Yeah.**

50

1 Q. Would you please put an "H" for where
2 A [REDACTED] was when he asked for the hug. Now, you've got
3 him next to that --
4 **A. Table.**
5 Q. It's a table, but it's made up of
6 benches, huh?
7 **A. Yeah. Of benches, yeah.**
8 Q. So is he standing or sitting, A [REDACTED]?
9 **A. He's standing.**
10 Q. He's standing, and you think he asked you
11 -- where were you? Where did you start out?
12 **A. I came from the entrance, and then I --**
13 Q. Where was he when he asked for the hug --
14 or where were you when he asked --
15 **A. I was right here.**
16 Q. Put an "A1" where you were when he asked
17 for the hug?
18 **A. A what?**
19 Q. A1.
20 **A. A1?**
21 Q. Yes. So you're down at the other end of
22 that table made out of benches; right?
23 **A. Yeah.**
24 Q. So do you walk up to H [REDACTED]?
25 **A. He had his arms out.**

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1 making these finger movements, did you notice where
2 T [REDACTED] W [REDACTED] was?
3 **A. He was behind me.**
4 Q. Where? Could you put a "T1" where he
5 was.
6 **A. But he walked up to there.**
7 Q. Up to where? Put a "T1" where he walked.
8 THE COURT: So then I'm -- A1 is for where
9 A [REDACTED] was at the point in time --
10 MR. WOOD: Right.
11 THE COURT: -- that the --
12 MR. WOOD: The gesture --
13 THE COURT: -- young man asked him --
14 MR. WOOD: -- took place, and now I'm asking
15 where was T [REDACTED] when the gesture took place.
16 THE COURT: Well, let's clarify gestures.
17 BY MR. WOOD:
18 Q. The gesture you construed as a signal --
19 THE COURT: Thank you.
20 Q. -- by A [REDACTED] took place, where was T [REDACTED]?
21 Would you put a "T1" there.
22 **A. So I walked up -- A [REDACTED] was right there.**
23 **T [REDACTED], right here, T1. But when I walked this**
24 **way --**
25 Q. Put a "T1" there.

53

1 Q. And so you walked up to him. You walked
2 down the benches to where he's standing, and your
3 testimony was at some point H [REDACTED] -- can I call
4 him A [REDACTED] instead of H [REDACTED]?
5 **A. Yeah.**
6 Q. Is that okay with you?
7 **A. Yeah, definitely.**
8 Q. A [REDACTED] -- you think he signaled. What
9 makes you think he signaled?
10 **A. Because he's like this.**
11 Q. Could you do that for us one more time.
12 **A. Hug, signal.**
13 Q. And you're standing erect and moving your
14 fingers as if he's beckoning you to come closer;
15 true?
16 **A. Yes.**
17 Q. Is that what he was doing?
18 **A. Yes.**
19 Q. Is that what you construed as signalling
20 somebody?
21 **A. Yes.**
22 Q. And is there anything else he did that
23 you construed as some kind of signal?
24 **A. No, sir.**
25 Q. So at the time you say you noticed him

52

1 **A. -- that's when he signaled for him to**
2 **come that way.**
3 Q. And could you see -- you know who John
4 Howard was?
5 **A. Yeah.**
6 Q. Did you see where Howard was?
7 **A. I think he was off to the side.**
8 Q. I'm not asking what you think, A [REDACTED].
9 We're under oath in a courtroom, and I've got to ask
10 you are you sure enough to tell me under oath. I've
11 got to push for that. Are you sure enough to
12 testify under oath where Howard was when this thing
13 got rolling?
14 **A. I don't know where he was once he was --**
15 Q. So you go up to A [REDACTED]?
16 **A. Yes.**
17 Q. Am I right about that?
18 **A. Yeah.**
19 Q. And A [REDACTED] -- it's your testimony that A [REDACTED]
20 gave you a hug?
21 **A. Yes.**
22 Q. Right?
23 **A. Yeah.**
24 Q. And can you tell us which way you were
25 facing when A [REDACTED] gave you a hug?

54

1 **A. This way.**
2 Q. You were facing A? **A. Yeah. He was this way, and I was this**
3 **way.**
4 Q. Now, on that wall you've drawn some
5 oblong --
6 **A. That's the showers.**
7 Q. Okay.
8 **A. I didn't know at the time if you wanted**
9 **them.**
10 Q. I know what they were. I just wanted to
11 make it clear for the record. So you've got some
12 rectangles with some little dangly things hanging
13 from --
14 **A. Shower hangers. The shower faucet thing.**
15 Q. That's the place where the water comes
16 out of. Okay. So you're not facing the showers,
17 are you, when you hug A?
18 **A. No.**
19 Q. You're facing the right side of your
20 diagram, aren't you?
21 **A. Well, he was -- it feels like if I was at**
22 **-- if I'm me and you're A it's just like this.**
23 Q. And then you approach A and --
24 **A. I approached him.**

55

1 right?
2 **A. It was --**
3 Q. It's just a yes or no question. Yes, I
4 recognize it as a plastic hanger or, no, I didn't.
5 **A. No.**
6 Q. Why not?
7 **A. Because it felt -- it didn't feel**
8 **plastic, sir.**
9 Q. Okay. The -- it was the hook end that
10 was placed --
11 **A. No.**
12 Q. -- between your buttocks, wasn't it?
13 **A. No.**
14 Q. And you're emphatic on that. You're
15 really --
16 **A. Yes.**
17 Q. -- shaking your head at me as you tell me
18 that.
19 **A. Yes.**
20 Q. So you're sure of that?
21 **A. Yeah.**
22 Q. What part of the hanger did you think was
23 shoved between your buttocks?
24 **A. The sides, not the hanger part. It did**
25 **not hook.**

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1 Q. -- and you guys hug?
2 **A. Yes.**
3 Q. And while you're hugging, does anything
4 happen?
5 **A. A hanger got shoved up my butt. That's**
6 **one thing.**
7 Q. A hanger?
8 **A. A hanger.**
9 Q. Now, you have your back to whoever is
10 shoving that hanger in your butt, don't you?
11 **A. Yeah, but I do turn around.**
12 Q. And you're facing A when it's placed
13 between your buttocks, aren't you?
14 **A. Yes, but in the process, I (inaudible.)**
15 Q. And when you look back, the hanger is
16 already between your buttocks, isn't it?
17 **A. Yes.**
18 Q. And you know what kind of hanger it is,
19 don't you?
20 **A. (No audible response.)**
21 Q. You know it's a plastic hanger, don't
22 you?
23 **A. It --**
24 Q. I mean, when that hanger went up between
25 your buttocks, you realized it was a plastic hanger;

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1 Q. That hanger -- the coat hangers I've
2 seen, A come down both sides, and then they
3 have kind of a rounded end --
4 **A. Yeah.**
5 Q. -- on both ends. Is it one of those ends
6 that you're talking about?
7 **A. Can I draw it for you?**
8 Q. Huh?
9 **A. Or do you just want --**
10 Q. There's room -- there seems to me to be
11 room at the bottom of that. Draw a solid line
12 underneath your diagram and then draw a picture of
13 the hanger. Okay. And draw it all across the page
14 so it divides them. Good deal. Thank you. Now
15 draw the hanger.
16 **A. The hanger is like this. It goes down**
17 **like this. Messed up. But this part, sir. Longer**
18 **than that. That part.**
19 Q. So it's those -- the tips of the shoulder
20 part that you're saying was placed --
21 **A. Yes.**
22 Q. And you're saying that you think it was
23 placed up your rectum or anus?
24 **A. Yes.**
25 Q. Am I hearing you right about that?

58

1 **A. Yes.**
 2 Q. How were you dressed at the time this
 3 happened?
 4 **A. I was in the middle of getting dressed in**
 5 **some of my clothes.**
 6 Q. So what clothes --
 7 **A. I had boxers on.**
 8 Q. -- did you have on? Excuse me?
 9 **A. I had -- it was just boxers and a shirt.**
 10 Q. And you're sure you had boxers and a
 11 shirt on?
 12 **A. I did, yes.**
 13 Q. And that hanger was shoved up between
 14 your buttocks while you had boxers on?
 15 **A. Yes.**
 16 Q. How was that -- how could that happen,
 17 A [REDACTED] Weren't the boxers solid?
 18 **A. It was forced up there.**
 19 Q. And the boxers were on prior to it being
 20 forced up there; correct?
 21 **A. Yes.**
 22 Q. And they remained on throughout this;
 23 correct?
 24 **A. Yes.**
 25 Q. And --

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1 manager and he -- he was there in the -- but he told
 2 my parents. And once my parents found out, they
 3 were crying and everything, and they came to me and
 4 asked me. I didn't tell. But they asked me the
 5 next day. They're like, "A [REDACTED], did you get a
 6 hanger shoved up your butt?" I'm like, "Yes." I
 7 told them that.
 8 Q. So you first told your mom about the
 9 wedgie; right?
 10 **A. Yes.**
 11 Q. And you told her about that, and you went
 12 to school. And did you actually go in with her to
 13 the principal to tell the principal how that
 14 happened?
 15 **A. I think so.**
 16 Q. You're not sure?
 17 **A. Not sure.**
 18 Q. But after you told the principal about
 19 the wedgie or she did or whoever did that, you're
 20 sure you told your mom about it?
 21 **A. I told my mom the next day.**
 22 Q. And your dad?
 23 **A. And my dad and my brother, my older**
 24 **brother.**
 25 Q. Your mom came back to you that morning,

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1 **A. It was my ripped boxers, though, from the**
 2 **wedgie before practice.**
 3 Q. And you're sure of that?
 4 **A. Yes.**
 5 Q. And you're sure that it was not the hook
 6 end of that?
 7 **A. No. Because the hook would have caught,**
 8 **and if he ripped, it would have really done really**
 9 **big damage, sir.**
 10 Q. Because you told people about what had
 11 happened to you, didn't you? Didn't you, A [REDACTED]?
 12 **A. Yes, I did.**
 13 Q. And you first told Mr. Hardcastle what
 14 had happened to you, didn't you?
 15 THE COURT: May the witness be seated?
 16 MR. WOOD: Excuse me, Judge?
 17 THE COURT: May the witness be seated?
 18 MR. WOOD: I would like him --
 19 BY MR. WOOD:
 20 Q. Well, go ahead and retake the witness
 21 stand if you don't mind coming down again, A [REDACTED]
 22 Okay. Let me pull that thing out of your way.
 23 But you didn't tell anybody about this
 24 happening until the next morning, did you, A [REDACTED]?
 25 **A. Yes. Well, my little brother, his**

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1 the day you went back to school, that very next day,
 2 and asked you about the coat hanger, didn't she?
 3 **A. Yes, she did.**
 4 Q. And you made a statement to her about the
 5 coat hanger?
 6 **A. Yes.**
 7 Q. She wasn't recording or taking notes,
 8 obviously?
 9 **A. Not that I know of.**
 10 Q. And did she take you back in to talk to
 11 Mr. Hardcastle?
 12 **A. That day after that happened, I left to**
 13 **the hospital --**
 14 Q. Let me just focus on this one question.
 15 I'm asking after you told your mom, did she take you
 16 back in to tell Mr. Hardcastle?
 17 MS. BAUGES: Your Honor, I would object to the
 18 form. He said take him back in, and I think A [REDACTED]
 19 testified previously that he wasn't sure if he went
 20 the first time, so I think it's a little confusing.
 21 BY MR. WOOD:
 22 Q. Did you go --
 23 THE COURT: Clarify the question, please.
 24 Q. Did you go in and see Mr. Hardcastle
 25 after you told your mom about the coat hanger?

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1 **A. I can't remember, sir.**
2 Q. No idea?
3 **A. No.**
4 Q. But you did eventually talk to
5 Mr. Hardcastle, didn't you?
6 **A. Yes, I did.**
7 Q. And you told Mr. Hardcastle about the
8 hug; right?
9 **A. Yeah.**
10 Q. And you told Mr. Hardcastle that you were
11 sure it was a metal hanger; right?
12 **A. I can't remember what we talked about.**
13 Q. Now you can't remember what you talked
14 about?
15 **A. I can't remember what I told him, sir.**
16 Q. You do know you were being extra careful
17 to be accurate, though; right?
18 **A. Yes, I know.**
19 Q. And were you accurate, to the best of
20 your knowledge, that day?
21 **A. Yes.**
22 Q. Didn't you tell him that you were sure it
23 was a metal hanger?
24 MS. BAUGES: Objection, Your Honor. I think
25 this is getting into hearsay, asking the victim what

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1 out?
2 **A. T [REDACTED]**
3 Q. And you also told Mr. Hardcastle that you
4 had bleeding from your anus after that coat hanger
5 was taken out, didn't you?
6 **A. Yes, I did.**
7 Q. That afternoon, after you had your
8 discussion -- that first discussion with
9 Mr. Hardcastle, you were taken to St. Luke's
10 Hospital in Jerome, weren't you?
11 **A. Yeah.**
12 Q. And you were interviewed by a doctor at
13 St. Luke's Hospital, weren't you?
14 **A. I was -- yeah, I was interviewed. I was**
15 **asked questions by -- yes.**
16 Q. And you were careful to tell that doctor
17 the truth?
18 **A. Yes.**
19 Q. And you have been allowed to read this
20 report?
21 **A. Whose report?**
22 Q. The doctor who saw you, Dr. Brian Johnson.
23 **A. I've never read them.**
24 Q. You haven't seen the report from Brian
25 Johnson?

65

1 he said in making an out-of-court statement.
2 MR. WOOD: It's hearsay? They've been putting
3 in hearsay all afternoon.
4 THE COURT: I'm going to allow the question.
5 MR. WOOD: Does he know -- thank you.
6 BY MR. WOOD:
7 Q. Do you want to try the question again,
8 A [REDACTED]
9 **A. Yeah. (Unintelligible.)**
10 Q. I'm just asking you again --
11 **A. Yeah, I know.**
12 Q. -- about telling Mr. Hardcastle that you
13 were sure it was a metal hanger.
14 **A. Yes.**
15 Q. And you did tell him that; right?
16 **A. Yeah.**
17 Q. And you were trying to be accurate as
18 best you could; right?
19 **A. (No audible response.)**
20 Q. Excuse me?
21 **A. Yes.**
22 Q. When you talked to Mr. Hardcastle,
23 though, you weren't sure who took it out, were you?
24 **A. I knew who took it out.**
25 Q. Who did you tell Mr. Hardcastle took it

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1 **A. No.**
2 Q. But you do know that St. Luke's is the
3 hospital you were at?
4 **A. Yes.**
5 Q. You know you were there on October 23rd
6 of the year 2015, the day after you say this
7 happened?
8 **A. Yes.**
9 Q. And you do know that you were attempting
10 to be totally accurate in what you told the doctor;
11 right?
12 **A. Yes.**
13 Q. I'm handing you what's been marked as
14 Defendant's Exhibit C, A [REDACTED] You ever see that
15 before?
16 **A. No.**
17 **(Inaudible discussion between counsel and**
18 **Court.)**
19 THE COURT: We can do it out here.
20 MS. BAUGES: You want to do it out here?
21 THE COURT: Yeah. So Mike is moving for the
22 admission of a --
23 MR. WOOD: Defence C.
24 **(Inaudible discussion between counsel and**
25 **Court.)**

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1 MS. BAUGES: I actually think it's accurate
2 that it's self-authenticating, although I think Your
3 Honor does have discretion in terms of medical
4 information regarding hearsay at the preliminary
5 hearing. So for purposes of the preliminary hearing
6 only, I think you have the discretion, Your Honor.
7 THE COURT: I'm going to let it in, but then
8 it's going in --
9 MS. BAUGES: A sealed envelope, Your Honor.
10 THE COURT: Okay. In keeping with
11 (unintelligible.)
12 MR. WOOD: Thank you.
13 MS. BAUGES: And I apologize. Just real
14 quickly, is that the entire document? I didn't get
15 a chance to look at that. Counsel, is this the
16 entire document?
17 MR. WOOD: I tried to. Let me check. Is it
18 complete? Was that complete?
19 MS. BAUGES: I believe it was.
20 BY MR. WOOD:
21 Q. A■■■■, would you mind re-approaching
22 this diagram.
23 A. Yeah.
24 Q. Thank you. A■■■■, were you facing the
25 right of that diagram or which direction were you

67

1 BY MR. WOOD:
2 Q. H is where A■■■■ is? Am I getting that
3 right?
4 A. Yes.
5 Q. Okay. So you're facing the H at the time
6 that coat hanger goes between your buttocks;
7 correct?
8 A. Yes.
9 Q. And you're sure of that?
10 A. Yes.
11 Q. What do you do when you feel the coat
12 hanger go between your buttocks?
13 A. Scream.
14 Q. Okay.
15 A. (Unintelligible.)
16 Q. Anything else?
17 A. Mostly scream.
18 Q. Okay. Did you --
19 A. Fell into my friend's arms.
20 Q. Did you hear anybody else say anything?
21 Did you hear T■■■■ say something?
22 A. I was in too much pain, sir.
23 Q. And did you hear John R■■■■ say anything?
24 A. John?
25 Q. Right.

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1 facing when you felt that hanger go between your
2 buttocks?
3 A. Same way I'm standing now.
4 Q. Excuse me?
5 A. Same way I'm standing now. Facing that
6 way, and he was in front of me.
7 Q. Who was in front of you?
8 A. A■■■■.
9 Q. A■■■■ was it in front of you. And which
10 way were you facing when that hanger went between
11 your buttocks?
12 A. I was facing the same way, but I --
13 Q. Okay. We're not in the same room, so
14 I've got to --
15 A. (Unintelligible) the same room.
16 Q. Were you facing the lockers?
17 A. I was facing to the junior high. I was
18 facing straight (unintelligible.)
19 Q. And is that facing the lockers on the
20 wall? You're facing A■■■■?
21 A. Yes, I'm facing A■■■■.
22 Q. And you're facing A■■■■--
23 MR. WOOD: Can I approach the witness just to
24 get --
25 THE COURT: Sure.

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1 A. John --
2 Q. Was he in the room?
3 A. John Howard, you mean?
4 Q. No, John R■■■■.
5 A. John R■■■■?
6 Q. Maybe I've got the first name wrong.
7 THE COURT: S■■■■.
8 MR. WOOD: S■■■■ R■■■■ You're right.
9 THE WITNESS: No, I didn't hear him say
10 anything.
11 BY MR. WOOD:
12 Q. And you told us you didn't hear T■■■■
13 say anything. Am I remembering that right?
14 A. No.
15 Q. It's a lawyer thing. When you answer
16 that question no, it makes it sound like, no, he did
17 something.
18 A. Oh.
19 Q. Did T■■■■ say anything that you heard
20 right when that coat hanger went between your
21 buttocks?
22 A. No, I don't remember hearing anything.
23 Q. Okay. How about John Howard?
24 A. No.
25 Q. How long was the coat hanger between your

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1 buttocks by the first time you felt a kick on that
 2 hanger?
 3 **A. About a second, a few seconds until it**
 4 **got -- until it penetrated.**
 5 Q. Now, your -- is it your testimony that
 6 your boxers were still up?
 7 **A. Are still what?**
 8 Q. Still up.
 9 **A. Yes, but they are ripped.**
 10 Q. They're ripped in back?
 11 **A. Yes.**
 12 Q. But they stay up throughout this?
 13 **A. Yes.**
 14 Q. You're sure of that?
 15 **A. Yes.**
 16 Q. And Howard was able to kick the coat
 17 hanger; right?
 18 **A. (No audible response.)**
 19 Q. And did you stay -- well, where were you?
 20 Put a -- what number are we up to, A[REDACTED]?
 21 **A. 4.**
 22 Q. A[REDACTED] 4. Put an "A[REDACTED] 4" where you
 23 were standing when you felt that first kick.
 24 **A. A[REDACTED] 4?**
 25 Q. Yeah, if you don't mind. So, A[REDACTED] if

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1 **A. Yes, I did.**
 2 Q. What was your friend's name?
 3 **A. T[REDACTED] H[REDACTED]**
 4 Q. And the coat hanger was already withdrawn
 5 from between your buttocks, wasn't it?
 6 **A. Once I was in his arms, it was yanked**
 7 **out.**
 8 Q. And who do you say yanked it out?
 9 **A. John.**
 10 Q. Excuse me?
 11 **A. T[REDACTED]**
 12 Q. Your testimony is that T[REDACTED] pulled the
 13 coat hanger out from between your buttocks; is that
 14 right?
 15 **A. Yes.**
 16 Q. And how long total would you say that
 17 coat hanger was between your buttocks?
 18 **A. About 3 seconds.**
 19 Q. About 3 seconds?
 20 **A. Yeah. It was stuck there.**
 21 Q. Excuse me?
 22 **A. It was stuck there.**
 23 Q. And how far from the sinks were you when
 24 you fell into T[REDACTED]'s arms?
 25 **A. About from me to -- a little bit more**

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1 I'm seeing that, you've got yourself all the way
 2 down at the end of that table made out of benches;
 3 right?
 4 **A. Yeah, but my drawing's not very good, but**
 5 **I was close -- pretty close to the showers.**
 6 Q. And how far would you say between that
 7 table and the showers?
 8 **A. Is that a table?**
 9 Q. That's all right.
 10 **A. Did I spell it right?**
 11 Q. Don't worry about it. I withdraw it.
 12 It's not that important.
 13 **A. Okay.**
 14 Q. I withdraw the question. Did you move
 15 from that A[REDACTED] 4? Did you go anywhere?
 16 **A. Well, after A[REDACTED] was done holding me, I**
 17 **-- after I got shoved, he let go. And then I turned**
 18 **around, and that's where my friend was.**
 19 Q. In which direction was your friend?
 20 **A. He was behind me. He was this way.**
 21 Q. And --
 22 **A. And once the hanger got shoved up, I**
 23 **jumped, and I, like, fell that way into his arms.**
 24 Q. You fell into his arms right there in the
 25 locker room, huh?

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1 **closer, but almost from me to you.**
 2 Q. But slightly closer than you and I are
 3 right now, huh?
 4 **A. Yeah.**
 5 MR. WOOD: Okay. And for the record, that's
 6 about -- is 20 feet okay for an approximation?
 7 THE COURT: Yeah.
 8 MR. WOOD: The judge says, yeah, it's okay.
 9 BY MR. WOOD:
 10 Q. In that locker room, you were never held
 11 down on the ground, on the floor, were you?
 12 **A. That was in the --**
 13 Q. Wait. In the locker room. Just that
 14 question.
 15 **A. No.**
 16 Q. No. Okay. So you were never held down
 17 on the floor in that locker room?
 18 **A. No.**
 19 Q. Okay. You say that you were actually
 20 bleeding from the rectum that night?
 21 **A. Yes.**
 22 Q. Were you bleeding immediately after?
 23 **A. Yeah. Right after it got yanked out, it**
 24 **started bleeding.**
 25 Q. Excuse me?

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1 **A. Right after it got yanked out, it started**
2 **bleeding.**
3 Q. Now, A [REDACTED] was asked by you to check out
4 how you were back there; right?
5 **A. Yeah.**
6 Q. And he did that, didn't he?
7 **A. (No audible response.)**
8 Q. A [REDACTED] looked between your buttocks for you
9 to tell you how you were doing, didn't he?
10 **A. He didn't ask me. He just --**
11 Q. But he did that?
12 **A. Yeah, he looked, and it was bleeding.**
13 Q. And at first he said --
14 **A. And it wasn't only A [REDACTED]. It was --**
15 Q. At first A [REDACTED] said, "Dude, you're a
16 mess"; right?
17 **A. No.**
18 Q. But the last thing A [REDACTED] said to you is,
19 "Dude, you're fine"; right?
20 **A. No.**
21 Q. You deny that emphatically. Do I
22 understand that right?
23 **A. Yeah.**
24 Q. You understand you're under oath?
25 **A. Yes, I do.**

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1 **A. Besides all the stuff that happened at**
2 **football camp. Besides that, I -- no problems**
3 **between us.**
4 Q. Okay. Now, you talked to people from the
5 attorney general's office, didn't you?
6 **A. Yes.**
7 Q. You talked to a professional factual
8 investigator called Officer Pittz, didn't you?
9 **A. I think so.**
10 Q. Okay. And you told him it was the hook
11 end of this hanger that was stuck in your -- between
12 your buttocks, didn't you?
13 **A. No. It was never the hook.**
14 Q. You deny telling him that; right?
15 **A. Yeah.**
16 Q. Am I hearing that?
17 **A. It was the --**
18 Q. So if he claims you told him that, he's
19 wrong about that, huh?
20 **A. Yes, sir.**
21 Q. And you told him there were two
22 insertions into your anus, didn't you?
23 **A. No, just one.**
24 Q. So if his affidavit says two, he's wrong
25 about what you told him; right?

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1 Q. A [REDACTED], I couldn't stand up any longer.
2 Go ahead and sit down. You deserve a break.
3 A [REDACTED] the first part of the next week,
4 they took you to a CARES interview. Do you remember
5 that one?
6 **A. I do.**
7 Q. And you told the CARES people that your
8 pants were pulled down before the coat hanger was
9 placed between your buttocks, didn't you?
10 **A. I can't remember.**
11 Q. Might you have told them that your pants
12 were pulled down?
13 **A. I --**
14 Q. This is the only time you had any kind of
15 incident that involved a coat hanger; right?
16 **A. Yes.**
17 Q. In fact, the only problems you'd had with
18 T [REDACTED] or even John Howard was you didn't like the
19 way they talked about girls in the locker room
20 sometimes; right?
21 **A. Yeah.**
22 Q. Excuse me?
23 **A. For the most part, yeah.**
24 Q. For the most part or that was it? Were
25 there other problems that you need to tell us about?

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1 **A. Yes.**
2 Q. Now, prior to telling your version to
3 Mr. Hardcastle, you had spoken to your mother;
4 correct?
5 **A. Correct.**
6 Q. And she was --
7 **A. Before --**
8 Q. -- quite upset?
9 **A. Before (unintelligible) -- before, yes.**
10 Q. You said she was crying?
11 **A. Yes.**
12 Q. Did she tell you that you had suffered a
13 very serious assault?
14 **A. Yes.**
15 Q. Did she tell you that?
16 MS. BAUGES: Objection, Your Honor. At this
17 point, I'm going to renew my objection as to
18 hearsay. He's asking about statements that were
19 made out of court.
20 MR. WOOD: It's not hearsay. It's
21 communicating with a witness. And I'm offering it,
22 obviously, not for the truth of the matter, but for
23 the impact it might have had on this witness's
24 testimony.
25 THE COURT: I will allow it for that purpose.

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1 BY MR. WOOD:
 2 Q. And your mother told you that she was
 3 going to notify Mr. Hardcastle of this coat hanger
 4 incident, didn't she?
 5 A. She said it was a bad incident, but --
 6 Q. And then she told you that she was going
 7 back in and notifying Mr. Hardcastle, didn't she?
 8 A. I don't think so, sir.
 9 Q. Does that mean that you are more sure
 10 that you went back in with her?
 11 A. (No audible response.)
 12 Q. Do you now think you went back in,
 13 A [REDACTED]
 14 A. It's kind of hard to remember everything.
 15 It was a long time ago.
 16 Q. Right.
 17 A. Plus I try to forget it.
 18 Q. So you're not sure still, huh?
 19 A. No.
 20 Q. Okay. A [REDACTED] when you went to the
 21 hospital, they took swabs of your anus, didn't they?
 22 A. Yes.
 23 Q. And did you -- were you ever shown a coat
 24 hanger and asked if that was the coat hanger?
 25 A. At the hospital?

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1 that next week and you were interviewed by the lady
 2 on videotape, remember that?
 3 A. The lady on the videotape?
 4 Q. Yeah. They were -- when you're in that
 5 little room and that lady's talking to you talking
 6 about wanting to be a chef and all that stuff,
 7 remember that one?
 8 A. No, sir.
 9 Q. Okay. But your mom sat in even when the
 10 investigator from the attorney general's office
 11 talked to you, didn't she?
 12 A. Was that --
 13 Q. Mr. Pittz.
 14 A. I don't know which one is Mr. Pittz, but
 15 I remember talking to an investigator.
 16 Q. From the attorney general's office?
 17 A. I think so.
 18 Q. And your mom was there for that too,
 19 wasn't she?
 20 A. Yes.
 21 Q. She sat in through the whole thing;
 22 right?
 23 A. I -- I don't know, sir.
 24 Q. You told us that when you felt that coat
 25 hanger between your buttocks, you got pretty upset;

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1 Q. Anywhere. Anywhere.
 2 A. No.
 3 Q. Has anybody ever shown you a coat hanger
 4 saying, "Is this the one, A [REDACTED]?"
 5 A. No. I just know.
 6 Q. Okay.
 7 (Inaudible conversation between counsel.)
 8 MS. BAUGES: Could we have a sidebar?
 9 (Discussion held off the record between
 10 Court and counsel.)
 11 MR. WOOD: Should I move D in? Is it in?
 12 THE COURT: I'm going to let D in under Rule
 13 5.1 of the Idaho Criminal Rules regarding
 14 preliminary hearings and lab reports.
 15 MR. WOOD: May I have one second?
 16 BY MR. WOOD:
 17 Q. A [REDACTED] at the time that you were at the
 18 hospital, your mom was there in the room; right?
 19 A. (Unintelligible.)
 20 Q. The time -- that first day after this
 21 incident, they took you to St. Luke's in Jerome,
 22 your mom sat in the examination room with you,
 23 didn't she?
 24 A. Yes.
 25 Q. And when you went to the CARES interview

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1 right?
 2 A. Yes.
 3 Q. It was very stressful; correct?
 4 A. (No audible response.)
 5 Q. Excuse me?
 6 A. Yes.
 7 Q. You've got to answer out loud. We're
 8 just running on a tape-recorder. That's our only
 9 record, A [REDACTED] Was it very stressful for you?
 10 A. Yeah.
 11 MR. WOOD: I've got to ask this lady's
 12 permission.
 13 (Inaudible discussion between counsel.)
 14 BY MR. WOOD:
 15 Q. A [REDACTED] when you feel high levels of
 16 stress, do you find it hard to record exactly what's
 17 going on, hard to remember the exact sequence of
 18 events?
 19 A. Sometimes.
 20 Q. You'll admit to sometimes but not always?
 21 A. No.
 22 Q. Events sometimes kind of jumble together
 23 when you're feeling high levels of stress?
 24 A. What do you mean?
 25 Q. I mean they become events that you

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1 remember, but it's very hard to place them in time
 2 as far as what came first, what came next, exactly
 3 where you're standing, that kind of stuff?
 4 **A. Something --**
 5 Q. The details, but --
 6 **A. But things that are important, a lot of**
 7 **the time I can remember.**
 8 Q. And you've always been able to do that
 9 over at Dietrich High; right?
 10 **A. I've always -- yes.**
 11 Q. Excuse me?
 12 **A. Yes.**
 13 Q. When you experience something under high
 14 stress, like you've told us this incident in the
 15 locker room had a lot of stress for you, later are
 16 you -- can people kind of tell you what happened and
 17 you go with their event, their version of events?
 18 **A. I've kind of stuck with mine.**
 19 Q. Do you -- doesn't the fact that you're
 20 all stressed out make you listen to the details of
 21 what other people tell you?
 22 **A. No.**
 23 Q. You don't think so?
 24 **A. (No audible response.)**
 25 Q. Excuse me?

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1 MR. WOOD: Judge, first I'd like to move this
 2 diagram in for demonstrative purposes.
 3 THE COURT: Same -- same -- same
 4 (unintelligible.)
 5 MS. BAUGES: Yes, Your Honor, same objection.
 6 Same limited request.
 7 MR. WOOD: And I'm on cross. Do you want
 8 (unintelligible.)
 9 MS. BAUGES: Yes, please.
 10 THE COURT: Okay. Any other questions,
 11 Mr. Wood?
 12 MR. WOOD: Just a sec. That concludes my
 13 cross, Judge. Thank you.
 14 THE COURT: Redirect.
 15 MR. WOOD: Thank you, A[REDACTED].
 16
 17 REDIRECT EXAMINATION BY MS. BAUGES:
 18 Q. I just have a few clarifying questions.
 19 If you wouldn't mind standing up just for a little
 20 bit. I have -- sorry. Can I have you move to the
 21 board. You were asked a question regarding: Is
 22 this the room this happened in? It looks to me like
 23 there are a couple of rooms there. Can you kind of
 24 just be a little bit more specific about which room
 25 it happened in?

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1 **A. No.**
 2 Q. And you're sure of that?
 3 **A. Yes.**
 4 Q. And you're telling this judge that A[REDACTED]
 5 never told you, "You're fine, Dude"? You're sure of
 6 that?
 7 **A. Yes.**
 8 Q. You understand you're under oath?
 9 **A. Yes, I do.**
 10 Q. How many times was that hanger kicked?
 11 **A. Multiple times.**
 12 Q. Multiple. Multiple can be two or ten.
 13 Was it ten times?
 14 **A. No.**
 15 Q. Was it two times?
 16 **A. About three or four.**
 17 Q. About three or four is your best --
 18 you're not really sure of that? Am I hearing you
 19 right? You're not sure how many times that hanger
 20 was kicked?
 21 **A. Three.**
 22 Q. You think three?
 23 **A. Yes.**
 24 Q. And you're sure of that?
 25 **A. Yeah.**

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1 **A. This is the room it happened in. This is**
 2 **-- these are -- well, there's three different rooms.**
 3 **There's this room. That's the locker room. Then**
 4 **there's the junior high locker room, and then**
 5 **there's a door which leads to (unintelligible.)**
 6 **There's a door that leads to the gym right through**
 7 **(unintelligible.) And then there's a door that goes**
 8 **-- and there's a door inside the locker room that**
 9 **goes here, and there's another door right there that**
 10 **leads to the basketball court.**
 11 Q. Okay. So you said -- the room that this
 12 happened in, can you just point it to one more time.
 13 Okay.
 14 MS. BAUGES: So can the record reflect that on
 15 this exhibit that will be entered, it's the big
 16 square?
 17 THE COURT: The record will reflect that
 18 that's the witness's testimony.
 19 MS. BAUGES: Go ahead and sit down.
 20 BY MS. BAUGES:
 21 Q. You got a few questions about the boxers,
 22 and you said, "It was the wedgie," and you were
 23 trying to explain that. Would you go ahead and
 24 explain what you were talking about there.
 25 **A. (No audible response.)**

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1 Q. You said your boxers were ripped?
2 **A. They were ripped.**
3 Q. Explain what happened.
4 **A. I got a power wedgie that ripped my**
5 **boxers.**
6 Q. When did this happen?
7 **A. This was before practice.**
8 Q. Okay. Who gave you the wedgie?
9 **A. It was T [REDACTED]**
10 Q. Okay. Now, I'm sure that it's common
11 vernacular, but could you just kind of explain what
12 you mean by super wedgie.
13 **A. A wedgie that it's -- it's a wedgie**
14 **that's so hard that it rips your underwear. They**
15 **pull so hard that it rips your underwear.**
16 Q. Okay. And how bad was your underwear
17 ripped?
18 **A. Pretty bad.**
19 Q. Could you please describe -- and I
20 apologize. Could you just get into more detail.
21 How did they look?
22 **A. Torn up.**
23 Q. Okay.
24 **A. I don't --**
25 Q. No, I completely understand. It was a

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1 know, replica of the locker room?
2 **A. From my memory.**
3 Q. From your memory, but, like, for example --
4 MS. BAUGES: May I approach the exhibit, Your
5 Honor?
6 THE COURT: You may. Can you see it, A [REDACTED]?
7 MS. BAUGES: I'll --
8 BY MS. BAUGES:
9 Q. Can you see it? A little bit? Okay. So
10 what are these?
11 **A. Those are benches.**
12 Q. Benches.
13 MS. BAUGES: Can the record reflect I'm
14 pointing to a long rectangle in the middle of the
15 big square room that we --
16 THE WITNESS: There's two benches
17 (unintelligible.)
18 BY MS. BAUGES:
19 Q. Right. And so this is one bench; right?
20 **A. Yes.**
21 Q. Okay. And so these are -- what are
22 these?
23 **A. Showers.**
24 Q. And they're three rectangles with little
25 lines and circles in them --

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1 bad question. Was it -- how much of your back side,
2 your bottom, your buttocks could you see because
3 your boxers were ripped, if you know?
4 **A. The back.**
5 Q. The back? What do you mean by "the
6 back"?
7 **A. The back of the boxers.**
8 Q. The whole back of the boxers?
9 **A. Not the whole back of the boxers. A big**
10 **portion of the back of the boxers. I think there**
11 **was a little bit on the front too that was ripped.**
12 Q. Okay. Would it help to use your hands?
13 **A. (No audible response.)**
14 Q. I'm trying to figure out how much of your
15 buttocks was exposed because of the rip in your
16 boxers.
17 **A. My butt was really exposed.**
18 Q. Okay.
19 **A. It was exposed to the point that the**
20 **hanger could actually penetrate that it was exposed.**
21 Q. Okay. One thing about this diagram, is
22 this, I'm going to say, to scale? Do you know what
23 that means, "to scale"?
24 **A. To exact.**
25 Q. Right, right. Is this an exact, you

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1 **A. Yes.**
2 Q. -- for the record.
3 **A. I didn't draw the door.**
4 Q. Okay. And that's fine. So when I mean
5 to scale, what I'm asking is so these benches versus
6 how -- the distance they are between these showers,
7 that's not -- is that exact?
8 **A. No.**
9 Q. No. Okay. Is that true of all of these
10 landmarks, I'll call them, showers --
11 **A. Yes.**
12 Q. -- benches?
13 **A. Yes.**
14 Q. Is that also true of where people are
15 standing in relation to these objects, not exact?
16 MR. WOOD: Objection. She's leading.
17 THE COURT: Can you rephrase the question?
18 MS. BAUGES: Sure.
19 BY MS. BAUGES:
20 Q. How accurate are -- for example, you've
21 put people in here, and you just testified that this
22 isn't to scale.
23 **A. I don't --**
24 Q. Is that --
25 **A. I don't know where everybody else was,**

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1 **but to scale, that's where everybody was.**
2 Q. Okay. And when I'm saying "to scale," I
3 mean exactly in terms of, you know, where --
4 MR. WOOD: It's asked and answered. He just
5 said that's where everybody was. Now she comes back
6 with another case. It's just more leading. It
7 shows dissatisfaction with the reply. I object to
8 it.
9 THE COURT: Sustained.
10 MR. WOOD: It's a standard --
11 THE COURT: Sustained.
12 MR. WOOD: -- prosecutor --
13 THE COURT: Sustained.
14 MR. WOOD: -- technique.
15 THE COURT: Sustained.
16 BY MS. BAUGES:
17 Q. Okay. And so getting back on the track,
18 this is where you were. Well, I won't restate your
19 testimony at this point, but -- oh, go ahead and sit
20 down. Sorry.
21 So in terms of angles, you know, where
22 people were facing and stuff, do you know -- well,
23 how good is your memory in terms of the exact
24 details in terms of the angles everyone was standing
25 at at the exact moments that these things were

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1 Could you elaborate on that. And do you know what
2 I'm talking about?
3 **A. Looked?**
4 Q. So you were asked a question regarding
5 somebody checked out your anus, and the question was
6 A did, and you said it was someone -- it wasn't
7 only A. Could you elaborate on that.
8 **A. It was almost the whole locker room.**
9 **There was a group of people in the locker room.**
10 Q. Okay.
11 **A. It was the people that were surrounding**
12 **me.**
13 Q. And you were asked a question about
14 problems with T and John, prior problems.
15 Could you tell us a little bit more about that.
16 **A. Like problems that I had with them?**
17 Q. Uh-huh.
18 **A. Well, at the -- for instance, at the**
19 **football camp, they were just humping everybody.**
20 **That was just a problem that I had with them. That**
21 **was just another problem, but besides that, we were**
22 **-- and the hanger thing, the wedgie thing. Besides**
23 **that, there was no really further problems.**
24 MS. BAUGES: Okay. No further questions, Your
25 Honor.

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1 happening?
2 **A. Pretty well.**
3 Q. Pretty well? Is it exact?
4 **A. The people that -- the three people, yes,**
5 **but --**
6 Q. Okay.
7 **A. The people I named, but not -- yeah.**
8 Q. Now, you said -- there was a question
9 about the seconds. There was a question about you
10 -- I'm sorry. You testified regarding the seconds
11 before it penetrated, and I think the question was
12 in relation to the first shoving in and then the
13 kicking, and so I just wanted to clarify. Did the
14 hanger penetrate when it was first shoved in?
15 **A. Once it was shoved in, it like -- it**
16 **happened fast, so --**
17 Q. Sure.
18 **A. -- it -- it might have moved around when**
19 **it was shoved in, but it was shoved in.**
20 Q. Okay. So it was shoved in?
21 **A. Yes.**
22 MR. WOOD: Objection. She's leading.
23 MS. BAUGES: I'll move on, Your Honor.
24 BY MS. BAUGES:
25 Q. You said it wasn't only A who looked.

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1 THE COURT: Thank you.
2 A thank you very much for your
3 testimony today. I know this hasn't been easy for
4 you. You can be excused now. Thank you.
5 THE WITNESS: Okay. Thank you.
6 MR. WOOD: Can I move that diagram in? I
7 think it's -- we're up to E now.
8 THE COURT: It's already in. We just need to
9 get it marked and put in the record. Deysi, take
10 this one as well and get it in an envelope and seal
11 it up.
12 Next witness.
13 MS. BAUGES: Your Honor, that's going to be
14 all the witnesses for the preliminary hearing.
15 THE COURT: Okay.
16 Mr. Wood, are you going to call any
17 witnesses?
18 MR. WOOD: The defense does not intend to call
19 witnesses at the prelim, Judge.
20 THE COURT: All right. Argument, then.
21 MS. BAUGES: Yes, Your Honor. Your Honor, the
22 State has to prove, as you're aware, a number of
23 elements: The date, October 22nd, 2015, on or
24 around. The witnesses have testified that was the
25 date.

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1 In the State of Idaho. Mr. R [REDACTED]
2 testified as to that.
3 The defendant, T [REDACTED] W [REDACTED] he was
4 identified by both witnesses.
5 Caused an object. That is a hanger. I
6 think the Complaint specifically says "coat hanger,"
7 but a hanger to penetrate the opening of A [REDACTED]
8 M [REDACTED]
9 Now, there were some discrepancies
10 brought out about the kind of hanger. Was it wire?
11 Was it plastic? Was it the hook? Was it the end?
12 THE COURT: Was it brown? Was it black?
13 MS. BAUGES: Was it brown? Was it black? If
14 you recall, A [REDACTED] said that it felt like the side,
15 and it felt like wire, but he never testified that
16 he saw it. And he said it felt like it wasn't the
17 hook because it didn't catch. And you heard
18 testimony from someone that actually saw the hanger
19 go in that said it was plastic. And a plastic
20 hanger probably wouldn't catch. So these details,
21 these: "Was it the side? Was it the hook? Was it
22 black? Was it brown?" they don't change the fact
23 that both witnesses said a hanger was shoved up
24 A [REDACTED]'s buttocks.
25 Now, S [REDACTED] was able to say it was shoved

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1 because there is a medical report the next day that
2 says, you know, certain things about whether or not
3 certain injuries were found, there is nobody here to
4 testify that therefore the logical conclusion is
5 that there was no penetration. That is nowhere in
6 the report. So those documents effectively tell the
7 Court nothing about the specific elements in this
8 case other than, perhaps, conjecture, but the State
9 has presented sufficient evidence to overcome that
10 conjecture.
11 For the purpose of sexual abuse, the
12 hanger was shoved up his anus and with enough force
13 that the victim was in pain, and you heard from
14 S [REDACTED] R [REDACTED] that the defendant was laughing. There
15 was physical maltreatment. Enough force that it was
16 with physical maltreatment. And how do we know the
17 purpose? Because when it happened, the defendant
18 was laughing is the testimony you heard today.
19 The penetration was against A [REDACTED]
20 M [REDACTED]'s will. He testified he didn't give
21 permission. He didn't want this to happen. And the
22 penetration was accomplished by the use of force.
23 Your Honor, that is inherent from the act itself
24 where a coat hanger hook was pushed with such force
25 that it got lodged in the anus of A [REDACTED] M [REDACTED]

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1 up there, and then hands off, and then when it was
2 kicked, it was kicked further in. Didn't go to the
3 side. Didn't go here. It was enough shoved in that
4 the kicks made it go in further and further, not
5 fall out, and that's important.
6 It's also important that A [REDACTED] testified
7 that it may have wiggled around, but it went in. It
8 penetrated him, and he screamed. He screamed, and
9 it hurt. That is substantial evidence to meet all
10 of those.
11 Now, I'm aware that certain things were
12 put into evidence regarding medical examinations the
13 day after, about lack of DNA on the particular
14 hanger that the State has as evidence, which was
15 collected -- well, I won't go there because that's
16 not in evidence, but there is nothing, however, in
17 the record that connects that to conclusions such
18 as: Is it possible that this could be the hanger
19 and because of the way it was collected or how long
20 it had been on the locker room floor or anything
21 like that that isn't possible that it's the same
22 hanger. And regardless whether or not that is the
23 particular hanger isn't the issue. We don't have to
24 prove which hanger it is.
25 The same thing with the medical. Just

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1 All of those elements have been shown to the
2 probable cause degree by the testimony that you have
3 here today, Your Honor. Thank you.
4 THE COURT: Mr. Wood.
5 MR. WOOD: Yes, Judge. The prosecuting
6 attorney ignores the fact that although her
7 witnesses are consistent on conclusions, they are
8 extremely inconsistent on how the events occurred.
9 In fact, they are not balanceable. One of those
10 guys is wrong. Either A [REDACTED] or R [REDACTED] diagramed a
11 different incident. She's got two totally
12 inconsistent witnesses.
13 A [REDACTED] says he's facing A [REDACTED] who R [REDACTED]
14 doesn't even include in the picture. R [REDACTED] has him
15 facing a completely different way, facing the shower
16 stalls.
17 A [REDACTED] I'm wearing shorts split up the
18 back. R [REDACTED] He is totally unclothed and getting
19 ready to get in the shower. Fell into T [REDACTED]'s arms,
20 T [REDACTED] H [REDACTED]. R [REDACTED]: No mention of H [REDACTED] He
21 was within 5 feet of the wash basin is when I was
22 leaving.
23 Did the thing get pulled out in 3 to
24 5 seconds? No. It was in there up to a minute. I
25 can't tell. He was absolutely in close proximity, 4

98

<p>1 to 5 feet of the wash basins by the time it gets 2 pulled out.</p> <p>3 The testimony presented by the prosecutor 4 in this case is so inherently conflicting as not to 5 prove an event. We know from A [REDACTED] that he 6 sometimes gets mixed up, but A [REDACTED] says this 7 supposed penetration lasted 3 to 5 seconds, not long 8 enough to determine whether there has actually been 9 penetration of his anus.</p> <p>10 You have seen the medical reports. They 11 were put in as evidence by the defense indicating 12 that the very next afternoon that Dr. I believe it's 13 Johnson says there's no obvious signs of trauma 14 here. There's no bruising on his skin. A [REDACTED] 15 claiming he's held by A [REDACTED]. There's no bruising of 16 tight holding, and there's no obvious signs of 17 trauma anywhere that are pointed out. You have no 18 evidence of an object that shows connection to 19 having been placed up this young man's anus.</p> <p>20 The State totally fails to corroborate 21 two totally inconsistent descriptions of this event, 22 irreconcilable descriptions. This is the 23 presentation of evidence that is legally inherently 24 conflicting and cannot be the basis for a bind over. 25 If the facts are here, the State has to continue to</p> <p style="text-align: center;">99</p>	<p>1 develop them through investigation, not just put on 2 inherently conflicting versions and argue that they 3 somehow justified that a crime was committed and 4 probably T [REDACTED] W [REDACTED] committed it.</p> <p>5 We don't even have a clear portrayal of a 6 crime being committed. You've got conflicting 7 descriptions of events in a high school locker room 8 where there was supposedly a bunch of people around 9 but just two people the State calls in. And you 10 have the object described totally inconsistently. 11 It was the hook end according to R [REDACTED]. He's sure 12 of that. It was the hanger end that's placed 13 between A [REDACTED]'s buttocks. A [REDACTED] in his diagram 14 where he lined off the bottom section, he describes 15 those shoulder sections. Those -- that's the part 16 that he felt between his buttocks and that he claims 17 was shoved up his anus showing no trauma, no 18 lacerations within 24 hours.</p> <p>19 This is inherently conflicting and does 20 not justify a bind over for felony trial. This is 21 why the State is allowed to refile these things. If 22 they can go out and put Humpty Dumpty back together 23 again, fine, but not with two witnesses out of a 24 bunch of people that were present in that room, not 25 with two witnesses who present inherently</p> <p style="text-align: center;">100</p>
<p>1 conflicting stories, not without totally devoid of 2 scientific corroborating evidence of penetration. 3 In fact, a totally normal finding by a doctor within 4 24 hours of the claimed events.</p> <p>5 If the Court seriously considers binding 6 over, I would ask that you strike from the bind over 7 the elements of for the purpose of sexual arousal, 8 gratification. I would ask that you totally strike 9 that it was achieved by duress or threats of 10 immediate harm or subsection (2) or (3) and (4) that 11 also do not apply. If it's to be bound over, let's 12 bind it over as what the State has presented today. 13 I would not -- I would ask the Court not to give 14 them this entire statute to shoot at when they have 15 to put Humpty Dumpty together again before trial.</p> <p>16 So the statute that is charged should be 17 substantially narrowed, if this young man is to be 18 sent to trial, and get rid of all this verbiage that 19 may apply in other cases but certainly don't apply 20 here in which there is a total lack of evidence 21 justifying a bind over. And, again, I'm referring 22 to the sexual arousal or gratification portion, the 23 threats of immediate or great bodily harm under 24 (1)(c), (2), (3), and (4). I would ask that those 25 be stricken from the bind over if you decide that</p> <p style="text-align: center;">101</p>	<p>1 this case is to be bound over. Thank you, Judge.</p> <p>2 THE COURT: Okay. Thank you. All right.</p> <p>3 Mr. W [REDACTED] is being charged under Idaho Code Section 4 18-6608 which states that:</p> <p>5 "Every person who, for the purpose of 6 sexual arousal, gratification or abuse, causes the 7 penetration, however slight, of the genital or anal 8 opening of another person, by any object, instrument 9 or device:</p> <p>10 (1) Against the victim's will by: 11 (A) Use of force or violence; or 12 (B) Duress; or 13 (C) Threats of immediate and great bodily harm, 14 accompanied by apparent power of execution." 15 Anyway, there's a not capable of giving consent 16 section.</p> <p>17 This is a preliminary hearing. Pursuant 18 to Rule 5.1 of the Idaho Criminal Rules, a finding 19 of probable cause is to be based upon substantial 20 evidence upon every material elements of the offense 21 charged. It goes on to talk about the hearsay 22 exceptions we've discussed.</p> <p>23 The evidence that's before the Court is 24 conflicting at least in terms of detail. As to the 25 essential elements, however, I think that the State</p> <p style="text-align: center;">102</p>

1 has met its burden at this stage that -- but I am
2 finding that there has not been any evidence of
3 purpose here, other than abuse, and it is by use of
4 force or violence. The others not being relevant.
5 The Court makes that finding based upon the
6 essential element of penetration being established
7 by -- most notably by A[REDACTED] and less so by
8 Mr. R[REDACTED]. Again, they differ in detail with regard
9 to who, what, and where precisely people were at any
10 particular moment, but the essence of their
11 testimony is similar, that Mr. W[REDACTED] inserted a
12 hanger -- I'm not certain what hanger or what part
13 of a hanger -- into the anal opening of
14 Mr. M[REDACTED] and for that reason I am going to send
15 it on to district court. Do we have a date?
16 THE CLERK: May 3rd.
17 THE COURT: May 3rd will be your initial
18 appearance, Mr. W[REDACTED]
19 MR. WOOD: Judge, I'm not sure about that
20 May 3rd date. Can I double-check that and get back
21 to the Court and counsel if there's a problem?
22 THE COURT: Yeah. What would be the next
23 date?
24 THE CLERK: May 17th.
25 MR. WOOD: And that could be -- May 3rd could

103

1 be fine, Judge. I just ask for a chance, some
2 flexibility to call back.
3 THE COURT: Ms. Bauges?
4 MS. BAUGES: That's fine, Your Honor.
5 MR. WOOD: Thank you.
6 THE COURT: All right. Thank you.
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8 (Recess.)
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104

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TRANSCRIBER'S CERTIFICATE

STATE OF IDAHO)
) SS
County of Jerome)

I, DENISE K. SCHLODER, do hereby certify:

That the above and foregoing
transcription was transcribed by me from digital
audio provided, and that the transcript is true and
correct to the best of my ability from the portions
of the proceeding that could be heard on the digital
audio, consisting of pages 1 through 104, inclusive.

I further certify that I have no interest
in the event of the action.

WITNESS my hand this 14th day
of July 2016.

Denise K. Schloder,
Transcriber

From: Piotrowski, Sandra
Sent: 06/21/2016 10:10 AM
To: [REDACTED]
Cc:
Subject: Dietrich Cases
Attachments:

Dear Ms. Williams,

Paul Panther asked me to contact you regarding your interest in the Lincoln County cases. It is my understanding that you wish to be kept informed of hearing dates, changes in case status etc.... The best way to stay updated on the cases is to use the VINE program. With VINE, you can sign up to be notified of all hearings and/or status changes in the cases. You can choose to be notified via email, phone or text. Sign up at www.vinelink.com. Go to Idaho and click on offenders with court cases and then you can search by name. T [REDACTED] W [REDACTED] (DOB [REDACTED]) and John R.K. Howard (9/25/97).

You can also get case information from the Idaho Repository, which is available to the public. You can search the repository at www.idcourts.us.

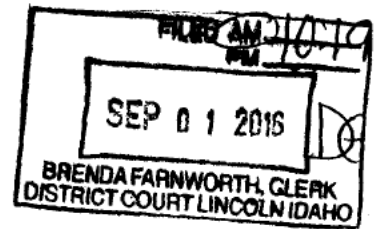
If you have any other questions at this time, please let me know. I would be happy to be your office contact person here at the AG's Office.

Sincerely,

Sandy Piotrowski
Idaho Hope Card Administrator
Victim/Witness Coordinator
Office of the Idaho Attorney General
PO Box 83720
Boise, ID 83720
([REDACTED]) [REDACTED]
toll-free [REDACTED]
Fax: (208) 854-8074

RR000924

From: Deysi Sandoval
Sent: 09/01/2016 11:16 AM
To: [REDACTED] Minyard, Catherine
Cc: Hemmer, Casey
Subject: W [REDACTED]
Attachments: W [REDACTED]----.pdf



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T ■■■■■ R ■■■■■ W ■■■■■,

Defendant.

Case No. CR-2016-213

ORDER TO DISMISS

The Court having heard the motion heretofore made in the case of *State v. T ■■■■■ R ■■■■■ W ■■■■■* by, Deputy Attorney General Casey J. Hemmer, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the charge of Forcible Penetration by Use of a Foreign Object, Felony is hereby dismissed WITHOUT prejudice.

DATED this 1 day of September 2016.

John K. Butler
District Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1 day of September 2016, I caused to be served a true and correct copy of the foregoing Order to Dismiss to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Fax: 208-854-8083

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

By: _____

Deputy Clerk

From: Keith Roark
Sent: 12/18/2016 2:05 PM
To: Hemmer, Casey
Cc: Panther, Paul; Lee Schlender ([REDACTED])
Subject: St. v. John Howard
Attachments:

Mr. Hemmer:

My clients, Shelly, Tim and M [REDACTED] are, to say the least, outraged over the plea agreement in the above entitled action and the comments attributed to you in the December 17, 2016 edition of the Twin Falls Times News. Because I am well aware of the fact that media reports of legal proceedings are often inaccurate, I have requested from Judge Stoker a transcript of the hearing in question so I can make an objective evaluation of your representations to the court. I am gravely concerned about the fact that, despite your assurances that you would keep me informed of all progress in both the T [REDACTED] W [REDACTED] and John Howard cases, I was not contacted in regard to the plea agreements in either case. Furthermore, although I could of course be mistaken, it is my understanding that there is a written plea agreement in the Howard and W [REDACTED] actions and my clients were never provided with a copy thereof.

You are quoted in the Times-News article: " 'We don't believe it's appropriate for Mr. Howard to suffer the consequences of a sex offender,' Hemmer said." I sincerely hope that is not what you said or what you actually think. A [REDACTED] has been in and out of mental institutions on a constant basis since the attack, has attempted suicide and is currently living in a controlled environment as a result of this attack and will likely "suffer the consequences of a sex offender" for the rest of his life. My clients tell me that you represented to them that you did not have enough evidence to convict either Howard or T [REDACTED] W [REDACTED] and this was the best you could do and "a done deal." I have practiced criminal law as both a prosecutor and defense attorney for 40 years. I am the only Idaho attorney to have ever held the position of president of both the Idaho Prosecuting Attorneys Association and the Idaho Association of Criminal Defense Lawyers. I am also a Fellow of the American College of Trial Lawyers – I know a little something about criminal cases and I attended the preliminary hearing in Mr. W [REDACTED] case. Though I recognize there may be matters about which I am not knowledgeable (particularly since you ignored your promise to keep me informed and "in the loop") it certainly appears to me that you had a strong case and threw it away out of your concern that the perpetrators of this unspeakable incident would not have to "suffer the consequences of" their despicable behavior. Or perhaps you have some other priorities that need your attention and make a trial in this case inconvenient.

On behalf of my clients, I demand a full and complete explanation from you and your division chief of your handling of this case, along with copies of all correspondence between you and the attorneys for Mr. W [REDACTED] and Mr. Howard and copies of their written plea agreements. Furthermore, demand is renewed that you turn copies of your complete files in these case over to my co-counsel and myself. Again, I may be mistaken, but I rather suspect that other people in this State are going to be demanding an explanation as well.

R. KEITH ROARK, ISBN 2230

THE ROARK LAW FIRM, LLP

Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]

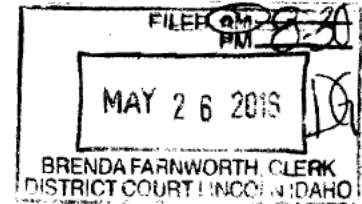
Fax: [REDACTED]

keith@roarklaw.com

RR000928

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From: [REDACTED]
Sent: 05/26/2016 9:59 AM
To: Minyard, Catherine
Cc: Bauges, Brenda
Subject: T [REDACTED] W [REDACTED]
Attachments: Untitled.PDF - Adobe Acrobat.pdf



MICHAEL J. WOOD
184 GOODING ST W
TWIN FALLS, IDAHO 83301
(208)736-8190
(208)736-0141

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] W [REDACTED]
Defendant.

Case No. CR16- 213

ORDER

THIS matter having come before the Court on application of Defendant for preparation of a typewritten transcript and good cause appearing therefore:

IT IS HEREBY ORDERED, AND THIS DOES ORDER that a typewritten transcript only of the testimony of witnesses who testified preliminary hearing proceedings in the above-entitled matter be prepared as soon as possible AT THE COST OF DEFENDANT.

DATED This 21 day of MAY, 2016.

HONORABLE JOHN B. ZILLER
DISTRICT JUDGE

MOTION FOR PREPARATION OF PRELIMINARY TRANSCRIPT

From: OAG_Voicemail@ag.idaho.gov
Sent: 04/26/2016 4:00 PM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 4/26/16 3:58 PM for 3089
Attachments:042616-155850-3089-1160426.96467455@audix-1.mp3



Voice Message from Outside Caller on 4/26/16 3:58 PM (55 second msg)

MESSAGE:

"Hi this is Brian Johnson. Sorry I didn't get back to you earlier. I had a chance to check into the asking for and the notes from when I saw that patient. I don't think I have a lot more to add to that as far as derek-has(?) if there's any specific questions you have about that I'd be happy to answer those for you. I have my CV that I am happy to email to you. If you give me your email address. If you. You can call me back and give me the email address or if you want to email me your email address that be fine. My email address is [REDACTED]. Thank you. Bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M1C31A60F06A9904ATT001 - 042616-155850-3089-1160426.96467455@audix-1.mp3

From: Keith Roark
Sent: 10/10/2016 11:00 AM
To: Hemmer, Casey
Cc: Lee Schlender ([REDACTED])
Subject: A [REDACTED] M [REDACTED]
Attachments:

Casey:

It has been well over a month since I have received any update from you regarding the criminal proceedings related to victim A [REDACTED] M [REDACTED] filed in Lincoln County. It is our understanding that you have reached and completed disposition of charges against T [REDACTED] W [REDACTED] and the other juvenile involved. We would like to know, and as attorneys for the victim are entitled to know, what final disposition involved. You also intimated in our last conversation that you had reached or were very close to reaching an agreement for entry of plea in the criminal case filed against John Howard; we would like an update on that matter as well. Furthermore, we renew our request for copies of all materials: police reports, witness statements, photographs, recordings, etc. relating to the two juveniles whose cases have now been concluded. We are at a critical stage in our federal court case and need those materials post-haste. If you continue to deny us access to what we have requested we will have no choice but to seek federal subpoenas and other mandatory orders. Your prompt response to this request is appreciated.

R. KEITH ROARK, ISBN 2230

THE ROARK LAW FIRM, LLP

Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]

Fax: ([REDACTED]) [REDACTED]

keith@roarklaw.com

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RR000934

From: Judge Butler
Sent: 08/16/2016 2:45 PM
To: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; Spillman, Jason
Cc: Deysi Sandoval ([REDACTED]); Keo Kelley ([REDACTED])
Subject: St. v. T [REDACTED] W [REDACTED] CR-2016-213 (Lincoln County)
Attachments:

Counsel – As you each should be aware we have a Pre-Trial Conference set in this matter for September 6, 2016 at 9:00 a.m. Currently I have a civil jury trial in Jerome set to begin on September 6, while I hope this trial will settle I cannot be sure and since we have jury selection beginning in your case on September 14 and the jury trial commencing on September 21, I was wondering if we could move the Pre-Trial Conference Hearing to August 30, 2016 at 9:00 am in Shoshone. I would ask that you each confer with one another to see if this move in the hearing date will work for all of you and obviously Mr. Wood you will have to confirm with your client. Please let my clerk know if the parties are agreeable on this request. Thanks, Judge B.

From: Deysi Sandoval
Sent: 07/28/2016 4:06 PM
To: Minyard, Catherine; Calbo&Depew
Cc: Cheri Mattson
Subject: Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

IN THE DISTRICT COURT OF THE 5th JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Lincoln

State
PLAINTIFF(S)

V.
John R.K. Howard
DEFENDANT(S)

REQUEST TO OBTAIN
APPROVAL TO VIDEO
RECORD, BROADCAST OR
PHOTOGRAPH A COURT
PROCEEDING

I hereby request approval to:

☒ video record [] broadcast [] photograph the following court proceeding:

Case No.: CR-2016-214
Date: 7/29/16
Time: 2:00 p.m.
Location: Lincoln Co. Court
Presiding Judge: Hon. Mark Ingram

I have read Rule 45 of the Idaho Court Administrative Rules permitting cameras in the courtroom, and will comply in all respects with the provisions of that rule, and will also make certain that all other persons from my organization participating in video or audio recording or broadcasting or photographing of the court proceedings have read Rule 45 of the Idaho Court Administrative Rules and will comply in all respects with the provisions of that rule.

Gary Saleman
Print Name

[Signature]
Signature

KTVB [REDACTED]
News Organization Represented Phone Number

7/26/16 **Please fax back to 375-7770**
Date

State of Idaho
vs.
John Howard
CR-2016-214

ORDER

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to **video record** the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to **broadcast** the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

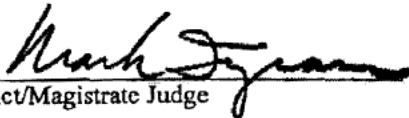
☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to **photograph** the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

DATED this 28 day of July, 2016.


District/Magistrate Judge

From: Quinney, Tomasine
Sent: 04/04/2016 4:12 PM
To: Minyard, Catherine
Cc:
Subject: CV for Tomasine Quinney
Attachments: Tomasine Quinney CV.pdf

Hi Catherine,

Deputy Brenda Bauges asked that I email her a copy of my CV in regards to case M2015-4746.

Attached is my updated CV, the one on our website was from when I was in our DNA Database section and has not been updated at this time.

Please feel free to contact me if you have any further questions.

*Tommie Quinney
Idaho State Police - Forensic Services
Forensic Scientist II
700 S. Stratford Dr., Ste 125
Meridian, ID 83642*

www.isp.idaho.gov

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RR000939



Colonel Ralph W. Powell
Director

Idaho State Police

Service Since 1939



C.L. "Butch" Otter
Governor

TOMASINE QUINNEY

Forensic Scientist – Biology/DNA Database
Idaho State Police Forensic Services
700 S. Stratford Drive, Suite. 125
Meridian, ID 83642-6202
(208) 884-7346 Office
(208) 884-7197 Fax
[REDACTED]

Education:

May 2011 California State University, Sacramento – Sacramento, CA
Bachelor of Science - Biological Science - Forensics

Experience:

Oct. 2014- Idaho State Police Forensic Services
Present Forensic Scientist 2 (Biology Casework)

Sept. 2014- Idaho State Police Forensic Services
Oct. 2014 Forensic Scientist 2 (DNA Database)

Sept. 2012- Idaho State Police Forensic Services
Sept. 2014 Forensic Scientist 1 (DNA Database)

Professional Organizations; Committees; Working Groups:

Feb. 2015- Northwest Association of Forensic Scientists
Present

Feb. 2014- American Academy of Forensic Scientist
Present (Associate Member)

Continuing Education; Association Meetings; Conferences:

2015 Professional Meeting: Green Mountain DNA Conference, Burlington, VT
In Service training: Courtroom Presentation of Evidence, Meridian, ID

2014 ASCLD/LAB Assessor Course, Meridian, ID
Professional Meeting: American Academy of Forensic Scientist, Seattle, WA

2013 Workshop: Promega 2013 Technology Tour Seminar, San Antonio, TX

700 South Stratford Drive • Meridian, Idaho 83642-6251

EQUAL OPPORTUNITY EMPLOYER

Revised 1/10/16

RR000940

Tomasine Quinney

Professional Meeting: Association of Forensic DNA Analysts
Administrators, San Antonio, TX

In-Service Training: DNA Analysis of Convicted Offender Samples (ISP)

2012 Ethics in Forensic Science, Western Virginia University

2010 Annual Biomedical Research Conference for Minority Students, Charlotte,
NC

Research, Presentations:

2010 Identification of Antibody to Group A Streptococcal Antigen in Pediatric Neuropsychiatric Disorders, **Tomasine Quinney**, and Christine Kirvan, Ph.D., Department of Biological Sciences, California State University, Sacramento, presented at the Annual Biomedical Research Conference for Minority Students, Charlotte, NC

2010 The Quantity of Male DNA Found on a Female's Mouth after Kissing, **Tomasine Quinney**, Sukhvir Dhillon, Ruth Ballard, Ph.D., Department of Biological Sciences, California State University, Sacramento, poster presentation

From: Deysi Sandoval
Sent: 08/31/2016 9:27 AM
To: Minyard, Catherine
Cc:
Subject: RE: John Howard
Attachments:

I sent an amended notice of hearing to Mr. Hemmer's email. So it will be the 6th at 3...

