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

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

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

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

COMPLAINT (HOWARD), Page 1

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

COMPLAINT (HOWARD), Page 2





LINCOLN COUNTY PROSECUTING ATTORNEY

Post Office Drawer 860 Shoshone, Idaho 83352

E. Scott Paul Prosecuting Attorney October 28, 2015

Telephone: (208) 886-2454 Fax: (208) 886-9824

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, **and support**.

I look forward to hearing from you soon.

Sincerely,

E Scott Pau

E. Scott Paul Lincoln County Prosecutor

Cc: Lincoln County Sheriff, Kevin Ellis

RECEIVED

NOV 1 0 2015



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

November 5, 2015

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

Agreement on Prosecutorial/Investigative Assistance Request. Re: 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:

V 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

OFFICE OF THE ATTORNEY GENERAL CRIMINAL DIVISION

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: Date: 11/10/13 E. SCOTT PAK

Prosecuting Attorney Lincoln County

PRP: fn cc: Trudy Jackson, Office of Attorney General

Sincerely

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



R. KEITH ROARK

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

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APR 0 6 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 D A: R M

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

WWW.ROARKLAW.COM

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, 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: Manual - 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.

Griminal 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 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,

rende alige

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

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JUN - 1 2016

CRIMINAL DIVISION

e-mail: 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

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

OFFICE OF THE ATTORNEY GENERAL

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

> Re: M 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 Manual, and three high school colleagues of Mr. M

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.

May 31, 2016 Page 2

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

Very truly yours,

Brian K. Julian

BKJ:dw Enclosure

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



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

Sincerely,

rendaci 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: FAX: For Located at 700 W. State Street Joe R. Williams Building, 4th Floor 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: jdwnascp@att.net

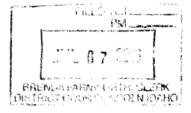


PAGE

P1

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 Tomm and Howard Willing vs. the State of Idaho. There has been media attention on the town of Dictrich, Idaho and the assault of rape by penetration of a foreign objet 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 (

Sincerely. conetta Williams

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

Founded in 1909



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

August 9, 2016

VIA FACSIMILE: Structure 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 D D M DOB: M

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 D M M In the inconjunction 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) 854-8074 Located at 700 W. State Street Joe R. Williams Building, 4th Floor

FAX HEADER: IDAHO ATTY GENERAL-SPU

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



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

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 D D M DOB: D M

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 D M M M minimum 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

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



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 Mered 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 **Mattern** Mattern 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,

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



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 Mered 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,

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 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.	
	OR 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 ber 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 /2 day of November 2015.

District

E. Scott Paul Lincoln County Prosecuting Attorney Post Office Drawer 860 Shoshone, ID 83352 Telephone 208-886-2454 Facsimile 208-886-9824

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. _____

PETITION FOR APPOINTMENT OF SPECIAL PROSECUTOR

COMES NOW County Prosecuting Attorney E. Scott Paul and, pursuant to I.C. §31-2603, petitions this Court for the appointment of a Special Prosecutor and, in support of this request, states:

1. I am the duly elected Prosecuting Attorney of Lincoln County;

2. I have the duty to prosecute all felony and certain misdemeanor criminal actions committed in Lincoln County pursuant to I.C. §31-2604 as Prosecuting Attorney;

3. I petition this Court to appoint the Idaho Attorney General, or his designee, a member of the Idaho Bar Association and an experienced attorney in criminal prosecution, as Special Prosecutor in that he/she is a suitable person to perform the duties required of me and he/she has agreed to serve as Special Prosecutor in this matter, and:

- X (a) A conflict of interest or appearance of impropriety prohibits me from fulfilling the aforementioned statutory duties, or
 - (b) I seek assistance in order to utilize the unique expertise and/or additional resources of the Office of the Attorney General.

PETITION FOR APPOINTMENT OF SPECIAL PROSECUTOR, Page 1

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 day of November 2015.

khr

E. Scott Paul Lincoln County Prosecuting Attorney

PETITION FOR APPOINTMENT OF SPECIAL PROSECUTOR, Page 2

LAWRENCE G. WASDEN Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185

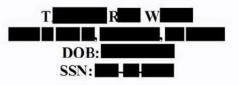
Deputy Attorney General and Special Prosecuting Attorney P.O. Box 83720 Boise, Idaho 83720-0010 Telephone: (208) 332-3096 Facsimile: (208) 854-8083

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 R W,) SUMMONS
)
Defendant.)
)

THE STATE OF IDAHO SENDS GREETING TO:



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

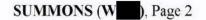
SUMMONS (W), Page 1

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.	ý
)

Address:	, .		
DOB: SSN: 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

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)

ARREST WARRANT (HOWARD), Page 2

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.

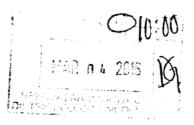
DATED: _____

Judge

NCIC ENTRY: (Additional Levels Inclusive)

I Idaho Only
North West Shuttle (ID, WA, OR)
Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO, AZ, NV)
NV)
Nationwide
BY: _________
DATED: _______

ARREST WARRANT (HOWARD), Page 3



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: SSN:
Defendant.

CASE NO. __ (R-2016-214

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this <u>4</u> day of <u>March</u> 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. BAUGE

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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

MAGISTRATE

COMPLAINT (), Page 2

Brad Calbo, ISB No. 4929 Stacey DcPew, 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,

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JOHN HOWARD,

Defendant.

Case No. CR-2016-214

RESPONSE TO REQUEST FOR DISCOVERYAND 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

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DEPEW

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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 Attorney County Prosecuting

() U.S. Mail
() Hand-delivery
() Fax
() Courthouse Box

RESPONSE TO REQUEST TO DISCOVERY - 2

208334226224

94/90/5010 11:52

Brad Calbo, ISB No. 4929 Stacey DePew, ISB No. 7303 CALBO & DEPEW, PLLC 414 North Lincoln, Ste. 5 P.O. Box 9 Jerome, Idaho 83338 Telephone: (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 HOWARD,

Defendant.

Case No. CR-2016-214

REQUEST FOR DISCOVERY AND INSPECTION

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the <u>Idaho</u> <u>Criminal Rules</u>, requests that the State produce the following information, evidence and materials:

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.

 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.

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 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 <u>Idaho Rules of Evidence</u>.

10. Defendant requests said books, documents and test samples, pursuant to <u>Idaho Criminal Rule</u> 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

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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: (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

REQUEST FOR DISCOVERY

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

REQUEST FOR DISCOVERY (HOWARD), Page 1

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

REQUEST FOR DISCOVERY (HOWARD), Page 2

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.

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DATED this 8 day of April, 2016.

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

REQUEST FOR DISCOVERY (HOWARD), Page 3

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.)
JOHN R.K. HOWARD ,)
Defendant.)
	/

Case No. CR-2016-214

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 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:

- 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.

 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 Marcon Marcon 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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A H 12-17-15	20	22
IAR#5-ADP Interview with K	23	25
IAR#6-ADP Interview with A F 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E	32	34
IAR#9-ADP Interview with K P 12-17-15	35	37
IAR#11-ADP Interview with Shelly M 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 :		
A Harry 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	115	115
Warrant		
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search	117	118
Warrant		
Order Sealing Search Warrant & Affidavit for Search	119	120
Warrant (Marked Sealed)		
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
Second Reason 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 Management 11	332	332
Interview with Sec. 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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln			

Last	First	FIRM	Address	City	State	Zip
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M	A					
M	Shelly					
М	Tim					
M	Jeremy					
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	Т					

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 date 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.

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.

engladuges Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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

OFFICE OF THE ATTORNEY GENERAL BRENDAFARNWORTH. CLEF DISTRICT COURT LINCOLN IDAHO

FILED AM PM.

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.

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.

aug nem Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

DISCOVERY RESPONSE TO COURT (HOWARD), Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 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 Facsimile

Electronic Mail

uralegal

DISCOVERY RESPONSE TO COURT (HOWARD), Page 2



PAUL R. PANTHER Deputy Attorney General Chief, Criminal Law Division FILED AM PM APR 1 1 2016 BRENDAFARNWORTH CLERK DISTRICT COURT LINCOLN IDAHO

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

NOTICE OF DISCOVERY REQUEST TO THE 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 submitted its Request for Discovery to Defendant.

DATED this 🙆 day of April, 2016.

Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

NOTICE OF DISCOVERY REQUEST TO THE COURT (HOWARD), Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 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

aralegal

NOTICE OF DISCOVERY REQUEST TO THE COURT (HOWARD), Page 2

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

)
)
)
)
))

Case No. CR-2016-214

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:

- 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.

 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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IAR#4-ADP Interview with A Harry 12-17-15	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with Appendix Plane 12-17-15	26	28
IAR#7-ADP Interview with F	29	31
JAR#8-ADP Interview with E H 12-17-15	32	34
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	_	
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 arr :		
A Hard Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
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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	115	115
Warrant		
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search	117	118
Warrant		
Order Sealing Search Warrant & Affidavit for Search	119	120
Warrant (Marked Sealed)		
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 Research 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	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
Mana 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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

Last	First	FIRM	Address	City	State	Zip
Μ	A					
Μ	Shelly			Contract of the Contract of th		-
M	Tim					-
M	Jeremy					
Roeloffs	Sara	CARES - St. Luke's	2550 Addison Ave.	Twin	ID	83301
		Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High	406 N. Park Street	Dietrich	ID	83324
		School				
Walther	Bret	Anderson, Julian &	250 South 5th Street,	Boise	ID	83707-
		Hull	Suite 700	-		7426
W	Т					

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 date 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.

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 Repo	rt	395	411

DATED this 19 day of April 2016.

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



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 2 2 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 DISCOVERYRESPONSE 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 <u>9</u> day of April, 2016.

Brenda M. Banges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

DISCOVERY RESPONSE TO COURT (HOWARD), Page 1

D

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, Stz. 5 Jerome, ID 83338 Fax: (208) 324-5597 <u>↓</u> U.S. Mail Postage Prepaid
 <u>↓</u> Hand Delivered
 <u>↓</u> Overnight Mail
 <u>↓</u> Facsimile
 <u>↓</u> Electronic Mail

Minyard, Paralegal

DISCOVERY RESPONSE TO COURT (HOWARD), Page 2

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.	ý
JOHN R.K. HOWARD ,)
Defendant.)

Case No. CR-2016-214

SECOND 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 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:

- 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 Marcon Marcon 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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A H 12-17-15	20	22
IAR#5-ADP Interview with K	23	25
IAR#6-ADP Interview with A Page 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E H 12-17-15	32	34
IAR#9-ADP Interview with K Para 12-17-15	35	37
IAR#11-ADP Interview with Shelly M 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:		
A H 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

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Pleadings:		
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Warrant		
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search	117	118
Warrant		
Order Sealing Search Warrant & Affidavit for Search	119	120
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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
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Dietrich School District Policies	179	192
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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
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Superintendent Hardcastle Investigation Overview	304	311
Witness Diagrams of Locker Room	312	320
Curriculum Vitae for Tomasine Quinney	325	327

Begin No.	End No.
328	328
329	329
330	330
331	331
332	332
333	333
334	335
336	336
337	337
338	338
	329 330 331 332 333 334 336 337

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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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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

Last	First	FIRM	Address	City	State	Zip
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M	A					
M	Shelly					
M	Tim		 ,			
Me	Jeremy					
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	1					

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 date 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.

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

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16(c)(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.

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A M	IEP	339	381
A M	Medical Records	382	394
CARES Re	port	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 *A* 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 Ind 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

ard, Paralegal

CURRICULUM VITAE

BRIAN L. JOHNSON, M.D.

PHONE

Undergraduate	1988 - 1991 Regis University B.S. Biology	Denver, Colorado			
	Magna Cum Laude				
Medical School	1991 - 1995 University of Colorado School of Medicine <i>M,D</i> ,	Denver, Colorado			
Residency	1995 - 1998 University of Colorado at Rose Medical Cente Family Medicine	er Denver, Colorado			
Fellowship	1998-1999 University of Colorado Advanced Training Track in Perinatal Care	Denver, Colorado			
	 Developed skills in operative obstetrics, OB ultrasound, tubal ligation and management of complicated pregnancies 				
	 Taught family medicine residents at St. Anthony, Rose an part of residency faculty 	d University Hospitals as			
	 Directed regional ALSO course 				
	 Taught ultrasound course at the AAFP Family C conference in Providence, RI 	Centered Maternity Ca			
PRACTICE					
1999-2001	Westlake Family Physicians	Greeley, Colorado			
	Westlake Family Physicians Rose Family Medicine Center	Greeley, Colorado Denver, Colorado			
1999-2001		•			
1999-2001 2000-2001 2001-2005	Rose Family Medicine Center Resident Precepting Moffat Family Clinic	Denver, Colorado Craig, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital	Denver, Colorado Craig, Colorado Craig, Colorado			
1999-2001	Rose Family Medicine Center Resident Precepting Moffat Family Clinic	Denver, Colorado Craig, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine	Denver, Colorado Craig, Colorado Craig, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine	Denver, Colorado Craig, Colorado Craig, Colorado Meeker, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine	Denver, Colorado Craig, Colorado Craig, Colorado Meeker, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome	Denver, Colorado Craig, Colorado Craig, Colorado Mecker, Colorado Jerome, Idaho			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome LATIONS	Denver, Colorado Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho Jerome, Idaho			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome LATIONS St. Luke's Jerome	Denver, Colorado Craig, Colorado Craig, Colorado Mecker, Colorado Jerome, Idaho			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome LATIONS St. Luke's Jerome (formerly St. Benedict's Family Medical Center)	Denver, Colorado Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present 2005-present	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>LATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital	Denver, Colorado Craig, Colorado Craig, Colorado Mecker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present 2001-2005 1999-2001	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>LATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital North Colorado Medical Center	Denver, Colorado Craig, Colorado Craig, Colorado Mecker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado Greeley, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present 2001-2005 1999-2001 1998-2001	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>LATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital North Colorado Medical Center Rose Medical Center	Denver, Colorado Craig, Colorado Craig, Colorado Mecker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado Greeley, Colorado Denver, Colorado			
1999-2001 2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present 2001-2005 1999-2001	Rose Family Medicine Center Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>LATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital North Colorado Medical Center	Denver, Colorado Craig, Colorado Craig, Colorado Mecker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado Greeley, Colorado			

16-5334 412

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

16-5334 413

RR000454

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 0 6 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 DISCOVERYRESPONSE 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 _____ day of May, 2016.

renn Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this <u>And</u> day of May, 2016, I caused to be served a true

and correct copy of the foregoing Second 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

ralegal

SECOND SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (HOWARD), Page 2

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

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Case No. CR-2016-214

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 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:

- 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.

 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 Marcon Marcon 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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with A P 12-17-15	26	28
IAR#7-ADP Interview with Page V 12-17-15	29	31
IAR#8-ADP Interview with E	32	34
IAR#9-ADP Interview with K P 12-17-15	35	37
IAR#11-ADP Interview with Second Meters 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		-
A H 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	115	115
Warrant		
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search	117	118
Warrant		
Order Sealing Search Warrant & Affidavit for Search	119	120
Warrant (Marked Sealed)		
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 Research 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:		1
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	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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

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

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 date 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.

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
AM	Medical Records	382	394
CARES Repor		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 Phillip. 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 <u>23</u>^{PO} 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 U.S. Mail Postage Prepaid Hand Delivered Overnight Mail Facsimile Electronic Mail

Cathy Minyard, Paralegal

	FILED AM PM
	MAY 24 2016
BRE	NDA FARNWORTH, CLERK

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. JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

THIRD SUPPLEMENTAL DISCOVERYRESPONSE 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 <u>33</u> day of May, 2016.

rendericu Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County



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

CERTIFICATE OF SERVICE

and correct copy of the foregoing Third 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
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THIRD SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (HOWARD), Page 2

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.)
JOHN R.K. HOWARD ,)
Defendant.)))

Case No. CR-2016-214

FOURTH 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 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:

- 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 Amazon Marcon 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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A H 12-17-15	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with A Part 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E H 12-17-15	32	34
IAR#9-ADP Interview with K P 12-17-15	35	37
IAR#11-ADP Interview with S M 3-18-16	321	322
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Correspondence:		
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Email 5	60	61
Email 6	62	62
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
·····		
A H Statement	66	67
LE Reports:		01
Lincoln County SO Report	68	81
Notoo		
Notes: Misc. Notes		22
Electronic:	82	82
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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
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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
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15-52972 Notes - 2016-03-15_Part17.pdf	99	99
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15-52972 Notes - 2016-03-15_Part19.pdf	101	101
15-52972 Notes - 2016-03-15_Part20.pdf	102	102
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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:		
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Affidavit for Search Warrant Docs (Marked Sealed)	111	114
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Warrant		
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search	117	118
Warrant		
Order Sealing Search Warrant & Affidavit for Search	119	120
Warrant (Marked Sealed)		
Order Sealing Search Warrant and Affidavit for SW	121	122
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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
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Dietrich Football Coaches	149	149
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
Shaw's Investigative Docs	275	293
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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:		
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Interview with A Part 12.17.15	329	329
Interview with K Sec. 12.17.15	330	330
Interview with K P 12.17.15	331	331
Interview with M	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.

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			East, Suite G	Falls		
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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	lD	83338
Marquez —	В	Lincoln Sounty Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352

Last	First	FIRM	Address	City	State	Zip
Μ	A			Dieitrich	ID	83324
M	Shelly			Dietrich	ID	83324
M	Tim			Dietrich	ID	83324
M	Jeremy			Dietrich	ID	83324
Roeloffs	Sara	CARES - St. Luke's	2550 Addison Ave.	Twin	ID	83301
		Twin Falls	East, Suite G	Falls		
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					

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 date 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.

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 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 Phillip. 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	414	414
IAR#14-ADP Interview with Tracy H	415	416
IAR#15-ADP Interview with K	417	418
IAR#16-ADP Interview with Amaz Methods/26/2016	419	420
IAR#17-ADP Phone Interview with Rick A 5/27/2016	421	422
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	423	424
Letter from Anderson, Julian & Hull Re: Martine 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	Tracy					
P	Rick	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

DATED this 2nd day of June 2016.

Brenda M. Bauges

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 X 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 0 8 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 DISCOVERYRESPONSE 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-Baudes

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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

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

- X U.S. Mail Postage Prepaid
- _____ Hand Delivered
- ____ Overnight Mail
- Facsimile
- Electronic Mail (Email)

FOURTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (HOWARD), Page 2

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,	
VS.	
JOHN R.K. HOWARD ,)
Defendant.)

Case No. CR-2016-214

FIFTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY

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:

- 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 Marcon Marcon 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	14	17
Interview	_	
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A Harrison 12-17-15	20	22
IAR#5-ADP Interview with K	23	25
IAR#6-ADP Interview with A P 12-17-15	26	28
IAR#7-ADP Interview with Party Version 12-17-15	29	31
IAR#8-ADP Interview with E	32	34
IAR#9-ADP Interview with K P 12-17-15	35	37
IAR#11-ADP Interview with Shelly Martine 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 EED :		
A H 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	115	115
Warrant		
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search	117	118
Warrant		
Order Sealing Search Warrant & Affidavit for Search	119	120
Warrant (Marked Sealed)		
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 P 12.17.15	329	329
Interview with Kar Star 12.17.15	330	330
Interview with K P 12.17.15	331	331
Interview with M 11	332	332
Interview with S	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.	Twin	ID	83301
			East, Suite G	Falls		
Denning	Scott	Lincoln County	111 W B St	Shoshone	ID	83352
		Sheriff's Office				
Ellis	Kevin	Lincoln County	111 W B St	Shoshone	ID	83352
		Sheriff's Office				
Hardcastle	Ben	Dietrich School	406 N. Park Street	Dietrich	ID	83324
		District				
Howard	John					
H	0					
Johnson	Dr.	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
	Brian	Center				
Marquez	B	Lincoln County	111 W. B. St., Ste. S	Shoshone	ID	83352
		Sheriff's Office				ļ

Last	First	FIRM	Address	City	State	Zip
Μ	A			Dieitrich	ID	83324
Μ	Shelly			Dietrich	ID	83324
M	Tim			Dietrich	ID	83324
M	J			Dietrich	ID	83324
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	Т					

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 date 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.

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 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 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	406 N. Park Street	Dietrich	ID	83324
		School				

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	414	414
IAR#14-ADP Interview with Tracy P	415	416
IAR#15-ADP Interview with K	417	418
IAR#16-ADP Interview with A March 5/26/2016	419	420
IAR#17-ADP Phone Interview with Rick A 5/27/2016	421	422
IAR#18-ADP Phone Interview with Mike Torgerson	423	424
5/27/2016		
Letter from Anderson, Julian & Hull Re: Martin v.	425	426
Dietrich School District, dated May 31, 2016		
Audio Recording included in Anderson, Julian & Hull	427	427
Letter		

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	Tracy					
A	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 X U.S. Mail Postage Prepaid Hand Delivered Overnight Mail Facsimile Electronic Mail (Email)

Cathy Minvard, Paralegal

pople like me They Still have Hitler Within their hearts They Think That being different is a signat week and bullying can get them for sul what society dosont know is that a tricked in hanger can bruise and qualitate the peart It knows you Walking on a stub Brows of the burden put on You by the prople that Nov thon ght you what once when The workeds not Use to Roople like me -ike A IN The ground and and likes to people like me the ground and locketter the door tor your opertunities and Leave you helpless without a sound you without a sound you why ford why does this in to us send is to earth to be sent to the back of the bas

16-5334 428

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,

Plaintiff,

vs.

Case No. CR-2016-214

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):

- Medical records from St. Luke's Jerome related to A.D.'s medical treatment on or about 10/23/2015 to the present.
- 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.

Supplemental Request for Discovery Page 1

- 3. Any and all records related to Mr. Manager 's psychological conditions and disabilities including, but not limited to the following:
 - Any psychological evaluations conducted on A.D. including the provider and when they evaluation was conducted,
 - 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.

2 day of June, 2016 Dated this

Supplemental Request for Discovery Page 2

CERTIFICATE OF DELIVERY

I hereby certify that on the B 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

The Alac

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TO:	&	COLN COUNTY CE OF THE ATTOR ERAL	FR.OI NEY	M:	BRAD CALB	0
FAX:			PAGE	S:	4 INCLUD	ING COVER
PHONE			DATI	2	06/23/2016	
RE:	JOHN	NRK. HOWARD	CC:			
□ URC	ENT	☐ FOR REVIEW	t ple	ASE	E COMMENT	PLEASE REPLY

	FILED AM PM			
	JUN 17 2016			
BRE	NBA FARNWORTH, CLERK			

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

FIFTH SUPPLEMENTAL DISCOVERYRESPONSE 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

0) 2

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

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

- X U.S. Mail Postage Prepaid
- ____ Hand Delivered
- Overnight Mail
- ____ Facsimile
- Electronic Mail (Email)

Cathy Minya Paralegal

FIFTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (HOWARD), Page 2

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,))
vs.))
JOHN R.K. HOWARD ,)
Defendant.)

Case No. CR-2016-214

RESPONSE TO DEFENDANT'S SUPPLEMENTAL REQUEST FOR DISCOVERY

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 $\frac{24}{7}$ day of June 2016.

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

RESPONSE TO DEFENDANT'S SUPPLEMENTAL REQUEST FOR DISCOVERY (HOWARD), Page 2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this At 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:

- X U.S. Mail Postage Prepaid
- ____ Hand Delivered
- ____ Overnight Mail
- ____ Facsimile
- Electronic Mail (Email)

Cathy Minyard, Paralegal

RESPONSE TO DEFENDANT'S SUPPLEMENTAL REQUEST FOR DISCOVERY (HOWARD), Page 3

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

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JUN 2 8 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 UP I DISCOVERY TO COURT (HOWARD), Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24^{H} 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 X U.S. Mail Postage Prepaid Hand Delivered Overnight Mail Facsimile Electronic Mail (Email)

Paralegal

STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL REQUEST FOR DISCOVERY TO COURT (HOWARD), Page 2



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. The Rev West 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 M M M Specifically, I spoke with Dr. Pullen about A M S s mental health diagnosis as indicated the CARES report, previously disclosed in discovery. During our conversation Dr. Pullen indicated that A m C 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 m S s mental health issues, he is susceptible to leading questions. Specifically, Dr. Pullen indicated that A m S succeptible to leading questions. Specifically, Dr. Pullen indicated that A m S succeptible to leading questions.

Please contact me with any questions you may have.

Sincerely,

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

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Тоі	Christopher Calbo, Calbo & Depew, PLLC	From: Deputy Attorney General Casey Hemmer
		Deputy Attorney General
	Calbo & Depew, PLLC	From: Deputy Attorney General Casey Hemmer



Idaho State Attorney General Criminal Law Division

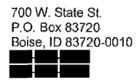
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T o:	Michael Wood, Attorney at Law		Deputy Attorney General Casey Hemmer
			Casey Hemmer
то:	Attorney at Law	Pages: 2	Casey Hemmer
To: Fax:	Attorney at Law	Pages: 2	Casey Hemmer 2



Idaho State Attorney General Criminal Law Division

Fax

To:	Michael Wood, Attorney at Law	From:	Deputy Attorne Casey Hemme	y General r
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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,))
vs.)
JOHN R.K. HOWARD ,)
Defendant.))

Case No. CR-2016-214

SIXTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY

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:

- 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.

 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 Amaza Marca 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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A Harry 12-17-15	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with A P 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E	32	34
IAR#9-ADP Interview with K P 12-17-15	35	37
IAR#11-ADP Interview with S M 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 anne :		
A Hard 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	115	115
Warrant		
Order for Appointment of Special Prosecutor	116	116
Order Sealing Search Warrant & Affidavit for Search	117	118
Warrant		
Order Sealing Search Warrant & Affidavit for Search	119	120
Warrant (Marked Sealed)		
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 Research 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

End No.
328
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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.	Twin	ID	83301
			East, Suite G	Falls		
Denning	Scott	Lincoln County	111 W B St	Shoshone	ID	83352
		Sheriff's Office				
Ellis	Kevin	Lincoln County	111 W B St	Shoshone	ID	83352
		Sheriff's Office				
Hardcastle	Ben	Dietrich School	406 N. Park Street	Dietrich	ID	83324
		District				
Howard	John					
H	0					
Johnson	Dr.	St. Luke's Medical	709 North Lincoln	Jerome	ID	83338
	Brian	Center				
Marquez	В	Lincoln County	111 W. B. St., Ste. S	Shoshone	ID	83352
_		Sheriff's Office				The second se

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

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 date 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.

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 **set of the set of**

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 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 Phillip. 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	406 N. Park Street	Dietrich	ID	83324
		School				

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	414	414
IAR#14-ADP Interview with Tracy P	415	416
IAR#15-ADP Interview with K	417	418
IAR#16-ADP Interview with A M 5/26/2016	419	420
IAR#17-ADP Phone Interview with Rick A 5/27/2016	421	422
IAR#18-ADP Phone Interview with Mike Torgerson 5/27/2016	423	424
Letter from Anderson, Julian & Hull Re: Martin 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
Р	Tracy					
A	Rick	Dietrich High	406 N. Park Street	Dietrich	ID	83324
		School				

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	ID	83647
				Home		

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	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 Martin *	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	J		294 S 850 E	Dietrich	ID	83324
A	G		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	E		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	G					
P	К					_
Peterson	Brett	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
P	A					
R	:					
S	К					
Siddiqui	Mohammed	St. Luke's	2350 Addison Ave E, Ste. A	Twin Falls	ID	83301
Urrutia	Johnny	Southern Idaho Pain Instiute	176 Falls Ave	Twin Falls	ID	83301

-	

(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 X U.S. Mail Postage Prepaid

____ Hand Delivered

____ Overnight Mail

____ Facsimile

____ Electronic Mail (Email)

yard, 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



AUG 1 7 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 DISCOVERYRESPONSE 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 /2 day of August, 2016.

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

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

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 X U.S. Mail Postage Prepaid

Hand Delivered

____ Overnight Mail

Facsimile

Electronic Mail (Email)

Paralegal

SIXTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (HOWARD), Page 2

FAX HEADER: ID ATTY GEN - CRIM DIV

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E-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 CalboFAX NO.:(208) 324-5597FROM: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.

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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	T OF THE FIFTH JUDICIAL DISTRICT OF			
THE STATE OF IDAHO, I	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 DOB: SSN:) INFORMATION))			
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

INFORMATION (HOWARD), Page 1

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

INFORMATION (HOWARD), Page 2



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: 208/334-1418 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;
- The defendant's prior criminal record;
- 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,

June 9, 2016 Page 2 Deputy Michael Steen

> 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 **Exercise**.

Thank you for your assistance in this matter.

Sincerely,

Casey Hemmer Deputy Attorney General

CH/cam Enclosures

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



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 W S , C/O Acey & Jayln S
- 2. See See Read, C/O Leeta Hedrick,
- 3. Elimina "To" Handler, C/O Magdalena Venegas,
- 4. A Plan, C/O Frank & Dolly Plan,
- 5. Gene New , C/O Sean & Jami New Market
- Superintendent Benjamin G. Hardcastle, Dietrich School District #314, 406 N. Park, Dietrich, ID
- 7. Par San Variation, C/O Perry & Gina V
- 8. A Marco C/O Tim & Shelly M

Sincerely.

Cathy Minyard, Paralegal Criminal Law Division

Enclosures



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. LOTHSPEICH BRIAN J. WILLIAMS - Associate THEODORE R. LARSEN - Associate

EUGENE D. FREDERICKSEN - REHRED

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 A HIM 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



TELEPHONB: (208) 324-2303 TELRCOPIER: (208) 324-3135 E-MAIL: bwill@cableone.net C. Bradley Calbo, ISB No. 4929 Stacey DePew ISB No. 7303 CALBO & DEPEW, PLLC P.O. Box 9 414 North Lincoln, Ste. 5 Jerome, ID 83338 Telephone: (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

MOTION TO CONTINUE ARRAIGNMENT

Comes now the above named Defendant, by and through his attorney of record, Brad Calbo, and hereby moves this Honorable Court for an Order Continuing the Arraignment currently scheduled for April 22, 2016 at 1:30PM. As grounds in support of said motion, the defendant states as follows:

- 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.
- 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 grant day of April, 2016.

Brad Calbo Stacey DePew

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that on the D 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

egal Assistant

64/08/5010 13:40

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 COUR	RT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO,	IN AND FOR THE COUNTY OF LINCOLN
STATE OF IDAHO,)
Plaintiff,)) Case No. CR-2016-0000214))
VS.) MOTION FOR STATE TO
JOHN R.K. HOWARD,) APPEAR BY TELEPHONE)
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

MOTION FOR STATE TO APPEAR BY TELEPHONE, (John Howard) Page 1

DATED this $\overrightarrow{4}$ 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 targy Deborah Forgy, Legal Secretary

MOTION FOR STATE TO APPEAR BY TELEPHONE, (John Howard) Page 2

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 COUR	T 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

MOTION TO DISQUALIFY (HOWARD), Page 1

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
- X Facsimile

Electronic Mail (Email)

Cathy/Minyard, Paralegal

MOTION TO DISQUALIFY (HOWARD), Page 2

STATE OF IDAHO, Plainti vs. John R.K. Howard DOB:	In a Sł	licial District Co nd For the Cour 111 West B Stre boshone, Idaho	et Suite C 83352-0800))))))	FILED AM HAR PM PM P
NOTICE IS HEREBY	GIVEN that the abo	ve-entitled case i	s hereby set for:	
	Arraignment Frida Judge: Mark	ly, April 22, 2016 A. Ingram	01:30 PM	
				aring entered by the Court and lows on this date Thursday,
Defendant:	John R.K. Howard	Malled X	Hand Delivered	E-Mall
Private Counsel:		Mailed	Hand Delivered	E-Mail
Prosecutor:	Brenda M Bauges		Hand Delivered	
		taxed 1-2	08-854-8083	,

Dated:	Thursday, March 24, 2016
	Brenda Farnworth
	Clerk Of The District Court
	Clerk Of The District Court

By:

WW VY \mathbf{V} Keo M Kelley, Deputy Clerk DOC22-7/96

C. Bradley Calbo, ISB No. 4929 Stacey DePew ISB No. 7303 CALBO & DEPEW, PLLC P.O. Box 9 414 North Lincoln, Ste. 5 Jerome, ID 83338 Telephone: (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 HOWARD,

Defendant.

Case No. CR-2016-214
NOTICE OF APPEARANCE

COMES NOW, Brad Calbo, and enters his appearance of record on behalf of the above-named defendant. Counsel request that this matter be scheduled for a Preliminary Hearing. Additionally, Counsel requests that all further correspondence and communications be served upon him.

DATED this 6th day of April, 2016.

BRAD CALBO

Attorney for Defendant

÷

CERTIFICATE OF DELIVERY

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

Lincoln Attomey County Prosecuting

() U.S. Mail () Hand-delivery () Fax

) Courthouse Box

04\00\5010 11:52

.

ţ

Brod Calha	19D No. 4020
	, ISB No. 4929
Stacey DeP	ew, ISB No. 7303
CALBO &	DEPEW, PLLC
414 North I	Lincoln, Suite 5
P.O. Box 9	,
Jerome, Idal	ho 83338
Telephone:	(208) 324-5431
Fax:	(208) 324-5597

Attorneys for Defendant

OT A TR OR ID ALLO

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
,) NOTICE OF INVOCATION OF ALL
vs.) STATUTORY AND
) CONSTITUTIONAL RIGHTS AND
JOHN HOWARD,) PRIVILEGES AND REVOCATION OF
) ANY AND ALL PREVIOUSLY GIVEN
Defendant.) WAIVERS OF SAID PRIVILEGES

COMES NOW, the Defendant, by and through Defendant's attorney, and hereby notifies the Prosecuting Attorney's Office and all law enforcement agencies of the following:

- 1. Defendant invokes the following privileges:
 - All privileges granted and/or guaranteed Defendant pursuant to Idaho Statute;
 - b. All medical and psychiatric (including but not limited to drug and alcohol treatment, mental health treatment, domestic violence and/or anger management treatment) privileges afforded to Defendant under the Idaho and United States Constitutions and pursuant to Idaho statutory authority and/or the case law of the State of Idaho as to all medical and/or psychiatric treatment Defendant has ever received; and
 - c. All privileges in school, employment, military, probation, prison, parole, social services, education, or any other records Defendant has a confidentiality expectation through federal and state statutes and case law, administrative regulations and rules, or federal and state

NOTICE OF INVOCATION OF ALL STATUTORY AND CONSTITUTIONAL RIGHTS AND PRIVILEGES AND REVOCATION OF ANY AND ALL PREVIOUSLY GIVEN WAIVERS OF SAID PRIVILEGES - 1

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

- 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.
- Defendant hereby exercises Defendant's right to silence, right against selfincrimination, 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.

Sec. 12

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

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

04/00/5070 11:52 5083542231

RR000538

	Fifth Judicial District Court, State of Ida In and For the County of Lincoln 111 West B Street Suite C Shoshone, Idaho 83352-0800	FILED AM
STATE OF IDAHO, Plaintiff.)	APR 1 1 2015
VS.	}	BRENDAFARNWORTH, CLERK
John R.K. Howard	·	IS TRICETS THAT LINCOLN IDAHO
) Case No:	CR-2016-0000214
DoB:)) NOTICE C))	DF HEARING

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	1
Private Counsei:		Mailed	Hand Delivered	_E-Mail	
Brad Calbo		Fax324-5597			
P.O. Box 9 Jerome ID 83338		F8X324-0031			
Prosecutor:	Brenda M Bauges				
		Mailed	Hand Delivered	_E-Mail	_Fax 854-8083
		Clerk Of By:	April <u>11, 2016</u> Farnworth The District Court Manual Clerk		·
		DOC22	/96		

APPR-11-2016 MON 11:05 AM COURT SERVICES

RR000539

STATE OF IDAHO, Plainti vs. John R.K. Howard DOB:	in ar 1 She	lcial District Co nd For the Cour 11 West B Stre oshone, Idaho	et Suite C 83352-0800))))	FILED AM PM APR 1 1 2016 BRENDAFARNWORTH, CLERK DISTRICT COURT JINCOLN IDAHO -2016-0000214 EARING
NOTICE IS HEREBY	GIVEN that the abov	e-entitled case is	s hereby set for:	
	Motion Friday, April * Judge: Mark	15, 2016 10:30 A A. Ingram	M	
	Motion to continue h Judge: Mark	earing Friday, A. Ingram	April 15, 2016 10:30	AM
	Arraignment Friday Judge: Mark	, April 22, 2016 A. Ingram	01:30 PM	
				ring entered by the Court and ows on this date Monday, April
Defendant:	John R.K. Howard	Mailed	Hand Delivered	E-Mail
Private Counsel:		Mailed	Hand Delivered	E-Mail
Brad Calbo		Faxed324-5597	,	
P.O. Box 9 Jerome ID 83338				
Prosecutor:	Brenda M Bauges	S (
	Mailed	Hand I	DeliveredE-Ma	ilFaxed854-8083
Dated: <u>Monday, April</u>	<u>11. 2016</u>	Clerk Of By:	Farnworth The District Court Kelley Deputy Clerk	

RR000540

Fifth Judicial District In and For the Co 111 West B S Shoshone, Idah	ounty of Lincoln
STATE OF IDAHO, Plaintiff.	APH 2 5 2016
VS.	BRENDA FARNWORTH CLERK DISTRICT COURT LINCOLN IDAYO
John R.K. Howard	
	Case No: CR-2016-0000214
Defendant. DOB:) NOTICE OF HEARING
)

Preliminary	Friday, June 10, 201602:00 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: Brad Calbo		Mailed Faxed to (208)		_E-Mail
P.O. Box 9 Jerome ID 83338				
Prosecutor:	Brenda M Bauges			
		Mailed	Hand Delivered	_E-Mailx
		Brenda Clerk O By:	April 25, 2016 Farnworth The District Court Farola, Deputy-Clerk 796	

111 West B	ct Court, State of Ida County of Lincoln Street Suite C aho 83352-0800	FILED AM 2:15
STATE OF IDAHO, Plaintiff. vs.)))	JUN 0 9 2015
John R.K. Howard))) Case No:	CR-2016-0000214
Defendant. DOB:)) NOTICE ()))	DF HEARING

Preliminary	Friday, July 29,	2016	02:00	PΜ
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 DeliveredE-Mail
Private Counsel:		Mailed Hand DeliveredE-Mail
Brad Calbo		Faxed to 324-5597
P.O. Box 9 Jerome ID 83338		
Prosecutor:	Brenda M Bauges	
		Mailed Hand DeliveredE-Mailx
		Dated: <u>Thursday, June 9, 2016</u> Brenda Farnworth
		Clerk Of The District Court
		By: Devsi Garcie, 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	FILED AM PM
STATE OF IDAHO, Plaintiff.)	JUL 2 9 ZUIS
VS.)	BRENDA FARNWORTH, CLERK DISTRICT COURT _INCOLN IDAHO
John R.K. Howard))	
) Case No: Cl	R-2016-0000214
Defendant. DOB:) NOTICE OF I)))	HEARING

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-Mailx
		Brenda	y, August 1, 2016 ⊫Farnworth)f Tþeீ District Court	
		By: Dogez	Sareta, Deputy-Clerk 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	FILED AM 3:40
STATE OF IDAHO, Plaintiff. vs.)	AUG 2 5 2015
John R.K. Howard))	DISTRICT COURT LINCOLN IDAHO
) Case No: Cl	R-2016-0000214
Defendant. DOB:) NOTICE OF ()))	HEARING

ArraignmentThursday, September 1, 201601:30 PMJudge: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-Mailx
Brad Calbo				
P.O. Box 9 Jerome ID 83338				
Prosecutor:	Casey J Hemmer			
		Mailed	Hand Delivered	_E-Mailx
		Brenda Clerk Of By:	Av. August 25, 2016 Farnworth f The District Court Arcta/Deputy Clerk	

	Fifth Judicial District Court, State of Ida In and For the County of Lincoln 111 West B Street Suite C Shoshone, Idaho 83352-0800	FILED AM 2:40
STATE OF IDAHO, Plaintiff. vs. John R.K. Howard)))))	BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO
Defendant. DOB:)) AMENDEI	CR-2016-0000214 D DF HEARING

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.

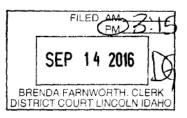
Defendant:	John R.K. Howard	Mailed		Hand Delivered	E Maii
		maneu			
Private Counsel:		Mailed		Hand Delivered	_E-MailX
Brad Calbo					
P.O. Box 9 Jerome ID 83338					
Prosecutor:	Casey J Hemmer				
		Mailed		Hand Delivered	_E-MailX
		Dated:	Brenda	August 26, 2016 Farnworth	
		Der	Clerk Of	f The District Court	
		By:	Deysi G	areie 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	FILED AM A:40
STATE OF IDAHO, Plaintiff. vs.)	SEP 06 2016 BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO
John R.K. Howard)	
) Case No: Cl	R-2016-0000214
Defendant. DOB:) NOTICE OF)))	HEARING

Telephonic Scheduling ConferenceMonday, September 12, 201611:00 AMJudge: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	Mailad			
		Mailed		Hand Delivered	_E-Mail
Private Counsel:		Mailed		Hand Delivered	_E-Mail <u>x</u> _
Brad Calbo					
P.O. Box 9 Jerome ID 83338					
Prosecutor:	Casey J Hemmer				
		Mailed		Hand Delivered	_E-Mailx
CC: Crystal	Rigby				
		Dated: By:	Brenda	y, <u>September 6, 2016</u> Farnworth f The District Court	
		<i></i>	Deysi G DOC22	areia, Deputy Clerk 196	



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

Case No. CR 2016-214 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

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

Garcia Dals Kristina Glascock, Clerk

By Deputy Clork

	Fifth Judicial District Court In and For the County	 A set of the set of	No. of Concession, State of Co	
	111 West B Street		F	AM X-A+
	Shoshone, Idaho 83	352-0800		- Felt
STATE OF IDAHO, Plaintiff.)			2 0 2016
VS.)		DISTRICT COUR	WYORTH CLERK
John R.K. Howard)			
)	Case No:	CR-2016-0000214	
DoB:		NOTICE C	F HEARING	
	Ĵ			

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

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

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 Deli	vered	E-Mail
Private Counsel:		Mailed		Hand Deli	vered	E-MailX
Brad Calbo						
P.O. Box 9 Jerome ID 83338						
Prosecutor:	Casey J Hemmer					
		Mailed	-	Hand Deli	vered	_E-MailX
CC: Dorothy McMulle	n-Judge Stoker's Cleri	¢				
		Dated:	Brenda	ry, October Farnworth The Distri		
		Ву	Deysi G DOC22 7	arçıa Dep	ity Clerk	

 Order
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 MAR 2 & 2016
 MAR 2 & 2016

 THE COURT, having considered the above Request for Approval under Rule 45 of the STRUCT COURT LINCOLN IDAHO
 BRENDA FARNWORTH, CLERK

 Administrative Rules, hereby orders that permission to video record the above hearing is:
 BRENDA FARNWORTH, CLERK

 Image: Court Court Lincoln IDAHO
 Image: Court Court Lincoln IDAHO

 Image: Court Administrative Rules;
 Image: Court Administrative Rules;

 Image: Court Administrative Rules;
 Image: Court Administrative Rules;

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

[X] 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 <u>photograph</u> the above hearing is:

[X] 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.

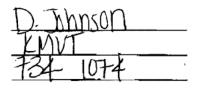
DATED this 25 day of March Zolle

District/Magistrate Judge

REQUEST TO DETAIN APPROVAL TO VIDED RECORD, BROADCAST OR PHOTOGRAPH A COURT PROCEEDING

06.08.12

I hereby certify that on the $\underline{\mathcal{B}}$ day of \underline{MATCM} 20___, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:



() U.S. Mail
() Hand delivered
(*L*)-Faxed
() Court Folder

(FAX)

Trial Court Administrator () U.S. Mail () Hand delivered EMail

() U.S. Mail () Hand delivered EMail

() Faxed

() Faxed

() Court Folder

() Court Folder

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

06.08.12

P.002/003

C. Bradley C	Calbo, ISB No. 4929
Stacey DePe	w ISB No. 7303
CALBO & I	DEPEW, PLLC
P.O. Box 9	
414 North L	incoln, Ste. 5
Jerome, ID 🔅	83338
Telephone:	(208) 324-5431
	(208) 324-5597
rax:	(208) 324-3397

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

ORDER RE: MOTION TO CONTINUE ARRAIGNMENT

BASED ON THE WRITTEN MOTION OF THE PARTIES, and good cause

appearing, it is hereby ordered that the Defendant's Motion To Continue Arraignment is:

_____ DENIED.

_____ GRANTED and the arraignment is rescheduled to the _____ day of

_____, 2016 @ ______ a.m. / p.m.

IT IS SO ORDERED this _____ day of April, 2016.

MAGISTRATE

ORDER RE: MOTION TO CONTINUE HEARING

PAGE 1

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

PAGE 2

ORDER RE: MOTION TO CONTINUE HEARING

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			FILED AN 211-17
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			APK 2 2 2016
ORDER			5RENDA FARNWORTH, CLERK
THE COURT, ha	aving considered the abo	ove Request for Approval under Rule 45 of the Idaho	DISTRICT COURT LINCOLN IDAM
Administrative	Rules, hereby orders th	hat permission to video/audio record the above hear	ing is:
	under the following res	strictions in addition to those set forth in Rule 45 of t	he Idaho Court
Administrative		camera, set location	
	UIV.	Canara per locarior	
DENIED.			
() DCIMED.			
		ove Request for Approval under Rule 45 of the Idaho	Court
Administrative	Rules, hereby orders th	at permission to broadcast the above hearing is:	
[] GRANTED	under the following res	trictions in addition to those set forth in Rule 45 of th	he Idaho Court
Administrative	Rules:		
			Altikergen w
] DEN/ED.			
	-	ove Request for Approval under Rule 45 of the Idaho at permission to photograph the above hearing is:	Court
[] GRANTED	under the following res	trictions in addition to those set forth in Rule 45 of t	he Idaho Court
Administrative			
		······································	
DENIED.			• •
All images and a	audio recordings capture	ed in the courtroom, whether before, during or after	the actual
,		raphel or video and broadcast camera operator shall lired by Rule 45 of the idaho Court Administrative Ru	
		1 1 -	
ATED this	22 day of April	2016 Mach Jun	La Company and the second s
		Justice/Judge	
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	,	THUCCUINE OF	
	N APPROVAL TO VIDEO/AUDI	O RECORD, BROADCAST, OR PHOTOGRAPH A COURT PROCEEDIN	KS Page 2
	N APPROVAL TO VIDEO/AUDI	•	KG Page 2

CERTIFICATE OF MAILING

I hereby certify that on the $\frac{22}{2}$ day of \underline{Apri} , 20, 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 EMAI () Court Folder
Brad Calbo	 () U.S. Mail () Hand delivered () Faxed () Court Folder
Alex Riggins	 () U.S. Mail () Hand delivered () Faxed () Court Folder
Shelli Tubs Trial (curt administrator	HA

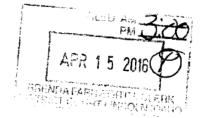
REQUEST TO OBTAIN APPROVAL TO VIDEO RECORD, BROADCAST OR PHOTOGRAPH A COURT PROCEEDING

06.08.10



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

)

)

ID DISTRICT COURT OF THE PETTI HIDICIAL DISTRICT OF

THE STATE OF IDAHO,	
Plaintiff,	
vs.	
JOHN R.K. HOWARD,	
Defendant.	

Case No. CR-2016-214

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:

Contin to the Idales Cuminal Hules the parties red 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 15 day of April 2016.

Mark A. Ingram Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this <u>15</u> 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

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

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✓ Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Mail
 U.S. Mail Postage Prepaid
 ✓ Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Mail

U.S. Mail Postage Prepaid

PROTECTIVE ORDER (HOWARD), Page 2

corder

12:31 KHVT

05/24/2016

(FAX)

P.002/003

<u>Order</u>

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

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

and a second second

[] 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:

[VORANTED under the following restrictions in addition to those act forth in Rule 45 of the idebte Court Administrative Rules:

] DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idebo 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 Idubo Court Administrative Rules:

[] DENIED

All images and audio recordings captured in the courtoom, whother before, during or after the actual sourt proceedings, by any pool photographor or video and broadcast curpers operator shall be shared with other media organizations as required by Rule 45 of the telebo Court Administrative Rules.