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

(208) 886-2173

(208) 886-2458 Fax

From: Minyard, Catherine [mailto:catherine.minyard@ag.idaho.gov]
Sent: Wednesday, August 31, 2016 7:46 AM
To: Deysi Garcia ([REDACTED])
Subject: FW: John Howard
Importance: High

Deysi –

Would you please confirm the date and time for the district court arraignment in this case? The register of actions says 9/6/16 at 3 p.m.; however, the attached notice of hearing says 9/1/16 at 1:30 p.m.

Thanks,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: (208) 332-3096
Fax: (208) 854-8083

From: Hemmer, Casey
Sent: Thursday, August 25, 2016 3:50 PM
To: Spillman, Jason; Minyard, Catherine
Subject: FW: John Howard

fyi

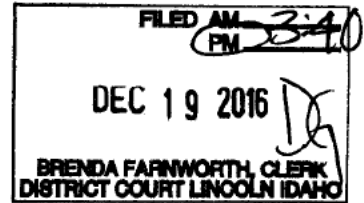
From: Deysi Sandoval [REDACTED]
Sent: Thursday, August 25, 2016 3:47 PM

RR000943

To: Calbo&Depew; Hemmer, Casey

Subject: John Howard

From: [REDACTED]
Sent: 12/20/2016 9:04 AM
To: catherine.minyard@ag.idaho.gov; [REDACTED]
Cc:
Subject: John R.K. Howard
Attachments: 12202016090407.pdf



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

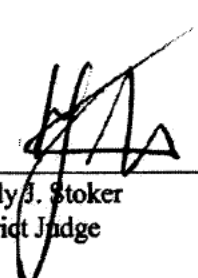
Case No. CR-2016-214

ORDER TO DISMISS

The Court having heard the motion heretofore made in the case of *State v. John R.K. Howard*, by, Deputy Attorney General Casey J. Hemmer, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the charge of Forcible Penetration by Use of a Foreign Object, Felony is hereby dismissed.

DATED this 19 day of Dec 2016



Randy J. Stoker
District Judge

CLERK'S CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 20 day of December, 2016, I caused to be served
a true and correct copy of the foregoing Order to Dismiss to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

By: 
Deputy Clerk

From: Keith Roark
Sent: 12/19/2016 8:57 AM
To: Randy Stoker
Cc: Hemmer, Casey; [REDACTED]; Lee Schlender
Subject: Re: St. v. John Howard
Attachments:

I agree and I'll make the arrangements with your reporter.

Sent from my iPad

On Dec 19, 2016, at 8:09 AM, Randy Stoker <[REDACTED]> wrote:

You can make arrangements with my court reporter for a transcript at your cost. I know of no rule or law that provides for a transcript at public expense. Interestingly, when you review the transcript you will find the it was represented to the Court that this plea agreement was with the knowledge and consent of the victim.

From: Keith Roark [REDACTED]
Sent: Sunday, December 18, 2016 1:30 PM
To: Randy Stoker [REDACTED]
Cc: Hemmer, Casey ([REDACTED]); [REDACTED]; Lee Schlender ([REDACTED])
Subject: St. v. John Howard

Dear Judge Stoker:

As you may or may not not know, I am one of the attorneys representing A [REDACTED] M [REDACTED] and his parents, Tim and Shelly M [REDACTED] in a civil action filed in the United States District Court for the District of Idaho involving, among other issues, the incident upon which the charge in the above referenced matter is based. My clients are extremely upset over the plea agreement arrived at in the above entitled action, as well as comments attributed to Mr. Hemmer in an article that appeared on Saturday, December 17 in the Twin Falls Times-News and have requested that I follow up on their concerns. On their behalf, I am asking that I be provided a transcript of last Friday's hearing in the St. v. John Howard case so that I can fairly evaluate what representations were made during the change of plea hearing and address the concerns of my clients. As victims in the case, I believe the M [REDACTED] are entitled to such transcript. As you will note, I have copied both Mr. Hemmer and Mr. Calbo on this email so that they will be aware of my request and make such comment as they feel appropriate. If you feel that a formal motion or action is required on my part I can and will prepare one.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law

[REDACTED]
[REDACTED]

RR000948

() -

Fax: () -

keith@roarklaw.com

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From: Hemmer, Casey
Sent: 11/03/2016 6:46 PM
To: Lee Schlender
Cc:
Subject: Re: Schlender
Attachments:

I will do my best to get it to you early next week. My plan is to have them put it on a few CDs. Would you like it mailed or would you rather have someone pick it up when it is ready?

Sent from my iPhone

> On Nov 3, 2016, at 6:25 PM, Lee Schlender <[REDACTED]> wrote:

>

> Casey,

>

> Could you press the staff on getting me the file ? We have depositions coming up and need it right away. I sent you a copy of the signed protective order.

>

> Glad to pay expenses,etc as required !

>

> Lee

>

> E.Lee Schlender J.D.

> [REDACTED]

> [REDACTED]

> [REDACTED]

>

> Sent from ipad of Mr. Schlender

>

>

>

>

From: Ben Hardcastle
Sent: 05/27/2016 1:49 PM
To: Pittz, Anthony
Cc:
Subject: Re: School District Attorney
Attachments: image003.jpg

Tony,
Yes of course. It was good to see you too.

Our attorney is Anderson, Jullian & Hull.

Specifically, we have worked with Bret Walther and Brian Jullian.

ANDERSON JULIAN & HULL LLP

250 S 5th St, Ste 700

Boise, Idaho 83702

PH: [REDACTED]

On Fri, May 27, 2016 at 11:37 AM, Pittz, Anthony [REDACTED] wrote:

Ben,

Nice to see you yesterday. I was hoping you could give me the name and contact information for the attorney representing the school district through all of this in case we need to coordinate anything with them.

Thank you,



Tony Pittz

Investigator
Criminal Law Division

Office of Attorney General

Phone: [REDACTED]

Fax: [\(208\) 854-8083](tel:(208)854-8083)

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--

Benjamin G. Hardcastle

Superintendent, K-6 Principal, Federal Programs, Transportation Director

Dietrich School

Phone: 208.544.2158 ~ Fax: 208.544.2832 ~ <http://www.sd314.k12.id.us/>

Never miss an opportunity to teach.



From: Lee Schlender
Sent: 11/01/2016 12:48PM
To: Hemmer, Casey; Bret A. Walther; DAVONNA WOLFF
Cc: Keith Roark
Subject: PLEADINGS RE: OFFICE OF THE ATTORNEY GENERAL
Attachments: 2016_11_01_1M [REDACTED] SUBPEONA, NOTICE OF SERVICE AND STIPULATION .pdf; ATT00001.htm; ATT00002.htm; image002.jpg

Mr. Hemmer and Counsel:

Please see attached documents.

They are: Subpeona, Notice of Subpeona and Stipulation for non-disclosure.

I prepared these documents in accordance with the directives of Mr. Roark .

Mr. Hemmer, if the stipulation meets with your approval please sign the same and return it to me. I will serve the signed document upon all counsel.

No further service of the Subpeona or Notice thereof will be made unless demanded by your offices. We will of course remit to your office the costs and expenses of compliance.

We will not submit the Stipulation to the Court for an Order at this time unless requested by you and/or defense counsel ; that can be done in the future if required. However I certainly will have no objection to you or defense counsel preparing a form of Order and submitting the signed stipulation with the same, to the Court at any time.

If there are any questions, please advise.

Lee

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
[REDACTED]

T: () -

F: () -

[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]

[REDACTED]

T: () -

F: () -

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED],

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON, WAYNE DILL, STAR
OLSEN, KRIS HUBERT, PERRY VAN TASSELL,
BRET PETERSON, MICHAEL TORGERSON,
RICK ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendant.

Case No. 1:16-cv-00202-BLW

NOTICE OF SUBPEONA

NOTICE OF SUBPEONA (COPY OF SUBPEONA TO BE
ATTACHED)

TO: Mr. Brian Juilian
ANDERSON, JULIAN & HULL LLP
250 South Fifth Street, STE 700
PO Box 7426
Boise, ID 83707-7426
PH: [REDACTED]
FX: [REDACTED]
[REDACTED]

PLEASE TAKE NOTICE, pursuant to Federal Rule of Civil Procedure 45, that the Plaintiff intends to serve a subpoena, in the form attached hereto on the office of the Attorney General of the State of Idaho on November 1 2016 or as soon thereafter as it may be effectuated by email and/or fax addressed to the following :

Office of the Attorney General
Criminal Division
Paul Panther, Division Chief
Casey Hemmer, Deputy A.G.
700 W. Jefferson Street P.O. Box 83720
Boise, ID 83720-0010

PLEASE TAKE NOTICE, that the production of documents and things pursuant to the subpoena shall be subject to and governed by the Agreement for Protection from Disclosure a copy thereof , being attached hereto as well as the subpoena .

Dated this 1st day of November 2016.


E. Lee Schlender for Plaintiffs Attorneys

CERTIFICATE OF SERVICE

I certify that on 1st day of November 2016 I caused a true and correct copy of this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: ([REDACTED]) [REDACTED]
SERVED BY: email. dwolff@ajhlaw.com

NOTICE OF SUBPEONA (COPY OF SUBPEONA TO BE ATTACHED)

UNITED STATES DISTRICT COURT

for the

SOUTHERN District of IDAHO

A [REDACTED] M [REDACTED]

PLAINTIFF

VS.

DIETRICH SCHOOL
DISTRICT NO. 314,
STEPHANIE SHAW,
BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON,
WAYNE DILL, STAR
OLSEN, KRIS HUBERT,
PERRY VAN TASSELL,
BRET PETERSON,
MICHAEL TORGERSON,
RICK ASTLE, BRAD
DOTSON and JOHN AND
JANE DOES 1-10,

Case No. 1:16-cv-00202-BLW

SUBPOENA FOR THE PRODUCTION OF
DOCUMENTS AND FILES.

DEFENDANTS

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: ATTORNEY GENERAL OF THE STATE OF IDAHO AND DEPUTY CASEY HAMMER

(Name of person to whom this subpoena is directed)

☐ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

XXX"all investigative materials, including police reports, reports of prosecutors and special investigators, witness statements, photographs, audio and video recordings and all other materials in the possession of the Criminal Division of the Office of the Idaho Attorney General relating to the incident involving A [REDACTED] M [REDACTED] and Defendants John Howard and T [REDACTED] W [REDACTED] on or about October 22, 2015.

DATE AND TIME:

PLACE: LAW OFFICES OF E.LEE

ON OR BEFORE NOVEMBER 15 2016
AT 4:00 PM ON SAID DATE

DELIVERED BY U.S. MAIL AND/OR CD DISK.

RR000957

OR: BY DELIVERY OF ALL DOCUMENTS AND INFORMATION TO A REPRESENTATIVE OF PLAINTIFF'S ATTORNEYS AT THE OFFICES OF THE ATTORNEY GENERAL BOISE, IDAHO .

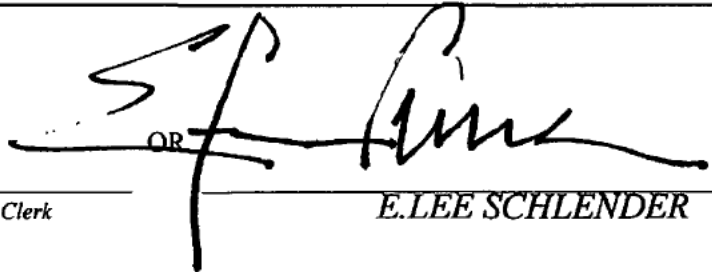
☐ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date : NOVEMBER 1 2016

CLERK OF COURT

*Signature of Clerk or Deputy Clerk
Attorney's signature*

OR 
E. LEE SCHLENDER

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

A [REDACTED] M [REDACTED]

_____, who issues or requests this subpoena, IS:

E. LEE Schlender Law Offices

[REDACTED]
[REDACTED]

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.: _____

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]
[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED],
Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN
HARDCASTLE, BENJAMIN HOSKISSON,
WAYNE DILL, STAR OLSEN, KRIS
HUBERT, PERRY VAN TASSELL, BRET
PETERSON, MICHAEL TORGERSO, RICK
ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendant.

Case No. 1:16-cv-00202-BLW

STIPULATION FOR PROTECTIVE

AGREEMENT-

BETWEEN A NON-PARTY AND

PLAINTIFF RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

COME NOW Office of the Attorney General of the State of Idaho and the Plaintiff , by
and through their undersigned counsel pursuant to FRE 502 and FRCP 26(b)(5)(B) AND FRCP
45, and hereby stipulate and as follows:

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

In this case, an investigation was conducted by THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO into allegations raised by A [REDACTED] M [REDACTED].

This Stipulation shall apply to all documents, regardless of form, including portions of deposition transcripts, which contain information either (a) derived from an investigation conducted by the THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO. THE PARTIES AND/OR THE OFFICE OF THE ATTORNEY GENERAL MAY SUBMIT THIS AGREEMENT TO THE COURT FOR ANY PURPOSE INCLUDING THE ENTRY OF ANY ORDERS.

Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

Each individual who receives any Protected Materials hereby agrees to subject himself/herself to the jurisdiction of this Court for any purposes of any proceedings related to the enforcement of this Protective Order.

A. Handling Protected Materials.

If any party files with the Court any pleading, interrogatory, answer, affidavit, motion, brief, or other paper containing, appending, summarizing, excerpting or otherwise embodying confidential material, the pleading or other paper in which the confidential material is embodied shall be filed and maintained under seal and shall not be available for public inspection. The party making the filing shall comply with D. Idaho. L. Civ. R. 5.3, and R. 5.5.

B. Miscellaneous.

1. This Order shall not prevent either party from applying to the Court for relief from this Order or any part thereof or for relief from its application in any particular circumstance, or from applying to the Court for further or additional protective agreements or orders. This Order shall survive the final determination of this or related proceedings to the extent that the protected materials have not or do not become known to the public.

2. The parties may rely on a waiver of the provisions of this Order or consent to disclosure of protected materials that is made by the producing party's attorney as if that waiver or consent was made by the producing party itself, provided that such waiver or consent is express and shall be either in writing or on the record in a hearing, trial, or deposition transcript.

3. In the event a party receives a subpoena or other legal or governmental demand for protection of any Protected Material, the subpoenaed party shall notify the requesting party of the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the production of the Protected Materials.

4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court

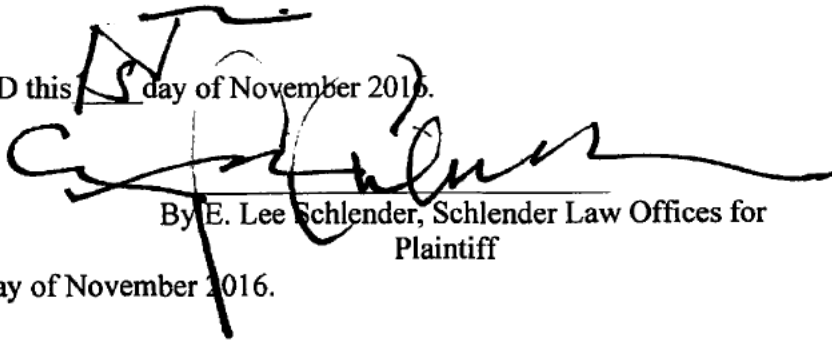
including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of deposition transcripts, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .

6. It is therefore hereby stipulated that The Court MAY enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this 15 day of November 2016.


By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this ____ day of November 2016.

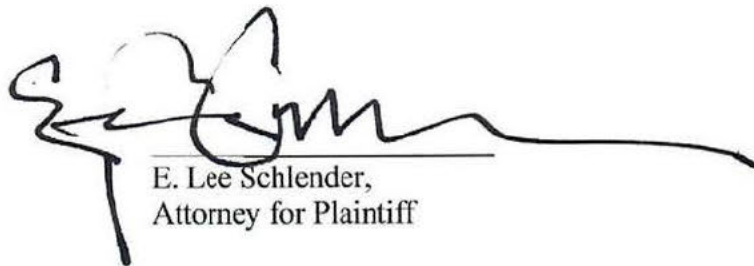
By Casey Hammer
Office of the Attorney General
Criminal Division
700 W. Jefferson Street
P.O. Box 83 Boise, ID 83720-001

CERTIFICATE OF SERVICE

I certify that on 15th day of November 2016 I caused a true and correct copy of this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: () -
SERVED BY: email. dwolff@ajhlaw.com

Office of the Attorney General
Criminal Division
Paul Panther, Division Chief
Casey Hemmer, Deputy A.G.
700 W. Jefferson Street P.O. Box 83720
Boise, ID 83720-0010
By Fax and email. -
Phone () -
Fax () -



E. Lee Schlender,
Attorney for Plaintiff

Lee Schlender J.D.

[REDACTED]

Idaho Bar #1171

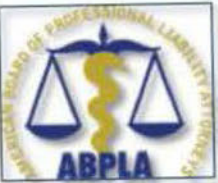
[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice

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From: Lee Schlender
Sent: 12/01/2016 11:25 AM
To: Hemmer, Casey
Cc:
Subject: Re: M [REDACTED] case
Attachments: image002.jpg

No problem.

I had overlooked it as well.

She can send it to my address below.

Lee

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

Board Certified Medical Malpractice



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On Dec 1, 2016, at 11:21 AM, Hemmer, Casey <casey.hemmer@ag.idaho.gov> wrote:

My assistant is working on it now. Sorry about that, I thought everything went out.

Casey

-----Original Message-----

From: Lee Schlender [<mailto:leeschlender@gmail.com>]

Sent: Thursday, December 01, 2016 10:16 AM

RR000968

To: Hemmer, Casey
Subject: M [REDACTED] case

Casey,

I do not think we have the audio CDs of the witness interrogations ; I was using the files last week in depositions and noticed the issue.

Could you check to determine if we have them and if not, could they be burned onto CDs for us ?

E. Lee Schlender J.D.

[REDACTED]
[REDACTED]

Sent from ipad of Mr. E.Lee Schlender



From: [REDACTED]
Sent: 12/29/2016 1:02 PM
To: catherine.minyard@ag.idaho.gov
Cc:
Subject: RE: Howard PSI Documents
Attachments: image001.png

Thank you. I need the victim's contact information, so if you could forward that, I'd appreciate it!



Margie Rahr

District 5 Probation & Parole

Presentence Investigator

[REDACTED]

[REDACTED]

208-736-3080 Ext [REDACTED] Fax: 208-736-3054

From: Minyard, Catherine [mailto:catherine.minyard@ag.idaho.gov]
Sent: Thursday, December 29, 2016 12:46 PM
To: Rahr, Margie
Cc: Hemmer, Casey
Subject: Howard PSI Documents

Margie –

Per your request, attached are the documents for the PSI in State of Idaho v. John Howard. Please let me know if you have any questions or need further information.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit

Idaho Attorney General's Office

P.O. Box 83720

Boise, ID 83720-0010

Phone: (208) 332-3096

Fax: (208) 854-8083

RR000971



From: Lee Schlender
Sent: 11/03/2016 6:25 PM
To: Hemmer, Casey
Cc:
Subject: Schlender
Attachments:

Casey,

Could you press the staff on getting me the file ? We have depositions coming up and need it right away. I sent you a copy of the signed protective order.

Glad to pay expenses,etc as required !

Lee

E.Lee Schlender J.D.

[REDACTED]

[REDACTED]

Sent from ipad of Mr. Schlender

From: Bauges, Brenda
Sent: 03/07/2016 7:51 AM
To: 'Deysi Sandoval'
Cc: Minyard, Catherine
Subject: RE: Proposed Orders
Attachments: image001.jpg; image004.jpg

Yes please. In fact, is it possible to get conformed (file-stamped) copies of all our filings on Friday? If there is a different process you would like me to follow in the future to make it easier for you please just let me know. Thank you.



Brenda Bauges

Deputy Attorney General
Special Prosecutions Unit
Phone: 208/ [REDACTED]
Fax: 208/ [REDACTED]
[REDACTED]

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From: Deysi Sandoval [REDACTED]
Sent: Friday, March 04, 2016 4:12 PM
To: Bauges, Brenda
Subject: RE: Proposed Orders

Brenda,
Do you need any copies from the files?

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court
[REDACTED]

([REDACTED])
([REDACTED]) Fax

From: Bauges, Brenda [REDACTED]
Sent: Friday, March 4, 2016 2:38 PM
To: [REDACTED]
Cc: Minyard, Catherine
Subject: Proposed Orders

Deysi,

Here are the proposed orders Judge Ingram requested this morning. Please let me know if you have any questions, concerns, or would like any additional information. Thank you very much, have a good weekend.

RR000974

**Brenda Bauges**

Deputy Attorney General
Special Prosecutions Unit

Phone: 208/■■■■-■■■■

Fax: 208/■■■■-■■■■

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From: OAG_Voicemail@ag.idaho.gov

Sent: 04/12/2016 10:51 AM

To: Piotrowski, Sandra

Cc:

Subject: Voice Message from Outside Caller on 4/12/16 10:48 AM for 4547

Attachments:041216-104847-4547-1160412.96166399@audix-1.mp3



Voice Message from Outside Caller on 4/12/16 10:48 AM (81 second msg)

MESSAGE:

"Hi Sandy this is Shelly M [REDACTED] I called Tony's office. I just left a message with him but only one with you as well. Apparently this to Gregory who is the secretary for the pesky attorney's(?) office and she shown(?) and her husband jerry(?) Gregory. Who is running for Sheriff was a former Sheriff Sheriff's deputy. I guess they go down to the Eagles nest down here and in dietrich and they're disclosing information that only down to the pesky ... office brother down there and we've heard that from two different sources one is both a very reputable that one for sure and I'm really upset about this whole thing I knew she did that does that but now it's been out so now the information is leaking out information that just."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M4CFFA601A92A615ATT001 - 041216-104847-4547-1160412.96166399@audix-1.mp3

From: Lee Schlender
Sent: 11/03/2016 12:52PM
To: DAVONNA WOLFF; Bret A. Walther; Keith Roark
Cc: Hemmer, Casey
Subject: Signed stip w proposed order
Attachments: 2016_11_03_proposed Order wexhibit A pdf.pdf; ATT00001.htm; ATT00002.htm; image002.jpg

Counsel:

See attached.

It was email lodged with Judge Winmill today, with the email copied to Mr. Metcalf.

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]
[REDACTED]

Fax: [REDACTED]

Board Certified Medical Malpractice

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED],

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN
HARDCASTLE, BENJAMIN HOSKISSON,
WAYNE DILL, STAR OLSEN, KRIS
HUBERT, PERRY VAN TASSELL, BRET
PETERSON, MICHAEL TORGERSON, RICK
ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendant.

Case No. 1:16-cv-00202-BLW

ORDER RE:

STIPULATION FOR PROTECTIVE
AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF and DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

The Court hereby enters as a protective Order the Protective Agreement attached hereto as Exhibit A.

Dated this ____ day of November 2016.

B.Lynn Winmill
Chief Judge

ORDER RE : STIPULATION FOR PROTECTION RE:
PRODUCTION OF DOCUMENTS AND MATERIALS

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
T: () [REDACTED]
F: () [REDACTED]
[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]
T: () [REDACTED]
F: () [REDACTED]

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED],

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON, WAYNE DILL, STAR
OLSEN, KRIS HUBERT, PERRY VAN TASSELL,
BRET PETERSON, MICHAEL TORGERSON,
RICK ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendants.

Case No. 1:16-cv-00202-BLW

STIPULATION FOR PROTECTIVE

AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF AND DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

COME NOW Office of the Attorney General of the State of Idaho, the Plaintiff and
Defendants, by and through their undersigned counsel pursuant to FRE 502 and FRCP
26(b)(5)(B) AND FRCP 45, and hereby stipulate and as follows:

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATER

1

Exhibit A
to Order re: Stipulation for Protection

The Office of the Attorney General conducted a criminal investigation regarding allegations raised by A. [REDACTED] M. [REDACTED] against A.H. (a juvenile), T.W. (a juvenile) and John Howard; that a subpoena for the files and documents generated and related to that investigation and prosecution was sent to the Office of the Attorney General of the State of Idaho by Plaintiff's attorneys and the Attorney General's office will respond thereto by furnishing said materials to the parties.

THEREFORE:

This Stipulation shall apply to all documents, regardless of form, including audio, photographs, and/or video which contain information derived from the above referenced investigation and prosecution conducted by the office of the Attorney General of the State of Idaho against A.H., T.W., and John Howard; that this Agreement and the terms thereof shall be an Order of the Court.

Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys and defendants may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

**STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS**

Each individual who receives any Protected Materials hereby agrees to subject himself/herself to the jurisdiction of this Court for any purposes of any proceedings related to the enforcement of this Protective Order.

A. Handling Protected Materials.

If any party files with the Court any pleading, interrogatory, answer, affidavit, motion, brief, or other paper containing, appending, summarizing, excerpting or otherwise embodying confidential material, the pleading or other paper in which the confidential material is embodied shall be filed and maintained under seal and shall not be available for public inspection. The party making the filing shall comply with D. Idaho. L. Civ. R. 5.3, and R. 5.5.

B. Miscellaneous.

1. This Order shall not prevent either party from applying to the Court for relief from this Order or any part thereof or for relief from its application in any particular circumstance, or from applying to the Court for further or additional protective agreements or orders. This Order shall survive the final determination of this or related proceedings to the extent that the protected materials have not or do not become known to the public.

2. The parties may rely on a waiver of the provisions of this Order or consent to disclosure of protected materials that is made by the producing party's attorney as if that waiver or consent was made by the producing party itself, provided that such waiver or consent is express and shall be either in writing or on the record in a hearing, trial, or deposition transcript.

3. In the event a party receives a subpoena or other legal or governmental demand for protection of any Protected Material, the subpoenaed party shall notify the requesting part of the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the

production of the Protected Materials.

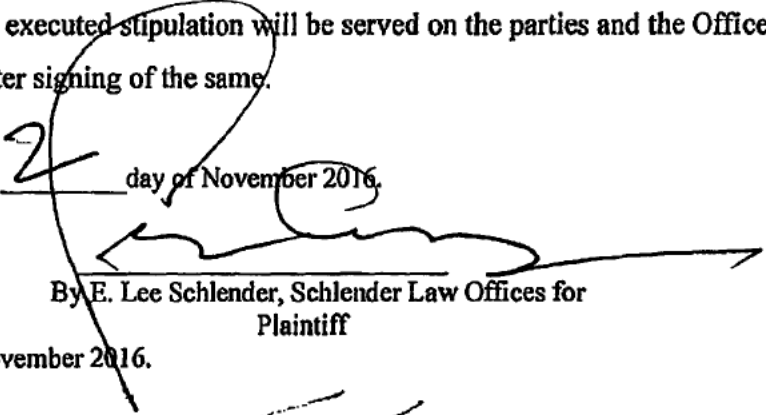
4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of deposition transcripts, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .

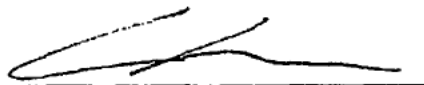
6. It is therefore hereby stipulated that The Court will enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this 2 day of November 2016.

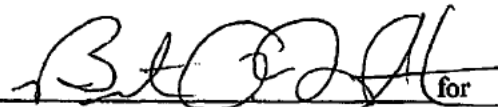

By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this 2 day of November 2016.


By Casey Hemmer
Office of the Attorney General
Criminal Division
700 W. Jefferson Street
P.O. Box 83 Boise, ID 83720-0010

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

Dated this 2 day of November 2016


By  for
for: Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Attorneys for the Defendants

CERTIFICATE OF SERVICE

I certify that on 3 day of November 2016 I caused a true and correct copy of
this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: () -
SERVED BY: email. dwolff@ajhlaw.com

Office of the Attorney General
Criminal Division
Paul Panther, Division Chief
Casey Hemmer, Deputy A.G. □
700 W. Jefferson Street □ P.O. Box 83720
Boise, ID 83720-0010
By Fax and email. casey.hemmer@ag.idaho.gov
Phone () -
Fax (208) 854-8071


E. Lee Schlender
Attorney for Plaintiff

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: M4EB4A7051621944ATT002 - ATT00001.htm

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From: Hemmer, Casey
Sent: 11/02/2016 2:43 PM
To: 'Lee Schlender'; Bret A. Walther
Cc:
Subject: RE: STIPULATION SENDING AGAIN; PAGES BLANK ?
Attachments: 20161102143406307.pdf

Gentlemen,

Please find attached the proposed stipulation with my signature. Once I receive a copy of the order from Judge Winmill, I will prepare copies of our discovery files for both of you. Please let me know if you have any questions or concerns.

Casey Hemmer

From: Lee Schlender [REDACTED]
Sent: Wednesday, November 02, 2016 2:27 PM
To: Hemmer, Casey; Bret A. Walther
Subject: STIPULATION SENDING AGAIN; PAGES BLANK ?

SEE ATTACHED.

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]
[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED],

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON, WAYNE DILL, STAR
OLSEN, KRIS HUBERT, PERRY VAN TASSELL,
BRET PETERSON, MICHAEL TORGERSON,
RICK ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendants.

Case No. 1:16-cv-00202-BLW

STIPULATION FOR PROTECTIVE

AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF AND DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

COME NOW Office of the Attorney General of the State of Idaho, the Plaintiff and Defendants, by and through their undersigned counsel pursuant to FRE 502 and FRCP 26(b)(5)(B) AND FRCP 45, and hereby stipulate and as follows:

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

In this case, an investigation was conducted by THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO into allegations raised by A [REDACTED] M [REDACTED] ; that a subpoena for the files and documents generated and related to that investigation and prosecution was sent to the Office of the Attorney General of the State of Idaho by Plaintiff's attorneys and the Attorney General's office will respond thereto by furnishing said materials to the parties.

THEREFORE:

This Stipulation shall apply to all documents, regardless of form, including portions of deposition transcripts, which contain information derived from an investigation and prosecution conducted by the office of the Attorney General of the State of Idaho ; that this Agreement and the terms thereof shall be an Order of the Court.

Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys and defendants may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

Each individual who receives any Protected Materials hereby agrees to subject himself/herself to the jurisdiction of this Court for any purposes of any proceedings related to the enforcement of this Protective Order.

A. Handling Protected Materials.

If any party files with the Court any pleading, interrogatory, answer, affidavit, motion, brief, or other paper containing, appending, summarizing, excerpting or otherwise embodying confidential material, the pleading or other paper in which the confidential material is embodied shall be filed and maintained under seal and shall not be available for public inspection. The party making the filing shall comply with D. Idaho. L. Civ. R. 5.3, and R. 5.5.

B. Miscellaneous.

1. This Order shall not prevent either party from applying to the Court for relief from this Order or any part thereof or for relief from its application in any particular circumstance, or from applying to the Court for further or additional protective agreements or orders. This Order shall survive the final determination of this or related proceedings to the extent that the protected materials have not or do not become known to the public.

2. The parties may rely on a waiver of the provisions of this Order or consent to disclosure of protected materials that is made by the producing party's attorney as if that waiver or consent was made by the producing party itself, provided that such waiver or consent is express and shall be either in writing or on the record in a hearing, trial, or deposition transcript.

3. In the event a party receives a subpoena or other legal or governmental demand for protection of any Protected Material, the subpoenaed party shall notify the requesting part of

the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the production of the Protected Materials.

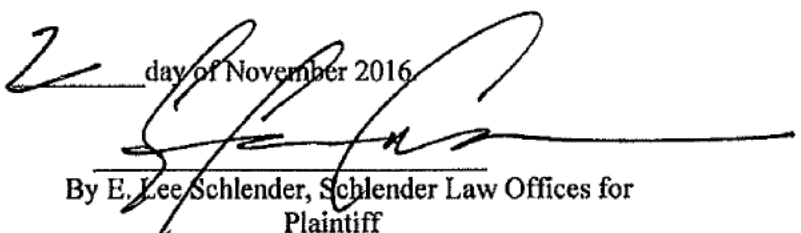
4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of deposition transcripts, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .

6. It is therefore hereby stipulated that The Court will enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this 2 day of November 2016.


By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this 2 day of November 2016.


STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

By Casey Hemmer
Office of the Attorney General
Criminal Division
700 W. Jefferson Street
P.O. Box 83 Boise, ID 83720-001

Dated this ____ day of November 2016

By _____ for

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Attorneys for the Defendants

CERTIFICATE OF SERVICE

I certify that on ____ day of _____ 2016 I caused a true and correct copy of
this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: () -
SERVED BY: email.

Office of the Attorney General
Criminal Division

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

Paul Panther, Division Chief
Casey Hemmer, Deputy A.G.
700 W. Jefferson Street P.O. Box 83720
Boise, ID 83720-0010

By Fax and email. [REDACTED]

Phone ([REDACTED]) [REDACTED]

Fax ([REDACTED]) [REDACTED]

E. Lee Schlender,
Attorney for Plaintiff

From: Lee Schlender
Sent: 06/25/2016 5:12 PM
To: Hemmer, Casey
Cc: R K Roark
Subject: Idaho v. W■■■■
Attachments:image002.jpg

Casey:

Could you send me a pleading in the W■■■■ case so that I have the caption, etc ?

I will be filing a motion to interplead and objection to the examination of A■■■■.

Please send this asap so we can proceed.

Lee Schlender J.D.
2700 Holly Lynn Drive
Mountain Home, Idaho 83647
Idaho Bar #1171



Board Certified Medical Malpractice



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RR000997



From: [REDACTED]
Sent: 03/08/2016 10:24 PM
To: Piotrowski, Sandra
Cc:
Subject: Re: Time to talk
Attachments:

Yes that would be fine.

On Tue, Mar 8, 2016 at 2:55 PM, Piotrowski, Sandra [REDACTED] wrote:

Shelly,

Are you available to have a phone call with myself and Brenda Bauges (the Deputy Attorney General assigned to the case) this Thursday morning (3/10) sometime? We were hoping to set aside some time so we can go over everything with you. If Thursday morning doesn't work, or if a specific time works best for you, please let me know.

Thank you,

Sandy Piotrowski

Idaho Hope Card Administrator

Victim/Witness Coordinator

Office of the Idaho Attorney General

PO Box 83720

Boise, ID 83720

([REDACTED]) [REDACTED]

toll-free ([REDACTED]) [REDACTED]

Fax: [\(208\) 854-8074](tel:(208)854-8074)

From: Shelly M [REDACTED] [mailto:[REDACTED]]
Sent: Monday, March 07, 2016 10:04 AM
To: Piotrowski, Sandra
Subject: Re: Attorney General contact

Ok thanks so much!

RR000999

On Fri, Mar 4, 2016 at 9:23 AM, Piotrowski, Sandra [REDACTED] wrote:

Hi Shelly,
If you have any questions, please let me know.

Also, I forgot to tell you that I have a toll-free number, listed below.

Sincerely,

Sandy Piotrowski
Victim/Witness Coordinator
Office of the Idaho Attorney General
PO Box 83720
Boise, ID 83720

([REDACTED])
([REDACTED])

From: catherine.minyard@ag.idaho.gov

Sent: 12/19/2016 3:26 PM

To: [REDACTED]; [REDACTED]; [REDACTED]

Cc:

Subject: State of Idaho v. John R.K. Howard, Lincoln County Case No. CR-2016-214

Attachments: Proposed Order to Dismiss.docx

Deysi/Dorothy –

Deputy Attorney General Casey Hemmer made a motion to dismiss this case on the record at the hearing held on December 16, 2016. Attached, please find a Proposed Order dismissing the case for Judge Stoker's review and signature. Please let me know if you need anything further.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit

Idaho Attorney General's Office

P.O. Box 83720

Boise, ID 83720-0010

Phone: (208) 332-3096

Fax: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	ORDER TO DISMISS
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

The Court having heard the motion heretofore made in the case of *State v. John R.K. Howard*, by, Deputy Attorney General Casey J. Hemmer, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the charge of Forcible Penetration by Use of a Foreign Object, Felony is hereby dismissed.

DATED this ____ day of _____ 201__.

Randy J. Stoker
District Judge

CLERK'S CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this ___ day of _____, 201___, I caused to be served
a true and correct copy of the foregoing Order to Dismiss to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: () -

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

By: _____
Deputy Clerk

From: Lee Schlender
Sent: 06/10/2016 10:41 AM
To: Hemmer, Casey
Cc:
Subject: Idaho v. Howard
Attachments:image002.jpg

Casey,

Any info on why the hearing was delayed?

Lee Schlender J.D.

[REDACTED]
[REDACTED], [REDACTED]

Idaho Bar #1171

[REDACTED]
[REDACTED]

Fax: [REDACTED]
[REDACTED]

Board Certified Medical Malpractice



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From: Ben Hardcastle
Sent: 02/10/2016 1:11 PM
To: Pittz, Anthony
Cc:
Subject: Re: Quick question
Attachments:

Good afternoon,

I investigated the report of the altercation between John and G■■■■. There were conflicting reports of what happened. What was consistent from talking with G■■■■, John, and other witnesses was that John had been saying things about other players' sisters and G■■■■ said something about John's sister. G■■■■ said something about John's sister while G■■■■ was showering. When G■■■■ got out of the shower, he went into the handicap shower stall to dry off. John attacked him in the shower stall trying to hit him in the privates and grappled with him. John said that G■■■■ pushed his head down into his crotch region, G■■■■ said that he tried to cover himself up as John was trying to hit him in the privates and shoved John out of the stall. None of the other witnesses could see into the stall, and none corroborated John's account. They did corroborate that John went after G■■■■ while G■■■■ was in the handicapped stall.

I did not report this to law enforcement. John indicated that it happened the week prior to the main incident. My read and Mrs. Shaw's read on the situation, was that John was trying to deflect his involvement in the other incident and attempting to implicate G■■■■ as a means of alleviating potential punishment that could be coming his way.

Let me know if there are other questions, or if I can be of further help.

Sincerely,

Benjamin G. Hardcastle

Superintendent, K-6 Principal, Federal Programs, Transportation Director

Dietrich School

Phone: [208.544.2158](tel:208.544.2158) ~ Fax: [208.544.2832](tel:208.544.2832) ~ <http://www.sd314.k12.id.us/>

Never miss an opportunity to teach.

On Feb 9, 2016, at 2:43 PM, Pittz, Anthony ■■■■■ wrote:

Hello Ben,

Hope everything is well.

In the notes regarding your conversation with John Howard it references to G■■■■ shoving John's head into his crotch. Was anything followed up on with this information? Was G■■■■ asked about it? Was it forwarded to local law enforcement for them to look in to? Was John able to tell you when it happened?

RR001006

Thank you

<image002.jpg>

Tony Pittz

Investigator

Criminal Law Division

Office of Attorney General

Phone:

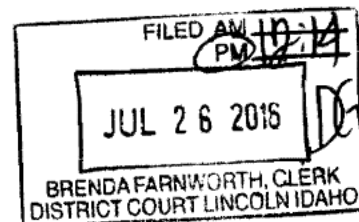
Fax: [\(208\) 854-8083](tel:(208)854-8083)

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RR001007

From: Deysi Sandoval
Sent: 07/27/2016 4:49 PM
To: Minyard, Catherine; [REDACTED]
Cc: Cheri Mattson
Subject: Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

This is the correct order



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO)
Plaintiff(s),)
)
)
vs.)
)
JOHN R. K. HOWARD)
Defendant(s).)
)

REQUEST TO OBTAIN APPROVAL
TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT
PROCEEDING

I hereby request approval to:

☒ video record ☐ broadcast ☒ photograph the following court proceeding:

Case No.: CR-2016-214
Date: 7/29/16
Time: 2 P.M.
Location: MAIN COURT ROOM
Presiding Judge: MARK A. INGRAM

I have read the Rule 45 of the Idaho Court Administrative Rules regarding cameras in the courtroom, and will comply in all respects with the provisions of that rule, and will also make certain that all other persons from my organization participating in video or audio recording or broadcasting or photographing of the court proceedings have read Rule 45 of the Idaho Court Administrative Rules and will comply in all respects with the provisions of that rule.

ALEX RIBBINS
Print Name
[Signature]
Signature
TIMES-NEWS
News Organization Represented
7/26/16
Date

Phone Number

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

06.08.10

RR001009

State of Idaho

vs.

John R. K. Howard

CR 2016-214

ORDER

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video/audio record the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 27 day of JULY, 2016

Justice/Judge

Mark Dyman

CERTIFICATE OF MAILING

I hereby certify that on the 27 day of JULY, 2016, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Alex Riggins

☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

Attorney General Office

☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

Brad Calbo

☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

CC: TCA

Clerk



From: Hemmer, Casey
Sent: 11/01/2016 3:28 PM
To: Lee Schlender
Cc:
Subject: Re: M [REDACTED] case
Attachments:

I did receive it but have been out of the office. I will look it over tomorrow and let you know.

Sent from my iPhone

On Nov 1, 2016, at 2:59 PM, Lee Schlender [REDACTED] wrote:

Casey:

Trust you received the email with the subpoena, notice of subpoena and the agreement for non-disclosure.

We have not been actually hand serving the subpoenas unless it is mandated by a party or organization.

Let me know if you need it physically handed to you, or any questions you may have.

If you send me back the signed agreement for disclosure, I will do service on everyone of that document.

I can arrange for the materials to be picked up at your office , or you can package them and send them to me

at my Mt.Home address. I appreciate your facilitating getting this accomplished.

Best Regards,

Lee

Lee Schlender

[REDACTED]
SCHLENDER & BROWN PLLC

Lee Schlender J.D.
Joseph F.Brown, M.D.J.D.
Offices Meridian and Mt.Home Idaho
Mt.Home: 2700 Holly Lynn Drive 83647

[REDACTED]
Fax: [REDACTED]

Mr.Schlender:
Board Certified Medical Malpractice

<image002.jpg>

From: Lee Schlender
Sent: 06/07/2016 9:16 AM
To: Hemmer, Casey
Cc: Piotrowski, Sandra
Subject: a [REDACTED] / schlender/ state v. W [REDACTED] and Howard
Attachments: Antwon's poem in hospital .jpeg; image002.jpg

Casey,

Thought you might find this useful.

A [REDACTED] wrote this while he was hospitalized recently at Canyon View in Twin Falls.

Lee Schlender J.D.

[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

Idaho Bar #1171

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
Fax: [REDACTED] [REDACTED] [REDACTED]



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people like me

BY

The Worlds not used to people like me
They still have Hitler within their hearts they

Think that being different is a sign of
Weak and bullying can get them far.
But what society doesn't know is that a kicked
in hanger can bruise and penetrate the heart
It leaves you. Walking on a stub because
of the burden put on you by the people
that you thought you ~~loved~~ once loved

The worlds not
like A ~~IT~~

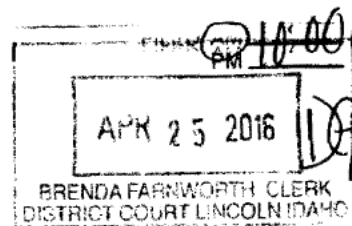
use to people like me
Likes to pound you to
Lock the door
and leave you
a sound ^{man}

The ground and
for your opportunities
helpless without
why lord why does this ^{man} to us send
us to earth to be sent to the back
of the bus



From: [REDACTED]
Sent: 04/25/2016 10:31 AM
To: Bauges, Brenda
Cc:
Subject: John RK Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Preliminary Friday, June 10, 2016 02:00 PM
Judge: Mark A. Ingram

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 25, 2016.

Defendant: John R.K. Howard

Mailed_____ Hand Delivered_____ E-Mail_____

Private Counsel:

Mailed_____ Hand Delivered_____ E-Mail_____
Faxed to (208) 324-5597

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Brenda M Bauges

Mailed_____ Hand Delivered_____ E-Mail____x____

Dated: Monday, April 25, 2016
Brenda Farnworth
Clerk Of The District Court

By: 
Deysi Garcia, Deputy Clerk
DOC22 7/96

From: catherine.minyard@ag.idaho.gov
Sent: 01/05/2017 7:27 AM
To: [REDACTED]
Cc:
Subject: FW: Voice Message from Outside Caller on 1/3/17 5:08 PM for 3096
Attachments: 010317-[REDACTED]-1170103.101216255@audix-1.mp3

Bob –

Are you still reviewing the incoming calls on the Howard case? This one came in Tuesday evening. The phone number associated with this call appears to be [REDACTED].

Thanks,

Cathy

From: OAG_Voicemail@ag.idaho.gov [mailto:OAG_Voicemail@ag.idaho.gov]
Sent: Tuesday, January 03, 2017 5:07 PM
To: Minyard, Catherine
Subject: Voice Message from Outside Caller on 1/3/17 5:08 PM for 3096



Voice Message from Outside Caller on 1/3/17 5:08 PM (63 second msg)

MESSAGE:

"Hello this is a message I'd like you to forward to Casey Hammer but deputy attorney general. I'm calling in in regards to the case of John RK Howard. I. I believe that whenever a minor is is committing injury to another minor near(?) school. Much less on the school. It's actually Idaho State law that maybe try as an adult. And I mean he's already receiving a felony. I think that he does deserve present time. He it does have to be treated like an adult. According to Idaho State Law and he cannot walk free and he does have to pay some some red should be sent(?) to the family. So please take note of this comments and I'll be in."



Delete

[Delete this message from your voice mailbox.](#)



Delete All

[Delete all messages from your voice mailbox.](#)

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M6B33A70D5A9E610ATT001 - 010317-██████-██████-1170103.101216255@audix-1.mp3

From: [REDACTED]
Sent: 06/27/2016 10:47 AM
To: Spillman, Jason
Cc:
Subject: Idaho v. W [REDACTED] et al
Attachments: image002.jpg

Mr. Spillman:

I received a copy of Mr. Roark's note objecting to a mental exam of A [REDACTED].

In the concept of a "party" to a criminal proceeding, A [REDACTED] is certainly that.

We do strongly object to any mental or physical examination of A [REDACTED].

As his attorneys, we should have been provided with notice of any such Motion and given the opportunity to object.

Please take whatever action is necessary to rescind the approval or consent to the examination.

If an intercession by us is needed or required, simply advise me.

Best Regards,

Lee

Lee Schlender J.D.
2700 Holly Lynn Drive
Mountain Home, Idaho 83647
Idaho Bar #1171

[REDACTED]
[REDACTED]
Board Certified Medical Malpractice



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RR001023



From: OAG_Voicemail@ag.idaho.gov

Sent: 03/30/2016 12:45PM

To: Bauges, Brenda

Cc:

Subject: Voice Message from Outside Caller on 3/30/16 12:44 PM for 3089

Attachments:033016-124455-3089-1160330.95895807@audix-1.mp3



Voice Message from Outside Caller on 3/30/16 12:44 PM (40 second msg)

MESSAGE:

"Hello excuse me Ms. Bug us. My name is Ben Hart Castle on the superintendent in dietrich Idaho. Hey I had a message to give you a call and was just returning that. I should be working in my office for the next couple of hours. So give me a call back at your earliest convenience and I'd be glad to visit with you. Thanks so much and we will talk to you soon. Again the number here at the school is [REDACTED] that's [REDACTED] Thanks so much we'll talk to you soon. Bye bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M7B86A5F496D5141ATT001 - 033016-██████-██████-1160330.95895807@audix-1.mp3

From: OAG_Voicemail@ag.idaho.gov

Sent: 11/09/2015 7:38 AM

To: Spillman, Jason

Cc:

Subject: Voice Message from Outside Caller on 11/9/15 7:44 AM for 3552

Attachments: 110915-074407-3552-1151109.93129727@audix-1.mp3



Voice Message from Outside Caller on 11/9/15 7:44 AM (24 second msg)

MESSAGE:

"Jason this is Scott Paul at Lincoln County. I missed your call on Friday. Probably in court. My phone number is [REDACTED] [REDACTED] returning your call. Bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M7BF9A56752FE670ATT001 - 110915-074407-3552-1151109.93129727@audix-1.mp3

From: [REDACTED]
Sent: 01/06/2017 1:43 PM
To: [REDACTED]
Cc:
Subject: FW: Voice Message from Outside Caller on 1/6/17 1:43 PM for 3096
Attachments: 010617-134335-3096-1170106.101296639@audix-1.mp3

There does not appear to be any audio on this, but it is probably another Howard call. Phone number was ([REDACTED]) [REDACTED]-[REDACTED]

From: OAG_Voicemail@ag.idaho.gov [mailto:OAG_Voicemail@ag.idaho.gov]
Sent: Friday, January 06, 2017 1:40 PM
To: Minyard, Catherine
Subject: Voice Message from Outside Caller on 1/6/17 1:43 PM for 3096



Voice Message from Outside Caller on 1/6/17 1:43 PM (4 second msg)

MESSAGE:

This person called and left you a new message.



Delete

[Delete this message from your voice mailbox.](#)



Delete All

[Delete all messages from your voice mailbox.](#)

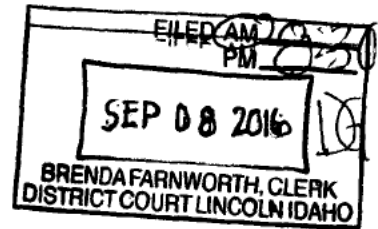
There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M7EBCA70ED2E1515ATT001 - 010617-134335-3096-1170106.101296639@audix-1.mp3

From: Deysi Sandoval
Sent: 09/08/2016 10:24 AM
To: Minyard, Catherine; Calbo&Depew
Cc: Hemmer, Casey; Julie Behm-TCA Secretary
Subject: John Howard
Attachments:Untitled.PDF



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD,	)	ORDER TO DISQUALIFY
)	
Defendant.)	
_____)	

THE ABOVE ENTITLED MATTER having come before this Court and good cause appearing;

IT IS HEREBY ORDERED that the Honorable Robert J. Elgee be disqualified in the above entitled case pursuant to Idaho Criminal Rule 25(a).

DATED this 7 day of September 2016.



Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8 day of September, 2016, I caused to be served a true and correct copy of the foregoing Order to Disqualify to:


Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720
FAX: (208) 854-8083

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

By


Deputy Clerk

5th District TCA

From: OAG_Voicemail@ag.idaho.gov
Sent: 04/01/2016 8:45 AM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 4/1/16 8:44 AM for 3089
Attachments: 040116-084442-3089-1160401.95946495@audix-1.mp3



Voice Message from Outside Caller on 4/1/16 8:44 AM (32 second msg)

MESSAGE:

"Hi this is Tommy or Thomasine plenty(?) from Idaho State police forensic services I was calling you back regarding case number M 2015 4746 and you said you needed to get my CV and a narrative. If you could give me a call back at [REDACTED] that's my direct line and then I can talk to you about it. Thank you and have a great day."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M8E90A5F9B85A238ATT001 - 040116- -1160401.95946495@audix-1.mp3

From: Hemmer, Casey
Sent: 08/31/2016 4:50 PM
To: Keith Roark
Cc:
Subject: Re: T [REDACTED] W [REDACTED]
Attachments:

I did not receive a voicemail and saw your email yesterday but did not have a chance to respond. I have been tied up in court today and am in the process of getting back to people now. I will give you a call in just a few minutes.

Casey

Sent from my iPhone

On Aug 31, 2016, at 4:19 PM, Keith Roark <[REDACTED]> wrote:

Casey:

I called yesterday and left a message. I sent you an email to which no reply has been made. I want to know what happened yesterday since it appears you moved to dismiss the complaint against T [REDACTED] W [REDACTED]. Please respond.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South
Hailey, Idaho 83333
(208) 788-2427
Fax: (208) 788-3918
[REDACTED]

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RR001036

From: Lee Schlender
Sent: 06/09/2016 2:44 PM
To: Hemmer, Casey
Cc: Keith Roark; Heidi Southward
Subject: M [REDACTED] and Howard case
Attachments: image002.jpg

Casey,

Assuming on cross of A [REDACTED] tomorrow there appears that he is not consistent regarding the facts of the rape,

I think the poem becomes admissible when offered by you as per rule 801 (d) (1).

I will be there representing the parents and A [REDACTED] I will make proper objections.

I was just told that the hearing tomorrow has been postponed until July 29.

Lee

Lee Schlender J.D.

[REDACTED]
[REDACTED], [REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]
[REDACTED]

Board Certified Medical Malpractice



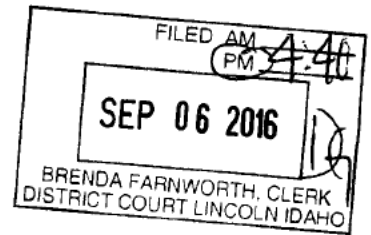
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RR001037



From: Deysi Sandoval
Sent: 09/06/2016 4:43 PM
To: Calbo&Depew; Minyard, Catherine
Cc: Hemmer, Casey
Subject: John Howard
Attachments:Untitled.PDF

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
2632 Twin Flower Dr.
Keller, TX 83352-0800

Defendant.
DOB: 9/25/1997

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Mr. Calbo to initiate call. Blaine County # () .
Hearing to be held in Blaine County.

Telephonic Scheduling Conference Monday, September 12, 2016 11:00 AM
Judge: Robert Elgee

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 Tuesday, September 6, 2016.

Defendant: John R.K. Howard

Mailed_____ Hand Delivered_____ E-Mail_____

Private Counsel:

Mailed_____ Hand Delivered_____ E-Mail_x__

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Casey J Hemmer

Mailed_____ Hand Delivered_____ E-Mail_x__

cc: Crystal Rigby

Dated: Tuesday, September 6, 2016

Brenda Farnworth
Clerk Of The District Court

By:

Deysi Garcia, Deputy Clerk
DOC22 7/96

From: [REDACTED]
Sent: 06/03/2016 3:17 PM
To: Spillman, Jason
Cc: Hemmer, Casey; Piotrowski, Sandra; Brenda Bauges; Lee Schlender ([REDACTED])
Subject: RE: St v. W [REDACTED] and Howard
Attachments:

Jason:

Thanks for getting back. A [REDACTED] is currently at Canyon View Hospital in Twin Falls and is scheduled for release Saturday. He has not been committed although we are giving some consideration to appointment of a guardian. He spoke with your investigator in the presence of Mr. Schlender last week and, as I understand it, was quite lucid. He is under enormous pressure from some of the defendants in our civil action. If you have listened to the audio recently provided by Brian Julian you are aware of some small part of that pressure. Our understanding is that one of A [REDACTED] schoolmates found him walking around Dietrich, upset with his mother, and called the two coaches who instructed him to bring A [REDACTED] to the house where several former teammates and the coaches told him that, because of the lawsuit, they were going to lose their farms, houses, life savings, etc. You will also note from the audio that A [REDACTED] never disavows that the incident took place. After they had thoroughly shamed him they turned on the recorder. I think they believe they have a confession of perjury when what they really have is hard evidence of their own intimidation. When he says "I don't know if it was a metal hanger or a plastic one" he is clearly not denying that a hanger was shoved up his rectum. I urge you to investigate the incident contained on the audio with a view toward filing a complaint for intimidation of a witness.

In any event, I will be in NYC all next week but Mr. Schlender is available. I have no reason to believe that A [REDACTED] can't testify at the Howard prelim next week. He knows he has been wronged but continues to want to be friends with the very villains who tormented him the entire school year and he doesn't want everyone in Dietrich to hate him or think he caused people to lose their homes and farms. It is simply despicable that these nasty, vindictive people are trying to shame A [REDACTED] rather than blame the sick behavior of the miscreants who so brutally attacked him.

I will be in email range at all times so feel free to contact me. Mr. Schlender's email address is listed above and his telephone number is [REDACTED].

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]
Fax: ([REDACTED]) [REDACTED]
[REDACTED]

RR001041

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From: Spillman, Jason ()
Sent: Friday, June 3, 2016 2:16 PM
To: Keith Roark
Cc: Hemmer, Casey; Piotrowski, Sandra; Bauges, Brenda
Subject: FW: St v. W and Howard

Keith,

Casey and I wanted to reply to the e-mail below you sent to Brenda. Casey will be taking over the lead on these cases, but I'm going to be assisting and heavily involved so you can reach out to either of us.

It's our understanding A was recently committed, so any information you can provide re: his status would be helpful. As I am sure you are aware, the Howard prelim is set for next Friday and we need to know if you anticipate any problems with A participating as a witness at that hearing? We also have concern re: your client's mental health and early next week we plan to explore the possibility of a waiver with Howard's lawyer. Of course, we'll let you know if anything develops on that front. Since Brenda handled the prior prelim, and A is familiar with her, she will conduct the Howard prelim as well.

Please do not hesitate to let us know if you have any questions.

Thank you, Jason

Jason Slade Spillman
Lead Deputy Attorney General
Special Prosecutions Unit
P.O. Box 83720
Boise, ID 83720-0010

() -

From: Keith Roark ()
Date: June 1, 2016 at 5:34:16 PM MDT
To: "Bauges, Brenda" ()
Subject: St v. W and Howard

Brenda:

Since you are being reassigned, I would like to know who will be taking the case as lead prosecutor. I am very concerned about the mental health of my client and the overt attempts by some members of the community to intimidate or unreasonably interfere with A and his testimony.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South

RR001042

Hailey, Idaho 83333

() -

Fax: () -

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From: [REDACTED]
Sent: 03/08/2016 8:43 AM
To: Bauges, Brenda
Cc:
Subject: John Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

3:00
MAR 04 2016
IDH

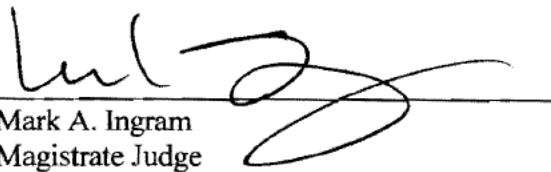
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR- <u>2016-214</u>
vs.)	
)	
JOHN R.K. HOWARD,	)	ORDER TO SEAL
)	
Defendant.)	
_____)	

The State's Motion to Seal the probable cause affidavit having come before the Court and good cause appearing;

IT IS HEREBY ORDERED, pursuant to I.C.A.R. 32(i), that the Probable Cause Affidavit in this matter is HEREBY SEALED until further order of the Court. The Court HEREBY FINDS the privacy interests in the Affidavit predominate over public disclosure of same and that sealing the Affidavit is necessary to preserve the right to a fair trial.

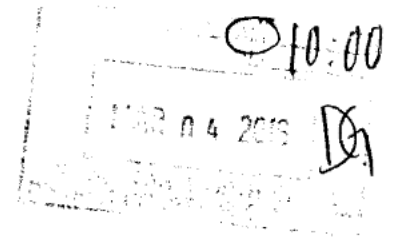
DATED this 4 day of March 2016.


Mark A. Ingram
Magistrate Judge

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

CASE NO. CR-2016-214
ARREST WARRANT

Address: [REDACTED], [REDACTED], [REDACTED]			
DOB: [REDACTED]	SSN: [REDACTED]	Race:	
WT: 174 lbs	HT: 6'00"	EYES: Blue	HAIR: Brown

**TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE STATE
OF IDAHO:**

A COMPLAINT UPON OATH having been this day laid before me by Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, stating that the crime of: FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, has been committed, and accusing JOHN R.K. HOWARD thereof;

ARREST WARRANT (HOWARD), Page 1

ORIGINAL

RR001046

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above, and to bring him before me at my office in the County of Lincoln, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Lincoln County.

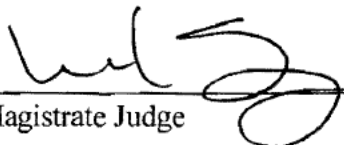
DATED This 4th day of March, 2016.

May be served:

Daytime or any public
place or at the Lincoln
County Jail _____

Daytime or nighttime X

Bond \$ 75,000⁰⁰



Magistrate Judge

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing JOHN R.K. HOWARD into Court this _____ day of _____, 2016.

(Deputy Sheriff) (State Policeman)
(City Policeman)

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, JOHN R.K. HOWARD , having been brought before me under this Warrant, is committed for examination to the Sheriff of Lincoln County, Idaho, and is admitted to bail in the sum of \$_____, surety, cash or by undertaking of two (2) sufficient sureties, and is committed to the custody of the Sheriff of Lincoln County until such bail is given. This cause is continued for further appearance until the _____ day of _____, 2016.

Magistrate Judge

ORDER OF RELEASE

TO THE SHERIFF OF LINCOLN COUNTY, IDAHO:

YOU ARE HEREBY ORDERED to release the Defendant from your custody.

DATED:

Judge

NCIC ENTRY: (Additional Levels Inclusive)

☐ Idaho Only

☐ North West Shuttle (ID, WA, OR)

☐ Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO, AZ, NV)

☒ Nationwide

BY: _____

DATED: _____

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

10:00
11:04 AM
DG

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

CASE NO. CR-2016-214
MOTION TO SEAL

COMES NOW, the State of Idaho, by Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, and moves this Court to order and direct that the probable cause affidavit provided to the Court in this matter be sealed pursuant to Idaho Court Administrative Rule (I.C.A.R.) 32(i).

I.C.A.R. 32(i) allows for records to be sealed by order of the Court on a case-by-case basis. The State contends that the probable cause affidavit at issue contains facts that may be at issue in subsequent proceedings and, potentially, a trial. The State is aware that there has already been media coverage relating to the underlying facts of this case. The State therefore contends that it is

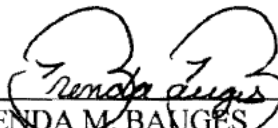
STATE'S MOTION TO SEAL (HOWARD), Page 1

 **ORIGINAL**

RR001049

necessary to temporarily seal the affidavit to preserve the defendant's right to a fair trial.

DATED this 4 day of March, 2016.

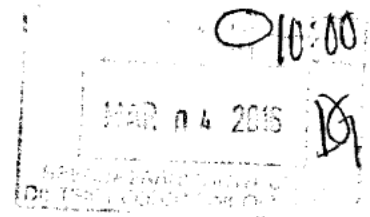


BRENDA M. BAUGES
Deputy Attorney General,
Special Prosecutor for Lincoln County

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

CASE NO. CR-2016-214
CRIMINAL COMPLAINT

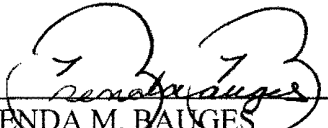
PERSONALLY APPEARED before me this 4 day of March 2016, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608** as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by

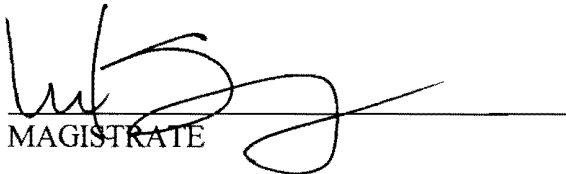
kicking a coat hanger further inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.

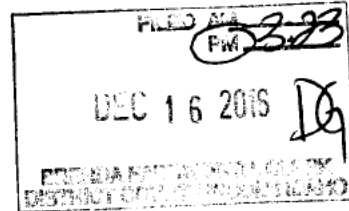

BREND A M. BAUGES
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this 4 day of March 2016.


MAGISTRATE

From: [REDACTED]
Sent: 12/16/2016 3:45 PM
To: catherine.minyard@ag.idaho.gov; [REDACTED]
Cc:
Subject: Howard
Attachments: 12162016154546.pdf

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

DOB: [REDACTED]
Defendant.

Case No: CR-2016-0001144

NOTICE OF HEARING

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

Sentencing Friday, February 24, 2017 01:30 PM
Judge: Randy J Stoker

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, December 16, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail_x__

Brad Calbo

P.O. Box 9
Jerome ID 83338

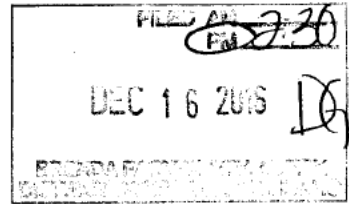
Prosecutor: Casey J Hemmer

Mailed____ Hand Delivered____ E-Mail_x__

Dated: Friday, December 16, 2016
Brenda Farnworth
Clerk Of The District Court

By:


Deysi Garcia, Deputy Clerk
DOC22 7/96



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN**

State of Idaho,

Plaintiff,

vs.

John R. K Howard,

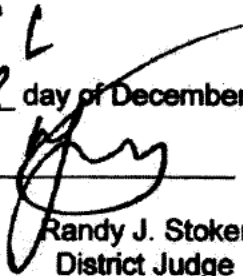
Defendant.

Case No. CR-2016-1144

ORDER

IT IS HEREBY ORDERED that the defendant, John R. K Howard, shall have no contact with the victim in this case, whether by phone, in person, or through third parties. It is further ordered that counsel shall not communicate with members of the media about this case.

Dated this 16th day of December 2016.


Randy J. Stoker
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 16 day of December 2016, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Casey Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720

☐ U.S. Mail
☐ Hand delivered
☐ Faxed
☐ Court Folder
☒ Email

Brad Calbo
Defense Counsel
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338

☐ U.S. Mail
☐ Hand delivered
☐ Faxed
☐ Court Folder
☒ Email

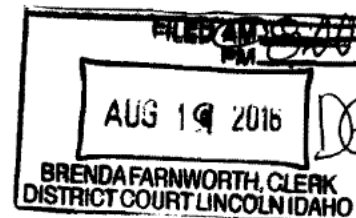
Clerk



From: Hemmer, Casey
Sent: 08/19/2016 8:31 AM
To: Spillman, Jason; Minyard, Catherine
Cc:
Subject: FW: John Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

From: Deysi [REDACTED]
Sent: Friday, August 19, 2016 8:24 AM
To: Hemmer, Casey; Calbo&Depew
Cc: Cheri Mattson
Subject: John Howard

C. Bradley Calbo, ISB No. 4929
Stacey DePew, ISB No. 7303
CALBO & DEPEW, PLLC
414 North Lincoln Avenue, Ste. 5
P.O. Box 9
Jerome, ID 83338
Phone ()
Fax: ()
www.calboanddepew.com



Attorneys for Defendant

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

)
) Case No. CR- 2016-214
)

) **ORDER RE:**
) **MOTION TO DISQUALIFY**
) **JUDGE PURSUANT TO I.C.R. 25**
)
)
)
)
)

COMES NOW, the Honorable John K. Butler, District Judge, having been disqualified in the above-entitled cause and requests this matter be re-assigned to another District Judge for all further proceedings.

DATED: 8/19/16

SIGNED: 

John K. Butler
District Judge

CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that on the 19 day of August, 2016 I caused a true and accurate copy of the foregoing to be forwarded to the following using the method indicated:

Casey Hemmer
~~Brenda Bauges~~
P.O. Box 83720
Boise, ID 83720

- ☐ U.S. Mail
☐ Hand-delivery
☐ Fax *Email*
☐ Courthouse Box

Calbo & DePew
P.O. Box 9
Jerome, ID 83338

- ☐ U.S. Mail
☐ Hand-delivery *Email*
☐ Fax
☐ Courthouse Box

Shelli Tubbs
~~Linda Wright~~
Trial Court Administrator
P.O. Box 126
Twin Falls, ID 83303

- ☐ U.S. Mail
☐ Hand-delivery *Email*
☐ Fax
☐ Courthouse Box


Deputy Clerk

From: Hemmer, Casey
Sent: 12/05/2016 10:51 AM
To: 'Lee Schlender'
Cc:
Subject: RE: schlender re M [REDACTED]
Attachments: image001.jpg

They went out in the mail last week. If you don't have them by today, please let me know.