DATED this His of May -,2016 District/Minglatrate Indge

requist to obtain approval to virko record, broadcast or photograph a court proceeding

05.01.17

JUN-02-2016 THU 05:10 PM COURT SERVICES 05/24/2016 12:32 KMV'

CERTIFICATE OF MAILING

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

Clerk

Chapl waa

() U.S. Mail
() Hand delivered
(4) Fuxed
() Court Folder

savar

-() U.S. Mail () Hand delivered () Faxed () Court Folder

hhnsan

() U.S. Mail
() Hand delivered
() Fexed
() Court Folder

Shelly Tublos Trial Court Administrator

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

06.08,11

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRIC

OF THE STATE OF IDAHO, IN AND FOR LINCOLN COUNTY

r i	*	itED	PM2	43	
	JUN	07	2016	10h	
BRENDA FARNWORTH, CLERK STRICT COURT LINCOLNIDAHO					

D

STATE OF IDAHO,)	
Plaintiff,)	CASE NO. (R-1016-214
vs.)	ORDER ON VIDEO RECORD, BROADCAST OR PHOTOGRAPH
JOHN R.K. HOWARD,)	OF COURT PROCEEDING AND
Defendant,)	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:

- 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 <u>ONE</u> 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.
- Any request to directly broadcast the proceedings from inside the courtroom during the proceedings is <u>**DENIED**</u>.
- 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 <u>ONE</u> 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.
- 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.
- 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 T	HE DIS	STRICT	COURT	OF T	HE :	57	JUDICIAL E	ISTRICT	
ΟF	THE	STATE	OF ID.	AHO, IN	AND	FOR	THE	COUNTY OF	Lincol	n

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Stare)
PLAINTIFF(S)	ý
)
)
V.)
John R.K. Howard)
)
DEFENDANT(S))

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

1.

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:	11 Minher -

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.

Print Name

Signature

KTVB

News Organization Represented

Phone Number

Please fax back to 375-7770 Date

Request for Approval and Order - Page 1

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:

[X] 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:

[X] 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:

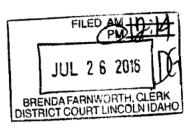
[X] GRANTED under the following restrictions in addition to those set forth in Rule 45 of the Idaho Court Administrative Rules:

[] DENIED.

2016 DATED this 28 day of July

District/Magistrate Judge

Request for Approval and Order - Page 2



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOUN

)

)

)

)

STATE OF IDAHO
Plaintiff(s),
VS.
JOHN RK. 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-2014	-214	
Date:	7 29/1.	0	
Time:	2		an Marana and a standing to the Market and the standard construction of the standard standard standard standard
Location:	MAN	Court Down	and a standard of the standard of t
Presiding Judge:	MACK	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 ir all respects with the provisions of that rule.

ALEX RIGUINS	
Print Nama / Coice()	
Signature TIMES-NEW	
News Organization Represented	Phone Number
Date 7/20/10	

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

06.08.10

To:12088862458

State of Waho Vs. John R.K. HowaG

(R-2016-214

OPDER

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:

[X^{1} GRAMTED under the following restrictions in addit on to those set forth in Rule 45 of the idaho Court Administrative Rules:

DENIFD.

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:

[X] 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:

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

ENIED

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any peol 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.

CATED this 77 day of JUN 2016 Minh

REQUEST TO OBTAIN APPROVAL TO VIDEO/AUDIC RECORD: BROADCAST, OR PHOTOGRAPHIA COURT PROCEEDING Page 2

CERTIFICATE OF MAILING

I hereby certify that on the $\underline{\mathcal{H}}$ day of $\underline{\mathcal{JU}}$, 2010, 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 EMOII () Faxed () Court Folder
Attorney General Office	 () U.S. Mail () Hand delivered Email () Faxed () Court Folder
Brad Calbo	 () U.S. Mail () Hand delivered <i>EMai</i> () Faxed () Court Folder
CC: TCA	And

Clerk

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

66.08.10

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE '9 2015 STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOURT COURT UNCOLNIDAHO

STATE OF IDAHO, Plaintiff, vs. John R. F. Howard Defendants.

Case No. CR-2016-214

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-(close)

[] 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 <u>lo</u> day of <u>September</u>, 20 <u>loat 9:00</u> a.m.

IT IS SO ORDERED.

DATED this <u>19</u> day of <u>JUIY</u>, 20<u>16</u>

unh 5 Magistrate Judge

1 - ORDER HOLDING DEFENDANT TO ANSWER TO DISTRICT COURT

BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHC

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: 10 SIGNED: John K. Butler District Judge

CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that on the $\underline{19}$ day of $\underline{41915}$, 2016 I caused a true and accurate copy of the foregoing to be forwarded to the following using the method indicated:

(asey Hemmer Brenda Bauges P.O. Box 83720 Boise, ID 83720

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

Shelli Tubbs Linda Wright Trial Court Administrator P.O. Box 126 Twin Falls, ID 83303 () U.S. Mail
() Hand-delivery
() Fax *E* [*mai*]
() Courthouse Box

() U.S. Mail
() Hand-delivery *Email*() Fax
() Courthouse Box

() U.S. Mail

() Hand-delivery Emal

() 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

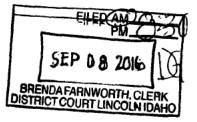
The Court having received the State's Motion to Appear by Telephone for the Arraignment on September 6, 2016 at 3:00 p.m. and with good cause;

IT IS HEREBY ORDERED that the State's Motion is GRANTED. The court will call Casey J. Hemmer at () for the on September 6, 2016 at 3:00 p.m.

DATED this 1 day of September 2016.

Eric Wildran District Judge

ORDER GRANTING STATE'S MOTION TO APPEAR BY TELEPHONE (Howard),



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 TO DISQUALIFY

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.

ORDER TO DISQUALIFY (HOWARD), Page 1

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8 day of September, 2016, I caused to be served a

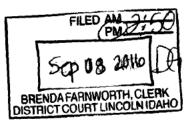
true and correct copy of the foregoing Order to Disqualify to:

Casey J. Hemmer Deputy Attorney General P.O. Box 83720 Boise, ID 83720	U.S. Mail Postage Prepaid Hand Delivered Overnight Mail Facsimile
FAX: (Electronic Mail (Email)
Brad Calbo Calbo & DePew P.O. Box 9 414 N. Lincoln, Stc. 5 Jerome, ID 83338 Fax: (U.S. Mail Postage Prepaid Hand Delivered Overnight Mail Facsimile Electronic Mail (Email)

Deputy Elen By_

5th District TCA

ORDER TO DISQUALIFY (HOWARD), Page 2



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

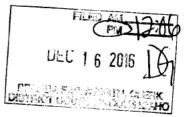
all further proceedings.

Dated: September 8, 2016

G. RICHARD BEVAN Administrative District Judge Fifth Judicial District

C:

ORDER OF REASSIGNMENT



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 of Assignment by Administrative District Judge

The above-entitled is assigned to the Honorable Randy J. Stoker, District Judge, for

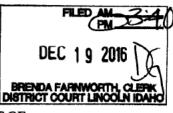
all further proceedings.

Dated: December 16, 2016

G. RICHARD BEVAN Administrative District Judge Fifth Judicial District

C:

ORDER OF REASSIGNMENT



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 ______ day of _____ 201 4

Randy J. Stoker District Judge

ORDER TO DISMISS (HOWARD), Page 1

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10 day of ______ 201(a, I caused to be served

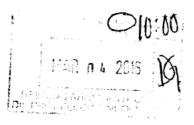
a true and correct copy of the foregoing Order to Dismiss to:

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

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

By: Deputy

ORDER TO DISMISS (HOWARD), Page 2



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: SSN:
Defendant.

CASE NO. _______ (R-2116-214

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this <u>4</u> day of <u>March</u> 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.

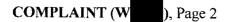
Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.

BRENDA M. BAUGE

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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

MAGISTRATE



1 2 4 5 6 7 8	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			
9	STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN			
10	STATE OF IDAILO, IN AND FOR THE COUNTY OF EINCOLN			
11	STATE OF IDAHO,)) Case No. CR-2016-214			
12	Plaintiff,			
13	vs.) WAIVER OF TIME FOR) PRELIMINARY HEARING			
14 15 16 17	JOHN R.K. HOWARD,			
18	COMES NOW, the above-named defendant and hereby waives the time limit for his			
19	Preliminary Hearing and in so doing, acknowledges that he has been advised and understands the			
20	following:			
21	1. That he has an absolute right to require the State to present evidence establishing			
22	probable cause that a crime has been committed and that he is the person who committed			
23	it within 14 days of his arraignment if he is in custody and 21 days if he is out of custody;			
24	2. That by waiving the time limit for the Preliminary Hearing his case will reset for			
25	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 thisday of April, 2016.
4	
5	ne lear
6	John R.K. Howard Defendant
7	Detendant
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9	Brad Calbo
10	Attorney for Defendant
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	WAIVER OF TIME FOR PRELIMINARY HEARING Page 2

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RR000580

1	CERTIFICATE OF DELIVERY
2	I hereby certify that on the 22 day of April 2016, I served the foregoing
3	document by hand delivery to:
4	Brenda M. Bauges
5	Special Prosecuting Attorney P.O. Box 83720
6	Boise, ID 83720
7	FAX: ()
8	
9	Stacey Dellew
10	Stacey Del/ew
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	WAIVER OF TIME FOR PRELIMINARY HEARING Page 3

RR000581

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	I 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

RESPONSE TO MOTION TO CONTINUE ARRAIGNMENT

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

RESPONSE TO MOTION TO CONTINUE ARRAIGNMENT (HOWARD), Page 1

to engage. The Defendant is charged with a serious crime and court appearances should have priority over the Defendant's other engagements.

DATED this 1 day of April 2016.

na Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this $\frac{1}{4}$ 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

aralegal

RESPONSE TO MOTION TO CONTINUE ARRAIGNMENT (HOWARD), Page 2

* * * COMMUNICATION RESULT REPORT (APR. 11. 2016 3:22PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : FILE MODE	APR. 11. 2016 OPTION	3:22PM	ADDRESS	RESULT	PAGE
168 MEMORY TX			912088862458	OK	3/3

P.O. B	. State St. ox 83720 ID 83720-0010	Idaho State Attorney General Criminal Law Division
T o:	Magistrate Court Clerk Criminal Division	From: Cathy for Brenda Bauges
To: Fax:		From: Cathy for Brenda Bauges Pages: 3
	Criminal Division	
Fax:	Criminal Division	Pages: 3 Date: 4/11/16

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 Paralagal – Special Prosecutions Unit Idaho Attorney General's Office - Criminal Division Phone: (208) 854-8074

700 W. State S	St.
P.O. Box 8372	20
Boise, ID 8372	20-0010

Idaho State Attorney General Criminal Law Division

Fax

То:	Magistrate Court Cl Criminal Division	erk –	From:	Cathy for Bren	da Bauges
Fax			Pages	# 3	
Phone:			Date:	4/11/16	
Re:	State v. Howard – Response to Motion	to Continue	cc:		
🗆 Urgen	nt 🛛 For Review	🗆 Please Com	ment	🗆 Piease Reply	C Please Recycle

Thank you,

Cathy Minyard Paralegal – Special Prosecutions Unit Idaho Attorney General's Office - Criminal Division Phone:

Fax:

FAX HEADER: IDAHO ATTY GENERAL-SPU

TRANSMITTED/STORED : FILE MODE	APR. 11. 2016 OPTION	3:14PM	ADDRESS	RESULT	PAGE
167 MEMORY TX			912083245597	ОК	3/3

	State St. x 83720		Idaho State
Bolse, II	D 63720-0010		Attorney General
208-854	4-8083	Çr	iminal Law Division
_			
X			
X			
T 0:	C. Bradley Cabo, Cabo & DePew	From: Cat	thy for Brenda Bauges
	C. Bradley Cabo, Cabo & DePew	From: Cat Pages: 3	thy for Brenda Bauges
То:		Pages: 3	thy for Brenda Bauges

То:	C. Bradley Cabo, Cabo & DePew	From: Cathy for Brenda Bauges
	C. Dradley Cabb, Cabb & Der ew	Cally for Dienda Dauges
Fax:		Pages: 3
Phone:		Date: 4/11/16
Re:	State v. Howard	cc:

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO:

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 $\underline{26}$ day of April, 2016.

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

SUBPOENA – CRIMINAL (HOWARD) - 1

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.

SUBPOENA – CRIMINAL (HOWARD) - 2

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO: E "To" H

C/O MAGDALENA VENEGAS

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 <u>25</u> day of April, 2016.

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

SUBPOENA - CRIMINAL (HOWARD) -1

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.

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO: P S V.

P S V. C/O PERRY & GINA V.

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 <u>35</u> day of April, 2016.

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

SUBPOENA - CRIMINAL (HOWARD) -1

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.

SUBPOENA – CRIMINAL (HOWARD) - 2

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

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 35 day of April, 2016.

Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA - CRIMINAL (HOWARD) - 1

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.

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO: K. W. State



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 <u>25</u> day of April, 2016.

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

SUBPOENA – CRIMINAL (HOWARD) - 1

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.

SUBPOENA – CRIMINAL (HOWARD) - 2

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO: S S R R C/O LEETA HEDRICK

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

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.

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO:

G. N C/O SEAN & JAMI N

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 <u>2S</u> day of April, 2016.

aduas

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

SUBPOENA - CRIMINAL (HOWARD) - 1

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.

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, vs.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO:

A P C/O FRANK & DOLLY P

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

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.

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,

VS.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO:

A M C/O TIM & SHELLY M

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 <u>25</u> day of April, 2016.

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

SUBPOENA - CRIMINAL (HOWARD) -1

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.

SUBPOENA – CRIMINAL (HOWARD) - 2

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, vs. JOHN R.K. HOWARD, Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO: O A H

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

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.

SUBPOENA – CRIMINAL (HOWARD) - 2

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 O
--

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

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETI	NGS TO:
AM	
C/O TIM & SHELLY M	
	-

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

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.

SUBPOENA – CRIMINAL (HOWARD) - 2

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,

vs,

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO: E TO THE C/O MAGDALENA VENEGAS

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

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.

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

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

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETIN	GS TO:
P S V	
C/O PERRY & GINA V	

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

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.

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

)

)

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)

THE STATE OF IDAHO, Plaintiff, vs.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

JOHN R.K. HOWARD,

Defendant.



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

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.

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

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

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THE STATE OF IDAHO,

vs.

JOHN R.K. HOWARD,

Defendant.

Plaintiff,

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO	SENDS GREETINGS TO:
G	N
C/O SEAN & JA	AMI N

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

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.

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,

vs.

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO	O :
S	
C/O LEETA HEDRICK	

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

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.

......

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

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)

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)

THE STATE OF IDAHO,

Plaintiff,

VS,

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

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

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.

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 C	OF THE	FIFTH J	UDICIAL	DISTRICT (ЭF
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THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

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THE STATE OF IDAHO,

Plaintiff,

VS,

JOHN R.K. HOWARD,

Defendant.

Case No. CR-2016-214

SUBPOENA - CRIMINAL

THE STATE OF IDAHO SENDS GREETINGS TO	1:
A	
C/O FRANK & DOLLY F	

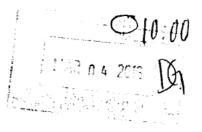
YOU ARE HEREBY COMMANDED to appear before the Honorable Mark A. Ingram in the above-entitled court at the Lincoln County Courthouse, 111 W. B St., Shoshone, Idaho, in the County of Lincoln, on July 29, 2016, at the hour of 2:00 p.m., as a witness at the Preliminary Hearing in the above-entitled action.

DATED this 13th day of July, 2016.

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

SUBPOENA - CRIMINAL (HOWARD) - 1

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.



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. <u>(R-2016-</u> 214
JOHN R.K. HOWARD,)) ARREST WARRANT
Defendant.)
)

Address:	., ,		
DOB:	SSN:	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



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

Daytime or nighttime X

Bond \$ 75,000°

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)

ARREST WARRANT (HOWARD), Page 2

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:

(Additional Levels Inclusive)

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

DATED:

Judge

NCIC ENTRY:

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:	

ARREST WARRANT (HOWARD), Page 3

			FILET	P	M	1	2
		DEC	16	1	2016		1
DIST	RIC	A FA	RNVX PT L	AT	IN G	LER IDA	K

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

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. DOB: SSN:	K. HOWARD	
	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.

COMPLAINT (HOWARDHoward), 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.

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

COMPLAINT (HOWARDHoward), Page 2

Submitted 12-16-16 113pm

LAWRENCE G. WASDEN Idaho Attorney General

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

IN THE DISTRICT C	COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDA	HO, IN AND FOR THE COUNTY OF LINCOLN
STATE OF IDAHO,)
Plaintiff, vs.	CASE NO. 16-1144
JOHN R.K, HOWARD DOB: SSN:) INFORMATION)
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: 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.

1

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

INFORMATION (HOWARD), Page 2



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. We 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,

Paul R. Panther Deputy Attorney General Chief, Criminal Law Division

PRP/fn

Criminal Law Division P.O. Box 83720, Boise, Idaho 83720-0010 Telephone: **(1997) FAX: (1997)** Located at 700 W. State Street Joe R. Williams Building, 4th Floor 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

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- 16-1144

VS.

JOHN R. K HOWARD,

Defendant.

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.

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

(X) Hand-delivery

() Fax

() Courthouse Box

Legal Assistant

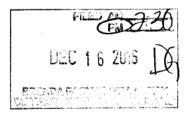
	Fifth Judicial District Co In and For the Cour 111 West B Stre Shoshone, Idaho	nty of Lincoln et Suite C	ho File Ala 223
STATE OF IDAHO, Plaintiff.)	DEC 1 6 2015
VS.)	ETTERINA NATURA DESTA SALA DEL
John R.K. Howard)	DESTRICT OT A TRUE TRUE T
) Case No:	CR-2016-0001144
Defendant. DOB:)) NOTICE ())	OF 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			
Delendant.	John R.R. 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-Mailx
		Brenda Clerk (By:	<u>, December 16, 2016</u> a Farnworth Of The District Court Gatcie, Deputy Clerk 7/96	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,

 \mathbf{r}_{i}

Case No. CR-2016-1144

VS,

ORDER

John R. K Howard,

Defendant.

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 day of December 2016. Randy J. Stoker **District Judge**

RR000635

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- 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

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

Linda Wright Trial Court Administrator P.O. Box 126 Twin Falls, ID 83303 () U.S. Mail

- () Hand-delivery
- () Fax
- () Courthouse Box
- () U.S. Mail
- () Hand-delivery
- () Fax
- () Courthouse Box
- () U.S. Mail
- () Hand-delivery
- () Fax
- () Courthouse Box

Deputy Clerk

JAN-17-2017 TUE 09:40 AM COURT SERVICES

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RR000638

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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

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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 _____day of January 2017.

Randy J. Stoker District Judge

ORDER (HOWARD), Page 1

ч.).:/

JAN-17-2017 TUE 09:40 AM COURT SERVICES

P. 03

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1 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

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) U.S. Mail Postage Prepaid

U.S. Mail Postage Frepard
 Hand Delivered
 Overnight Mail
 X Facsimile
 Electronic Mail (Email)

Bv: Deputy Clerk

ORDER (HOWARD), Page 2

LINCOLN COUNTY COURT SERVICES
111 WEST B STREET, SUITE C
SHOSHONE, IDAHO 83352
TELEPHONE-(208)886-2173
FACSIMILE-(208)886-2458
TO: _ Casey J Hemmer
FROM: Lincoln County Courts
FAX: (208) 854-80831
DATE: 1/17/17
MESSAGE:

WE'RE TRANSMITTING <u>3</u>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.

RR000640

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
Plaintiff,))Guilty Plea Advisory Form
)XGuilty Plea Advisory Form Alford Plea
VS.	 (Approved For Use in Twin Falls District Court) (Revised as of March 2012)
JOHN R. K. HOWARD,	
Defendant.	

STATEMENT OF CONSTITUTIONAL RIGHTS (Please initial each response)

 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.

- 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. <u>J. H.</u>.
- **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. \underline{J} . \underline{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.

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

Defendant's Initials J.H.

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. $\Im H_{-}$.

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?
	If not, have you been provided with an interpreter to help you fill out this form?YESNO
	Do you want an Interpreter?
2.	What is your age?
3.	What is your true and legal name? John R.K. Howard
4.	What was the highest grade of school you completed? <u>12</u> .
	If you did not complete high school, have you received either a general education diploma or high school equivalency diploma?
	Are you currently under the care of a mental health professional?
6.	Have you ever been diagnosed with a mental health disorder?
	If so, what was the diagnosis and when was it made? <u>Depression</u> , 2011
7.	Are you currently prescribed any medication?
	If so, have you taken your prescription medication during the past 48 hours?(Es <u>)</u> 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?
9.	Are you under the influence of any alcohol, drugs, or other medication at this time?
10	. Do you claim that you are incapable of understanding or do not understand these proceedings?
11	Is there anything going on in your life that affects your ability to enter a voluntary guilty plea?
	Page 2 of 10 Defendant's Initials $\overline{J.H}$

12. Do you claim that you are mentally incapable of understanding these proceedings	or what it
12. Do you claim that you are mentally incapable of understanding these proceedings means to plead guilty to a crime?	(NO)H.
13. Are you having any difficulty in understanding what you are doing by filling out this form YES	(NOTH.
	UVI
14. Is there any other reason that you cannot make a reasoned and informed decision in t	this_case?

Plea Agreement

......YES

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 your read this plea agreement?	YES)	<u>∦</u> no
17. Do you understand this plea agreement?		1. NO
18. Is there anything about this plea agreement that you don't understand?	YES	H.CON

- **19.** There are two types of plea agreements. Please initial the <u>one</u> 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.
 - 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?	
21. Has your attorney told you that you must accept this plea agreement? . Page 3 of 10	YESNO) ∦, Defendant's Initials_ <u>J.</u> ₩.

I.Has anyone told	d you what your sentence will be?	
If so, what hav	ve you been promised? <u>See rule 11 ac</u>	rcement.
	tional guilty plea in which you are reserving your r	
	ue(s) are you reserving the right to appeal? (A copy o hed.)	
	ved your right to appeal your judgment of convi	
'.Have you waive	ed your right to appeal your sentence as part of your p	olea agreement?
	onditions can you appeal your sentence?	YESTH NO
Under what c	onditions can you appeal your sentence?	
Under what c	onditions can you appeal your sentence?	The second s
. Do you unders	· · · · · · · · · · · · · · · · · · ·) any defenses, both fact
 Do you unders and legal, that y Do you unders 	tand that by pleading guilty you will waive (or give up) any defenses , both facto YES, // NO ions of your Constitutio
 B. Do you unders and legal, that y Do you unders rights? Do you underst to challenge an that occurred in any issues 	tand that by pleading guilty you will waive (or give up you believe you may have in this case?) any defenses , both fact YES, MO ions of your Constitution YES, M. NO this case you will not be all) any searches or seizur nanner of your arrest , and de to lawenforcement
 Do you unders and legal, that y Do you unders rights? Do you underst to challenge an that occurred in any issues Do you underst motions to support of the support of	tand that by pleading guilty you will waive (or give up you believe you may have in this case? stand that this includes waiver of any claimed violat tand that if you enter an unconditional guilty plea in t by rulings that came before the guilty plea including: 1 in your case, 2) any issues concerning the method or m about any statements you may have made) any defenses , both fact (YES), // NO ions of your Constitution (YES), // NO this case you will not be a) any searches or seizu hanner of your arrest , and de to law_enforcement (Included in your case) ursue any motions (included and pursued in your case)
 B. Do you unders and legal, that y Do you unders rights? Do you underst to challenge an that occurred in any issues Do you underst motions to supp Do you underst motions to supp 	tand that by pleading guilty you will waive (or give up you believe you may have in this case?) any defenses , both fact (YES) // NO ions of your Constitution (YES) // NO this case you will not be a) any searches or seizur nanner of your arrest , and de to law enforcement (Includ d and pursued in your case (YES) // NO the truth of each and event

33. Have you discussed the elements of the offense(s) for which you are charged with your attorney?

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?

- **36.** Do you understand that there are **other direct consequences** that arise from entry of a felony charge that are explained below.
- 37. As a term of your plea agreement, are you pleading guilty to more than one crime? YES ____ (NO

lf so,	do	you	understand	that	your	sentence	es for	each	crime	could	be	ordered t	o be	served
either		conc	urrently	(at	the	same	time)	or	con	secuti	vely	/ (one	after	r the
other)	?											YES	5N	10

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?