From: Lee Schlender [REDACTED]
Sent: Monday, December 05, 2016 10:46 AM
To: Hemmer, Casey
Subject: schlender re M [REDACTED]

Casey,

Sure could use the audio CD of the interviews; we have depositions next week and need to get those transcribed soon.

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice



ATTORNEY-CLIENT PRIVILEGED COMMUNICATION; DO NOT FORWARD THIS E-MAIL WITHOUT PERMISSION. The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately. If you have received this communication in error, please notify us immediately by sender's telephone number or e-mail address listed above or by replying to this e-mail and deleting all copies of this message. Thank You !

RR001060



From: [REDACTED]
Sent: 12/19/2016 4:05 PM
To: catherine.minyard@ag.idaho.gov
Cc:
Subject: RE: State of Idaho v. John R.K. Howard, Lincoln County Case No. CR-2016-214
Attachments:

Signed and emailed to Lincoln County

From: Minyard, Catherine [mailto:catherine.minyard@ag.idaho.gov]
Sent: Monday, December 19, 2016 3:28 PM
To: Deysi Garcia [REDACTED]; [REDACTED]
Subject: State of Idaho v. John R.K. Howard, Lincoln County Case No. CR-2016-214

Deysi/Dorothy –

Deputy Attorney General Casey Hemmer made a motion to dismiss this case on the record at the hearing held on December 16, 2016. Attached, please find a Proposed Order dismissing the case for Judge Stoker's review and signature. Please let me know if you need anything further.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
P.O. Box 83720
Boise, ID 83720-0010
Phone: (208) 332-3096
Fax: (208) 854-8083

From: OAG_Voicemail@ag.idaho.gov
Sent: 05/25/2016 1:15 PM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 5/25/16 1:14 PM for 3089
Attachments:052516-131459-3089-1160525.97072127@audix-1.mp3



Voice Message from Outside Caller on 5/25/16 1:14 PM (48 second msg)

MESSAGE:

"Hi Brenda my name is Doug Hart I'm the supervisor for the FBI in Southern Idaho I'm located here in Boise. My number is [REDACTED] and my cell is [REDACTED]. I was calling to see if I could take a few minutes of your time regarding the John RK Howard case in dietrich Idaho. I just wanted to visit with you and get your thoughts regarding any potential Federal. Hate crimes that that may be applicable in that matter. So if you can give me a call at your convenience I would certainly appreciate it. Thank you."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M29BEA62CB91C846ATT001 - 052516-131459-3089-1160525.97072127@audix-1.mp3

From: Lee Schlender
Sent: 11/03/2016 2:39 PM
To: Hemmer, Casey
Cc:
Subject: M [REDACTED] Order entered
Attachments: ATT00001.htm; ATT00002.htm; Atty General Order M [REDACTED].pdf; image002.jpg

Casey,

See attached.

Lee Schlender J.D.

[REDACTED]
[REDACTED]
[REDACTED]

Idaho Bar #1171

schlenderlaw.net

■■■■■
Fax: ■■■■

leeschlender@gmail.com

Board Certified Medical Malpractice

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION; DO NOT FORWARD THIS E-MAIL WITHOUT PERMISSION. The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately. If you have received this communication in error, please notify us immediately by sender's telephone number or e-mail address listed above or by replying to this e-mail and deleting all copies of this message. Thank You !

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED]
Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN
HARDCASTLE, BENJAMIN HOSKISSON,
WAYNE DILL, STAR OLSEN, KRIS
HUBERT, PERRY VAN TASSELL, BRET
PETERSON, MICHAEL TORGERSON, RICK
ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendant.

Case No. 1:16-cv-00202-BLW

ORDER RE:

STIPULATION FOR PROTECTIVE
AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF and DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

The Court hereby enters as a protective Order the Protective Agreement attached hereto as Exhibit A.



Dated: November 03, 2016

B. Lynn Winmill
B. Lynn Winmill

Chief District Judge
United States District Court

B. Lynn Winmill
Chief Judge

ORDER RE : STIPULATION FOR PROTECTION RE:
PRODUCTION OF DOCUMENTS AND MATERIALS

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
T: () [REDACTED]
F: () [REDACTED]
[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]
T: () [REDACTED]
F: () [REDACTED]

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED]

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON, WAYNE DILL, STAR
OLSEN, KRIS HUBERT, PERRY VAN TASSELL,
BRET PETERSON, MICHAEL TORGERSON,
RICK ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendants.

Case No. 1:16-cv-00202-BLW

STIPULATION FOR PROTECTIVE

AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF AND DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

COME NOW Office of the Attorney General of the State of Idaho, the Plaintiff and Defendants, by and through their undersigned counsel pursuant to FRE 502 and FRCP 26(b)(5)(B) AND FRCP 45, and hereby stipulate and as follows:

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATER

1

Exhibit A
to Order re: Stipulation for Protection

The Office of the Attorney General conducted a criminal investigation regarding allegations raised by A. [REDACTED] M. [REDACTED] against A.H. (a juvenile), T.W. (a juvenile) and John Howard; that a subpoena for the files and documents generated and related to that investigation and prosecution was sent to the Office of the Attorney General of the State of Idaho by Plaintiff's attorneys and the Attorney General's office will respond thereto by furnishing said materials to the parties.

THEREFORE:

This Stipulation shall apply to all documents, regardless of form, including audio, photographs, and/or video which contain information derived from the above referenced investigation and prosecution conducted by the office of the Attorney General of the State of Idaho against A.H., T.W., and John Howard; that this Agreement and the terms thereof shall be an Order of the Court.

Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys and defendants may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

**STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS**

Each individual who receives any Protected Materials hereby agrees to subject himself/herself to the jurisdiction of this Court for any purposes of any proceedings related to the enforcement of this Protective Order.

A. Handling Protected Materials.

If any party files with the Court any pleading, interrogatory, answer, affidavit, motion, brief, or other paper containing, appending, summarizing, excerpting or otherwise embodying confidential material, the pleading or other paper in which the confidential material is embodied shall be filed and maintained under seal and shall not be available for public inspection. The party making the filing shall comply with D. Idaho. L. Civ. R. 5.3, and R. 5.5.

B. Miscellaneous.

1. This Order shall not prevent either party from applying to the Court for relief from this Order or any part thereof or for relief from its application in any particular circumstance, or from applying to the Court for further or additional protective agreements or orders. This Order shall survive the final determination of this or related proceedings to the extent that the protected materials have not or do not become known to the public.

2. The parties may rely on a waiver of the provisions of this Order or consent to disclosure of protected materials that is made by the producing party's attorney as if that waiver or consent was made by the producing party itself, provided that such waiver or consent is express and shall be either in writing or on the record in a hearing, trial, or deposition transcript.

3. In the event a party receives a subpoena or other legal or governmental demand for protection of any Protected Material, the subpoenaed party shall notify the requesting part of the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the

production of the Protected Materials.

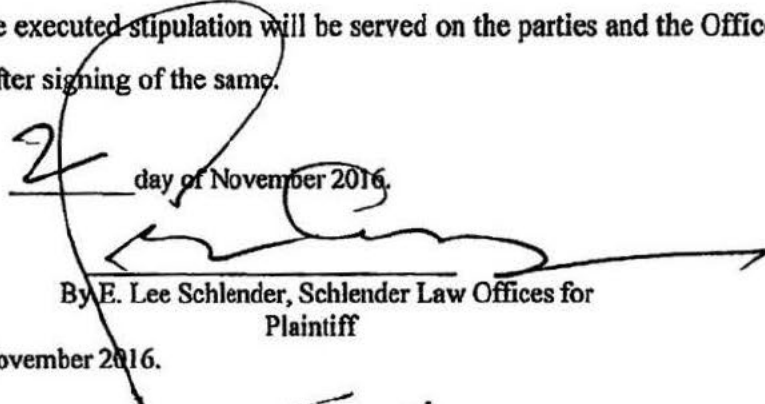
4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of deposition transcripts, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .


6. It is therefore hereby stipulated that The Court will enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this 2 day of November 2016.



By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this 2 day of November 2016.


By Casey Hemmer
Office of the Attorney General
Criminal Division
700 W. Jefferson Street
P.O. Box 83 Boise, ID 83720-0010

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

Dated this 2 day of November 2016


By  for
for: Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Attorneys for the Defendants

CERTIFICATE OF SERVICE

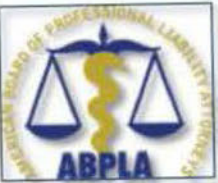
I certify that on 3 day of November 2016 I caused a true and correct copy of
this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: () -
SERVED BY: email. dwolff@ajhlaw.com

Office of the Attorney General
Criminal Division
Paul Panther, Division Chief
Casey Hemmer, Deputy A.G. □
700 W. Jefferson Street □ P.O. Box 83720
Boise, ID 83720-0010
By Fax and email. casey.hemmer@ag.idaho.gov
Phone () -
Fax (208) 854-8071


E. Lee Schlender
Attorney for Plaintiff

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS



From: Lee Schlender
Sent: 11/01/2016 2:59 PM
To: Hemmer, Casey
Cc: Keith Roark
Subject: M[REDACTED] case
Attachments: image002.jpg

Casey:

Trust you received the email with the subpoena, notice of subpoena and the agreement for non-disclosure.

We have not been actually hand serving the subpoenas unless it is mandated by a party or organization.

Let me know if you need it physically handed to you, or any questions you may have.

If you send me back the signed agreement for disclosure, I will do service on everyone of that document.

I can arrange for the materials to be picked up at your office , or you can package them and send them to me at my Mt.Home address. I appreciate your facilitating getting this accomplished.

Best Regards,

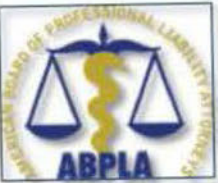
Lee

Lee Schlender
[REDACTED]
SCHLENDER & BROWN PLLC

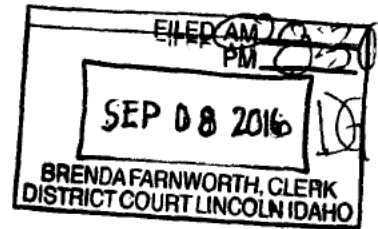
Lee Schlender J.D.
Joseph F.Brown, M.D.J.D.
Offices Meridian and Mt.Home Idaho
[REDACTED]

[REDACTED]
[REDACTED]
Fax: [REDACTED]
Mr.Schlender:
Board Certified Medical Malpractice





From: Deysi Sandoval
Sent: 09/08/2016 10:24 AM
To: Minyard, Catherine; Calbo&Depew
Cc: Hemmer, Casey; Julie Behm-TCA Secretary
Subject: John Howard
Attachments:Untitled.PDF



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD,	)	ORDER TO DISQUALIFY
)	
Defendant.)	
_____)	

THE ABOVE ENTITLED MATTER having come before this Court and good cause appearing;

IT IS HEREBY ORDERED that the Honorable Robert J. Elgee be disqualified in the above entitled case pursuant to Idaho Criminal Rule 25(a).

DATED this 7 day of September 2016.



Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8 day of September, 2016, I caused to be served a true and correct copy of the foregoing Order to Disqualify to:


Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720
FAX: (208) 854-8083

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☒ Electronic Mail (Email)

By


Deputy Clerk

5th District TCA

From: Minyard, Catherine
Sent: 09/01/2016 10:14 AM
To: Deysi Garcia ([REDACTED]); [REDACTED]
Cc: Hemmer, Casey; [REDACTED]
Subject: State v. [REDACTED] R [REDACTED] W [REDACTED], Lincoln County Case No. CR-2016-213
Attachments: Proposed Order to Dismiss.pdf

Deysi/Traci –

Deputy Attorney General Casey Hemmer made a motion to dismiss this case on the record at the hearing held on August 30, 2016. Attached, please find a Proposed Order dismissing the case without prejudice for Judge Butler's review and signature. Please let me know if you need anything further.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: (208) 332-3096
Fax: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
vs.)	
	)	ORDER TO DISMISS
T [REDACTED] R [REDACTED] W [REDACTED],)	
)	
Defendant.)	
_____)	

The Court having heard the motion heretofore made in the case of *State v. T [REDACTED] R [REDACTED] W [REDACTED]* by, Deputy Attorney General Casey J. Hemmer, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the charge of Forcible Penetration by Use of a Foreign Object, Felony is hereby dismissed WITHOUT prejudice.

DATED this ____ day of _____ 2016.

John K. Butler
District Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day of September 2016, I caused to be served a true and correct copy of the foregoing Order to Dismiss to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Fax: 208-854-8083

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

By: _____
Deputy Clerk

From: [REDACTED]
Sent: 03/10/2016 1:17 PM
To: Piotrowski, Sandra
Cc:
Subject: FW: No Contact Order-Odyssey
Attachments:No Contact Order-Odyssey.docx

SANDY-

I HAVE ATTACHED THE CURRENT NO CONTACT ORDER FORM THAT WE USE.

IF I MAY BE OF FURTHER ASSISTANCE, PLEASE DO NOT HESITATE TO CONTACT ME.

SINCERELY,

Sue Gregory
Legal Assistant
Victim/Witness Coordinator
LINCOLN COUNTY PROSECUTOR
Telephone: [REDACTED]
Facsimile: [REDACTED]
Email: [REDACTED]

CONFIDENTIALITY NOTICE: This e-mail is intended only for the personal and confidential use of the individual(s) named as recipients (or the employee or agent responsible to deliver it to the intended recipient) and is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone. Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance on the information it contains.

From: Deysi Sandoval [REDACTED]
Sent: Thursday, March 10, 2016 1:15 PM
To: Sue Gregory
Subject: No Contact Order-Odyssey

STATE OF IDAHO)	CASE NO. CR-_____
Plaintiff,)	
vs.)	
_____)	NO CONTACT ORDER I.C. 18-920-I.C.R. 46.2
Defendant,)	
)	

<u>Count</u>	<u>Statute</u>	<u>Charge Description</u>
--------------	----------------	---------------------------

<u>Alleged Victim's Name</u>	<u>DOB</u>	<u>DL</u>	<u>Address</u>
1.			
2.			
3.			

Alleged Victim's home _____

Alleged Victim's school _____

Alleged Victim's work _____

☐ No exceptions

☐ Telephone contact allowed between the hours of ____ a.m. and ____ p.m. for the following purpose: _____

☐ To exchange children through third party: _____

☐ To obtain necessary personal property from the residence listed above with the assistance of law enforcement.

☐ To participate in legal proceedings involving the victim(s) or to communicate through attorneys about legal issues involving the victim(s).

☐ To respond to emergencies involving your natural or adopted children.

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under I.C. 18-920 for which bail will only be set by a Judge. It is punishable by up to one year in jail and a fine up to \$1,000.

THIS ORDER CAN ONLY BE MODIFIED BY A JUDGE and shall remain in effect until 11:59 p.m. on _____ or until the underlying charge is dismissed by a Judge, whichever occurs first.

RIGHT TO A HEARING: You and the alleged victim have the right to a hearing on the continuation of this Order within a reasonable time. To request a hearing contact _____

If any other Domestic Violence or Criminal Protection Order is in place the most restrictive terms will control any conflict in the Orders. Dismissal of any other Order will not result in a dismissal of this Order

This order may subject you to Federal firearms prohibition on the ownership or possession of firearms. 18 USC 922.

You are notified that if this No Contact Order is issued as a condition of bail or release on your own recognizance and includes an area of geographical restriction monitored by electronic or global positioning system tracking, then intentionally leaving the area of restriction, except for the purpose of obtaining emergency medical care, may be prosecuted as the crime escape and subject you to the penalties set forth in I.C. § 18-2505 or I.C. § 18-2506.

IT IS SO ORDERED.

Dated this _____ day of _____, 2015

MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

☐ I certify that on September 09, 2015, I serve a true and correct copy of this document on the defendant by hand delivery.

I acknowledge receipt of this order dated: _____

Defendant

☐ I certify that on 9/9/2015, I served a copy of the attached to:

- ☐ By mail
- ☐ By email
- ☐ By fax: _____
- ☐ By personal delivery
- ☐ Overnight delivery/Fed Ex

By: _____
Deputy Clerk

From: Brian Johnson
Sent: 04/26/2016 4:16 PM
To: Minyard, Catherine
Cc:
Subject: CV for Dr. Johnson
Attachments: CV Brian Johnson 2016.pdf

I am attaching my CV that was requested by Brenda Bauges. Let me know if you need anything else.

CURRICULUM VITAE

BRIAN L. JOHNSON, M.D.

PHONE () - • E-MAIL

EDUCATION

Undergraduate	1988 - 1991	Regis University	Denver, Colorado
		<i>B.S. Biology</i>	
		▪ Magna Cum Laude	
Medical School	1991 - 1995	University of Colorado School of Medicine	Denver, Colorado
		<i>M.D.</i>	
Residency	1995 - 1998	University of Colorado at Rose Medical Center	Denver, Colorado
		<i>Family Medicine</i>	
Fellowship	1998-1999	University of Colorado	Denver, Colorado
		<i>Advanced Training Track in Perinatal Care</i>	
		▪ Developed skills in operative obstetrics, OB ultrasound, tubal ligation and management of complicated pregnancies	
		▪ Taught family medicine residents at St. Anthony, Rose and University Hospitals as part of residency faculty	
		▪ Directed regional ALSO course	
		▪ Taught ultrasound course at the AAFP Family Centered Maternity Care conference in Providence, RI	

PRACTICE

1999-2001	Westlake Family Physicians	Greeley, Colorado
2000-2001	Rose Family Medicine Center Resident Precepting	Denver, Colorado
2001-2005	Moffat Family Clinic	Craig, Colorado
2001-2005	Emergency Physician - The Memorial Hospital	Craig, Colorado
2003-2005	Medical Director for Mine Rescue Team - Colowyo Mine	Meeker, Colorado
2005-2014	St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians)	Jerome, Idaho
2005-present	Emergency Physician – St. Luke's Jerome	Jerome, Idaho

HOSPITAL AFFILIATIONS

2005-present	St. Luke's Jerome (formerly St. Benedict's Family Medical Center)	Jerome, Idaho
2001-2005	The Memorial Hospital	Craig, Colorado
1999-2001	North Colorado Medical Center	Greeley, Colorado
1998-2001	Rose Medical Center	Denver, Colorado
1998-2000	St. Anthony Hospital	Denver, Colorado
1998-2000	Porter Adventist Hospital	Denver, Colorado
1998-1999	University Hospital	Denver, Colorado

LICENSURE

Idaho - M-9335

ACCREDITATIONS AND CONTINUING EDUCATION

Diplomate – American Board of Family Practice, 1998
Advanced Cardiac Life Support
Advanced Life Support in Obstetrics (past certification)
Advanced Life Support in Obstetrics Instructor Certification (past certification)
Advanced Trauma Life Support
Pediatric Advanced Life Support
Neonatal Resuscitation Program

PROFESSIONAL ACTIVITIES

St. Luke's Jerome

Chief of Staff – 2012-2013
Chair – Department of Medicine 2015-present

St. Benedict's Family Medical Center

Chair – Department of Primary Care 2008-2010

American Academy of Family Physicians

Member, 1991 – present

Idaho Academy of Family Physicians

Member, 2005-present

Colorado Academy of Family Physicians

Member, 1991 – 2005
Legislative Committee, 1998-2000

American Medical Association

Member, 1992 – present
Alternate Delegate (Colorado) 2001-2003
Delegate (Colorado) 2003-2005

Idaho Medical Association

Member 2005-present

Colorado Medical Society

Member, 1991 – 2005
Board of Directors 1997 - 1999
Council on Legislation 1995 – 2005
Delegate, 1993-1995, 2000

Weld County Medical Society

Member, 1999 – 2001
President-Elect 2001
Board of Directors 2000 – 2001

Denver Medical Society

Member, 1991-1995

COMMUNITY ACTIVITIES

Member, Colorado Railroad Historical Foundation 1995 – present
Medical Director for Crisis Pregnancy Center 2006-2011
Knights of Columbus 2001 - present
Participated in development of curriculum for domestic violence training in primary care residencies 1998
Volunteer, U.S. Fish and Wildlife Service 1995 - 1996
Founding Member, Two Ponds Preservation Foundation
Volunteer, Stout Street Medical Clinic for the Poor and Homeless 1992 - 1995
Volunteer, Church Sponsored 24-hour Crisis Hotline 1991 - 1993

From: Spillman, Jason
Sent: 06/03/2016 2:16 PM
To: [REDACTED]
Cc: Hemmer, Casey; Piotrowski, Sandra; Bauges, Brenda
Subject: FW: St v. W [REDACTED] and Howard
Attachments:

Keith,

Casey and I wanted to reply to the e-mail below you sent to Brenda. Casey will be taking over the lead on these cases, but I'm going to be assisting and heavily involved so you can reach out to either of us.

It's our understanding A [REDACTED] was recently committed, so any information you can provide re: his status would be helpful. As I am sure you are aware, the Howard prelim is set for next Friday and we need to know if you anticipate any problems with A [REDACTED] participating as a witness at that hearing? We also have concern re: your client's mental health and early next week we plan to explore the possibility of a waiver with Howard's lawyer. Of course, we'll let you know if anything develops on that front. Since Brenda handled the prior prelim, and A [REDACTED] is familiar with her, she will conduct the Howard prelim as well.

Please do not hesitate to let us know if you have any questions.

Thank you, Jason

Jason Slade Spillman
Lead Deputy Attorney General
Special Prosecutions Unit
P.O. Box 83720
Boise, ID 83720-0010
[REDACTED] [REDACTED] [REDACTED]

From: Keith Roark [REDACTED]
Date: June 1, 2016 at 5:34:16 PM MDT
To: "Bauges, Brenda" [REDACTED]
Subject: St v. W [REDACTED] and Howard

Brenda:

Since you are being reassigned, I would like to know who will be taking the case as lead prosecutor. I am very concerned about the mental health of my client and the overt attempts by some members of the community to intimidate or unreasonably interfere with A [REDACTED] and his testimony.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]
Fax: [REDACTED]
[REDACTED]

From: OAG_Voicemail@ag.idaho.gov
Sent: 05/23/2016 11:02 AM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 5/23/16 11:02 AM for 3089
Attachments: 052316-110256-3089-1160523.97000959@audix-1.mp3



Voice Message from Outside Caller on 5/23/16 11:02 AM (34 second msg)

MESSAGE:

"Yeah this Kevin outside. Apparently you were having some more problems with it and it's going over at the school. Just wondering what if anything I can do at this point he's the school is trying to get him into a different psychiatrist and all sorts of stuff. Give me a call as soon as you can. Thank you."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M73CEA62AC2C5932ATT001 - 052316-[REDACTED]-[REDACTED]-1160523.97000959@audix-1.mp3

From: [REDACTED]
Sent: 03/07/2016 10:04 AM
To: Piotrowski, Sandra
Cc:
Subject: Re: Attorney General contact
Attachments:

Ok thanks so much!

On Fri, Mar 4, 2016 at 9:23 AM, Piotrowski, Sandra [REDACTED] wrote:

Hi Shelly,
If you have any questions, please let me know.

Also, I forgot to tell you that I have a toll-free number, listed below.

Sincerely,

Sandy Piotrowski
Victim/Witness Coordinator
Office of the Idaho Attorney General
PO Box 83720
Boise, ID 83720

([REDACTED])
([REDACTED])

From: [REDACTED]
Sent: 01/06/2017 11:32 AM
To: [REDACTED]
Cc:
Subject: FW: Voice Message from Outside Caller on 1/6/17 11:28 AM for 3096
Attachments: 010617-[REDACTED]-[REDACTED]-1170106.101287423@audix-1.mp3

Another one. This is from phone number ([REDACTED]) [REDACTED]-[REDACTED].

From: OAG_Voicemail@ag.idaho.gov [mailto:OAG_Voicemail@ag.idaho.gov]
Sent: Friday, January 06, 2017 11:27 AM
To: Minyard, Catherine
Subject: Voice Message from Outside Caller on 1/6/17 11:28 AM for 3096



Voice Message from Outside Caller on 1/6/17 11:28 AM (66 second msg)

MESSAGE:

"Yes I would like to file a complaint in regards to attorney Jenna Roe. Casey Hammer. I'm calling in regards to the case that was handled and I've totally believe that is totally incorrect and focus BS and you guys know it and he should be removed from our office that is absolutely terrible that he accepted that plea deal. Again that-you-that(?) disabled young man. Absolutely ridiculous something should definitely be done about it. It's in regards to the case for John RK Howard is it because he's white and because the defendant(?) was black. That makes no sense. I'm sorry the victim was a black plates it was white really. So because he can't he doesn't have to register as a sex offender. Are you Kate PS representation with it. That a complaint needs to be filed and Casey ..."



Delete

[Delete this message from your voice mailbox.](#)



Delete All

[Delete all messages from your voice mailbox.](#)

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M88D6A70E7591607ATT001 - 010617-112816-3096-1170106.101287423@audix-1.mp3

From: Denise Schloder
Sent: 07/15/2016 9:18 AM
To: Minyard, Catherine
Cc:
Subject: State vs. T■■■■ W■■■, Preliminary Hearing
Attachments: State vs. T■■■■ W■■■, Preliminary Hearing.pdf

IN THE MAGISTRATE COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

* * * * *

STATE OF IDAHO,	)	CASE NO. CR-2016-213
	)	REPORTER'S TRANSCRIPT
Plaintiff,)	
)	
vs.)	
)	
T [REDACTED] R. W [REDACTED],)	
)	
Defendant.)	
-----)	

PRELIMINARY HEARING

FRIDAY, APRIL 22, 2016, 2:04 P.M.

BEFORE HONORABLE MARK A INGRAM

MAGISTRATE JUDGE PRESIDING

APPEARANCES OF COUNSEL:

MS. BRENDA M. BAUGES, Deputy Attorney General
Post Office Box 83720, Boise, ID 83720-0010

Appearing on behalf of Plaintiff.

MR. MICHAEL J. WOOD, Attorney at Law
184 Gooding Street West, Suite 2G
Twin Falls, ID 83301

Appearing on behalf of Defendant.

DENISE K. SCHLODER, CSR 652
OFFICIAL COURT REPORTER
JEROME COUNTY, JEROME, IDAHO

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I N D E X

WITNESSES:	PAGE
S [REDACTED] R [REDACTED]	
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A [REDACTED] M [REDACTED]	
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Redirect Examination by Ms. Bauges.....	85

1 COURTROOM OF THE MAGISTRATE COURT
2 FIFTH JUDICIAL DISTRICT
3 LINCOLN COUNTY COURTHOUSE
4 LINCOLN COUNTY, SHOSHONE, IDAHO
5 APRIL 22, 2016, FRIDAY, 2:00 P.M.
6
7 THE COURT: We'll take up Case CR-16-213,
8 State of Idaho vs. T■■■■ W■■■■ This is the time
9 scheduled for preliminary hearing in this matter.
10 Anything preliminarily?
11 MR. WOOD: Move to exclude witnesses.
12 THE COURT: If you have been summoned as a
13 witness in this matter, I will ask that you wait in
14 the hallway until you're called. You are not to
15 discuss your testimony with anybody in the hall or
16 have anybody discuss your testimony with you while
17 you are in the hall, and then after you've
18 testified, you are either free to go or you can
19 remain in the courtroom.
20 All right. Go ahead.
21 MS. BAUGES: The State calls S■■■■ R■■■■ And
22 he's downstairs, Your Honor.
23 THE COURT: Okay. You want to go --
24 MS. BAUGES: He's in the sheriff's office.
25 THE BAILIFF: Who do you need?

3

1 THE COURT: All right. If -- there's a
2 possibility you might be called as a witness and,
3 apparently, if you were present in a locker room,
4 you might fall under that category, so I'm going to
5 ask that you step out. Okay. Thank you.
6 Go ahead.
7 MS. BAUGES: Thank you, Your Honor.
8
9 DIRECT EXAMINATION BY MS. BAUGES:
10 Q. Could you please state your name and
11 spell your last name for the record.
12 A. S■■■■ R■■■■, R■■■■
13 Q. How old are you?
14 A. 17 years old.
15 Q. Do you attend school?
16 A. Yes, ma'am.
17 Q. Where?
18 A. Dietrich High School.
19 Q. Were you on the Dietrich football team in
20 October of 2015?
21 A. Yes, I was.
22 Q. So I'm going to direct your attention to
23 October 22nd, 2015. Did you have practice that day?
24 A. Yes, we did.
25 Q. Where did you have practice?

5

1 THE COURT: S■■■■ R■■■■
2 All right. Mr. R■■■■ if you'd come in,
3 please. If you could just stand there, face the
4 clerk, raise your right hand, the clerk will swear
5 you in.
6
7
8 S■■■■ R■■■■
9 being produced as a witness on behalf of the
10 plaintiff, was duly sworn on his oath and testified
11 as follows:
12
13 THE COURT: I'm going to rely on counsel to be
14 aware of who's a witness and who isn't a witness in
15 terms of the Court's prior order excluding witnesses
16 until they testify.
17 MS. BAUGES: Your Honor, does that include
18 potential witnesses or just witnesses that --
19 THE COURT: It does include potential
20 witnesses.
21 MS. BAUGES: I believe anybody that has
22 knowledge of the -- that was in the locker room at
23 the time should be excluded, and I'm not aware of
24 everybody who that is, but I do see one person that
25 was in the locker room at the time.

4

1 A. At the football field.
2 Q. Okay. And is that football field in
3 Dietrich?
4 A. Yes, it is.
5 Q. County of Lincoln?
6 A. Yes.
7 Q. State of Idaho?
8 A. Uh-huh.
9 Q. Okay. Did anything unusual happen after
10 practice on that day?
11 A. Yes.
12 Q. Could you please describe that.
13 A. We were all in the locker room getting
14 changed, and a bunch of people were getting ready to
15 shower, and A■■■■ was about to get in the shower
16 when T■■■■ came up behind him with a hanger and put
17 it in his butt. And then John was sitting -- John
18 -- I can't remember his last name -- was sitting on
19 the bench by the lockers behind T■■■ -- or A■■■■
20 and was kicking it.
21 Q. And what happened after that? Do you
22 know?
23 A. A■■■■ pulled the hanger out and stumbled
24 towards the sink, and that's when I left.
25 Q. Did you hear anything during this time?

6

1 **A. Just laughing.**
2 Q. Who was laughing?
3 MR. WOOD: Objection. No foundation. He's
4 indicated he left the room. Could he see who was
5 laughing or not?
6 THE COURT: I don't know that it was a
7 chronological question.
8 MS. BAUGES: I can rephrase.
9 THE COURT: Okay. Go ahead.
10 BY MS. BAUGES:
11 Q. At the time that you were actually in the
12 locker room observing the hanger -- the hanger
13 incident we'll call it -- you said somebody was --
14 T█████ was shoving it in, and somebody else was
15 kicking it, and then there was staggering
16 afterwards. During that time frame, did you hear
17 anything?
18 **A. Yes. T█████ and John were laughing at**
19 **A█████.**
20 Q. Okay. Did you observe anything about
21 A█████?
22 **A. He looked like he was clearly in pain.**
23 MR. WOOD: Objection. No, I'll withdraw it.
24 Excuse me, sir.
25

7

1 markers?
2 THE COURT: You might try this one. Oh,
3 there's a whole set.
4
5 CROSS EXAMINATION BY MR. WOOD:
6 Q. Mr. R█████, would you mind coming around
7 and standing in front of the drawing board. And
8 could you please draw -- first, could you angle that
9 drawing board a little more towards myself and the
10 prosecutor but so that the judge can see it, please.
11 Can you see that?
12 THE COURT: I'm good. I can lean out.
13 BY MR. WOOD:
14 Q. Would you please draw, taking up as much
15 of that piece of paper as possible, the locker room,
16 the floor layout of the locker room.
17 Now, you were present in this room
18 throughout this incident with the hanger; is that
19 correct?
20 **A. Yes, sir.**
21 Q. You never left or you weren't taking a
22 shower or something like that?
23 **A. I was changing throughout the event.**
24 Q. And would you please put an "R" for the
25 location you made the observations you've described

9

1 BY MS. BAUGES:
2 Q. Could you please restate that.
3 **A. He looked like he was in pain.**
4 Q. Now, you said a person named T█████ was
5 the one who initially inserted the hanger into
6 A█████'s butt. Is that the word you used?
7 **A. Yes, it is.**
8 Q. Do you see that person, T█████ in the
9 courtroom today?
10 **A. Yes, I do.**
11 Q. Could you please point out where he's
12 seated and identify an article of clothing that he's
13 wearing.
14 **A. A blue tie and a gray shirt.**
15 MS. BAUGES: Thank you.
16 No further questions.
17 THE COURT: The record will reflect the
18 identification of the defendant.
19 MS. BAUGES: Thank you, Your Honor. No
20 further questions.
21 THE COURT: Mr. Wood.
22 MR. WOOD: May I retrieve the drawing board?
23 THE COURT: Sure. Until you get those knees
24 replaced, do you want me to carry it for you?
25 MR. WOOD: (Inaudible.) Do we have any

8

1 from. And you have drawn an R about halfway on that
2 wall of lockers that exists in that room; correct?
3 **A. Yes.**
4 Q. And there's a bench that runs around what
5 looks to me for guys to sit on. Were you seated on
6 that bench?
7 **A. I was standing in front of it.**
8 Q. You were standing in front of it
9 throughout everything you have told the judge --
10 **A. Yes.**
11 Q. -- is that correct? Excuse me?
12 **A. Yes.**
13 Q. Because we're on tape, you've got to
14 speak real loud.
15 **A. Yes.**
16 Q. I don't mean to be yelling at you either,
17 but I'm trying to talk loud enough that the mic's
18 picking me up. Okay? We've both got to do that.
19 Would you please put a "T" for where
20 T█████ was. Now, the whole time you were standing
21 there, did you ever see T█████ move from that
22 position?
23 **A. Not really. He followed A█████ over to**
24 **the sink area over here. He was walking towards it**
25 **when I was leaving.**

10

1 Q. And when you say "the sink area," you
2 point to the top of your diagram, a little square
3 that is right at the top of your diagram?
4 **A. Yeah. There's a doorway right here by
5 the lockers, and across from the doorway is sinks
6 and then a stall for a bathroom.**
7 Q. Okay. And it's your testimony under oath
8 that T■■■■ was at T and never really moved, huh?
9 **A. As I said before, he walked towards T■■■■
10 -- or A■■■■ as I was leaving the building -- or
11 leaving the room.**
12 Q. Okay. Now, when you saw Mr. W■■■■ at T,
13 did you hear him say anything?
14 **A. I didn't really hear him say anything.**
15 Q. Excuse me?
16 **A. I didn't really hear him say anything.**
17 Q. And you're sure of that?
18 **A. Yes.**
19 Q. Could you please write down an "A" for
20 A■■■■, where A■■■■ was during this.
21 **A. Where he started?**
22 Q. Where he started. That would be good.
23 And what is he doing there?
24 **A. He was facing towards the sinks. He was
25 undressing, getting ready to take a shower.**

11

1 Q. Were you hearing A■■■■ say something at
2 A?
3 **A. I didn't really pay attention to what
4 anybody was saying.**
5 Q. So he might have been saying things, and
6 you didn't --
7 **A. He could have.**
8 Q. -- didn't notice? You've told us that
9 you saw A■■■■ move. Can you do a broken line in
10 the direction you saw him move. And as T■■■■ stood
11 there, are you telling us that he already had the
12 hanger in his hand, that T■■■■ had a hanger in his
13 hand as he stood there at T?
14 **A. Yes.**
15 Q. And you're sure of that?
16 **A. Yes.**
17 Q. How was he holding it?
18 **A. Like this. By his side.**
19 Q. Excuse me?
20 **A. By his side.**
21 Q. And what part of the hanger did he have
22 ahold of?
23 **A. The curved part that rests in the
24 shoulders of the shirts.**
25 Q. Excuse me?

13

1 Q. Where is A■■■■ locker?
2 **A. I think it's over here.**
3 Q. I'm not asking what you think. Do you
4 know where his locker is? You've just drawn a
5 circle. Would you put an "A" in that circle if
6 that's A■■■■'s locker. I'm not trying to tell you
7 it's A■■■■'s. If you think that's A■■■■'s locker,
8 put an "A" in it. And you did, huh?
9 **A. Yes.**
10 Q. Now, it's an upside down A. It's right
11 side up to you, but upside down to me, huh?
12 **A. I guess, yeah.**
13 Q. Had you seen A■■■■ over by his locker?
14 **A. No.**
15 Q. What was he doing?
16 **A. He was undressing, getting ready to
17 shower.**
18 Q. He was undressing all the way over there
19 at A, huh?
20 **A. Uh-huh.**
21 Q. Why wasn't he undressing over at his
22 locker?
23 **A. He never really undressed by his locker.
24 He just -- his clothes were scattered all throughout
25 the locker room throughout the football season.**

12

1 **A. The curved part that rests in the
2 shoulders of a shirt.**
3 Q. Okay. And would you describe that hanger
4 to us.
5 **A. It was like a -- would you like me to
6 draw it?**
7 Q. No, sir. I'd like you to describe it to
8 us verbally.
9 **A. It was like an upside down V with a
10 horizontal bar that goes across the bottom of it
11 with a hook on top.**
12 Q. And the hangers that I think of are coat
13 hangers. Is that a fair description of what this
14 thing was?
15 **A. Yes.**
16 Q. And the coat hangers I'm familiar with
17 have a hook on top that comes off the top of the
18 incline sides. Is that a fair description of this
19 coat hanger?
20 **A. Yes.**
21 Q. And coat hangers can be made out of
22 various materials. So what material was this coat
23 hanger made out of?
24 **A. It was a brown plastic coat hanger.**
25 Q. You're sure of that?

14

1 **A. Yes, I am.**
2 Q. Was it different in size or shape from
3 the normal --
4 **A. No.**
5 Q. -- coat hanger? So the hook was a hook,
6 and it was bent down back towards the hanger --
7 **A. Yes.**
8 Q. -- correct? Excuse me?
9 **A. Yes.**
10 Q. And it is your testimony under oath that
11 T [REDACTED] had that coat hanger in his hand at T? Am I
12 understanding that correctly?
13 **A. Yes.**
14 Q. Did you see where T [REDACTED] W [REDACTED] got that
15 hanger?
16 **A. It was sitting on this bench.**
17 Q. So you're telling us you saw --
18 **A. (Unintelligible.)**
19 Q. -- you saw him pick it up?
20 **A. Uh-huh.**
21 Q. Excuse me?
22 **A. Yes.**
23 Q. And when did you see him pick it up?
24 **A. Before it all happened.**
25 Q. How long before it all happened?

15

1 **get out of there.**
2 Q. Just getting dressed and going home, huh?
3 Right?
4 **A. Yeah. I wasn't really listening to what**
5 **they were saying. I was watching.**
6 Q. And it is your testimony that you
7 actually saw T [REDACTED] place that coat hanger between
8 A [REDACTED]'s buttocks?
9 **A. Yes.**
10 Q. And you are at R when that happens?
11 **A. Yes.**
12 Q. How many feet is that approximately? I
13 know you can't say for sure.
14 **A. Maybe 15.**
15 Q. How many?
16 **A. Maybe 10 or 15.**
17 Q. 10 or 15?
18 **A. (No audible response.)**
19 Q. And you couldn't tell from the angle that
20 you were looking at whether that coat hanger somehow
21 penetrated Antwon's anus, could you?
22 **A. No, I could not.**
23 Q. All you know is that it went between his
24 buttocks; correct?
25 **A. Yes.**

17

1 **A. Maybe 30 seconds to a minute.**
2 Q. Did he say anything after he picked it
3 up?
4 **A. No.**
5 Q. Are you sure of that?
6 **A. Yes.**
7 Q. Now, would you please put a "JH" for the
8 location of John Howard. And you're putting that JH
9 right about the same place as the hanger originally
10 was; correct?
11 **A. Yes.**
12 Q. And you're sure of that?
13 **A. Yes.**
14 Q. And was he seated or standing?
15 **A. He was seated.**
16 Q. And how was he dressed?
17 **A. He had a pair of shorts and a shirt.**
18 Q. And was he saying anything?
19 **A. Not that I'm aware of.**
20 Q. Could he have said things that you didn't
21 hear?
22 **A. He probably could have, yes.**
23 Q. You're not really paying close attention
24 to these folks, are you?
25 **A. Not at the time. I was just trying to**

16

1 Q. So will you please put a circle along
2 that dotted line for the position A [REDACTED] was in when
3 he -- when you say T [REDACTED] placed the coat hanger
4 between his buttocks.
5 **A. What do you mean a circle? Which way he**
6 **was facing?**
7 Q. No. I'm --
8 **A. How would a circle help that?**
9 Q. I'm hoping just to mark it with a
10 location. So just a normal zero. So you have
11 A [REDACTED] virtually in the same location; true?
12 **A. He was facing towards the showers.**
13 Q. He's at an angle?
14 **A. Yes.**
15 Q. Has T [REDACTED] moved?
16 **A. No.**
17 Q. And how is A [REDACTED] dressed?
18 **A. He was wearing a pair of underwear and**
19 **then took them off.**
20 Q. So the underwear is on the floor at zero?
21 **A. Somewhere around there.**
22 Q. So even before A, huh?
23 **A. (No audible response.)**
24 Q. Excuse me?
25 **A. Yes.**

18

1 Q. So when A [REDACTED] is at A, he is totally
2 naked?
3 A. Yes.
4 Q. And you're sure of that?
5 A. Yes.
6 Q. Prior to or simultaneous with -- no,
7 strike that. Was T [REDACTED] standing or seated?
8 A. He was standing.
9 Q. And was A [REDACTED] standing or seated?
10 A. He was standing.
11 Q. How long was the hanger between A [REDACTED]'s
12 buttocks?
13 A. Well, I didn't exactly time it.
14 Q. And I understand that, sir. If you'd
15 just give us your best estimate. We are counting on
16 you to be as accurate as you can be, but I
17 understand that you didn't have a stopwatch.
18 A. I don't know how long it was in.
19 Q. Well, let's do it this way. Could it
20 have been for five seconds?
21 MS. BAUGES: Objection, asked and answered.
22 The witness has said he doesn't know.
23 MR. WOOD: It is not asked and answered. "I
24 don't know" invites approximation, and it invites
25 hypothetical --

19

1 particularly? What are the things he was doing that
2 caused you to believe that he was acting as if he's
3 in pain?
4 A. Well, the sounds he was making. He was
5 moaning as if in pain.
6 Q. Was me saying any words?
7 A. No, he was not. Not that I recall.
8 Q. And how far down that dotted line was
9 A [REDACTED] when you left the room?
10 A. Just about to the sink.
11 Q. How far would you say?
12 A. Maybe about here.
13 Q. And how many feet is that?
14 A. About 5 or so maybe.
15 Q. You've drawn another circle along the
16 dotted line that is much closer to the sinks, and
17 you say that's about 5 feet or so, huh?
18 A. Yes.
19 Q. Was the hanger still in his -- between
20 his buttocks when he reached that location?
21 A. As I said before, it was in there from
22 the time that it happened until the time I left.
23 Q. And so he still had that between his
24 buttocks within 5 feet of the sinks is your
25 testimony?

21

1 THE COURT: You may proceed.
2 THE WITNESS: It was in there from the time
3 that it went in until the time I left.
4 BY MR. WOOD:
5 Q. And how long would you say that was?
6 A. I don't know.
7 Q. Could it have been five seconds?
8 A. Maybe a minute or so.
9 Q. You're saying maybe a minute or so? So
10 you think it could have been as much as a minute --
11 A. Yeah.
12 Q. -- is that correct?
13 A. Yes.
14 Q. And in that minute, did you see who
15 pulled it out?
16 A. No, I did not.
17 Q. After it was placed between his buttocks,
18 which way did A [REDACTED] go?
19 A. Towards the line.
20 Q. Well, your line now portrays that towards
21 the sinks, huh?
22 A. Yes.
23 Q. Is he saying anything?
24 A. He was acting as if he was in pain.
25 Q. And can you describe that moment

20

1 A. Yes.
2 Q. And you understand you're under oath?
3 A. Yes.
4 Q. And you understand that we're looking for
5 accurate testimony; correct?
6 A. Yes.
7 Q. And you're being careful to be accurate?
8 A. Yes.
9 Q. Did T [REDACTED] say anything as he placed that
10 coat hanger between A [REDACTED]'s buttocks?
11 A. No, he did not.
12 Q. Did you ever hear him say anything --
13 with words, I'm saying. I'm asking about between
14 A [REDACTED] being at A and arriving at 5 feet to these
15 sinks, did you ever here T [REDACTED] say anything?
16 A. I heard him laughing.
17 Q. And you watched these proceedings, and
18 you stood there and watched?
19 A. As I said before, I was getting dressed,
20 and I left.
21 Q. So you continued in the operation of
22 getting dressed, getting your clothes on; correct?
23 You were involved -- that was your primary function
24 at that time was putting your clothes on --
25 A. Yes.

22

1 Q. -- and getting out of there? What door
2 did you leave by?
3 **A. This door.**
4 Q. So you went out that door that's up by
5 the sinks, and in approaching that door, where was
6 T[REDACTED]
7 **A. He was maybe about here following A[REDACTED].**
8 Q. So you've got him along that dotted line
9 too, although way up towards the A --
10 **A. Yes.**
11 Q. -- correct? Excuse me?
12 **A. Yes.**
13 Q. And so you walked down those lockers and
14 then around that little partition and then out the
15 door?
16 **A. Yes.**
17 Q. You didn't stop and become involved with
18 A[REDACTED] or have any exchanges with T[REDACTED] or John
19 Howard, did you?
20 **A. No.**
21 Q. And, in fact, your back was to John
22 Howard and T[REDACTED] as you traveled down those lockers
23 around the corner and out the door, wasn't it?
24 **A. Yes.**
25 Q. So you're telling us that you think

23

1 **A. Yes.**
2 Q. But at that time, you were around the
3 corner and headed out the door. You're not watching
4 what's going on; right?
5 **A. Yeah.**
6 Q. Excuse me?
7 **A. Yeah.**
8 Q. You saw a coat hanger go between A[REDACTED]'s
9 buttocks one time?
10 **A. Yes.**
11 Q. That's all that had happened in that
12 locker room that day as far as you're concerned?
13 **A. As far as I seen.**
14 Q. As far as you saw, right. (Inaudible.)
15 At the time it was placed between his
16 buttocks, would you describe how that happened.
17 **A. T[REDACTED] placed it in there.**
18 Q. How?
19 **A. Went like this, and it went between his**
20 **butt.**
21 Q. Was John Howard kicking his hand during
22 that process? By "his," I mean T[REDACTED]'s hand.
23 **A. No, he was not. T[REDACTED]'s hand had left**
24 **the hanger before John Howard started kicking.**
25 Q. Excuse me?

25

1 T[REDACTED] was laughing based on what your ears told
2 you; correct?
3 **A. I watched him as I walked out of the**
4 **room. As I was walking over here, I turned around --**
5 Q. Wait a minute. You just told us you were
6 walking out of the room and your eyes --
7 **A. No. I told you I was facing the door.**
8 **My back was to T[REDACTED] as I was walking out the door.**
9 Q. And so you were turned around watching
10 T[REDACTED] as you walked out the door, huh?
11 **A. I was walking along here, and I could see**
12 **them until I turned here to go out the door.**
13 Q. And you claim you could see them
14 laughing?
15 **A. Yes.**
16 Q. And you're sure of that?
17 **A. Yes.**
18 Q. And you're sure that when A[REDACTED] got to
19 that -- why don't you put a "2" in that top circle,
20 that one that's 5 feet from the sink so I can call
21 it 2 circle. Okay. You're sure that that coat
22 hanger was still between A[REDACTED]'s buttocks when he
23 reached circle 2?
24 **A. Yes.**
25 Q. Correct?

24

1 **A. T[REDACTED]'s hand had left the hanger before**
2 **John Howard started kicking.**
3 Q. And so once it went between A[REDACTED]'s
4 buttocks, you're saying T[REDACTED] took his hand off
5 that coat hanger right away?
6 **A. Yes.**
7 Q. And you're sure of that?
8 **A. Yes.**
9 Q. And that's when John Howard started
10 kicking at it?
11 **A. Yes.**
12 Q. And you're sure it was the hook end that
13 was up between A[REDACTED]'s buttocks?
14 **A. Yes.**
15 Q. How many times did John Howard kick at
16 that coat hanger total?
17 **A. Maybe five or six.**
18 Q. And you're sure of that?
19 **A. Yes.**
20 Q. And as he was kicking it, did you hear
21 A[REDACTED] say anything?
22 **A. He was screaming.**
23 Q. What was he screaming? Was he screaming
24 words?
25 **A. No.**

26

1 Q. Did you hear John -- I'm sorry. Did you
2 hear T■■■■ W■■■ say anything as John Howard was
3 kicking that coat hanger?
4 **A. As I said before, I heard him laughing.**
5 Q. And it's your position that he continued
6 to laugh as the kicking went on?
7 **A. Yes.**
8 Q. Now, on direct I believe you testified
9 that A■■■■ pulled the hanger from between his
10 buttocks. Did I hear you right about that?
11 **A. He -- yeah. He was -- his hand was --**
12 Q. So he put -- you said yes? I did hear
13 you right about that? That was your testimony on
14 direct; right?
15 **A. Yes. He was reaching back to pull it out**
16 **as I was leaving the room.**
17 Q. And did you see him actually pull it out?
18 **A. No, I didn't see him actually pull it**
19 **out.**
20 Q. You didn't see anybody actually pull it
21 out, huh?
22 **A. No.**
23 MR. WOOD: I think that's all I've got on the
24 diagram. I'm going to move it, and then you can use
25 it if you want to redirect on it.

27

1 didn't you?
2 **A. I don't remember exactly what I told him.**
3 **That's been a while ago.**
4 Q. Well, wouldn't you have told him the
5 truth? You would have told Mr. Hardcastle the
6 truth, wouldn't you?
7 **A. Yes.**
8 Q. I mean, you were trying to be careful and
9 give Mr. Hardcastle accurate information --
10 **A. Yes.**
11 Q. -- weren't you?
12 **A. Yes.**
13 Q. I mean, he's like the district supervisor
14 of your school district where you go to school;
15 right?
16 **A. Yes.**
17 Q. You knew it was serious?
18 **A. Yes.**
19 Q. And he interviewed you within, what, a
20 couple of days of this incident on the 22nd?
21 **A. Yes.**
22 Q. Was it the very next day that he
23 interviewed you, that Mr. Hardcastle interviewed
24 you?
25 **A. I don't believe so.**

29

1 MS. BAUGES: Actually, you can just leave it
2 there, if you don't mind.
3 MR. WOOD: I just want to turn it around so
4 the judge can see it a little better. Go ahead and
5 climb back and sit down and I'll get this out of
6 your way.
7 MS. BAUGES: Actually, I'm going to use it
8 right now, so you can stay there, and we can leave
9 the exhibit right there, Counsel.
10 THE COURT: I'm not sure Mr. Wood's done.
11 MS. BAUGES: Oh, okay.
12 THE COURT: Are you done with this witness?
13 MR. WOOD: Oh, sir, would you mind initialling
14 that and put today's date on it.
15 THE COURT: Mr. Wood, do you have any other
16 questions of this witness?
17 MR. WOOD: Yes, I do.
18 S■■■■, you may sit down again.
19 BY MR. WOOD:
20 Q. Now, after this incident, you were
21 interviewed by Mr. Hardcastle at the Dietrich
22 school, weren't you?
23 **A. Yes, I was.**
24 Q. And you told Mr. Hardcastle that you saw
25 T■■■■ pull the coat hanger out of A■■■■'s butt,

28

1 Q. What, was it like Monday or Tuesday of
2 the next week?
3 **A. I don't remember exactly what day it was.**
4 Q. But it was pretty quick after the
5 incident occurred?
6 **A. Maybe a week or so.**
7 Q. And you admit that you told him that
8 T■■■■ went over and pulled the coat hanger out of
9 A■■■■'s butt?
10 **A. Yeah.**
11 Q. You did not tell Mr. Hardcastle that you
12 had seen T■■■■ stick that coat hanger in A■■■■'s
13 -- or between A■■■■'s buttocks, did you?
14 **A. I believe I did.**
15 Q. I'm not asking what you believe,
16 Mr. R■■■■. I'm asking what do you remember that you
17 can swear to under oath?
18 **A. I --**
19 Q. You don't remember telling Mr. Hardcastle
20 that you saw T■■■■ W■■■ stick that coat hanger
21 between A■■■■'s buttocks, do you?
22 **A. Yes, I do.**
23 Q. You did not tell Mr. Hardcastle that you
24 observed T■■■■ W■■■ laughing after the coat hanger
25 was placed between A■■■■'s buttocks, did you?

30

1 **A. Yes, I did.**
 2 Q. And you're sure of that?
 3 **A. Yes, I am.**
 4 MR. WOOD: One minute, please.
 5 (Discussion held off the record.)
 6 MR. WOOD: Thank you.
 7 THE COURT: Redirect.
 8 MS. BAUGES: Thank you, Your Honor.
 9
 10 REDIRECT EXAMINATION BY MS. BAUGES:
 11 Q. Why don't you come on over here by the
 12 diagram again. So when you drew this diagram, is
 13 this to scale?
 14 **A. No.**
 15 Q. Okay. So -- and by "scale," I mean is
 16 this the exact amount of feet or distance between
 17 these landmarks you've drawn?
 18 **A. No.**
 19 Q. This is just your best approximation;
 20 right?
 21 **A. Yes.**
 22 Q. Okay. And when you were testifying on
 23 cross, you were asked very specific, you know, 5
 24 feet, 10 feet, that kind of a thing. Are you
 25 guesstimating or are you absolutely positive, if we

31

1 **A. There was -- the entire football team was**
 2 **in there. Everybody was moving around.**
 3 Q. So when you answered questions about was
 4 he here the whole time, was that just at the time
 5 that the hanger was shoved up or what were you
 6 thinking about when you were answering those
 7 questions?
 8 **A. Just, yeah, at the time the hanger was**
 9 **placed.**
 10 Q. Okay. And if you have any questions
 11 about questions that are being asked, please feel
 12 free to ask for clarification. That's completely
 13 okay.
 14 So you said on this diagram, essentially
 15 -- actually, I'll ask you one more thing about this
 16 diagram. There's a number of boxes and things that
 17 haven't been labeled at this point, but I see that
 18 -- where you put the R where you are, there's some I
 19 think what have been described as benches. Did that
 20 obstruct your view at all of what happened?
 21 **A. No, it did not. Those are below knee**
 22 **level.**
 23 Q. Okay. You said you were getting dressed.
 24 Did the act of getting dressed distract you at all
 25 from what you saw?

33

1 tape measured those out, the exact distance?
 2 **A. Just guessing.**
 3 Q. You're just guessing. Okay. There were
 4 a couple of questions I just wanted to clarify. And
 5 you can go ahead and sit down now. There were a
 6 couple of questions I just wanted to clarify. You
 7 had testified that you had seen T pick up the
 8 hanger; is that correct?
 9 **A. Yes.**
 10 Q. And then --
 11 MR. WOOD: Excuse me. I missed that. I
 12 apologize. Would you mind repeating that question?
 13 MS. BAUGES: That he had seen T pick up the
 14 the hanger.
 15 MR. WOOD: Okay. Thank you. Appreciate it.
 16 BY MS. BAUGES:
 17 Q. You got a few questions about: Was
 18 T always here? Was T always there? Was
 19 this a process? Were people moving throughout the
 20 locker room as this was going on?
 21 **A. Yes. Most --**
 22 Q. Did that include T?
 23 **A. Yes. He wasn't in the exact same spot**
 24 **throughout the entire thing.**
 25 Q. Okay.

32

1 **A. I was facing towards the showers by the A**
 2 **while I was getting dressed.**
 3 Q. You said that you may not have been
 4 paying attention to what you were hearing. Were you
 5 paying attention to what you were seeing?
 6 **A. Yes. Everybody was talking throughout**
 7 **the locker room, and I couldn't clearly hear what**
 8 **anybody was saying.**
 9 Q. Okay. Now, you mentioned that A was
 10 kind of at an angle?
 11 MR. WOOD: Was in a what? I'm sorry.
 12 MS. BAUGES: Was kind of at an angle facing
 13 the showers.
 14 THE WITNESS: Yes.
 15 BY MS. BAUGES:
 16 Q. So were you looking at A's profile,
 17 and by that I mean his side, or were you looking at
 18 him head on or his back? What part of A could
 19 you see right before T shoved the hanger?
 20 **A. Halfway between his profile and his back.**
 21 Q. Okay. You gave a statement to -- well,
 22 you were interviewed by school officials; correct?
 23 **A. Yes.**
 24 Q. Who?
 25 **A. Ben Hardcastle and Stephanie Shaw.**

34

1 Q. Okay. So there were two people there
2 when you were talking about this incident; correct?
3 **A. Yes.**
4 Q. Okay. Do you remember exactly what you
5 said to them?
6 **A. Not 100 percent, no.**
7 Q. Okay. Is what you're testifying here
8 today the best of your recollection of this incident
9 that happened in October?
10 **A. Yes.**
11 Q. Okay. So you just said you don't
12 remember exactly what you said to Mr. Hardcastle,
13 and I think you said -- was it Ms. Shaw?
14 **A. Mrs. Shaw, yes.**
15 Q. Mrs. Shaw. Thank you. You had a couple
16 questions about: You said this, didn't you? Is
17 your testimony that you actually remember saying
18 certain things to Mr. Hardcastle or Mrs. Shaw, or do
19 you remember what you said to them?
20 **A. I don't remember specifically what I**
21 **said, if that's what you're asking.**
22 Q. Okay. It's possible you could have said
23 something to the effect of who took out the hanger;
24 is that correct?
25 **A. Yes.**

35

1 **A. Uh-huh.**
2 Q. Okay. You also said something I just
3 wanted to clarify. You said the hanger went in one
4 time. Could you explain what you mean by that, the
5 hanger went in one time.
6 MR. WOOD: Objection. Misstates the
7 testimony. He said he didn't see it placed between
8 Antwon's buttocks more than once.
9 MS. BAUGES: I think the specific question,
10 Your Honor, was --
11 THE COURT: I agree. My recollection of the
12 testimony was as you recall.
13 BY MS. BAUGES:
14 Q. Do you need a repeat?
15 **A. Yes, please.**
16 Q. I think the question to you directly was,
17 "You only saw the hanger go in one time?" and I
18 think that you agreed. Could you explain that a
19 little bit more?
20 **A. The hanger was only placed between**
21 **A's buttocks one time.**
22 Q. Okay. But you did see it being kicked?
23 MR. WOOD: Objection. She's leading.
24
25

37

1 Q. But you aren't sure?
2 MR. WOOD: Objection. She's leading. Telling
3 a witness it's possible that he said this --
4 THE COURT: That is a leading question.
5 MS. BAUGES: Okay.
6 BY MS. BAUGES:
7 Q. So I think -- going back to the last
8 question, you don't remember exactly what you said?
9 **A. No, I don't.**
10 Q. But you could have said something?
11 **A. Yes, ma'am.**
12 Q. Okay. Is this locker room very big?
13 **A. Not huge.**
14 Q. Okay. About what size, would you say,
15 taking -- using this courtroom as a guide?
16 **A. Maybe from the edge of that -- where the**
17 **thermometer -- not thermometer, the thermostat is at**
18 **over.**
19 Q. Okay. And then how deep?
20 **A. About like this.**
21 Q. About like this. Okay. So you -- were
22 you fairly close --
23 **A. Yeah.**
24 Q. -- to A and T when this was
25 going on?

36

1 BY MS. BAUGES:
2 Q. What did you see after that?
3 **A. I saw John kicking it.**
4 Q. Okay.
5 **A. After T had let go of it.**
6 Q. Okay. Did it appear to you that it was
7 going further in or could you see?
8 MS. BAUGES: Objection. She's leading.
9 THE COURT: I'm going to let the comment
10 stand.
11 THE WITNESS: Yes, it looked like it was going
12 farther.
13 BY MS. BAUGES:
14 Q. Okay. Now, when you demonstrated how
15 T put in the hanger on cross, I would like to
16 ask you how much force was used, if you could see,
17 when T put the hanger in between the buttocks.
18 **A. I didn't see exactly how much force was**
19 **used.**
20 Q. Okay. So when you were kind of
21 reenacting it in court, that wasn't necessarily the
22 amount of force that was used?
23 **A. No.**
24 MS. BAUGES: Okay.
25 No further questions, Your Honor.

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1 THE COURT: S■■■■, thank you very much. You
 2 may step down.
 3 MR. WOOD: May I approach the drawing board?
 4 THE COURT: Sure.
 5 MR. WOOD: I would like to move into evidence
 6 as Defense A this diagram that Mr. R■■■■ initialed
 7 and dated 4/22/16.
 8 MS. BAUGES: The State has no objection for
 9 appellate record purposes, but as the witness
 10 stated, it's not to scale. He's not sure of the
 11 dimensions, so I would say to demonstrate what we
 12 were talking about in testimony.
 13 THE COURT: It's to be admitted to demonstrate
 14 the witness's testimony.
 15 MS. BAUGES: Thank you, Your Honor.
 16 THE COURT: Thank you.
 17 (Defendant's Exhibit A, S■■■■ R■■■■s
 18 Drawing, admitted.)
 19 Next witness.
 20 MS. BAUGES: The State calls A■■■■ M■■■■
 21 Your Honor.
 22 THE COURT: I'm going to guess that thing's
 23 going to come back out, isn't it, Mike?
 24 Sir, if you'd come in, please, and just
 25 wait right there for a second. This lady over here

39

1 2015?
 2 **A. I was 17.**
 3 Q. Were you on the Dietrich football team in
 4 October of 2015?
 5 **A. Yes, I was.**
 6 Q. So let me direct your attention to
 7 October 22nd, 2015. Did you have football practice
 8 that day?
 9 **A. I did.**
 10 Q. Okay. So you were on the Dietrich
 11 football -- or you were on the football team?
 12 **A. Yeah.**
 13 Q. Okay. Where was football practice?
 14 **A. It was at the school.**
 15 Q. Okay.
 16 **A. The Dietrich High School on left field.**
 17 Q. Did anything unusual happen after
 18 practice that day?
 19 **A. Yes.**
 20 Q. Could you describe what happened?
 21 **A. Well, it was like any other football**
 22 **practice, but it kind of ended up bad. Well, first**
 23 **I went to the school. I was running a bit late for**
 24 **practice so, like --**
 25 Q. And, A■■■■, I'm just going to stop real

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1 is going to swear you in. You need to raise your
 2 right hand and face her.
 3
 4
 5 A■■■■ M■■■■
 6 being produced as a witness on behalf of the
 7 plaintiff, was duly sworn on his oath and testified
 8 as follows:
 9
 10 THE COURT: So, A■■■■, come on over here.
 11 There's a little gate in front of that chair. Why
 12 don't you just let yourself in and have a seat.
 13 That's good.
 14 Go ahead.
 15
 16 DIRECT EXAMINATION BY MS. BAUGES:
 17 Q. Could you please state your name and
 18 spell it for the record. Just your last name.
 19 **A. M■■■■**
 20 Q. Okay. Now, go ahead and state your full
 21 name?
 22 **A. A■■■■ D■■■■ A■■■■ M■■■■**
 23 Q. How old are you, A■■■■
 24 **A. I'm 18.**
 25 Q. Okay. How old were you on October 22nd,

40

1 quick. I want to direct your attention to after
 2 football practice.
 3 **A. After football practice.**
 4 Q. Okay?
 5 **A. Okay.**
 6 Q. Did anything unusual happen after
 7 football practice?
 8 **A. Yes. I got a hanger shoved up my rectum.**
 9 Q. Okay. Do you know who shoved the hanger
 10 up your rectum?
 11 **A. Yes.**
 12 Q. And how do you know that?
 13 **A. Because while it was happening, I looked**
 14 **back, and I could tell. And I know the people that**
 15 **it was happening with.**
 16 Q. So when you looked back -- well, let me
 17 ask you. You said you got a hanger shoved up your
 18 rectum?
 19 **A. Yes.**
 20 Q. Can you describe that in a little bit
 21 more detail?
 22 **A. Well -- well --**
 23 Q. Take your time.
 24 **A. All right. Well, after practice I was in**
 25 **the locker room, and one of my friends, he told me**

42

1 to come here, and I went over to him and gave him a
2 hug. He told me to give him a hug. He had his
3 hands out like he was going to give me a hug. And I
4 gave him a hug, and he signaled for one of my other
5 friends to come over, and he stuck a hanger up my
6 butt. And then, like, he forced it in, and then
7 another kid came over and kicked it in. And then he
8 pulled it out, and it was bleeding.
9 And I didn't tell until after it
10 happened, the day after it happened, because one of
11 my little brothers said something to my parents, and
12 they noticed.
13 Q. And let me stop you right there. I'm
14 going to go back to the hanger. So you previously
15 testified you looked over your shoulder. Who did
16 you see over your shoulder?
17 A. A [REDACTED] was (unintelligible.) I hugged
18 A [REDACTED], and then T [REDACTED], he shoved it up there, and I
19 saw him. Then, like, I fell into my friend's arms,
20 T [REDACTED] H [REDACTED]
21 Q. And let me stop you right there again,
22 because I want to focus on what you just told me.
23 A. Okay.
24 Q. So you said a person named -- it was a
25 person named T [REDACTED]?

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1 Q. Okay. Okay. When you say "it hit," what
2 do you mean it hit?
3 A. It hit the side, like the inside, and
4 then it got shoved in, and I screamed. And then it
5 got kicked in deeper by John Howard.
6 Q. Was there a difference in force between
7 when it was initially inserted and what you describe
8 as the kicking?
9 A. What do you -- I don't --
10 Q. That was a bad question. Could you feel
11 -- well, let me ask this: You said the first time
12 it went in, and I mean actually went up your anus --
13 A. Yes.
14 Q. -- you looked back, and you identified
15 that that was T [REDACTED] correct?
16 A. Yeah.
17 Q. Okay. And then you said you felt it get
18 pushed -- or, excuse me, kicked deeper in?
19 MR. WOOD: Objection. She's leading. The
20 function of direct is not --
21 THE COURT: She's restating the witness's
22 testimony --
23 MR. WOOD: -- to repeat the testimony.
24 THE COURT: -- and I haven't heard the
25 question.

45

1 A. Yeah.
2 Q. Do you see that person in the courtroom
3 today?
4 A. Yes.
5 Q. Could you point to where he's seated and
6 pick out an article of clothing that he's wearing?
7 A. Blue tie, first row, the first --
8 Q. Do you want to go ahead and point to
9 where he is. Blue tie?
10 A. Yeah.
11 THE COURT: The record will reflect
12 identification of the defendant.
13 MS. BAUGES: Okay.
14 BY MS. BAUGES:
15 Q. Now, I want to go into a little more
16 detail, and I apologize.
17 A. That's all right.
18 Q. So you said -- so you felt an object go
19 up your rectum?
20 A. Yes.
21 Q. Okay. When you very first felt that
22 object touch your skin, did it go all the way up
23 your rectum or was there a pause or --
24 A. There was -- it hit, and then it got
25 shoved deeper in.