ADDITIONAL DIRECT CONSEQUENCES OF A GUILTY PLEA

- 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?

	are you pleading guilty to a crime for which you may be required prosecution and investigation? (I.C. § 37-2732(k)), (I.C.R. 3	3(d)(2))	osts of ₩ <u>0</u> <u>JH</u>
	If so, have you and the state agreed upon the amount of this reimburseme If you have, what is the amount?	ent? YES	NO
44.	Have you agreed to pay restitution as a condition of your plea agreement?	YES(NO <u>J.H</u>
	If so, to whom and how much?		
45.	If the amount of restitution has not been agreed upon, do you unders withdraw your guilty plea even if the restitution amount is determined thought it might be or should be?	to be higher th	nan you
46.	Is a driver's license suspension required as a result of a guilty plea in thi	is case? YES(NOUL
	If so, for how long must your license be suspended?		
47.	Is there a mandatory license suspension applicable to this case?	YES	<u>NOJ.H.</u>
	If so, do you understand that if there is a mandatory license suspension that you cannot under any circumstances have restricted privileges suspension?	during this pe	eriod of
48.	Is there a discretionary license suspension applicable to this case?	YES	NOD.H.
	If so, do you understand that the decision to grant you restricted drivin LAW) privileges is up to the Judge?		
r	Are you pleading guilty to a crime for which a mandatory domestic violenc osychosexual evaluation is required? (I.C. § 18-918(7)(a)), (I.C. § 18-8 3317)	005(9)), or (I.C	<u>S 18-</u>
	Are you pleading guilty to a crime for which you will be required to subm Right Thumbprint impression to the state?(I.C. § 19-5506)		
	Are you pleading guilty to a crime for which the court could impose a fine of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307)		
	Do you understand that if you plead guilty to a felony, during the period of some your right to vote in Idaho?(Id. Const. art.6, §3)		
	Do you understand that if you plead guilty to a felony during the period of you over right to hold public office in Idaho? (Id. Const. art.6, §3)		
54. [Do you understand that if you plead guilty to a felony, during the period of ose your right to perform jury service in Idaho? (ID. CONST. art. 6, § 3)	your sentence, YESH	you will NO
	Page 6 of 10	Defendant's Initia	als <u>J.H.</u>

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)
RELATIONSHIP WITH YOUR ATTORNEY
56. Have you had sufficient time to discuss your case with your attorney?
57. Have you had adequate time to fill out this form?
58. Have you had adequate access to your attorney's assistance in filling out this form?
59. Have you told your attorney everything you know about your case?
60. Is there anything you have requested your attorney do that has not been done? YESNO
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?
63.Do you want your attorney to undertake further investigation of your case? YES
64. Has your attorney properly or adequately investigated your case?
65.Have you told your attorney about any witnesses, including any who would show your innocence?
66. Have you and your attorney discussed any potential motions that you would like filed in your case?
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?
If so, what motions or requests?

Defendant's Initials J. II.

68. Do you understand that no one, including your attorney, can force you to plead guilty in this case?
69. Are you satisfied with your attorney's representation?
If not, please state why you are dissatisfied
70. Has your attorney made any promises or commitments about what your sentence would be?
ENTRY OF PLEA
71. Are the answers throughout this form your own answers?
72. Are you entering your plea freely and voluntarily?
73. Do you understand the consequences of entering a guilty plea?
74. Why are you pleading guilty to the charge(s) in this case? PUISUANT to Alford - Sufficient evidence for Jury to convit me,
75. Are you pleading guilty just to get out of jail?
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?
77. Are you pleading guilty "just to get this over with"?
78. Have you read all of the charges in the information or indictment filed against you?
79. Are you admitting to all of the elements of the crime(s) to which you are pleading guilty?
80. Are you pleading guilty because you did commit the acts alleged in the information or indictment?
81. Explain what you did that makes you guilty of the charges against you. (NON ALFORD PLEA)

Alford Plea

Defendant's Initials $\underline{\int H}$.

If so, what?

86. I hereby enter a plea of <u>Guilty</u> 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.

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?	
2 .	Do you understand the nature of these rights?	
3.	Do you understand that you may waive these rights?	
4.	Have you waived any of these rights in your plea agreement?	
5.	Do you have any questions concerning either these rights or the waiver of these rights	
6.	Have you discussed with your attorney your rights regarding your attorney's attendance a presence during the presentence investigation or these various evaluations?(YES). NO	
7.	Do you want the court to order any particular evaluations to assist the court in determining y sentence in this case?YES	
	If yes, which evaluations and why.	
	I acknowledge the foregoing post plea rights. In the DATE 12-16 Defendant	- [6
	I acknowledge that I have discussed the post plea rights listed above with my client.	

endant's Attorney

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: (208) 332-3096

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

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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

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).

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

RULE 11 AGREEMENT - 2

class, if they are available.

- g. Defendant waives any *Estrada* rights and agrees to cooperate with the presentence investigation process.
- h. Pursuant to Idaho Criminal Rule 11(f)(1) and <u>State v. Murphy</u>, 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.
- 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, discretionaryjail 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 RULE 11 AGREEMENT - 3

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 11 AGREEMENT - 4

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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).

RULE 11 AGREEMENT - 5

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

10

CASEY J. HEMMER

Deputy Attorney General Special Prosecuting Attorney

BRAD CALBO Attorney for Defendant

JOHN R.K. HOWARD Defendant

DATE: 12-16-16

DATE: 12-16-16

RULE 11 AGREEMENT - 6

1 2 4 5	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 (D) H Fax: (D) H Fax: (D) H
6	Attorneys for Defendant
7 8 9	IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN
10 11	STATE OF IDAHO, Plaintiff,) Case No. CR- <u>16-1144</u>
12 13 14 15 16 17 18 19 20 21 22 23 22	vs. WAIVER OF PRELIMINARY HEARING JOHN R. K. HOWARD, Defendant. 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;
25	WAIVER OF PRELIMINARY HEARING, Page 1

- 3. That he is waiving his Preliminary Hearing voluntarily, knowingly, and in the absence of any undue influence.
- 4. That he has had a full and fair opportunity to discuss the issue of waiver with his attorney.

DATED this 16 day of Dec, 2016.

JØHN R. K. HOWARD Defendant

C. BRADLEY CALBO Attorney for Defendant

WAIVER OF PRELIMINARY HEARING, Page 2

~	
1	CERTIFICATE OF MAILING
2	I, the undersigned, hereby certifies that on the 16 day of July, 2016, I served a
3	true and accurate copy of the foregoing document to the Attorney General, Special Prosecuting
4	Attorneys, via hand delivery.
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6	Legal Assistant
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	WAIVER OF PRELIMINARY HEARING, Page 3

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DEC 1	6	2015	IG
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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-2016-1144 ORDER

VS.

John R. K Howard,

Defendant.

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.

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计算论 医结束坏死的 营业 网络短期花花 新闻教师

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Dated this day of December 2016. Randy J. Stoker **District Judge**

CERTIFICATE OF SERVICE

I hereby certify that on the $\underline{1}$ ($\underline{0}$ 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

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 () U.S. Mail () Hand delivered () Faxed () Court Folder

(X Email

Clerk ²

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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

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:

Pursuant to Idaho Code §18-6708, Rule 16 of the Idaho Criminal Rules, Article 1
 §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

page 3

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

page 4

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

page 5

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 charged, 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

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

Attorney for Defendant

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.

MON

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

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Case No. CR-2016-213

REQUEST FOR DISCOVERY

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

REQUEST FOR DISCOVERY (W.), Page 1 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

REQUEST FOR DISCOVERY (W), Page 2

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 2/ day of March, 2016.

auge

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 A	AND FOR THE COUNTY OF LINCOLN	
THE STATE OF IDAHO,)	
Plaintiff,) Case No. CR-2016-213	
VS.)) DISCOVERY	
T. R. W. W.) 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 $\underline{\partial}$ day of March, 2016.

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

DISCOVERY RESPONSE TO COURT (W), Page 1

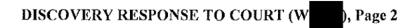
CERTIFICATE OF SERVICE

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

inyard, Legal Secretary Catherine A



LAWRENCE G. WASDEN Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185

Defendant.

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 DISTRIC	OURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF I	HO, IN AND FOR THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)
Plaintiff,) Case No. CR-2016-213
VS.) RESPONSE TO REQUES:) FOR DISCOVERY
T R W ,) FOR DISCOVERT

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.

RESPONSE TO REQUEST FOR DISCOVERY (W), Page 1 (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 Hardcastle	14	17
Interview		
IAR#3-ADP Evidence collection from McDaniel	18	19
IAR#4-ADP Interview with A H 12-17-15	20	22
IAR#5-ADP Interview with K	23	25
IAR#6-ADP Interview with A Part 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E H 12-17-15	32	34
IAR#9-ADP Interview with K	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

RESPONSE TO REQUEST FOR DISCOVERY (W), Page 2

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
		· · · · · · · · · · · · · · · · · · ·
A Harrison Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		02
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:		110
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint	115	116
Motion to Scal PC Affidavit	117	118

RESPONSE TO REQUEST FOR DISCOVERY (W), Page 3

Description	Begin No.	End No.
Motion to Seal Search Warrant & Affidavit for Search	119	119
Warrant		
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search	121	122
Warrant		
Order Sealing Search Warrant & Affidavit for Search	123	124
Warrant (Marked Sealed)		
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
<i></i>		
AUDIO:	318	318
Interview with A H 12.17.15	319	319
Interview with A P 12.17.15	320	320
Interview with K	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 THE Heat 12,17,15	318	318

RESPONSE TO REQUEST FOR DISCOVERY (W

Description	Begin No.	End No.
sw at dietrich 11.10.15	319	319
VIDEOS:		
DietrichSchoolVid	320	320
M A 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.	Twin	ID	83301
_			East, Suite G	Falls		
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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
М	A					
M	Shelly					
M	Tim					
M	Jeremy					
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

RESPONSE TO REQUEST FOR DISCOVERY (W.), Page 5

Shaw	Stefanie	Dietrich High	406 N. Park Street	Dietrich	ID	83324
		School				
Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
		& Hull	Suite 700			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	lD	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 <u></u> day of March 2016.

Baugés BrendaM

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

	FILED AM PM
	MAR 2 4 2015
BRE	NDA FARNWORTH, CLERK

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 COUR	T OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, I	IN AND FOR THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)
Plaintiff,) Case No. CR-2016-213
vs.)) DISCOVERY
T) RESPONSE TO COURT
Defendant.	ý)

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 $\underline{\partial}$ day of March, 2016.

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



RR000680

D

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

nyard, Legal Secretary

DISCOVERY RESPONSE TO COURT (W , Page 2

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 CO	URT OF THE FIF	TH JUDICIAL DISTRICT OF
THE STATE OF IDAH	O, IN AND FOR	THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)	
Plaintiff,)	Case No. CR-2016-213
VS.)	FIRST SUPPLEMENTAL
T. R W. ,)	RESPONSE TO REQUEST 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:

- 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.



FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

, 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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IAR#3-ADP Evidence collection from M	18	19
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IAR#9-ADP Interview with K P 12-17-15	35	37
Correspondence:		
Agreement Letter	38	39
Assistance request letter	40	40
Letter forwarding supplemental report	41	42
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Email 1	43	
Email 2	44	54
Email 3	55	57
Email 4	58	59
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FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

), Page 2

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
John Howard Statement		
H		
A Harris Statement	66	67
LE Reports:		
Lincoln County SO Report	68	81
Notes:		
Misc. Notes	82	82
Electronic:		
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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	
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FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

, Page 3

Description	Begin No.	End No.
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Order Sealing Search Warrant & Affidavit for Search	123	124
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Return of Search Warrant	132	133
Search Warrant	134	135
Summons	136	137
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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
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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 H 12.17.15	318	318

FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

Description	Begin No.	End No.
sw at dietrich 11.10.15	319	319
VIDEOS:		
DietrichSchoolVid	320	320
M	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.

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			East, Suite G	Falls		
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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
М	A					
M	Shelly					
M	Tim	······································				
M	J					
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		-
Shaw	Stefanie	Dietrich High	406 N. Park Street	Dietrich	ID	83324

FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

		School				
Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
		& Hull	Suite 700	ļ		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	709 North Lincoln	Jerome	ID	83338
	Medical				
ISP Laboratory	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642
Forensic Analyst					

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 REQUEST FOR DISCOVERY (W

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	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	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

DATED this 3 day of March 2016.

un Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

FIRST SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W), Page 7



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 COUR	T OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, I	IN AND FOR THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)
Plaintiff,)) Case No. CR-2016-213
vs.)) FIRST SUPPLEMENTAL
T R W,) DISCOVERY 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 on March 23, 2016.

DATED this 31 day of March, 2016.

name

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

FIRST SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W), P

), Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 318 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

athenine A. Minyard, Legal Secretary

, Page 2

RR000690

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

R W

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IN THE DISTRICT CO	IRT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAH), IN AND FOR THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)
Plaintiff,) Case No. CR-2016-213
VS.) SECOND SUPPLEMENTAL) RESPONSE TO REQUEST

Defendant.) COMES NOW, Brenda M. Bauges, Deputy Attorney General and Special Prosecutor for

FOR DISCOVERY

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.

SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W), Page 1

RR000691

(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 M II.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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A H 12-17-15	20	22
IAR#5-ADP Interview with K	23	25
IAR#6-ADP Interview with A Part 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E H 12-17-15	32	34
IAR#9-ADP Interview with K P-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

SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

, Page 2

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
a		
H:		
A H 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	102	
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	105	
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	119	119
Warrant		
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search	121	122
Warrant		
Order Sealing Search Warrant & Affidavit for Search	123	124
Warrant (Marked Sealed)		
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 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 Same V 12.17.15	317	317
Interview with T H H 12.17.15	318	318
sw at dietrich 11,10,15	319	319

SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W), Page 4

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M 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.	Twin	ID	83301
			East, Suite G	Falls		
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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M	A					
M	Shelly					
M	Tim					
М	Jeremy					
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W), Page 5

ĺ	Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
			& Hull	Suite 700			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(c)(1)(C) Objections to Discovery:

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

SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W. . . .), Page 6

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 Marganet 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	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

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



Idaho State Police

Service Since 1939



Colonel Ralph W. Powell Director 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

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

16-5334 328

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LAWRENCE G. WASDEN Idaho Attorney General



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

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BRENDA M. BAUGES ISB#8185

5 FICE OF THE ATTORNEY GENEL

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

	Plaintiff,	
VS.		
Т	R W	
	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 _____ day of April, 2016.

mariles ter Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SECOND SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4 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

aralegal

SECOND SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W.), Page 2

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 COU	RT 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.) THIRD SUPPLEMENTAL
T. R. W. W.) RESPONSE TO REQUEST) FOR DISCOVERY
Defendant.)

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:

- 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.

THIRD SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

, Page 1

(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 M 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	14	17
Interview	_	
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A H 12-17-15	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with A P 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E	32	34
IAR#9-ADP Interview with K P 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

THIRD SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

), Page 2

Description	Begin No.	End No.
Howard:		
John Howard Contact Info	63	63
John Howard Statement	64	65
······································		
H		
A H Statement	66	67
······································		
LE Reports:		
Lincoln County SO Report	68	81
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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	
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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	100	
15-52972 Notes - 2016-03-15_Part20.pdf	102	
15-52972 Notes - 2016-03-15 Part21.pdf	102	
15-52972 Notes - 2016-03-15 Part22.pdf	103	
15-52972 Notes - 2016-03-15 Part23.pdf	105	
15-52972 Notes - 2016-03-15 Part24.pdf	105	
15-52772 19985 - 2010-05-15_Fai(24.put	100	
Pleadings:		
Affidavit for Search Warrant Docs	107	110
Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint Motion to Seal PC Affidavit	115 117	116 118

THIRD SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

, Page 3

Description	Begin No.	End No.
Motion to Seal Search Warrant & Affidavit for Search	119	119
Warrant		
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search	121	122
Warrant		
Order Sealing Search Warrant & Affidavit for Search	123	124
Warrant (Marked Sealed)		
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
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S. R. Statement	269	272
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Superintendent Hardcastle Investigation Overview	302	309
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AUDIO:	318	318
Interview with A H 12.17.15	319	319
Interview with A Part 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 Sec. V 12.17.15	317	317
Interview with T H H 12,17,15	318	318
sw at dietrich 11.10.15	319	319

THIRD SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W 10), Page 4

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M, A10-28-15 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.	Twin	ID	83301
			East, Suite G	Falls		
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					
Н	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
М	A					
M	Shelly					
M	Tim					
Μ	Jeremy					
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

THIRD SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

Page 5

Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
		& Hull	Suite 700			7426
W	Т					

- (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	709 North Lincoln	Jerome	ID	83338
	Medical				
ISP Laboratory	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642
Forensic Analyst					

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.

THIRD SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (Weight, Page 6

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	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	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

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 M	IEP	329	371
A	Medical Records	372	384
CARES Report		385	401

DATED this <u>19</u> day of April 2016.

noto auge

Brenda M. Barges 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 2 2 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 STATI	E OF IDAHO,	
	Plaintiff,	
vs.		
T	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 | day of April, 2016.

Brenda M_Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

THIRD SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

), Page 1

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 Mintyard, Paralegal

THIRD SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

), Page 2

LAWRENCE G. WASDEN Idaho Attorney General

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

BRENDA M. BAUGES ISB#8185

Defendant.

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 COUR	OF THE FIFTH JUDICIAL DISTRICT OF	
THE STATE OF IDAHO, I	AND FOR THE COUNTY OF LINCOLN	
THE STATE OF IDAHO,)	
Plaintiff,) Case No. CR-2016-213	
VS.) FOURTH SUPPLEMENT	
T R W) RESPONSE TO REQUES) FOR DISCOVERY	Т

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:

- Interceptions of Wire or Oral Communications of Defendant: (1) 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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Craigslist posts RE Dietrich	1	4
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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 Hardcastle	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A H 12-17-15	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with A P 12-17-15	26	28
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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

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John Howard Contact Info	63	63
John Howard Statement	64	65
H H		
A H 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 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	119	119
Warrant	ļ	
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search	121	122
Warrant		
Order Sealing Search Warrant & Affidavit for Search	123	124
Warrant (Marked Sealed)	_	
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 H 12.17.15	319	319
Interview with A Part 12,17,15	320	320
Interview with K S 12.17.15	321	321
Interview with K Part 12.17.15	322	322
Interview with M 11	323	323
Interview with S	317	317
Interview with T H H 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		2
DietrichSchoolVid	320	320
M 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.	Twin	ID	83301
			East, Suite G	Falls		
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					
Н	O					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M	A					
M	Shelly	······································				
M	Tim					
M	J		III.I. , III.I. ,			
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

	Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
			& Hull	Suite 700			7426
ĺ	W	Т					

- (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	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642
Forensic Analyst				[

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(c)(1)(C) Objections to Discovery:

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

RR000718

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 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	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

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 M IEP	329	371
A M 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 \overrightarrow{A} 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 X U.S. Mail Postage Prepaid

- ____ Hand Delivered
- Overnight Mail
- ____ Facsimile
- Electronic Mail (Email)

Cathy Minyard, Paralegal

CURRICULUM VITAE

BRIAN L. IOHNSON, M.D.

PHONE . .

EDUCATION

Undergraduate	1988 - 1991 Regis University B.S. Biology	Denver, Colorado
	 Magna Cum Laude 	
Medical School	1991 - 1995 University of Colorado School of Medicine <i>M.D.</i>	Denver, Colorado
Residency	1995 - 1998 University of Colorado at Rose Medical Cente. Family Medicine	r Denver, Colorado
Fellowship	1998-1999 University of Colorado Advanced Training Track in Perinatal Care	Denver, Colorado
	 Developed skills in operative obstetrics, OB ultrasound, tu management of complicated pregnancies 	0
	 Taught family medicine residents at St. Anthony, Rose and part of residency faculty 	University Hospitals as
	 Directed regional ALSO course 	
	 Taught ultrasound course at the AAFP Family Ce conference in Providence, RI 	entered Maternity Car
PRACTICE		
1999-2001	Westlake Family Physicians	Greeley, Colorado
2000-2001	Rose Family Medicine Center Resident Precepting	Denver, Colorado
	Resident Precepting Moffat Family Clinic	Denver, Colorado Craig, Colorado
2001-2005 2001-2005	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital	Craig, Colorado Craig, Colorado
2001-2005 2001-2005	Resident Precepting Moffat Family Clinic	Craig, Colorado
2001-2005 2001-2005 2003-2005	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital	Craig, Colorado Craig, Colorado
2001-2005 2001-2005 2003-2005 2005-2014	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine	Craig, Colorado Craig, Colorado Meeker, Colorado
2001-2005 2001-2005 2003-2005 2005-2014 2005-present	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome	Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho
2001-2005 2001-2005 2003-2005 2005-2014 2005-present 4OSPITAL AFFIL	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>IATIONS</u> St. Luke's Jerome	Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho
2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>IATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center)	Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho
2001-2005 2001-2005 2003-2005 2005-2014 2005-present 40SPITAL AFFIL 2005-present 2001-2005	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>IATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital	Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado
2001-2005 2001-2005 2003-2005 2005-2014 2005-present 40SPITAL AFFIL 2005-present 2001-2005 1999-2001	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>IATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital North Colorado Medical Center	Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado Greeley, Colorado
2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present 2001-2005 1999-2001 1998-2001	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>IATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital North Colorado Medical Center Rose Medical Center	Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado Greeley, Colorado Denver, Colorado
2000-2001 2001-2005 2001-2005 2003-2005 2005-2014 2005-present HOSPITAL AFFIL 2005-present 2001-2005 1999-2001 1998-2001 1998-2000	Resident Precepting Moffat Family Clinic Emergency Physician - The Memorial Hospital Medical Director for Mine Rescue Team - Colowyo Mine St. Luke's Clinic – Jerome Family Medicine (formerly Family Care Physicians) Emergency Physician – St. Luke's Jerome <u>IATIONS</u> St. Luke's Jerome (formerly St. Benedict's Family Medical Center) The Memorial Hospital North Colorado Medical Center	Craig, Colorado Craig, Colorado Meeker, Colorado Jerome, Idaho Jerome, Idaho Jerome, Idaho Craig, Colorado Greeley, Colorado

16-5334 402

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 Ge	eneral

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

FILED AM PM_ 0 4 28 BRENDAFARNWORTH, CL DISTRICT COURT I INCOLNIDAHO

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 AN	JD FOR THE	COUNTY	OF LINCOLN
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THE STA	TE OF IDAHO,	
	Plaintiff,	
VS.		
Т	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 \bigcirc day of May, 2016.

levice. and Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

FOURTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W.), Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this Arr 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
 → Overnight Mail
 → Facsimile
 → Electronic Mail

ard, Paralegal

FOURTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W.), Page 2

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 CO	IRT OF THE FIFTH JUDICIAL DISTRICT OF	
THE STATE OF IDAH), IN AND FOR THE COUNTY OF LINCOLN	
THE STATE OF IDAHO,)	
Plaintiff,)) Case No. CR-2016-213	
VS.) FIFTH SUPPLEMENT.	
T R W ,) RESPONSE TO REQU) FOR DISCOVERY	E9 I
Defendant.)	

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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.

Statements of Defendant: Statements of the defendant are as noted in the attached (3) reports.

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FIFTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

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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	119	119
Warrant		
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search	121	122
Warrant		
Order Sealing Search Warrant & Affidavit for Search	123	124
Warrant (Marked Sealed)		
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 H 12.17.15	319	319
Interview with A P 12.17.15	320	320
Interview with K	321	321
Interview with K P 12.17.15	322	322
Interview with Me 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 A 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.	Twin	ID	83301
_			East, Suite G	Falls		
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	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M	A					
M	Shelly					
M	Tim					
M	Ym					
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Last	First	FIRM	Address	City	State	Zip
Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
		& Hull	Suite 700			7426
W	Т					

- (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	3-18-16	322	323
IAR#12-ADP ISP lab report on submitted evid	dence	324	325

(11) Expert witnesses:

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

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 M IEP	329	371
A M 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 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 X U.S. Mail Postage Prepaid

____ Hand Delivered

Overnight Mail

Facsimile

____ Electronic Mail (Email)

Cathy/Minyard, Paralegal

LAWRENCE G. WASDEN Idaho Attorney General FILED AM PM MAY 2.4 2016 BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO

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

RECEIVED

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 MAY 2 6 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 STA'	TE OF IDAHO,	
	Plaintiff,	
vs.		
T.	R an W a ,	
	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.

renda auges Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County



FIFTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W.), Page 1

RR000735

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this $\frac{23}{23}$ day of May, 2016, I caused to be served a true

and correct copy of the foregoing Fifth 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

FIFTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

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 COUF	RT 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
T R W) RESPONSE TO REQUEST) 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:

- 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.

SIXTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

), Page 1

Statements of Defendant: Statements of the defendant are as noted in the attached (3) 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.
- Documents and Tangible Objects: Please find below a list of documents and/or (6) 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 M 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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A Harry 12-17-15	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with A P 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E	32	34
IAR#9-ADP Interview with K	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		
A H 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	102	
15-52972 Notes - 2016-03-15 Part22.pdf	103	
15-52972 Notes - 2016-03-15 Part23.pdf	105	
15-52972 Notes - 2016-03-15 Part24.pdf	106	
10 0=>10 110100 2010 00-10 1 utt21put		
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	119	119
Warrant		
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search	121	122
Warrant		
Order Sealing Search Warrant & Affidavit for Search	123	124
Warrant (Marked Sealed)		
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 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	323	323
Interview with S V 12.17.15	317	317
Interview with T H H 12,17,15	318	318
sw at dietrich 11.10.15	319	319

SIXTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
Mana, A 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.	Twin	ID	83301
-			East, Suite G	Falls		
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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M	A					
M	Shelly					
M	Tim					
Μ	Jeremy					
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

SIXTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

), Page 5

Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
		& Hull	Suite 700			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	709 North Lincoln	Jerome	ID	83338
	Medical				
ISP Laboratory	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642
Forensic Analyst					

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(c)(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	322	323
IAR#12-ADP ISP lab report on submitted e	324	325

(11) Expert witnesses:

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

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 IEP	329	371
A M 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	406 N. Park Street	Dietrich	ID	83324
		School				

(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 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	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	413	414
5/27/2016		

Description	Begin No.	End No.
Letter from Anderson, Julian & Hull Re: M 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	Tracy					
A	Rick	Dietrich High School				

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

- X U.S. Mail Postage Prepaid
- Hand Delivered
- Overnight Mail
- ____ Facsimile
- ____ Electronic Mail (Email)

Cathy Minyard, Paralegal

SIXTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

), Page 10

LAWRENCE	G.	WASDEN
Idaho Attorney	Ge	eneral

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

	FILED AM
	JUN 06 2016
BRE	NDA FARNWORTH, CLERK

RECEIVED

JUN 0 8 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 STATI	E OF IDAHO,	
	Plaintiff,	
VS.		
T	W	
	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.

none Brenda M Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County



SIXTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W), Page 1

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 X U.S. Mail Postage Prepaid

Hand Delivered

Overnight Mail

Facsimile

Electronic Mail (Email)

Minyárd, Paralegal

SIXTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

, Page 2

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,)
Plaintiff,)
)
VS.)
T)
· · · · · · · · · · · · · · · · · · ·)
Defendant.	ý
)

Case No. CR-2016-213

SEVENTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY

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:

- 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 Marcon Marcon 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	14	17
Interview		
IAR#3-ADP Evidence collection from M	18	19
IAR#4-ADP Interview with A Harrison 12-17-15	20	22
IAR#5-ADP Interview with K S 12-17-15	23	25
IAR#6-ADP Interview with A Page 12-17-15	26	28
IAR#7-ADP Interview with P	29	31
IAR#8-ADP Interview with E H 12-17-15	32	34
IAR#9-ADP Interview with K Para 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 :		
A H 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	
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15-52972 Notes - 2016-03-15 Part24.pdf	105	
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Affidavit for Search Warrant Docs (Marked Sealed)	111	114
Complaint	115	116
Motion to Seal PC Affidavit	117	118

SEVENTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W.), Page 3

Description	Begin No.	End No.
Motion to Seal Search Warrant & Affidavit for Search	119	119
Warrant		
Order for Appointment of Special Prosecutor	120	120
Order Sealing Search Warrant & Affidavit for Search	121	122
Warrant		
Order Sealing Search Warrant & Affidavit for Search	123	124
Warrant (Marked Sealed)		
Order Sealing Search Warrant and Affidavit for SW	125	126
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Search Warrant	134	135
Summons	136	137
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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 P 12.17.15	320	320
Interview with K S 12.17.15	321	321
Interview with K P P 12.17.15	322	322
Interview with Management 11	323	323
Interview with S V 12.17.15	317	317
Interview with T	318	318
sw at dietrich 11.10.15	319	319

SEVENTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W. . . . , Page 4

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M 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.	Twin	ID	83301
			East, Suite G	Falls		
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	0					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S			
M	A					
M	Shelly					
M	Tim					
Μ	Jeremy					
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
		& Hull	Suite 700			7426
W	Т					

- (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	709 North Lincoln	Jerome	ID	83338
	Medical				
ISP Laboratory	ISP Laboratory	700 S. Stratford Dr., Suite 125	Meridian	ID	83642
Forensic Analyst					

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(c)(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	3-18-16	322	323
IAR#12-ADP ISP lab report on submitted		324	325

(11) Expert witnesses:

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

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 M IEP	329	371
A 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	406 N. Park Street	Dietrich	ID	83324
		School				

(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 Film. 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 Me	404	404
IAR#14-ADP Interview with Tracy P	405	406
IAR#15-ADP Interview with K	407	408
IAR#16-ADP Interview with A M 5/26/2	016 409	410
IAR#17-ADP Phone Interview with Rick A 5/27/20	16 411	412
IAR#18-ADP Phone Interview with Mike Torgerson	413	414
5/27/2016		

Description	Begin No.	End No.
Letter from Anderson, Julian & Hull Re: Month 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	Tracy					
A	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

), Page 9

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

X U.S. Mail Postage Prepaid

- Hand Delivered
- Overnight Mail
- ____ Facsimile
- Electronic Mail (Email)

Cathy Minyard, Paralegal

SEVENTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

pople like me They Shill have Hitler Within their hearts They Think That being different is a signat week and bullying can get them the sul what society dosont know is that a tricked in hager can bruise and genetivate the peart It knows you Walking on a stub Brows of the burden put on you by the propie The woulds not Use to people like me The ground and likes to people like me the ground and locketter the door tor your oppertunities and Leave you helpless without a sound you why ford why does this man to us sond is to earth to be sent to the back of the bas

16-5334 418

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

	Р	laintiff,	
vs.			
Т	R	W	>
	D	efenda	nt.

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



SEVENTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

, Page 1

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

Cathy Minyard, Paralegal

SEVENTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

, Page 2



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. 1 Rev 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 Martine Specifically, I spoke with Dr. Pullen about A second second

Please contact me with any questions you may have.

Sincerely,

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

FAX HEADER: IDAHO ATTY GENERAL-SPU

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Idaho State Attorney General Criminal Law Division

Fax

То:	Christopher Calbo, Calbo & Depew, P		Deputy Attorne Casey Hemme	ey General er
Fax:	208-324-5597	Pages	: 2	
Phone		Date:	August 9, 2016	3
Re:	State v. Howard	CC:		
🗆 Urge	ant 🛛 For Review	Please Comment	🗆 Please Reply	🗆 Please Recycle

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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

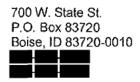
700 W. State St. P.O. Box 83720 Bolse, ID 83720-0010 208-332-3096 208-854-8083



Fax

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то:	Michael Wood, Attorney at Law	From: Deputy Attorney General Casey Hemmer
Fax:	208-736-0141	Pages: 2
Phone		Date: August 9, 2016
Re:	State v. W	CC:
🗆 Urge	ent 🗆 Por Review	🗆 Please Comment 🛛 Please Reply 🛛 Please Recycle



Idaho State Attorney General Criminal Law Division

Fax

To: Michael Wood, Attorney at Law		From	Deputy Attorne Casey Hemme	y General r
Fax:	208-736-0141	Pages	: 2	
Phone	e:	Date:	August 9, 2016	
Re	State v. W	CCI		
🗆 Urge	ent 🛛 For Review	🗆 Please Comment	🗆 Please Reply	Please Recycle

LAWRENCE G. WASDEN Idaho Attorney General

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

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Defendant.

IN THE DISTRIC	COURT OF THE FIFTH JUDICIAL DISTRICT OF	
THE STATE OF	AHO, IN AND FOR THE COUNTY OF LINCOLN	
THE STATE OF IDAHO,)	
Plaintiff,) Case No. CR-2016-213	
VS.) EIGHTH SUPPLEMENTA DESPONSE TO DEOUES	
T) RESPONSE TO REQUEST) FOR DISCOVERY	L

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:

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)

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:

- Interceptions of Wire or Oral Communications of Defendant: None known to the prosecution at this time.
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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	320	320
Interview with K S 12.17.15	321	321
Interview with K P 12.17.15	322	322
Interview with Management 11	323	323
Interview with S V 12.17.15	317	317
Interview with T H H 12.17.15	318	318
sw at dietrich 11.10.15	319	319

Description	Begin No.	End No.
VIDEOS:		
DietrichSchoolVid	320	320
M 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.	Twin	ID	83301
			East, Suite G	Falls		
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	Q					
Johnson	Dr. Brian	St. Luke's Medical Center	709 North Lincoln	Jerome	ID	83338
Marquez	В	Lincoln County Sheriff's Office	111 W. B. St., Ste. S	Shoshone	ID	83352
M	A					
M	Shelly					
M	Tim					
Μ	Jeremy					
Roeloffs	Sara	CARES - St.	2550 Addison Ave.	Twin	ID	83301
		Luke's Twin Falls	East, Suite G	Falls		
Shaw	Stefanie	Dietrich High School	406 N. Park Street	Dietrich	ID	83324

 Walther	Bret	Anderson, Julian	250 South 5th Street,	Boise	ID	83707-
		& Hull	Suite 700			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	3-18-16	322	323
IAR#12-ADP ISP lab report on submitted e	vidence	324	325

(11) Expert witnesses:

Last	First	FIRM	Address	City	State	Zip
Quinney	Tomasine	ISP Forensic	700 S. Stratford Dr., Suite	Meridian	ID	83642
		Services	125			

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 IEP	329	371
A 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	406 N. Park Street	Dietrich	ID	83324
		School				

(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 Phillip Phillip This office also received information from Shelly Millip 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 N	404	404	
IAR#14-ADP Interview with Tracy P	405	406	
IAR#15-ADP Interview with K	407	408	
IAR#16-ADP Interview with A	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 To	413	414	
5/27/2016	-		

Description	Begin No.	End No.
Letter from Anderson, Julian & Hull Re: Martine 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	Tracy					
A	Rick	Dietrich High	406 N. Park Street	Dietrich	ID	83324
		School				

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	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

EIGHTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY (W

, Page 9

Description	Begin No.	End No.
Anthony Pittz Notes	443	458
St. Luke's Canyon View Medical Records for A	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	J					
A	G					
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
Н	E					
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

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	G					
Р	К					
Peterson	Brett	Dietrich High School	406 N. Park Street	Dietrich	ID	83324
P	A					
R	S					
S	K					
Siddiqui	Mohammed	St. Luke's	2350 Addison Ave E, Ste. A	Twin Falls	ID	83301
Urrutia	Johnny	Southern Idaho Pain Instiute	176 Falls Ave	Twin Falls	ID	83301
V	P					
V	S					

(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 /2 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 124 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

- X U.S. Mail Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile
- ____ Electronic Mail (Email)

ard, 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

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	AUG 15 2016
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AUG 1 7 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 STAT	Έ OF IDAHO,	
	Plaintiff,	
VS.		
T	R M ,	
	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

), Page 1

EIGHTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _/24 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 X U.S. Mail Postage Prepaid Hand Delivered Overnight Mail Facsimile Electronic Mail (Email)

Paralegal

EIGHTH SUPPLEMENTAL DISCOVERY RESPONSE TO COURT (W.

), Page 2

Minyard, Catherine

From:	Minyard, Catherine
Sent:	Monday, May 02, 2016 3:12 PM
To:	Deysi Sandoval (Construction of the Construction of the Constructi
Subject:	State v. W - 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 : M. FILE MODE O	1AY. 2.2016 3:11PM OPTION	ADDRESS	RESULT	PAGE
206 MEMORY TX		912087360141	OK	18/18

_ _ _ REASON FOR ERROR E-1) HANG UP OR LINE FAIL E-5) NO ANSWER E-2) BUSY E-4) NO FACSIMILE CONNECTION 700 W. State St. P.O. Box 83720 Bolse, ID 83720-0010 208-332-3096 208-854-8083 Idaho State Attorney General Criminal Law Division ЭХ Brenda Bauges, Deputy Attorney To: From; Michael J. Wood, Attorney General (208) 736-0141 Pages: 18 Fax: Phone: (208) 736-8190 Date: 05/02/16 Re: State v. W GGI 🗆 Urgent 🖾 For Review 🗆 Please Comment 👘 🖾 Please Reply 🗔 Please Recycle

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MAY 0 2 2016

OFFICE OF THE ATTORNEY GENERAL LAWRENCE G. WASDENCRIMINAL DIVISION Idaho Attorney General

PAUL R. PANTHER Deputy Attorney General Chief, Criminal Law Division FILED AM PM APR 2 8 2016 BRENDAFARNWORTH, GLERK DISTRICT COURT LINCOLNIDAHO

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 CO	URT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAH	O, IN AND FOR THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)
Plaintiff,)) Case No. CR-2016-213
VS.)) INFORMATION
T R W)
Defendant.)

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

That the Defendant, T**Market** R**Market**, 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.

RR000783

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 2/2 day of April, 2016.

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: 208/334-1418 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;
- The defendant's prior criminal record;
- 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,

June 9, 2016 Page 2 Deputy Michael Steen

> 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 **10**-**10**.

Thank you for your assistance in this matter.

Sincerely,

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



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. The 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 Table We 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. Which 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 Please let me know whether this agreement is acceptable or if you have any further questions.

Sincerely,

5 -6

Casey Hemmer Deputy Attorney General

P. 11/12

25-2016 WED 10:54 AM	COURT SERVICES	FAX NO.	12088862458	P. 11/12
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				GW2
				MAY 2 4 2018
IN THE DISTRICT	COURT OF THE FIFTH	I JUDICIAL DIST	FRICT OF THE ST	ATTA DA PARAMONTH CL DISTRICT COURT LINCOLNI
				USE CONTRACTOR
		al Minute Entry ho ys T raine W		
	CR	2016-213		
	DATE: 5-2	3-16 @ 9:05 a.	m,	
	Butler, District Judge	presiding	· · · ·	•
Denise Schloder, (Shelly Creek, Mini				
Courtroom: Distri	ct Court #2			
9:00 a.m.	THE COURT: Continu	ation of Arraig	nment.	
This being the time	and place set for a Cor		aignment, court c	onvenes.
	appearing on behalf o bearing on behalf of thi		te alco procent a	reonally
			· · ·	
	ntinuation of the arrai	gnment. Defens	e requested a dela	y in entry of
plea			· ·	
	wish to challenge the h	ind over and we	are prepared to e	entry a not
guilty plea				· · ·
	ot guilty plea. Court s	·	otion for change o	f venue. Have
reviewed your obje	ction to change of venu	le,		
Mr. Wood: Object to	having a Motion.			
State: Basis for mot	ion was set in motion i	tself. Will leave	in Court's discreti	on
Court addresses Mr				• .
court addresses Mr	WOOU		•	
9:08 Mr. Wood: D	on't recall a legal basis	•		. · · ·
Court: Basis is pretr	ial publicity.			
9:08 Mr. Wood re	monde			
	sponus			
9:10 Ms. Bauges r	esponds			•
9:10 Court respon	ds. I will deny the Mot	ion to Change V	enue without Prej	udice. I will
however, set matter	out on Urgenna 9-20	16 @ 9 (CO.a m)	PUCSET 316-16-0	
	clerk of Lincoln Count			I will have 80

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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 to 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 Phys Attest:

Shelly Creek Deputy Clerk

LAWRENCE G. WASDEN	
Idaho Attorney General	

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



MAR 2 9 2016

OFFICE OF THE ATTORNEY GENERAL CRIMINAL 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 CO	OURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAH	O, IN AND FOR THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)
Plaintiff,)) Case No. CR-2016-213
VS.)) MOTION FOR PROTECTIVE
T REE W EE ,) ORDER
Defendant.)

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(1) 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(1)

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

MOTION FOR PROTECTIVE ORDER PURSUANT TO I.C.R. 16(1) (W , Page 3

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 LINC					
THE STATE OF IDAHO,)				
Plaintiff,) Case No. CR-2016-213				
vs.)) MOTION FOR CHANGE				
T R W) 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.

MOTION FOR CHANGE OF VENUE (W.), Page 1

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-deserveanswers/article_3a229871-fe57-56c2-86d4-cbeeb40e8d74.html

http://magicvalley.com/news/local/crime-and-courts/dietrich-school-leaders-notify-parents-of-rapeallegations/article_59d138b9-4931-5488-8fc8-163aea634671.html

http://magicvalley.com/news/local/crime-and-courts/teens-charged-in-dietrich-high-school-sexassault/article_bca2d948-db6c-576b-ac2e-99e1bc1d4cd3.html

http://magicvalley.com/news/local/crime-and-courts/update-dietrich-teen-arraigned-in-locker-roomsex-assault-case/article_7549bf63-2788-53d1-bffc-483479a2935e.html

http://magicvalley.com/news/local/crime-and-courts/year-old-accused-in-dietrich-high-schoolsexual-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

MOTION FOR CHANGE OF VENUE (W. . . .), Page 2

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 X Facsimile

Cathy Minyard, Paralegal

MOTION FOR CHANGE OF VENUE (W

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in 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 mined. 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 fack 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 sconer. And shame on you who are using her tragic demise as an opportunity to yeat your anti-religious beliefs.

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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!

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Re know the facts (Dietrich)

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· do NOT contact ma with unsolicited services or offers

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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,)) Case No.
VS.)) <u>MOTION</u>
T. W) PREPAL) PRELIM
Defendant.) <u>TRAN</u>)

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

page 4

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,) Case No. CR16- 213
vs. Total Water , Defendant.) <u>ORDER</u>))

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 day of MAY, 2016.

HONORABLE JOHN BUTLER DISTRICT JUDGE

MOTION FOR PREPARATION OF PRELIMINARY TRANSCRIPT

)

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.

MFL

NOTION 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. R. W	,) 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
 Addition Methods 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 Monthand with employees or agents of the Idaho Attorney Generals' Office. More specifically but not exclusively; those communications by Shelly Monthand 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 Rule16(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

page 4

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

MICHAEY 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

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6 Michael Wood (208) 736-0141 (208) 736-8190 The To Compe Discovery

Horvey Gevernt- Office Duision - Casey Henner 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.)
TR. W)
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.

MON

ENTRY OF APPEARANCE

	Fifth Judicial District Co In and For the Cou 111 West B Stre Shoshone, Idaho	nty of Lincoln 🕤	-Oq.10
STATE OF IDAHO,)	
Plaintif	f.)	i 2 t e 276 \Q
VS.)	
T RW)	
)) Case No:	CR-2016-0000213
DOB:	dant.) NOTICE O	FHEARING
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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 R W	Mailed		Hand Delivered	E-Mail
Private Counsel:		Mailed	x	Hand Delivered	E-Mail
Michael J Wood					
184 Gooding Street V Twin Falls ID 83301	V				
Prosecutor:	Brenda M Bauges				
		Mailed		Hand Delivered	E-Mailx
		By:	lerk Of	March 18, 2016 Farnworth The District Court Arčia Deputy Clerk 196	
		By:	irenda l lerk Of	Farnworth The District Court Arcia Deputy Clerk	

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IN THE DISTRICT C STATE OF IDA	OURT OF THE FIFTH JUDICIAL DISTRICT OF THE HO, IN AND FOR THE COUNTY OF LINCOLNMAR 18 2016 BRENDAFARNWORTH, CLERK
STATE OF IDAHO Plaintiff,) CASE NO. CR-2016-213
vs. T)) NO CONTACT ORDER I.C. § 18-920) I.C.R. 46.2)
Defendant.)
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 1. A. M.	DOB DL Address
You are ORDERED to	have no contact or attempt contact with the victim(s) listed above.
You are not to contact the vict	im(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	
Alleged Victim's school	
Alleged Victim's work	
This Order is subject	to the following exceptions:
🕱 No exceptions	
□ Telephone contact a	llowed between the hours ofa.m. andp.m. for the
following purpose:	
	en through third party:
	personal property from the residence listed above with the
assistance of law enfor	cement.

□ 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 $\frac{0-19-16}{10}$ 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

Garcia, Count Clerk (a 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 JUDE

CERTIFICATE OF SERVICE

X 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)

1 I certify that on <u>31816</u>, 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

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRIC	
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LING	ţο
MAGISTRATE DIVISION	E

BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO

FILED

CR-2016	-0000213
State of I	daho vs. Tana R W
Hearing	ype: Arraignment
Hearing	date: 3/18/2016
Time: 8:	59 am
Judge: M	lark A. Ingram
Minutes	Clerk: Deysi Garcia
Defense .	Attorney: Michael Wood
Prosecute	or: Brenda Bauges

X	-Verified Name	IN	TERPRETER	
x	Appeared in person	In custody	Bond set \$	OR release
	Failed to appear	Warrant issued	Bond forfeite	d
<u>x</u>	Rights given x	Rights form signed	x Rights u	nderstood
x_	Penalties given x	Penalties understood		

Counsel:______P.D. appointed______Reimburse P.D.

Waived P.D. denied x 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. We Mr. We 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

DI	- 1	1	 -	ALT IS
RI		1		D

APR 0 4 2016

OFFICE OF THE ATTORNEY GENERAL 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

	FILED AM PM	
	MAR 3 1 2015	¥
BRE	NDAFARNWORTH, CLI	ERK

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

	Defendant.	
Т	R W	
VS.	Plaintiff,	
THE ST.	ATE OF IDAHO,	

Case No. CR-2016-213

NOTICE OF HEARING

TO: T**MENT R W** 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

NOTICE OF HEARING (W), Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this $\frac{21}{21}$ 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

Paralegal Cathy Miny

NOTICE OF HEARING (W), Page 2

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 O	F THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN A	AND FOR THE COUNTY OF LINCOLN
THE STATE OF IDAHO,)
Plaintiff,) Case No. CR-2016-213
vs. T urne Rese W ran ,) AMENDED NOTICE) OF HEARING
Defendant.)

TO: T**MENTED Rest WMENTE** 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 _____ day of April, 2016.

renote ciuges Brenda M. Badges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

AMENDED NOTICE OF HEARING (W

), Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this \mathcal{I}^{μ} 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

		FAX	HEADER: IDAHO ATTY GE	NERAL-SPI
NSMITTED/STORE E MODE	ED : APR. 7.2016 3:12PM OPTION	ADDRESS	RESULT	PAG
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P.O. 1	V. Stato St. Box 83720 9, ID 83720-0010	Att Crimi	ldaho State orney General nal Law Divisio	n
Fax				
Тоз	Lincoln County Magistr	ate Court From: Cathy f	or Brenda Bauges	
Fax:		Pages: 3	e#.00 P.3.4.1-9010000000000000000000000000000000000	
Phon	te: (111)	Date: 4/8/16		
Rei	State v. W	Michae	Wood, Attorney at Law	

Per our telephone conversation, please file the enclosed Amended Notice of Hearing as requested. Thank you.

,

ANSMITT	ED/STORE	D : APR. 7. 2016	3 · 13 PM		FAX HEADEI	R: IDAHO ATTY GEI	NEKAL-SPU
E MODE		OPTION	ADDRESS	S		RESULT	PAGE
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	208-854	-8083			Criminal L	aw Division	
Fa	ax						
	To:	Lincoln County N	lagistrate Court	From:	Cathy for Brend	da Bauges	
	Fax:	(208) 886-2173	<u> </u>	Pages	4/8/16		
	Phone	(208) 880-2173		Dater	Michael Wood,		

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	Lincoln County Magistrate Court	From: Cathy for Brenda Bauges		
Fax:		Pages: 3		
1 4 4				
Phon	e: (111)	Date: 4/8/16		
	e: (1999) 1999 State v. W	Date: 4/8/16 Michael Wood, Attorney at La	aw	

Per our telephone conversation, please file the enclosed Amended Notice of Hearing as requested. Thank you.