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1 MR. WOOD: Judge -- and I see this technique
2 all the time, and I want to lodge an objection to
3 it. I know that it's local practice to let the
4 lawyer go back over and repeat all the -- she's just
5 buttressing her witness. I object to it. It's a
6 violation of due process of law. The prosecutor is
7 testifying in this case, and I strongly object to
8 what is local practice. Thank you.
9 THE COURT: Objection noted. It's a
10 restatement of testimony in anticipation, I hope, of
11 a question.
12 BY MS. BAUGES:
13 Q. And then you testified that John kicked
14 it further in. And how did you know that, that it
15 was John?
16 A. Because I looked behind me again. I fell
17 forward, and then I looked behind me again to see
18 what was happening, and it was John kicking it in
19 deeper and deeper. And I turned around again, and I
20 landed in my friend's arms.
21 Q. Okay. How did you feel when this
22 happened?
23 A. Pretty upset and --
24 Q. How did you physically feel when this
25 happened?

46

1 MR. WOOD: Excuse me?
2 Q. How did you physically feel when this
3 happened?
4 MR. WOOD: Thank you.
5 **A. I just -- I felt really bad, a little bit**
6 **betrayed, but -- and confused at the same time.**
7 Q. Okay. So you've just expressed emotions.
8 How did you physically feel? How did your body
9 feel?
10 **A. Terrible.**
11 Q. Could you explain that a little bit more?
12 **A. Pain that I have never felt took over my**
13 **body. It just hurt a lot, and -- but I kept it to**
14 **myself.**
15 Q. Did you make --
16 **A. I screamed, but afterwards, I kept it to**
17 **myself.**
18 Q. A [REDACTED] did you want this to happen?
19 **A. Never.**
20 Q. Did you give permission for this to
21 happen?
22 **A. No, I did not.**
23 MS. BAUGES: No further questions, Your Honor.
24 THE COURT: Mr. Wood.
25 MR. WOOD: May I approach the drawing board

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1 THE COURT: There you go. Great.
2 BY MR. WOOD:
3 Q. That's great, A [REDACTED]. Would you start
4 out by drawing the outline of the locker room with
5 the stalls, with the benches the way it was on
6 October the 22nd, the day you're telling us about.
7 And draw it big so it fills that whole sheet of
8 paper. Okay?
9 **A. Sure.**
10 Q. Thank you.
11 THE COURT: Take your time, A [REDACTED]. If that's
12 -- if you got it wrong, go ahead and start over.
13 MR. WOOD: No big hurry, A [REDACTED]. The judge
14 will take it out on me if it takes too long.
15 THE WITNESS: You just want me to draw what it
16 was like or just --
17 BY MR. WOOD:
18 Q. Yeah, I want to -- you know, I know,
19 like, there's shower stalls and benches and lockers.
20 I want a complete picture of the floor layout with
21 all that stuff in it. Does that make sense?
22 **A. Yeah.**
23 Q. Okay.
24 **A. Okay.**
25 Q. You got it?

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1 again?
2 THE COURT: You may.
3
4 CROSS EXAMINATION BY MR. WOOD:
5 Q. A [REDACTED] is it okay if I call you A [REDACTED]?
6 **A. Yeah.**
7 Q. That I call you by your first name?
8 **A. Yeah.**
9 Q. Would you come down off the witness stand
10 and approach that drawing board that I put out
11 there.
12 **A. Okay.**
13 Q. And there's some markers up on the
14 judge's bench right behind your left shoulder.
15 THE COURT: In this little basket, A [REDACTED]
16 MR. WOOD: You can move those down where
17 they're closer. Would you angle that drawing board
18 a little bit towards -- more towards me so I can
19 see.
20 Can you see it okay, Judge?
21 THE COURT: I'm fine.
22 MR. WOOD: How about that? Is that okay?
23 THE COURT: That's not so good.
24 MR. WOOD: Put it back a little more towards
25 him.

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1 **A. I think so.**
2 Q. A [REDACTED] before I forget, will you --
3 THE COURT: Hold on. Hold on, Mike, until I
4 take care of this. Go ahead.
5 BY MR. WOOD:
6 Q. A [REDACTED] before I forget, will you please
7 write in the upper left-hand corner there "A [REDACTED]
8 4/22/16." Okay. You've drawn us a floor plan,
9 A [REDACTED] right?
10 **A. Yeah.**
11 Q. Is that the room that the things you told
12 the judge about happened to you in?
13 **A. Yes.**
14 Q. Okay. Would you please -- have you ever
15 drawn a diagram of that room before?
16 **A. No, I haven't.**
17 Q. Nobody -- no lawyer's asked you to make
18 them a picture; huh?
19 **A. No.**
20 Q. Would you please -- you have described
21 that at some point a guy named -- what's that guy's
22 first name that asked you for the hug?
23 **A. A [REDACTED] H [REDACTED]**
24 Q. A [REDACTED]?
25 **A. Yeah.**

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1 Q. Would you please put an "H" for where
2 A [REDACTED] was when he asked for the hug. Now, you've got
3 him next to that --
4 **A. Table.**
5 Q. It's a table, but it's made up of
6 benches, huh?
7 **A. Yeah. Of benches, yeah.**
8 Q. So is he standing or sitting, A [REDACTED]?
9 **A. He's standing.**
10 Q. He's standing, and you think he asked you
11 -- where were you? Where did you start out?
12 **A. I came from the entrance, and then I --**
13 Q. Where was he when he asked for the hug --
14 or where were you when he asked --
15 **A. I was right here.**
16 Q. Put an "A1" where you were when he asked
17 for the hug?
18 **A. A what?**
19 Q. A1.
20 **A. A1?**
21 Q. Yes. So you're down at the other end of
22 that table made out of benches; right?
23 **A. Yeah.**
24 Q. So do you walk up to H [REDACTED]?
25 **A. He had his arms out.**

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1 making these finger movements, did you notice where
2 T [REDACTED] W [REDACTED] was?
3 **A. He was behind me.**
4 Q. Where? Could you put a "T1" where he
5 was.
6 **A. But he walked up to there.**
7 Q. Up to where? Put a "T1" where he walked.
8 THE COURT: So then I'm -- A1 is for where
9 A [REDACTED] was at the point in time --
10 MR. WOOD: Right.
11 THE COURT: -- that the --
12 MR. WOOD: The gesture --
13 THE COURT: -- young man asked him --
14 MR. WOOD: -- took place, and now I'm asking
15 where was T [REDACTED] when the gesture took place.
16 THE COURT: Well, let's clarify gestures.
17 BY MR. WOOD:
18 Q. The gesture you construed as a signal --
19 THE COURT: Thank you.
20 Q. -- by A [REDACTED] took place, where was T [REDACTED]?
21 Would you put a "T1" there.
22 **A. So I walked up -- A [REDACTED] was right there.**
23 **T [REDACTED] right here, T1. But when I walked this**
24 **way --**
25 Q. Put a "T1" there.

53

1 Q. And so you walked up to him. You walked
2 down the benches to where he's standing, and your
3 testimony was at some point H [REDACTED] -- can I call
4 him A [REDACTED] instead of H [REDACTED]?
5 **A. Yeah.**
6 Q. Is that okay with you?
7 **A. Yeah, definitely.**
8 Q. A [REDACTED] -- you think he signaled. What
9 makes you think he signaled?
10 **A. Because he's like this.**
11 Q. Could you do that for us one more time.
12 **A. Hug, signal.**
13 Q. And you're standing erect and moving your
14 fingers as if he's beckoning you to come closer;
15 true?
16 **A. Yes.**
17 Q. Is that what he was doing?
18 **A. Yes.**
19 Q. Is that what you construed as signalling
20 somebody?
21 **A. Yes.**
22 Q. And is there anything else he did that
23 you construed as some kind of signal?
24 **A. No, sir.**
25 Q. So at the time you say you noticed him

52

1 **A. -- that's when he signaled for him to**
2 **come that way.**
3 Q. And could you see -- you know who John
4 Howard was?
5 **A. Yeah.**
6 Q. Did you see where Howard was?
7 **A. I think he was off to the side.**
8 Q. I'm not asking what you think, A [REDACTED].
9 We're under oath in a courtroom, and I've got to ask
10 you are you sure enough to tell me under oath. I've
11 got to push for that. Are you sure enough to
12 testify under oath where Howard was when this thing
13 got rolling?
14 **A. I don't know where he was once he was --**
15 Q. So you go up to A [REDACTED]?
16 **A. Yes.**
17 Q. Am I right about that?
18 **A. Yeah.**
19 Q. And A [REDACTED] -- it's your testimony that A [REDACTED]
20 gave you a hug?
21 **A. Yes.**
22 Q. Right?
23 **A. Yeah.**
24 Q. And can you tell us which way you were
25 facing when A [REDACTED] gave you a hug?

54

1 **A. This way.**
2 Q. You were facing A? **A. Yeah. He was this way, and I was this**
3 **way.**
4 Q. Now, on that wall you've drawn some
5 oblong --
6 **A. That's the showers.**
7 Q. Okay.
8 **A. I didn't know at the time if you wanted**
9 **them.**
10 Q. I know what they were. I just wanted to
11 make it clear for the record. So you've got some
12 rectangles with some little dangly things hanging
13 from --
14 **A. Shower hangers. The shower faucet thing.**
15 Q. That's the place where the water comes
16 out of. Okay. So you're not facing the showers,
17 are you, when you hug A?
18 **A. No.**
19 Q. You're facing the right side of your
20 diagram, aren't you?
21 **A. Well, he was -- it feels like if I was at**
22 **-- if I'm me and you're A, it's just like this.**
23 Q. And then you approach A and --
24 **A. I approached him.**

55

1 right?
2 **A. It was --**
3 Q. It's just a yes or no question. Yes, I
4 recognize it as a plastic hanger or, no, I didn't.
5 **A. No.**
6 Q. Why not?
7 **A. Because it felt -- it didn't feel**
8 **plastic, sir.**
9 Q. Okay. The -- it was the hook end that
10 was placed --
11 **A. No.**
12 Q. -- between your buttocks, wasn't it?
13 **A. No.**
14 Q. And you're emphatic on that. You're
15 really --
16 **A. Yes.**
17 Q. -- shaking your head at me as you tell me
18 that.
19 **A. Yes.**
20 Q. So you're sure of that?
21 **A. Yeah.**
22 Q. What part of the hanger did you think was
23 shoved between your buttocks?
24 **A. The sides, not the hanger part. It did**
25 **not hook.**

57

1 Q. -- and you guys hug?
2 **A. Yes.**
3 Q. And while you're hugging, does anything
4 happen?
5 **A. A hanger got shoved up my butt. That's**
6 **one thing.**
7 Q. A hanger?
8 **A. A hanger.**
9 Q. Now, you have your back to whoever is
10 shoving that hanger in your butt, don't you?
11 **A. Yeah, but I do turn around.**
12 Q. And you're facing A when it's placed
13 between your buttocks, aren't you?
14 **A. Yes, but in the process, I (inaudible.)**
15 Q. And when you look back, the hanger is
16 already between your buttocks, isn't it?
17 **A. Yes.**
18 Q. And you know what kind of hanger it is,
19 don't you?
20 **A. (No audible response.)**
21 Q. You know it's a plastic hanger, don't
22 you?
23 **A. It --**
24 Q. I mean, when that hanger went up between
25 your buttocks, you realized it was a plastic hanger;

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1 Q. That hanger -- the coat hangers I've
2 seen, A, come down both sides, and then they
3 have kind of a rounded end --
4 **A. Yeah.**
5 Q. -- on both ends. Is it one of those ends
6 that you're talking about?
7 **A. Can I draw it for you?**
8 Q. Huh?
9 **A. Or do you just want --**
10 Q. There's room -- there seems to me to be
11 room at the bottom of that. Draw a solid line
12 underneath your diagram and then draw a picture of
13 the hanger. Okay. And draw it all across the page
14 so it divides them. Good deal. Thank you. Now
15 draw the hanger.
16 **A. The hanger is like this. It goes down**
17 **like this. Messed up. But this part, sir. Longer**
18 **than that. That part.**
19 Q. So it's those -- the tips of the shoulder
20 part that you're saying was placed --
21 **A. Yes.**
22 Q. And you're saying that you think it was
23 placed up your rectum or anus?
24 **A. Yes.**
25 Q. Am I hearing you right about that?

58

1 **A. Yes.**
2 Q. How were you dressed at the time this
3 happened?
4 **A. I was in the middle of getting dressed in**
5 **some of my clothes.**
6 Q. So what clothes --
7 **A. I had boxers on.**
8 Q. -- did you have on? Excuse me?
9 **A. I had -- it was just boxers and a shirt.**
10 Q. And you're sure you had boxers and a
11 shirt on?
12 **A. I did, yes.**
13 Q. And that hanger was shoved up between
14 your buttocks while you had boxers on?
15 **A. Yes.**
16 Q. How was that -- how could that happen,
17 A[REDACTED]? Weren't the boxers solid?
18 **A. It was forced up there.**
19 Q. And the boxers were on prior to it being
20 forced up there; correct?
21 **A. Yes.**
22 Q. And they remained on throughout this;
23 correct?
24 **A. Yes.**
25 Q. And --

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1 manager and he -- he was there in the -- but he told
2 my parents. And once my parents found out, they
3 were crying and everything, and they came to me and
4 asked me. I didn't tell. But they asked me the
5 next day. They're like, "A[REDACTED], did you get a
6 hanger shoved up your butt?" I'm like, "Yes." I
7 told them that.
8 Q. So you first told your mom about the
9 wedgie; right?
10 **A. Yes.**
11 Q. And you told her about that, and you went
12 to school. And did you actually go in with her to
13 the principal to tell the principal how that
14 happened?
15 **A. I think so.**
16 Q. You're not sure?
17 **A. Not sure.**
18 Q. But after you told the principal about
19 the wedgie or she did or whoever did that, you're
20 sure you told your mom about it?
21 **A. I told my mom the next day.**
22 Q. And your dad?
23 **A. And my dad and my brother, my older**
24 **brother.**
25 Q. Your mom came back to you that morning,

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1 **A. It was my ripped boxers, though, from the**
2 **wedgie before practice.**
3 Q. And you're sure of that?
4 **A. Yes.**
5 Q. And you're sure that it was not the hook
6 end of that?
7 **A. No. Because the hook would have caught,**
8 **and if he ripped, it would have really done really**
9 **big damage, sir.**
10 Q. Because you told people about what had
11 happened to you, didn't you? Didn't you, A[REDACTED]?
12 **A. Yes, I did.**
13 Q. And you first told Mr. Hardcastle what
14 had happened to you, didn't you?
15 THE COURT: May the witness be seated?
16 MR. WOOD: Excuse me, Judge?
17 THE COURT: May the witness be seated?
18 MR. WOOD: I would like him --
19 BY MR. WOOD:
20 Q. Well, go ahead and retake the witness
21 stand if you don't mind coming down again, A[REDACTED]
22 Okay. Let me pull that thing out of your way.
23 But you didn't tell anybody about this
24 happening until the next morning, did you, A[REDACTED]?
25 **A. Yes. Well, my little brother, his**

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1 the day you went back to school, that very next day,
2 and asked you about the coat hanger, didn't she?
3 **A. Yes, she did.**
4 Q. And you made a statement to her about the
5 coat hanger?
6 **A. Yes.**
7 Q. She wasn't recording or taking notes,
8 obviously?
9 **A. Not that I know of.**
10 Q. And did she take you back in to talk to
11 Mr. Hardcastle?
12 **A. That day after that happened, I left to**
13 **the hospital --**
14 Q. Let me just focus on this one question.
15 I'm asking after you told your mom, did she take you
16 back in to tell Mr. Hardcastle?
17 MS. BAUGES: Your Honor, I would object to the
18 form. He said take him back in, and I think A[REDACTED]
19 testified previously that he wasn't sure if he went
20 the first time, so I think it's a little confusing.
21 BY MR. WOOD:
22 Q. Did you go --
23 THE COURT: Clarify the question, please.
24 Q. Did you go in and see Mr. Hardcastle
25 after you told your mom about the coat hanger?

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1 **A. I can't remember, sir.**
2 Q. No idea?
3 **A. No.**
4 Q. But you did eventually talk to
5 Mr. Hardcastle, didn't you?
6 **A. Yes, I did.**
7 Q. And you told Mr. Hardcastle about the
8 hug; right?
9 **A. Yeah.**
10 Q. And you told Mr. Hardcastle that you were
11 sure it was a metal hanger; right?
12 **A. I can't remember what we talked about.**
13 Q. Now you can't remember what you talked
14 about?
15 **A. I can't remember what I told him, sir.**
16 Q. You do know you were being extra careful
17 to be accurate, though; right?
18 **A. Yes, I know.**
19 Q. And were you accurate, to the best of
20 your knowledge, that day?
21 **A. Yes.**
22 Q. Didn't you tell him that you were sure it
23 was a metal hanger?
24 MS. BAUGES: Objection, Your Honor. I think
25 this is getting into hearsay, asking the victim what

63

1 out?
2 **A. T**
3 Q. And you also told Mr. Hardcastle that you
4 had bleeding from your anus after that coat hanger
5 was taken out, didn't you?
6 **A. Yes, I did.**
7 Q. That afternoon, after you had your
8 discussion -- that first discussion with
9 Mr. Hardcastle, you were taken to St. Luke's
10 Hospital in Jerome, weren't you?
11 **A. Yeah.**
12 Q. And you were interviewed by a doctor at
13 St. Luke's Hospital, weren't you?
14 **A. I was -- yeah, I was interviewed. I was**
15 **asked questions by -- yes.**
16 Q. And you were careful to tell that doctor
17 the truth?
18 **A. Yes.**
19 Q. And you have been allowed to read this
20 report?
21 **A. Whose report?**
22 Q. The doctor who saw you, Dr. Brian Johnson.
23 **A. I've never read them.**
24 Q. You haven't seen the report from Brian
25 Johnson?

65

1 he said in making an out-of-court statement.
2 MR. WOOD: It's hearsay? They've been putting
3 in hearsay all afternoon.
4 THE COURT: I'm going to allow the question.
5 MR. WOOD: Does he know -- thank you.
6 BY MR. WOOD:
7 Q. Do you want to try the question again,
8 A
9 **A. Yeah. (Unintelligible.)**
10 Q. I'm just asking you again --
11 **A. Yeah, I know.**
12 Q. -- about telling Mr. Hardcastle that you
13 were sure it was a metal hanger.
14 **A. Yes.**
15 Q. And you did tell him that; right?
16 **A. Yeah.**
17 Q. And you were trying to be accurate as
18 best you could; right?
19 **A. (No audible response.)**
20 Q. Excuse me?
21 **A. Yes.**
22 Q. When you talked to Mr. Hardcastle,
23 though, you weren't sure who took it out, were you?
24 **A. I knew who took it out.**
25 Q. Who did you tell Mr. Hardcastle took it

64

1 **A. No.**
2 Q. But you do know that St. Luke's is the
3 hospital you were at?
4 **A. Yes.**
5 Q. You know you were there on October 23rd
6 of the year 2015, the day after you say this
7 happened?
8 **A. Yes.**
9 Q. And you do know that you were attempting
10 to be totally accurate in what you told the doctor;
11 right?
12 **A. Yes.**
13 Q. I'm handing you what's been marked as
14 Defendant's Exhibit C, A. You ever see that
15 before?
16 **A. No.**
17 **(Inaudible discussion between counsel and**
18 **Court.)**
19 THE COURT: We can do it out here.
20 MS. BAUGES: You want to do it out here?
21 THE COURT: Yeah. So Mike is moving for the
22 admission of a --
23 MR. WOOD: Defence C.
24 **(Inaudible discussion between counsel and**
25 **Court.)**

66

1 MS. BAUGES: I actually think it's accurate
2 that it's self-authenticating, although I think Your
3 Honor does have discretion in terms of medical
4 information regarding hearsay at the preliminary
5 hearing. So for purposes of the preliminary hearing
6 only, I think you have the discretion, Your Honor.
7 THE COURT: I'm going to let it in, but then
8 it's going in --
9 MS. BAUGES: A sealed envelope, Your Honor.
10 THE COURT: Okay. In keeping with
11 (unintelligible.)
12 MR. WOOD: Thank you.
13 MS. BAUGES: And I apologize. Just real
14 quickly, is that the entire document? I didn't get
15 a chance to look at that. Counsel, is this the
16 entire document?
17 MR. WOOD: I tried to. Let me check. Is it
18 complete? Was that complete?
19 MS. BAUGES: I believe it was.
20 BY MR. WOOD:
21 Q. A█████, would you mind re-approaching
22 this diagram.
23 A. Yeah.
24 Q. Thank you. A█████ were you facing the
25 right of that diagram or which direction were you

67

1 BY MR. WOOD:
2 Q. H is where A█████ is? Am I getting that
3 right?
4 A. Yes.
5 Q. Okay. So you're facing the H at the time
6 that coat hanger goes between your buttocks;
7 correct?
8 A. Yes.
9 Q. And you're sure of that?
10 A. Yes.
11 Q. What do you do when you feel the coat
12 hanger go between your buttocks?
13 A. Scream.
14 Q. Okay.
15 A. (Unintelligible.)
16 Q. Anything else?
17 A. Mostly scream.
18 Q. Okay. Did you --
19 A. Fell into my friend's arms.
20 Q. Did you hear anybody else say anything?
21 Did you hear T█████ say something?
22 A. I was in too much pain, sir.
23 Q. And did you hear John R█████ say anything?
24 A. John?
25 Q. Right.

69

1 facing when you felt that hanger go between your
2 buttocks?
3 A. Same way I'm standing now.
4 Q. Excuse me?
5 A. Same way I'm standing now. Facing that
6 way, and he was in front of me.
7 Q. Who was in front of you?
8 A. A█████
9 Q. A█████ was it in front of you. And which
10 way were you facing when that hanger went between
11 your buttocks?
12 A. I was facing the same way, but I --
13 Q. Okay. We're not in the same room, so
14 I've got to --
15 A. (Unintelligible) the same room.
16 Q. Were you facing the lockers?
17 A. I was facing to the junior high. I was
18 facing straight (unintelligible.)
19 Q. And is that facing the lockers on the
20 wall? You're facing A█████?
21 A. Yes, I'm facing A█████
22 Q. And you're facing A█████ --
23 MR. WOOD: Can I approach the witness just to
24 get --
25 THE COURT: Sure.

68

1 A. John --
2 Q. Was he in the room?
3 A. John Howard, you mean?
4 Q. No, John R█████
5 A. John R█████?
6 Q. Maybe I've got the first name wrong.
7 THE COURT: S█████.
8 MR. WOOD: S█████ R█████. You're right.
9 THE WITNESS: No, I didn't hear him say
10 anything.
11 BY MR. WOOD:
12 Q. And you told us you didn't hear T█████
13 say anything. Am I remembering that right?
14 A. No.
15 Q. It's a lawyer thing. When you answer
16 that question no, it makes it sound like, no, he did
17 something.
18 A. Oh.
19 Q. Did T█████ say anything that you heard
20 right when that coat hanger went between your
21 buttocks?
22 A. No, I don't remember hearing anything.
23 Q. Okay. How about John Howard?
24 A. No.
25 Q. How long was the coat hanger between your

70

1 buttocks by the first time you felt a kick on that
 2 hanger?
 3 **A. About a second, a few seconds until it**
 4 **got -- until it penetrated.**
 5 Q. Now, your -- is it your testimony that
 6 your boxers were still up?
 7 **A. Are still what?**
 8 Q. Still up.
 9 **A. Yes, but they are ripped.**
 10 Q. They're ripped in back?
 11 **A. Yes.**
 12 Q. But they stay up throughout this?
 13 **A. Yes.**
 14 Q. You're sure of that?
 15 **A. Yes.**
 16 Q. And Howard was able to kick the coat
 17 hanger; right?
 18 **A. (No audible response.)**
 19 Q. And did you stay -- well, where were you?
 20 Put a -- what number are we up to, A[REDACTED]?
 21 **A. 4.**
 22 Q. A[REDACTED] 4. Put an "A[REDACTED] 4" where you
 23 were standing when you felt that first kick.
 24 **A. A[REDACTED] 4?**
 25 Q. Yeah, if you don't mind. So, A[REDACTED], if

71

1 **A. Yes, I did.**
 2 Q. What was your friend's name?
 3 **A. [REDACTED] H[REDACTED]**
 4 Q. And the coat hanger was already withdrawn
 5 from between your buttocks, wasn't it?
 6 **A. Once I was in his arms, it was yanked**
 7 **out.**
 8 Q. And who do you say yanked it out?
 9 **A. John.**
 10 Q. Excuse me?
 11 **A. T[REDACTED]**
 12 Q. Your testimony is that T[REDACTED] pulled the
 13 coat hanger out from between your buttocks; is that
 14 right?
 15 **A. Yes.**
 16 Q. And how long total would you say that
 17 coat hanger was between your buttocks?
 18 **A. About 3 seconds.**
 19 Q. About 3 seconds?
 20 **A. Yeah. It was stuck there.**
 21 Q. Excuse me?
 22 **A. It was stuck there.**
 23 Q. And how far from the sinks were you when
 24 you fell into T[REDACTED]'s arms?
 25 **A. About from me to -- a little bit more**

73

1 I'm seeing that, you've got yourself all the way
 2 down at the end of that table made out of benches;
 3 right?
 4 **A. Yeah, but my drawing's not very good, but**
 5 **I was close -- pretty close to the showers.**
 6 Q. And how far would you say between that
 7 table and the showers?
 8 **A. Is that a table?**
 9 Q. That's all right.
 10 **A. Did I spell it right?**
 11 Q. Don't worry about it. I withdraw it.
 12 It's not that important.
 13 **A. Okay.**
 14 Q. I withdraw the question. Did you move
 15 from that A[REDACTED] 4? Did you go anywhere?
 16 **A. Well, after A[REDACTED] was done holding me, I**
 17 **-- after I got shoved, he let go. And then I turned**
 18 **around, and that's where my friend was.**
 19 Q. In which direction was your friend?
 20 **A. He was behind me. He was this way.**
 21 Q. And --
 22 **A. And once the hanger got shoved up, I**
 23 **jumped, and I, like, fell that way into his arms.**
 24 Q. You fell into his arms right there in the
 25 locker room, huh?

72

1 **closer, but almost from me to you.**
 2 Q. But slightly closer than you and I are
 3 right now, huh?
 4 **A. Yeah.**
 5 MR. WOOD: Okay. And for the record, that's
 6 about -- is 20 feet okay for an approximation?
 7 THE COURT: Yeah.
 8 MR. WOOD: The judge says, yeah, it's okay.
 9 BY MR. WOOD:
 10 Q. In that locker room, you were never held
 11 down on the ground, on the floor, were you?
 12 **A. That was in the --**
 13 Q. Wait. In the locker room. Just that
 14 question.
 15 **A. No.**
 16 Q. No. Okay. So you were never held down
 17 on the floor in that locker room?
 18 **A. No.**
 19 Q. Okay. You say that you were actually
 20 bleeding from the rectum that night?
 21 **A. Yes.**
 22 Q. Were you bleeding immediately after?
 23 **A. Yeah. Right after it got yanked out, it**
 24 **started bleeding.**
 25 Q. Excuse me?

74

1 **A. Right after it got yanked out, it started**
2 **bleeding.**
3 Q. Now, A[REDACTED] was asked by you to check out
4 how you were back there; right?
5 **A. Yeah.**
6 Q. And he did that, didn't he?
7 **A. (No audible response.)**
8 Q. A[REDACTED] looked between your buttocks for you
9 to tell you how you were doing, didn't he?
10 **A. He didn't ask me. He just --**
11 Q. But he did that?
12 **A. Yeah, he looked, and it was bleeding.**
13 Q. And at first he said --
14 **A. And it wasn't only A[REDACTED] It was --**
15 Q. At first A[REDACTED] said, "Dude, you're a
16 mess"; right?
17 **A. No.**
18 Q. But the last thing A[REDACTED] said to you is,
19 "Dude, you're fine"; right?
20 **A. No.**
21 Q. You deny that emphatically. Do I
22 understand that right?
23 **A. Yeah.**
24 Q. You understand you're under oath?
25 **A. Yes, I do.**

75

1 **A. Besides all the stuff that happened at**
2 **football camp. Besides that, I -- no problems**
3 **between us.**
4 Q. Okay. Now, you talked to people from the
5 attorney general's office, didn't you?
6 **A. Yes.**
7 Q. You talked to a professional factual
8 investigator called Officer Pittz, didn't you?
9 **A. I think so.**
10 Q. Okay. And you told him it was the hook
11 end of this hanger that was stuck in your -- between
12 your buttocks, didn't you?
13 **A. No. It was never the hook.**
14 Q. You deny telling him that; right?
15 **A. Yeah.**
16 Q. Am I hearing that?
17 **A. It was the --**
18 Q. So if he claims you told him that, he's
19 wrong about that, huh?
20 **A. Yes, sir.**
21 Q. And you told him there were two
22 insertions into your anus, didn't you?
23 **A. No, just one.**
24 Q. So if his affidavit says two, he's wrong
25 about what you told him; right?

77

1 Q. A[REDACTED] I couldn't stand up any longer.
2 Go ahead and sit down. You deserve a break.
3 A[REDACTED], the first part of the next week,
4 they took you to a CARES interview. Do you remember
5 that one?
6 **A. I do.**
7 Q. And you told the CARES people that your
8 pants were pulled down before the coat hanger was
9 placed between your buttocks, didn't you?
10 **A. I can't remember.**
11 Q. Might you have told them that your pants
12 were pulled down?
13 **A. I --**
14 Q. This is the only time you had any kind of
15 incident that involved a coat hanger; right?
16 **A. Yes.**
17 Q. In fact, the only problems you'd had with
18 T[REDACTED] or even John Howard was you didn't like the
19 way they talked about girls in the locker room
20 sometimes; right?
21 **A. Yeah.**
22 Q. Excuse me?
23 **A. For the most part, yeah.**
24 Q. For the most part or that was it? Were
25 there other problems that you need to tell us about?

76

1 **A. Yes.**
2 Q. Now, prior to telling your version to
3 Mr. Hardcastle, you had spoken to your mother;
4 correct?
5 **A. Correct.**
6 Q. And she was --
7 **A. Before --**
8 Q. -- quite upset?
9 **A. Before (unintelligible) -- before, yes.**
10 Q. You said she was crying?
11 **A. Yes.**
12 Q. Did she tell you that you had suffered a
13 very serious assault?
14 **A. Yes.**
15 Q. Did she tell you that?
16 MS. BAUGES: Objection, Your Honor. At this
17 point, I'm going to renew my objection as to
18 hearsay. He's asking about statements that were
19 made out of court.
20 MR. WOOD: It's not hearsay. It's
21 communicating with a witness. And I'm offering it,
22 obviously, not for the truth of the matter, but for
23 the impact it might have had on this witness's
24 testimony.
25 THE COURT: I will allow it for that purpose.

78

1 BY MR. WOOD:
2 Q. And your mother told you that she was
3 going to notify Mr. Hardcastle of this coat hanger
4 incident, didn't she?
5 A. She said it was a bad incident, but --
6 Q. And then she told you that she was going
7 back in and notifying Mr. Hardcastle, didn't she?
8 A. I don't think so, sir.
9 Q. Does that mean that you are more sure
10 that you went back in with her?
11 A. (No audible response.)
12 Q. Do you now think you went back in,
13 A [REDACTED]
14 A. It's kind of hard to remember everything.
15 It was a long time ago.
16 Q. Right.
17 A. Plus I try to forget it.
18 Q. So you're not sure still, huh?
19 A. No.
20 Q. Okay. A [REDACTED] when you went to the
21 hospital, they took swabs of your anus, didn't they?
22 A. Yes.
23 Q. And did you -- were you ever shown a coat
24 hanger and asked if that was the coat hanger?
25 A. At the hospital?

79

1 that next week and you were interviewed by the lady
2 on videotape, remember that?
3 A. The lady on the videotape?
4 Q. Yeah. They were -- when you're in that
5 little room and that lady's talking to you talking
6 about wanting to be a chef and all that stuff,
7 remember that one?
8 A. No, sir.
9 Q. Okay. But your mom sat in even when the
10 investigator from the attorney general's office
11 talked to you, didn't she?
12 A. Was that --
13 Q. Mr. Pittz.
14 A. I don't know which one is Mr. Pittz, but
15 I remember talking to an investigator.
16 Q. From the attorney general's office?
17 A. I think so.
18 Q. And your mom was there for that too,
19 wasn't she?
20 A. Yes.
21 Q. She sat in through the whole thing;
22 right?
23 A. I -- I don't know, sir.
24 Q. You told us that when you felt that coat
25 hanger between your buttocks, you got pretty upset;

81

1 Q. Anywhere. Anywhere.
2 A. No.
3 Q. Has anybody ever shown you a coat hanger
4 saying, "Is this the one, A [REDACTED]?"
5 A. No. I just know.
6 Q. Okay.
7 (Inaudible conversation between counsel.)
8 MS. BAUGES: Could we have a sidebar?
9 (Discussion held off the record between
10 Court and counsel.)
11 MR. WOOD: Should I move D in? Is it in?
12 THE COURT: I'm going to let D in under Rule
13 5.1 of the Idaho Criminal Rules regarding
14 preliminary hearings and lab reports.
15 MR. WOOD: May I have one second?
16 BY MR. WOOD:
17 Q. A [REDACTED] at the time that you were at the
18 hospital, your mom was there in the room; right?
19 A. (Unintelligible.)
20 Q. The time -- that first day after this
21 incident, they took you to St. Luke's in Jerome,
22 your mom sat in the examination room with you,
23 didn't she?
24 A. Yes.
25 Q. And when you went to the CARES interview

80

1 right?
2 A. Yes.
3 Q. It was very stressful; correct?
4 A. (No audible response.)
5 Q. Excuse me?
6 A. Yes.
7 Q. You've got to answer out loud. We're
8 just running on a tape-recorder. That's our only
9 record, A [REDACTED] Was it very stressful for you?
10 A. Yeah.
11 MR. WOOD: I've got to ask this lady's
12 permission.
13 (Inaudible discussion between counsel.)
14 BY MR. WOOD:
15 Q. A [REDACTED] when you feel high levels of
16 stress, do you find it hard to record exactly what's
17 going on, hard to remember the exact sequence of
18 events?
19 A. Sometimes.
20 Q. You'll admit to sometimes but not always?
21 A. No.
22 Q. Events sometimes kind of jumble together
23 when you're feeling high levels of stress?
24 A. What do you mean?
25 Q. I mean they become events that you

82

1 remember, but it's very hard to place them in time
2 as far as what came first, what came next, exactly
3 where you're standing, that kind of stuff?
4 **A. Something --**
5 Q. The details, but --
6 **A. But things that are important, a lot of**
7 **the time I can remember.**
8 Q. And you've always been able to do that
9 over at Dietrich High; right?
10 **A. I've always -- yes.**
11 Q. Excuse me?
12 **A. Yes.**
13 Q. When you experience something under high
14 stress, like you've told us this incident in the
15 locker room had a lot of stress for you, later are
16 you -- can people kind of tell you what happened and
17 you go with their event, their version of events?
18 **A. I've kind of stuck with mine.**
19 Q. Do you -- doesn't the fact that you're
20 all stressed out make you listen to the details of
21 what other people tell you?
22 **A. No.**
23 Q. You don't think so?
24 **A. (No audible response.)**
25 Q. Excuse me?

83

1 MR. WOOD: Judge, first I'd like to move this
2 diagram in for demonstrative purposes.
3 THE COURT: Same -- same -- same
4 (unintelligible.)
5 MS. BAUGES: Yes, Your Honor, same objection.
6 Same limited request.
7 MR. WOOD: And I'm on cross. Do you want
8 (unintelligible.)
9 MS. BAUGES: Yes, please.
10 THE COURT: Okay. Any other questions,
11 Mr. Wood?
12 MR. WOOD: Just a sec. That concludes my
13 cross, Judge. Thank you.
14 THE COURT: Redirect.
15 MR. WOOD: Thank you, A██████
16
17 REDIRECT EXAMINATION BY MS. BAUGES:
18 Q. I just have a few clarifying questions.
19 If you wouldn't mind standing up just for a little
20 bit. I have -- sorry. Can I have you move to the
21 board. You were asked a question regarding: Is
22 this the room this happened in? It looks to me like
23 there are a couple of rooms there. Can you kind of
24 just be a little bit more specific about which room
25 it happened in?

85

1 **A. No.**
2 Q. And you're sure of that?
3 **A. Yes.**
4 Q. And you're telling this judge that A██████
5 never told you, "You're fine, Dude"? You're sure of
6 that?
7 **A. Yes.**
8 Q. You understand you're under oath?
9 **A. Yes, I do.**
10 Q. How many times was that hanger kicked?
11 **A. Multiple times.**
12 Q. Multiple. Multiple can be two or ten.
13 Was it ten times?
14 **A. No.**
15 Q. Was it two times?
16 **A. About three or four.**
17 Q. About three or four is your best --
18 you're not really sure of that? Am I hearing you
19 right? You're not sure how many times that hanger
20 was kicked?
21 **A. Three.**
22 Q. You think three?
23 **A. Yes.**
24 Q. And you're sure of that?
25 **A. Yeah.**

84

1 **A. This is the room it happened in. This is**
2 **-- these are -- well, there's three different rooms.**
3 **There's this room. That's the locker room. Then**
4 **there's the junior high locker room, and then**
5 **there's a door which leads to (unintelligible.)**
6 **There's a door that leads to the gym right through**
7 **(unintelligible.) And then there's a door that goes**
8 **-- and there's a door inside the locker room that**
9 **goes here, and there's another door right there that**
10 **leads to the basketball court.**
11 Q. Okay. So you said -- the room that this
12 happened in, can you just point it to one more time.
13 Okay.
14 MS. BAUGES: So can the record reflect that on
15 this exhibit that will be entered, it's the big
16 square?
17 THE COURT: The record will reflect that
18 that's the witness's testimony.
19 MS. BAUGES: Go ahead and sit down.
20 BY MS. BAUGES:
21 Q. You got a few questions about the boxers,
22 and you said, "It was the wedgie," and you were
23 trying to explain that. Would you go ahead and
24 explain what you were talking about there.
25 **A. (No audible response.)**

86

1 Q. You said your boxers were ripped?
2 **A. They were ripped.**
3 Q. Explain what happened.
4 **A. I got a power wedgie that ripped my**
5 **boxers.**
6 Q. When did this happen?
7 **A. This was before practice.**
8 Q. Okay. Who gave you the wedgie?
9 **A. It was T [REDACTED].**
10 Q. Okay. Now, I'm sure that it's common
11 vernacular, but could you just kind of explain what
12 you mean by super wedgie.
13 **A. A wedgie that it's -- it's a wedgie**
14 **that's so hard that it rips your underwear. They**
15 **pull so hard that it rips your underwear.**
16 Q. Okay. And how bad was your underwear
17 ripped?
18 **A. Pretty bad.**
19 Q. Could you please describe -- and I
20 apologize. Could you just get into more detail.
21 How did they look?
22 **A. Torn up.**
23 Q. Okay.
24 **A. I don't --**
25 Q. No, I completely understand. It was a

87

1 know, replica of the locker room?
2 **A. From my memory.**
3 Q. From your memory, but, like, for example --
4 MS. BAUGES: May I approach the exhibit, Your
5 Honor?
6 THE COURT: You may. Can you see it, A [REDACTED]?
7 MS. BAUGES: I'll --
8 BY MS. BAUGES:
9 Q. Can you see it? A little bit? Okay. So
10 what are these?
11 **A. Those are benches.**
12 Q. Benches.
13 MS. BAUGES: Can the record reflect I'm
14 pointing to a long rectangle in the middle of the
15 big square room that we --
16 THE WITNESS: There's two benches
17 (unintelligible.)
18 BY MS. BAUGES:
19 Q. Right. And so this is one bench; right?
20 **A. Yes.**
21 Q. Okay. And so these are -- what are
22 these?
23 **A. Showers.**
24 Q. And they're three rectangles with little
25 lines and circles in them --

89

1 bad question. Was it -- how much of your back side,
2 your bottom, your buttocks could you see because
3 your boxers were ripped, if you know?
4 **A. The back.**
5 Q. The back? What do you mean by "the
6 back"?
7 **A. The back of the boxers.**
8 Q. The whole back of the boxers?
9 **A. Not the whole back of the boxers. A big**
10 **portion of the back of the boxers. I think there**
11 **was a little bit on the front too that was ripped.**
12 Q. Okay. Would it help to use your hands?
13 **A. (No audible response.)**
14 Q. I'm trying to figure out how much of your
15 buttocks was exposed because of the rip in your
16 boxers.
17 **A. My butt was really exposed.**
18 Q. Okay.
19 **A. It was exposed to the point that the**
20 **hanger could actually penetrate that it was exposed.**
21 Q. Okay. One thing about this diagram, is
22 this, I'm going to say, to scale? Do you know what
23 that means, "to scale"?
24 **A. To exact.**
25 Q. Right, right. Is this an exact, you

88

1 **A. Yes.**
2 Q. -- for the record.
3 **A. I didn't draw the door.**
4 Q. Okay. And that's fine. So when I mean
5 to scale, what I'm asking is so these benches versus
6 how -- the distance they are between these showers,
7 that's not -- is that exact?
8 **A. No.**
9 Q. No. Okay. Is that true of all of these
10 landmarks, I'll call them, showers --
11 **A. Yes.**
12 Q. -- benches?
13 **A. Yes.**
14 Q. Is that also true of where people are
15 standing in relation to these objects, not exact?
16 MR. WOOD: Objection. She's leading.
17 THE COURT: Can you rephrase the question?
18 MS. BAUGES: Sure.
19 BY MS. BAUGES:
20 Q. How accurate are -- for example, you've
21 put people in here, and you just testified that this
22 isn't to scale.
23 **A. I don't --**
24 Q. Is that --
25 **A. I don't know where everybody else was,**

90

1 **but to scale, that's where everybody was.**
 2 Q. Okay. And when I'm saying "to scale," I
 3 mean exactly in terms of, you know, where --
 4 MR. WOOD: It's asked and answered. He just
 5 said that's where everybody was. Now she comes back
 6 with another case. It's just more leading. It
 7 shows dissatisfaction with the reply. I object to
 8 it.
 9 THE COURT: Sustained.
 10 MR. WOOD: It's a standard --
 11 THE COURT: Sustained.
 12 MR. WOOD: -- prosecutor --
 13 THE COURT: Sustained.
 14 MR. WOOD: -- technique.
 15 THE COURT: Sustained.
 16 BY MS. BAUGES:
 17 Q. Okay. And so getting back on the track,
 18 this is where you were. Well, I won't restate your
 19 testimony at this point, but -- oh, go ahead and sit
 20 down. Sorry.
 21 So in terms of angles, you know, where
 22 people were facing and stuff, do you know -- well,
 23 how good is your memory in terms of the exact
 24 details in terms of the angles everyone was standing
 25 at at the exact moments that these things were

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1 Could you elaborate on that. And do you know what
 2 I'm talking about?
 3 **A. Looked?**
 4 Q. So you were asked a question regarding
 5 somebody checked out your anus, and the question was
 6 A did, and you said it was someone -- it wasn't
 7 only A. Could you elaborate on that.
 8 **A. It was almost the whole locker room.**
 9 **There was a group of people in the locker room.**
 10 Q. Okay.
 11 **A. It was the people that were surrounding**
 12 **me.**
 13 Q. And you were asked a question about
 14 problems with T and John, prior problems.
 15 Could you tell us a little bit more about that.
 16 **A. Like problems that I had with them?**
 17 Q. Uh-huh.
 18 **A. Well, at the -- for instance, at the**
 19 **football camp, they were just humping everybody.**
 20 **That was just a problem that I had with them. That**
 21 **was just another problem, but besides that, we were**
 22 **-- and the hanger thing, the wedgie thing. Besides**
 23 **that, there was no really further problems.**
 24 MS. BAUGES: Okay. No further questions, Your
 25 Honor.

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1 happening?
 2 **A. Pretty well.**
 3 Q. Pretty well? Is it exact?
 4 **A. The people that -- the three people, yes,**
 5 **but --**
 6 Q. Okay.
 7 **A. The people I named, but not -- yeah.**
 8 Q. Now, you said -- there was a question
 9 about the seconds. There was a question about you
 10 -- I'm sorry. You testified regarding the seconds
 11 before it penetrated, and I think the question was
 12 in relation to the first shoving in and then the
 13 kicking, and so I just wanted to clarify. Did the
 14 hanger penetrate when it was first shoved in?
 15 **A. Once it was shoved in, it like -- it**
 16 **happened fast, so --**
 17 Q. Sure.
 18 **A. -- it -- it might have moved around when**
 19 **it was shoved in, but it was shoved in.**
 20 Q. Okay. So it was shoved in?
 21 **A. Yes.**
 22 MR. WOOD: Objection. She's leading.
 23 MS. BAUGES: I'll move on, Your Honor.
 24 BY MS. BAUGES:
 25 Q. You said it wasn't only A who looked.

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1 THE COURT: Thank you.
 2 A, thank you very much for your
 3 testimony today. I know this hasn't been easy for
 4 you. You can be excused now. Thank you.
 5 THE WITNESS: Okay. Thank you.
 6 MR. WOOD: Can I move that diagram in? I
 7 think it's -- we're up to E now.
 8 THE COURT: It's already in. We just need to
 9 get it marked and put in the record. Deysi, take
 10 this one as well and get it in an envelope and seal
 11 it up.
 12 Next witness.
 13 MS. BAUGES: Your Honor, that's going to be
 14 all the witnesses for the preliminary hearing.
 15 THE COURT: Okay.
 16 Mr. Wood, are you going to call any
 17 witnesses?
 18 MR. WOOD: The defense does not intend to call
 19 witnesses at the prelim, Judge.
 20 THE COURT: All right. Argument, then.
 21 MS. BAUGES: Yes, Your Honor. Your Honor, the
 22 State has to prove, as you're aware, a number of
 23 elements: The date, October 22nd, 2015, on or
 24 around. The witnesses have testified that was the
 25 date.

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1 In the State of Idaho. Mr. R [REDACTED]
2 testified as to that.
3 The defendant, T [REDACTED] W [REDACTED], he was
4 identified by both witnesses.
5 Caused an object. That is a hanger. I
6 think the Complaint specifically says "coat hanger,"
7 but a hanger to penetrate the opening of A [REDACTED]
8 M [REDACTED].
9 Now, there were some discrepancies
10 brought out about the kind of hanger. Was it wire?
11 Was it plastic? Was it the hook? Was it the end?
12 THE COURT: Was it brown? Was it black?
13 MS. BAUGES: Was it brown? Was it black? If
14 you recall, A [REDACTED] said that it felt like the side,
15 and it felt like wire, but he never testified that
16 he saw it. And he said it felt like it wasn't the
17 hook because it didn't catch. And you heard
18 testimony from someone that actually saw the hanger
19 go in that said it was plastic. And a plastic
20 hanger probably wouldn't catch. So these details,
21 these: "Was it the side? Was it the hook? Was it
22 black? Was it brown?" they don't change the fact
23 that both witnesses said a hanger was shoved up
24 A [REDACTED]'s buttocks.
25 Now, S [REDACTED] was able to say it was shoved

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1 because there is a medical report the next day that
2 says, you know, certain things about whether or not
3 certain injuries were found, there is nobody here to
4 testify that therefore the logical conclusion is
5 that there was no penetration. That is nowhere in
6 the report. So those documents effectively tell the
7 Court nothing about the specific elements in this
8 case other than, perhaps, conjecture, but the State
9 has presented sufficient evidence to overcome that
10 conjecture.
11 For the purpose of sexual abuse, the
12 hanger was shoved up his anus and with enough force
13 that the victim was in pain, and you heard from
14 S [REDACTED] R [REDACTED] that the defendant was laughing. There
15 was physical maltreatment. Enough force that it was
16 with physical maltreatment. And how do we know the
17 purpose? Because when it happened, the defendant
18 was laughing is the testimony you heard today.
19 The penetration was against A [REDACTED]
20 M [REDACTED]'s will. He testified he didn't give
21 permission. He didn't want this to happen. And the
22 penetration was accomplished by the use of force.
23 Your Honor, that is inherent from the act itself
24 where a coat hanger hook was pushed with such force
25 that it got lodged in the anus of A [REDACTED] M [REDACTED]

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1 up there, and then hands off, and then when it was
2 kicked, it was kicked further in. Didn't go to the
3 side. Didn't go here. It was enough shoved in that
4 the kicks made it go in further and further, not
5 fall out, and that's important.
6 It's also important that A [REDACTED] testified
7 that it may have wiggled around, but it went in. It
8 penetrated him, and he screamed. He screamed, and
9 it hurt. That is substantial evidence to meet all
10 of those.
11 Now, I'm aware that certain things were
12 put into evidence regarding medical examinations the
13 day after, about lack of DNA on the particular
14 hanger that the State has as evidence, which was
15 collected -- well, I won't go there because that's
16 not in evidence, but there is nothing, however, in
17 the record that connects that to conclusions such
18 as: Is it possible that this could be the hanger
19 and because of the way it was collected or how long
20 it had been on the locker room floor or anything
21 like that that isn't possible that it's the same
22 hanger. And regardless whether or not that is the
23 particular hanger isn't the issue. We don't have to
24 prove which hanger it is.
25 The same thing with the medical. Just

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1 All of those elements have been shown to the
2 probable cause degree by the testimony that you have
3 here today, Your Honor. Thank you.
4 THE COURT: Mr. Wood.
5 MR. WOOD: Yes, Judge. The prosecuting
6 attorney ignores the fact that although her
7 witnesses are consistent on conclusions, they are
8 extremely inconsistent on how the events occurred.
9 In fact, they are not balanceable. One of those
10 guys is wrong. Either A [REDACTED] or R [REDACTED] diagramed a
11 different incident. She's got two totally
12 inconsistent witnesses.
13 A [REDACTED] says he's facing A [REDACTED] who R [REDACTED]
14 doesn't even include in the picture. R [REDACTED] has him
15 facing a completely different way, facing the shower
16 stalls.
17 A [REDACTED]: I'm wearing shorts split up the
18 back. R [REDACTED] He is totally unclothed and getting
19 ready to get in the shower. Fell into T [REDACTED]'s arms,
20 T [REDACTED] H [REDACTED] R [REDACTED] No mention of H [REDACTED] He
21 was within 5 feet of the wash basin is when I was
22 leaving.
23 Did the thing get pulled out in 3 to
24 5 seconds? No. It was in there up to a minute. I
25 can't tell. He was absolutely in close proximity, 4

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<p>1 to 5 feet of the wash basins by the time it gets 2 pulled out.</p> <p>3 The testimony presented by the prosecutor 4 in this case is so inherently conflicting as not to 5 prove an event. We know from A[REDACTED] that he 6 sometimes gets mixed up, but A[REDACTED] says this 7 supposed penetration lasted 3 to 5 seconds, not long 8 enough to determine whether there has actually been 9 penetration of his anus.</p> <p>10 You have seen the medical reports. They 11 were put in as evidence by the defense indicating 12 that the very next afternoon that Dr. I believe it's 13 Johnson says there's no obvious signs of trauma 14 here. There's no bruising on his skin. A[REDACTED]'s 15 claiming he's held by A[REDACTED]. There's no bruising of 16 tight holding, and there's no obvious signs of 17 trauma anywhere that are pointed out. You have no 18 evidence of an object that shows connection to 19 having been placed up this young man's anus.</p> <p>20 The State totally fails to corroborate 21 two totally inconsistent descriptions of this event, 22 irreconcilable descriptions. This is the 23 presentation of evidence that is legally inherently 24 conflicting and cannot be the basis for a bind over. 25 If the facts are here, the State has to continue to</p> <p style="text-align: center;">99</p>	<p>1 develop them through investigation, not just put on 2 inherently conflicting versions and argue that they 3 somehow justified that a crime was committed and 4 probably T[REDACTED] W[REDACTED] committed it.</p> <p>5 We don't even have a clear portrayal of a 6 crime being committed. You've got conflicting 7 descriptions of events in a high school locker room 8 where there was supposedly a bunch of people around 9 but just two people the State calls in. And you 10 have the object described totally inconsistently. 11 It was the hook end according to R[REDACTED]. He's sure 12 of that. It was the hanger end that's placed 13 between A[REDACTED]'s buttocks. A[REDACTED] in his diagram 14 where he lined off the bottom section, he describes 15 those shoulder sections. Those -- that's the part 16 that he felt between his buttocks and that he claims 17 was shoved up his anus showing no trauma, no 18 lacerations within 24 hours.</p> <p>19 This is inherently conflicting and does 20 not justify a bind over for felony trial. This is 21 why the State is allowed to refile these things. If 22 they can go out and put Humpty Dumpty back together 23 again, fine, but not with two witnesses out of a 24 bunch of people that were present in that room, not 25 with two witnesses who present inherently</p> <p style="text-align: center;">100</p>
<p>1 conflicting stories, not without totally devoid of 2 scientific corroborating evidence of penetration. 3 In fact, a totally normal finding by a doctor within 4 24 hours of the claimed events.</p> <p>5 If the Court seriously considers binding 6 over, I would ask that you strike from the bind over 7 the elements of for the purpose of sexual arousal, 8 gratification. I would ask that you totally strike 9 that it was achieved by duress or threats of 10 immediate harm or subsection (2) or (3) and (4) that 11 also do not apply. If it's to be bound over, let's 12 bind it over as what the State has presented today. 13 I would not -- I would ask the Court not to give 14 them this entire statute to shoot at when they have 15 to put Humpty Dumpty together again before trial.</p> <p>16 So the statute that is charged should be 17 substantially narrowed, if this young man is to be 18 sent to trial, and get rid of all this verbiage that 19 may apply in other cases but certainly don't apply 20 here in which there is a total lack of evidence 21 justifying a bind over. And, again, I'm referring 22 to the sexual arousal or gratification portion, the 23 threats of immediate or great bodily harm under 24 (1)(c), (2), (3), and (4). I would ask that those 25 be stricken from the bind over if you decide that</p> <p style="text-align: center;">101</p>	<p>1 this case is to be bound over. Thank you, Judge.</p> <p>2 THE COURT: Okay. Thank you. All right.</p> <p>3 Mr. W[REDACTED]'s being charged under Idaho Code Section 4 18-6608 which states that:</p> <p>5 "Every person who, for the purpose of 6 sexual arousal, gratification or abuse, causes the 7 penetration, however slight, of the genital or anal 8 opening of another person, by any object, instrument 9 or device:</p> <p>10 (1) Against the victim's will by: 11 (A) Use of force or violence; or 12 (B) Duress; or 13 (C) Threats of immediate and great bodily harm, 14 accompanied by apparent power of execution." 15 Anyway, there's a not capable of giving consent 16 section.</p> <p>17 This is a preliminary hearing. Pursuant 18 to Rule 5.1 of the Idaho Criminal Rules, a finding 19 of probable cause is to be based upon substantial 20 evidence upon every material elements of the offense 21 charged. It goes on to talk about the hearsay 22 exceptions we've discussed.</p> <p>23 The evidence that's before the Court is 24 conflicting at least in terms of detail. As to the 25 essential elements, however, I think that the State</p> <p style="text-align: center;">102</p>

1 has met its burden at this stage that -- but I am
2 finding that there has not been any evidence of
3 purpose here, other than abuse, and it is by use of
4 force or violence. The others not being relevant.
5 The Court makes that finding based upon the
6 essential element of penetration being established
7 by -- most notably by A [REDACTED] and less so by
8 Mr. R [REDACTED]. Again, they differ in detail with regard
9 to who, what, and where precisely people were at any
10 particular moment, but the essence of their
11 testimony is similar, that Mr. W [REDACTED] inserted a
12 hanger -- I'm not certain what hanger or what part
13 of a hanger -- into the anal opening of
14 Mr. M [REDACTED] and for that reason I am going to send
15 it on to district court. Do we have a date?
16 THE CLERK: May 3rd.
17 THE COURT: May 3rd will be your initial
18 appearance, Mr. W [REDACTED]
19 MR. WOOD: Judge, I'm not sure about that
20 May 3rd date. Can I double-check that and get back
21 to the Court and counsel if there's a problem?
22 THE COURT: Yeah. What would be the next
23 date?
24 THE CLERK: May 17th.
25 MR. WOOD: And that could be -- May 3rd could

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1 be fine, Judge. I just ask for a chance, some
2 flexibility to call back.
3 THE COURT: Ms. Bauges?
4 MS. BAUGES: That's fine, Your Honor.
5 MR. WOOD: Thank you.
6 THE COURT: All right. Thank you.
7
8 (Recess.)
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TRANSCRIBER'S CERTIFICATE

STATE OF IDAHO)
) SS
County of Jerome)

I, DENISE K. SCHLODER, do hereby certify:

That the above and foregoing
transcription was transcribed by me from digital
audio provided, and that the transcript is true and
correct to the best of my ability from the portions
of the proceeding that could be heard on the digital
audio, consisting of pages 1 through 104, inclusive.

I further certify that I have no interest
in the event of the action.

WITNESS my hand this 14th day
of July 2016.

Denise K. Schloder,
Transcriber

From: Spillman, Jason
Sent: 06/27/2016 11:10 AM
To: 'Keith Roark'; Lee Schlender ([REDACTED])
Cc: Hemmer, Casey; Piotrowski, Sandra
Subject: RE: A [REDACTED] M [REDACTED]
Attachments:

Gentlemen,

I believe your understanding is mistaken. To our knowledge, no motion for a mental exam of your client has been filed. In addition, we have not consented to or approved of an exam of your client, and thus, the demand that we rescind such is misguided.

Mr. Wood did state in open court that he was thinking about filing a motion to challenge your client's competency to testify. We would obviously object to that motion, but since the motion doesn't actually exist I believe it would be inappropriate to speculate any further on this issue.

I will ask our victim-witness coordinator (Sandy Piotrowski) to follow up with you re: providing notice to you (as counsel for the victim) of any filings or hearings.

Thank you, Jason

Jason Slade Spillman
Lead Deputy Attorney General
Special Prosecutions Unit
P.O. Box 83720
Boise, ID 83720-0010
([REDACTED]) ([REDACTED]) ([REDACTED])

From: Keith Roark ([REDACTED])
Sent: Saturday, June 25, 2016 5:31 PM
To: Spillman, Jason
Cc: Lee Schlender ([REDACTED])
Subject: A [REDACTED] M [REDACTED]

Jason:

We understand that Mike Wood has made some kind of motion to have a mental exam performed on our client, A [REDACTED] M [REDACTED]. To my knowledge, the only statute or rule that gives the court authority to order such an examination is I.C. 19-3025 and that statute requires that the parties agree to a mental exam. We oppose any mental exam sought by either Defendant in the criminal actions and certainly hope you have not agreed to one. Please bring us up to date.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South
Hailey, Idaho 83333
[REDACTED]
[REDACTED]

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From: [REDACTED]
Sent: 03/28/2016 11:52 AM
To: Cheri Mattson; Bauges, Brenda
Cc:
Subject: John RK Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

Order

FILED AM 11:00
PM 4:00
MAR 28 2016
BRENDA FARNWORTH, CLERK
DISTRICT COURT LINCOLN IDAHO

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video record the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED.**

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED.**

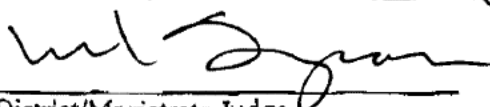
THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☒ **GRANTED** under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ **DENIED**

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 25 day of March, 2016



District/Magistrate Judge

REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST
OR PHOTOGRAPH A COURT PROCEEDING

06.08.12

2

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of March 20 , I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

D. Johnson
KMVT
734 1074

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Trial Court Administrator

- ☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder

Brenda Bauges
Special Prosecutor

- ☐ U.S. Mail
☐ Hand delivered *Email*
☐ Faxed
☐ Court Folder


Clerk

From: catherine.minyard@ag.idaho [REDACTED]

Sent: 01/13/2017 4:16 PM

To: [REDACTED]

Cc: [REDACTED]

Subject: State of Idaho v. John Howard, Lincoln County Case No. CR-2016-1144

Attachments: proposed order lifting gag order.docx

Dorothy –

Per Judge Stoker's request, attached please find a proposed order lifting the gag order in this case.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit

Idaho Attorney General's Office

P.O. Box 83720

Boise, ID 83720-0010

Phone: (208) 332-3096

Fax: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-1144
vs.)	
	)	ORDER
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

The Court being fully advised in this matter **HEREBY ORDERS** that the limitation which prohibits counsel from communicating with members of the media about this case, set forth in this Court's December 16, 2016, Order, is hereby lifted.

DATED this ____ day of January 2017.

Randy J. Stoker
District Judge

CLERK'S CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this ___ day of January 2017, I caused to be served a true and correct copy of the foregoing Order to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Fax: (208) 854-8083

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

By: _____
Deputy Clerk

From: Keith Roark
Sent: 12/18/2016 1:29 PM
To: Randy Stoker ([REDACTED])
Cc: Hemmer, Casey; [REDACTED]; Lee Schlender ([REDACTED])
Subject: St. v. John Howard
Attachments:

Dear Judge Stoker:

As you may or may not know, I am one of the attorneys representing A [REDACTED] M [REDACTED] and his parents, Tim and Shelly M [REDACTED] in a civil action filed in the United States District Court for the District of Idaho involving, among other issues, the incident upon which the charge in the above referenced matter is based. My clients are extremely upset over the plea agreement arrived at in the above entitled action, as well as comments attributed to Mr. Hemmer in an article that appeared on Saturday, December 17 in the Twin Falls Times-News and have requested that I follow up on their concerns. On their behalf, I am asking that I be provided a transcript of last Friday's hearing in the St. v. John Howard case so that I can fairly evaluate what representations were made during the change of plea hearing and address the concerns of my clients. As victims in the case, I believe the M [REDACTED] are entitled to such transcript. As you will note, I have copied both Mr. Hemmer and Mr. Calbo on this email so that they will be aware of my request and make such comment as they feel appropriate. If you feel that a formal motion or action is required on my part I can and will prepare one.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]

Fax: ([REDACTED]) [REDACTED]

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From: [REDACTED]
Sent: 11/06/2015 12:08PM
To: Steen, Michael
Cc:
Subject: Re: DRAFT Dietrich Search Warrant Affidavit etc.
Attachments: image001.jpg

Looks good. No reason to bring the attorney.

Sent from my iPhone

Sent from my iPhone

On Nov 6, 2015, at 11:30 AM, Steen, Michael <[REDACTED]> wrote:

Judge Ingram,

Thank you for agreeing to review our requests for a search warrant and order to seal prior to our Tuesday trip to Shoshone. Attached you will find unsigned DRAFTS of the affidavit, search warrant, motion to seal, and order to seal. Short of anticipated formatting changes and signatures, they are exactly (content-wise) as they will appear before your clerk. On Tuesday we will bring the originals of each. Additionally, may I have your permission to present this material without having to bring the assigned prosecutor? Thank you for your assistance.

Respectfully,

<image001.jpg>

Michael Steen

Chief Investigator
Criminal Law Division
Office of Attorney General
Phone: [REDACTED]
Fax: (208) 854-8083
[REDACTED]

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<(DRAFT) Dietrich Search Warrant Motion to Seal.docx>

<(DRAFT) Dietrich Search Warrant Order to Seal.docx>

<(DRAFT) Dietrich Search Warrant.docx>

<(DRAFT) Dietrich Search Warrant Affidavit.docx>

RR001137



From: Bauges, Brenda
Sent: 05/17/2016 9:48 AM
To: [REDACTED]
Cc:
Subject: Motion Response - extension request
Attachments: image002.jpg

Mr. Wood,

I received your voicemail regarding an extension to respond to the State's motion to change venue. It would be up to the Court whether or not it would allow a deviation from its briefing schedule. Please let me know if there is anything I can do to assist in this matter. Thank you.



Brenda Bauges

Deputy Attorney General
Special Prosecutions Unit
Phone: [REDACTED]
Fax: [208/854-8083](tel:2088548083)
[REDACTED]

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From: Lee Schlender
Sent: 12/01/2016 10:16 AM
To: Hemmer, Casey
Cc:
Subject: M [REDACTED] case
Attachments:

Casey,

I do not think we have the audio CDs of the witness interrogations ; I was using the files last week in depositions and noticed the issue.

Could you check to determine if we have them and if not, could they be burned onto CDs for us ?

E. Lee Schlender J.D.

[REDACTED]
[REDACTED]
[REDACTED]

Sent from ipad of Mr. E.Lee Schlender

From: Lee Schlender
Sent: 11/03/2016 7:00 PM
To: Hemmer, Casey
Cc:
Subject: Re: Schlender
Attachments:

If on CDs,, mailing is fine.

Appreciate your efforts Casey. Sometime would like to have you drop by Habitat Lodge ! Roark is an old prosecutor and is here often. When he is down , will give a call if you are interested !

E.Lee Schlender J.D.

Schlenderlaw.net
[REDACTED]
[REDACTED]

Sent from ipad of Mr. Schlender

> On Nov 3, 2016, at 6:46 PM, Hemmer, Casey <casey.hemmer@ag.idaho.gov> wrote:

>

> I will do my best to get it to you early next week. My plan is to have them put it on a few CDs. Would you like it mailed or would you rather have someone pick it up when it is ready?

>

> Sent from my iPhone

>

>> On Nov 3, 2016, at 6:25 PM, Lee Schlender <[REDACTED]> wrote:

>>

>> Casey,

>>

>> Could you press the staff on getting me the file ? We have depositions coming up and need it right away. I sent you a copy of the signed protective order.

>>

>> Glad to pay expenses,etc as required !

>>

>> Lee

>>

>> E.Lee Schlender J.D.

>> Schlenderlaw.net
>> [REDACTED]
>> [REDACTED]
>> [REDACTED]

>> [REDACTED]

>> [REDACTED]

>>

>> Sent from ipad of Mr. Schlender

>>

>>

>>

>>

From: [REDACTED]
Sent: 12/22/2016 2:00 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Idaho code
Attachments: image002.jpg

Thanks Kelly –

I don't expect any different position to be taken, but I am seeking to wrap my head around the wording in our statutes so that I can hopefully translate why things have come down the way they have and what we can do as an agency to raise awareness of any changes that need to be made.

The other matter which I don't think I asked about is why the perpetrator got probation along with the Alford plea. Not having to serve any time also does not seem right!

Bea

BEATRICE BLACK - Executive Director

Women's and Children's Alliance

720 W. Washington - Boise, Idaho 83702

Ph: 208 343 3688 Ext. [REDACTED]

Fax: 208 343 8475

TDD/TTY: 800 377 3529

www.wcaboise.org

WCA Crisis Hot Line: 208 343 7025

Rape Crisis Advocacy: 208 345 7273

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From: Kelly Miller ([REDACTED])
Sent: Thursday, December 22, 2016 11:36 AM
To: Bea Black
Cc: JessicaLorello
Subject: Idaho code

Hi Bea

Let me know if you have questions about our analysis below. Lisa Bostaph, PhD, also spoke to the same concerns of the statement by Hemmer and disagreed that it was "not a sex crime." I was previously a prosecutor in a domestic and sexual violence felony unit, and believe that the Attorney General's assessment at the time of charging the felony that it was forcible penetration was correct.

Here's Jessica Lorello's email – Jessica is great and has worked with us for many years. [REDACTED] Since the

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plea agreement has already been entered by the court, I cannot imagine that anyone at the Attorney General's Office can take any other position than what they have taken.

Thanks so much,

Kelly

Kelly Miller, Executive Director

Idaho Coalition Against Sexual & Domestic Violence

Linen Building, 1402 W Grove Street, Boise, Idaho 83702

phone: [REDACTED] | cell: [REDACTED] | fax: 208.331.0687

engagingvoices.org | ourgenderrevolution.org

engaging voices | creating change

From: Kelly Miller

Sent: Thursday, December 22, 2016 11:27 AM

To: 'Bea Black' [REDACTED]

Subject: RE: Idaho code

Corrected email!

Hi Bea

Thank you so much for taking time to meet with Attorney General Wasden and his staff. We will get Jessica's email and send that to you shortly.

You are correct that under Idaho's sex crime statutes, the definition of rape includes the use of a penis as a "weapon." The corresponding felony crime for rape by an object is Idaho Code 18-6608 *Forcible Sexual Penetration by Use of Foreign Object*, which is why the Attorney General's Office originally made the decision to charge under Idaho's felony sexual penetration charge.

Unfortunately, their decision that it was no longer a sex crime – even though they made the public decision to charge the offender with a sex crime - is problematic under our interpretation of the statute. Here's the statutory language of the felony crime the Attorney General originally charged.

18-6608. FORCIBLE SEXUAL PENETRATION BY USE OF FOREIGN OBJECT. Every person who, for the purpose of sexual arousal, gratification or abuse, causes the penetration, however slight, of the genital or anal opening of another person, by any object, instrument or device:

- (1) Against the victim's will by:
 - (a) Use of force or violence; or*
 - (b) Duress; or*
 - (c) Threats of immediate and great bodily harm, accompanied by apparent power of execution; or**
- (2) Where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving legal consent; or*
- (3) Where the victim is prevented from resistance by any intoxicating, narcotic or anesthetic substance; or*
- (4) Where the victim is at the time unconscious of the nature of the act because the victim:
 - (a) Was unconscious or asleep; or*
 - (b) Was not aware, knowing, perceiving or cognizant that the act occurred**

shall be guilty of a felony and shall be punished by imprisonment in the state prison for not more than life.

The Attorney General's Office argument is that they would not be able to prove "for the purpose of sexual abuse" as the intent of the offender. We disagree. The Attorney General is failing to understand the dynamic of sexual violence, which in most forms is

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motivated by **domination and power**. The offender pattern of behavior of “humping” the survivor was one of many examples of power and control over the survivor.

We also strongly believe that the intersection of race and privilege is inherent in this case, likely due to implicit or unconscious bias. While we also believe that the Attorney General's intention was to secure a conviction on a felony charge, the impact of the plea agreement of **probation with 300 hours community service** as compared to our country's criminal justice's inequities in sentencing based on racial identity reflects racial bias.

Last year Jennifer Landhuis participated in the committee that worked on revising the sexual assault statute, as prior to this year the rape statute was even more problematic. That committee determined that penis had to be left in the rape statute and that the sexual penetration statute would cover the other situations where digits or objects were used as the weapon. While we agree that the ideal situation would be for “penis” to be removed and replaced to include objects and digits, it was the groups consensus that the other crimes would fall under the sexual penetration statute. The Attorney General's office had three attorneys on that committee. Unfortunately, the crux of the issues still is around the “motivation” for the crime and their inability to identify that the root of sexual violence is not sex, but power and control.

We agree with you that we do not want anyone to receive hate mail or have threats made against them, and have amended our Facebook posts to encourage people to focus on addressing this case with acts of love and not violence, as we would never condone the acts of violence as a reaction to this situation. We are also currently working to brainstorm another response that includes an “ask” of individuals to get involved and develop actions that address the social normalization of this behavior, both in the community as well as in the schools. We also are committed to working with our allies in the disability community and those that are working on racial justice to address the intersections of race, disability and gender violence that clearly played out in this situation.

Kelly Miller, Executive Director

Idaho Coalition Against Sexual & Domestic Violence

Linen Building, 1402 W Grove Street, Boise, Idaho 83702

phone: 208.384.0419 ext. 306 | cell: [REDACTED] | fax: 208.331.0687

[engagingvoices.org](#) | [ourgenderrevolution.org](#)

engaging voices | creating change

From: Bea Black ([REDACTED])

Sent: Thursday, December 22, 2016 11:19 AM

To: Kelly Miller ([REDACTED])

Subject: FW: Idaho code

Good morning Kelly –

I am trying to follow up with Jessica – one of the individuals in the meeting yesterday at the AG's office to ask her how what they told me yesterday squares with this section of Idaho Code. Still scratching my head on some of the conflicting things I am hearing. Since I don't have a voice (laryngitis has set in!) I asked if I could get her email address to ask her this via email. They said they would have her email me so am still waiting on that.

Also – thank you so much for the wonderful box of chocolates I received yesterday. My absolute favorite chocolate!

Wishing you and your family a wonderful and Merry Christmas.

Hugs,

Bea

BEATRICE BLACK - Executive Director

RR001145

Women's and Children's Alliance

██████████ - ██████████ ██████████

Ph: 208 343 3688 Ext. ██████████

Fax: 208 343 8475

TDD/TTY: 800 377 3529

www.wcaboise.org

WCA Crisis Hot Line: 208 343 7025

Rape Crisis Advocacy: 208 345 7273

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18-6608. Forcible sexual penetration by use of foreign object. Every person who, for the purpose of sexual arousal, gratification or abuse, causes the penetration, however slight, of the genital or anal opening of another person, by any object, instrument or device, against the victim's will by use of force or violence or by duress, or by threats of immediate and great bodily harm, accompanied by apparent power of execution, or where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving legal consent, or where the victim is prevented from resistance by any intoxicating, narcotic or anesthetic substance, shall be guilty of a felony and shall be punished by imprisonment in the state prison for not more than life.



From: catherine.minyard@ag.idaho.gov
Sent: 12/29/2016 1:38 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Howard PSI Documents
Attachments: image001.png

Margie –

Mr. Hemmer advised that the victim can be contacted through the family's attorney Lee Schlender. He can be reached at () - - .

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
P.O. Box 83720
Boise, ID 83720-0010
Phone: (208) 332-3096
Fax: (208) 854-8083

From: Rahr, Margie [REDACTED]
Sent: Thursday, December 29, 2016 1:02 PM
To: Minyard, Catherine
Subject: RE: Howard PSI Documents

Thank you. I need the victim's contact information, so if you could forward that, I'd appreciate it!



Margie Rahr

District 5 Probation & Parole
Presentence Investigator
731 Shoup Ave. West
Twin Falls, ID 83301
208-736-3080 Ext [REDACTED] Fax: 208-736-3054

From: Minyard, Catherine [<mailto:catherine.minyard@ag.idaho.gov>]
Sent: Thursday, December 29, 2016 12:46 PM
To: Rahr, Margie
Cc: Hemmer, Casey
Subject: Howard PSI Documents

Margie –

Per your request, attached are the documents for the PSI in State of Idaho v. John Howard. Please let me know if you have any questions or need further information.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit

Idaho Attorney General's Office

P.O. Box 83720

Boise, ID 83720-0010

Phone: (208) 332-3096

Fax: (208) 854-8083



From: Lee Schlender
Sent: 11/02/2016 12:22PM
To: Hemmer, Casey; Keith Roark
Cc:
Subject: Fwd: Subpoena to AG, and Rule 35 Exam.
Attachments: image001.jpg

Casey,

You can proceed with providing me with the file.

As you know, the reason for the notice of subpoena is to provide the parties an opportunity to object; the defendants waive that right as per Mr. Walther's email note that I am herby forwarding to you.

Let me know if you want us to come to your offices (a date and time) or if you would rather mail or transport it to us.

Appreciate your assistance,

Lee

E.Lee Schlender J.D.

Sent from ipad of Mr. Schlender

Begin forwarded message:

From: "Bret A. Walther" [REDACTED]
Date: November 2, 2016 at 11:28:03 AM MDT
To: 'Lee Schlender' [REDACTED]
Cc: Brian Julian [REDACTED], "Davonna L. Wolff" [REDACTED]
Subject: Subpoena to AG, and Rule 35 Exam.

Mr. Schleder:

We will not be objecting to the referenced subpoena for AG's records; however, we do expect to receive copies of any and all documents produced by the AG in the form produced.

Also, we have repeatedly asked for days A [REDACTED] is available in November for a Rule 35 examination by Dr. Craig Beaver, but have not received any response. Please advise as to A [REDACTED] availability for the examination, and how much notice he will require for the exam. We will then contact Dr. Beaver and provide a couple of dates for A [REDACTED]. If you are objecting and will not make him available, please so advise and we will schedule phone conference with Mr. Metcalf.

Please advise at your earliest opportunity. Thank you.

Sincerely,

Bret A. Walther

ANDERSON JULIAN & HULL LLP

250 S 5th St, Ste 700

Boise, Idaho 83702

PH: [REDACTED]

FA: [REDACTED]

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From: Lee [REDACTED]
Sent: Tuesday, November 01, 2016 12:49 PM
To: Casey Hemmer; Bret A. Walther; Davonna L. Wolff
Cc: Keith Roark
Subject: PLEADINGS RE: OFFICE OF THE ATTORNEY GENERAL

Mr. Hemmer and Counsel:

Please see attached documents.

They are: Subpeona, Notice of Subpeona and Stipulation for non-disclosure.

I prepared these documents in accordance with the directives of Mr. Roark .

Mr. Hemmer, if the stipulation meets with your approval please sign the same and return it to me. I will serve the signed document upon all counsel.

No further service of the Subpeona or Notice thereof will be made unless demanded by your offices. We will of course remit to your office the costs and expenses of compliance.

We will not submit the Stipulation to the Court for an Order at this time unless requested by you and/or defense counsel ; that can be done in the future if required. However I certainly

will have no objection to you or defense counsel preparing a form of Order and submitting the signed stipulation with the same, to the Court at any time.

If there are any questions, please advise.

Lee

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice



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From: [REDACTED]
Sent: 04/05/2016 2:33 PM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 4/5/16 2:33 PM for 3089
Attachments: 040516-[REDACTED]-[REDACTED]-1160405.96028671@audix-1.mp3



Voice Message from Outside Caller on 4/5/16 2:33 PM (27 second msg)

MESSAGE:

"Hi Brenda hey this is Ben. I am [...]. I'm in and out on the free way to Boise. So I'm running late. I apologize. I should be there. Can't talk so. So should see you here you. Thanks so much. We'll talk to you soon. Bye bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M630FA5FA1E8E158ATT001 - 040516-[REDACTED]-[REDACTED]-1160405.96028671@audix-1.mp3

From: Randy Stoker
Sent: 12/19/2016 8:09 AM
To: Keith Roark
Cc: Hemmer, Casey; [REDACTED]; Lee Schlender
Subject: RE: St. v. John Howard
Attachments:

You can make arrangements with my court reporter for a transcript at your cost. I know of no rule or law that provides for a transcript at public expense. Interestingly, when you review the transcript you will find the it was represented to the Court that this plea agreement was with the knowledge and consent of the victim.

From: Keith Roark [mailto:[REDACTED]]
Sent: Sunday, December 18, 2016 1:30 PM
To: Randy Stoker [REDACTED]
Cc: Hemmer, Casey [REDACTED]; [REDACTED] Lee Schlender [REDACTED]
Subject: St. v. John Howard

Dear Judge Stoker:

As you may or may not know, I am one of the attorneys representing A [REDACTED] M [REDACTED] and his parents, Tim and Shelly M [REDACTED] in a civil action filed in the United States District Court for the District of Idaho involving, among other issues, the incident upon which the charge in the above referenced matter is based. My clients are extremely upset over the plea agreement arrived at in the above entitled action, as well as comments attributed to Mr. Hemmer in an article that appeared on Saturday, December 17 in the Twin Falls Times-News and have requested that I follow up on their concerns. On their behalf, I am asking that I be provided a transcript of last Friday's hearing in the St. v. John Howard case so that I can fairly evaluate what representations were made during the change of plea hearing and address the concerns of my clients. As victims in the case, I believe the M [REDACTED] are entitled to such transcript. As you will note, I have copied both Mr. Hemmer and Mr. Calbo on this email so that they will be aware of my request and make such comment as they feel appropriate. If you feel that a formal motion or action is required on my part I can and will prepare one.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]

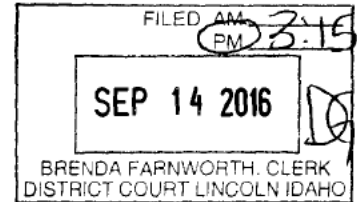
Fax: (208) [REDACTED]
[REDACTED]

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error, please delete all electronic copies of this message and any attached files, destroy any hard copies in existence, and notify R. Keith Roark immediately at () or () (fax) or

From: Deysi Sandoval
Sent: 09/14/2016 4:35 PM
To: Calbo&Depew; Minyard, Catherine
Cc: Hemmer, Casey; 'Dorothy McMullen'
Subject: John Howard Emailing - Untitled.PDF
Attachments:Untitled.PDF




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
	)	Case No. CR 2016-214
Plaintiff,)	
Vs	)	NOTICE OF HEARING
)	
JOHN R.K. HOWARD,)	
)	
Defendant.)	

Notice is hereby given that the above-entitled case is set for a
Status Conference on October 24, 2016 at 1:30 PM at the JEROME COUNTY
COURTHOUSE in Jerome, Idaho.

DATED this 14 day of September, 2016.

Brenda Farnworth, Clerk

By 
Deputy Clerk

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of September, 2016, I caused to be served a true and correct copy of the attached document on:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

C. Bradley Calbo
Attorney at Law
P.O. Box 9
Jerome, Idaho 83338

Deysi Garcia
~~Kristina Glascock~~, Clerk

By 
~~Deputy Clerk~~

From: Hemmer, Casey
Sent: 09/12/2016 4:45 PM
To: Deysi Sandoval
Cc: Minyard, Catherine; Calbo&Depew; [REDACTED]
Subject: Re: Howard
Attachments:

I can do that. Thanks Deysi.

Casey

Sent from my iPhone

On Sep 12, 2016, at 4:44 PM, Deysi Sandoval [REDACTED] wrote:

Meeting with Judge Stoker will be Wednesday September 14th at 1:30PM by phone.
Mr. Hemmer can you please initiate and call Twin Falls at [REDACTED] at the time of the meeting. Mr.
Calbo's number is [REDACTED]

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court
[REDACTED]

(208) 886-2173
(208) 886-2458 Fax

From: Minyard, Catherine
Sent: 09/07/2016 3:11 PM
To: Deysi Garcia ([REDACTED])
Cc: Hemmer, Casey
Subject: State v. John Howard, Lincoln County Case No. CR-2016-214
Attachments: Motion to Disqualify.pdf; Prosposed Order to Disqualify.pdf

Deysi –

Enclosed for filing, please find a Motion and Proposed Order to Disqualify Judge Elgee in this matter.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: (208) 332-3096
Fax: (208) 854-8083

LAWRENCE G. WASDEN
Idaho Attorney General

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


JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD,	)	MOTION TO DISQUALIFY
)	
Defendant.)	
_____)	

COMES NOW, Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney for Lincoln County, State of Idaho, and moves this Court to disqualify the Honorable Robert J. Elgee from hearing the above-referenced case. This motion is made pursuant to Idaho Criminal Rule 25(a), without cause.

DATED this 7th day of September, 2016.



CASEY J. HEMMER
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 7th day of September, 2016, I caused to be served a true and correct copy of the foregoing Motion to Disqualify to:

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail (Email)


Cathy Minyard, Paralegal

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD,	)	ORDER TO DISQUALIFY
)	
Defendant.)	
_____)	

THE ABOVE ENTITLED MATTER having come before this Court and good cause appearing;

IT IS HEREBY ORDERED that the Honorable Robert J. Elgee be disqualified in the above entitled case pursuant to Idaho Criminal Rule 25(a).

DATED this _____ day of September 2016.

Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of September, 2016, I caused to be served a true and correct copy of the foregoing Order to Disqualify to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720
FAX: (████) █████-████

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (████) █████-████

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

By _____
Deputy Clerk

From: [REDACTED]
Sent: 06/25/2016 5:31 PM
To: Spillman, Jason
Cc: Lee Schlender ([REDACTED])
Subject: A [REDACTED] M [REDACTED]
Attachments:

Jason:

We understand that Mike Wood has made some kind of motion to have a mental exam performed on our client, A [REDACTED] M [REDACTED]. To my knowledge, the only statute or rule that gives the court authority to order such an examination is I.C. 19-3025 and that statute requires that the parties agree to a mental exam. We oppose any mental exam sought by either Defendant in the criminal actions and certainly hope you have not agreed to one. Please bring us up to date.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South
Hailey, Idaho 83333

[REDACTED]
[REDACTED]

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From: Hemmer, Casey
Sent: 09/08/2016 3:55 PM
To: 'Deysi Sandoval'; Calbo&Depew; Minyard, Catherine
Cc:
Subject: RE: John Howard
Attachments:

Probably 3-4 days. I am unavailable the week of Nov. 7.

Casey

From: Deysi [REDACTED]
Sent: Thursday, September 08, 2016 3:54 PM
To: Calbo&Depew; Minyard, Catherine
Cc: Hemmer, Casey
Subject: John Howard

The scheduling conference currently set for the 12 has been vacated.
Judge Stoker will issue a scheduling order setting the pretrial and jury trial.
How many days are you anticipating for the trial?

From: [REDACTED]
Sent: 06/27/2016 11:14 AM
To: Spillman, Jason
Cc: R K Roark
Subject: Re: A [REDACTED] M [REDACTED]
Attachments: ATT00001.htm; ATT00002.htm; ATT00003.htm; ATT00004.htm; brief-exam.pdf; image002.jpg; op-83909.pdf; Re-Examining Motions to Compel Psychological Evaluations of Sexua.pdf

Jason:

PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: M890DA64DFAC9638ATT001 - ATT00001.htm

PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: M890DA64DFAC9638ATT002 - ATT00002.htm

Thank you for the advisement.

We had only the report of the parents who obviously did not understand what had happened.

I appreciate your attention .

I am attaching a couple of relevant briefs and articles.

Best Regards,

Lee

Lee Schlender J.D.

[REDACTED]

Idaho Bar #1171

[REDACTED]

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Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice

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On Jun 27, 2016, at 11:10 AM, Spillman, Jason <[REDACTED]> wrote:

Gentlemen,

I believe your understanding is mistaken. To our knowledge, no motion for a mental exam of your client has been filed. In addition, we have not consented to or approved of an exam of your client, and thus, the demand that we rescind such is misguided.

Mr. Wood did state in open court that he was thinking about filing a motion to challenge your client's competency to testify. We would obviously object to that motion, but since the motion doesn't actually exist I believe it would be inappropriate to speculate any further on this issue.

I will ask our victim-witness coordinator (Sandy Piotrowski) to follow up with you re: providing notice to you (as counsel for the victim) of any filings or hearings.

Thank you, Jason

Jason Slade Spillman
Lead Deputy Attorney General
Special Prosecutions Unit
P.O. Box 83720
Boise, ID 83720-0010
[REDACTED]

From: Keith Roark [REDACTED]
Sent: Saturday, June 25, 2016 5:31 PM
To: Spillman, Jason
Cc: Lee Schlender [REDACTED]
Subject: A [REDACTED] M [REDACTED]

Jason:

We understand that Mike Wood has made some kind of motion to have a mental exam performed on our client, A [REDACTED] M [REDACTED]. To my knowledge, the only statute or rule that gives the court authority to order such an examination is I.C. 19-3025 and that statute requires that the parties agree to a mental exam. We oppose any mental exam sought by either Defendant in the criminal actions and certainly hope you have not agreed to one. Please bring us up to date.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South
Hailey, Idaho 83333

RR001174

() () ()
Fax: () () ()
() () ()

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STATEMENT OF FACTS

This matter comes before the court on defendant's motion to compel discovery specifically related to personal and private matters of the victim. Defendant was indicted by a N.J. County Grand Jury for several crimes of violence in which T.B., an adult female, is the victim. T.B. is represented in this matter by the New Jersey Crime Victims' Law Center.

Defendant is charged with two counts of 2nd degree aggravated assault, and one count each of 2nd degree possession of a weapon for an unlawful purpose, 3rd degree possession of a knife for an unlawful purpose, 3rd degree criminal restraint, 3rd degree possession of a firearm in violation of the Domestic Violence Act, 3rd degree terroristic threats and 4th degree aggravated assault with a firearm.

In defendant's discovery motion, he seeks the following: (1) to compel the victim¹, T.B. to be examined by a mental health examiner for the defense; (2) to compel the furnishing of mental health records of the victim for her entire lifetime; (3) general medical records of the victim for the past ten years; and (4) records of the State of New Jersey Division of Youth and Family Services (DYFS) pertaining to victim.

Attached to defendant's motion is an eight page testimonial certification of defendant's attorney W.D.W., Esq. to which he attaches copies of private medical records of the victim. The release and filing of these records in this public

¹ Defendant's moving papers incorrectly refer to T.B. as the "complainant" throughout. T.B. is the "victim" in this matter as defined by law, *see* N.J. Const. art. I, ¶ 22 and N.J.S.A. 52:4B-35, et seq. The complainant in this criminal matter is the State of New Jersey not the victim.

judicial proceeding is without the consent of the victim, and is in violation of her rights as a crime victim...

Defendant's motion is opposed by the State of New Jersey, the victim and DYFS.

I. THE REQUEST OF DEFENDANT FOR THE COMPELLED PSYCHOLOGICAL EXAMINATION OF THE VICTIM AND THE RELEASE OF HER MEDICAL AND MENTAL HEALTH RECORDS SHOULD BE DENIED BECAUSE IT VIOLATES THE VICTIM'S RIGHT TO PRIVACY UNDER THE FEDERAL CONSTITUTION AND RIGHTS AS A CRIME VICTIM UNDER THE NEW JERSEY CONSTITUTION AND STATUTORY BILL OF RIGHTS.

A. To grant the relief requested would violate the victim's right to privacy under the Federal Constitution.

1. Defendant's limited right to discovery. Defendant seeks to have T.B., the victim of multiple acts of violence forced to suffer the further indignities of an invasive psychological examination by someone of his choosing in addition to a wholesale invasion of her privacy by foraging through her private medical and psychological records.

The thrust of defendant's argument is that he is entitled to the relief requested as the result of his right under the Federal and State Constitution to confront witnesses who will testify against him. Const. Art. 1, par. 10 and U.S.C.A. Const. Amends. 6 and 5. Defendant's argument is without merit.

A defendant does not have a federal constitutional right to discovery in a criminal case. Weatherford v. Bursey, 429 U.S. 545 (1977); Wardius v. Oregon, 412 U.S. 470 (1973); and likewise, a defendant in a criminal matter may be

denied discovery and access to information without there being any violation of his state constitutional rights. *See, e.g., State v. Cusick*, 219 N.J. Super. 452 (App.Div. 1987), where the court held that the trial court's refusal to grant the defendant access to files of the eight year old sexual assault victim maintained by the Division of Youth and Family Services and child treatment center did not violate the defendant's state or federal right of due process or his state or federal right to confront witnesses under Const. Art. 1, par. 10 and U.S.C.A. Const. Amends. 6 and 5.

2. The crime victim's right to privacy. T.B., as every citizen, has a right of privacy that is protected by the Federal Constitution. Griswold v. Connecticut, 381 U.S. 479, 483 (1965); and this constitutional privacy right of the victim has been recognized in criminal prosecutions. *See, e.g., United States v. Galloway*, 963 F.2d 1388, 1390 (10th Cir. 1990). The motion of defendant creates a direct confrontation with the victim's right to privacy; both in protecting her private medical and psychological information that has no relevance concerning whether defendant committed these numerous acts of violence, and also by attempting to force her to be placed under a psychological microscope with the hope by defendant that he may discover something extraneous that will enable him to attack the victim's character at trial. Defendant's bold request in this matter strikes at the heart of the victim's right to privacy.

The issue of sensitivity to crime victims and the restrictions placed on the release of discovery material has received considerable attention among legal writers in the past several years, and the protection for victims and witnesses

against invasive discovery requests has been thoroughly discussed. *See, e.g., The Victim's Right To Privacy: Imperfect Protection from The Criminal Justice System*, 8 ST. JOHN'S J. LEGAL COMMENT. 205 (Fall, 1992); *Raped Once, But Violated Twice: Constitutional Protections Of A Rape Victim's Privacy*, 66 ST. JOHN'S LAW REV. 151 (1992); Comment, *Arizona Criminal Procedure After The Victims' Bill Of Rights Amendment: Implications Of A Victim's Absolute Right To Refuse A Defendant's Discovery Request*, 23 ARIZ. ST. L.J. 831 (1991).

3. New Jersey Law protecting the privacy rights of crime victims. In *State v. D.R.H.*, 127 N.J. 249 (1992), The New Jersey Supreme Court addressed the issue of the defendant's rights under the rules of discovery as contrasted to the victim's right to privacy. In *D.H.R.*, the defendant was charged with aggravated sexual assault of a child. He moved for an order compelling the victim to submit to a second physical examination. The trial court granted defendant's motion and the Appellate Division reversed holding that the defendant failed to establish a "substantial need" for the second examination. The Supreme Court affirmed, recognizing the potential harm in the form of emotional trauma and mental distress suffered by the victim. *Id.* at 256. The Court noted:

[C]riminal discovery has its limits. For example, defendants cannot transform the discovery process into an unfocused, haphazard search for evidence. . . . Another significant limitation on defendants' discovery rights is the chilling and inhibiting effect that discovery can have on material witnesses who are subjected to intimidation, harassment, or embarrassment. *Id.* at 256. (citations omitted),

The Court commented that the victim's father "recounted the humiliation, embarrassment, and suffering endured by [the victim] from the abusive incidents, . . ." *Id.* at 261; and in considering the defendant's request for a physical examination, the Court stated:

"Such an examination is inherently invasive and the record indicates the likelihood that it will engender significant emotional trauma and mental distress to [the victim]. *Id.*

In D.H.R., the Court discussed the significant adverse consequences that the defendant's discovery request could have upon the rape victim's emotional well being, concluding:

However much weight one assigns to such consequences, they should be avoided in the absence of a substantial need by defendant to subject [the victim] to an examination that clearly outweighs whatever detrimental effects the victim may suffer. *Id.* at 261-62.

In State v. Gilchrist, 381 N.J. Super. 138, 885 A.2d 29 (App.Div. 2005) the defendant filed a discovery motion requesting that a photograph of the victim be taken and provided to him in advance of trial. When the victim was informed of the defendant's request, she "'expressed overwhelming fear that the giving of a photograph to the defendant would make it easier for the defendant to fulfill his earlier threats to find her and kill her.'" The trial judge acknowledged that he was uncertain why the defendant needed the victim's photograph; nevertheless, he granted defendant's motion,

rationalizing, "Let's throw the law aside for a minute and let's be practical. . . ." ² The Appellate Division reversed. Speaking for the court, Appellate Judge R.B.G. stated

"Here, any possible benefits to defendant from a court-ordered photograph of M.C. are entirely speculative and are outweighed by other important considerations, including M.C.'s right to privacy; her right to be treated with fairness, compassion, and respect; her right to be free from intimidation; and the need to encourage crime victims to cooperate and participate in the criminal justice system." ³

Defendant has proffered no showing of how or why the requested physical and emotional invasion of the victim or the trudging through of her medical and psychological records would support any defense he may have to these charges. There is no legally established need for any of this information other than to try to uncover something about the victim personally that defendant could use as a smokescreen at trial to attack the victim's character. The tactic of the defendant in this case is a common one – intimidate the victim, blame the victim and attack the victim. The request of defendant is "inherently invasive" and the victim will be placed at substantial risk to suffer "significant emotional trauma and mental distress". See, D.H.R., 127 N.J. at 261. The burden of the defendant is to demonstrate to this court that his "substantial need" for this information "clearly outweighs whatever detrimental effects the victim may suffer." *Id.* at 261-62. (Emphasis supplied).

Defendant has failed to satisfy the substantial need test established by D.H.R., *supra*. Moreover, defendant has failed to demonstrate even a remote need for this information except that it "may effect her capacity as a witness." ⁴ trial photograph of the

² *Id.* at 143, 32.

³ *Id.* at 147, 35.

⁴ Defendant's motion to compel a mental examination of the victim dated August 9, 2006.

victim, and there can be no justification under the law to further invade the victim's privacy. See also, State v. Michaels, 264 N.J. Super. 579 (App.Div. 1993) where the court followed D.H.R. applying the "substantial need" test in criminal discovery request involving charges of sexual abuse on a minor; and State v. R.W. 104 N.J. 14, 514 A.2d 1287 (1986) where the court upheld the denial by the lower court of defendant's request to order a psychiatric examination of the three and one-half-year-old witness solely on grounds of her age applying the "substantial need" test.

**B. To grant the relief requested would violate
T.B.'s rights as a crime victim under the New Jersey
Constitution and statutory Bill of Rights.**

Judge Graves' decision in Gilchrist to deny the defendant's request for discovery was also based on the victim's constitutional and statutory rights as a crime victim to "be treated with fairness, compassion, and respect; . . . [and be] free from intimidation; . . ." ⁵

The rights of crime victims in the criminal justice system in New Jersey were first established in the "Crime Victim's Bill of Rights", N.J.S.A. 52:4B-35, *et seq.* This legislation that calls for victims of crime to be "informed" and treated with "dignity and compassion by the criminal justice system" became law in 1985. The "legislative findings and declarations" to the "Crime Victim's Bill of Rights" provide a definitive statement of the intent and purpose to recognize and respect the rights of crime victims:

The Legislature finds and declares that without the participation and cooperation of crime victims and witnesses, the criminal justice system would cease to function. The rights of these individuals should be given full recognition and protection. The Legislature has the responsibility to enhance and protect the necessary role of crime victims and witnesses in

⁵ Gilchrist at 147, 35.

the criminal justice process. In furtherance of this, the improved treatment of these persons should be assured through the establishment of specific rights. These rights are among the most fundamental and important in assuring public confidence in the criminal justice system. N.J.S.A. 52:4B-35. (Emphasis supplied).

On November 5, 1991 at the general election, the voters of the State of New Jersey adopted the Victim's Rights Amendment to the New Jersey Constitution. This amendment became law on December 5, 1991 and was the result of considerable effort on the part of legislators, prosecutors, crime victims and various individuals who sought to bring equal justice for crime victims into the criminal justice system in the State of New Jersey. It established certain rights for crime victims that are guaranteed "as a matter of State Constitutional imperative" along with such further constitutionally recognized and protected "rights and remedies as may be provided by the Legislature. *See*, N.J. Const. art. I, ¶ 22 and Interpretive Statement. The Amendment guarantees to the crime victim the right to have presence in the criminal justice system along with the right to be treated with fairness, compassion and respect by those who work in the criminal justice system. *See, Id.* Interpretive Statement. Recognizing the impact of the amendment, the court in State in the Interest of K.P., 311 N.J. Super. 123 (Ch. Div. 1997) stated:

This provision effects a fundamental change in the criminal justice system. Instead of adopting a two-party State v. Defendant, paradigm, this provision requires that the system consider interests of third parties, specifically crime victims. Unfair practices that deny crime victims fairness, compassion and respect are unconstitutional under the amendment. *Id.* at 135-36.

The Victims' Rights Amendment in the State of New Jersey formed a part of the national victim rights movement which has continued to move with significant measure

throughout the United States. The Victims' Rights Amendment was a direct response to the many reports of the lack of recognition and respect for crime victims in New Jersey that routinely included the practice of excluding the victims from the justice process.

The significant impact of the Victim's Rights Amendment on the criminal justice process has been recognized by the courts of this State. In State v. Muhammad, 145 N.J. 23 (1996), Justice Garibaldi, speaking for the Court, stated:

Unlike most interpretations of constitutional provisions, we need not surmise what the founders intended when they drafted the Victim's Rights Amendment. We know exactly what the founders of this constitutional amendment intended--fair treatment for victims. To hold the victim impact statute unconstitutional would require us to ignore the Victim's Rights Amendment and the will of the electorate that overwhelmingly approved the constitutional amendment. Over 1,200,000 citizens voted for the Victim's Rights Amendment while only 223,248 people voted against it. Manual of New Jersey, Two Hundred and Fourth Legislature (First Session) 1992, at 903. Beginning with the passage of the Criminal Injuries Compensation Act of 1971 (N.J.S.A. 52:4B-1 to -33), the people of New Jersey, speaking through the Legislature, have repeatedly expressed a very strong "public attitude" that victims should be provided with more rights. *Id.* at 42-43. (Emphasis supplied).

The respect for this "public attitude" was noted by Justice (then Judge) Pashman in New Jersey Sports & Exposition Auth. v. McCrane, 119 N.J.Super. 457, 476-77, 292 A.2d 580 (Law Div.1971), *aff'd as modified*, 61 N.J. 1, 292 A.2d 545, appeal dismissed, 409 U.S. 943, 93 S.Ct. 270, 34 L.Ed.2d 215 (1972), where he stated:

It must be remembered that the greatest danger to people from the exercise of the judicial power is that there may be usurpation by the courts of the people's right to express in law, by overwhelming numbers of their elected legislators, their collective reasoning. *Id.* at 42.

The effect of the Victims' Right Amendment in New Jersey has been substantial in that there has been a clearly recognizable effort on the part of the executive, legislative and judicial branches of our State government to provide "fairness, compassion and

respect" to crime victims and to continually reinforce the legislative intent under the Crime Victim's Bill of Rights that "these rights are among the most fundamental and important in assuring public confidence in the criminal justice process." *See* N.J.S.A. 52:4b-35.

New Jersey has been recognized as a national leader in respecting the rights of crime victims for well over a quarter century. It was one of the first states to provide for victim compensation under the Criminal Injuries Compensation Act of 1971 (N.J.S.A. 52:4B-1, *et seq*), and for a Crime Victim's Bill of Rights in 1985 (N.J.S.A. 52:4B-34, *et seq.*) under which was established the State and 21 county offices of victim-witness advocacy. In addition, New Jersey was just the eighth state in the nation to adopt a victim's rights amendment to its state constitution. Since 1971 there have been no less than sixty (60) new laws passed involving the rights of crime victims.

In recent years the courts in New Jersey have also been progressive in recognizing the rights of crime victims. *See, e.g.*; State v. Muhammad, 145 N.J. 23 (1996) (upholding constitutionality of death penalty victim impact statute); State v. Faunce, 244 N.J. Super. 499 (App. Div. 1990) (rights of the victim must be considered before the court can order that the defendant's plea be non-evidential in a civil proceeding); State in the Interest of J.G., N.S., and J.T., 151 N.J. 565 (1996) (Supreme Court upholds victim's rights to require HIV testing of assailant); State v. Timmendequas, 161 N.J. 515 (1999) (the Constitutional rights of the victim survivors under the Victim's Rights Amendment are sufficient to warrant a change of venue in a death penalty case); State v. Smith, 310 N.J. Super. 140 (App. Div. 1998) (permitting child victim to testify over closed circuit television); Gallara v. Koskovich, 364 N.J. Super 418 (Law Div. 2003) (court upholds

claim of liability of sporting goods store for guns stolen and used in the murder of two victims); State v. Hill, 155 N.J. Super. (App. Div. 1998) (restitution may be ordered against defendant to pay third parties who have reimbursed a crime victim for losses suffered as a result of criminal conduct); State v. Cusumano, 396 N.J. Super. 305 (App. Div. 2004) (trial judge's act of advising those in attendance at trial that no persons would be permitted to leave or enter the courtroom while the victim was on the witness stand, constituted a reasonable and constitutionally permissible limitation on the public's right of access – relying on the Crime Victim's Bill of Rights N.J.S.A. 52:4B-36); and State in the interest of K.P., 311 N.J. Super. 123 (Chan. Div. 1997) (victim has standing to oppose petition by newspaper to open sexual assault trial of juveniles and victims have unalienable right to be present during a criminal proceeding, subject only to rules concerning sequestration.).

The laws of New Jersey recognize the unique and vital interests of crime victims in the criminal justice system and give crime victims participatory, procedural rights in that system. The rights given are status rights that are automatically afforded to persons when they step into the legal role of “victim,” and are independent of the facts of the alleged crime, any defense asserted, or the conviction of defendant. *See* N.J. Const. art. I, ¶ 22 [Victim's Rights Amendment] and N.J.S.A. 52:4B-36, *et seq.* [Crime Victims Bill of Rights]. As such, these rights arise simply because of an individual's status in the criminal justice system. All of these rights are about the criminal justice process; they are rights to participate in the process, to receive information about the process, to have interests adjudicated within the process, and to be safe throughout the process. *See State*

v. Ruffin, 853 A.2D 311, 321, 371 N.J. Super. 371, 387 (App. Div. 2004) where Judge

Collester commented:

The rights of a crime victim are independent of the prosecutor. They are derived from common law and in this State, from the Constitution, *N.J. Const.* art. I, ¶ 22, and the Crime Victim's Bill of Rights, *N.J.S.A. 52:4B-34* to -38. *See, State v. Timmendequas*, 161 N.J. 515, 737 A.2d 55 (1999).

The recognition of the independent civil rights of crime victims through legislation and the judicial decisions of this State mandates that the rights of crime victims must be placed on “equal footing⁶” with the defendant in the justice system. Each of the rights of crime victims is connected to the criminal justice process as a whole or to an individual proceeding within this process. As such, they are procedural status rights – that is, they are rights that relate to the procedural steps in the criminal justice process. Importantly, many of these procedural rights are afforded immediately upon a crime victim’s entry into the criminal justice process, such as the rights to be treated with fairness, dignity and respect. Other rights accrue as the process continues because they are specific to various procedural stages of the process.

T.B. as a crime victim, is entitled to have her rights under the New Jersey Constitution and state statutes respected in the criminal justice system. The Victim’s Rights Amendment confers upon her the right to be treated with “fairness, compassion and respect”. The Bill of Rights affords to her the right to be “treated with dignity”; “to be free from intimidation”; and “to have inconveniences associated with participation in the criminal justice system minimized to the fullest extent possible”. *See N.J.S.A. 52:4B-36* (a) (c) & (d).

⁶ N.J. Const. art. I, ¶ 22, Interpretive Statement

In Gilchrist, the Appellate Division recognized that whether the court characterizes the protection of the victim from invasive and abusive discovery as a right of privacy under the Federal Constitution or as the right of a crime victim under the State Constitution and statutes, nevertheless, and in either event, the right of the victim must prevail over the defendant's request for information, the value of which is speculative at best. State v. Gilchrist, 381 N.J. Super. 138, 147, 885 A.2d 29, (App.Div. 2005)

II. THE MEDICAL AND PSYCHOLOGICAL RECORDS OF THE VICTIM ARE NOT AVAILABLE FOR DISCOVERY TO DEFENDANT BECAUSE THEY ARE PRIVILEGED UNDER THE NEW JERSEY RULES OF EVIDENCE.

1. **The New Jersey Privileges.** Defendant's motion seeks a blanket intrusion into the psychological and medical history of the victim. This information is not subject to release without the consent of the victim under the following privileges:

- Rule 505. Psychologist Patient Privilege (N.J.S.A. 45:14B-28);
- Rule 506. Patient and Physician Privilege (N.J.S.A. 2A:84A-22.1-22.7);
- Rule 517. Victim Counselor Privilege.

The nature of the psychotherapeutic process is such that full disclosure to the therapist of the patient's most intimate emotions, fears and fantasies is required. State v. L.J.P., 270 N.J. Super. 429, 637 A.2d 532 (App. Div. 1994); State v. McBride, 213 N.J. Super. 255, 517 A.2d 152 (App.Div.1986). Accordingly, the psychologist - patient privilege is given greater scope and protection than the physician-patient privilege.

Discussing the breadth of this privilege in L.J. P., the court noted:

We have noted that the Sixth Amendment and the State constitution might even require the release of a psychological report to a defendant after an *in*

camera review by a judge. . . . The privilege may also be pierced, as can the attorney-client privilege, under other circumstance such as, where: 1) there is a legitimate need to disclose the protected information; 2) the information is relevant and material to the issue before the court; and, 3) the party seeking to pierce the privilege shows by a “preponderance of the evidence” that “no less intrusive source” for that information exists. *Id.* at 439-440. (Citations omitted).

2. The essence of defendant’s motion. Defendant’s motion for discovery lacks any specificity. It is supported by a most amazing piece of dramatic fiction; *i.e.*, the eight page certification of defendant’s legal counsel in which he not only continually offers second hand testimony of the facts (“according to the defendant”)⁷, but he also proffers his own conclusions of law, medicine, psychology and even pharmacology. It is this document that is offered by defendant as the foundational basis for his quest to delve into the private and personal rights of his crime victim. There is no support for defendant’s motion. It is nothing more than a “fishing expedition” by a criminal defendant, State v. J.P., 2006 WL 1675714 (N. J. Super.App.) Div., 2006); Korostynski v. State, Div. of Gaming Enforcement, 266 N.J.Super. 549, 630 A.2d 342 (App. Div. 1993).

This certification does not demonstrate any “legitimate need to disclose the protected information”; it suggests no relevancy or materiality to the charges; nor does it show by a “preponderance of the evidence” that “no less intrusive source” for that information exists. See State v. L.J.P., 270 N.J.Super. 429, 439-440.

The objective of defendant is easily discernable - to find something that can be used at trial, however immaterial to the factual charges that can paint an unpleasant picture of the victim before the trial jury – and then make the victim’s character the

⁷ This practice not only places the attorney in the inappropriate and awkward position as a fact witness, but also by using the hearsay preface of to many of his statements as “according to the defendant”, it becomes obvious to the court and to counsel that defendant is indirectly testifying without subjecting himself to possible cross examination.

primary issue during the trial of the defendant. Such trial conduct, and the journey by the defendant to arrive there using motions such as the one presently pending, constitute an egregious violation of the rights of the crime victim to fairness, compassion, respect, dignity and to be free from intimidation. “Unfair practices that deny crime victims fairness, compassion and respect are unconstitutional under the [victim’s rights] amendment. State in the Interest of K.P., 311 N.J. Super. 123, 135-136.

3. Cases cited by defendant are inapposite. Defendant cites State v. Henries, 306 N.J. Super. 512, 704 A.2d 24 (App.Div.1997) in support of his position. It is not. Henries involved a defendant who was convicted of two murders and sentenced to two consecutive life terms. Two other individuals involved were also charged but were acquitted. The defendant was also charged with other offenses and during the proceedings involving one of the other defendants, the prosecutor became aware that the 11 year old witness to the murders had extensive and serious psychiatric problems, and the prosecutor then voluntarily provided the information, which was already public, to defendant’s counsel. Defendant on appeal requested a new trial due to newly discovered evidence. The court noted that the most significant issue in the trial was the eleven year old witness’ identification of the defendant and the psychiatric evidence provided went to the heart of the identification issue. Henries did not contain any discovery protection issues nor did it involve matters affecting the crime victim. The holding in Henries had no further relevance to the case at bar.

The other case cited by defendant State v. Franklin, 52 N.J. 399, 245 A.2d 356 (1968) is also not material to the issue in the instant matter. Franklin also did not

involve the crime victim but centered on the issue of a competency hearing for an alcoholic eyewitness to the murder.

4. Cases of other jurisdictions. Individuals charged with crimes in the federal system and other states have not succeeded with similar requests as defendant in this matter. In affirming the denial of a motion for a psychiatric examination of the mentally retarded rape victim, the United States Court of Appeals for the District of Columbia Circuit, in United States v. Benn, 476 F.2d 1127 (D.C.Cir.1972), opined:

“[A] psychiatric examination may seriously impinge on a witness' right to privacy; the trauma that attends the role of complainant ... is sharply increased by the indignity of a psychiatric examination; the examination itself could serve as a tool of harassment; and the impact of all these considerations may well deter the victim of ... a crime from lodging any complaint at all. Since there is no exact measure for weighing these kinds of dangers against the need for an examination, the decision must be entrusted to the sound discretion of the trial judge in light of the particular facts.” *Id.* at 1131.

Accord, United States v. Butler, 481 F.2d 531 (D.C.Cir.1973). *See Rasnick v. State*, 7 Md. App. 564, 571-572, 256 A.2d 543 (1969), *cert. denied*, 400 U.S. 835, 91 S.Ct. 70, 27 L.Ed.2d 67 (1970).; Evans v. State, 304 Md. 487, 499 A.2d 1261 Md.,1985.

In Goldsmith v. State 337 Md. 112, 651 A.2d 866 (Md. Ct. App. 1995), the trial court denied the defendant's request for pretrial access to the sexual assault victim's privileged psychotherapy records. The defendant was convicted and on appeal, the Maryland Court of Appeals affirmed, holding : (1) the defendant possessed no common law, court rule, statutory or constitutional right to pretrial discovery of the victim's psychotherapy records; (2) even if records were merely confidential, and not privileged,

the motions court did not abuse its discretion in declining to issue a pretrial subpoena and declining *in camera* review of those records; and (3) the defendant was not entitled to the disclosure at trial of the records, since he failed to establish reasonable likelihood that records contained exculpatory information necessary for a proper defense⁸.

After a thorough analysis of the law, the court in Goldsmith concluded:

“Neither due process, compulsory process nor the right to confront adverse witnesses establishes a pre-trial right of a defendant to discovery review of a potential witness's privileged psychotherapy records. Thus, we find no common law, court rule, statutory or constitutional requirement that a defendant be permitted pre-trial discovery of privileged records held by a third party.” *Id.* at 127, 873.

See also, Harris v. State, 331 Md. 137, 626 A.2d 946 (1993) and Zaal v. State, 326 Md. 54, 83, 602 A.2d 1247, 1261 (1992) holding that to obtain pre-trial discovery of confidential records, the defendant must show a likelihood of obtaining relevant information; and Fisher v. State 128 Md. App. 79, 736 A.2d 1125 (Md.App.,1999) holding that the psychotherapist-patient privilege precluded disclosure of surviving victim's psychotherapy records.

While the privileges afforded to the victim/patient are not absolute, they are nevertheless, significant and will not be invaded without sufficient legal cause. Defendant has presented nothing legitimate to this court, either factually or legally, that would cause the court to entertain an attack on these personal privileges.

⁸ Similar to the “substantial need” test of D.R.H. and Gilchrist, *supra*.

CONCLUSION

Paragraph #9 of defendant's counsel's certification is demonstrative of this application to the court. It states:

“9. A review of discovery reveals that Tamela Babcock may previously had [sic] serious mental health issues that may effect her credibility as to the veracity of these charges.”
(Emphasis supplied)

Defendant's moving papers seek the private information of the victim under the guise of having a bearing on her “competency.” But “competency” is only a camouflage for “veracity” because defendant is on a broad fishing expedition to obtain something that he can use at trial to malign the victim's character and perhaps take the emphasis away from his acts of violence.

The issue before this court presents contrasting and conflicting rights. The rights of the crime victim include the right of privacy under the Federal Constitution, the right to be treated with fairness, compassion, respect, dignity and free from intimidation under the New Jersey Constitution and Victims Bill of Rights, and the right to invoke specified statutory privileges. The defendant's assertions are based on his right to confront his witnesses.

The following passage from Judge Graves' opinion in Gilchrist effectively articulates how the scales of justice balance these competing interests.

“The right to confront one's accusers is a concept that dates back to Roman times.”... The ultimate goal of the Confrontation Clause “is to

ensure reliability of evidence, but it is a procedural rather than a substantive guarantee. It commands, not that evidence be reliable, but that reliability be assessed in a particular manner: by testing in the crucible of cross-examination.”

“The right to question adverse witnesses, however, “does not include the power to require the pretrial disclosure of any and all information that might be useful in contradicting unfavorable testimony.” ... (“The Confrontation Clause is not a constitutionally compelled right to discovery in a criminal case... (finding that trial court properly refused to permit defendant access to victim's records maintained by Division of Youth and Family Services and Arthur Brisbane Child Treatment Center because “information was not determinative of any issues before the court or necessary for the conduct of the proceedings

In this case, defendant has failed to articulate any legitimate basis for obtaining M.C.'s photograph, and we conclude that neither the Sixth Amendment nor the Fourteenth Amendment requires the State to furnish him with her photograph. (“[A]llowing a defendant to forage for evidence without a reasonable basis is not an ingredient of either due process or fundamental fairness in the administration of the criminal laws.”). Emphasis supplied) (Citations omitted).

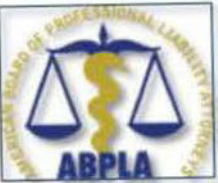
State v. Gilchrist, 381 N.J. Super. 138, 144, 885 A.2d 29, 33-34 (App.Div. 2005)

Based on the foregoing it is respectfully requested that defendant’s motion be denied.

New Jersey Crime Victims' Law Center

By _____
Richard D. Pompelio, Esq.

Dated: December 4



Supreme Court of Florida

ORIGINAL

No. 83,909

RAUL CAMEJO,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

[May 25, 1995]

PER CURIAM.

We have for review State v. Camejo, 641 So. 2d 109 (Fla. 5th DCA 1994), in which the district court of appeal certified the following as a question of great public importance:

WHAT STANDARDS SHOULD THE TRIAL COURT FOLLOW IN ORDERING AND COMPELLING WITNESSES TO UNDERGO PRETRIAL MEDICAL AND PSYCHIATRIC EXAMINATIONS; AND, WHAT STANDARD OF REVIEW SHOULD THE APPELLATE COURT APPLY IN SUCH CASES?

Id. at 114. We have jurisdiction under article V, section 3(b)(4) of the Florida Constitution.

The petitioner, Raul Camejo, was charged with one count of sexual battery and one count of battery against his live-in girlfriend. Camejo filed a motion to compel the alleged victim to undergo a psychological examination. The motion alleged that Camejo's counsel had uncovered facts pointing toward the mental and emotional instability of the alleged victim.¹ At the hearing on the motion, the trial court granted the motion and ordered the victim to submit to a psychological examination to be conducted by a court-appointed psychiatrist. The psychiatrist's evaluation report was to be sent to the court and then disclosed only to counsel for the state and the defense. An in-camera hearing was to be held later to determine the use, if any, of the evaluation in any further proceedings.

The Fifth District Court of Appeal granted the State's petition for writ of certiorari and quashed the ordered

¹ Camejo's motion included excerpts of deposition testimony from various witnesses allegedly indicating the mental and emotional instability of the victim. This testimony included allegations that the victim: (1) had been arrested for beating and biting her mother; (2) had herself been the victim of domestic violence at the hands of a former live-in boyfriend; (3) had formed a fantasy future with another former boyfriend and had followed him to Indiana after he broke up with her; (4) had put a shovel through the windshield of another former boyfriend's car; (5) had attempted suicide in the past; and (6) had a tendency to become loud and crazy when drinking.

examination. In its opinion, the court first discussed pertinent cases on the subject from both within and without the State of Florida. The court then stated:

In summary, Florida law accords with the majority rule in other jurisdictions that trial courts have the inherent power to order psychological examinations. These examinations have been historically ordered in other jurisdictions, where one of three situations exists: (a) uncorroborated, testimony of victim; (b) competency of victim is in question; and (c) the victim's credibility is at issue. Section 794.022 specifically provides that testimony of a sexual abuse victim need not be corroborated; therefore, this would be an invalid reason to order such an examination in Florida. Of course the mental competency of a victim/witness would always be a valid reason to order such an examination in a criminal prosecution. See generally, Goldstein v. State, 447 So. 2d 903 (Fla. 4th DCA 1984). And lastly, credibility may be a reason to order such an examination, but only if there is strong and compelling evidence. Coe [521 So. 2d 373 (Fla. 2d DCA 1988)]; Dinkins [244 So. 2d 148 (Fla. 4th DCA 1971)].

Camejo, 641 So. 2d at 113. Applying these principles to the case at hand, the court concluded that Camejo had failed to demonstrate any compelling or extreme circumstances which could establish the need for a psychological evaluation of the victim.

Clearly, Camejo's motion fell short of demonstrating that an examination was necessary to determine the competency of the victim to testify. Moreover, we agree with the court below that Camejo failed to present sufficiently compelling evidence to

justify ordering the examination for the purpose of helping him attack her veracity and credibility. Upon careful consideration, we approve and adopt as our own the well-reasoned opinion of the court below. We have concluded not to answer the certified question because it is worded more broadly than the scope of the opinion.

It is so ordered.

GRIMES, C.J., and OVERTON, SHAW, KOGAN, HARDING, WELLS and ANSTEAD, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance
Fifth District - Case No. 93-2436

(Seminole County)

Lister Witherspoon IV of the Law Offices of Lister Witherspoon
IV, Miami, Florida,

for Petitioner

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Assistant Attorney General, Daytona Beach, Florida,

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Amicus Curiae for National Asssocation of Criminal
Defense Lawyers

January 2012

Re-Examining Motions to Compel Psychological Evaluations of Sexual Assault Victims

Oriana Mazza

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RE-EXAMINING MOTIONS TO COMPEL PSYCHOLOGICAL EVALUATIONS OF SEXUAL ASSAULT VICTIMS

ORIANA MAZZA[†]

INTRODUCTION

Rape and sexual assault cases have caused controversy in the courts for some time.¹ In the words of seventeenth century British jurist Sir Matthew Hale, “[i]t must be remembered, that [rape] is an accusation easily to be made and hard to be proved, and harder to be defended by the party accused, though never so innocent.”² That Hale’s words were once used as part of a jury instruction³ demonstrates that the legal complexity of this issue has often led to tension between the rights of victims and defendants.⁴ Most victims of sexual assault are women; this fact can bring about unique issues regarding the female psychology and, more importantly, the male or societal understanding thereof.⁵ When the victim is a child, society may rashly deem

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¹ See Vivian Berger, *Man’s Trial, Woman’s Tribulation: Rape Cases in the Courtroom*, 77 COLUM. L. REV. 1, 11–20 (1977) (delineating the problems inherent for women in the system).

² *Rice v. State*, 217 N.W. 697, 699 (Wis. 1928) (quoting 1 SIR MATTHEW HALE, PLEAS OF THE CROWN 634 (1678)); see also *Wilcox v. State*, 78 N.W. 763, 764 (Wis. 1899) (“Courts are therefore reluctant to sustain such convictions, unless the testimony and surrounding circumstances are quite clear, and decisive of guilt.”).

³ See Aviva Orenstein, *No Bad Men!: A Feminist Analysis of Character Evidence in Rape Trials*, 49 HASTINGS L.J. 663, 664 n.1 (1998).

⁴ For an article concerning the same topic as this Note, from the opposite point of view, see Judith Greenberg, Note, *Compulsory Psychological Examination in Sexual Offense Cases: Invasion of Privacy or Defendant’s Right?*, 58 FORDHAM L. REV. 1257, 1257–58 (1990).

⁵ Amy M. Buddie & Arthur G. Miller, *Beyond Rape Myths: A More Complex View of Perceptions of Rape Victims*, SEX ROLES: J. RES., Aug. 2001, at 1 (“Because most rape victims are women, men feel different from this particular group of victims and are thus more likely to endorse rape myths” such as the myth that there are no rapes within marriages.); see also Tera Jckowski Peterson, Comment, *Distrust and Discovery: The Impending Debacle in Discovery of Rape Victims’ Counseling*

him or her too immature to comprehend what has happened and to tell the truth.⁶ Some defendants ask the courts to order complainants in these cases to undergo psychiatric testing⁷—as recommended by Dean Wigmore⁸—so as to ascertain which witnesses have filed charges “for purposes of blackmail and revenge, or as a result of fantasy, or as symptoms of psychosis.”⁹ State caselaw is split as to whether a court can compel such testing, and if so, under what circumstances.¹⁰ The Supreme Court is unlikely to decide this issue, having denied certiorari in recent cases.¹¹

These examinations are justified as necessary to safeguard a defendant's right to due process of law,¹² but they can also

Records in Utah, UTAH L. REV. 695, 706, 712–14 (2001) (discussing state laws regarding the use of psychiatric records in discovery); Tess Wilkinson-Ryan, Comment, *Admitting Mental Health Evidence to Impeach the Credibility of a Sexual Assault Complainant*, 153 U. PA. L. REV. 1373, 1373 (2005) (noting the belief in some circles that “some women falsely accuse men of rape because, either intentionally or inadvertently, they have confused a sexual fantasy with a violent crime”).

⁶ See *In re Michael H.*, 602 S.E.2d 729, 734 (S.C. 2004) (“Cases involving child victims present special concerns that weigh in favor of allowing judicial discretion to order psychological evaluations.”); Jeffrey P. Bloom, *Post-Schumpert Era Independent Interviews and Psychological Evaluations of Child Witnesses*, 10 S.C. LAW. 40, 42 (1998) (referring to child witnesses as a type of “evidence” that can become “tainted” and thus should be examined by defense like any other piece of evidence).

⁷ As the cases and scholarly articles cited throughout this piece vary on terminology, this Note uses the terms “psychological” and “psychiatric” interchangeably.

⁸ See *Ballard v. Superior Court*, 410 P.2d 838, 846 (Cal. 1966) (“A number of leading authorities have suggested that in a case in which a defendant faces a charge of a sex violation, the complaining witness, if her testimony is uncorroborated, should be required to submit to a psychiatric examination.” (citing 3 WIGMORE, EVIDENCE § 924a (1940))), *superseded by statute*, 1980 Cal. Stat. 63 (codified as amended at CAL. PENAL CODE § 1112 (West 2007)), *as recognized in* *People v. Haskett*, 640 P.2d 776 (Cal. 1982).

⁹ *State v. Maestas*, 207 N.W.2d 699, 700 (Neb. 1973).

¹⁰ This Note will frame the issue as between states that do allow motions to compel psychological evaluations and states that do not, but the issue has been framed differently by some courts. For example, there exists a judicial three-way split between states that do not allow motions to compel psychological evaluations, states that grant the defendant an absolute right to an evaluation of the witness, and states that give trial judges discretion to grant the motion. See *State v. Gregg*, 602 P.2d 85, 88–91 (Kan. 1979).

¹¹ *E.g.*, *In re Michael H.*, 602 S.E.2d 729, 734 (S.C. 2004). At least one federal court, however, has argued from other precedents relating to juveniles that it is doubtful that the Supreme Court would approve of compulsory examination of child victims. See *Gilpin v. McCormick*, 921 F.2d 928, 931 (9th Cir. 1990).

¹² See *infra* notes 99–105 and accompanying text.

seriously infringe on a complainant's rights. Even when victims voluntarily seek post-rape counseling from mental health professionals, if such persons voice doubt about the veracity of their stories, victims are left feeling "violated and re-raped."¹³ These feelings are compounded when a victim is ordered to undergo an examination at the bequest of the accused rapist—backed by a judge¹⁴—for the sole purpose of determining credibility.

This is especially disturbing because the system for these examinations lacks sufficient protections for victims. In a traditional cross-examination, a witness is legally protected from "questions which go beyond the bo[u]nds of proper cross-examination merely to harass, annoy or humiliate,"¹⁵ but no such protection exists during a compulsory psychiatric examination.¹⁶ This raises privacy concerns, exacerbated by the lack of doctor-patient confidentiality for court-ordered evaluations.¹⁷ There are also no guidelines for other protections that traditionally apply to witnesses, such as the right to have counsel present and the right to refuse to answer questions.¹⁸ These issues have even made requesting the examinations an ethical problem for some attorneys.¹⁹

Despite these concerns, some jurisdictions provide that a trial court has the power to order a complaining witness to undergo a psychological examination in a criminal case.²⁰ They

¹³ Rebecca Campbell & Sheela Raja, *Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors of Violence*, 14 VIOLENCE & VICTIMS 3, 3 (1999), available at <http://www.musc.edu/vawprevention/research/victimrape.shtml>.

¹⁴ The judge generally does not have the power to *force* the complainant to cooperate—only the power to order the examination—"but the ordinary witness does not know this and will be fearful of refusing to do so." *State v. Looney*, 240 S.E.2d 612, 627 (N.C. 1978). The sanctions for not cooperating are severe, however, and include being banned from testifying. *Id.*

¹⁵ *Alford v. United States*, 282 U.S. 687, 694 (1931).

¹⁶ See *Looney*, 240 S.E.2d at 626–27; J.G. Bangle & L.A. Haage, Comment, *Psychiatric Examinations of Sexual Assault Victims: A Reevaluation*, 15 U.C. DAVIS L. REV. 973, 986 (1982).

¹⁷ See Bangle & Haage, *supra* note 16, at 987 n.77.

¹⁸ See *Looney*, 240 S.E.2d at 626–27.

¹⁹ See Richard Wasserstrom, *Lawyers as Professionals: Some Moral Issues*, 5 HUM. RTS. 1, 6–7 (1975) (stating that invoking procedures to get a "rape victim[] to submit to a psychiatric examination" is an obligation that is "morally objectionable" for some defense lawyers and something a lawyer might "thoroughly disapprove" in other contexts).

²⁰ See, e.g., *Braham v. State*, 571 P.2d 631, 640 (Alaska 1977) ("It is within the

are typically requested and granted in sexual assault cases.²¹ As there is no brightline standard for when an examination may be ordered,²² the trial judge generally has discretion to grant a motion for such an examination if the defendant demonstrates a "compelling need"—for example, a lack of corroborating evidence.²³ Because the standard at trial in most states is the judge's discretion, the standard on appeal is customarily whether the trial judge abused this discretion.²⁴ This is a difficult standard to prove.²⁵

Despite the burden that defendants must shoulder to obtain such an examination and the difficult reversal standard, other states have nevertheless banned the practice.²⁶ These states emphasize the victim's dignity and privacy rights and uphold those rights as outweighing any benefit to criminal defendants.²⁷

discretion of the trial court whether to order a psychiatric examination of the mental condition of a witness."); *Koerschner v. State*, 13 P.3d 451, 454 (Nev. 2000) (outlining the power to compel child victims to submit to examination); *Forbes v. State*, 559 S.W.2d 318, 321 (Tenn. 1977) ("[I]n any case involving a sex violation, the trial judge has the inherent power to compel a psychiatric or psychological examination of the victim, where such examination is necessary to insure a just and orderly disposition of the cause."); *State v. Delaney*, 417 S.E.2d 903, 906 (W. Va. 1992) ("[T]he decision whether to require a psychiatric evaluation prior to determining a child's capacity to testify is within the trial court's discretion."); Greenberg, *supra* note 4, at 1258 (supporting the view that the defendant should have the right to an evaluation of the complainant at the trial court's discretion).

²¹ See Bangle & Haage, *supra* note 16, at 990; see also *Ballard v. Superior Court*, 410 P.2d 838, 846 (Cal. 1966) ("The courts in this state, however, in cases not involving sex violations, have rejected psychiatric testimony as to the mental or emotional condition of a witness for purposes of impeachment."), *superseded by statute*, 1980 Cal. Stat. 63 (codified as amended at CAL. PENAL CODE § 1112 (West 2007)), as recognized in *People v. Haskett*, 640 P.2d 776 (Cal. 1982).

²² The standards for granting an examination vary considerably. See *infra* text accompanying notes 48–54.

²³ See, e.g., *Koerschner*, 13 P.3d at 454.

²⁴ See, e.g., *Braham*, 571 P.2d at 640 (finding no error).

²⁵ See *In re Michael H.*, 602 S.E.2d 729, 734 (S.C. 2004) ("[The] special concerns [for compelling a witness to submit to the examination] weigh in favor of complainants and thereby suggest judges would rarely order psychological evaluations.").

²⁶ See, e.g., *State v. Looney*, 240 S.E.2d 612, 626 (N.C. 1978) ("To require a witness to submit to a psychiatric examination, by a psychiatrist not selected by the witness, is much more than a handicap to the party It is a drastic invasion of the witness' own right of privacy."); *State ex rel. Holmes v. Lanford*, 764 S.W.2d 593, 594 (Tex. 1989) (holding no compulsory examinations as to child victims); *Nobrega v. Commonwealth*, 628 S.E.2d 922, 926 (Va. 2006) (holding that even a demonstration of "compelling need" is not enough to overcome the complainants' privacy rights).

²⁷ See *State v. Horn*, 446 S.E.2d 52, 53 (N.C. 1994); *Looney*, 240 S.E.2d at 626 (calling examinations "humiliating").

Even California—which wrote the “seminal case” supporting compulsory examination²⁸—has statutorily banned the practice. The 1966 case of *Ballard v. Superior Court*²⁹ reasoned that a compulsory evaluation was essential because:

[A] woman or a girl may falsely accuse a person of a sex crime as a result of a mental condition that transforms into fantasy a wishful biological urge. Such a charge may likewise flow from an aggressive tendency directed to the person accused or from a childish desire for notoriety.³⁰

This language represents an outdated and misogynistic way of thinking—one that focuses on the victim, not the crime. The case was ultimately superseded in 1981³¹: California Penal Code section 1112 reads, in pertinent part, that “the trial court shall not order any prosecuting witness, complaining witness, or any other witness, or victim in any sexual assault prosecution to submit to a psychiatric or psychological examination for the purpose of assessing his or her credibility.”³²

This Note posits that there should be an analogous federal statute—intended to inspire greater unanimity among states—forbidding federal courts from compelling complainants to undergo psychiatric examinations in sexual assault cases, whether the complainant is a child or an adult. Such a statute is necessary because the practice not only deters the reporting of sex crimes³³ and undermines the victim’s right to privacy,³⁴ but also because there is a lack of uniform standards across states.³⁵ A statute that addresses these issues by disallowing the practice in the federal system would not abridge a defendant’s rights—constitutional or otherwise.³⁶ Moreover, like rape shield statutes and similar laws, this ban would represent a positive social stride

²⁸ See *In re Michael H.*, 602 S.E.2d at 733 n.5.

²⁹ 410 P.2d 838 (Cal. 1966), *superseded by statute*, 1980 Cal. Stat. 63 (codified as amended at CAL. PENAL CODE § 1112 (West 2007)), *as recognized in* *People v. Haskett*, 640 P.2d 776 (Cal. 1982).

³⁰ *Id.* at 846. When confronted with language like this, it is easy to see why the case is no longer good law.

³¹ See *People v. Anderson*, 22 P.3d 347, 369 (Cal. 2001) (indicating that the *Ballard* line of authority was superseded by statute).

³² CAL. PENAL CODE § 1112 (West 2007).

³³ See *infra* Part I.B.

³⁴ See *infra* Part I.C.

³⁵ See *infra* Part I.A.

³⁶ See *infra* Part II.

against the negative and anachronistic views of sexual assault victims inherent in compulsory psychological examinations.³⁷

Part I of this Note examines the necessity of the ban, including an analysis of why various judicial tests and standards currently in place are insufficient, a look at the deterrent effect of compelled examination, and an explanation of how compulsory psychological tests deny a victim's rights. Part II addresses the concerns implicit in creating a federal statute comparable to that enacted in California. Such a statute would not abridge defendants' rights because the court has no inherent power to authorize examinations and because the statute banning compulsory examinations in federal courts would pass constitutional muster. Such a ban, moreover, would fit into the scheme of existing laws that protect sex-crime complainants and witnesses. Ultimately, banning compulsory examinations would help eliminate negative perceptions of sexual assault victims.