Fifth Judicial District C In and For the Cou 111 West B Str Shoshone, Idaho STATE OF IDAHO, Plaintiff. vs.		nty of Lincoin et Suite C	APR 8 7 2016 BRENDAPAENWORTH, OLEAK DISTRICT COURT LINCOLNIDAHO
) Case No:	CR-2016-0000213
DOB:	dant.)) NOTICE () AMENDE))	DF HEARING D

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 R W				
		Mailed	Hand Delivered	_E-Mail	
Private Counsel:		Mailed	Hand Delivered	_E-Mail	
Michael J Wood		Served by Atto	orney General		
184 Gooding Street V Twin Falls ID 83301	V				
Prosecutor:	Brenda M Bauges				
		Mailed	Hand Delivered	_E-Mail	_Faxed854~8083
			y, <u>April 7, 2016</u> Farnworth The District Court		
		By: 7 NOG Keo Mik DOC22 7	celley, Deputy Clerk		



USE WERE AND USE AN CONST SERVICES

	Fifth Judicial District Court, State of Idaho n and For the County of Lincoln 111 West B Street Suite C Shoshone, Idaho 83352-0800	FILED AM 344 PM 344 MAY 0 3 2016
STATE OF IDAHO,)	
Plaintiff. vs.		BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO
TRW)	
)) Case No: CR-20	16-0000213
Defendant.		RING
DOB:		
)	

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

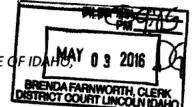
TO BE HELD IN JEROME COUNTY

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 Faxedx	Hand Delivered	_E-Mail
Michael J Wood		- uncu		
184 Gooding Street V Twin Falls ID 83301				
Prosecutor:	Brenda M Bauges			
		Mailed	Hand Delivered	_E-Mailx
CC: Traci Brandebourg	Judge Butler's Clerk			
			<u>y, May 3, 2016</u> Farnworth f The Di st rict Court	
		By:	THE	
		Doc22 7	arcia Deputy Clerk	

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IN AND FOR THE COUNTY OF LINCOLN District Court Criminal Minute Entry – Arraignment



CR-2016-0000213 State of Idaho vs. Total R We 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:

MAY-25-2016 WED 10:	53 AM COURT S	ERVICES	FAX NO. 12	088862458	P. 01/12
× .		th Judicial District (in and For the Co 111 West B St Shoshone, idahe	unty of Linco reet Suite C	in i	PALED CALL
STATE OF IDAHO, Plaint vs.	lif f .))	BRENDAE	ARNWORTH, CLERK
TRW					OURT LINCOL NIDALIO
	.)	No: CR-2016-000021	3
DOB:	idant.)))	E OF HEARING	
NOTICE IS HEREB	GIVEN that th	e above-entitled case	is hereby set	for:	
	Status Tuesd Judge:	ay, June 21, 2016 John K Butler	09:00 AM		
	Pretrial Confe Judge:	rence Tuesday, Se John K Butler	ptember 6, 20	16 09:00 AM	
	Jury Selectior Judge:	i Wednesday, Septen Thursday, Septembe John K Butler		09:00 AM & 09:00 AM	
	Jury Trial Judge:	Wednesday, Septem Friday, September 2 John K Butler		09:00 AM through	
				e of Hearing entered b ad as follows on this da	
Defendant:	T R W	Mailed	Hand Delly	ered E-Mail	
Private Counsel:			08) 736-0141		
Michael J Wood					
Prosecutor	Brenda M Bau	ges Mailed	Hand Deliv	eredE-Mailx_	
Brenda Farnworth Cierk Of The District	<u>May 25, 2016</u>			erou <u>, ""</u> L-man <u>, "</u> A_	-
	By:	Hold -	······································	Deysl Garcia, Deputy	Clerk
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MAY-25-2016 WED 10:53 AM COURT SERVICES

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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, vs.)) Plaintiff,))	Case No. CR-2016-21
T ER , W) Defendant.))	

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

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 6^{th} 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.

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 that 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 filed 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 Mar ,2016 John K. Butler, Dis

CERTIFICATE OF MAILING/DELIVERY

I, undersigned, hereby certify that on the 26 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

		Fifth Judicial District Co In and For the Cour 111 West B Stre Shoshone, Idaho	nty of Lincoln et Suite C	IO PM
STATE OF ID, vs. T urne R W	AHO, Plaintiff.) .)))	AUG 17 2000 BRENDAFARNWORTH, CLERK DISTRICT COURT LINCOLNIDAHO
)	CR-2016-0000213
DOB:	Defendant.) AMENDED) NOTICE OF))	FHEARING

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

Pretrial Confe Judge:	erence Tuesday, August 30, 2016 John K Butler	09:00 AM
Jury Selectio Judge:	n Wednesday, September 14, 2016 Thursday, September 15, 2016 John K Butler	09:00 AM & 09:00 AM
Jury Trìal Judge:	Wednesday, September 21, 2016 Friday, September 23, 2016 John K Butler	09:00 AM through

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 ER W			
		Mailed	Hand Delivered	E-Mail
Private Counsel:		Mailed	Hand Delivered	E-Mail_x
Michael J Wood				
184 Gooding Street V Twin Falls ID 83301				
Prosecutor:	Brenda M Bauges			
		Mailed	Hand Delivered	E-Mailx
		Brend: Clerk (By:	: <u>Wednesday, August</u> a Farnworth Of The District Court Garcie, Deputy Clerk 7/96	<u>17. 2016</u>

		Judicial District Co In and For the Court 111 West B Stre Shoshone, Idaho	nty of Lincoln et Suite C	aho	FILED	
	D, intiff.	·)		AUG 17	2016
vs. T erre RW	_)))	BREDISTR	NDA FARNWOR	RTH, CLERK
)) Case No:	CR-2016-0	0000213	
DOB:	fendant.) 2 nd AMEN) NOTICE ())	DED OF HEARING	G	

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

Pretrial Confe Judge:	erence Tuesday, August 30, 2016 John K Butler	09:00 AM
Jury Selectio Judge:	n Wednesday, September 14, 2016 Thursday, September 15, 2016 John K Butler	09:00 AM & 09:00 AM
Jury Trial Judge:	Wednesday, September 21, 2016 Friday, September 23, 2016 John K Butler	09:00 AM through

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 R W	Mailed	Lland Delivered	
		Mailed	Hand Delivered	E-Mail
Private Counsel:		Mailed	Hand Delivered	E-Mailx
Michael J Wood				
184 Gooding Street V Twin Falls ID 83301	V			
Prosecutor:	Casey J Hemmer 8	Jason Spillman		
		Mailed	Hand Delivered	_E-Mailx_
		Brenda Clerk C By:	sday, August 17, 201 Farnworth Of The District Court Sarcia, Deputy Clerk	<u>6</u>

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,	
γs.	
T ana R. W a ,	
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.

- 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 MAX, 2016.

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 <u>17TH</u> day of <u>MAY</u>, <u>2016</u>.

WOOD

MICHAEL J. WOO Attorney at Law



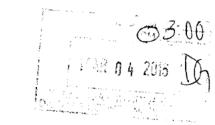
Law Office of Michael J. Wood

184 GOODING Street West Twin Falls, idaho 83301 (208) 736-8190 - (208) 736-0141 Fax

FACSIMILE

DATE: 5-17-16 FAX 208-854-8073 NO .: Sento auges Al alto pages TO: Cover Sheet) (Including FROM: hange of Tection - Very RE: ____

If you have any problems receiving this fax, please contact our office.



213

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>2010</u> -
vs.)
T RE W) ORDER TO SEAL
Defendant.)

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 $\underline{\mathcal{U}}$ 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

)

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)

STATE OF IDAHO Plaintiff,	
vs.	
T R W,	
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>	Statute		Charge Des	cription	
I.	18-6608	FORCIBLE P	ENETRATIO	ON BY USE OF A	A FOREIGN OBJECT
~	e alleged victim(<u>ictim's Name</u>	(s): 	DL	Address 	,

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		
Alleged Victim's school_		
Alleged Victim's work		

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

 \Box 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

Brenda Bauges

PO Box 83720

Deputy Attorney General

Boise, ID 83720-0010 Fax: (208) 854-8083 ____ U.S. Mail Postage Prepaid

- Hand Delivered
- Overnight Mail
- Facsimile

By:__

Deputy Clerk

- ____ U.S. Mail Postage Prepaid
- _____ Hand Delivered
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- ____ Facsimile

By:_____

P. 1

FAX HEADER: IDAHO ATTY GENERAL-SPU

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REASON FOR ERROR E-1) HANG UP OR LINE FAIL E-3) NO ANSWER

L 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



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To: Clerk of the Court – Lincoln County From: Cathy Minyard for Brenda Bauges

Fax:	(208	3) 886-2458		Pages	si 4	
Phone	: (208	8) 886-2173		Date:	3/31/16	
Rei	Stat	e v. W – CR	-2016-213	CC:	Michael Wood	- Attorney at Law
🗆 Urge:	nt	🖵 For Review	🗆 Please Go	mment	🗅 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 Attomey General's Office 700 W. State Street - 4th Floor Bolse, ID 83702 Phone: (208) 332-3096 Fax: (208) 854-8074

2. 1

* * * COMMUNICATION RESULT REPORT (MAR. 31. 2016 3:06PM) * * *

FAX HEADER: IDAHO ATTY GENERAL-SPU

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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

700 W. State St. P.O. Box 83720 Bolse, ID 83720-0010 208-332-3096 208-854-8083

Idaho State Attorney General Criminal Law Division



Tor Clerk of the Court - Lincoln County From: Cathy Minyard for Brenda Bauges (208) 886-2458 Fax: Pages: 4 Phone: (208) 886-2173 Date: 3/31/16 Rei State v. W - CR-2016-213 cci 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 VV. State Street - 4th Floor Bolse, ID 83702 Phone: (208) 332-3096 Fax: (208) 854-8074

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		cci	Michael Wood – Attorney at Law	
🗆 Urger	nt 🛛 For Review	🗆 Please Co	mment	🗆 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:

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

STAT	E OF IDAHO Plaintiff.	
¥5.		
Т	R W	
	Defendant.	
	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			
r.	18-6608	FORCIBLE	PENETRAT	TON BY USE OF	A FOREIGN OBJECT
	e alleged victim(ictim's Name	(s): /		<u>Address</u>	

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_

Alleged Victim's school

Alleged Victim's work_

This Order is subject to the following exceptions:

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



PR-01-2016 FRI 09:33 AM COURT SERVICES

A 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 $\frac{|l-l-l|}{l}$ 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 <u>Desti</u>

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.

____day of April Dated this

RR000858

april

I certify that on March \lfloor , 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 Postzge Prepaid Hand Delivered Overnight Mail X Facsimile

By:_____ Deputy Clerk

Brenda Bauges Deputy Attorney General PO Box 83720 Boise, ID 83720-0010 Fax: (208) 854-8083

Hand Delivered Overnight Mail Facsimile

U.S. Mail Postage Prepaid

Ву:_____

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.		5
T R. W)
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



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 2 2 2016 OFFICE OF THE ATTOCHEN GENERAL CHIMINAL DIVISION

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

))

)

110	Plaintiff,	
VS.		
Т	R W,	
	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 Ida ho Criminal Rules, the parties have agreed

 \bigwedge 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....

SSAL (SO ORDERED this 15 day of March 2016. Mark A. Ingram Magistrate Judgre of IDAHO COUNTY OF LINCOLN J I hereby certify that the foregoing is a true copy of the original instrument on tile in my office. 4-15-16 Dated_ Clerk, Auditor and Recorder 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

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

X_U.S. Mail Postage Prepaid

____ Hand Delivered

- ___ Overnight Mail
- ____ Facsimile
- _ Electronic Mail

Deputy Clerk

PROTECTIVE ORDER (W), Page 2

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		Order		BRENDA FARNWO DISTRICT COURT L
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THE C	OURT, having considered the	shave Request for Appro	val under Role 45 o	f the Idaho Court
1	strative Rules, hereby orders that ANTED under the following re-			of the Idelte Court
Admini	spative Rules:	agueticità in Brigittali de silva	Se Ble ranti Iti panse 44	or the range coust
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DATED	this 2 day of NAM	2016		
	At the I			
District	Magistrate Judge	-		
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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 ID	AHO,)
	Plaintiff,)
VS,) Case
T	W)
	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 14, 2016 and 80 prospective jurors summoned for September 14, 2016 shall be numbered 1 6. The prospective jurors summoned for September 14, 2016 shall be numbered 1 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.

1 - ORDER RE: JURY SELECTION AND VENUE

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 at 9:00 a.m. at the 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

2 - ORDER RE; JURY SELECTION AND VENUE

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 <u>23</u> day of <u>May</u>, 2016. John K. Butler,/District Judge

CERTIFICATE OF MAILING/DELIVERY

I, undersigned, hereby certify that on the <u>36</u> day of <u>MQ/</u>, 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

Deputyelerk

4 - ORDER RE: JURY SELECTION AND VENUE

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	MAY 2 6 2015	B
BRE	NDA FARNWORTH, CLE	RK AHO

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,)	Case No. CR16- 213	
vs. T ransformation .)	ORDER)
Defendant.	5		
)		

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.

2016. ATED NOI DISTRICT JUDGE

MOTION FOR PREPARATION OF FRELIWINARY TRANSCRIPT

12:31 KHVT

05/24/2016

(FAX)

P.002/003

<u>Order</u>

THE COURT, having considered the above Request for Approval under Rule 45 of the Idaho Court Administrative Rules, hereby orders that permission to <u>video receive</u> the above heaving is:

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

مرب کا محمد الاست الار میں میں الار میں معالم میں بار میں معالم میں معالم کر میں معامل کر ہے۔ معامل کر مع

[] 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:

[VORANTED under the following restrictions in addition to those act forth in Rule 45 of the idebte Court Administrative Rules:

] DENIED.

THE COURT, having considered the above Request for Approval under Rule 45 of the Idebo 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 Idubo Court Administrative Rules:

[] DENIED

All images and audio recordings captured in the courtoom, whother before, during or after the actual sourt proceedings, by any pool photographor or video and broadcast curpers operator shall be shared with other media organizations as required by Rule 45 of the telebo Court Administrative Rules.

DATED this His of May -,2016 District/Minglatrate Indge

requist to obtain approval to virko record, broadcast or photograph a court proceeding

05.01.17

2

JUN-02-2016 THU 05:10 PM COURT SERVICES 05/24/2016 12:32 KMV'

CERTIFICATE OF MAILING

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

Clerk

Chapl waa

() U.S. Mail
() Hand delivered
(4) Fuxed
() Court Folder

savar

-() U.S. Mail () Hand delivered () Faxed () Court Folder

hhnsan

() U.S. Mail
() Hand delivered
() Fexed
() Court Folder

Shelly Tublos Trial Court Administrator

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

06.08,11

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BRE	NDA FARNWORTH, GLE ICT COURT LINCOLN ID	AK DAHO

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 R W) ORDER TO DISMISS)
Defendant.)

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 <u>l</u> day of <u>September</u> 2016.

John K. Butler

District Judge

ORDER TO DISMISS (W.), Page 1

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 U.S. Mail Postage Prepaid Deputy Attorney General Hand Delivered P.O. Box 83720 Boise, ID 83720-0010 Facsimile Fax: 208-854-8083 Electronic Mail (Email) Michael J. Wood Attorney at Law U.S. Mail Postage Prepaid Hand Delivered 184 Gooding St. West Overnight Mail Twin Falls, ID 83301 Fax: (208) 436-0141 Facsimile Electronic Mail (Email) By: Deputy Cher

ORDER TO DISMISS (W.), Page 2

LAWRENCE G. WASDEN Idaho Attorney General

- r.

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.
T. R. W DOB: SSN:
Defendant.

CASE NO. 2016 - 213

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this \underline{H} day of \underline{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**urned** W**under** 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**Manual**, 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

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

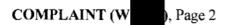
All of which is contrary to the form, force and effect of the statute in such case, and against the peace and dignity of the State of Idaho.

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

rend BRENDA M BAUGE

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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



. 1

	Fifth Judicial District In and For the Co 111 West B S Shoshone, Idah	ounty of Lincoln 🦳 🔭	O 10-10
STATE OF ID	-)	MAR n 4 2018 DE
VS.)	ARTING CONTRACTOR
T R W)	ີ່ອີການຍອກເຫນະອາດານ, ເປັນ ອີການ ລັດຫາມ
) Case No: CR-20	16-0000213
DOB:	Defendant.) NOTICE OF HEA)))	RING

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

ArraignmentFriday, March 18, 201609:00 AMJudge: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 R W			
		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-Mailx
		Brenda	<u>, March 4, 2016</u> a Farnworth ⊃f ∳he <i>,</i> ⊉istrict Court	
		By: Deyst Doc22	Garcia, Deputy Clerk	

MAY-02-2016 MON	02:55 PM COURT	SERVICES
05/02/2016	14:53 KMVT	

P. 01 P.001/003

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		MAN	2	2016	G
0	BRI	NDA FAF	int li	RTH, CL	erk Idaho
8	DIST	HCT COL	IRT LI	NCOLN	IDAH

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN A	ND FOI	R THE COUNTY OF
STATE OF IDAHD.)	•
Plaintiff(s),		REQUEST TO OF TO VIDEO RECO OR PHOTOGRAP
νς.	j	PROCEEDING
<u>†</u> <u>v</u>	}	
Defendant(s).)	•

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

NCOLN

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.

Print Name Do C	Date
Signature KMUT 1/06	BLUE LAKES N.
	ling Address 734-1074
Phone Number Pax	Number

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

06,00,10

P.003/003

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:

and 2 () U.S. Mail AHOINEV () Hand delivered (2) Faxed () Court Folder

() U.S. Mail
() Hand delivered
(4) Faxed
() Court Folder

lattsar ministration

() U.S. Mail () Hand delivered Emai | () Faxed

() Court Folder

Paul Johnson 34-1074

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

06.08.12

3

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 CO	URT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAH	O, IN AND FOR THE COUNTY OF LINCOLN
STATE OF IDAHO,)
Plaintiff,) CASE NO. CR-FE-16-213
VS.) SUBPOENA - CRIMINAL
T. R. W.	
Defendant.)
P	DF IDAHO SENDS GREETINGS TO:

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 _____ day of April, 2016.

Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA - CRIMINAL (W) - 1

RR000879

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.

SUBPOENA – CRIMINAL (W

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,
vs.
T R W
Defendant.

CASE NO. CR-FE-16-213

SUBPOENA - CRIMINAL

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 _____ day of April, 2016.

Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA - CRIMINAL (W - 1

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 O	IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF		
THE STATE OF IDAHO, IN A	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 R W)		
Defendant.))		

THE STATE OF IDAHO SENDS GREETINGS TO:



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 _____ day of April, 2016.

Brenda M. Bauses

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (W) - 1

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 R W)	
Defendant.)	
A	AHO SENDS GREETINGS TO: P IK & DOLLY F	

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. Banges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA – CRIMINAL (W. . . .) - 1

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

THE STATE (<u>OF IDAHO SE</u>	NI
)	
Defendant.)	
)	
T. R. W. ,)	
)	
vs.)	S
)	
Plaintiff,	ý	C
	ý	
STATE OF IDAHO,)	

CASE NO. CR-FE-16-213 **UBPOENA - CRIMINAL**

DS GREETINGS TO:



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.

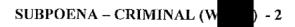
DATED this 6 day of April, 2016.

Brenda M. Banges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA - CRIMINAL (W) - 1

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 R W)			
Defendant.)			
THE STATE OF IDAHO SENDS GREETINGS TO:				

S S S R C/O LEETA HEDRICK

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 <u>6</u> day of April, 2016.

rema Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA - CRIMINAL (W - 1

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,) VS.) The Reference of the state o

THE STATE OF IDAHO SENDS GREETINGS TO:

K. W	1	- S -	
C/O ACEY	& IA	VI N S	
C/O ACL I		I LIV G	
	,		

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 _____ day of April, 2016.

Brenda M. Bauges

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

SUBPOENA - CRIMINAL (W. . . .) - 1

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 Idaho Attorney General

.....

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

BRENDA M. BAUGES ISB#8185

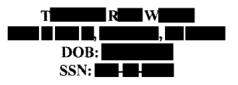
Deputy Attorney General and Special Prosecuting Attorney P.O. Box 83720 Boise, Idaho 83720-0010 Telephone: (208) 332-3096 Facsimile: (208) 854-8083

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF

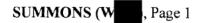
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)
Plaintiff, vs.) CASE NO. <u>(R- 1016-</u> 213
T R W)) SUMMONS
Defendant.)
)

THE STATE OF IDAHO SENDS GREETING TO:



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 <u>18</u> day of <u>MOTCh</u>, 2016, before the Honorable <u>MOTCh</u> at <u>9.00</u> m/p.m. at the Lincoln County Courthouse, 111 West B Street, Shoshone, Idaho, to plead to and answer to a





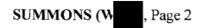
charge made against you upon the Complaint of the Idaho Attorney General for violating Idaho Code Section 18-6608.

WITNESS my hand and seal of the District Court, Magistrate Division, this <u>4</u> day of <u>March</u>, 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 R. W)
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

1	I N D E X	
2		
3	WITNESSES:	PAGE
4	S EEDE R EEDE Direct Examination by Ms. Bauges	5
5	Cross Examination by Mr. Wood Redirect Examination by Ms. Bauges	9 31
6	A M	51
7	Direct Examination by Ms. Bauges Cross Examination by Mr. Wood	4 0 4 8
8	Redirect Examination by Ms. Bauges	85
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1	COURTROOM OF THE MAGISTRATE COURT	1	
2	FIFTH JUDICIAL DISTRICT	2	All right. Mr. R
3	LINCOLN COUNTY COURTHOUSE	3	please. If you could just stand there, face the
4	LINCOLN COUNTY, SHOSHONE, IDAHO	4	clerk, raise your right hand, the clerk will swear
5	APRIL 22, 2016, FRIDAY, 2:00 P.M.	5	you in.
6		6	
7	THE COURT: We'll take up Case CR-16-213,	7	
8	State of Idaho vs. The West of Idaho vs. The sis the time	8	S R.
9	scheduled for preliminary hearing in this matter.	9	being produced as a witness on behalf of the
10	Anything preliminarily?	10	plaintiff, was duly sworn on his oath and testified
11	MR. WOOD: Move to exclude witnesses.	11	as follows:
12	THE COURT: If you have been summoned as a	12	
13	witness in this matter, I will ask that you wait in	13	THE COURT: I'm going to rely on counsel to be
14	the hallway until you're called. You are not to	14	aware of who's a witness and who isn't a witness in
15	discuss your testimony with anybody in the hall or	15	terms of the Court's prior order excluding witnesses
16	have anybody discuss your testimony with you while	16	until they testify.
17	you are in the hall, and then after you've	17	MS. BAUGES: Your Honor, does that include
18	testified, you are either free to go or you can	18	potential witnesses or just witnesses that
19	remain in the courtroom.	19	THE COURT: It does include potential
20	All right. Go ahead.	20	witnesses.
21	MS. BAUGES: The State calls S	21	MS. BAUGES: I believe anybody that has
22	he's downstairs, Your Honor.	22	knowledge of the – that was in the locker room at
22	THE COURT: Okay. You want to go	22	the time should be excluded, and I'm not aware of
23	MS. BAUGES: He's in the sheriff's office.	1	everybody who that is, but I do see one person that
		24	was in the locker room at the time.
25	THE BAILIFF: Who do you need?	25	was in the locker room at the time.
	3		4
1	THE COURT: All right. If there's a	1	A. At the football field.
2	possibility you might be called as a witness and,	2	Q. Okay. And is that football field in
2 3	possibility you might be called as a witness and, apparently, if you were present in a locker room,	2 3	Q. Okay. And is that football field in Dietrich?
2 3 4	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to	2 3 4	Q. Okay. And is that football field inDietrich?A. Yes, it is.
2 3 4 5	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you.	2 3 4 5	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln?
2 3 4 5 6	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead.	2 3 4 5 6	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes.
2 3 4 5	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you.	2 3 4 5	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho?
2 3 4 5 6	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead.	2 3 4 5 6	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh.
2 3 4 5 6 7	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead.	2 3 4 5 6 7	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho?
2 3 4 5 6 7 8	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and	2 3 4 5 6 7 8	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day?
2 3 4 5 6 7 8 9	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES:	2 3 4 5 6 7 8 9	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after
2 3 4 5 6 7 8 9	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and	2 3 4 5 6 7 8 9 10	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day?
2 3 4 5 6 7 8 9 10 11	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record.	2 3 4 5 6 7 8 9 10 11	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes.
2 3 4 5 6 7 8 9 10 11 12	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Same M, R-	2 3 4 5 6 7 8 9 10 11 12	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that.
2 3 4 5 6 7 8 9 10 11 12 13	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Same for the record. Q. How old are you? 	2 3 4 5 6 7 8 9 10 11 12 13	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting
2 3 4 5 6 7 8 9 10 11 12 13 14	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Same, R. Q. How old are you? A. 17 years old. 	2 3 4 5 6 7 8 9 10 11 12 13 14	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting ready to
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Some M, R. Some M, R. Some M, School. Q. Where? A. Dietrich High School. Q. Were you on the Dietrich football team in 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting changed, and a bunch of people were getting ready to shower, and A was about to get in the shower when The came up behind him with a hanger and put it in his butt. And then John was sitting John I can't remember his last name was sitting on the bench by the lockers behind The or A sitting
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Source, R. Source, R. Source, S. Source, S	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting changed, and a bunch of people were getting ready to shower, and A was about to get in the shower when T came up behind him with a hanger and put it in his butt. And then John was sitting John I can't remember his last name was sitting on the bench by the lockers behind T or A and was kicking it. Q. And what happened after that? Do you know? A. A pulled the hanger out and stumbled