I. NECESSITY OF THE BAN

A. *Lack of Unanimity*

1. Lack of Standards Led to Unjust Application in the *Ballard* Era

Even in permitting compelled examinations in sexual assault cases, the *Ballard* court noted some of the problems inherent in the practice.³⁸ These included, among other things, a psychiatrist using unacceptable techniques, a partisan psychiatrist clouding the issues, and an inordinate reliance by jurors on the psychiatrist's assessment of witness credibility.³⁹ The court nonetheless believed that the possibility of "sympathy-arousing" victims spinning believable tales—and subjecting "unattractive" defendants to undeserved convictions—outweighed these problems.⁴⁰ The court noted in dicta that

³⁷ Rape shield statutes protect a victim's privacy by disallowing evidence of his or her sexual history in a sexual assault case. *See supra* text accompanying notes 122–29.

³⁸ *See Ballard v. Superior Court*, 410 P.2d 838, 846 (Cal. 1966), *superseded by statute*, 1980 Cal. Stat. 63 (codified as amended at CAL. PENAL CODE § 1112 (West 2007)), *as recognized in* *People v. Haskett*, 640 P.2d 776 (Cal. 1982).

³⁹ *See id.* at 848 n.10.

⁴⁰ *See id.* at 846.

testimony of the psychiatrist-examiner was admissible not only to impeach credibility, but also to resolve character issues; for example, psychiatric character testimony could help to prove consent if at issue in a rape case.⁴¹ Ultimately, the court reached what it considered a “middle ground,” requiring defendants to establish only two criteria to prevail on a motion to compel: lack of corroborating evidence and the possibility that the complainant’s mental or emotional condition might affect her credibility.⁴²

Considering the lenient standards set by the court, it comes as no surprise that so-called “*Ballard* motions” were unevenly and overinclusively applied in California.⁴³ Some counties granted them more often than others,⁴⁴ sometimes compelling examinations to assess witness credibility in cases where there appeared to be corroborating evidence—for instance, where police had witnessed the defendant on top of the victim in a bed while holding a gun or in a bathroom stall unzipping a child victim’s pants.⁴⁵ Such cases demonstrate that the “compelling need” standard,⁴⁶ in California at least, was not always construed by trial judges in a logically—and morally—appropriate fashion. If even those victims whose ordeals were witnessed by police needed to have their stories “corroborated” through psychiatric examinations, one can infer that California courts continued to adhere to the groundless and anachronistic view that sex crime victims are inherently unreliable.

2. The Lack of Uniform Standards Across States Is Similarly Problematic

Some states continue to use *Ballard*’s “compelling need” as a standard,⁴⁷ with the results often just as damaging as those in

⁴¹ See *id.* at 846 n.7. The Federal Rules of Evidence allow for evidence of a witness’s general character or specific acts that demonstrate character. FED. R. EVID. 405.

⁴² See *Ballard*, 410 P.2d at 849.

⁴³ See Bangle & Haage, *supra* note 16, at 981.

⁴⁴ See *id.* at 981 n.42.

⁴⁵ See *id.* at 981 n.46.

⁴⁶ See *Ballard*, 410 P.2d at 849 (“[D]iscretion should repose in the trial judge to order a psychiatric examination of the complaining witness in a case involving a sex violation if the defendant presents a compelling reason for such an examination.”).

⁴⁷ See, e.g., *Avery v. State*, 129 P.3d 664, 671 (Nev. 2006) (citing lack of corroboration and a reasonable basis for believing complainant’s emotional state affects her veracity as the elements of compelling need). These elements are nearly

Ballard itself. Considering compelling need alone—without taking into account victim-protective factors—subjugates a victim. One of the *Ballard* elements is simply that the defense question the effect of the victim's emotional or mental condition upon her veracity; this element continues to be part of the test for compulsory examination in some states.⁴⁸ It is clearly a very low burden to meet, as all the defense needs to do is raise the issue. The other element—lack of corroborating evidence supporting the victim's story⁴⁹—appears to be a more concrete and just way to determine compelling need, yet it has not proven as such in its application.

In fact, the lack of corroborating evidence standard has proven as poor a barometer of necessity in recent years as it had during the *Ballard* era. There are generally no strict guidelines defining "corroborating evidence." In a 1999 case, the Court of Appeals of Kansas favored a psychological examination of an eleven-year-old victim, even though the trial court had found that a medical examination showing injuries consistent with force to vaginal and anal areas constituted corroborating evidence.⁵⁰ In 2003, however, another Kansas ruling held that a letter written by a seven-year-old victim detailing sexual abuse *could* comprise corroborating evidence.⁵¹ And lack of corroborating evidence is not only an imprecise standard, but an unnecessary one. Where there is a true lack of such evidence, numerous safeguards already protect the defendant—it would be difficult to get an indictment at all, and if one is obtained, the jury should be trusted to acquit.⁵²

Other courts consider different guidelines and methods—which often vary considerably—in determining whether to order examinations. In Arizona, for example, judges have sole and "practically unlimited" discretion to decide whether children

identical to those found in *Ballard*. See *supra* text accompanying note 42.

⁴⁸ See *Koerschner v. State*, 13 P.3d 451, 454 (Nev. 2000).

⁴⁹ See, e.g., *id.* at 454; *State v. Gregg*, 602 P.2d 85, 91 (Kan. 1979).

⁵⁰ See *State v. Bourassa*, 15 P.3d 835, 838, 843 (Kan. Ct. App. 1999).

⁵¹ See *State v. Price*, 61 P.3d 676, 679–80 (Kan. 2003). The letter written by the child even stated "I lie sometimes and I am a big lying ratty big old pig. I ask God very much to help me. I have bad problems with lying." *Id.* at 679.

⁵² See *United States v. Dildy*, 39 F.R.D. 340, 344 (D.D.C. 1966) ("If the government presents a case without corroboration, the case fails. If the Government is able to present corroboration, there is much less need for the mental examination.").

under the age of ten should be examined.⁵³ Other appellate courts, however, have attempted to set firmer guidelines, the realization of which would presumably eradicate problems such as those that arose in California following *Ballard*.⁵⁴ Some allow court-ordered evaluations to stand if certain reasonableness factors are met, including age of the complainant, remoteness in time from the incident, degree of intrusiveness and humiliation, physical effects, and "other relevant considerations."⁵⁵ Such tests should be praised insofar as the reasonableness of granting the evaluation is considered from the point of view of the victim's well-being; but given the track record of courts when ordering examinations, this test still seems too broad. Other tests are even more flawed, arising out of a perspective disfavorable to the victim, with elements such as whether the victim demonstrates mental instability, whether the victim demonstrates a lack of veracity, whether similar charges by the victim against others are proven to be false, whether the defendant's motion for a psychological evaluation of the victim appeared to be a fishing expedition, whether anything unusual resulted following the questioning of the victim's understanding of telling the truth, and whether there are any other reasons why the victim should be evaluated.⁵⁶ It is troubling that different courts can have completely different approaches, some far less considerate towards victims than others. This broad spectrum means that victims in some states arbitrarily suffer more for their choice to report and prosecute sex offenses. A ban on compulsory examinations in the federal courts would serve as an example for the states and encourage them to adopt similar measures.

B. Deterrent Effect

The reason that the lack of national unanimity is such a critical issue is that allowing compulsory examination deters victims from reporting sex crimes; a federal ban would instill awareness in sex victims that their rights are highly valued,

⁵³ See *State v. Jerousek*, 590 P.2d 1366, 1371 (Ariz. 1979). In one case, the judge and attorneys for both sides questioned the child in the judge's chambers, and it was on this basis that the judge made the decision whether to order an examination. *Id.* Although in that case an examination was not ordered, it is troubling that a judge, someone untrained in psychology, could have that much power.

⁵⁴ See *supra* Part I.A.1.

⁵⁵ See *State v. R*, 553 A.2d 1059, 1062 (R.I. 1989).

⁵⁶ See *Price*, 61 P.3d at 681-82.

making them less hesitant to come forward.⁵⁷ Laws are intended to deter criminals,⁵⁸ but they can certainly deter victims as well; this is especially true with crimes like sexual assault, where the victim often faces a considerable amount of scrutiny, feeling like he or she has been "put on trial."⁵⁹ Not surprisingly, scholars have called the prosecution of a sex crime a "second assault" of a victim.⁶⁰ Some courts reason that victims—especially children—will not be deterred by the possibility of having to submit to an evaluation, since it is not something they normally consider before reporting a crime.⁶¹ To the contrary, adult victims certainly consider the humiliation involved in reporting a rape, if not the actual possibility of a psychological examination.⁶² While children may not understand the ramifications of reporting a crime, they usually do not call the police on their own; they tell a trusted adult.⁶³ Concerned parents may indeed choose not to

⁵⁷ See David P. Bryden & Sonja Lengnick, *Rape in the Criminal Justice System*, 87 J. CRIM. L. & CRIMINOLOGY 1194, 1195 (1997) (noting that rape victims often do not come forward to report their rapes because they fear the justice system at every level, from being interrogated by overbearing police to facing vicious character attacks should the case go to trial).

⁵⁸ See Mark D. Yochum, *The Death of a Maxim: Ignorance of the Law Is No Excuse (Killed by Money, Guns and a Little Sex)*, 13 ST. JOHN'S J. LEGAL COMMENT. 635, 635–37 (1999) (outlining the argument that since ignorance of the law is no excuse for committing a crime, laws must be clear so they can serve as effective deterrents).

⁵⁹ See Berger, *supra* note 1, at 12–14 (providing an excerpt of a cross-examination in a rape trial where the complainant was grilled in order to determine whether the alleged rape was in fact consensual sex). In the past, some states held resistance by the victim to be a statutory element of rape, effectively meaning the victim had to do enough to fight off the rapist to prove she had been raped. *Id.* at 8; see also David J. Giacomassi & Karen R. Wilkinson, *Rape and the Devalued Victim*, 9 LAW & HUM. BEHAV. 367, 369 (1985) (noting that rape was the only crime whose elements required such extreme resistance).

⁶⁰ Patricia Yancey Martin & R. Marlene Powell, *Accounting for the "Second Assault": Legal Organizations' Framing of Rape Victims*, 19 LAW & SOC. INQUIRY 853, 856 (1994) (citing data wherein women who went ahead with rape prosecution had more psychological trauma six months after the rape than those who chose not to prosecute).

⁶¹ See *Abbott v. State*, 138 P.3d 462, 469 (Nev. 2006); *In re Michael H.*, 602 S.E.2d 729, 734 (S.C. 2004).

⁶² See *State v. Fortney*, 269 S.E.2d 110, 116 (N.C. 1980). See generally Fiona E. Raitt & M. Suzanne Zeedyk, *Rape Trauma Syndrome: Its Corroborative and Educational Roles*, 24 J.L. & SOC'Y 552, 555 (1997) (listing the emotions felt by victims immediately after a rape, including fear, humiliation, and embarrassment).

⁶³ In most of the cases cited in this Note, the child victims told their parents first. See, e.g., *Abbott*, 138 P.3d at 465 (describing how the victim allegedly ran into her mother's room to tell her that her step-father had touched her private parts immediately after the incident); *In re Michael H.*, 602 S.E.2d at 730 (explaining how

report a crime if they feel that their children will be subjected to psychological examinations, perhaps causing their child to dwell on the issue, even for years after the initial trauma.⁶⁴

Forcing a victim—especially a child—to undergo an evaluation suggests to that person that “the law” assumes they are lying. This is a dangerous idea for victims who already tend to feel dejected, humiliated, and who often suffer from low self-esteem.⁶⁵ Institutionalizing—and thereby confirming—the victim’s fears by compelling psychological evaluations will thwart the prosecution of past and future sex offenders. It is notable that in California, the number of victims reporting rapes has more than doubled since the statutory ban on *Ballard* motions in 1981, suggesting that there was indeed a deterrent effect when the motions were allowed.⁶⁶

Furthermore, even when a victim chooses to report a crime, an order to compel an examination may deter him or her from continuing with the case. If the choice is to submit to a psychological examination and testify or do neither, many victims will select the latter.⁶⁷ Without such testimony, the case may not be able to go forward—the victim is often the sole witness of a sex crime.⁶⁸ Psychological examinations are even more likely to cause this outcome than physical examinations, because the need for the former is understood less by the public as normally incident to a rape prosecution as, for instance, collecting DNA evidence.⁶⁹

the victim’s mother explained to him what rape was after they watched a news story, prompting him to tell her that his uncle had “done that to me before”).

⁶⁴ See Jane Dever Prince, *Competency and Credibility: Double Trouble for Child Victims of Sexual Offenses*, 9 SUFFOLK J. TRIAL & APP. ADVOC. 113, 128 (2004).

⁶⁵ See Tom Luster & Stephen A. Small, *Sexual Abuse History and Problems in Adolescence: Exploring the Effects of Moderating Valuables*, 59 J. MARRIAGE & FAM. 131, 133 (1997) (finding that victims whose mothers believed their sexual abuse stories were less likely to suffer from depression).

⁶⁶ See CRIMINAL JUSTICE STATISTICS CTR., CAL. OFFICE OF ATT’Y GEN., CRIMES 1952–2004, at 100–01 tbl.1 (2004), <http://caag.state.ca.us/cjsc/publications/candd/cd04/tabs/1.pdf>.

⁶⁷ See *People v. Mills*, 151 Cal. Rptr. 71, 74 (Cal. Ct. App. 1978) (holding that orders to compel do not force victims to be evaluated, but simply open them up to sanctions, including not being allowed to testify).

⁶⁸ See Troy Andrew Eid, Comment, *A Fourth Amendment Approach to Compulsory Physical Examinations of Sex Offense Victims*, 57 U. CHI. L. REV. 873, 876 (1990).

⁶⁹ DNA evidence is usually collected at the time the crime is reported. See Martin & Powell, *supra* note 60, at 884–85 (describing how police officers take victims to the hospital to collect evidence).

It is important to distinguish psychological evaluations from physical examinations, as some commentators argue that the harm to a victim's dignity caused by the former pales in comparison to that of undergoing a physically invasive examination.⁷⁰ Such physical exams, however, possess benefits that psychological evaluations do not; they also avoid the harm inherent in psychological examinations. Some medical experts, for example, find that a post-rape examination benefits a victim by ensuring that proper treatment for injuries as well as prophylaxis against sexually transmitted diseases and pregnancy are obtained.⁷¹ Additionally, the physical examination is less likely to insult the victim and to create feelings of low self-esteem and humiliation, because its purpose is not to test the victim's truthfulness, but rather to collect the evidence required for conviction.⁷² For many victims, the lingering feelings caused by the sexual assault are worse than the assault itself, so a psychological examination could exacerbate the most traumatic part of the experience.

Victims are a cog in the wheel of the criminal justice system; only through their coming forward and participating in the process can a criminal be prosecuted and all ends of justice be served. It is in society's best interest, then, to protect the sexual assault victim's dignity, both because the victim is benefiting society and because this encourages others to report these kinds of crimes. Of course, protecting a victim's dignity is important not only for the purpose of promoting prosecution, but also due to the trauma it can cause an individual victim.⁷³ Unlike a civil plaintiff, the complainant in a criminal case will not directly benefit from its outcome through the awarding of damages. While civil cases implicate personal matters between two parties, criminal cases involve condemnation by society at large.⁷⁴ A victim thus benefits society by reporting rape, almost always at a

⁷⁰ See Greenberg, *supra* note 4, at 1261. But see Eid, *supra* note 68, at 873-74 (arguing that even physical examinations should not be compelled by courts).

⁷¹ See Martin & Powell, *supra* note 60, at 885.

⁷² See *id.*

⁷³ See *United States v. Benn*, 476 F.2d 1127, 1131 (D.C. Cir. 1972) ("[T]he trauma that attends the role of complainant to sex offense charges is sharply increased by the indignity of a psychiatric examination.").

⁷⁴ See Nathan Roth, *Factors in the Motivation of Sexual Offenders*, 42 J. CRIM. L. CRIMINOLOGY & POLICE SCI. 631, 632-33 (1952).

great personal cost.⁷⁵ And the conviction of a guilty rapist is particularly good for society, since rapists and child molesters typically exhibit high recidivism rates.⁷⁶

C. *The Victim's Right to Privacy*

Sound public policy requires that a victim feel comfortable throughout a prosecution, from reporting the crime to testifying at trial.⁷⁷ Psychological examination is not often—if ever—an issue in the prosecution of offenses like assault and battery the way it is in a rape case.⁷⁸ This suggests that courts agree with Wigmore's assertion that there is something inherently unreliable about a person who reports a sex crime.⁷⁹ The

⁷⁵ See generally *United States v. Dildy*, 39 F.R.D. 340, 343 (D.D.C. 1966) (discussing the trauma and embarrassment a complaining sexual assault witness undergoes on the state's behalf).

⁷⁶ See Eric S. Janus & Paul E. Meehl, *Assessing the Legal Standard for Predictions of Dangerousness in Sex Offender Commitment Proceedings*, 3 PSYCHOL. PUB. POLY & L. 33, 40 (1997).

⁷⁷ Consider this passage from the well-known Susan Estrich article, *Rape*: Did I realize what prosecuting a rape complaint was all about? They tried to tell me that "the law" was against me. But they didn't explain exactly how. And I didn't understand why. I believed in "the law," not knowing what it was.

....

I learned, much later, that I had "really" been raped. Unlike, say, the woman who claimed she'd been raped by a man she actually knew, and was with voluntarily. Unlike, say, women who are "asking for it," and get what they deserve. I would listen as seemingly intelligent people explained these distinctions to me, and marvel; later I read about them in books, court opinions, and empirical studies. It is bad enough to be a "real" rape victim. How terrible to be—what to call it—a "not real" rape victim.

Susan Estrich, *Rape*, 95 YALE L.J. 1087, 1088 (1986).

⁷⁸ See *Ballard v. Superior Court*, 410 P.2d 838, 848–49 (Cal. 1966) (stating that motions to compel are applicable only in sexual assault cases), *superseded by statute*, 1980 Cal. Stat. 63 (codified as amended at CAL. PENAL CODE § 1112 (West 2007)), *as recognized in* *People v. Haskett*, 640 P.2d 776 (Cal. 1982). There is a notion that complainants in rape cases are somehow "special" and different from complainants in other criminal cases. Lack of consent is the essence of what criminalizes rape, so historically, elements of force and lack of resistance have come to be a part of rape law, causing it to be more victim-focused than crimes such as assault. See Berger, *supra* note 1, at 7–8. Some courts, however, are trying to move away from this notion that rape victims are inherently different. See *Gilpin v. McCormick*, 921 F.2d 928, 931 (9th Cir. 1990) (disagreeing that the testimony of children is inherently unreliable); *People v. Davis*, 283 N.W.2d 768, 769 (Mich. Ct. App. 1979) ("Credibility is an issue in every case, and there is no showing beyond Dean Wigmore's outmoded psychological theories that sex offenses warrant greater scrutiny of the complainant.").

⁷⁹ See *supra* note 8.

potential damage of that view is more than just an affront to a single complainant's personal dignity—it can have severe societal repercussions. It was not long ago that rape victims were practically treated as criminals by society,⁸⁰ and there still remain some similarly negative attitudes today.⁸¹

In making the rape victim feel comfortable about bringing charges, the right to privacy is paramount. An order to compel an evaluation has been found to be a “drastic” infringement on this right, with potential repercussions for a witness's reputation and career.⁸² And while an adult may refuse an examination⁸³—subject to certain sanctions that will make it difficult to bring a case⁸⁴—child victims in protective custody may be unable to decide for themselves.⁸⁵ This outcome is inconsistent with the fact that the right to privacy has been held fundamental by the Supreme Court.⁸⁶

⁸⁰ Having “resistance” be an element of rape puts undue focus on the victim, causing her to feel like she has been put on trial. See Berger, *supra* note 1, at 8; *supra* note 59 and accompanying text.

⁸¹ When basketball star Kobe Bryant was arrested on a rape charge, society condemned not Bryant, but the prosecutor and the alleged victim, whose name and address were posted on the internet, which resulted in at least two people being charged with death threats against her. See Alice Vachss, *The Charge of Rape, the Force of Myth*, WASH. POST, Nov. 2, 2003, at B02. Those in support of Bryant pointed out that he was married to a beautiful woman, was a good basketball player, and that he seemed “nice.” *Id.* People have trouble believing a beloved celebrity could commit a violent crime. See Peter Arenella, *People v. Simpson: Perspectives on the Implications for the Criminal Justice System: Foreword: O.J. Lessons*, 69 S. CAL. L. REV. 1233, 1236 (1996); Megan Reidy, Comment, *The Impact of Media Coverage on Rape Shield Laws in High-Profile Cases: Is the Victim Receiving a “Fair Trial”?*, 54 CATH. U. L. REV. 297, 330–32 (2004) (suggesting that celebrity defendants have an advantage because they can bias the juror pool in their favor by portraying themselves in a positive light and using the media to attack the victim). In order to uphold the defendant as innocent in a case like Bryant's, where DNA evidence proved that there was intercourse between him and the complainant and a gynecological examination showed signs of force, the defendant's supporters must then place the onus on the victim—for example, by arguing that the forcible entry was caused by sex with another man around the same time as consensual sex with Bryant occurred, which tends to portray the victim as promiscuous and feeds into the notion that “slut[s] cannot be raped.” See Vachss, *supra*.

⁸² See *State v. Looney*, 240 S.E.2d 612, 626 (N.C. 1978).

⁸³ See *United States v. Rouse*, 111 F.3d 561, 567 (8th Cir. 1997).

⁸⁴ See *Looney*, 240 S.E.2d at 627 (noting that a witness who refuses a psychological examination may not be permitted to testify).

⁸⁵ See *Rouse*, 111 F.3d at 567.

⁸⁶ See *Griswold v. Connecticut*, 381 U.S. 479, 484 (1965) (finding that privacy is a right inherent in the First, Third, Fourth, Fifth, and Ninth Amendments).

II. THE BAN WOULD NOT VIOLATE DEFENDANTS' RIGHTS

A. *The Court Has No Explicit Power to Compel*

The defendant does not have the right to a compulsory psychological examination of a complaining witness because there is no such definitive power vested in the courts. Some courts, in fact, reason that in the absence of a statute specifically creating such authority, it is wrong to assume that such power exists.⁸⁷ These states operate under the belief that a carefully worded statute would allow for more protections for victims,⁸⁸ so their courts do not have the discretionary power to grant such requests. Other courts posit the alternative: Since no statute specifically disallows the practice, judges indeed have the discretion to grant such motions.⁸⁹ The federal statute proposed in this Note would be a substantial step toward uniformity by disallowing the practice in every federal court throughout the United States.

Rule 35 of the Federal Rules of Civil Procedure states that “[t]he court where the action is pending may order a party whose mental or physical condition . . . is in controversy to submit to a physical or mental examination”⁹⁰ This rule obviously has

⁸⁷ See *Wedmore v. State*, 143 N.E.2d 649, 654 (Ind. 1957) (holding no power or authority to compel); *State v. Horn*, 446 S.E.2d 52, 53 (N.C. 1994) (“[A] trial judge has neither statutory authority nor discretionary power to compel an unwilling witness to submit to a psychiatric examination.”); see also *United States v. Dildy*, 39 F.R.D. 340, 342 (D.D.C. 1966) (“But when the witness refuses to submit to such examination, there is ‘a great dearth of authority’ affording the court the power to compel her.”).

⁸⁸ See *Looney*, 240 S.E.2d at 627.

⁸⁹ Cf. *Forbes v. State*, 559 S.W.2d 318, 320 (Tenn. 1977) (noting that no statute authorizes examinations in the state, yet finding that there is a power to order one for compelling reasons).

⁹⁰ FED. R. CIV. P. 35(a). The full text reads:

Rule 35. Physical and Mental Examination of Persons

(a) Order for an Examination.

(1) *In General.* The court where the action is pending may order a party whose mental or physical condition—including blood group—is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner. The court has the same authority to order a party to produce for examination a person who is in its custody or under its legal control.

(2) *Motion and Notice; Contents of the Order.* The order: (A) may be made only on motion for good cause and on notice to all parties and the person to be examined; and (B) must specify the time, place, manner, conditions, and scope of the examination, as well as the person or

no bearing on motions to compel in criminal cases,⁹¹ and there are very good reasons why no analogous power exists in the Federal Rules of Criminal Procedure.⁹² Unlike in the civil context, a complaining witness or victim in a criminal case is not a party.⁹³ This is a very important distinction since a party to a civil action can generally drop or settle the case if an examination is ordered and he or she is too uncomfortable with complying. Complaining witnesses in criminal sexual assault cases, on the other hand, can be sanctioned for lack of compliance; sanctions include having to pay fines,⁹⁴ having the jury informed of their refusal and thus allowing it to be considered in deliberations,⁹⁵ being held in contempt of court,⁹⁶ and having their testimony held inadmissible.⁹⁷ Because of these serious consequences, courts should not be able to order examinations without express statutory authority.

B. The Ban Poses No Constitutional Problems

A ban on compulsory examinations would not abridge any of a defendant's constitutional rights. The Fifth Amendment Due Process and Sixth Amendment Confrontation Clause rights can be upheld even without granting defendants this tool for discrediting complainants.⁹⁸ In passing a ban, Congress would

persons who will perform it.

Id.

⁹¹ See *Dildy*, 39 F.R.D. at 342.

⁹² *Id.* (suggesting that the lack of such power "bespeaks an intended omission").

⁹³ *State v. Little*, 861 P.2d 154, 159 (Mont. 1993) (holding that victims cannot be compelled into either medical or psychological evaluations because they are not parties); see also *Gilpin v. McCormick*, 921 F.2d 928, 931 (9th Cir. 1990).

⁹⁴ See *Greenberg*, *supra* note 4, at 1267.

⁹⁵ *Id.*

⁹⁶ See *United States v. Proffitt*, 498 F.2d 1124, 1130 (3d Cir. 1974).

⁹⁷ See *State v. Looney*, 240 S.E.2d 612, 627 (N.C. 1978).

⁹⁸ Additionally, the fact that the vast majority of sexual assault cases involve male defendants and female complainants, see *Buddie*, *supra* note 5, at 1, would not in itself make the statute prejudicial towards men and thus implicate the Equal Protection Clause. See *People v. Armbruster*, 210 Cal. Rptr. 11, 13 (Cal. Ct. App. 1985). In California, for example, the ban to enforce examinations was enacted "to ameliorate an intolerably invasive discovery practice utilized principally, if not exclusively, in the prosecution of sex offenses." *Id.* at 13 (perceiving no arbitrariness in the enactment of said statute). In light of how easily *Ballard* motions were granted in some instances in California, it would be fair to say—in that state at least—that the equal protection rights of victims forced to undergo examinations were more thoroughly compromised than those of criminal defendants when such motions were denied. See *supra* text accompanying notes 42–44.

send a strong message that, while a defendant's rights are important, they will not be favored to the exclusion of those of a victim.

1. Procedural Due Process

Proponents of compulsory psychological evaluation argue that because the penalties for sex crimes are so steep,⁹⁹ there should be especially stringent rules meant to protect a defendant.¹⁰⁰ Federal courts have gone in the opposite direction, however, focusing more on victims' rights. Even Federal Rule of Evidence 413—which makes evidence of a sexual assault defendant's history of similar offenses admissible¹⁰¹—survives Fifth Amendment scrutiny.¹⁰² A Fifth Amendment due process argument implicates protection against rules that deprive defendants of "life, liberty, or property."¹⁰³ The right to assess a victim's credibility through a judicially-compelled psychiatric examination is hardly fundamental to protecting these rights—while courts indeed must take the utmost care to protect innocent defendants, rape accusations are no more likely to be fabricated than accusations of any other crime.¹⁰⁴ As such, federal caselaw demonstrates that a psychological evaluation of a complaining witness is not required by the Fifth Amendment,¹⁰⁵ and that the denial of a motion to compel does not implicate a "fundamental fairness essential to the very concept of justice."¹⁰⁶

⁹⁹ The death penalty for rape of an adult woman was held unconstitutional by the Supreme Court in *Coker v. Georgia*, 433 U.S. 584, 592 (1977).

¹⁰⁰ See *Abbott v. State*, 138 P.3d 462, 470 (Nev. 2006).

¹⁰¹ FED. R. EVID. 413(a). Character evidence is not generally admissible "for the purpose of proving action in conformity therewith on a particular occasion . . ." FED. R. EVID. 404(a).

¹⁰² *United States v. Enjady*, 134 F.3d 1427, 1433 (10th Cir. 1998); see also Francis P. King, *Rules of Evidence 413 and 414: Where Do We Go from Here?*, 2000 ARMY LAW. 4, 8.

¹⁰³ See U.S. CONST. amend. V; *Wilkinson v. Austin*, 545 U.S. 209, 221 (2005).

¹⁰⁴ See *Bryden & Lengnick*, *supra* note 57, at 1195.

¹⁰⁵ See U.S. CONST. amend. V ("No person shall . . . be deprived of life, liberty, or property, without due process of law . . ."). This Fifth Amendment right is applied to states via the Fourteenth Amendment. See U.S. CONST. amend XIV, § 1. Federal courts have held that compulsory psychological examinations are not necessary for constitutional due process. See *Gilpin v. McCormick*, 921 F.2d 928, 931 (9th Cir. 1990).

¹⁰⁶ *United States v. Valenzuela-Bernal*, 458 U.S. 858, 872 (1982) (quoting *Lisenba v. California*, 314 U.S. 219, 236 (1941)) (creating a standard for denial of

Typical cross-examination is sufficient to weed out dishonest witnesses.¹⁰⁷ The jury is the ultimate judge of credibility.¹⁰⁸ Although expert witnesses are generally not allowed to testify directly as to whether a complainant is lying, they can testify as to whether they believe that a complainant was sexually assaulted or whether a child victim is competent to understand the oath—both of which have the functional effect of telling the jury that a complainant is lying.¹⁰⁹ The witness oath and cross-examination are still powerful tools that aid the jury in making its determinations.¹¹⁰

There are additional solutions that preserve defendants' due process rights without subjecting complainants to the harms of compelled evaluations. Availability of prior medical or psychological records can render independent witness evaluations unnecessary.¹¹¹ Furthermore, where a victim suffered from previous mental problems, the court can admit the testimony of an expert with personal knowledge of the victim.¹¹² This is a reasonable compromise, given that it rests on a foundation of demonstrating the pre-existence of mental competency issues.¹¹³

due process); *see also* *United States v. Rouse*, 111 F.3d 561, 568 (8th Cir. 1997) (holding that declining an order to compel is not an abuse of discretion that meets the standard).

¹⁰⁷ *But see In re Michael H.*, 602 S.E.2d 729, 734 (S.C. 2004) ("[C]ross-examination of a complainant who is incompetent to testify, a condition that could be established through a psychological evaluation, would be wholly ineffective in protecting a defendant's right to a fair trial. A complainant who is incompetent to testify may not fully understand or convey the implications of his or her psychological condition on cross examination.").

¹⁰⁸ *See People v. Davis*, 283 N.W.2d 768, 769 (Mich. Ct. App. 1979); *State v. Looney*, 240 S.E.2d 612, 627 (N.C. 1978) ("The jury is the lie detector in the courtroom." (quoting *United States v. Barnard*, 490 F.2d 907, 912 (1998))); *State v. Walgraave*, 412 P.2d 23, 24 (Or. 1966) (holding that the *Ballard* court's concerns that the jury's province to evaluate the credibility of witnesses would be compromised by having the expert witness who did the evaluation testify as to credibility were valid, and affirming the denial of a motion to compel).

¹⁰⁹ *See Prince*, *supra* note 64, at 122–23.

¹¹⁰ *See People v. Michael M.*, 162 Misc. 2d 803, 808, 618 N.Y.S.2d 171, 176 (Sup. Ct. Kings County 1994).

¹¹¹ *See State v. Garay*, 453 So. 2d 1003, 1006 (La. 1984).

¹¹² *See People v. Baier*, 73 A.D.2d 649, 650–51, 422 N.Y.S.2d 734, 735–36 (2d Dep't 1979).

¹¹³ *See Commonwealth v. Shearer*, 894 A.2d 793, 795 (Pa. 2006) ("[A] court-ordered psychological examination should never be the starting point for such a determination."); *Commonwealth v. Alston*, 864 A.2d 539, 548 & n.4 (Pa. 2004) (holding that the record must establish a credibility issue before an evaluation can

Proponents of independent evaluations argue, specifically in cases involving children, that it helps to identify those most susceptible to suggestion.¹¹⁴ They reason that a child who is asked the same question more than once may feel pressure to give a “new” or different answer the second time.¹¹⁵ This logic begs the question as to why having another examination, ordered by the defendant, would not make children susceptible to believing that they gave the wrong answers in previous evaluations. A better approach, then, is to allow expert witnesses to testify as to childrens’ susceptibility to suggestion, letting the jury decide whether the child witness in fact told the truth.¹¹⁶ This would shield the defendant from victim suggestibility while also protecting the victim from an evaluation.

2. Confrontation Right

The Sixth Amendment right to confront an accuser would similarly not bar a federal law against compulsory examination.¹¹⁷ The complainant still has to testify and submit to cross-examination, so there is adequate opportunity for confrontation without forcing an examination.¹¹⁸ The purpose of the Confrontation Clause is not to give criminal defendants free reign to exploit every possible angle for discrediting a witness, but rather to ensure that the jury has the opportunity to see a witness, judge a witness’s demeanor, and assess a witness’s credibility.¹¹⁹ Thus, when the defense is arguing that a child victim has been unduly influenced, it is sufficient to question the child about such influence during cross-examination and question the persons who have allegedly influenced the child.¹²⁰ Even where the psychological examination would give the defense information useful for purposes other than assessing a

be ordered).

¹¹⁴ See Bloom, *supra* note 6, at 42–45 (describing suggestive procedures that may taint a child victim’s testimony).

¹¹⁵ See *id.* at 43.

¹¹⁶ See *People v. Michael M.*, 162 Misc. 2d 803, 809–10, 618 N.Y.S.2d 171, 177 (Sup. Ct. Kings County 1994).

¹¹⁷ See U.S. CONST. amend VI.

¹¹⁸ See *Gilpin v. McCormick*, 921 F.2d 928, 932 (9th Cir. 1990) (stating that cross-examination is enough to satisfy the right to confront); Bangle & Haage, *supra* note 16, at 985–86 (distinguishing psychiatric evaluation from cross-examination).

¹¹⁹ See *Douglas v. Alabama*, 380 U.S. 415, 419 (1965).

¹²⁰ See *State ex rel. Holmes v. Lanford*, 764 S.W.2d 593, 594 (Tex. App. 1989).

victim's credibility, the Ninth Circuit Court of Appeals has held that it is not necessary to compel examination under the Sixth Amendment.¹²¹

An analogy is properly drawn between the law proposed in this Note and rape shield laws, which protect victims from intrusion into their sexual history.¹²² In *Virgin Islands v. Scuito*,¹²³ the Third Circuit stated that to compel a victim to submit to an evaluation actually comes close to violating Rule 412 of the Federal Rules of Evidence, the federal rape shield law.¹²⁴ The court affirmed an earlier decision holding that an evaluation would violate the "spirit" of Rule 412.¹²⁵ The Rule states, in pertinent part, that neither "[e]vidence offered to prove that any alleged victim engaged in other sexual behavior" nor "[e]vidence offered to prove any alleged victim's sexual predisposition" shall be admissible "in any civil or criminal proceeding involving alleged sexual misconduct . . ."¹²⁶ While evidence of a victim's sexual history could be construed as admissible under other Rules,¹²⁷ public policy reasons—including

¹²¹ See *Gilpin*, 921 F.2d at 932 (upholding the lower court's decision denying the motion that would allow defendant's attorney to confront victims with evidence that they did not suffer Rape Trauma Syndrome in order to strengthen the defendant's argument that no rape ever occurred).

¹²² See *State v. Clontz*, 286 S.E.2d 793, 796-97 (N.C. 1982) (holding that it would be against the public policy inherent in the rape shield statutes to allow unnecessary intrusion into the victim's privacy in the form of a compelled psychological evaluation).

¹²³ 623 F.2d 869 (3d Cir. 1980).

¹²⁴ *Id.* at 874; see also FED. R. EVID. 412.

¹²⁵ *Scuito*, 623 F.2d at 875; *State v. Fortney*, 269 S.E.2d 110, 116 (N.C. 1980) ("Part of the reluctance of victims to report and prosecute rape stems from their feeling that the legal system harasses and humiliates them.").

¹²⁶ FED. R. EVID. 412(a)(1)-(2). The exceptions to this are the following:

(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury or other physical evidence;

(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

(C) evidence the exclusion of which would violate the constitutional rights of the defendant.

FED. R. EVID. 412(b)(1).

¹²⁷ The Federal Rules of Evidence permit the accused to raise pertinent character traits about the victim. Since the definition of "relevant" in the Federal Rules is very lenient, consisting of evidence having *any* tendency to make a fact probable, the fact that a woman has ever consented to sex in the past could be considered relevant on the issue of whether she consented to sex with a defendant. See FED. R. EVID. 401. *But see* Orenstein, *supra* note 3, at 684 (suggesting that since

protecting the victim from degradation, humiliation, and unfair prejudice—took precedence in the enactment of Rule 412.¹²⁸ For these reasons, the Rule has survived attacks by critics who believe it violates the Sixth Amendment.¹²⁹

Rape shield statutes are not the only laws designed to protect the privacy and dignity of witnesses. Criminal records of witnesses are not discoverable for purposes of impeachment.¹³⁰ As to the issue of witness credibility, lie detector tests are largely inadmissible.¹³¹ In 1990, Florida passed a law prohibiting evidence of the clothing a victim was wearing when raped,¹³² in response to a Georgia case in which the jury acquitted a defendant who allegedly raped a woman at knifepoint—because the victim supposedly “asked for it” by wearing a miniskirt and tank top.¹³³ The above demonstrates that there are occasions when legislatures should justifiably intervene on behalf of victims’ rights; rape defendants would certainly prefer to be able to submit evidence of a victim’s promiscuity or sexualized wardrobe,¹³⁴ but this does not mean that their rights are compromised when lawmakers limit such evidence. Allowing compelled examinations to assess credibility undermines the import of such beneficial legislation.

CONCLUSION

There is no need for the law to render bringing a rape case especially difficult or discouraging for the victim—contrary to

men are not fungible, such evidence has little probative value).

¹²⁸ See Orenstein, *supra* note 3, at 684 (presenting the justifications for Rule 412).

¹²⁹ See, e.g., J. Alexander Tanford & Anthony J. Bocchino, *Rape Victim Shield Laws and the Sixth Amendment*, 128 U. PA. L. REV. 544, 545 (1980) (arguing that some rape shield laws are unconstitutional).

¹³⁰ See *United States v. Riley*, 657 F.2d 1377, 1389 (8th Cir. 1981); *United States v. Taylor*, 542 F.2d 1023, 1026 (8th Cir. 1976).

¹³¹ Martin & Powell, *supra* note 60, at 881 (pointing out that they are only admissible in court when both the prosecution and defense stipulate to it, which is rare). Some prosecutors, however, use them to assess victims’ credibility in deciding whether to go ahead with the case. *Id.* This is yet another example of how the justice system demonstrates an institutionalized skepticism of sexual assault victims. Some law enforcement officials report feeling anger at complainants whose lies may come to embarrass them in court, and one reported threatening alleged victims with jail time as soon as they report a rape. *Id.*

¹³² See *id.* at 854 n.1.

¹³³ See *id.* at 854.

¹³⁴ Jurors were “repeatedly” shown the “sexy” outfit over the eight-day trial. *Id.*

popular belief, false reports of rape do *not* have a higher incidence than false reports of other crimes.¹³⁵ The ethics charges against and subsequent disbarment of the prosecutor in the recent Duke rape case for withholding exculpatory evidence¹³⁶ may undermine the public's faith in this fact, but such cases are newsworthy because they are the exception, not the rule.¹³⁷ As society slowly comes to realize this, the law is moving toward increased legislation that protects the dignity of sexual assault victims.

Motions to compel are gross invasions of complainants' privacy—they send a distorted message that a defendant's rights are more important than those of a victim. A federal statute banning this practice would be a progressive act, reinforcing the policy interest in protecting the dignity and privacy of crime victims. That these motions generally arise only in sexual

¹³⁵ See Bryden & Lengnick, *supra* note 57, at 1195.

¹³⁶ The North Carolina State Bar filed a complaint against District Attorney Michael B. Nifong for making "improper commentary" and engaging in "dishonesty, fraud, deceit or misrepresentation." See David Barstow & Duff Wilson, *Prosecutor in Duke Sexual Assault Case Faces Ethics Complaint from State Bar*, N.Y. TIMES, Dec. 29, 2006, at A1. The full 17-page complaint can be viewed on the internet. TheSmokingGun.com, Ethics Rap for Duke Prosecutor, <http://www.thesmokinggun.com/archive/years/2006/1228062bar1.html> (last visited Feb. 6, 2008). Nifong was disbarred on June 16, 2007. See Duff Wilson, *Judge Says He Will Suspend Durham Prosecutor Immediately*, N.Y. TIMES, June 19, 2007, at A0.

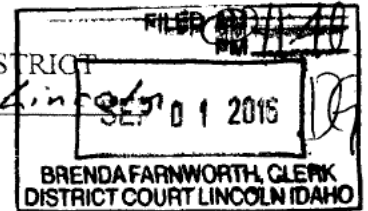
¹³⁷ Society generally does not say that victims are probably lying when they say they were attacked in a non-sexual manner, or that they should have resisted more, even though false charges of rape are comparable to false charges of other violent crimes, with about two percent of cases proving false. See Morrison Torrey, *When Will We Be Believed? Rape Myths and the Idea of a Fair Trial in Rape Prosecutions*, 24 U.C. DAVIS L. REV. 1013, 1028 (1991). That many rape cases do not go forward all the way to prosecution—often because of victims being deterred by fears of humiliation and harassment, something the federal ban advocated by this Note seeks to reduce by example and in practice—may confuse the public and lead them to believe that more rape victims are liars than the evidence suggests. *Id.* at 1028–29. In the Duke case, even before the evidence of Nifong's dishonesty was made public, but after a physical examination of the victim—an exotic dancer—revealed evidence consistent with blunt force trauma, Jonathan D. Glater & Duff Wilson, *Files from Duke Rape Case Give Details but No Answers*, N.Y. TIMES, Aug. 25, 2006, at A1, media pundits like Rush Limbaugh and Tucker Carlson referred to the complainant as a "ho[]" and a "crypto-hooker," Lynne Duke, *The Duke Case's Cruel Truth; Hateful Stereotypes of Black Women Resurface*, WASH. POST, May 24, 2006, at C01, suggesting that as a stripper, the woman consented to sexual relations simply by entering the private party held by the Duke lacrosse team. Though these pundits may have felt vindicated when the Nifong ethics charges came to light, such attitudes are extremely harmful to society, and evidence laws can reduce them. See Orenstein, *supra* note 3, at 664 ("[E]ven the procedural law of evidence[] affects how rape influences the general tenor of social belief.").

assault cases promotes harmful attitudes about victims that further alienate and deter them from reporting crimes. Instead of continuing to allow such harm, the federal government—and hopefully every state, in turn—should embrace the enlightened attitude evident in *State v. Looney*: “We perceive no sound basis for distinction, in this matter, between cases involving sex offenses and cases involving other crimes, between male and female witnesses, youthful and adult witnesses, complaining witnesses and other witnesses, witnesses for the State and witnesses for the defendant.”¹³⁸

¹³⁸ 240 S.E.2d 612, 626 (N.C. 1978).

From: Deysi Sandoval
Sent: 09/02/2016 11:58 AM
To: Calbo&Depew; Hemmer, Casey; Cheri Mattson
Cc:
Subject: Howard
Attachments:Untitled.PDF

IN THE DISTRICT COURT OF THE 5th JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Lincoln



State
PLAINTIFF(S)

V.
John R.K. Howard
DEFENDANT(S)

REQUEST TO OBTAIN
APPROVAL TO VIDEO
RECORD, BROADCAST OR
PHOTOGRAPH A COURT
PROCEEDING

I hereby request approval to:

☒ video record [] broadcast [] photograph the following court proceeding:

Case No.: CR-2016-214
Date: 9/06/16
Time: 3:00 p.m.
Location: Lincoln Co. Courthouse
Presiding Judge: Hon. Eric Wildman

I have read Rule 45 of the Idaho Court Administrative Rules permitting cameras in the courtroom, and will comply in all respects with the provisions of that rule, and will also make certain that all other persons from my organization participating in video or audio recording or broadcasting or photographing of the court proceedings have read Rule 45 of the Idaho Court Administrative Rules and will comply in all respects with the provisions of that rule.

Gary Salzman
Print Name

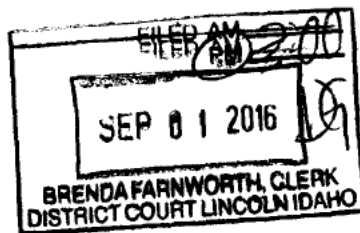
[Signature]
Signature

KTVB [REDACTED]
News Organization Represented Phone Number

9/1/16 Please fax back to 375-7770
Date

State of Idaho
vs.

John R.K. Howard
CR-2016-214



KTVB

ORDER

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video record the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

DATED this 1st day of Sept, 2016.

District/Magistrate Judge

CERTIFICATE OF MAILING/DELIVERY

I hereby certify that on September 2, 2016 a true and correct copy of the ORDER was served by placing in courthouse box, U.S. Mail or Fax to the following:

Casey Hemmer
Special Prosecuting Attorney

☐ Hand delivered
☒ Emailed
☐ Faxed to
☐ U.S. Postal Service

Brad Calbo
Attorney at Law

☐ Hand delivered
☒ Emailed
☐ Faxed to
☐ U.S. Postal Service

5th District TCA
Cheri Mattson

☐ Hand delivered
☒ Emailed
☐ Faxed
☐ U.S. Postal Service

KTVB
Gary Salzman

☐ Hand delivered
☒ Faxed to 375-7770

By: 
Deysi Garcia, Deputy Clerk

From: [REDACTED]
Sent: 06/01/2016 5:34 PM
To: Bauges, Brenda
Cc:
Subject: St v. W [REDACTED] and Howard
Attachments:

Brenda:

Since you are being reassigned, I would like to know who will be taking the case as lead prosecutor. I am very concerned about the mental health of my client and the overt attempts by some members of the community to intimidate or unreasonably interfere with A [REDACTED] and his testimony.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]
Fax: [REDACTED]
[REDACTED]

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[REDACTED]

From: [REDACTED]
Sent: 12/21/2016 10:34 AM
To: Criminal (Inclusive); [REDACTED]
Cc:
Subject: Recent inquiry
Attachments: image001.jpg

I just took a call from a gentlemen that would not give his name indicating his displeasure of the outcome of the Dietrich case. Primarily why this was not a sex case. I told him I understood his concern but I was not going to give him any information on the investigation or the reason behind the decision. I also asked for his name and number and he refused saying that he would be calling everyday.



Steve Benkula

Commander
Idaho ICAC
Office of Attorney General
Phone: [REDACTED]
Fax: [REDACTED]
[REDACTED]



From: Keith Roark
Sent: 08/31/2016 4:19 PM
To: Hemmer, Casey
Cc:
Subject: T [REDACTED] W [REDACTED]
Attachments:

Casey:

I called yesterday and left a message. I sent you an email to which no reply has been made. I want to know what happened yesterday since it appears you moved to dismiss the complaint against T [REDACTED] W [REDACTED]. Please respond.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South
Hailey, Idaho 83333
([REDACTED])
Fax: (208) 788-3918
[REDACTED]

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RR001233

From: Keith Roark
Sent: 08/30/2016 4:06 PM
To: Hemmer, Casey
Cc:
Subject: T [REDACTED] W [REDACTED]
Attachments:

Mr. Hemmer:

It would appear from the repository that you dismiss the case against T [REDACTED] W [REDACTED] today. I would like a call and explanation ASAP.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South
Hailey, Idaho 83333
[REDACTED]
Fax: (208) 788-3918
[REDACTED]

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From: Hemmer, Casey
Sent: 12/01/2016 11:21 AM
To: 'Lee Schlender'
Cc:
Subject: RE: M [REDACTED] case
Attachments:

My assistant is working on it now. Sorry about that, I thought everything went out.

Casey

-----Original Message-----

From: Lee Schlender [REDACTED]
Sent: Thursday, December 01, 2016 10:16 AM
To: Hemmer, Casey
Subject: M [REDACTED] case

Casey,

I do not think we have the audio CDs of the witness interrogations ; I was using the files last week in depositions and noticed the issue.

Could you check to determine if we have them and if not, could they be burned onto CDs for us ?

E. Lee Schlender J.D.

[REDACTED]
[REDACTED]
[REDACTED]

Sent from ipad of Mr. E.Lee Schlender

From: Deysi Sandoval
Sent: 07/07/2016 11:50 AM
To: [REDACTED] Minyard, Catherine
Cc:
Subject: Emailing - Untitled PDF - Adobe Acrobat.pdf
Attachments: Untitled PDF - Adobe Acrobat.pdf



NAACP
TRI-STATE CONFERENCE OF BRANCHES
(IDAHO-NEVADA-UTAH)
P.O. BOX 26622
SALT LAKE CITY, UT 84126-0622
TELEPHONE: (801) 250-5088 FAX: (801) 250-5111
Email: jdwnaACP@att.net



Jeanetta Williams
President

July 6, 2016

Judge John Butler
111 W. B St.
Shoshone, ID 83352

Fax: (208) 886-2458

Honorable Judge Butler,

As President of the NAACP Tri-State Conference of Idaho, Nevada and Utah, I am writing on the cases of John T. [REDACTED] and Howard W. [REDACTED] vs. the State of Idaho. There has been media attention on the town of Dietrich, Idaho and the assault of rape by penetration of a foreign object by two White young men upon an African American teen. As a Civil Rights Organization founded in 1909 and involved in many cases throughout our history, we are requesting a Change of Venue. In this small town of approximately 5,300 people which is 96.4% White, we are very concerned of the makeup and bias of the juries. Within this small town, where the victim is African American, there is an extremely low percentage of African American living in Dietrich.

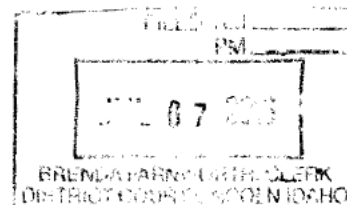
From Emmett Till, Rodney King and many others, there is a long history of juries acquitting White defendants charged with violence against African American victims. While we may not be able to root out all racial discrimination from the jury system, it is our belief that by moving the venue in this case will prove to be beneficial as it would constitute state action governed by the Constitution.

If there are immediate questions, I can be reached on my cell () [REDACTED]

Sincerely,

Jeanetta Williams
President, NAACP Tri-State Conference of Idaho, Nevada & Utah

Founded in 1909



RR001237

From: Keith Roark
Sent: 06/03/2016 3:17 PM
To: Spillman, Jason
Cc: Hemmer, Casey; Piotrowski, Sandra; Brenda Bauges; Lee Schlender ([REDACTED])
Subject: RE: St v. W [REDACTED] and Howard
Attachments:

Jason:

Thanks for getting back. A [REDACTED] is currently at Canyon View Hospital in Twin Falls and is scheduled for release Saturday. He has not been committed although we are giving some consideration to appointment of a guardian. He spoke with your investigator in the presence of Mr. Schlender last week and, as I understand it, was quite lucid. He is under enormous pressure from some of the defendants in our civil action. If you have listened to the audio recently provided by Brian Julian you are aware of some small part of that pressure. Our understanding is that one of A [REDACTED] schoolmates found him walking around Dietrich, upset with his mother, and called the two coaches who instructed him to bring A [REDACTED] to the house where several former teammates and the coaches told him that, because of the lawsuit, they were going to lose their farms, houses, life savings, etc. You will also note from the audio that A [REDACTED] never disavows that the incident took place. After they had thoroughly shamed him they turned on the recorder. I think they believe they have a confession of perjury when what they really have is hard evidence of their own intimidation. When he says "I don't know if it was a metal hanger or a plastic one" he is clearly not denying that a hanger was shoved up his rectum. I urge you to investigate the incident contained on the audio with a view toward filing a complaint for intimidation of a witness.

In any event, I will be in NYC all next week but Mr. Schlender is available. I have no reason to believe that A [REDACTED] can't testify at the Howard prelim next week. He knows he has been wronged but continues to want to be friends with the very villains who tormented him the entire school year and he doesn't want everyone in Dietrich to hate him or think he caused people to lose their homes and farms. It is simply despicable that these nasty, vindictive people are trying to shame A [REDACTED] rather than blame the sick behavior of the miscreants who so brutally attacked him.

I will be in email range at all times so feel free to contact me. Mr. Schlender's email address is listed above and his telephone number is [REDACTED].

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law

[REDACTED]
[REDACTED]
[REDACTED]
Fax: [REDACTED]
[REDACTED]

RR001238

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From: Spillman, Jason ()
Sent: Friday, June 3, 2016 2:16 PM
To: Keith Roark
Cc: Hemmer, Casey; Piotrowski, Sandra; Bauges, Brenda
Subject: FW: St v. W and Howard

Keith,

Casey and I wanted to reply to the e-mail below you sent to Brenda. Casey will be taking over the lead on these cases, but I'm going to be assisting and heavily involved so you can reach out to either of us.

It's our understanding A was recently committed, so any information you can provide re: his status would be helpful. As I am sure you are aware, the Howard prelim is set for next Friday and we need to know if you anticipate any problems with A participating as a witness at that hearing? We also have concern re: your client's mental health and early next week we plan to explore the possibility of a waiver with Howard's lawyer. Of course, we'll let you know if anything develops on that front. Since Brenda handled the prior prelim, and A is familiar with her, she will conduct the Howard prelim as well.

Please do not hesitate to let us know if you have any questions.

Thank you, Jason

Jason Slade Spillman
Lead Deputy Attorney General
Special Prosecutions Unit
P.O. Box 83720
Boise, ID 83720-0010

() -

From: Keith Roark ()
Date: June 1, 2016 at 5:34:16 PM MDT
To: "Bauges, Brenda" ()
Subject: St v. W and Howard

Brenda:

Since you are being reassigned, I would like to know who will be taking the case as lead prosecutor. I am very concerned about the mental health of my client and the overt attempts by some members of the community to intimidate or unreasonably interfere with A and his testimony.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1st Ave South

RR001239

Hailey, Idaho 83333

() -

Fax: () -

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From: Deysi Sandoval
Sent: 09/12/2016 2:00 PM
To: Minyard, Catherine; Calbo&Depew
Cc: Hemmer, Casey; [REDACTED]
Subject: Howard
Attachments:

Meeting with Judge Stoker will be Wednesday September 14th at 1:30PM by phone.
Mr. Hemmer can you please initiate and call Twin Falls at [REDACTED] at the time of the meeting. Mr. Calbo's number is [REDACTED]

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court
[REDACTED]
(208) 886-2173
(208) 886-2458 Fax

From: [REDACTED]
Sent: 03/04/2016 4:12 PM
To: Bauges, Brenda
Cc:
Subject: RE: Proposed Orders
Attachments: image001.jpg

Brenda,
Do you need any copies from the files?

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]
(208) 886-2173
(208) 886-2458 Fax

From: Bauges, Brenda [REDACTED]
Sent: Friday, March 4, 2016 2:38 PM
To: [REDACTED]
Cc: Minyard, Catherine
Subject: Proposed Orders

Deysi,

Here are the proposed orders Judge Ingram requested this morning. Please let me know if you have any questions, concerns, or would like any additional information. Thank you very much, have a good weekend.



Brenda Bauges

Deputy Attorney General
Special Prosecutions Unit
Phone: 208/[REDACTED]
Fax: 208/[REDACTED]
[REDACTED]

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From: Lee Schlender
Sent: 12/05/2016 10:46 AM
To: Hemmer, Casey
Cc:
Subject: schlender re M [REDACTED]
Attachments: image002.jpg

Casey,

Sure could use the audio CD of the interviews; we have depositions next week and need to get those transcribed soon.

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice



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RR001244



From: Hemmer, Casey
Sent: 11/02/2016 3:26 PM
To: 'Lee Schlender'
Cc:
Subject: stip changes
Attachments: 20161102151833973.pdf

Lee,

On Page 2, the first paragraph now reads "The Office of the Attorney General conducted a criminal investigation regarding allegations raised by A [REDACTED] M [REDACTED] against A.H. (a juvenile), T.W. (a juvenile) and John Howard;"

In paragraph 2, I removed "portions of deposition transcripts" and inserted "audio, photographs, and/or video."

On Page 4, I removed the "portion of deposition transcripts" wording.

Please let me know if this works for you.

Thanks,

Casey

~~In this case, an investigation was conducted by~~ THE OFFICE OF THE ATTORNEY, GENERAL OF THE STATE OF IDAHO, ^{conducted a criminal investigation regarding} ~~into~~ ^{A.H. (a juvenile)} allegations raised by A [REDACTED] M [REDACTED] ^{T.W. (a juvenile)} that ^{and John Henry} a subpoena for the files and documents generated and related to that investigation and prosecution was sent to the Office of the Attorney General of the State of Idaho by Plaintiff's attorneys and the Attorney General's office will respond thereto by furnishing said materials to the parties.

THEREFORE:

This Stipulation shall apply to all documents, regardless of form, including ~~portions of~~ ^{audio, photographs, video} ~~deposition transcripts~~, which contain information derived from an investigation and prosecution conducted by the office of the Attorney General of the State of Idaho ; that this Agreement and the terms thereof shall be an Order of the Court.

Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys and defendants may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the production of the Protected Materials.

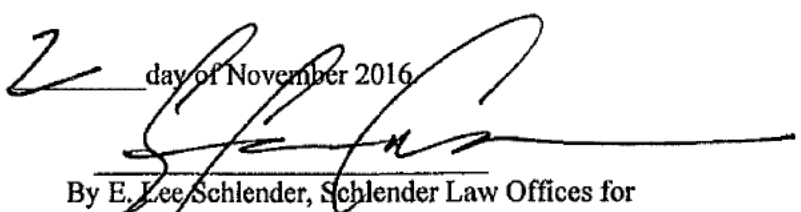
4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, ~~including portions of deposition transcripts~~, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .

6. It is therefore hereby stipulated that The Court will enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this 2 day of November 2016


By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this 2 day of November 2016.


STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

From: Lee Schlender
Sent: 11/01/2016 3:52 PM
To: Hemmer, Casey
Cc:
Subject: Re: M [REDACTED] case
Attachments: image002.jpg

Thanks Casey.

I will be here all day.

It should satisfy all concerns.

The protective agreement is identical to those we have used many times in the past. I will likely file and ask the court to adopt it and make it an order; not necessary since it binds us very specifically. However; never know who might through the ECF see something they think they can profit from. I do not expect your department to give us inter-department and privileged information; your letters, emails, etc. ; recommendations, etc. All such materials are excluded ; as per the subpoena and for confirmation, this email.

Best Regards,

lee
Lee Schlender
[REDACTED]
SCHLENDER & BROWN PLLC

Lee Schlender J.D.
Joseph F. Brown, M.D., J.D.
Offices Meridian and Mt. Home Idaho
[REDACTED]

Fax: [REDACTED]
Mr. Schlender:
Board Certified Medical Malpractice



On Nov 1, 2016, at 3:28 PM, Hemmer, Casey <[REDACTED]> wrote:

I did receive it but have been out of the office. I will look it over tomorrow and let you know.

Sent from my iPhone

On Nov 1, 2016, at 2:59 PM, Lee Schlender [REDACTED] wrote:

Casey:

Trust you received the email with the subpoena, notice of subpoena and the agreement for non-disclosure.

We have not been actually hand serving the subpoenas unless it is mandated by a party or organization.

Let me know if you need it physically handed to you, or any questions you may have.

If you send me back the signed agreement for disclosure, I will do service on everyone of that document.

I can arrange for the materials to be picked up at your office , or you can package them and send them to me

at my Mt.Home address. I appreciate your facilitating getting this accomplished.

Best Regards,

Lee

Lee Schlender

[REDACTED]
SCHLENDER & BROWN PLLC

Lee Schlender J.D.

Joseph F.Brown, M.D.J.D.

Offices Meridian and Mt.Home Idaho

[REDACTED]

Fax: [REDACTED]

Mr.Schlender:

Board Certified Medical Malpractice

<image002.jpg>



From: Hemmer, Casey
Sent: 11/02/2016 3:05 PM
To: 'Lee Schlender'
Cc:
Subject: stipulation
Attachments:

Can you give me a quick call?

Casey

From: Lee Schlender

Sent: 11/02/2016 2:20 PM

To: Bret A. Walther; Hemmer, Casey

Cc: Brian Julian; Keith Roark; DAVONNA WOLFF

Subject: Re: Subpoena to AG AND STIPULATION AND ORDER

Attachments: 2016_11_02_Stipulation re protective agreemet.pdf; ATT00001.htm; ATT00002.htm; ATT00003.htm; image002.jpg; PROPOSED M [REDACTED] Protective Order.Stipulation copy 2.pdf

Counsel:

Mr. Hemmer assistant Attorney General has requested that

all parties sign the agreement and submit it to the court for an order

to be entered.

We of course have no objection and will do so.

Attached is my signed copy of the stipulation as well as a proposed order.

If Mr. Hemmer could sign the same; scan and forward to Mr. Walther for signature

and then return it to me, I will file it both as a stipulation and as an attachment

to the proposed Order. By that method, all signatures will appear on the same document.

Any questions; call me.

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

Board Certified Medical Malpractice

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]
[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED]
Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON, WAYNE DILL, STAR
OLSEN, KRIS HUBERT, PERRY VAN TASSELL,
BRET PETERSON, MICHAEL TORGERSON,
RICK ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendants.

Case No. 1:16-cv-00202-BLW

STIPULATION FOR PROTECTIVE

AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF AND DEFENDANTS RE:
PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

COME NOW Office of the Attorney General of the State of Idaho, the Plaintiff and Defendants, by and through their undersigned counsel pursuant to FRE 502 and FRCP 26(b)(5)(B) AND FRCP 45, and hereby stipulate and as follows:

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

In this case, an investigation was conducted by THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO into allegations raised by A [REDACTED] M [REDACTED] ; that a subpoena for the files and documents generated and related to that investigation and prosecution was sent to the Office of the Attorney General of the State of Idaho by Plaintiff's attorneys and the Attorney General's office will respond thereto by furnishing said materials to the parties.

THEREFORE:

This Stipulation shall apply to all documents, regardless of form, including portions of deposition transcripts, which contain information derived from an investigation and prosecution conducted by the office of the Attorney General of the State of Idaho ; that this Agreement and the terms thereof shall be an Order of the Court.

Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys and defendants may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

Each individual who receives any Protected Materials hereby agrees to subject himself/herself to the jurisdiction of this Court for any purposes of any proceedings related to the enforcement of this Protective Order.

A. Handling Protected Materials.

If any party files with the Court any pleading, interrogatory, answer, affidavit, motion, brief, or other paper containing, appending, summarizing, excerpting or otherwise embodying confidential material, the pleading or other paper in which the confidential material is embodied shall be filed and maintained under seal and shall not be available for public inspection. The party making the filing shall comply with D. Idaho. L. Civ. R. 5.3, and R. 5.5.

B. Miscellaneous.

1. This Order shall not prevent either party from applying to the Court for relief from this Order or any part thereof or for relief from its application in any particular circumstance, or from applying to the Court for further or additional protective agreements or orders. This Order shall survive the final determination of this or related proceedings to the extent that the protected materials have not or do not become known to the public.

2. The parties may rely on a waiver of the provisions of this Order or consent to disclosure of protected materials that is made by the producing party's attorney as if that waiver or consent was made by the producing party itself, provided that such waiver or consent is express and shall be either in writing or on the record in a hearing, trial, or deposition transcript.

3. In the event a party receives a subpoena or other legal or governmental demand for protection of any Protected Material, the subpoenaed party shall notify the requesting part of

the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the production of the Protected Materials.

4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of deposition transcripts, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .

6. It is therefore hereby stipulated that The Court will enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this 2 day of November 2016


By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this ____ day of November 2016.

By Casey Hemmer
Office of the Attorney General
Criminal Division
700 W. Jefferson Street
P.O. Box 83 Boise, ID 83720-001

Dated this ____ day of November 2016

By _____ for

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Attorneys for the Defendants

CERTIFICATE OF SERVICE

I certify that on ____ day of _____ 2016 I caused a true and correct copy of
this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: () -
SERVED BY: email. dwolff@ajhlaw.com

Office of the Attorney General
Criminal Division

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

Paul Panther, Division Chief
Casey Hemmer, Deputy A.G.
700 W. Jefferson Street P.O. Box 83720
Boise, ID 83720-0010

By Fax and email. casey. [REDACTED]

Phone ([REDACTED]) [REDACTED]-[REDACTED]

Fax ([REDACTED]) [REDACTED]-[REDACTED]

E. Lee Schlender,
Attorney for Plaintiff

PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: M5093A6CDC9E6343ATT002 - ATT00001.htm

PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: M5093A6CDC9E6343ATT003 - ATT00002.htm

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION; DO NOT FORWARD THIS E-MAIL WITHOUT PERMISSION. The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately. If you have received this communication in error, please notify us immediately by sender's telephone number or e-mail address listed above or by replying to this e-mail and deleting all copies of this message. Thank You !

On Nov 2, 2016, at 2:15 PM, Bret A. Walther [REDACTED] wrote:

Mr. Schlender:

Thank you for your response. We have no medical records regarding A [REDACTED] other than school related assessments that have been sent to you. We have not heard anything in response to our requests to his physicians. And yes, the records will be part of Dr. Beaver's assessment and examination, but he can review them in conjunction with his own evaluation and assessment (he does not need them before).

We will schedule A [REDACTED] depo for the 17th, and if he is not available we can reschedule if necessary. Thanks.

Sincerely,

Bret A. Walther

ANDERSON JULIAN & HULL LLP

250 S 5th St, Ste 700

Boise, Idaho 83702

PH: [REDACTED]

FA: [REDACTED]

CONFIDENTIALITY NOTICE - This email transmission (and/or the documents/attachments accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone.

From: Lee Schlender [REDACTED]

Sent: Wednesday, November 02, 2016 12:14 PM

To: Bret A. Walther

Cc: Brian Julian; Davonna L. Wolff; [REDACTED]

Subject: Re: Subpoena to AG, and Rule 35 Exam.

Mr. Walther,

RR001262

We will provide you copies of what we obtain. We will expect that you will pay the costs of duplication. Thank you for advising of your position.

I have not yet received the records from Canyon View hospital and therefore cannot determine if his doctors can affirm that A [REDACTED] is competent and well enough to have his deposition taken in November.

I called Canyon View hospital records department yesterday ; the clerk stated neither your nor my request for records has been filled and they are "in the pipeline ". I requested expediency ; if you do have any of them them please provide a copy to me . The merger of the hospital with St.Lukes has created major administrative headaches.

A [REDACTED] has been transferred to another facility called Northern Light in the past two or more weeks; my information is that they are located in Twin Falls. I am sending a request to them today for records. I will ask his physicians for a written statement as to his mental and physical condition ; however I assume they will reference his recent medical history and treatment. Neither I nor Mr. Roark have been able to talk with him since his hospitalization in September. We as well as you, need the historical medical records in any event.

I certainly have no objection to discussing this with Mr. Metcalf.

My sense is that A [REDACTED] will get better with time and hopefully will be released to return home . Assessment of his condition will then be much better ; if you can wait another month the likelihood of him being stable should improve. In the meantime if you receive his records please copy me asap ; I will do the same.

Please call as per local rule prior to requesting a conference with Mr. Metcalf.

E.Lee Schlender J.D.
[REDACTED]

Sent from ipad of Mr. Schlender

On Nov 2, 2016, at 11:28 AM, Bret A. Walther <[REDACTED]> wrote:

Mr. Schleder:

We will not be objecting to the referenced subpoena for AG's records; however, we do expect to receive copies of any and all documents produced by the AG in the form produced.

Also, we have repeatedly asked for days A [REDACTED] is available in November for a Rule 35 examination by Dr. Craig Beaver, but have not received any response. Please advise as to A [REDACTED] availability for the examination, and how much notice he will require for the exam. We will then contact Dr. Beaver and provide a couple of dates for A [REDACTED] If you are objecting and will not make him available, please so advise and we will schedule phone conference with Mr. Metcalf.

Please advise at your earliest opportunity. Thank you.

Sincerely,

Bret A. Walther

ANDERSON JULIAN & HULL LLP

250 S 5th St, Ste 700

Boise, Idaho 83702

PH: [REDACTED]

FA: [REDACTED]

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From: Lee Schlender [REDACTED]
Sent: Tuesday, November 01, 2016 12:49 PM
To: Casey Hemmer; Bret A. Walther; Davonna L. Wolff
Cc: Keith Roark
Subject: PLEADINGS RE: OFFICE OF THE ATTORNEY GENERAL

Mr. Hemmer and Counsel:

Please see attached documents.

They are: Subpeona, Notice of Subpeona and Stipulation for non-disclosure.

I prepared these documents in accordance with the directives of Mr. Roark .

Mr. Hemmer, if the stipulation meets with your approval please sign the same and return it to me. I will serve the signed document upon all counsel.

No further service of the Subpeona or Notice thereof will be made unless demanded by your offices. We will of course remit to your office the costs and expenses of compliance.

We will not submit the Stipulation to the Court for an Order at this time unless requested by you and/or defense counsel ; that can be done in the future if required. However I certainly

will have no objection to you or defense counsel preparing a form of Order and submitting the signed

stipulation with the same, to the Court at any time.

If there are any questions, please advise.

Lee

Lee Schlender J.D.

RR001264

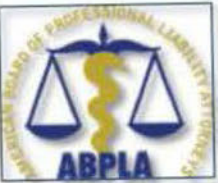
[REDACTED]
Idaho Bar #1171
[REDACTED]
[REDACTED]
Fax: [REDACTED]
[REDACTED]

Board Certified Medical Malpractice

<image001.jpg>

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION; DO NOT FORWARD THIS E-MAIL WITHOUT PERMISSION.

The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately. If you have received this communication in error, please notify us immediately by sender's telephone number or e-mail address listed above or by replying to this e-mail and deleting all copies of this message. Thank You !



UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED]

M [REDACTED]

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN
HARDCASTLE, BENJAMIN HOSKISSON,
WAYNE DILL, STAR OLSEN, KRIS
HUBERT, PERRY VAN TASSELL, BRET
PETERSON, MICHAEL TORGERSON, RICK
ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendant.

Case No. 1:16-cv-00202-BLW

ORDER RE:

STIPULATION FOR PROTECTIVE
AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF and DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

The Court hereby enters as a protective Order the Protective Agreement attached hereto as Exhibit A.

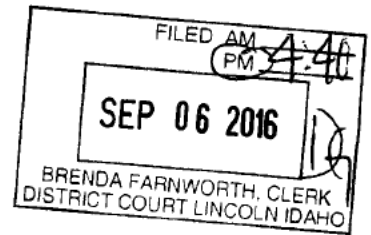
Dated this _____ day of November 2016.

B.Lynn Winmill
Chief Judge

ORDER RE : STIPULATION FOR PROTECTION RE:
PRODUCTION OF DOCUMENTS AND MATERIALS

From: Deysi Sandoval
Sent: 09/06/2016 4:43 PM
To: Calbo&Depew; Minyard, Catherine
Cc: Hemmer, Casey
Subject: John Howard
Attachments:Untitled.PDF

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
2632 Twin Flower Dr.
Keller, TX 83352-0800

Defendant.
DOB: 9/25/1997

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Mr. Calbo to initiate call. Blaine County # () .
Hearing to be held in Blaine County.

Telephonic Scheduling Conference Monday, September 12, 2016 11:00 AM
Judge: Robert Elgee

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 Tuesday, September 6, 2016.

Defendant: John R.K. Howard

Mailed_____ Hand Delivered_____ E-Mail_____

Private Counsel:

Mailed_____ Hand Delivered_____ E-Mail_x__

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Casey J Hemmer

Mailed_____ Hand Delivered_____ E-Mail_x__

cc: Crystal Rigby

Dated: Tuesday, September 6, 2016

Brenda Farnworth
Clerk Of The District Court

By:

Deysi Galarza, Deputy Clerk
DOC22 7/96

From: Hemmer, Casey
Sent: 11/02/2016 2:34 PM
To: 'Lee Schlender'
Cc:
Subject: RE: Subpoena to AG AND STIPULATION AND ORDER
Attachments: image001.jpg

Yes sir. Thank you.

From: Lee Schlender [REDACTED]
Sent: Wednesday, November 02, 2016 2:35 PM
To: Hemmer, Casey
Subject: Re: Subpoena to AG AND STIPULATION AND ORDER

Did you get it this time ?

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]
[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice



ATTORNEY-CLIENT PRIVILEGED COMMUNICATION; DO NOT FORWARD THIS E-MAIL WITHOUT PERMISSION. The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately. If you have received this communication in error, please notify us immediately by sender's telephone number or e-mail address listed above or by replying to this e-mail and deleting all copies of this message. Thank You !

On Nov 2, 2016, at 2:24 PM, Hemmer, Casey <casey.hemmer@ag.idaho.gov> wrote:

Pages 2-5 came through blank.

Casey

RR001274

From: Lee [REDACTED]
Sent: Wednesday, November 02, 2016 2:21 PM
To: Bret A. Walther; Hemmer, Casey
Cc: Brian Julian; Keith Roark; DAVONNA WOLFF
Subject: Re: Subpoena to AG AND STIPULATION AND ORDER

Counsel:

Mr. Hemmer assistant Attorney General has requested that
all parties sign the agreement and submit it to the court for an order
to be entered.

We of course have no objection and will do so.

Attached is my signed copy of the stipulation as well as a proposed order.

If Mr. Hemmer could sign the same; scan and forward to Mr. Walther for signature
and then return it to me, I will file it both as a stipulation and as an attachment
to the proposed Order. By that method, all signatures will appear on the same document.

Any questions; call me.

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice



From: Lee Schlender
Sent: 11/02/2016 2:27 PM
To: Hemmer, Casey; Bret A. Walther
Cc:
Subject: STIPULATION SENDING AGAIN; PAGES BLANK ?
Attachments: 2016_11_02_Stipulation re protective agreemet.pdf; ATT00001.htm; ATT00002.htm; image002.jpg

SEE ATTACHED.

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]
[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED]

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON, WAYNE DILL, STAR
OLSEN, KRIS HUBERT, PERRY VAN TASSELL,
BRET PETERSON, MICHAEL TORGERSON,
RICK ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendants.

Case No. 1:16-cv-00202-BLW

STIPULATION FOR PROTECTIVE

AGREEMENT-

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PLAINTIFF AND DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

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DOCUMENTS AND MATERIALS

In this case, an investigation was conducted by THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO into allegations raised by A [REDACTED] M [REDACTED] ; that a subpoena for the files and documents generated and related to that investigation and prosecution was sent to the Office of the Attorney General of the State of Idaho by Plaintiff's attorneys and the Attorney General's office will respond thereto by furnishing said materials to the parties.

THEREFORE:

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Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys and defendants may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

Each individual who receives any Protected Materials hereby agrees to subject himself/herself to the jurisdiction of this Court for any purposes of any proceedings related to the enforcement of this Protective Order.

A. Handling Protected Materials.

If any party files with the Court any pleading, interrogatory, answer, affidavit, motion, brief, or other paper containing, appending, summarizing, excerpting or otherwise embodying confidential material, the pleading or other paper in which the confidential material is embodied shall be filed and maintained under seal and shall not be available for public inspection. The party making the filing shall comply with D. Idaho. L. Civ. R. 5.3, and R. 5.5.

B. Miscellaneous.

1. This Order shall not prevent either party from applying to the Court for relief from this Order or any part thereof or for relief from its application in any particular circumstance, or from applying to the Court for further or additional protective agreements or orders. This Order shall survive the final determination of this or related proceedings to the extent that the protected materials have not or do not become known to the public.

2. The parties may rely on a waiver of the provisions of this Order or consent to disclosure of protected materials that is made by the producing party's attorney as if that waiver or consent was made by the producing party itself, provided that such waiver or consent is express and shall be either in writing or on the record in a hearing, trial, or deposition transcript.

3. In the event a party receives a subpoena or other legal or governmental demand for protection of any Protected Material, the subpoenaed party shall notify the requesting part of

the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the production of the Protected Materials.

4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of deposition transcripts, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .

6. It is therefore hereby stipulated that The Court will enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this 2 day of November 2016


By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this ____ day of November 2016.

By Casey Hemmer
Office of the Attorney General
Criminal Division
700 W. Jefferson Street
P.O. Box 83 Boise, ID 83720-001

Dated this ____ day of November 2016

By _____ for

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Attorneys for the Defendants

CERTIFICATE OF SERVICE

I certify that on ____ day of _____ 2016 I caused a true and correct copy of
this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: () -
SERVED BY: email. dwolff@ajhlaw.com

Office of the Attorney General
Criminal Division

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

Paul Panther, Division Chief
Casey Hemmer, Deputy A.G.
700 W. Jefferson Street P.O. Box 83720
Boise, ID 83720-0010
By Fax and email. casey. [REDACTED]
Phone ([REDACTED]) [REDACTED]
Fax ([REDACTED]) [REDACTED]

E. Lee Schlender,
Attorney for Plaintiff

Lee Schlender J.D.

[REDACTED]

Idaho Bar #1171

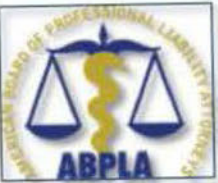
schlenderlaw.net

[REDACTED]

Fax: [REDACTED]

Board Certified Medical Malpractice

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION; DO NOT FORWARD THIS E-MAIL WITHOUT PERMISSION. The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately. If you have received this communication in error, please notify us immediately by sender's telephone number or e-mail address listed above or by replying to this e-mail and deleting all copies of this message. Thank You !



From: [REDACTED]
Sent: 04/12/2016 11:47 AM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 4/12/16 11:47 AM for 3089
Attachments: 041216-[REDACTED]-[REDACTED]-1160412.96169727@audix-1.mp3



Voice Message from Outside Caller on 4/12/16 11:47 AM (14 second msg)

MESSAGE:

"Hi Brenda I'm sorry I had to turn my phone off it was acting goofy. This is Shelly M [REDACTED] [REDACTED]. I have my phone on me now I apologize. I'll try and call you back in a little bit. Talk to you later bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M5760A6011161721ATT001 - 041216-██████-██████-1160412.96169727@audix-1.mp3

From: Hemmer, Casey
Sent: 11/02/2016 2:24 PM
To: 'Lee Schlender'
Cc:
Subject: RE: Subpoena to AG AND STIPULATION AND ORDER
Attachments:

Pages 2-5 came through blank.

Casey

From: Lee Schlender [REDACTED]
Sent: Wednesday, November 02, 2016 2:21 PM
To: Bret A. Walther; Hemmer, Casey
Cc: Brian Julian; Keith Roark; DAVONNA WOLFF
Subject: Re: Subpoena to AG AND STIPULATION AND ORDER

Counsel:

Mr. Hemmer assistant Attorney General has requested that
all parties sign the agreement and submit it to the court for an order
to be entered.

We of course have no objection and will do so.

Attached is my signed copy of the stipulation as well as a proposed order.

If Mr. Hemmer could sign the same; scan and forward to Mr. Walther for signature
and then return it to me, I will file it both as a stipulation and as an attachment
to the proposed Order. By that method, all signatures will appear on the same document.

Any questions; call me.

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice

From: [REDACTED]

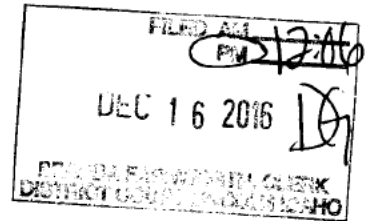
Sent: 12/16/2016 12:07PM

To: [REDACTED]; catherine.minyard@ag.idaho.gov; [REDACTED]

Cc:

Subject: John RK Howard

Attachments: 12162016120741.pdf



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-1144
)	
vs.	)	Order of Assignment by
	)	Administrative District Judge
JOHN R. K. HOWARD,)	
)	
Defendant.)	

The above-entitled is assigned to the Honorable Randy J. Stoker, District Judge, for
all further proceedings.

Dated: December 16, 2016

G. RICHARD BEVAN
Administrative District Judge
Fifth Judicial District

C:

From: OAG_Voicemail@ag.idaho.gov
Sent: 03/30/2016 10:18 AM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 3/30/16 10:18 AM for 3089
Attachments: 033016-101803-3089-1160330.95885823@audix-1.mp3



Voice Message from Outside Caller on 3/30/16 10:18 AM (35 second msg)

MESSAGE:

"Yes Ms. Vargas this is Mike Wood calling you from Twin Falls Idaho. Regarding the Lincoln County case CR 16 dash 2:13. State versus T [REDACTED] W [REDACTED] I would still like to set up a phone conference with Judge Ingram. And would ask that you give me a call back at your earliest convenience so I can find out your availability to carry out that telephone meeting. Thank you."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M7010A5F43106723ATT001 - 033016-101803-3089-1160330.95885823@audix-1.mp3

From: Hemmer, Casey
Sent: 10/25/2016 11:03 AM
To: [REDACTED]
Cc:
Subject: Howard status
Attachments:

Both Mr. Calbo and I will be present in court today to meet with Judge Stoker.

Casey

Sent from my iPhone

From: OAG_Voicemail@ag.idaho.gov

Sent: 05/04/2016 12:44PM

To: Bauges, Brenda

Cc:

Subject: Voice Message from Outside Caller on 5/4/16 12:44 PM for 3089

Attachments: 050416-124453-3089-1160504.96647935@audix-1.mp3



Voice Message from Outside Caller on 5/4/16 12:44 PM (19 second msg)

MESSAGE:

"Hi Brenda this is Tim teacher call(?). My number is [REDACTED]-[REDACTED]. Heather. Couple of questions for you. Take right on answer if you could give me a call back and again it's Tim [REDACTED] at [REDACTED]-[REDACTED]. Thank you very much."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: M7783A61812F9937ATT001 - 050416-124453-3089-1160504.96647935@audix-1.mp3

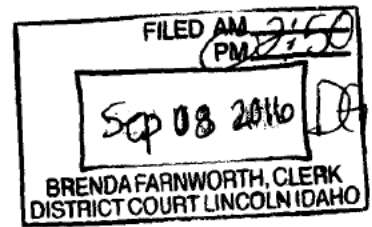
From: Deysi Sandoval
Sent: 09/12/2016 2:00 PM
To: Minyard, Catherine; Calbo&Depew
Cc: Hemmer, Casey; [REDACTED]
Subject: Howard
Attachments:

Meeting with Judge Stoker will be Wednesday September 14th at 1:30PM by phone.
Mr. Hemmer can you please initiate and call Twin Falls at [REDACTED] at the time of the meeting. Mr. Calbo's number is [REDACTED]

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court
[REDACTED]
(208) 886-2173
(208) 886-2458 Fax

From: Deysi Sandoval
Sent: 09/08/2016 3:53 PM
To: Calbo&Depew; Minyard, Catherine
Cc: Hemmer, Casey
Subject: John Howard
Attachments:Untitled.PDF

The scheduling conference currently set for the 12 has been vacated.
Judge Stoker will issue a scheduling order setting the pretrial and jury trial.
How many days are you anticipating for the trial?



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

John R.K. Howard,

Defendant.

Case No. CR-2016-214

Order of Assignment by
Administrative District Judge

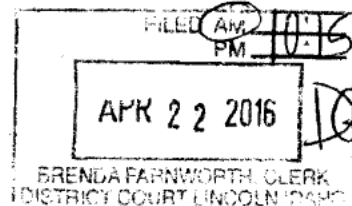
The above-entitled is assigned to the Honorable Randy J. Stoker, District Judge, for
all further proceedings.

Dated: September 8, 2016

G. RICHARD BEVAN
Administrative District Judge
Fifth Judicial District

C:

From: [REDACTED]
Sent: 04/22/2016 10:27 AM
To: Bauges, Brenda
Cc:
Subject: John Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf



ORDER

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to video/audio record the above hearing is:

☒ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

One camera, set location

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to broadcast the above hearing is:

☐ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to photograph the above hearing is:

☐ GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

☐ DENIED.

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any pool photographer or video and broadcast camera operator shall be shared with other media organizations as required by Rule 45 of the Idaho Court Administrative Rules.

DATED this 22 day of April, 2016 Mark Dwyer
Justice/Judge

CERTIFICATE OF MAILING

I hereby certify that on the 22 day of April, 2016, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Brenda Bauges

- ☐ U.S. Mail
☐ Hand delivered
☐ Faxed
☐ Court Folder

Email

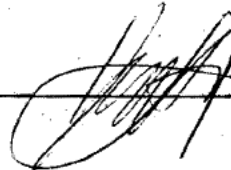
Brad Calbo

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Alex Biggins

- ☐ U.S. Mail
☐ Hand delivered
☒ Faxed
☐ Court Folder

Shelli Tubs
Trial Court administrator
Clerk



From: Minyard, Catherine
Sent: 05/02/2016 3:11 PM
To: Deysi Sandoval ([REDACTED])
Cc:
Subject: State v. W[REDACTED] - Motion & Proposed Order for Change of Venue
Attachments: Motion for Change of Venue (pdf).PDF; Order Allowing Change of Venue (pdf).pdf

State v. W[REDACTED] Lincoln County Case No. CR-2016-213

Deysi –

Attached, please find a Motion for Change of Venue and a Proposed Order Allowing Change of Venue. Please file the motion and forward the order to the judge for his review. If you have any questions, please call me at (208) 332-3096.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office - Criminal Division
700 W. State Street - 4th Floor
Boise, ID 83702

[REDACTED]

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
vs.)	
	)	MOTION FOR CHANGE
T [REDACTED] R [REDACTED] W [REDACTED],	)	OF VENUE
)	
Defendant.)	
)	
)	
)	

COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, for the County of Lincoln, State of Idaho, and hereby moves this Honorable Court pursuant to Idaho Criminal Rule 21 to transfer the above-referenced case to another county in the Fifth Judicial District, or a closely situated judicial district, as the court deems appropriate. This motion is made on the State's concern that a fair and impartial trial cannot be had in Lincoln County. The basis for this motion is discussed in further detail below.

DISCUSSION

Idaho Criminal Rule 21(a) allows a court to transfer a proceeding “if the court is satisfied that a fair and impartial trial cannot be had in the county where the case is pending.” This case has garnered significant interest and opinions amongst the community, with news coverage on the subject matter since October of 2015, which has continued through the most recent hearing in this case. Please see the following electronic sources as examples of local media outlets’ coverage of this case:

http://magicvalley.com/news/local/crime-and-courts/dietrich-high-students-expelled-amid-rape-allegations/article_cba484f5-22fc-5795-97a6-ba078e3441dd.html

http://magicvalley.com/news/opinion/editorial/our-view-dietrich-parents-deserve-answers/article_3a229871-fe57-56c2-86d4-cbeeb40e8d74.html

http://magicvalley.com/news/local/crime-and-courts/dietrich-school-leaders-notify-parents-of-rape-allegations/article_59d138b9-4931-5488-8fc8-163aea634671.html

http://magicvalley.com/news/local/crime-and-courts/teens-charged-in-dietrich-high-school-sex-assault/article_bca2d948-db6c-576b-ac2e-99e1bc1d4cd3.html

http://magicvalley.com/news/local/crime-and-courts/update-dietrich-teen-arraigned-in-locker-room-sex-assault-case/article_7549bf63-2788-53d1-bffc-483479a2935e.html

http://magicvalley.com/news/local/crime-and-courts/year-old-accused-in-dietrich-high-school-sexual-assault-arrested/article_72f177fe-e936-5b86-acde-05338f5950b6.html

http://magicvalley.com/news/local/crime-and-courts/dietrich-teen-testifies-teammates-conspired-to-attack-him/article_93919f28-17c7-5f75-817a-89ad4d175b34.html

<http://www.kmvt.com/content/news/Dietrich-teens-appear-in-court-for-alleged-sexual-assault-on-student.html>

<http://newsradio1310.com/dietrich-teen-testifies-in-locker-room-sexual-assault-case/>

The comments to some of these news articles are quite telling and indicate that once viewed, the information disseminated has resulted in strong opinions on the subject of this case. This matter was also intensely discussed in electronic posts to the “Craigslis” website around the time of the

initial disclosure of the conduct at issue, please see attached documentation. This case has evoked great emotion in this community, from those desiring prosecution and those condemning prosecution, such that the State has concerns that a fair trial cannot be accomplished in Lincoln County.

CONCLUSION

Based on the foregoing, the State respectfully requests this Court to order a change of venue.

DATED this 2nd day of May, 2016.



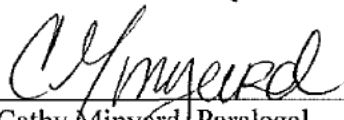
Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May, 2016, I cause to be served a true and correct copy of the foregoing Motion for Change of Venue was served to:

Michael J. Wood
Attorney at Law
184 Gooding Street West
Twin Falls, ID 83301
FAX: (208) 736-0141

☐ U.S. Mail Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile



Cathy Minyard, Paralegal

Journal of Interpersonal Violence 28(10)

{ output } 5081

reply | [jacob@f11](#) | Posted about 23 hours ago | 1 reply | 1 vote

442

Can you possibly fabricate more BS? (Dietrich and Lindero Co.)

[illegible]

• **NOT** consistent with language of services or other

postid 3513821097 power size of language 0.001291294 10226

CL: *confessio* = *personale* = *carità* & *carpe*

[account] 5284

reply · 11/26/2017 · Posted 3 days ago · 2 replies · 1 reply

154

Small town cover ups

Danish is still. There's always got to be stones in our lives. Who remembers the young boy left for dead on the highway in Shoshone years ago. The guy that did it is walking free today. Only was a former cop and he just goes on with his life. Disgraceful.

* The ICDI signed contract with insurance for all 600 of officers

Year of observation	Number of cases	Number of deaths	Case-fatality ratio
1997	10	0	0%
1998	10	0	0%
1999	10	0	0%
2000	10	0	0%
2001	10	0	0%
2002	10	0	0%
2003	10	0	0%
2004	10	0	0%
2005	10	0	0%
2006	10	0	0%
2007	10	0	0%
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2012	10	0	0%
2013	10	0	0%
2014	10	0	0%
2015	10	0	0%
2016	10	0	0%
2017	10	0	0%
2018	10	0	0%
2019	10	0	0%
2020	10	0	0%
2021	10	0	0%
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2023	10	0	0%
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2094	10	0	0%
2095	10	0	0%
2096	10	0	0%
2097	10	0	0%
2098	10	0	0%
2099	10	0	0%
2100	10		

CL non-falsifiable personal & racial biases

(Account) 1000

reply | [@GrahamClegg](#) | Posted 3 days ago | 5071 | 4 | 500+

491

This whole Dietrich thread

Guns don't kill people. An individual has to pick up a gun and kill someone.

"Mormons" didn't rape someone in Denmark. Individuals, regardless of what church they attend, committed this act and regardless of Catholic, Mormon or whatever they are, if an investigation finds the crime was committed they will be and should be punished. Lives will be ruined and lives have been ruined. Rape is a cowardly, deplorable act and when perpetrated upon a child should be punishable by death. That is how a man, who is so cowardly and low should leave this world.

Enough with using this poor girl's horrible experience as your personal opportunity to religion-bash. You are riding on her coat-tails what she is the victim, not you.

I could give a flying fuck what clench you go to. If you rape a young girl prepare to pay the consequences and prepare to reckon with your maker later on, or hopefully sooner. And shame on you who are using her tragic demise as an opportunity to vent your anti-religious beliefs.

* 34 WJ completed the study, 1990-1991 (100%) and 1991-1992 (94%).

post-id: 1230664712 posted: 3 days ago threads: 1001 post-id=

CL from logs > percentiles > early & later

{ 0656-4748 } 1993

1844y	1844y	Posted 4 days ago	100%	▲	2899
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Figure 1

Summing up Dietrich Mormons (Dietrich)

¹⁰And thus I clothe my naked villainy, With odd old ends stoln out of holy writ, And stealer's sterner, when most I play the devil."

* *Journal of Management* has been awarded the 2007 Emerald Group Publishing Limited award for the best journal in the field of management.

user:1	57042767578	post:1	4 days ago	recently tagged	last post
--------	-------------	--------	------------	-----------------	-----------

is & raves

reply

prohibited

Posted: about 21 hours ago

index

▲

reply

edit

Can you possibly fabricate more BS? (Dietrich and Lincoln Co.)

What are you folks doing throwing whatever comes to mind to see if it sticks? Shame on you Superintendent and Principal, it is easy to let everyone assume that only two kids were involved in the "alleged" incident. The truth, two kids were expelled one was out of district and one out of state, deny that you fact ducking asswipes. Deny that the other two boy's are in attendance again? But that is to be expected considering the entitled parents and nepotism. But, my favorite is Sheriff Ellis claiming his deputies are in the school. Hence, can't comment or look into the case. Really, when maybe the deputies are on the sidelines during a game at the best. It is hard to keep an eye on the schools when you can't get out of the courthouse.

- do NOT contact me with unsolicited services or offers

post id: 5313301007

posted: about 21 hours ago

email to friend

hosted at

is & raves

reply

prohibited

Posted: 3 days ago

index

▲

reply

edit

Small town cover ups

Dietrich is small. There's always cover ups to crimes in small towns. Who remembers the young boy left for dead on the highway in Shoshone years ago. The guy that did it is walking free today. Daddy was a former cop and he just goes on with his life. Discussing.

- do NOT contact me with unsolicited services or offers

post id: 5309093002

posted: 3 days ago

email to friend

hosted at

is & raves

reply

prohibited

Posted: 3 days ago

index

▲

reply

edit

This whole Dietrich thread

Guns don't kill people. An individual has to pick up a gun and kill someone.

"Mormons" didn't save anyone in Dietrich. Individuals regardless of what church they attend, committed this act and regardless of Catholic, Mormon

RR001309

aves

reply

unpublished

Posted: 3 days ago

1.000X ▲ 00000

0000

★ This whole Dietrich thread

Guns don't kill people. An individual has to pick up a gun and kill someone.

"Mormons" didn't rape someone in Dietrich. Individuals, regardless of what church they attend, committed this act and regardless of Catholic, Mormon or whatever they are, if an investigation finds the crime was committed they will be and should be punished. Lives will be ruined and lives have been ruined. Rape is a cowardly despicable act and when perpetrated upon a child should be punishable by death. That is how a man who is so cowardly and low should leave this world.

Enough with using this poor girls horrible experience as your personal opportunity to religion-bash. You are riding on her coat-tails when she is the victim, not you.

I could give a flying fuck what church you go to. If you rape a young girl prepare to pay the consequences and prepare to recon with your maker later on or hopefully sooner. And shame on you who are using her tragic demise as an opportunity to vent your anti-religious beliefs.

- do NOT contact me with unsolicited services or offers

post id: 5309863717

posted: 3 days ago

small to normal

1.000X ▲ 00000

aves

reply

unpublished

Posted: 4 days ago

1.000X ▲ 00000

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Summing up Dietrich Mormons (Dietrich)

"And thus I clothe my naked villainy. With odd old ends stol'n out of holy writ, And seem a saint, when most I play the devil."

- do NOT contact me with unsolicited services or offers

post id: 5308743301

posted: 4 days ago

small to normal

1.000X ▲ 00000

23. $1000 \cdot 1.025 = 1025$ persons $\times 1.015 = 1041.5$ persons

[COLOR] END

[illegible]

Re: Dietrich cover-up (Dietrich)

I can't agree with you here! The TDs don't tie up all the matters on relations of this situation. How do these "privileged" kids fit away with such advantages as I sincerely hope that justice will be served to the perpetrators. This kind of crap should be sent to hell on a batch of coals with the sins of the last. This is NOT a clear representation of the teachings of Jesus Christ. How can I help those that have perverted and named joy from the foundation of the gospel. I pray for your site.

[illegible]

2020-05-22 08:00:00 0.000000 0.000000 0.000000 0.000000

© 2006 The Authors
Journal compilation © 2006 Blackwell Publishing Ltd

[uncollected] 1900

[illegible]

Dietrich "cover-up" (Shoshone)

You wanna know what's going on in Detroit? Ask the *shysters*. They will tell you what happened. It's too big for the ability, as it is now, can't cover up to the "sins" of their children. The notion of "kids will be kids" isn't going to fly this time. Criminal charges should be filed and they'd consequences should follow. Shame on you, you SCUM for trying to hide this despicable act.

x. drs NCT contact this with article and this copy of letters

* da N(1) si capisce che α è un'aggiunta di α e β è un'aggiunta di β .

$$g(\mathbf{t}) = \frac{1}{2} \mathbf{t}^T \mathbf{G} \mathbf{t} + \mathbf{t}^T \mathbf{g}_0 + g_0, \quad \mathbf{G} = \frac{1}{2} \mathbf{g}_1 \mathbf{g}_1^T + \frac{1}{2} \mathbf{g}_2 \mathbf{g}_2^T, \quad \mathbf{g}_0 = \frac{1}{2} \mathbf{g}_1^2 + \frac{1}{2} \mathbf{g}_2^2$$

- CL: two lat → posterior → early & rapid

{ 0506498 } 4834

[reply](#) provided 7 weeks 17 days ago [help](#) [report](#) [flag](#)

Blatant the cover up is worse than the crime, (disgusting public school)

You self-important, entitled, injured hillbillies. You hand-picked your school administration, the relief society, ladies rule the school board and you just know, if you cover up, the young mother, she will be overlooked with the

* Detailed conformity with associated services is shown

order: 816730300 posted: 5/2/2014 ago critical: no threat name of:

—(C) $\frac{1}{2}$ is false; possibly ≥ 100 is false

DECEMBER 1987

[illegible]

Dietrich (Traffer trash)

Something smells fishy, but that could just be from the trash in the back yard of the guy who put trusses on top of two trailers houses locked together with duct tape. I'm sure if the alleged crime was carried out by non LDS members it would be well known who was involved. Welcome to white trallville!

* 02/2017 gegründet mit dem Zweck, die Studierenden zu unterstützen

poster	Submission	Accepted	Accepted	Accepted
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2 / 26788

reply

prohibited

Posted: 4 days ago

1 day

print

Re: Dietrich cover-up (Dietrich)

I can't agree with you more! I'm LDS and am appalled at the narrow-mindedness of this situation. How dare these "privileged" kids get away with such a heinous act! I sincerely hope that justice will be served to the perpetrators! This kind of crap sheds a terrible light on our beliefs of sustaining the laws of the land. This is NOT a clear representation of the teachings of Jesus Christ. Heaven help those that have perverted and turned away from the foundation of the gospel. I pray for your sins.

- do NOT contact me with unsolicited services or offers

post id: 530665550

posted: 4 days ago

email to friend

1 day

2 / 26788

reply

prohibited

Posted: 4 days ago

1 day

print

Dietrich "cover-up" (Shoshone)

You wanna know what's going on in Dietrich? Ask the students! They will tell you what happened. It's too bad that the adults in that town can't own up to the "sins" of their children. The notion of "kids will be kids" isn't going to fly this time. Criminal charges should be filed and huge consequences should follow. Shame on you, you SCUM for trying to hide this despicable act.

- do NOT contact me with unsolicited services or offers

post id: 5305517788

posted: 4 days ago

email to friend

1 day

2 / 26788

reply

prohibited

Posted: 17 days ago

1 day

print

Dietrich the cover up is worse than the crime. (Missoula public school)

RR001312

to 8. raven

reply

unpublished

Posted: 17 days ago

index

▲

next

print

⚡ Dietrich the cover up is worse than the crime, (disgusting public school)

You self- important, entitled, inbred hillbillies. You hand picked your school administration. the relief society ladies rule the school board and you just know if you cover up the crime another sin will be overlooked with time.

- do NOT contact me with unsolicited services or offers

post id: 5267331920

posted: 17 days ago

email to friend

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to 8. raven

reply

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Posted: 8 days ago

index

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⚡ Dietrich (Trailer trash)

Something smells fishy, but that could just be from the trash in the backyard of the guy who put trusses on top of two trailers houses tacked together with duct tape. I'm sure if the alleged crime was carried out by non LDS members it would be well known who was involved. Welcome to white trashville!

- do NOT contact me with unsolicited services or offers

post id: 5361557786

posted: 8 days ago

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CL: twofalls > personals > rants & raves

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Dietrich school "cover up" (Dietrich)

What is going to fly? Any time the LDS Church members get involved, it can't be good. No one is asking! However, Poor victim. If there is a cover-up to some form abuse by a member of "the church" it will certainly be "hush-hush" by the church, leadership, who has zero training. I feel bad for the victim in this case. Where are you, Dr. Phil?

• do NOT contact with anyone related to services or others

[posted 10/11/2017](#) [posted 8 days ago](#) [reported 8 days ago](#) [report 10/11/2017](#) [report 10/11](#)

CL: twofalls > personals > rants & raves

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[reply](#) [report](#) [Posted 8 days ago](#) [+ pin](#) [▲](#) [report](#) [10/11](#)

Dietrich Mormons (Dietrich)

I don't know if the suspects are Mormon or not, but there is plenty of bad crime going around. If you are going to "test" the suspects as Mormon, then why don't you tell us the relation of all the other people around. Really, please tell. And know that the LDS church doesn't condone criminal activities

• do NOT contact with anyone related to services or others

[posted 10/10/2017](#) [posted 8 days ago](#) [reported 8 days ago](#) [report 10/10/2017](#) [report 10/10](#)

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Re Dietrich Mormons (Dietrich)

Hey, moron. The whole point is that if they WERE NOT Mormons it wouldn't be hush-hush, but they will be exposed as well the cover up. Just wait. It's going to be fine!

• do NOT contact with anyone related to services or others

[posted 10/10/2017](#) [posted 8 days ago](#) [reported 8 days ago](#) [report 10/10/2017](#) [report 10/10](#)

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Dietrich conspiracy? (Dietrich)

You really think it's a cover up? How do you know? You do realize that courts involving minors are handled differently, right? You seem a little too giddy for your britches.

• do NOT contact with anyone related to services or others

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Snoopy mormons (Dietrich)

I've watched you Mormons at that town for years sweep your crimes under the carpet. Be it shady real estate deals, incest, molestation, water rights, gay, extra victims, take your pick. Mormons not only condone it there, they practice it. Once this one gets out and it will you won't want tell anyone you live there!

• do NOT contact with anyone related to services or others

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& raves

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Dietrich school "cover up" (Dietrich)

Shit is going to fly! Any time the LDS Church members get involved...it can't be good. No one is talking! Hmmmmm. Poor victim. If there is a cover-up to some sort of abuse by a member of "the church" it will certainly be "handled" by the church leadership...who has zero training. I feel bad for the victim in this case. Where are you, Dr. Phil?

- do NOT contact me with unsolicited services or offers

post id: 5301116037

posted: 9 days ago

updated: 9 days ago

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Posted: 6 days ago

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Dietrich Mormons (Dietrich)

I don't know if the suspects are Mormon or not, but there is plenty of bad crime going around. If you are going to "out" the suspects as Mormon, then why don't you tell us the religion of all the other perps around. Really, please tell. And know that the LDS church doesn't condone criminal activities.

- do NOT contact me with unsolicited services or offers

post id: 5305362319

posted: 6 days ago

email to friend

report

& raves

reply

moderated

Posted: 6 days ago

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Re Dietrich Mormons (Dietrich)

Hey moron. The whole point is that if they WERE NOT Mormons it wouldn't be hushed up. But they will be exposed as will the cover up. Just wait. It's going to be fun!

- do NOT contact me with unsolicited services or offers

RR001315

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2. Re Dietrich Mormons (Dietrich)

Hey mormon. The whole point is that if they WERE NOT Mormons it wouldn't be hushed up. But they will be exposed as will the cover up. Just wait. It's going to be fun!

- do NOT contact me with unsolicited services or offers

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posted: 6 days ago

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3. Dietrich conspiracy! (Dietrich)

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- do NOT contact me with unsolicited services or offers

post id: 530560505

posted: 6 days ago

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Posted: 6 days ago

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4. Snooty mormons (Dietrich)

I've watched you Mormons in that town for years sweep your crimes under the carpet. Be it shady real estate deals, incest, molestation, water rights, city code violations, take your pick. Mormons not only condone it there, they practice it. Once this one gets out (and it will) you won't want tell anyone you live there!

- do NOT contact me with unsolicited services or offers

post id: 530575156

posted: 6 days ago

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② two fish = mercurials = tanta 3 rays

[000000] 0000

Italy, 1990-2000. *Health Affairs* 2000; 19: 1003-1010.

Dietrich

If you know facts about a crime, use or mind a crime committed against a child you are as **GUILTY** as the perpetrator if you have not done the right thing by reporting the facts (if you in fact know anything). Should it be found out that you have knowledge and are bragging about it you might find yourself the center of attention. Please if you are **SURE**... do the right thing by the child!

* 1998-2001, 2003-2004, 2006, 2007, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 268

grati di $\frac{1}{2} \times 10^{-10}$ secondi per metro per la luce nel vuoto. La velocità della luce nel vuoto è di 3×10^{10} cm per secondo. La velocità della luce in un mezzo di indice di rifrazione n è di $\frac{c}{n}$ cm per secondo. La velocità della luce in un mezzo di indice di rifrazione n è di $\frac{c}{n}$ cm per secondo.

CL: main facts > personality > family & origin

[06/26/94] 5:01 PM

reply | [@glimpse11](#) · Posted 5 days ago · [❤️ 1](#) · [👤 0](#) · [🗨️ 0](#) 2/3

Re know the facts (Dietrich)

I'll say that too if I'm some Mormon looking to avoid the attention...so high and mighty you are. Just means you have a number to call. These accusations are related to the people who tried to have the mother of the victim fired for saying vagina in a biology lesson. The real pussies are the Members of Diemich.

* 2010/7 年 12 月 31 日 止 的 年 度 結 算 日 止 的 未 派 發 公 積 金

country	year	population	gdp
usa	1990	248.7	2.6
usa	1991	250.5	2.7
usa	1992	252.3	2.8
usa	1993	254.1	2.9
usa	1994	255.9	3.0
usa	1995	257.7	3.1
usa	1996	259.5	3.2
usa	1997	261.3	3.3
usa	1998	263.1	3.4
usa	1999	264.9	3.5
usa	2000	266.7	3.6
usa	2001	268.5	3.7
usa	2002	270.3	3.8
usa	2003	272.1	3.9
usa	2004	273.9	4.0
usa	2005	275.7	4.1
usa	2006	277.5	4.2
usa	2007	279.3	4.3
usa	2008	281.1	4.4
usa	2009	282.9	4.5
usa	2010	284.7	4.6
usa	2011	286.5	4.7
usa	2012	288.3	4.8
usa	2013	290.1	4.9
usa	2014	291.9	5.0
usa	2015	293.7	5.1
usa	2016	295.5	5.2
usa	2017	297.3	5.3
usa	2018	299.1	5.4
usa	2019	300.9	5.5
usa	2020	302.7	5.6
usa	2021	304.5	5.7
usa	2022	306.3	5.8
usa	2023	308.1	5.9
usa	2024	309.9	6.0
usa	2025	311.7	6.1
usa	2026	313.5	6.2
usa	2027	315.3	6.3
usa	2028	317.1	6.4
usa	2029	318.9	6.5
usa	2030	320.7	6.6
usa	2031	322.5	6.7
usa	2032	324.3	6.8
usa	2033	326.1	6.9
usa	2034	327.9	7.0
usa	2035	329.7	7.1
usa	2036	331.5	7.2
usa	2037	333.3	7.3
usa	2038	335.1	7.4
usa	2039	336.9	7.5
usa	2040	338.7	7.6
usa	2041	340.5	7.7
usa	2042	342.3	7.8
usa	2043	344.1	7.9
usa	2044	345.9	8.0
usa	2045	347.7	8.1
usa	2046	349.5	8.2
usa	2047	351.3	8.3
usa	2048	353.1	8.4
usa	2049	354.9	8.5
usa	2050	356.7	8.6
usa	2051	358.5	8.7
usa	2052	360.3	8.8
usa	2053	362.1	8.9
usa	2054	363.9	9.0
usa	2055	365.7	9.1
usa	2056	367.5	9.2
usa	2057	369.3	9.3
usa	2058	371.1	9.4
usa	2059	372.9	9.5
usa	2060	374.7	9.6
usa	2061	376.5	9.7
usa	2062	378.3	9.8
usa	2063	380.1	9.9
usa	2064	381.9	10.0
usa	2065	383.7	10.1
usa	2066	385.5	10.2
usa	2067	387.3	10.3
usa	2068	389.1	10.4
usa	2069	390.9	10.5
usa	2070	392.7	10.6
usa	2071	394.5	10.7
usa	2072	396.3	10.8
usa	2073	398.1	10.9
usa	2074	399.9	11.0
usa	2075	401.7	11.1
usa	2076	403.5	11.2
usa	2077	405.3	11.3
usa	2078	407.1	11.4
usa	2079	408.9	11.5
usa	2080	410.7	11.6
usa	2081	4	

2 raves

reply

replied

Posted: 5 days ago

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next

2011

Dietrich

If you know facts about a crime, never mind a crime committed against a child you are as GUILTY as the perpetrator if you have not done the right thing by reporting the facts (if you in fact know anything).

Should it be found out that you have knowledge and are bragging about it you might find yourself the center of attention. Please if you are SURE, do the right thing by the child!

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post id: 6305570828

posted: 5 days ago

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3 raves

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replied

Posted: 5 days ago

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next

2011

Re know the facts (Dietrich)

I'd say that too if I was some Mormon looking to avoid the attention...so high and mighty you are. Just

means you have further to fall. ironic the accused are related to the people who tried to have the father of the victim fired for saying vagina in a biology lesson. The real pussies are the Mormons of Dietrich.

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post id: 5300456618

posted: 5 days ago

email in hand

reply

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorneys General
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () -
Facsimile: () -

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-213
vs.)	
	)	ORDER ALLOWING
T R W,	)	CHANGE OF VENUE
)	
Defendant.)	
)	
)	
)	

THIS MATTER, having come before this Honorable Court pursuant to the Motion of the
State and I.C.R. 21, and other good cause appearing:

IT IS HEREBY ORDERED, that the above-referenced case be transferred to the _____
Judicial District, _____ County, Idaho for further proceedings.

The Clerk of the Court is hereby ordered to transfer this file.

DATED this ____ day of _____, 2016.

District Judge

ORDER ALLOWING CHANGE OF VENUE (W), Page 1

RR001319

CLERK'S CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this _____ day of _____, 2016, I cause to be served a true and correct copy of the foregoing Order Allowing Change of Venue was served to:

Brenda M. Bauges
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010
FAX: (208) 854-8083

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
____ Facsimile
____ Email

Michael J. Wood
Attorney at Law
184 Gooding Street West
Twin Falls, ID 83301
FAX: (208) 736-0141

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
____ Facsimile
____ Email

By _____
Deputy Clerk

From: [REDACTED]
Sent: 03/14/2016 11:43 AM
To: Bauges, Brenda
Cc:
Subject: RE: Request for Attempt to Arrest
Attachments: image001.jpg

Packet has been worked up for issuance to a warrant officer.

From: Bauges, Brenda [REDACTED]
Sent: Monday, March 14, 2016 9:32 AM
To: Floyd R. Owens
Cc: Pittz, Anthony
Subject: Request for Attempt to Arrest

Sergeant Owens,

Thank you for speaking with me last week about this outstanding warrant from Idaho. As requested, I am attaching the warrant and photograph. Please let me know if there is any additional information you need from me. Thank you.



Brenda Bauges

Deputy Attorney General
Special Prosecutions Unit
Phone: [REDACTED]
Fax: [REDACTED]
[REDACTED]

CONFIDENTIALITY NOTICE: This email is intended only for the personal and confidential use of the individual(s) named as recipients and is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone, [REDACTED]. Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance of the information it contains.



From: Hemmer, Casey
Sent: 08/26/2016 2:17 PM
To: 'Deysi Sandoval'; Calbo&Depew
Cc:
Subject: RE: Howard
Attachments:

Thank you. I may file a motion to appear by phone if that is ok with everyone. Which judge should I send it to?

Casey

From: Deysi Sandoval [REDACTED]
Sent: Friday, August 26, 2016 2:13 PM
To: Calbo&Depew; Hemmer, Casey
Subject: Howard

Arraignment will be in Gooding County at 3:30PM.

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

([REDACTED]) [REDACTED]

([REDACTED]) [REDACTED] Fax

From: [REDACTED]
Sent: 03/08/2016 8:42 AM
To: Bauges, Brenda
Cc:
Subject: T [REDACTED] W [REDACTED]
Attachments:Untitled.PDF - Adobe Acrobat.pdf

3:00
MAR 04 2016
DH

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],

Defendant.


Case No. CR- 2016-213

ORDER TO SEAL

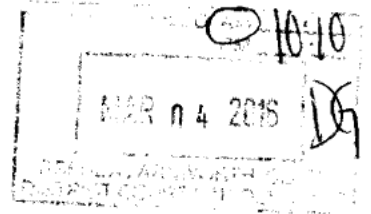
The Motion to Seal the probable cause affidavit having come before the Court and good cause appearing;

IT IS HEREBY ORDERED, pursuant to I.C.A.R. 32(i), that the Probable Cause Affidavit in this matter is HEREBY SEALED until further order of the Court. The Court HEREBY FINDS the privacy interests in the Affidavit predominate over public disclosure of same and that sealing the Affidavit is necessary to preserve the right to a fair trial.

DATED this 4 day of March 2016.


Mark A. Ingram
Magistrate Judge

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln



STATE OF IDAHO,
Plaintiff.

vs.

T [REDACTED] R W [REDACTED]
[REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000213

NOTICE OF HEARING

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

Arraignment Friday, March 18, 2016 09:00 AM
Judge: Mark A. Ingram

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, March 4, 2016.

Defendant: T [REDACTED] R W [REDACTED]

To be served with summons

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed _____ Hand Delivered _____ E-Mail _____

Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail x _____

Dated: Friday, March 4, 2016
Brenda Farnworth
Clerk Of The District Court

By: [Signature]
Deysi Garcia, Deputy Clerk
DOC22 7/96

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () -
Facsimile: () -

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

T R W,

Defendant.

CASE NO. CR-2016-213

SUMMONS

THE STATE OF IDAHO SENDS GREETING TO:

T R W
DOB:
SSN:

YOU ARE HEREBY NOTIFIED that a Complaint has been filed against you in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Lincoln, State of Idaho, by the above-named Plaintiff. You are hereby commanded to appear on the 18 day of March, 2016, before the Honorable Mark Ingram at 9:00 a.m./p.m. at the Lincoln County Courthouse, 111 West B Street, Shoshone, Idaho, to plead to and answer to a

charge made against you upon the Complaint of the Idaho Attorney General for violating Idaho Code Section 18-6608.

WITNESS my hand and seal of the District Court, Magistrate Division, this
4 day of March, 2016.



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the within Summons by showing the said within original to the named person therein, and delivering a true copy thereof to the said person, personally, on the _____ day of _____, 2016, in the County of _____.

10:00
04 2003

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-3300
Facsimile: (208) 334-3301

STATE OF IDAHO,

Plaintiff,

vs.

T R W

Defendant.

CASE NO. CR-2016-213

MOTION TO SEAL

COMES NOW, the State of Idaho, by Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for Lincoln County, and moves this Court to order and direct that the probable cause affidavit provided to the Court in this matter be sealed pursuant to Idaho Court Administrative Rule (I.C.A.R.) 32(i).

I.C.A.R. 32(i) allows for records to be sealed by order of the Court on a case-by-case basis. The State contends that the probable cause affidavit at issue contains facts that may be at issue in subsequent proceedings and, potentially, a trial. The State is aware that there has already been media coverage relating to the underlying facts of this case. The State therefore contends that it is

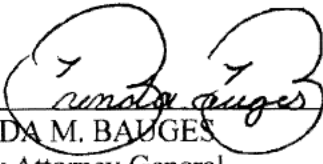
STATE'S MOTION TO SEAL (W [REDACTED]), Page 1

 ORIGINAL

RR001330

necessary to temporarily seal the affidavit to preserve the defendant's right to a fair trial.

DATED this 4 day of March, 2016.


BREND A M. BAUGES
Deputy Attorney General,
Special Prosecutor for Lincoln County

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () -
Facsimile: () -

9000
MAR 04 2016
ID

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

T R W
DOB:
SSN:
Defendant.

Defendant.

CASE NO. 2016-213

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this 4 day of March 2016, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that T R W, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608** as follows:

That the Defendant, T R W, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by inserting

COMPLAINT (W), Page 1

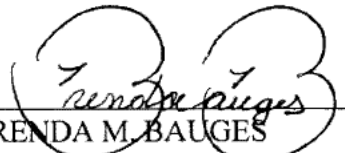
 **ORIGINAL**

RR001332

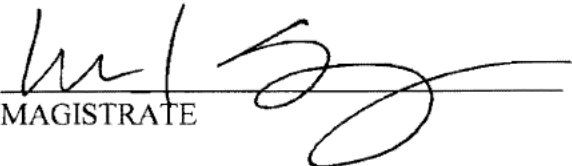
a coat hanger inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

Said Complainant therefore prays that a Summons issue for the Defendant and that he may be dealt with according to law.


BRENDAM. BAUGES
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this 4 day of March 2016.


MAGISTRATE

From: [REDACTED]
Sent: 04/12/2016 10:44 AM
To: Pittz, Anthony
Cc:
Subject: Voice Message from Outside Caller on 4/12/16 10:46 AM for 4140
[REDACTED]: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]



Voice Message from Outside Caller on 4/12/16 10:46 AM (66 second msg)

MESSAGE:



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MA9E8A601DC03450ATT001 - 041216-██████-██████-1160412.96166143@audix-1.wav

From: Deysi Sandoval
Sent: 08/30/2016 8:31 AM
To: Hemmer, Casey
Cc:
Subject: RE: John Howard
Attachments:

Yes 3. Sorry for the confusion... Judge Wildman will be in Gooding at 3

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

(208) 886-2173

(208) 886-2458 Fax

From: Hemmer, Casey [REDACTED]
Sent: Monday, August 29, 2016 11:46 AM
To: Deysi Sandoval; Calbo&Depew
Cc: 'Ruth Petruzzelli'
Subject: RE: John Howard

I just want to clarify that the arraignment is at 3:00 p.m. An earlier email said 3:30. 3:00 p.m. works better for me.

Thanks,

Casey

From: Deysi Sandoval [REDACTED]
Sent: Friday, August 26, 2016 2:42 PM
To: Hemmer, Casey; Calbo&Depew
Cc: 'Ruth Petruzzelli'
Subject: John Howard

From: [REDACTED]
Sent: 01/27/2016 2:37 PM
To: Piotrowski, Sandra
Cc:
Subject: CV# 2015002152
Attachments:

Here you go Sandy. Thank you for the information you sent over!

Jocelyn Rothchild

Case Manager,

Crime Victims Compensation Program

[REDACTED]

(208) [REDACTED] - [REDACTED]

The information contained in this communication, including any attachments, is confidential and is intended solely for the confidential use of the individual or entity to whom it is addressed. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this communication in error and that any review, dissemination, duplication, or unauthorized use of this information, or any action in reliance on the contents of this information is strictly prohibited. If you have received this communication in error, please notify the sender immediately by e-mail and delete the original message.

From: Hemmer, Casey
Sent: 08/29/2016 11:45 AM
To: 'Deysi Sandoval'; Calbo&Depew
Cc: 'Ruth Petruzzelli'
Subject: RE: John Howard
Attachments:

I just want to clarify that the arraignment is at 3:00 p.m. An earlier email said 3:30. 3:00 p.m. works better for me.

Thanks,

Casey

From: Deysi [REDACTED]
Sent: Friday, August 26, 2016 2:42 PM
To: Hemmer, Casey; Calbo&Depew
Cc: 'Ruth Petruzzelli'
Subject: John Howard

From: Tracy Perron
Sent: 12/14/2015 3:40 PM
To: Pittz, Anthony
Cc:
Subject: an interview in Dietrich
Attachments:

Mr. Pittz,

My name is Tracy P [REDACTED] I am the father of K [REDACTED] P [REDACTED] who you have expressed a need to interview this week. You have my permission to do so, with one condition. Please do not remove him from a core class to do the interview. I believe his schedule would allow the interview in the early afternoon, between 1:00 and 2:00 on that day.

Thank You

Tracy Perron

[REDACTED] [REDACTED] [REDACTED]

From: [REDACTED]

Sent: 01/04/2017 1:45 PM

To: [REDACTED]

Cc: [REDACTED]

Subject: Public records request re Howard etc.

Attachments: Howard Roark records request .pdf

Mr. Roark, please find attached a response to your request for our office's files and other records in the referenced matters. A hard copy has been placed in the mail.

Paul R. Panther

Deputy Attorney General

Chief, Criminal Law Division

Idaho Attorney General's Office

700 West State Street - 4th Floor

P.O. Box 83720, Boise Idaho 83720-0010

Phone: [REDACTED] Fax: [REDACTED]

Email: [REDACTED]



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 4, 2017

R. Keith Roark
The Roark Law Firm, LLP

■■■■■■■■■■
■■■■■■■■■■

Via Email: ■■■■■■■■■■

RE: Public Records Request

Dear Mr. Roark,

On December 18, 2016, we received your public records request via email for the following:

"...copies of all correspondence between you and the attorneys for Mr. W■■■■ and Mr. Howard and copies of their written plea agreements. Further, demand is renewed that you turn copies of your compete files in these case [sic] over to my co-counsel and myself."

We have already provided a copy our discovery file in these matters to your co-counsel, pursuant to subpoena and an appropriate protective order. A copy of the Howard Rule 11 plea agreement case is enclosed, and to that extent your request is granted. The remainder of your request is denied based on Idaho Code §§ 74-105(1), 74-124(1)(a) and (b), and § 74-104(1).

This partial denial was reviewed by a Deputy Attorney General. To the extent this response constitutes a partial denial of your request, you have the right to appeal by filing a petition pursuant to the Idaho Public Records Act, Title 74, Chapter 100, Idaho Code. Your petition must be filed in the Fourth Judicial District of Idaho within 180 calendar days of the date of mailing of this notice.

Sincerely,

A handwritten signature in black ink, appearing to be "P. Panther", with a long horizontal line extending to the right.

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

Enc.

Criminal Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: ■■■■■■■■■■ FAX: ■■■■■■■■■■
Located at 700 W. State Street
Joe R. Williams Building, 4th Floor

RR001341

LAWRENCE G. WASDEN
Attorney General
State of Idaho

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

CASEY J. HEMMER, ISB #7224
Deputy Attorney General
Criminal Law Division
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () -

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R. ~~K~~ HOWARD,

Defendant.

)
) CASE NO. 16-1144
) RULE 11 AGREEMENT
)
)
)
)
)
)
)
)

COMES NOW, Plaintiff, State of Idaho ("State"), by and through its attorney,
Casey J. Hemmer, Deputy Attorney General and Special Prosecuting Attorney for Lincoln
County, and Defendant John R. ~~K~~ Howard ("Defendant"), individually and through his attorney
of record, Brad Calbo, and do hereby state as follows:

RULE 11 AGREEMENT - 1

RR001342

1. Defendant is charged by Information in this matter with the following criminal acts:

a. Injury to Children, a violation of Idaho Code §18-1501(1).

2. Defendant agrees to plead guilty, pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), to the following crime as it appears in the Information:

a. Injury to Children, a violation of Idaho Code Section 18-1501(1). That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did under circumstances likely to produce great bodily harm, inflict unjustifiable physical pain or mental suffering upon the person of A.W.M., a child under the age of eighteen (18) years.

3. In exchange for Defendant's plea of guilty to felony Injury to Children, the parties agree to the following sentencing recommendations pursuant to Idaho Criminal Rule 11(f)(1)(C):

- a. The parties stipulate that Defendant be granted a withheld judgment.
- b. The State will recommend a term of probation not to exceed three (3) years.
- c. Defendant will recommend a term of probation of not less than two (2) years.
- d. The State will recommend three hundred (300) hours of community service as a term of probation. Defendant is free to argue for less.
- e. Fines and costs are to be assessed at the Court's discretion.
- f. Defendant agrees to complete any classes as recommended by his probation officer, including a race-based sensitivity class and anti-bullying

class, if they are available.

- g. Defendant waives any *Estrada* rights and agrees to cooperate with the pre-sentence investigation process.
- h. Pursuant to Idaho Criminal Rule 11(f)(1) and State v. Murphy, 125 Idaho 456, 872 P.2d 719 (1994), Defendant specifically waives and gives up his right to appeal the judgment and sentence imposed by this Court.
- i. Defendant waives any right to file an Idaho Criminal Rule 35 motion for reduction of sentence.
- j. All other terms of the sentence, including but not limited to, discretionary jail days, are left to the discretion of the Court.

4. Upon successful completion of probation, including no proven or admitted probation violations or new crimes, the State will stipulate that Defendant's conviction be reduced to a misdemeanor pursuant to Idaho Code § 19-2604(1)(b). Defendant will be free to argue that the guilty plea be set aside and the conviction be dismissed pursuant to Idaho Code § 19-2604(1)(b).

5. Defendant acknowledges that he is entering into this stipulated, binding plea agreement knowingly, voluntarily, and intelligently, and that his decision is not the result of threats or coercion by any individual, including his attorneys, any representative of the State, or this Court.

6. Defendant acknowledges that he is aware of the maximum penalty of the crime of Injury to Children (Felony).

7. Defendant acknowledges that he is aware of his right to plead not guilty, the right to have a trial by a jury of his peers, the right to require the State to prove the charges against

him beyond a reasonable doubt, the right to confront and cross-examine witnesses and to present witnesses and evidence on his own behalf, and the right to remain silent and not be compelled to be a witness at the trial or to incriminate himself in any way.

8. Defendant understands that, by pleading guilty, he is waiving the right to have a trial by jury, that he gives up the right to require the State to prove the charges against him beyond a reasonable doubt, that he gives up the right to confront and cross-examine witnesses and to present witnesses and evidence on his own behalf in defense of the charges, and that he gives up his right to remain silent.

9. Defendant understands that Rules 4 and 11(c) of the Idaho Appellate Rules provide him the right to file an appeal from any sentence this Court may impose following this plea of guilty to the crime of Injury to Children, and also understands and acknowledges that he is knowingly, voluntarily, and intelligently waiving his rights to appeal.

10. Defendant understands that Idaho Criminal Rule 35 provides him the right to file a motion to reduce any sentence this Court may impose following his plea of guilty, and also understands and acknowledges that he is knowingly, voluntarily, and intelligently waiving his right to file a motion pursuant to Idaho Criminal Rule 35 requesting a reduction of his suspended sentence, or otherwise request leniency that could result in a reduction of his sentence.

11. The parties acknowledge that nothing in this agreement limits the victims' rights to provide victim impact statements or otherwise abridges their rights under Idaho Code § 19-5306 or the Idaho Constitution.

12. Defendant and the State have entered into this stipulated plea agreement with the intent that the Defendant cannot appeal his sentence or file a motion for leniency pursuant to

Rule 35, regardless of the sentence entered by this Court, unless this Court entered an illegal sentence.

13. The parties agree that this agreement constitutes the entire agreement between Defendant and the State of Idaho, and that no other promises or inducements have been made, either directly or indirectly by the State of Idaho or any of its agents regarding the disposition of this case. Additionally, Defendant states that no person has threatened or coerced him, directly or indirectly, to enter into this agreement.

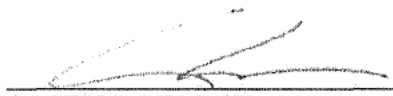
14. Counsel for Defendant specifically states that he has read this agreement, has read and explained said agreement to Defendant, and to the best of his knowledge and belief, Defendant understands this agreement.

15. Defendant specifically states that he has read this agreement, that he has had this agreement read and explained to him by his attorney, and that he is entering into this agreement knowingly, intelligently and voluntarily, and with a full understanding of its contents.

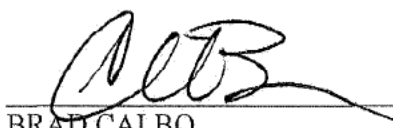
16. Defendant understands that the Court is not bound to accept this Agreement and that if the Court should reject said Agreement, Defendant shall be allowed an opportunity by the Court to withdraw his plea of guilty to the charge and proceed to a trial on the original charge pursuant to Idaho Criminal Rule 11(f)(4).

17. Should the Court reject this Agreement and Defendant withdraw his guilty plea, this Agreement, Defendant's withdrawn guilty plea, and any statements made in the course of any proceedings hereunder shall not be admissible against Defendant at trial, pursuant to Idaho Rule of Evidence 410.

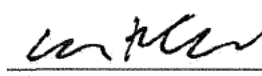
DATE: 12-16-16


CASEY J. HEMMER
Deputy Attorney General
Special Prosecuting Attorney

DATE: 12-16-16

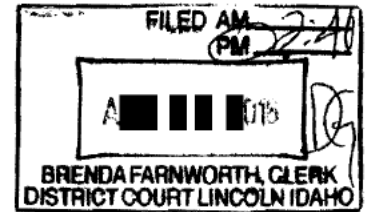

BRAD CALBO
Attorney for Defendant

DATE: ~~12-16-16~~ 12-16-16


JOHN R. HOWARD
Defendant

From: Deysi Sandoval
Sent: 08/26/2016 2:41 PM
To: Hemmer, Casey; Calbo&Depew
Cc: 'Ruth Petruzzelli'
Subject: John Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

**AMENDED
NOTICE OF HEARING**

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

HEARING TO BE HELD IN GOODING COUNTY DISTRICT COURT

Arraignment Tuesday, September 06, 2016 03:00 PM
Judge: Eric Wildman (SRBA)

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 26, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail__X__

Brad Calbo

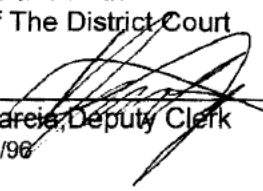
P.O. Box 9
Jerome ID 83338

Prosecutor: Casey J Hemmer

Mailed____ Hand Delivered____ E-Mail__X__

Dated: Friday, August 26, 2016
Brenda Farnworth
Clerk Of The District Court

By:


Deysi Garcia, Deputy Clerk
DOC22 7/96

From: Ben Hardcastle
Sent: 12/14/2015 1:36 PM
To: Pittz, Anthony
Cc:
Subject: Student Interview Form
Attachments: 3545F2 Student Interview Form.doc; ATT00001.htm

Mr. Pittz,

Please see the attached form for student interviews. We need to document that parents were notified and given the opportunity to attend. If you have a comparable form that you already use, and if you are contacting students and parents in advance, then documentation from your office indicating that you have contacted the parents in advance and their wish to attend or not to attend will suffice for our documentation.

Please let me know what will work best for you.

Thanks again for your collaboration.

Sincerely,

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, _____, a duly sworn peace officer and member of the
_____ Department, _____,
have asked that _____, a student in the Dietrich School,
be made available for interview

Date: _____ Signature: _____

Time: _____ Badge Number: _____

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

.....

Benjamin G. Hardcastle

Superintendent, K-6 Principal, Federal Programs, Transportation Director

Dietrich School

Phone: [208.544.2158](tel:208.544.2158) ~ Fax: [208.544.2832](tel:208.544.2832) ~ <http://www.sd314.k12.id.us/>

Never miss an opportunity to teach.

.....

From: OAG_Voicemail@ag.idaho.gov
Sent: 05/24/2016 8:44 AM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 5/24/16 8:42 AM for 3089
Attachments: 052416-084215-3089-1160524.97024767@audix-1.mp3



Voice Message from Outside Caller on 5/24/16 8:42 AM (79 second msg)

MESSAGE:

"Hi Brenda this is Shelly M [REDACTED] Number. My number is [REDACTED]-[REDACTED]-[REDACTED]. I talked to a [REDACTED] (?) last night and found out a little bit more information I guess they take him over when he went over to the coaches house to the one coach's house. Doug Rick it's Bill. They called the head coach Mike Ferguson over there and I don't know who up there but they asked a [REDACTED] (?) told him to tell the truth and they ask if they could record him and they did report him and he told me that he he lied because you said that he didn't know which way he was what direction he was wanting to then when he when he was on the stand and he said he did and I don't think you told them anything else. He thinks that because he said that he said what direction he was he was lying but I thought that was illegal for them to do that with an(?) ... a follow up although(?)."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MAF6BA62B2A2E583ATT001 - 052416-084215-3089-1160524.97024767@audix-1.mp3

From: Hemmer, Casey
Sent: 08/26/2016 10:34 AM
To: Deysi Sandoval
Cc: Calbo&Depew
Subject: Re: Howard
Attachments:

I can make either of those work.

Casey

Sent from my iPhone

On Aug 26, 2016, at 10:23 AM, Deysi Sandoval [REDACTED] wrote:

Judge Elgee is gone the week of the 6th. I can ask Judge Butler and see if he can do the arraignment on September 6 at 9:00...or Judge Brody can do the arraignment in Blaine County at 1:30PM on September 6th. Please let me know what works.

Thanks.

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court
[REDACTED]

(208) 886-2173
(208) 886-2458 Fax

From: [REDACTED]
Sent: 06/13/2016 1:34 PM
To: Spillman, Jason
Cc: R K Roark
Subject: Idaho v. Howard, et al /Case 1:16-cv-00202-BLW M [REDACTED] v. Dietrich School District No. 314 et al
Attachments: image002.jpg

Dear Mr. Spillman,

Mr. Roark and I have filed the civil action above cited on behalf of A [REDACTED] M [REDACTED]

The defendants have filed their answer and discovery will now commence;

we are now preparing our first discovery requests.

It would be of significant assistance to us to have certain documents that are in your possession;
the statements of the criminal case defendants and other materials contained in the file of the school
superintendent and/or principal. I understand these are part of the investigation files
of the school administrators regarding the physical assault on A [REDACTED] and not an attorney work product.
We would keep all the materials and subject matter confidential in every respect until your offices advise us
that confidentiality is no longer necessary.
If this informal request can be fulfilled by your offices we would be most grateful.
Please advise myself or Mr. Roark of any questions or concerns.