1 A. Just laughing: 3 MR. WOOD: Objection: No foundation. He's indicated he laft he room. Could he see who was isaughing or not? 6 THE COURT: I don't know that it was a for chronological question. 7 A. He looked like he was in pain. 8 MS. BAUGES: I can rephrase. 9 THE COURT: Okay. Go ahead. 10 BY MS. BAUGES: I can rephrase. 11 Q. At the time that you were actually in the looker torm observing the hanger - the hanger 11 Towas showing it in, and somebody was - target and somebody was - target any showing it, and then there was staggering 12 A. Yes, I and John were laughing at the frame, did you hear anything? 13 A. Yes, The looked like he was olearly in pain. 14 A. Yes, I and John were laughing at the graves for anything? 14 A. Yes, I and John were laughing at the graves for anything? 15 Kikking it, and then there was olearly in pain. 16 A. He looked like he was olearly in pain. 17 A. He looked like he was olearly in pain. 18 A. He looked like he was olearly in pain. 14 A. He looked like he was olearly in pain. 15 Kexuse me, sir. 2 THE COURT: Mr. Wood. <th></th> <th></th> <th></th> <th></th>				
3 MR. WOOD: Objection. No foundation. He's 3 A. He looked like he was in pain. 4 Contrological question. Q. Now, you said a person named Times was 6 THE COURT: I don't know that it was a C. Now, you said a person named Times was 7 THE COURT: I don't know that it was a C. Now, you said a person named Times was 8 MS, BAUGES: I can rephrase. P. A. He looked like he was in the word you used? 10 BY MS. BAUGES: C. On you see that person, Time in the 11 C. On you see that person, Time in the 12 Device see and identify an article of othing that in the 13 Indecent with and see angering S. Could you please point out where he's 14 Time was showing it in, and somebody was P. A. A blue tie and a gray shirt. 15 BALGES: Thank you. MS. BAUGES: Thank you. 16 A. Yes, Time and John were laughing MS. BAUGES: Thank you. 17 THE COURT: Nerecord will reflect the Bi dentification of the defendant. 18 MW WOOD: Objection. No, III withdraw it. MS. BAUGES: Thank you. 19 THE COURT: You might try this one. Oh, THE COURT: Since. Unity ought you please draw. Fist, could you angle that G. And there's a	1	A. Just laughing.	1	BY MS. BAUGES:
4 indicated he left the room. Could he see who was laughing or not? THE COURT: I don't know that it was a chornological question. MS. BAUGES: I can rephrase. THE COURT: Okay. Go ahead. 7 10 BY MS. BAUGES: I can rephrase. 7 11 Q. Now you said a person named Time word you used? 12 De you see that person, Time in the 13 BY MS. BAUGES: I can rephrase. 7 14 Time was showing it in, and somebody else was 1 15 kicking it, and then there was staggering 1 16 afterwards. During that time frame, did you hear 1 17 anything? A. Yes. Time and John were laughing at 16 A. Yes. Time and John were laughing at 1 17 A. Yes. Time and John were laughing at 1 18 A. Yes. Time and John were laughing at 1 19 Mc You you observe anything about 2 20 A. He looked like he was clearly in pain. 1 21 THE COURT: You might try this one. Oh, 1 21 THE COURT: You might try this one. Oh,<	2	Q. Who was laughing?	2	Q. Could you please restate that.
s laughing or not? s the one who initially inserted the hanger into d THE COURT: I don't know that it was a f. Antwon's butt. Is that the word you used? d MS. BAUGES: I can rephrase. a. Yes, it is. iiii DY MS. BAUGES: C. an rephrase. a. Yes, it do. iiii Docker room observing the hanger - the hanger a. A the time that you were actually in the a. Yes, it do. iiii Docker room observing the hanger - the hanger a. A so the didentify an article of clothing that he's iiii didentify an article of clothing that he's seated and identify an article of clothing that he's iiii didentify an article of clothing that he's seated and identify an article of clothing that he's iiii didentify an article of clothing that he's seated and identify an article of clothing that he's iiii and then there was staggering iiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiii	3	MR. WOOD: Objection. No foundation. He's	3	A. He looked like he was in pain.
 THE COURT: I don't know that it was a chronological question. M. S. BAUGES: I can rephrase. M. Yes, It is. C. Do you see that person, T is in the pocuration to day? A. Yes, It is. Q. At the time that you were actually in the pocuration to day? A. Yes, I do. C. Could you please point out where he's is wearing. A. Yes, I do. C. Could you please point out where he's is wearing. A. Yes, I do. G. Okay. Did you observe anything about A. He looked like he was clearly in pain. M. WOOD: Objection. No, I'll withdraw it. THE COURT: You might try this one. Oh, there's a whole set. CROSS EXAMINATION BY MR. WOOD: C. Can you see that? THE COURT: You might try this one. Oh, there's a whole set. CROSS EXAMINATION BY MR. WOOD: C. Can you see that? THE COURT: You might try this one. Oh, there's a whole set. CROSS EXAMINATION BY MR. WOOD: C. Can you see that? THE COURT: You might try this one. Oh, there's a whole set. Can you see that? THE COURT: You might try this one of the torswing board. And there's a bench that runs around what to corry the drawing board. And there's a bench that runs around what to corry thing you have to dark may that the judge can see it, please. Can you see that? The COURT: The you. You represent in this room the froughout the incident with the hanger; is that correct? Excuse me? A. Yes, ir. C. You neaver left or you werent taking a show or something like that? Shower or something like that? A. I was changing throughout the event taking a show or something like that? A. I was changing throughout the went taking a show or something like that? A. I was changing throughout the event taking a show or something like that? A. I was changing throughout the event taking a shower or something like that?<!--</td--><td>4</td><td>indicated he left the room. Could he see who was</td><th>4</th><td>Q. Now, you said a person named T</td>	4	indicated he left the room. Could he see who was	4	Q. Now, you said a person named T
7 A. Yes, it is. 8 MS. BAUGES: I can rephrase. 9 THE COURT: Colay. Co 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 TI was showing it in , and somebody else was 15 kicking it, and then there was staggering 16 afterwards. During that time frame, did you hear 17 THE COURT: The record will reflect the 18 A. Yes. Timand John were laughing at 19 MS. BAUGES: Thank you. 10 Q. Okay. Did you observe anything about 21 A. He looked like he was clearly in pain. 22 A. He looked like he was clearly in pain. 23 MR. WOOD: Objection. No, I'll withdraw it. 24 THE COURT: Mr. Wood. 25 THE COURT: You might try this one. Oh, 31 there's a whole set. 4 CROSS EXAMINATION BY MR. WOOD: 5 Q. Nr. R. Would you india coming around 6 Q. Would you please draw, taking up as much <	5	laughing or not?	5	the one who initially inserted the hanger into
8 MS BAUGES: I can rephrase. 8 Q. Do you see that person, Time in the 9 THE COURT: Okay. Go ahead. 9 courtroom today? 10 BY MS. BAUGES: 10 A. Yes, I do. 11 Q. At the time that you were actually in the 10 A. Yes, I do. 12 locker room observing the hanger the hanger 13 seated and identify an article of clothing that he's 13 indicent we'll call it - you said somebody was 14 Time was showing it in, and somebody was 14 Time was showing it in, and somebody was 15 MS. BAUGES: Thank you. 14 Time was showing it in, and somebody was 16 A. A blue tie and a gray shirt. 15 kicking it and then there was staggering 15 MS. BAUGES: Thank you. 16 afterwards. During that time frame, did you hear 17 THE COURT: The record will reflect the 16 16 M. WOOD: Objection. No, I'll withdraw it. 20 MR. WOOD: May I reflexive the drawing board? 21 THE COURT: You might try this one. Oh, 1 from. And you have drawn an R about halfway on that 22 THE COURT: You might try this one. Oh, 1 from. And you have drawn an	6	THE COURT: I don't know that it was a	6	Antwon's butt. Is that the word you used?
 THE COURT: Okay. Go ahead. BY MS. BAUGES: Q. At the time that you were actually in the locator own observing the hanger the hanger incident well call it you said somebody was incident well well well were well well well well	7	chronological question.	7	A. Yes, it is.
10 BY MS. BAUGES: 10 A. Yes, i do. 11 Q. At the time that you were actually in the locker rom observing the hanger - the hanger 11 Q. Could you please point out where he's searcing. 13 Incident well call it - you said somebody was anything? A. A blue tie and a gray shirt. 14 Tow was showing it in, and somebody wes anything? MS. BAUGES: Thank you. 14 Tow was showing it in, and somebody wes anything? MS. BAUGES: Thank you. 15 MS. BAUGES: Thank you., Your Honor. No file defendant. 16 A. He looked like he was clearly in pain. MS. BAUGES: Thank you, Your Honor. No file defendant. 17 THE COURT: Mr. Wood. MR. WOOD: Objection. No, I'll withdraw it. 20 Q. Okay. Did you observe anything about MR. WOOD: (Inculble.) Do we have any 21 THE COURT: You might try this one. Oh, there's a whole set. MR. WOOD: (Inculble.) Do we have any 21 THE COURT: You might try this one. Oh, a ould you please draw first, could you angle that drawing board a little more towards myself and the prosecutor but so that the judge can see it, please. Can you see that? 1 From. And you have drawn an About halfway on that soluck to me for guys to sit on. Were you seated on that bench? 21 THE COURT: I'm good. I can lean out. 9 N Kes.	8	MS. BAUGES: I can rephrase.	8	Q. Do you see that person, T
11 Q. At the time that you were actually in the 11 Q. Could you please point out where he's 12 locker room observing the hanger the hanger 11 Q. Could you please point out where he's 13 incident well call it you said somebody wes 13 wearing. 14 Towas shoving it in, and somebody else was 14 A. A blue tie and a gray shirt. 15 kicking it, and then there was staggering 15 NS. BAUGES: Thank you. 16 A. Yes. Towas and John were laughing at 16 No further questions. 17 anything? 20 Okay. Did you observe anything about 21 21 A. He looked like he was clearly in pain. 17 THE COURT: Mr. Wood. 22 7 0 0 23 N. K. WOOD: Objection. No, I'll withdraw it. 22 THE COURT: You might try this one. Oh, 34 There's a whole set. 7 0 0 4 COSS EXAMINATION BY MR. WOOD: 0 N. M. R. Wood wou mand coming around 6 COSS EXAMINATION BY MR. WOOD: 1 A. Yes. 7 1 A. Yes. 1 8 MR. WOOD:<	9	THE COURT: Okay. Go ahead.	9	courtroom today?
12 locker room observing the hanger the hanger 12 seated and identify an article of clothing that he's 13 incident we'll call it you said somebody was 14 A. A blue tie and a gray shirt. 15 kicking it, and then there was staggering 14 A. A blue tie and a gray shirt. 16 afterwards. During that time frame, did you hear 17 THE COURT: The record will reflect the 16 A. Yes. Thank you, Your Honor. No 16 No further questions. 17 THE COURT: Sure. Until you get those knees 16 18 A. He looked like he was clearly in pain. NR. WOOD: Objection. No, I'll withdrawit. 19 A. He looked like he was clearly in pain. NR. WOOD: Objection. No, I'll withdrawit. 20 O. Okay. Did you observe anything about 17 THE COURT: Sure. Until you get those knees 21 THE COURT: Sure. Until with you you have drawn an R about halfway on that 20 21 THE COURT: You might thy this one. Oh, 1 from. And you have drawn an R about halfway on that 22 THE COURT: You might more towards my regef and the 4 Q. And there's a bench that runs around what 3 G. You weer standing in front of it 3 A. Yes.	10	BY MS. BAUGES:	10	A. Yes, I do.
 incident we'll call it you said somebody was incident we'll call it you said somebody else was if was shoving it in, and somebody else was if anything? afterwards. During that time frame, did you hear anything? A. Yes. Time was staggring A. Yes. Time and John were laughing at A. Yes. Time was staggring A. Yes. Time was staggring A. Yes. Time was staggring A. He looked like he was clearly in pain. MR. WOOD: Objection. No, I'll withdraw it. Kicking in front of the drawing board? THE COURT: You might try this one. Oh, there's a whole set. THE COURT: You might try this one. Oh, there's a whole set. COSS EXAMINATION BY MR. WOOD: Q. And would you mind coming around and standing in front of the drawing board. And drawing board a little more towards myself and the drawing board a little more towards myself and the drawing board a little more towards myself and the orthat piece of paper as possible, the locker room, the foor layout of the locker room, thorughout this incident with the hanger; is that correct? A. Yes, sir. Q. You never left or you wern! taking a shower or something like that? A. Iwas changing throughout the event. A	11	Q. At the time that you were actually in the	11	Q. Could you please point out where he's
14 Time was shoving it in, and somebody else was 14 A. A blue tie and a gray shirt. 15 kicking it, and then there was staggering 15 MS. BAUGES: Thank you. 17 anything? 16 No further questions. 18 A. Yes. Time and John were laughing at 17 THE COURT: The record will reflect the 18 A. Yes. Time and John were laughing at 18 identification of the defendant. 19 MS. BAUGES: Thank you. Your Honor. No 20 Q. Okay. Did you observe anything about 21 THE COURT: Mr. Wood. 21 MR. WOOD: Objection. No, I'll withdraw it. 22 MR. WOOD: May I retrieve the drawing board? 23 MR. WOOD: Objection. No, I'll withdraw it. 22 THE COURT: You might try this one. Oh, 3 2 THE COURT: You might try this one. Oh, 3 1 from. And you have drawn an R about halfway on that 3 CROSS EXAMINATION BY MR. WOOD: 2 1 A. Yes. 1 4 Cull you please draw first, could you angle that 3 A. Yes. 1 4 G. You neve that? 1 A. Yes. 1 Q. Not there's a whole set.	12	locker room observing the hanger the hanger	12	seated and identify an article of clothing that he's
15 kicking it, and then there was staggering 15 MS. BAUGES: Thank you. 16 afterwards. During that time frame, did you hear 16 No further questions. 17 THE COURT: The record will reflect the 16 identification of the defendant. 19 A. Yes. The looked like he was clearly in pain. 17 THE COURT: Mr. Wood. 20 A. He looked like he was clearly in pain. 20 MR. WOOD: Objection. No, I'll withdraw it. 21 THE COURT: Sure. Until you get those knees 7 25 7 8 7 1 markers? 1 markers? 1 from. And you have drawn an R about halfway on that 2 THE COURT: You might try this one. Oh, 1 from. And you have drawn an R about halfway on that 3 could you please draw – first, could you angle that 0. And there's a bench that runs around what 4 6 Could you please draw – first, could you angle that 0. A nuss standing in front of it. 9 THE COURT: I'm good. I can lean out. 19 Threat the puophout this incident with the hanger; is that 16 of that piece of paper as possible, the locker room. 10 A. Yes.	13	incident we'll call it you said somebody was	13	wearing.
16 afterwards. During that time frame, did you hear 16 No further questions. 17 anything? THE COURT: The record will reflect the 18 A. Yes. THE COURT: Mr. Wood. 20 Q. Okay. Did you observe anything about 16 Interfloation of the defendant. 21 A. He looked like he was clearly in pain. MR. WOOD: Objection. No, I'll withdraw it. 21 22 A. He looked like he was clearly in pain. MR. WOOD: Objection. No, I'll withdraw it. 22 23 THE COURT: Mr. Wood. 23 THE COURT: Mr. Wood. 24 Excuse me, sir. 20 MR. WOOD: (Inaudible). Do we have any 25 7 8 1 26 7 8 1 27 8 2 1 3 there's a whole set. 1 1 4 CAROSS EXAMINATION BY MR. WOOD: 1 4 5 CROSS EXAMINATION BY MR. WOOD: 4 Q. And there's a bench that runs around what 5 ordid you please draw, taking up as much 1 1 6 ordid you oplease draw, taking up as much 1 1	14	T was shoving it in, and somebody else was	14	A. A blue tie and a gray shirt.
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18 A. Yes. Time and John were laughing at 18 identification of the defendant. 19 Q. Okay. Did you observe anything about M. B. BAUGES: Thank you, Your Honor. No 20 Q. Okay. Did you observe anything about M. B. BAUGES: Thank you, Your Honor. No 21 A. He looked like he was clearly in pain. MR. WOOD: Objection. No, I'll withdraw it. 18 22 A. He looked like he was clearly in pain. 7 THE COURT: Mr. Wood. 23 THE COURT: You might try this one. Oh, THE COURT: You might try this one. Oh, 1 3 there's a whole set. 1 1 4 CROSS EXAMINATION BY MR. WOOD: 1 1 6 Q. Mr. Rowould you mind coming around 4 Q. And there's a bench that runs around what 5 CROSS EXAMINATION BY MR. WOOD: 1 6 1 6 Q. Mr. Rowoul you mind coming around 4 Q. And there's a bench that runs around what 5 cordly up please draw - first, could you angle that 6 0 A. Yes. 11 Ga you see that? 1 4 Q is that correct? A. Yes. 12 THE COURT: I'm good. I can lean out. 13 <td>16</td> <td>afterwards. During that time frame, did you hear</td> <th>16</th> <td>No further questions.</td>	16	afterwards. During that time frame, did you hear	16	No further questions.
18 A. Yes. Time and John were laughing at 18 identification of the defendant. 19 Q. Okay. Did you observe anything about M. B. BAUGES: Thank you, Your Honor. No 20 Q. Okay. Did you observe anything about M. B. BAUGES: Thank you, Your Honor. No 21 A. He looked like he was clearly in pain. MR. WOOD: Objection. No, I'll withdraw it. 18 22 A. He looked like he was clearly in pain. 7 THE COURT: Mr. Wood. 23 THE COURT: You might try this one. Oh, THE COURT: You might try this one. Oh, 1 3 there's a whole set. 1 1 4 CROSS EXAMINATION BY MR. WOOD: 1 1 6 Q. Mr. Rowould you mind coming around 4 Q. And there's a bench that runs around what 5 CROSS EXAMINATION BY MR. WOOD: 1 6 1 6 Q. Mr. Rowoul you mind coming around 4 Q. And there's a bench that runs around what 5 cordly up please draw - first, could you angle that 6 0 A. Yes. 11 Ga you see that? 1 4 Q is that correct? A. Yes. 12 THE COURT: I'm good. I can lean out. 13 <td>17</td> <td>anything?</td> <th>17</th> <td>THE COURT: The record will reflect the</td>	17	anything?	17	THE COURT: The record will reflect the
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22 A. He looked like he was clearly in pain. 22 MR. WOOD: May I retrieve the drawing board? 23 MR. WOOD: Objection. No, I'll withdraw it. 23 THE COURT: Sure. Until you get those knees 24 Excuse me, sir. 23 THE COURT: Sure. Until you get those knees 25 7 8 26 7 8 27 8 1 28 THE COURT: You might try this one. Oh, 1 3 there's a whole set. 1 4 0 And you have drawn an R about halfway on that 5 CROSS EXAMINATION BY MR. WOOD: 3 6 Q. Mr. Row, would you mind coming around 4 7 A standing in front of the drawing board. And 6 8 could you please draw - first, could you angle that 9 9 drawing board a little more towards myself and the 9 10 prosecutor but so that the judge can see it, please. 1 11 Can you see that? 11 12 THE COURT: I'm good. I can lean out. 13 13 BY MR. WOOD: 14 14 Q. Would you please draw,	1	A	21	•
23 MR. WOOD: Objection. No, I'll withdraw it. 23 THE COURT: Sure. Until you get those knees 24 Excuse me, sir. 24 replaced, do you want me to carry it for you? 25 MR. WOOD: (Inaudible.) Do we have any 6 8 7 8 7 8 8 7 8 7 9 7 9 7 1 markers? 2 THE COURT: You might try this one. Oh, 3 there's a whole set. 4 CROSS EXAMINATION BY MR. WOOD: 6 Q. Mr. R 9 would you mind coming around 7 A. Yes. 8 Could you please draw - first, could you angle that 9 drawing board a little more towards myself and the 9 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. <td< td=""><td>1</td><td>A. He looked like he was clearly in pain.</td><th>1</th><td>MR. WOOD: May I retrieve the drawing board?</td></td<>	1	A. He looked like he was clearly in pain.	1	MR. WOOD: May I retrieve the drawing board?
24 Excuse me, sir. 24 replaced, do you want me to carry it for you? 25 7 25 MR. WOOD: (Inaudible.) Do we have any 1 markers? 1 from. And you have drawn an R about halfway on that 2 THE COURT: You might try this one. Oh, 1 from. And you have drawn an R about halfway on that 3 CROSS EXAMINATION BY MR. WOOD: 3 A. Yes. 4 0 And there's a bench that runs around what 5 CROSS EXAMINATION BY MR. WOOD: 3 A. Yes. 6 Q. Mr. R would you mind coming around 7 A. Iwas standing in front of it. 7 and standing in front of the drawing board. And 6 Q. You were standing in front of it. 8 could you please draw - first, could you angle that 9 throughout everything you have told the judge 10 prosecutor but so that the judge can see it, please. 11 Q is that correct? Excuse me? 12 THE COURT: I'm good. I can lean out. 13 BY MR. WOOD: Q. Would you please draw, taking up as much 14 of that piece of paper as possible, the locker room, 16 A. Yes. Q. I don't mean to be yelling at you either, <td></td> <td></td> <th>1</th> <td></td>			1	
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 15 of that piece of paper as possible, the locker room, the floor layout of the locker room. 16 Now, you were present in this room throughout this incident with the hanger; is that correct? A. Yes, sir. Q. You never left or you weren't taking a shower or something like that? A. I was changing throughout the event. Q. And would you please put an "R" for the location you made the observations you've described 15 A. Yes. 16 Q. I don't mean to be yelling at you either, but I'm trying to talk loud enough that the mic's picking me up. Okay? We've both got to do that. 19 Would you please put a "T" for where 20 A. Yes, sir. 21 Q. You never left or you weren't taking a 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 	14	Q. Would you please draw, taking up as much	14	
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 throughout this incident with the hanger; is that correct? A. Yes, sir. Q. You never left or you weren't taking a shower or something like that? A. I was changing throughout the event. Q. And would you please put an "R" for the location you made the observations you've described 		-	1	
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20A. Yes, sir.20There, did you ever see There, did you ever			1	
21Q. You never left or you weren't taking a shower or something like that?21there, did you ever see T position?move from that23A. I was changing throughout the event.23A. I was changing throughout the event.23A. Not really. He followed A24Q. And would you please put an "R" for the location you made the observations you've described24When I was leaving.			1	
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25 location you made the observations you've described 25 when I was leaving.			1	-
			1	-
				-