Respectfully Yours,

Lee Schlender J.D.

[REDACTED]
[REDACTED], [REDACTED]

Idaho Bar #1171

[REDACTED]

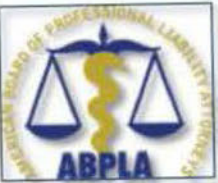
[REDACTED]

Fax: [REDACTED]

Board Certified Medical Malpractice



contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. NOTE: E-mails are not a secure method of communication. They may be copied and held by various computers through which they pass. Individuals not participating in our communication could intercept them. You have consented to receive communications from the firm via e-mail. If you should change your mind, please advise the firm immediately. If you have received this communication in error, please notify us immediately by sender's telephone number or e-mail address listed above or by replying to this e-mail and deleting all copies of this message. Thank You !



From: Hemmer, Casey
Sent: 08/26/2016 11:17 AM
To: Deysi Sandoval
Cc: Calbo&Depew
Subject: Re: Howard
Attachments:

Actually 1:30 in Blaine works better for me.

Casey

Sent from my iPhone

On Aug 26, 2016, at 10:23 AM, Deysi Sandoval [REDACTED] wrote:

Judge Elgee is gone the week of the 6th. I can ask Judge Butler and see if he can do the arraignment on September 6 at 9:00...or Judge Brody can do the arraignment in Blaine County at 1:30PM on September 6th. Please let me know what works.

Thanks.

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court
[REDACTED]

(208) 886-2173
(208) 886-2458 Fax

From: Forgy, Deborah
Sent: 11/03/2015 4:04 PM
To: Spillman, Jason
Cc:
Subject: FW: Voice Message from Outside Caller on 11/3/15 4:03 PM for 4529
Attachments: 110315-160328-4529-1151103.93045759@audix-1.mp3

What would you suggest I do with this message?

From: OAG_Voicemail@ag.idaho.gov [mailto:OAG_Voicemail@ag.idaho.gov]
Sent: Tuesday, November 03, 2015 3:56 PM
To: Forgy, Deborah
Subject: Voice Message from Outside Caller on 11/3/15 4:03 PM for 4529



Voice Message from Outside Caller on 11/3/15 4:03 PM (26 second msg)

MESSAGE:



Delete

[Delete this message from your voice mailbox.](#)



Delete All

[Delete all messages from your voice mailbox.](#)

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MB485A56724B8820ATT001 - 110315-160328-4529-1151103.93045759@audix-1.mp3

From: Minyard, Catherine
Sent: 09/01/2016 11:13 AM
To: Ruth Petruzzelli ([REDACTED]); Deysi Garcia ([REDACTED])
Cc: Hemmer, Casey; [REDACTED]
Subject: State v. John Howard, Lincoln County Case No. CR-2016-214
Attachments: Information.pdf

Ruth –

Per your request, attached is the Information for filing in State v. John Howard, Lincoln County Case Number CR-2016-214. Please let me know if you need anything further.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: (208) 332-3096
Fax: (208) 854-8083

LAWRENCE G. WASDEN
Idaho Attorney General

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

JASON SLADE SPILLMAN, ISB NO. 8813
CASEY J. HEMMER, ISB No. 7224
Deputy Attorneys General and
Special Prosecuting Attorneys
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () - -
Facsimile: () - -

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)	
)	
Plaintiff,)	
vs.	)	CASE NO. CR-2016-214
)	
JOHN R.K. HOWARD	)	INFORMATION
DOB: 09/25/1997)	
SSN: - - ,)	
)	
Defendant.)	
_____)	

CASEY J. HEMMER, Deputy Attorney General and Special Prosecuting Attorney, in and for the County of Lincoln , State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Lincoln, and states that JOHN R.K. HOWARD is accused by this Information of the crime(s) of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608**; which crimes were committed as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by

kicking a coat hanger further inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

DATED this 1st day of September, 2016.



CASEY J. HEMMER
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

From: [REDACTED]
Sent: 05/25/2016 9:14 AM
To: Bauges, Brenda
Cc:
Subject: Dietrich High School rape case
Attachments:

Hello,

I am from Sky News in Washington DC.

I hope you don't mind me contacting you, but I found your name on the Idaho Repository website.

I am trying to chase up the details of the Dietrich High School rape case, including the civil lawsuit.

I was also wondering if the facts of the case as reported in the Washington Post article below were accurate?

<https://www.washingtonpost.com/news/morning-mix/wp/2016/05/25/white-high-school-football-players-in-idaho-charged-with-raping-black-disabled-teammate-with-a-coat-hanger/>

Please also feel free to call me at the number below.

Best,

Jude

[REDACTED]

Information in this email including any attachments may be privileged, confidential and is intended exclusively for the addressee. The views expressed may not be official policy, but the personal views of the originator. If you have received it in error, please notify the sender by return e-mail and delete it from your system. You should not reproduce, distribute, store, retransmit, use or disclose its contents to anyone. Please note we reserve the right to monitor all e-mail communication through our internal and external networks. SKY and the SKY marks are trademarks of Sky plc and Sky International AG and are used under licence.

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From: Panther, Paul
Sent: 06/01/2016 3:48 PM
To: 'Olson, Wendy (USAID)'; Carter, Janet; Kane, Brian; Furey, Sherman
Cc: Piotrowski, Sandra; Spillman, Jason; Hemmer, Casey
Subject: RE: Dietrich case -- request from NAACP
Attachments:

Wendy,

In reference to the email below, I would be happy to facilitate a contact point for Ms. Williams with our office. We are limited in what we can say about this (or any) case, but we could provide her with notice of court hearings and the like.

I don't have her contact info, but you could have her email me at [REDACTED]. Thanks.

Paul R. Panther
Deputy Attorney General
Chief, Criminal Law Division
Idaho Attorney General's Office
700 West State Street - 4th Floor
P.O. Box 83720, Boise Idaho 83720-0010
Phone: [REDACTED] Fax: [REDACTED]
Email: [REDACTED]

From: Olson, Wendy (USAID) [REDACTED]
Sent: Friday, May 27, 2016 2:38 PM
To: Panther, Paul; Carter, Janet; Kane, Brian; Furey, Sherman
Subject: Dietrich case -- request from NAACP

Good afternoon everyone,

As a follow up to my conversation with Lawrence yesterday, I continue to get a number of calls regarding Dietrich. I spent a fair amount of time this afternoon speaking with Jeanetta Williams, president of the NAACP Tri-State Conference (Idaho, Utah, Nevada), who had a number of questions and concerns, many of which she was posing on behalf of the national NAACP. I have known Jeanetta for years – she is from Pocatello, her daughter was a high school classmate of my younger sister, and we have communicated many times throughout my DOJ career. I assured her that the matter was being appropriately and thoroughly handled by your office, that the charges were serious charges with serious penalties. Jeanetta would like to know if there is a mechanism for her to be kept updated on various court dates, hearings etc. as she may want to travel up from Salt Lake to attend. I am happy to keep her apprised but wanted to know if you have other thoughts or want to visit with her directly.

Hope you all manage to have a wonderful Memorial Day weekend – and that none of us end up working too much.

Best,
Wendy

RR001366

From: [REDACTED]
Sent: 06/02/2016 8:59 AM
To: Panther, Paul; Carter, Janet; Kane, Brian; Furey, Sherman
Cc: Piotrowski, Sandra; Spillman, Jason; Hemmer, Casey
Subject: RE: Dietrich case -- request from NAACP
Attachments:

Thanks Paul. Here is Jeanetta's contact information: Jeanetta Williams, President, NAACP Tri-State Conference, P.O. Box 26622, Salt Lake City, Utah 84126-0622, [REDACTED] or [REDACTED] (cell). I will also provide her with your contact information.

One other thing, I have also now heard from DOJ's Community Relations Service (which Jeanetta may also have contacted). Community Relations Service (CRS) is a conflict resolution/mediation agency. They do not investigate or prosecute. They have historically been very good at helping communities deal with divisions resulting from significant incidents such as the Dietrich case. They also are very careful not to wade in in a way or when their presence would affect pending court proceedings. Before getting involved in Dietrich, the conciliation specialist who covers Idaho (based in Seattle) would like to visit with a representative of your office. Should I also put him in touch with you?

From: Panther, Paul ([REDACTED])
Sent: Wednesday, June 01, 2016 3:48 PM
To: Olson, Wendy (USAID); Carter, Janet; Kane, Brian; Furey, Sherman
Cc: Piotrowski, Sandra; Spillman, Jason; Hemmer, Casey
Subject: RE: Dietrich case -- request from NAACP

Wendy,

In reference to the email below, I would be happy to facilitate a contact point for Ms. Williams with our office. We are limited in what we can say about this (or any) case, but we could provide her with notice of court hearings and the like.

I don't have her contact info, but you could have her email me at this address, or call me at [REDACTED]. Thanks.

Paul R. Panther
Deputy Attorney General
Chief, Criminal Law Division
Idaho Attorney General's Office
700 West State Street - 4th Floor
P.O. Box 83720, Boise Idaho 83720-0010
Phone: [REDACTED] Fax: [REDACTED]
Email: [REDACTED]

From: Olson, Wendy (USAID) [REDACTED]
Sent: Friday, May 27, 2016 2:38 PM
To: Panther, Paul; Carter, Janet; Kane, Brian; Furey, Sherman

Subject: Dietrich case -- request from NAACP

Good afternoon everyone,

As a follow up to my conversation with Lawrence yesterday, I continue to get a number of calls regarding Dietrich. I spent a fair amount of time this afternoon speaking with Jeanetta Williams, president of the NAACP Tri-State Conference (Idaho, Utah, Nevada), who had a number of questions and concerns, many of which she was posing on behalf of the national NAACP. I have known Jeanetta for years – she is from Pocatello, her daughter was a high school classmate of my younger sister, and we have communicated many times throughout my DOJ career. I assured her that the matter was being appropriately and thoroughly handled by your office, that the charges were serious charges with serious penalties. Jeanetta would like to know if there is a mechanism for her to be kept updated on various court dates, hearings etc. as she may want to travel up from Salt Lake to attend. I am happy to keep her apprised but wanted to know if you have other thoughts or want to visit with her directly.

Hope you all manage to have a wonderful Memorial Day weekend – and that none of us end up working too much.

Best,
Wendy

RR001368

From: Spillman, Jason
Sent: 06/15/2016 5:36 PM
To: 'Lee Schlender'
Cc: R K Roark; Hemmer, Casey
Subject: RE: Idaho v. Howard, et al /Case 1:16-cv-00202-BLW M [REDACTED] v. Dietrich School District No. 314 et al
Attachments: image001.jpg

Dear Lee,

Per our office policy, we do not release investigative materials while an investigation / case is still pending. As a result, I am afraid we cannot accommodate your request at this point in time.

Please do not hesitate to let me know if you have any questions.

Thank you, Jason

Jason Slade Spillman
Lead Deputy Attorney General
Special Prosecutions Unit
P.O. Box 83720
Boise, ID 83720-0010
[REDACTED] [REDACTED] [REDACTED]

From: Lee Schlender [REDACTED]
Sent: Monday, June 13, 2016 1:34 PM
To: Spillman, Jason
Cc: R K Roark
Subject: Idaho v. Howard, et al /Case 1:16-cv-00202-BLW M [REDACTED] v. Dietrich School District No. 314 et al

Dear Mr. Spillman,

Mr. Roark and I have filed the civil action above cited on behalf of A [REDACTED] M [REDACTED]

The defendants have filed their answer and discovery will now commence;

we are now preparing our first discovery requests.

It would be of significant assistance to us to have certain documents that are in your possession;
the statements of the criminal case defendants and other materials contained in the file of the school
superintendent and/or principal. I understand these are part of the investigation files
of the school administrators regarding the physical assault on A [REDACTED] and not an attorney work product.
We would keep all the materials and subject matter confidential in every respect until your offices advise us
that confidentiality is no longer necessary.

If this informal request can be fulfilled by your offices we would be most grateful.

Please advise myself or Mr. Roark of any questions or concerns.

RR001369

Respectfully Yours,

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #11571

[REDACTED]

Fax: [REDACTED]
[REDACTED]

Board Certified Medical Malpractice



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From: CHEMMER
Sent: 06/09/2016 2:44 PM
To: Hemmer, Casey
Cc: Keith Roark; Heidi Southward
Subject: M [REDACTED] and Howard case
Attachments:

Casey,

Assuming on cross of A [REDACTED] tomorrow there appears that he is not consistent regarding the facts of the rape,

I think the poem becomes admissible when offered by you as per rule 801 (d) (1).

I will be there representing the parents and A [REDACTED] I will make proper objections.

I was just told that the hearing tomorrow has been postponed until July 29.

Lee

Lee Schlender J.D.

[REDACTED]
[REDACTED], [REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice



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RR001372

From: Ruth Petruzzelli
Sent: 09/01/2016 11:14 AM
To: Minyard, Catherine
Cc:
Subject: RE: State v. John Howard, Lincoln County Case No. CR-2016-214
Attachments:

Thank you.

From: Minyard, Catherine [mailto:catherine.minyard@ag.idaho.gov]
Sent: Thursday, September 1, 2016 11:13 AM
To: Ruth Petruzzelli; Deysi Garcia ([REDACTED])
Cc: Hemmer, Casey; [REDACTED]
Subject: State v. John Howard, Lincoln County Case No. CR-2016-214

Ruth –

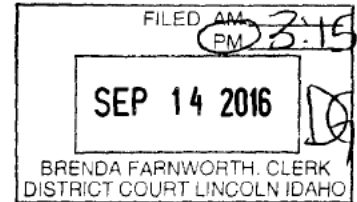
Per your request, attached is the Information for filing in State v. John Howard, Lincoln County Case Number CR-2016-214. Please let me know if you need anything further.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: (208) 332-3096
Fax: (208) 854-8083

From: Deysi Sandoval
Sent: 09/14/2016 4:35 PM
To: Calbo&Depew; Minyard, Catherine
Cc: Hemmer, Casey; 'Dorothy McMullen'
Subject: John Howard Emailing - Untitled.PDF
Attachments:Untitled.PDF




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
	)	Case No. CR 2016-214
Plaintiff,)	
Vs	)	NOTICE OF HEARING
)	
JOHN R.K. HOWARD,)	
)	
Defendant.)	

Notice is hereby given that the above-entitled case is set for a
Status Conference on October 24, 2016 at 1:30 PM at the JEROME COUNTY
COURTHOUSE in Jerome, Idaho.

DATED this 14 day of September, 2016.

Brenda Farnworth, Clerk

By 
Deputy Clerk

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of September, 2016, I caused to be served a true and correct copy of the attached document on:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

C. Bradley Calbo
Attorney at Law
P.O. Box 9
Jerome, Idaho 83338

Deysi Garcia
~~Kristina Glascock~~, Clerk

By 
~~Deputy Clerk~~

From: [REDACTED]
Sent: 06/04/2016 4:28 PM
To: Spillman, Jason
Cc:
Subject: a [REDACTED] case
Attachments: image002.jpg

Mr. Spillman,

Keith copied me on his note to you. I would like to add a comment.

The coaches arranged for A [REDACTED] to be at a teacher's house for this meeting.

They also had several of the football players attend.

They played tapes of various football games. Added to it that he was the star of the games which of course was silly but they knew he would eat it up. Then told him about losing their farms, going to jail, etc. Then they started the recording, all the while with his being hugged, etc. Not that knowledgeable about influencing a witness but a worse case is hard to find.

They knew his disabilities; his wanting to belong, etc. One charge of influencing and these ugly actions would stop. I am not without understanding of Dietrich and the entire picture. I was raised in Malta Idaho; know the culture and how football becomes the life of a small town. However no one I know would have ever thought abuse of a player was okay. These guys are off the wall. I was the only non-Mormon in my last two years of high school. Was treated just the same as everyone else and elected President of the senior class. That is a true reflection of our southern Idaho heritage.

Lee

Lee Schlender J.D.

[REDACTED]
[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice



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From: Lee Schlender
Sent: 11/02/2016 3:36 PM
To: Hemmer, Casey
Cc: Keith Roark; Bret A. Walther
Subject: Re: stip changes
Attachments: 2nd AMENDED M [REDACTED] Protective Order.Stipulation copy 2.docx; ATT00001.htm; ATT00002.htm; image002.jpg

Mr. Hemmer:

Attached is the stipulation with the changes acceptable I understand,
to your Department.

Please execute the same, forward to Mr. Walther for signature and return to my office.

I assume your signature is sufficient for the defendants that it is acceptable in form.

E. Lee Schlender, ISBN 1171
SCHLENDER LAW OFFICES

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]
[REDACTED]

R. Keith Roark, ISBN 2230
THE ROARK LAW FIRM

[REDACTED]
[REDACTED]
T: () [REDACTED]
F: () [REDACTED]

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

A [REDACTED] M [REDACTED],

Plaintiff,

vs.

DIETRICH SCHOOL DISTRICT NO. 314,
STEPHANIE SHAW, BENJAMIN HARDCASTLE,
BENJAMIN HOSKISSON, WAYNE DILL, STAR
OLSEN, KRIS HUBERT, PERRY VAN TASSELL,
BRET PETERSON, MICHAEL TORGERSON,
RICK ASTLE, BRAD DOTSON and JOHN AND
JANE DOES 1-10,

Defendants.

Case No. 1:16-cv-00202-BLW

STIPULATION FOR PROTECTIVE

AGREEMENT-

BETWEEN A NON-PARTY AND
PLAINTIFF AND DEFENDANTS RE:

PRODUCTION OF DISCLOSED
DOCUMENTS AND MATERIALS

COME NOW Office of the Attorney General of the State of Idaho, the Plaintiff and Defendants, by and through their undersigned counsel pursuant to FRE 502 and FRCP 26(b)(5)(B) AND FRCP 45, and hereby stipulate and as follows:

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

The Office of the Attorney General conducted a criminal investigation regarding allegations raised by A [REDACTED] M [REDACTED] against A.H. (a juvenile), T.W. (a juvenile) and John Howard;" that a subpoena for the files and documents generated and related to that investigation and prosecution was sent to the Office of the Attorney General of the State of Idaho by Plaintiff's attorneys and the Attorney General's office will respond thereto by furnishing said materials to the parties.

THEREFORE:

This Stipulation shall apply to all documents, regardless of form, including audio, photographs, and/or video which contain information derived from an investigation and prosecution conducted by the office of the Attorney General of the State of Idaho ; that this Agreement and the terms thereof shall be an Order of the Court.

Access to and Use of Disclosed Documents and materials.

The plaintiff and his attorneys and defendants may only use Disclosed Documents and Materials, for the purposes of this litigation and may only make said materials available to:

(a) Counsel of record for any party, and the legal associates, clerical or support staff of counsel assisting in the preparation of this matter; (b) a party and a party's employees, or independent experts, or potential experts, or any other person employed or retained by counsel for the purpose of assisting counsel in this action, after said party has advised such person of the provisions of this Order and secured his or her agreement, in writing, to abide by its terms; (c) witnesses, court personnel and court reporters in any proceeding held in connection with this action and to whom there is a legitimate need to disclose particular materials; and, (d) case evaluators, facilitators, and mediators after said party has been advised of the provisions of this Order and secured agreement, in writing, to abide by its terms.

Each individual who receives any Protected Materials hereby agrees to subject

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

himself/herself to the jurisdiction of this Court for any purposes of any proceedings related to the enforcement of this Protective Order.

A. Handling Protected Materials.

If any party files with the Court any pleading, interrogatory, answer, affidavit, motion, brief, or other paper containing, appending, summarizing, excerpting or otherwise embodying confidential material, the pleading or other paper in which the confidential material is embodied shall be filed and maintained under seal and shall not be available for public inspection. The party making the filing shall comply with D. Idaho. L. Civ. R. 5.3, and R. 5.5.

B. Miscellaneous.

1. This Order shall not prevent either party from applying to the Court for relief from this Order or any part thereof or for relief from its application in any particular circumstance, or from applying to the Court for further or additional protective agreements or orders. This Order shall survive the final determination of this or related proceedings to the extent that the protected materials have not or do not become known to the public.

2. The parties may rely on a waiver of the provisions of this Order or consent to disclosure of protected materials that is made by the producing party's attorney as if that waiver or consent was made by the producing party itself, provided that such waiver or consent is express and shall be either in writing or on the record in a hearing, trial, or deposition transcript.

3. In the event a party receives a subpoena or other legal or governmental demand for protection of any Protected Material, the subpoenaed party shall notify the requesting part of the subpoenaed party's obligations defined by the Order in order to allow the requesting party to take appropriate steps in obtaining a court order, if the Court in this action so deems ordering the production of the Protected Materials.

4. All Protected Materials and all copies (including electronic, paper and any other versions thereof), shall be after termination of this litigation handled as Ordered by the Court including but not limited to: returning the same to the producing party or otherwise permanently destroyed or deleted by the requesting party within thirty (30) days following termination of this litigation between the parties, including all appeals. If permanently destroyed or deleted, counsel for the requesting party shall provide written assurance to counsel for the producing party of such destruction or deletion within thirty (30) days following termination of this litigation.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of deposition transcripts, which contain information considered protected from disclosure shall be subject to the Court entering further Orders .

6. It is therefore hereby stipulated that The Court will enter an Order implementing the terms and conditions of this Stipulation as deemed necessary.

7. A copy of the executed stipulation will be served on the parties and the Office of the Attorney General after signing of the same.

8. DATED this _____ day of November 2016.

By E. Lee Schlender, Schlender Law Offices for
Plaintiff

DATED this _____ day of November 2016.

By Casey Hemmer
Office of the Attorney General
Criminal Division
700 W. Jefferson Street
P.O. Box 83 Boise, ID 83720-001

Dated this ____ day of November 2016

By _____ for

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Attorneys for the Defendants

CERTIFICATE OF SERVICE

I certify that on ____ day of _____ 2016 I caused a true and correct copy of
this entire document to be served as indicated below:

Mr. Brian Julian
Anderson, Julian & Hull LLP
C. W. Moore Plaza
250 South Fifth Street, Suite 700
PO Box 7426
Boise, ID 83707-7426
Fax: () -

SERVED BY: email. dwolff@ajhlaw.com

Office of the Attorney General
Criminal Division
Paul Panther, Division Chief
Casey Hemmer, Deputy A.G. □
700 W. Jefferson Street □ P.O. Box 83720
Boise, ID 83720-0010
By Fax and email. [REDACTED]
Phone () [REDACTED]
Fax () [REDACTED]

STIPULATION FOR PROTECTION RE: PRODUCTION OF
DOCUMENTS AND MATERIALS

E. Lee Schlender,
Attorney for Plaintiff

Thank You,

Lee Schlender J.D.

[REDACTED]

Idaho Bar #1171

[REDACTED]

[REDACTED]

Fax: [REDACTED]

[REDACTED]

Board Certified Medical Malpractice

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On Nov 2, 2016, at 3:26 PM, Hemmer, Casey <[REDACTED]@[REDACTED].gov> wrote:

<20161102151833973.pdf>



From: Pittz, Anthony
Sent: 12/15/2015 3:28 PM
To: Ben Hardcastle ([REDACTED])
Cc:
Subject: Student Interview forms and tentative schedule
Attachments: 20151215144745719.pdf; image003.jpg

Mr. Hardcastle,

Here are the forms you requested. I included one for each parent I spoke with and also for each that I did not, just in case something changed between now and Thursday. Only two parents expressed interest in attending, A[REDACTED]'s dad and A[REDACTED]'s dad. I will meet with P[REDACTED] at 9 Thursday morning, followed by H[REDACTED] afterwards. P[REDACTED] requested that I don't pull K[REDACTED] out of a core class for the interview and said that he'd be most free between 1 and 2 pm on that date. The other's I can just fill in the schedule throughout the day if that works for you.

I will leave Boise that morning and try to be at the school by 8:30 at the latest.

Thank you.

Tony Pittz

Investigator
Criminal Law Division
Office of Attorney General
Phone: [REDACTED]
Fax: (208) 854-8083
[REDACTED]



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Dietrich School District No. 314


3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
O ■ A ■ H ■, a student in the Dietrich School, be made
available for interview

Date: 12/15/2015 Signature: 
Time: 2:36 Pm Badge Number: —

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I spoke with A ■'s father, Enrique, on December 15, 2015, at 2:15 p.m. He will come to the
school on December 17, 2015, for a meeting at 9:45 a.m.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
A [REDACTED] P [REDACTED], a student in the Dietrich School, be made available for interview

Date: 12/15/2015

Signature: 

Time: 2:36 PM

Badge Number: —

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I spoke with A [REDACTED]'s father, Frank, on December 14, 2015, at 10:30 a.m. He will come to the
school on December 17, 2015, for a meeting at 9:00 a.m.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
S ■■■ R ■■■, a student in the Dietrich School, be made available for interview

Date: 12/15/2015

Signature: 

Time: 2:36 PM

Badge Number: 1

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I spoke with S ■■■'s mother, Leeta, on December 14, 2015, at 10:30 a.m. She consented to
an interview but said it was not necessary for her to attend.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
C ■■■ N ■■■, a student in the Dietrich School, be made available for interview

Date: 12/15/2015

Signature: 

Time: 2:36 PM

Badge Number: —

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I spoke with C ■■■'s mother, Leeta, on December 14, 2015, at 10:30 a.m. She consented to
an interview but said it was not necessary for her to attend.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
K [REDACTED] P [REDACTED], a student in the Dietrich School, be made available for interview

Date: 12/15/2015

Signature: 

Time: 2:36 Pm

Badge Number: —

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I spoke with K [REDACTED]'s father, Tracy, via email on December 14, 2015, at 3:40 p.m. He
consented to an interview but said it was not necessary for him to attend.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
K S, a student in the Dietrich School, be made available for interview

Date: 12/15/2015

Signature: 

Time: 2:36 PM

Badge Number: —

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I called the number listed on K S's student sheet four separate times on December 14, 2015
and December 15, 2015. Each call was answered and promptly disconnected prior to me being
able to identify myself of the reason for the call.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
E [REDACTED] T [REDACTED] H [REDACTED], a student in the Dietrich School, be made available
for interview

Date: 12/15/2015

Signature: 

Time: 2:36 PM

Badge Number:

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I called the number listed on T [REDACTED]'s student sheet four separate times on December 14, 2015
and December 15, 2015. Each call went unanswered. A message was left with my contact
information.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*

Dietrich School District No. 314

3545F2

STUDENTS

Student Interview Form

Form for Signature of Officer

I, Investigator Anthony Pittz, a duly sworn peace officer and member of the
Idaho Attorney General's Office, Boise, Idaho, have asked that
P ■ S ■ V ■, a student in the Dietrich School, be made available for
interview

Date: 12/15/2015

Signature: 

Time: 2:36 PM

Badge Number:

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I called the number listed on S ■'s student sheet four separate times on December 14, 2015
and December 15, 2015. Each call went unanswered and there was not an answering machine
that picked up.

Signature of Administrator

One copy each shall be made for:

1. *School records;*
2. *Parent mailing;*
3. *The police officer; and*
4. *The witnessing administrator*



From: OAG_Voicemail@ag.idaho.gov

Sent: 04/15/2016 1:35 PM

To: Bauges, Brenda

Cc:

Subject: Voice Message from Outside Caller on 4/15/16 1:36 PM for 3089

Attachments: 041516-133609-3089-1160415.96274687@audix-1.mp3



Voice Message from Outside Caller on 4/15/16 1:36 PM (18 second msg)

MESSAGE:

"Yeah this is Terry Van tassel calling. Returning your call. The best number to get a hold of me at is [REDACTED]-[REDACTED]. Thank you very much. Bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MC9D8A604D61A131ATT001 - 041516-[REDACTED]-[REDACTED]-1160415.96274687@audix-1.mp3

From: [REDACTED]
Sent: 01/15/2016 3:56 PM
To: Pittz, Anthony
Cc:
Subject: Re: Question on your notes
Attachments:

Hello,
I believe that was a note from a conversation with A [REDACTED] (was the previous page notes talking with A [REDACTED]?)
That was a hard conversation to track because I was trying to talk to A [REDACTED] and write notes, but Shelly M [REDACTED] and J [REDACTED] M [REDACTED] were saying things and trying to speak for A [REDACTED].
The initial report was T [REDACTED] said something to A [REDACTED] during class, when I asked A [REDACTED] about it, J [REDACTED] and Shelly started finishing sentences for him and saying that J [REDACTED] (in Computer class) had said something to A [REDACTED].
When I spoke with the substitute teacher from that class, I could not substantiate the details. She didn't think that T [REDACTED] or J [REDACTED] had talked with A [REDACTED] during class, but she couldn't say for sure. A [REDACTED] PSR (one-on-one aid) said that it didn't happen while she was in the room, but that She had left the room at one point for a minute. J [REDACTED] said that nothing was said to A [REDACTED] by him or T [REDACTED] during that class.
When I tried to follow up with A [REDACTED] about any details later that week, his mom told me that I couldn't talk to him anymore per the instructions from Lincoln County Sheriff's Deputy.
That probably doesn't help, but it was a hard conversation to track.
I'm glad to help clarify any other details if you have other questions.

Best regards,
Ben Hardcastle

Sent from my iPhone

On Jan 15, 2016, at 9:19 AM, Pittz, Anthony [REDACTED] wrote:

Ben,

I've attached a copy of a page from your notebook that you provided us with. It seems like it refers to you talking with Jose Alvarado but I've a little confused on what exactly the notes mean. I read it as Jose telling you that A [REDACTED] told him that T [REDACTED] had grabbed A [REDACTED] and told him that he was going to do it to A [REDACTED] worse. Is that correct?

And the other part about "they were being jerks again." What does that refer to?

Thank you,

<image003.jpg>

Tony Pittz

Investigator
Criminal Law Division
Office of Attorney General
Phone: [REDACTED]
Fax: (208) 854-8083
[REDACTED]

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RR001406

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<20160115090421187.pdf>

From: Hemmer, Casey
Sent: 08/17/2016 8:50 AM
To: 'Judge Butler'; [REDACTED]; Hemmer, Casey; Spillman, Jason
Cc: Deysi Sandoval ([REDACTED]); Keo Kelley ([REDACTED])
Subject: RE: St. v. T [REDACTED] W [REDACTED] CR-2016-213 (Lincoln County)
Attachments:

Good morning. The 30th will work for me.

Casey Hemmer

From: Judge Butler [mailto:[REDACTED]]
Sent: Tuesday, August 16, 2016 2:45 PM
To: [REDACTED]; [REDACTED]; Spillman, Jason
Cc: Deysi Sandoval ([REDACTED]); Keo Kelley ([REDACTED])
Subject: St. v. T [REDACTED] W [REDACTED] CR-2016-213 (Lincoln County)

Counsel – As you each should be aware we have a Pre-Trial Conference set in this matter for September 6, 2016 at 9:00 a.m. Currently I have a civil jury trial in Jerome set to begin on September 6, while I hope this trial will settle I cannot be sure and since we have jury selection beginning in your case on September 14 and the jury trial commencing on September 21, I was wondering if we could move the Pre-Trial Conference Hearing to August 30, 2016 at 9:00 am in Shoshone. I would ask that you each confer with one another to see if this move in the hearing date will work for all of you and obviously Mr. Wood you will have to confirm with your client. Please let my clerk know if the parties are agreeable on this request. Thanks, Judge B.

From: Deysi Sandoval
Sent: 08/26/2016 2:40 PM
To: Hemmer, Casey
Cc:
Subject: RE: Howard
Attachments:

Send it to Ruth in Gooding County.

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

(208) 886-2173

(208) 886-2458 Fax

From: Hemmer, Casey [REDACTED]
Sent: Friday, August 26, 2016 2:18 PM
To: Deysi Sandoval; Calbo&Depew
Subject: RE: Howard

Thank you. I may file a motion to appear by phone if that is ok with everyone. Which judge should I send it to?

Casey

From: Deysi Sandoval [REDACTED]
Sent: Friday, August 26, 2016 2:13 PM
To: Calbo&Depew; Hemmer, Casey
Subject: Howard

Arraignment will be in Gooding County at 3:30PM.

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

(208) 886-2173

(208) 886-2458 Fax

From: Deysi Sandoval
Sent: 08/01/2016 11:34 AM
To: Minyard, Catherine
Cc:
Subject: RE: Howard
Attachments: image001.gif

Yes please.

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

(208) 886-2173

(208) 886-2458 Fax

From: Minyard, Catherine [mailto:catherine.minyard@ag.idaho.gov]
Sent: Monday, August 1, 2016 11:04 AM
To: 'Deysi Sandoval'
Cc: Hemmer, Casey
Subject: RE: Howard

Deysi –

Ms. Bauges is no longer with our division, so Mr. Hemmer is now the “prosecutor.” We would be happy to file a substitution of counsel if that is what the Court would like, just let me know.

Thanks,

Cathy Minyard

Paralegal – Special Prosecutions Unit
Idaho Attorney General's Office
700 W. State Street - 4th Floor
Boise, ID 83702
Phone: (208) 332-3096
Fax: (208) 854-8083

From: Deysi Sandoval [REDACTED]
Sent: Monday, August 01, 2016 11:01 AM
To: Minyard, Catherine
Subject: Howard

Good morning,
Do you know if Mr. Hemmer is going to file a substitution of prosecuting attorney or is Ms. Bauges still the prosecutor?

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]
(208) 886-2173

(208) 886-2458 Fax

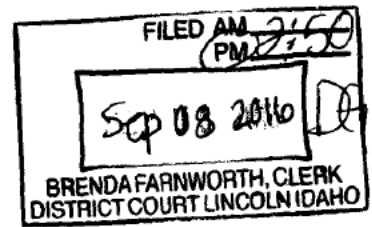
PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: MCFE2A6706783470ATT001 - image001.gif

From: Deysi Sandoval
Sent: 09/08/2016 3:53 PM
To: Calbo&Depew; Minyard, Catherine
Cc: Hemmer, Casey
Subject: John Howard
Attachments:Untitled.PDF

The scheduling conference currently set for the 12 has been vacated.
Judge Stoker will issue a scheduling order setting the pretrial and jury trial.
How many days are you anticipating for the trial?



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

John R.K. Howard,


Defendant.

Case No. CR-2016-214

Order of Assignment by
Administrative District Judge

The above-entitled is assigned to the Honorable Randy J. Stoker, District Judge, for
all further proceedings.

Dated: September 8, 2016



G. RICHARD BEVAN
Administrative District Judge
Fifth Judicial District

C:

From: OAG_Voicemail@ag.idaho.gov
Sent: 03/23/2016 3:24 PM
To: Spillman, Jason
Cc:
Subject: Voice Message from Outside Caller on 3/23/16 3:23 PM for 3552
Attachments: 032316-152321-3552-1160323.95751423@audix-1.mp3



Voice Message from Outside Caller on 3/23/16 3:23 PM (49 second msg)

MESSAGE:

"Hi Jason this is Daisy from Lincoln County. So I just received a phone call from Bell Bonds there. I guess that he waved the heat extra dish and hearing and now they're holding him on the original bond amount from the warrant which is \$75,000. So they're doing the paper work and all that good stuff to bond him out and so I can give them the original for the first available hearings for the arraignment here in Idaho but that's the one they were asking if we can move it out to June so if you wanna give me a call when you have a second. Thank you. Bye bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MD6B3A5ED182D763ATT001 - 032316-[REDACTED]-[REDACTED]-1160323.95751423@audix-1.mp3

From: [REDACTED]
Sent: 03/18/2016 12:40PM
To: Bauges, Brenda
Cc:
Subject: T [REDACTED] W [REDACTED]
Attachments: Untitled.PDF - Adobe Acrobat.pdf

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800

STATE OF IDAHO,
Plaintiff.

vs.

T [REDACTED] R W [REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000213

NOTICE OF HEARING

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

Preliminary Friday, April 22, 2016 02:00 PM
Judge: Mark A. Ingram

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, March 18, 2016.

Defendant: T [REDACTED] R W [REDACTED]

Mailed _____ Hand Delivered _____ E-Mail _____

Private Counsel:

Mailed x _____ Hand Delivered _____ E-Mail _____

Michael J Wood

184 Gooding Street W
Twin Falls ID 83301

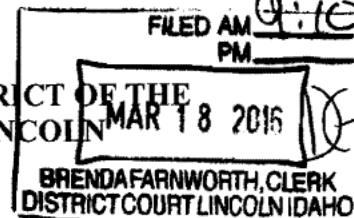
Prosecutor: Brenda M Bauges

Mailed _____ Hand Delivered _____ E-Mail x _____

Dated: Friday, March 18, 2016
Brenda Farnworth
Clerk Of The District Court

By: [Signature]
Deysi Garcia Deputy Clerk
DOC22 7/96

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN



STATE OF IDAHO
Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED],
Defendant.

CASE NO. CR-2016-213

NO CONTACT ORDER I.C. § 18-920
I.C.R. 46.2

TO THE DEFENDANT: You have been charged with the following crime (s):

<u>Count</u>	<u>Statute</u>	<u>Charge Description</u>
I.	18-6608	FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT

Against the alleged victim(s):

Alleged Victim's Name

DOB

DL

Address

1. A. M.

[REDACTED]

[REDACTED]

You are ORDERED to have no contact or attempt contact with the victim(s) listed above. You are not to contact the victim(s) in person or through any third person in writing or e-mail, by telephone, pager, facsimile or by any other means. You are not to harass, follow, or communicate with the named alleged victim(s) or to go within 300 feet of the following locations:

Alleged Victim's home [REDACTED]

Alleged Victim's school [REDACTED]

Alleged Victim's work [REDACTED]

This Order is subject to the following exceptions:

☒ No exceptions

☐ Telephone contact allowed between the hours of ____ a.m. and ____ p.m. for the following purpose: _____

☐ To exchange children through third party: _____

☐ To obtain necessary personal property from the residence listed above with the assistance of law enforcement.

☐ To participate in legal proceedings involving the victim(s) or to communicate through attorneys about legal issues involving the victim(s).

☐ To respond to emergencies involving your natural or adopted children.

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under I.C. § 18-920 for which bail will only be set by a Judge. It is punishable by up to one year in jail and a fine up to \$1,000.

THIS ORDER CAN ONLY BE MODIFIED BY A JUDGE and shall remain in effect until 11:59 p.m. on 10-18-16 or until the underlying charge is dismissed by a Judge, whichever occurs first.

RIGHT TO A HEARING: You and the alleged victim have the right to a hearing on the continuation of this Order within a reasonable time. To request a hearing contact Deyzi Garcia, Court Clerk @ 886-2173.

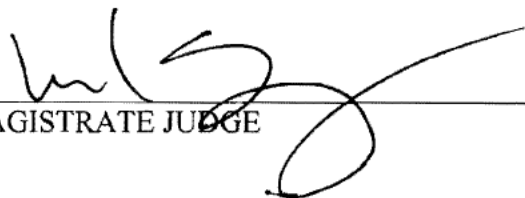
If any other Domestic Violence or Criminal Protection Order is in place the most restrictive terms will control any conflict in the Orders. Dismissal of any other Order will not result in a dismissal of this Order.

This order may subject you to Federal firearms prohibition on the ownership or possession of firearms. 18 USC § 922.

You are notified that if this No Contact Order is issued as a condition of bail or release on your own recognizance and includes an area of geographical restriction monitored by electronic or global positioning system tracking, then intentionally leaving the area of restriction, except for the purpose of obtaining emergency medical care, may be prosecuted as the crime escape and subject you to the penalties set forth in I.C. § 18-2505 or I.C. § 18-2506.

IT IS SO ORDERED.

Dated this 18 day of March, 2016



MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

☒ I certify that on March __, 2016, I serve a true and correct copy of this document on the defendant by hand delivery.

(Person making delivery)

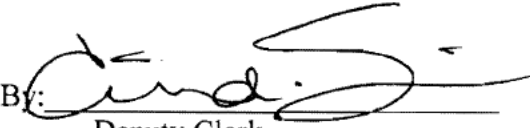
I acknowledge receipt of this order dated: _____

(Defendant)

☒ I certify that on 3/18/16, I served a copy of the attached to:

Michael J. Wood
Attorney at Law
184 Gooding St. West
Twin Falls, ID 83301
Fax: (208) 436-0141

____ U.S. Mail Postage Prepaid
☒ Hand Delivered
____ Overnight Mail
____ Facsimile

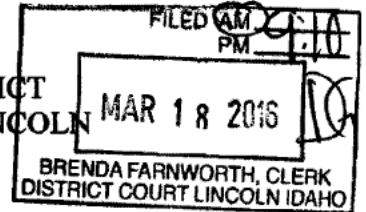
By: 
Deputy Clerk

Brenda Bauges
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
Fax: (208) 854-8083

____ U.S. Mail Postage Prepaid
____ Hand Delivered
____ Overnight Mail
____ Facsimile
Email

By: 

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN
MAGISTRATE DIVISION



CR-2016-0000213

State of Idaho vs. T [REDACTED] R W [REDACTED]

Hearing type: Arraignment

Hearing date: 3/18/2016

Time: 8:59 am

Judge: Mark A. Ingram

Minutes Clerk: Deysi Garcia

Defense Attorney: Michael Wood

Prosecutor: Brenda Bauges

☒ -Verified Name INTERPRETER _____
☒ Appeared in person _____ In custody _____ Bond set \$ _____ OR release _____
Failed to appear _____ Warrant issued _____ Bond forfeited _____
☒ Rights given ☒ Rights form signed ☒ Rights understood
☒ Penalties given ☒ Penalties understood

Counsel: _____ -Def. sworn _____ P.D. appointed _____ Reimburse P.D. _____

_____ Waived _____ P.D. denied ☒ Hire own Michael J. Wood
_____ Plead guilty _____ Def. questioned of threats or promises

Mr. Wood ask to be set far out since they need time to prepare.

Court explains the right to have a speedy preliminary hearing to Mr. W [REDACTED]

Mr. W [REDACTED] waives his right to a speedy preliminary hearing; understands his right to a speedy preliminary hearing.

903-Ms. Bauges asks for a No Contact Order

Mr. Wood-Does have an objection.

Court-Issues a No Contact Order.

_____ Plead not guilty

Preliminary set April 22, 2016 at 2:00PM

From: OAG_Voicemail@ag.idaho.gov

Sent: 05/26/2016 12:50PM

To: Bauges, Brenda

Cc:

Subject: Voice Message from Outside Caller on 5/26/16 12:51 PM for 3089

Attachments: 052616-125122-3089-1160526.97103871@audix-1.mp3



Voice Message from Outside Caller on 5/26/16 12:51 PM (20 second msg)

MESSAGE:

"Brenda Sgt. McClure with Lincoln County Sheriff's office. Hey we got an incident that took place yesterday and the song going in there and on M [REDACTED] case involving the school. Would you give me a call at your earliest convenience [REDACTED] [REDACTED] [REDACTED]. Thanks Brenda. Bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MDC1EA62D70E5759ATT001 - 052616-[REDACTED]-[REDACTED]-1160526.97103871@audix-1.mp3

From: Deysi Sandoval
Sent: 08/26/2016 10:23 AM
To: Hemmer, Casey; Calbo&Depew
Cc:
Subject: Howard
Attachments:

Judge Elgee is gone the week of the 6th. I can asks Judge Butler and see if he can do the arraignment on September 6 at 9:00...or Judge Brody can do the arraignment in Blaine County at 1:30PM on September 6th. Please let me know what works.

Thanks.

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

(208) 886-2173

(208) 886-2458 Fax

From: Deysi Sandoval
Sent: 08/01/2016 11:00 AM
To: Minyard, Catherine
Cc:
Subject: Howard
Attachments:image001.gif

Good morning,
Do you know if Mr. Hemmer is going to file a substitution of prosecuting attorney or is Ms. Bauges still the prosecutor?

Deysi Garcia, Deputy Clerk
Lincoln County Magistrate Court

[REDACTED]

(208) 886-2173

(208) 886-2458 Fax

PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: MDE63A6706289863ATT001 - image001.gif

From: OAG_Voicemail@ag.idaho.gov

Sent: 05/17/2016 9:14 AM

To: Bauges, Brenda

Cc:

Subject: Voice Message from Outside Caller on 5/17/16 9:15 AM for 3089

Attachments: 051716-091522-3089-1160517.96879359@audix-1.mp3



Voice Message from Outside Caller on 5/17/16 9:15 AM (19 second msg)

MESSAGE:

"Hi Brenda Brad Cabell returning your phone call. It's Tuesday about 9:11 AM. My office number is [REDACTED].
Calling on Howard case in Lincoln County. Thank you. Bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

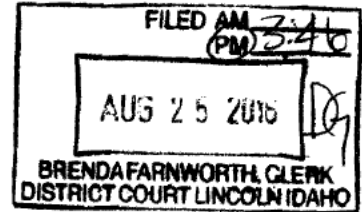
PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: ME0E9A6244533793ATT001 - 051716-091522-3089-1160517.96879359@audix-1.mp3

From: Deysi Sandoval
Sent: 08/25/2016 3:47 PM
To: Calbo&Depew; Hemmer, Casey
Cc:
Subject: John Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
[REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Arraignment Thursday, September 1, 2016 01:30 PM
Judge: Robert Elgee

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 Thursday, August 25, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail_x__

Brad Calbo

P.O. Box 9
Jerome ID 83338

Prosecutor: Casey J Hemmer

Mailed____ Hand Delivered____ E-Mail_x__

Dated: Thursday, August 25, 2016
Brenda Farnworth
Clerk Of The District Court

By:
Deysi Garcia, Deputy Clerk
DOC 22 7/96

From: OAG_Voicemail@ag.idaho.gov

Sent: 04/12/2016 10:54 AM

To: Bauges, Brenda

Cc:

Subject: Voice Message from Outside Caller on 4/12/16 10:52 AM for 3089

Attachments: 041216-105236-3089-1160412.96167935@audix-1.mp3



Voice Message from Outside Caller on 4/12/16 10:52 AM (54 second msg)

MESSAGE:

"Hi Brenda this is Shelly M [REDACTED] from Dietrich. I don't have my case number that is for A [REDACTED] press(?) Kenny attorney's(?) office and Sean has a secretary her name is Sue Gregory. She's married to Jerry Gregory. He's running for sheriff. He was set up. Alright man. They're going down to the Eagles nest and giving out information that she's gotten from the tuscan-attorney's(?) office. Information that no other people now. I've gotten this information from a couple very reputable people. I guess the shares department looking into it but they've ask and that's Lori Fox. So I need somebody to give me a call back and let me know what to do. My number is [REDACTED]-[REDACTED] area code 208. Thanks so much. Bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: ME6CBA601F854154ATT001 - 041216-[REDACTED]-1160412.96167935@audix-1.mp3

From: OAG_Voicemail@ag.idaho.gov

Sent: 04/13/2016 9:29 AM

To: Bauges, Brenda

Cc:

Subject: Voice Message from Outside Caller on 4/13/16 9:28 AM for 3089

Attachments:041316-092826-3089-1160413.96195071@audix-1.mp3



Voice Message from Outside Caller on 4/13/16 9:28 AM (50 second msg)

MESSAGE:

"Hi Brenda excuse me this is Ben Hart Castle the superintendent of Dietrich School District and I was just returning your call I had a message this morning that you had called yesterday afternoon I apologize I was out of out of the office yesterday at Post legislative tour. So I would be glad to visit with you this morning. Feel free to give me a call back here at either the school number which is [REDACTED] or my cell phone number is [REDACTED] and yeah we'll just plan on visiting with you sometime today. Thanks so much we'll talk to you soon. Bye bye."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: ME807A602EAF9515ATT001 - 041316- -1160413.96195071@audix-1.mp3

From: OAG_Voicemail@ag.idaho.gov

Sent: 05/30/2016 12:49PM

To: Pittz, Anthony

Cc:

Subject: Voice Message from Outside Caller on 5/30/16 12:52 PM for 4140

Attachments:053016-125229-4140-1160530.97147647@audix-1.wav



Voice Message from Outside Caller on 5/30/16 12:52 PM (86 second msg)

MESSAGE:



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MEB45A63205EB905ATT001 - 053016-125229-4140-1160530.97147647@audix-1.wav

From: Bauges, Brenda
Sent: 03/14/2016 8:32 AM
To: [REDACTED]
Cc: Pittz, Anthony
Subject: Request for Attempt to Arrest
Attachments: image003.jpg; John Howard.msg; Warrant - John Howard.pdf

Sergeant Owens,

Thank you for speaking with me last week about this outstanding warrant from Idaho. As requested, I am attaching the warrant and photograph. Please let me know if there is any additional information you need from me. Thank you.



Brenda Bauges

Deputy Attorney General
Special Prosecutions Unit

Phone: [REDACTED]

Fax: [REDACTED]
[REDACTED]

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From: Pittz, Anthony
To: Bauges, Brenda
Sent: 3/10/2016 11:45:40 AM
Subject: John Howard





Tony Pittz

Investigator
Criminal Law Division
Office of Attorney General
Phone: [REDACTED]
Fax: [REDACTED]
[REDACTED]

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LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: () -
Facsimile: () -

10:00
MAR 04 2016
D

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.

CASE NO. CR-2016-214
ARREST WARRANT

Address: [REDACTED]			
DOB: [REDACTED]	SSN: [REDACTED]	Race:	
WT: 174 lbs	HT: 6'00"	EYES: Blue	HAIR: Brown

**TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE STATE
OF IDAHO:**

A COMPLAINT UPON OATH having been this day laid before me by Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, stating that the crime of: FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, has been committed, and accusing JOHN R.K. HOWARD thereof;

ARREST WARRANT (HOWARD), Page 1

ORIGINAL

RR001442

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above, and to bring him before me at my office in the County of Lincoln, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Lincoln County.

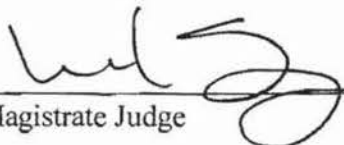
DATED This 4th day of March, 2016.

May be served:

Daytime or any public
place or at the Lincoln
County Jail _____

Daytime or nighttime X

Bond \$ 75,000⁰⁰



Magistrate Judge

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing JOHN R.K. HOWARD into Court this _____ day of _____, 2016.

(Deputy Sheriff) (State Policeman)
(City Policeman)

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, JOHN R.K. HOWARD , having been brought before me under this Warrant, is committed for examination to the Sheriff of Lincoln County, Idaho, and is admitted to bail in the sum of \$_____, surety, cash or by undertaking of two (2) sufficient sureties, and is committed to the custody of the Sheriff of Lincoln County until such bail is given. This cause is continued for further appearance until the _____ day of _____, 2016.

Magistrate Judge

ORDER OF RELEASE

TO THE SHERIFF OF LINCOLN COUNTY, IDAHO:

YOU ARE HEREBY ORDERED to release the Defendant from your custody.

DATED:

Judge

NCIC ENTRY: (Additional Levels Inclusive)

☐ Idaho Only

☐ North West Shuttle (ID, WA, OR)

☐ Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO, AZ, NV)

☒ Nationwide

BY: _____

DATED: _____

From: Forgy, Deborah
Sent: 09/01/2016 9:11 AM
To: Schafer, Nicole
Cc: Minyard, Catherine
Subject: FW: Order granting telephone appearance
Attachments: State v John R.K. Howard.pdf

From: Ruth Petruzzelli [REDACTED]
Sent: Thursday, September 01, 2016 9:06 AM
To: Forgy, Deborah
Subject: Order granting telephone appearance

Good Morning,

We have another case to take up at 3:00 so it may be a few minutes after before we call your office. Also I will email these filings to Lincoln County to be filed and served.

Thanks,

Ruth Petruzzelli, Deputy Clerk
Gooding County District Court
Fifth Judicial District-State of Idaho

[REDACTED]

(208)934-4861

(208-934-4408 Fax

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD,

Defendant.


Case No. CR-2016-0000214

**ORDER GRANTING STATE'S
MOTION TO APPEAR BY
TELEPHONE**

The Court having received the State's Motion to Appear by Telephone for the Arraignment on September 6, 2016 at 3:00 p.m. and with good cause;

IT IS HEREBY ORDERED that the State's Motion is GRANTED. The court will call Casey J. Hemmer at () on September 6, 2016 at 3:00 p.m.

DATED this 1 day of September 2016.

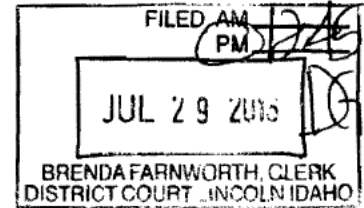

Eric Wildman
District Judge

ORDER GRANTING STATE'S MOTION TO APPEAR BY TELEPHONE (Howard),

RR001446

From: Deysi Sandoval
Sent: 08/01/2016 10:59 AM
To: Calbo&Depew; Minyard, Catherine
Cc:
Subject: Howard [Notice of Hearing - District Court Arraignment]
Attachments:Untitled.PDF - Adobe Acrobat.pdf

Fifth Judicial District Court, State of Idaho
In and For the County of Lincoln
111 West B Street Suite C
Shoshone, Idaho 83352-0800



STATE OF IDAHO,
Plaintiff.

vs.

John R.K. Howard
[REDACTED]

DOB: [REDACTED] Defendant.

Case No: CR-2016-0000214

NOTICE OF HEARING

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

Arraignment Tuesday, September 6, 2016 09:00 AM
Judge: John K Butler

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, August 1, 2016.

Defendant: John R.K. Howard

Mailed____ Hand Delivered____ E-Mail____

Private Counsel:

Mailed____ Hand Delivered____ E-Mail_x____

Brad Calbo

P.O. Box 9
Jerome ID 83338

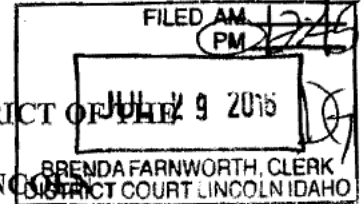
Prosecutor: Brenda M Bauges

Mailed____ Hand Delivered____ E-Mail_x____

Dated: Monday, August 1, 2016
Brenda Farnworth
Clerk Of The District Court

By:

Deysi Garcia, Deputy Clerk
DOC22 7196



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.) Case No. CR-2016-214
)
John R. K. Howard)
)
Defendants.)
)
)

ORDER HOLDING DEFENDANT TO ANSWER TO DISTRICT COURT

[X] Defendant having freely, knowingly and voluntarily waived a preliminary hearing, I order that the defendant be held to answer in the District Court to the charge(s) of:

Forcible penetration by use of a foreign object, 18-6608

[] From the evidence presented, I find that the charge(s)/offense(s) of:

has/have been committed and there is sufficient cause to believe the defendant is guilty thereof. I order that the defendant be held to answer to the charge(s) in the District Court.

The defendant shall appear in District Court for Arraignment on Tuesday, the 16 day of September, 2016 at 9:00 a.m.

IT IS SO ORDERED.

DATED this 29 day of July, 2016

Mark Syman
Magistrate Judge

From: [REDACTED]
Sent: 12/22/2016 2:07 PM
To: [REDACTED]
Cc:
Subject: RE: Message
Attachments: image002.gif

Thanks Jessica.

Kelly Miller looped me in on a reply to my question which is what I wanted to pose to you. In reading the language with respect to rape I am still struggling with the explanation provided at our meeting yesterday as I expected it to be much clearer. I appreciate your input as I work to try and make some sense out of this in a way that I can help us move forward to a place where acts like this receive the punishment I think we all agree they deserve!

Bea

BEATRICE BLACK - Executive Director

Women's and Children's Alliance

720 W. Washington - Boise, Idaho 83702

Ph: 208 343 3688 Ext. [REDACTED]

Fax: 208 343 8475

TDD/TTY: 800 377 3529

www.wcaboise.org

WCA Crisis Hot Line: 208 343 7025

Rape Crisis Advocacy: 208 345 7273

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From: Lorello, [REDACTED]
Sent: Thursday, December 22, 2016 12:48 PM
To: Bea Black
Subject: Message

Hi Bea: Kara from our office emailed me and said you are trying to get in touch with me. My direct line is [REDACTED]. I am only in the office sporadically today and tomorrow due to childcare issues, but if I miss your call, I will call you back as soon as I can. Thanks!

Jessica M. Lorello

[REDACTED]

RR001450

From: catherine.minyard@ag.idaho.gov

Sent: 12/19/2016 3:27 PM

To: [REDACTED]; [REDACTED]; [REDACTED]

Cc:

Subject: State of Idaho v. John R.K. Howard, Lincoln County Case No. CR-2016-214

Attachments: Proposed Order to Dismiss.docx

Deysi/Dorothy –

Deputy Attorney General Casey Hemmer made a motion to dismiss this case on the record at the hearing held on December 16, 2016. Attached, please find a Proposed Order dismissing the case for Judge Stoker's review and signature. Please let me know if you need anything further.

Thank you,

Cathy Minyard

Paralegal – Special Prosecutions Unit

Idaho Attorney General's Office

P.O. Box 83720

Boise, ID 83720-0010

Phone: (208) 332-3096

Fax: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2016-214
vs.)	
	)	ORDER TO DISMISS
JOHN R.K. HOWARD,)	
)	
Defendant.)	
_____)	

The Court having heard the motion heretofore made in the case of *State v. John R.K. Howard*, by, Deputy Attorney General Casey J. Hemmer, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the charge of Forcible Penetration by Use of a Foreign Object, Felony is hereby dismissed.

DATED this ____ day of _____ 201__.

Randy J. Stoker
District Judge

CLERK'S CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this ___ day of _____, 201___, I caused to be served
a true and correct copy of the foregoing Order to Dismiss to:

Casey J. Hemmer
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

Brad Calbo
Calbo & DePew
P.O. Box 9
414 N. Lincoln, Ste. 5
Jerome, ID 83338
Fax: (208) 324-5597

___ U.S. Mail Postage Prepaid
___ Hand Delivered
___ Overnight Mail
___ Facsimile
___ Electronic Mail (Email)

By: _____
Deputy Clerk

From: [REDACTED]
Sent: 05/17/2016 9:30 AM
To: Bauges, Brenda
Cc:
Subject: Voice Message from Outside Caller on 5/17/16 9:30 AM for 3089
Attachments: 051716-[REDACTED]-[REDACTED]-1160517.96880383@audix-1.mp3



Voice Message from Outside Caller on 5/17/16 9:30 AM (30 second msg)

MESSAGE:

"Yes Ms. Vargas it's Mike Wood calling from twin Falls I'd like to request an extension of my due date on that response to your motion to change venue until tomorrow at five. Could you please give me a call back regarding such an extension. I'm at 2:08 obviously [REDACTED] [REDACTED]. Thank you."



Delete

Delete this message from your voice mailbox.



Delete All

Delete all messages from your voice mailbox.

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

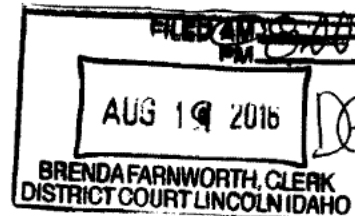
NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MFA26A62428F5430ATT001 - 051716-██████-██████-1160517.96880383@audix-1.mp3

From: Deysi Sandoval
Sent: 08/19/2016 8:23 AM
To: Hemmer, Casey; Calbo&Depew
Cc: Cheri Mattson
Subject: John Howard
Attachments:Untitled.PDF - Adobe Acrobat.pdf

C. Bradley Calbo, ISB No. 4929
Stacey DePew, ISB No. 7303
CALBO & DEPEW, PLLC
414 North Lincoln Avenue, Ste. 5
P.O. Box 9
Jerome, ID 83338
Phone (208) 324-5431
Fax: (208) 324-5597
www.calboanddepew.com

Attorneys for Defendant



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD.

Defendant.

Case No. CR- 2016-214

**ORDER RE:
MOTION TO DISQUALIFY
JUDGE PURSUANT TO I.C.R. 25**

COMES NOW, the Honorable John K. Butler, District Judge, having been disqualified in the above-entitled cause and requests this matter be re-assigned to another District Judge for all further proceedings.

DATED:

SIGNED:

John K. Butler
District Judge

CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that on the 19 day of August, 2016 I caused a true and accurate copy of the foregoing to be forwarded to the following using the method indicated:

Casey Hemmer
~~Brenda Bauges~~
P.O. Box 83720
Boise, ID 83720

- ☐ U.S. Mail
☐ Hand-delivery
☐ Fax *Email*
☐ Courthouse Box

Calbo & DePew
P.O. Box 9
Jerome, ID 83338

- ☐ U.S. Mail
☐ Hand-delivery *Email*
☐ Fax
☐ Courthouse Box

Shelli Tubbs
~~Linda Wright~~
Trial Court Administrator
P.O. Box 126
Twin Falls, ID 83303

- ☐ U.S. Mail
☐ Hand-delivery *Email*
☐ Fax
☐ Courthouse Box


Deputy Clerk

From: Spillman, Jason
Sent: 05/26/2016 4:33 PM
To: Lucoff, Aaron (USAID) ([REDACTED])
Cc: Bauges, Brenda; Hemmer, Casey
Subject: Dietrich
Attachments: Howard Filed - Complaint.pdf; W [REDACTED] Information (filed).pdf

Hi Aaron,

Paul asked that we send you the charging documents and reports from our Dietrich cases. Attached please find the W [REDACTED] information and Howard Complaint. The other case is a sealed juvenile matter. Our assistant is out today and tomorrow, but we've asked her to burn a disc with the relevant reports and we hope to send those your way on Tuesday.

Please let me know if you have any questions.

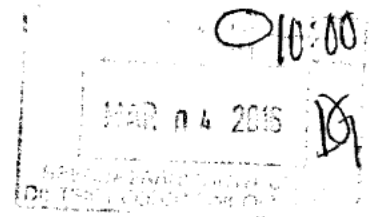
Thanks, Jason

Jason Slade Spillman
Lead Deputy Attorney General
Special Prosecutions Unit
P.O. Box 83720
Boise, ID 83720-0010
([REDACTED]) [REDACTED] [REDACTED]

LAWRENCE G. WASDEN
Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185
Deputy Attorney General and
Special Prosecuting Attorney
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,

Plaintiff,

vs.

JOHN R.K. HOWARD

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

CASE NO. CR-2016-214
CRIMINAL COMPLAINT

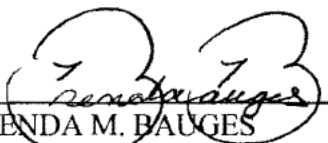
PERSONALLY APPEARED before me this 4 day of March 2016, Brenda M. Bauges, Deputy Attorney General and Special Prosecuting Attorney, in the County of Lincoln, State of Idaho, who, being first duly sworn, complains and says that JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did commit the crimes of: **FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608** as follows:

That the Defendant, JOHN R.K. HOWARD, on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by

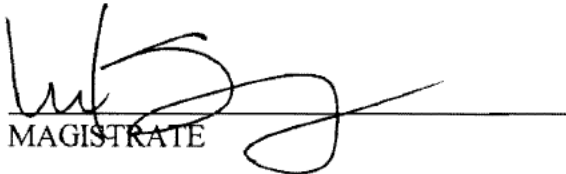
kicking a coat hanger further inside the anal opening of A.W.M. against his will for the purpose of sexual arousal, gratification, or abuse.

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

Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.


BREND A M. BAUGES
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

SUBSCRIBED AND SWORN to before me this 4 day of March 2016.


MAGISTRATE

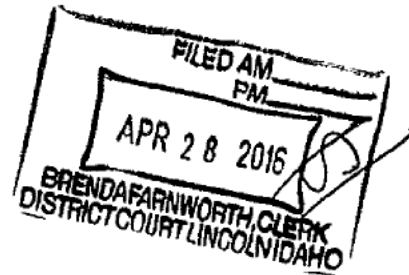
RECEIVED

MAY 02 2016

OFFICE OF THE ATTORNEY GENERAL
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Idaho Attorney General
CRIMINAL DIVISION

PAUL R. PANTHER
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Chief, Criminal Law Division

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P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 332-3096
Facsimile: (208) 854-8083



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

THE STATE OF IDAHO,

Plaintiff,

vs.

T [REDACTED] R [REDACTED] W [REDACTED]

Defendant.

Case No. CR-2016-213

INFORMATION


BRENDA M. BAUGES, Deputy Attorney General and Special Prosecutor for Lincoln County, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Lincoln, and states that T [REDACTED] R [REDACTED] W [REDACTED] is accused by this Information of the crime of: FORCIBLE PENETRATION BY USE OF A FOREIGN OBJECT, FELONY, § 18-6608 which crime was committed as follows:

That the Defendant, T [REDACTED] R [REDACTED] W [REDACTED], on or about the 22nd day of October, 2015, in the County of Lincoln, State of Idaho, did cause the penetration of the anal opening of another person by an object, instrument, or device, against his will by use of force or violence, to-wit: by inserting a hanger inside the anal opening of A.W.M. against his will for the purpose of sexual abuse.

COPY

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

DATED this 26 day of April, 2016.



Brenda M. Bauges
Deputy Attorney General and
Special Prosecuting Attorney for
Lincoln County

From: [REDACTED]
Sent: 02/07/2017 2:05 PM
To: [REDACTED]
Cc:
Subject: FW: Voice Message from Outside Caller on 2/7/17 2:01 PM for 3096
Attachments: 020717-140137-3096-1170207.101932031@audix-1.mp3

From: OAG_Voicemail@ag.idaho.gov [mailto:OAG_Voicemail@ag.idaho.gov]
Sent: Tuesday, February 07, 2017 1:59 PM
To: Minyard, Catherine
Subject: Voice Message from Outside Caller on 2/7/17 2:01 PM for 3096



Voice Message from Outside Caller on 2/7/17 2:01 PM (63 second msg)

MESSAGE:

"Hi my name is Jerry I do represent anybody but I've been reading about these cases out there the John Howard case. Now the Cody Herrera case. I'll call back when I can actually talk to someone but you guys ever prosecuted a case without a plea deal these two cases are a joke. Once again I only wonder how Ms. Casey Hammer would react if this was someone. They that he or she I don't know if it's a man or woman cared about in these two cases if it was someone in their family or someone they knew they wouldn't react the same way. This is a disgrace. I just have these people get how you get these positions. You really the public is [...] off. Yeah. So once again remember how you would react if it was someone you cared about."



Delete

[Delete this message from your voice mailbox.](#)



Delete All

[Delete all messages from your voice mailbox.](#)

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated

From: [REDACTED]
Sent: 02/02/2017 7:16 AM
To: [REDACTED]
Cc:
Subject: FW: Voice Message from Outside Caller on 2/1/17 7:51 PM for 3096
Attachments: 020117-195106-3096-1170201.101814271@audix-1.mp3

From: OAG_Voicemail@ag.idaho.gov [mailto:OAG_Voicemail@ag.idaho.gov]
Sent: Wednesday, February 01, 2017 7:46 PM
To: Minyard, Catherine
Subject: Voice Message from Outside Caller on 2/1/17 7:51 PM for 3096



Voice Message from Outside Caller on 2/1/17 7:51 PM (8 second msg)

MESSAGE:

"Yes I just want to say that Casey Hammer should recount his position and the rate case."



Delete

[Delete this message from your voice mailbox.](#)



Delete All

[Delete all messages from your voice mailbox.](#)

There are -1 new and -1 old messages in your mailbox.

PLACEHOLDER IMAGE:

NOTE: Audio file, no image generated