1 Q. And when you say "the sink area," you 1 Q. Where is All is locker? 2 point to the top of your diagram, a little square 3 A. Yeah. There's a doorway right here by 3 that is right at the top of your diagram? 3 Q. I'm not asking what you think. Do you 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. 3 Q. I'm not asking what you think. Do you 7 Q. Okay. And it's your testimony under oath that is right at that's All is locker is? You've just drawn a 6 and then a stall for a bathroom. 7 it'm not asking what you think. Do you 7 Q. Okay. And it's your testimony under oath that's All is locker is? You've just drawn a 6 that T as I asid before, he walked towards Tan- 9 A. As I said before, he walked towards Tan- 0 Q. Now, it's an upside down A. It's right 11 leaving the room. 1 3 Q. Hayou but upside down A. It's right 11 leaving the room. Q. Way uses, yeah. 1 Q. Way use of that? 12 A. I didn't really hear him say anything. Q. Ha you seen All ou're sure of that?<	
3 that is right at the top of your diagram? 3 Q. I'm not asking what you think. Do you 4 A. Yeah. There's a doorway right here by the lockers, and across from the doorway is sinks and then a stall for a bathroom. 4 know where his locker is? You've just drawn a 5 6 and then a stall for a bathroom. 7 Q. Okay. And it's your testimony under oath 6 that's A and it's your testimony under oath 7 if'' A and it's your testimony under oath 7 if'' A and it's a locker, i'm not trying to tell you 9 A. As I said before, he walked towards Tan- 7 6 that's A and you did, huh? 9 A. Yes. 9 A. Yes. 9 A. Yes. 9 A. Yes. 10 Q. Okay. Now, when you saw Mr. W at T, 11 side up to you, but upside down to me, huh? 12 A. I guess, yeah. 11 13 Gu up to you, but upside down to me, huh? 14 A. No. 15 Q. What was he doing? 14 A. No. 16 Had you seen A and you re sure of that? 16 A. He was undressing, getting ready to atker? 16 A. He was undressing over at his 17 shower. 16 A. Uh-huh. 17 16 A. He was undressing over at his 10 10	
4 A. Yeah. There's a doorway right here by 4 know where his locker is? You've just drawn a 5 the lockers, and across from the doorway is sinks and then a stall for a bathroom. 5 7 Q. Okay. And it's your testimony under oath 5 that Timewas at T and never really moved, huh? 9 A. As I said before, he walked towards Tan- 7 8 Lf was far and never really moved, huh? 9 A. As I said before, he walked towards Tan- 9 A. Yes. 9 10 - or A and you hear him say anything? 9 A. I didn't really hear him say anything. 9 12 Q. Okay. Now, when you saw Mr. W at T, 13 Gu e to you, but upside down A. It's right 13 did you hear him say anything? 14 A. I guess, yeah. 14 A. I didn't really hear him say anything. 14 A. He was undressing, getting ready to 16 A. I didn't really hear him say anything. 16 A. He was undressing over there 16 A. I didn't really hear him say anything. 16 A. He was undressing getting ready to 17 Q. Colud you please write down an "A" for 9 A. Huh? 20 10 Where he started?	
5 the lockers, and across from the doorway is sinks 5 circle. Would you put an "A" in that circle if 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? 7 9 A. As I said before, he walked towards Tan- 7 7 9 A. As I said before, he walked towards Tan- 7 10 - or A as I was leaving the building - or 11 leaving the room. 10 12 Q. Okay. Now, when you saw Mr. W at T, 13 did you hear him say anything? 14 14 A. I didn't really hear him say anything. 15 15 Q. Excuse me? 16 16 A. I didn't really hear him say anything. 16 17 Q. And you're sure of that? 18 18 A. Yes. 19 4. He was undressing, getting ready to 17 Q. Could you please write down an "A" for 19 3. Uh-huh. 12 A. Where he started? 20 4. He was facing towards the sinks. He was 12 A. He was facing towards the sinks. He was 1	
6 and then a stall for a bathroom. 7 Q. Okay. And it's your testimony under oath 8 that Tom was at T and never really moved, huh? 9 A. As I said before, he walked towards Tan- 10 - or Amount as I was leaving the building - or 1 Beaving the room. 12 Q. Okay. Now, when you saw Mr. Wont at T, 1 Side up to you, but upside down to me, huh? 13 did you hear him say anything? 14 A. I didn't really hear him say anything. 15 Q. Excuse me? 15 Q. What was he doing? 16 A. I didn't really hear him say anything. 15 Q. Had you're sure of that? 18 A. Yes. 15 Q. What was he doing? 16 A. I didn't really hear him say anything. 15 Q. He was undressing, getting ready to 17 Q. Could you please write down an "A" for 18 Q. He was undressing over at his 17 Q. Where he started? 20 Why wasn't he undressing over at his 19 Q. Where he started? 21 Q. Why wasn't he undressing over at his 20 And what is he doing there? 23 A. He never really undressed by his locker 24 He was facing towards th	
7Q. Okay. And it's your testimony under oath 87it's A8that Twas at T and never really moved, huh?7it's A9A. As I said before, he walked towards Tan- 10- or A8I was leaving the building - or10- or Aas I was leaving the building - or10Q. Now, it's an upside down A. It's right11leaving the room.10Q. Now, it's an upside down A. It's right12Q. Okay. Now, when you saw Mr. Wat T,13did you hear him say anything?13Q. Had you seen A14A. I didn't really hear him say anything.14A. No.15Q. Excuse me?15Q. What was he doing?16A. I didn't really hear him say anything.16A. He was undressing, getting ready to17Q. Could you please write down an "A" for19A. Uh-huh.19Q. Could you please write down an "A" for20A. Uh-huh.22Q. Where he started?20A. Uh-huh.23A. He was facing towards the sinks. He was21Q. Why wasn't he undressing over at his24A. He was facing towards the sinks. He was23A. He never really undressed by his locker24A. He was facing towards the sinks. He was23A. He never neally undressed by his locker24A. He was facing towards the sinks. He was24He just - his clothes were scattered all throughout25undressing, getting ready to take a shower.25A. The curved part that rests in the26	
8 that Time was at T and never really moved, huh? 9 A. As I said before, he walked towards Tan- 10 - or A as I was leaving the building - or 10 Q. Now, it's an upside down A. It's right 11 leaving the room. 10 Q. Now, it's an upside down A. It's right 12 Q. Okay. Now, when you saw Mr. W at T, 12 A. I didn't really hear him say anything. 12 Q. Okay. Now, when you saw Mr. W at T, 12 A. I didn't really hear him say anything. 14 A. I didn't really hear him say anything. 14 A. No. 15 Q. Excuse me? 15 Q. What was he doing? 16 A. I didn't really hear him say anything. 16 A. He was undressing, getting ready to 17 Q. And you're sure of that? 18 Q. He was undressing all the way over there 19 Q. Could you please write down an "A" for 19 at A, huh? 20 Where he started? 20 A. Uh-huh. 21 A. Where he started? 21 Q. Why wasn't he undressing over at his 22 Q. Where he started? 23 A. He never really undressed by his locker? 23 A. He	
9 A. As I said before, he walked towards Tan-	
10 - or A as I was leaving the building or 10 Q. Now, it's an upside down A. It's right 11 leaving the room. 11 side up to you, but upside down to me, huh? 12 Q. Okay. Now, when you saw Mr. W at T, 12 A. I guess, yeah. 13 did you hear him say anything? 13 Q. Had you seen A sover by his locker? 14 A. I didn't really hear him say anything. 14 A. No. 15 Q. Excuse me? 15 Q. What was he doing? 16 A. I didn't really hear him say anything. 16 A. He was undressing, getting ready to 17 Q. And you're sure of that? 16 A. He was undressing all the way over there 19 Q. Could you please write down an "A" for 19 at A, huh? 20 A. Where he started? 20 A. Uh-huh. 21 A. Where he started? 21 Q. Why wasn't he undressing over at his 22 Q. Where he started? 21 Q. Why wasn't he undressed by his locker? 23 And what is he doing there? 23 A. He was facing towards the sinks. He was 24 He was facing towards the sinks. He was 24 He just - his clothes were scattered all t	
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12 Q. Okay. Now, when you saw Mr. W at T, 12 A. I guess, yeah. 13 did you hear him say anything? 13 Q. Had you seen A convertige over by his locker? 14 A. I didn't really hear him say anything. 14 A. No. 15 Q. Excuse me? 15 Q. What was he doing? 16 A. I didn't really hear him say anything. 16 A. He was undressing, getting ready to 17 Q. And you're sure of that? 17 shower. 18 A. Yes. 18 Q. He was undressing all the way over there 19 Q. Could you please write down an "A" for 20 A. Uh-huh. 21 A. Where he started? 21 Q. Why wasn't he undressing over at his 22 Q. Where he started? 21 Q. Why wasn't he undressing over at his 23 And what is he doing there? 23 A. He was facing towards the sinks. He was 24 A. He was facing towards the sinks. He was 24 He just his clothes were scattered all throughout the football season. 25 undressing, getting ready to take a shower. 12 12 1 Q. Were you hearing A say something at 1 A. The curved part th	
13 did you hear him say anything? 13 Q. Had you seen A over by his locker? 14 A. I didn't really hear him say anything. 14 A. No. 15 Q. Excuse me? 15 Q. What was he doing? 16 A. I didn't really hear him say anything. 16 A. He was undressing, getting ready to 17 Q. And you're sure of that? 16 A. He was undressing, getting ready to 18 A. Yes. 18 Q. He was undressing all the way over there 19 Q. Could you please write down an "A" for 19 at A, huh? 20 A. Where he started? 20 A. Uh-huh. 21 A. Where he started? 21 Q. Why wasn't he undressing over at his 22 Q. Where he started? 21 Q. Why wasn't he undressing over at his 23 And what is he doing there? 23 A. He was facing towards the sinks. He was 25 undressing, getting ready to take a shower. 23 A. He never really undressed by his locker 24 A. He was facing towards the sinks. He was 24 He just his clothes were scattered all throughout the locker room throughout the football season. 11 Q. Were you hearing A	
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19Q. Could you please write down an "A" for19at A, huh?20AWhere Awas during this.20A. Uh-huh.21A. Where he started?20A. Uh-huh.2122Q. Where he started. That would be good.23And what is he doing there?23A. He never really undressed by his locker24A. He was facing towards the sinks. He was23A. He never really undressed by his locker24A. He was facing towards the sinks. He was23A. He never really undressed by his locker25undressing, getting ready to take a shower.25the locker room throughout the football season.11Q. Were you hearing Asay something at1A. The curved part that rests in the2A?3Q. Okay. And would you describe that hang	
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23 And what is he doing there? 23 A. He was facing towards the sinks. He was 23 A. He never really undressed by his locker 24 A. He was facing towards the sinks. He was 24 He just his clothes were scattered all throughout 25 undressing, getting ready to take a shower. 25 the locker room throughout the football season. 1 Q. Were you hearing A say something at 1 A. The curved part that rests in the 2 A? 3 A. I didn't really pay attention to what 3 Q. Okay. And would you describe that hang	- I
24 A. He was facing towards the sinks. He was 24 He just his clothes were scattered all throughout 25 undressing, getting ready to take a shower. 25 the locker room throughout the football season. 1 Q. Were you hearing A say something at 1 A. The curved part that rests in the 2 A? A. I didn't really pay attention to what 3 Q. Okay. And would you describe that hang	
25 undressing, getting ready to take a shower. 25 the locker room throughout the football season. 1 Q. Were you hearing A asy something at 1 A. The curved part that rests in the 2 A? and the curved part that really pay attention to what 3 Q. Okay. And would you describe that hang	.
11 12 1 Q. Were you hearing A 2 A? 3 A. I didn't really pay attention to what 3 Q. Okay. And would you describe that hang	rt
1 Q. Were you hearing A Say something at 1 A. The curved part that rests in the 2 A? 2 shoulders of a shirt. 3 A. I didn't really pay attention to what 3 Q. Okay. And would you describe that hang	
2 A? 3 A. I didn't really pay attention to what 2 shoulders of a shirt. 3 Q. Okay. And would you describe that hang	
3 A. I didn't really pay attention to what 3 Q. Okay. And would you describe that hang	
A phylody was soving	er
5 Q. So he might have been saying things, and 5 A. It was like a would you like me to	
6 you didn't 6 draw it?	
7 A. He could have. 7 Q. No, sir. I'd like you to describe it to	
8 Q didn't notice? You've told us that 8 us verbally.	
9 you saw A move. Can you do a broken line in 9 A. It was like an upside down V with a	
10 the direction you saw him move. And as Table stood 10 horizontal bar that goes across the bottom of it	
11 there, are you telling us that he already had the 11 with a hook on top.	
12 hanger in his hand, that Termin had a hanger in his 12 Q. And the hangers that I think of are coat	
13hand as he stood there at T?13hangers. Is that a fair description of what this	
14 A. Yes. 14 thing was?	
15Q. And you're sure of that?15A. Yes.	
16A. Yes.16Q. And the coat hangers I'm familiar with	
17Q. How was he holding it?17have a hook on top that comes off the top of the	
18A. Like this. By his side.18incline sides. Is that a fair description of this	
19 Q. Excuse me? 19 coat hanger?	
20 A. By his side . 20 A. Yes .	
21 Q. And what part of the hanger did he have 21 Q. And coat hangers can be made out of	
22 ahold of? 22 various materials. So what material was this coat	
23A. The curved part that rests in the23hanger made out of?	i
24shoulders of the shirts.24A. It was a brown plastic coat hanger.	
25 Q. Excuse me? 25 Q. You're sure of that?	
13 14	

1	Α.	Yes, I am.	1	Α.	Maybe 30 seconds to a minute.
2		Was it different in size or shape from	2	Q.	Did he say anything after he picked it
3	the norma	-	3	up?	
4		No.	4	Α.	No.
5		coat hanger? So the hook was a hook,	5	Q.	Are you sure of that?
6		s bent down back towards the hanger	6	A.	Yes.
7		Yes.	7	Q.	
8	Q.	correct? Excuse me?	8		f John Howard. And you're putting that JH
9		Yes.	9		It the same place as the hanger originally
10		And it is your testimony under oath that	10	was; corre	
11		ad that coat hanger in his hand at T? Am I	11		Yes.
12		nding that correctly?	12	Q.	And you're sure of that?
13		Yes.	13	Α.	Yes.
14	Q.	Did you see where Taking Wind got that	14	Q.	And was he seated or standing?
15	hanger?		15	A.	He was seated.
16	-	It was sitting on this bench.	16	Q.	And how was he dressed?
17	Q.	So you're telling us you saw	17	Α.	He had a pair of shorts and a shirt.
18	Α.		18	Q.	And was he saying anything?
19	Q.		19	A.	Not that I'm aware of.
20	Â.	Uh-huh.	20	Q.	
21	Q.	Excuse me?	21	hear?	,
22		Yes.	22		He probably could have, yes.
23		And when did you see him pick it up?	23		You're not really paying close attention
24	A.	Before it all happened.	24		olks, are you?
25		How long before it all happened?	25	Α.	· •
	-	15			16
1	get out o	f there.	1	Q.	So will you please put a circle along
2	Q.	Just getting dressed and going home, huh?	2	that dotte	d line for the position A nnual was in when
3	Right?		3	he whe	n you say T
4	Α.	Yeah. I wasn't really listening to what	4	hetween l	his buttocks.
				between	
5	they were	e saying. I was watching.	5		What do you mean a circle? Which way he
5 6	-	e saying. I was watching. And it is your testimony that you	5 6		
	Q. actually s	And it is your testimony that you aw Table place that coat hanger between		Α.	
6	Q. actually s Antwon's	And it is your testimony that you aw T place that coat hanger between buttocks?	6	A. was facir	ng?
6 7	Q. actually s Antwon's	And it is your testimony that you aw Table place that coat hanger between	6 7	A. was facir Q.	ng? No. I'm How would a circle help that?
6 7 8	Q. actually s Antwon's A.	And it is your testimony that you aw T place that coat hanger between buttocks?	6 7 8	A. was facin Q. A. Q. location.	ng? No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have
6 7 8 9	Q. actually s Antwon's A. Q. A.	And it is your testimony that you aw Termony place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes.	6 7 8 9	A. was facin Q. A. Q. location.	ng? No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true?
6 7 8 9 10	Q. actually s Antwon's A. Q. A. Q.	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately?	6 7 8 9 10	A. was facin Q. A. Q. location.	ng? No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers.
6 7 8 9 10 11	Q. actually s Antwon's A. Q. A. Q. know you	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure.	6 7 8 9 10 11	A. was facin Q. A. Q. location.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle?
6 7 8 9 10 11 12	Q. actually s Antwon's A. Q. A. Q. know you	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15.	6 7 8 9 10 11 12	A. was facin Q. A. Q. location. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes.
6 7 9 10 11 12 13	Q. actually s Antwon's A. Q. A. Q. know you	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many?	6 7 8 9 10 11 12 13	A. was facin Q. A. Q. location. A V A. Q. A. Q.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Towar moved?
6 7 8 9 10 11 12 13 14	Q. actually s Antwon's A. Q. A. Q. know you A.	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15.	6 7 8 9 10 11 12 13 14	A. was facin Q. A. Q. location. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Towards moved? No.
6 7 8 9 10 11 12 13 14 15	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q.	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15?	6 7 8 9 10 11 12 13 14 15	A. was facin Q. A. Q. location. A V A. Q. A. Q.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Townon moved? No. And how is A
6 7 9 10 11 12 13 14 15 16	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q. A.	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15? (No audible response.)	6 7 8 9 10 11 12 13 14 15 16	A. was facin Q. A. Q. location. A. Q. A. Q. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Townom moved? No. And how is Amound dressed? He was wearing a pair of underwear and
6 7 8 9 10 11 12 13 14 15 16 17	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q. A.	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15?	6 7 8 9 10 11 12 13 14 15 16 17	A. was facin Q. A. Q. location. A. Q. A. Q. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Townom moved? No. And how is A descendences and the was wearing a pair of underwear and o them off.
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q. A. Q. A. Q. you were	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15? (No audible response.) And you couldn't tell from the angle that looking at whether that coat hanger somehow	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. was facin Q. A. Q. location. A. Q. A. Q. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Town moved? No. And how is A town dressed? He was wearing a pair of underwear and them off. So the underwear is on the floor at zero?
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q. A. Q. you were penetrate	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15? (No audible response.) And you couldn't tell from the angle that looking at whether that coat hanger somehow of Amounts anus, could you?	6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. was facin Q. A. Q. location. A. Q. A. Q. A. Q. A. Q. A. C. A. C. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Townom moved? No. And how is A townom dressed? He was wearing a pair of underwear and them off. So the underwear is on the floor at zero? Somewhere around there.
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q. A. Q. you were penetrate A.	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15? (No audible response.) And you couldn't tell from the angle that looking at whether that coat hanger somehow ed Amounts anus, could you? No, I could not.	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. was facin Q. A. Q. location. A V A. Q. A. Q. A. Q. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Townom moved? No. And how is A townom dressed? He was wearing a pair of underwear and them off. So the underwear is on the floor at zero? Somewhere around there. So even before A, huh?
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. actually s Antwon's A. Q. A. Q. A. Q. A. Q. A. Q. A. Q. you were penetrate A. Q.	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15? (No audible response.) And you couldn't tell from the angle that looking at whether that coat hanger somehow ed A saus, could you? No, I could not. All you know is that it went between his	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. was facin Q. A. Q. location. A Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Town moved? No. And how is A discussed? He was wearing a pair of underwear and them off. So the underwear is on the floor at zero? Somewhere around there. So even before A, huh? (No audible response.)
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q. A. Q. you were penetrate A. Q. buttocks;	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15? (No audible response.) And you couldn't tell from the angle that looking at whether that coat hanger somehow ed A sources anus, could you? No, I could not. All you know is that it went between his correct?	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. was facin Q. A. Q. Iocation. A. Q. A. A. Q. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. Q. A. Q. A. A. Q. A. A. Q. A. A. Q. A. Q. A. A. Q. A. Q. A. Q. A. A. Q. A. A. Q. A. A. Q. A. A. A. A. A. A. A. A. A. A	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Towe moved? No. And how is A towe dressed? He was wearing a pair of underwear and them off. So the underwear is on the floor at zero? Somewhere around there. So even before A, huh? (No audible response.) Excuse me?
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. actually s Antwon's A. Q. A. Q. know you A. Q. A. Q. A. Q. you were penetrate A. Q. buttocks;	And it is your testimony that you aw T place that coat hanger between buttocks? Yes. And you are at R when that happens? Yes. How many feet is that approximately? I can't say for sure. Maybe 15. How many? Maybe 10 or 15. 10 or 15? (No audible response.) And you couldn't tell from the angle that looking at whether that coat hanger somehow ed A saus, could you? No, I could not. All you know is that it went between his	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. was facin Q. A. Q. location. A Q. A. Q. A. Q. A. Q. A. Q. A. Q. A. Q. A.	No. I'm How would a circle help that? I'm hoping just to mark it with a So just a normal zero. So you have irtually in the same location; true? He was facing towards the showers. He's at an angle? Yes. Has Town moved? No. And how is A discussed? He was wearing a pair of underwear and them off. So the underwear is on the floor at zero? Somewhere around there. So even before A, huh? (No audible response.)

1	Q. So when A	1	THE COURT: You may proceed.
2	naked?	2	THE WITNESS: It was in there from the time
3	A. Yes.	3	that it went in until the time I left.
4	Q. And you're sure of that?	4	BY MR. WOOD:
5	A. Yes.	5	Q. And how long would you say that was?
6	Q. Prior to or simultaneous with no,	6	A. I don't know.
7	strike that. Was Territorian standing or seated?	7	Q. Could it have been five seconds?
8	A. He was standing.	8	A. Maybe a minute or so.
9	Q. And was A standing or seated?	9	Q. You're saying maybe a minute or so? So
10	A. He was standing.	10	you think it could have been as much as a minute
11	Q. How long was the hanger between A	11	A. Yeah.
12	buttocks?	12	Q is that correct?
13	A. Well, I didn't exactly time it.	13	A. Yes.
14	Q. And I understand that, sir. If you'd	14	Q. And in that minute, did you see who
15	just give us your best estimate. We are counting on	15	pulled it out?
16	you to be as accurate as you can be, but I	16	A. No, I did not.
17	understand that you didn't have a stopwatch.	17	Q. After it was placed between his buttocks,
18	A. I don't know how long it was in.	18	which way did A
19	Q. Well, let's do it this way. Could it	19	A. Towards the line.
20	have been for five seconds?	20	Q. Well, your line now portrays that towards
21	MS. BAUGES: Objection, asked and answered.	21	the sinks, huh?
22	The witness has said he doesn't know.	22	A. Yes.
22	MR. WOOD: It is not asked and answered. "I	22	Q. Is he saying anything?
23		23	A. He was acting as if he was in pain.
	don't know" invites approximation, and it invites	1	
25	hypothetical	25	
	19	<u> </u>	20
1	particularly? What are the things he was doing that	1	A. Yes.
2	caused you to believe that he was acting as if he's	2	Q. And you understand you're under oath?
3	in pain?	3	A. Yes.
4	A. Well, the sounds he was making. He was	4	Q. And you understand that we're looking for
5	moaning as if in pain.	5	accurate testimony; correct?
6	Q. Was me saying any words?	6	A. Yes.
7	A. No, he was not. Not that I recall.	7	Q. And you're being careful to be accurate?
8	Q. And how far down that dotted line was	8	A. Yes.
9	A when you left the room?	9	Q. Did T error say anything as he placed that
10	A. Just about to the sink.	10	coat hanger between A
11	Q. How far would you say?	11	A. No, he did not.
12	A. Maybe about here.	12	Q. Did you ever hear him say anything
13	Q. And how many feet is that?	13	with words, I'm saying. I'm asking about between
14	A. About 5 or so maybe.	14	A being at A and arriving at 5 feet to these
15	Q. You've drawn another circle along the	15	sinks, did you ever here T
16	dotted line that is much closer to the sinks, and	16	A. I heard him laughing.
17	you say that's about 5 feet or so, huh?	17	Q. And you watched these proceedings, and
18	A. Yes.	18	you stood there and watched?
19	Q. Was the hanger still in his between	19	A. As I said before, I was getting dressed,
20	his buttocks when he reached that location?	20	and I left.
21	A. As I said before, it was in there from	21	Q. So you continued in the operation of
22	the time that it happened until the time I left.	22	getting dressed, getting your clothes on; correct?
23	Q. And so he still had that between his	23	You were involved that was your primary function
		24	at that time was putting your clothes on
24	DUTTOCKS WITHIN 5 TEET OF THE SINKS IS YOUR	144	
24 25	buttocks within 5 feet of the sinks is your testimony?	1	
24 25	testimony?	25	A. Yes.

1	Q.	and getting out of there? What door	1	T was laughing based on what your ears told
2	did you le	ave by?	2	2 you; correct?
3	Α.	This door.	3	A. I watched him as I walked out of the
4	Q.	So you went out that door that's up by	4	room. As I was walking over here, I turned around
5	the sinks,	and in approaching that door, where was	5	Q. Wait a minute. You just told us you were
6	Τ		6	walking out of the room and your eyes
7	Α.	He was maybe about here following A	7	A. No. I told you I was facing the door.
8	Q.	So you've got him along that dotted line	8	My back was to T as I was walking out the door.
9	too, altho	ugh way up towards the A	9	
10		Yes.	10	
11	Q.	correct? Excuse me?	11	-
12	Α.	Yes.	12	
13	Q.	And so you walked down those lockers and	13	
14		nd that little partition and then out the	14	
15	door?		15	
16		Yes.	16	_
17	Q.	You didn't stop and become involved with	17	-
18		r have any exchanges with T	18	
19	Howard,		19	
20		No.	20	
21		And, in fact, your back was to John	21	
22		and Territor as you traveled down those lockers	22	
23		e corner and out the door, wasn't it?	23	
24		Yes.	24	
25		So you're telling us that you think	25	
20	ч.	23	25	24
1	A	Yes	1	
1	A. Q.	Yes. But at that time, you were around the	1	A. The shand had left the hanger before
2	Q.	But at that time, you were around the	2	A. The shand had left the hanger before John Howard started kicking.
2 3	Q. corner an	But at that time, you were around the dheaded out the door. You're not watching	2 3	A. The shand had left the hanger before John Howard started kicking. Q. And so once it went between A
2 3 4	Q. corner an what's go	But at that time, you were around the dheaded out the door. You're not watching ing on; right?	2 3 4	 A. Total's hand had left the hanger before John Howard started kicking. Q. And so once it went between A started's buttocks, you're saying Total took his hand off
2 3 4 5	Q. corner an what's go A.	But at that time, you were around the dheaded out the door. You're not watching ing on; right? Yeah.	2 3 4 5	 A. Total s hand had left the hanger before John Howard started kicking. Q. And so once it went between A signal 's buttocks, you're saying Total took his hand off that coat hanger right away?
2 3 4 5 6	Q. corner an what's go A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me?	2 3 4 5 6	 A. The shand had left the hanger before John Howard started kicking. Q. And so once it went between A started 's buttocks, you're saying The started took his hand off that coat hanger right away? A. Yes.
2 3 4 5 6 7	Q. corner an what's go A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah.	2 3 4 5 6 7	 A. Total's hand had left the hanger before John Howard started kicking. Q. And so once it went between A started's buttocks, you're saying Total took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that?
2 3 4 5 6 7 8	Q. corner an what's go A. Q. A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A	2 3 4 5 6 7 8	 A. The shand had left the hanger before John Howard started kicking. Q. And so once it went between A signal 's buttocks, you're saying The took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes.
2 3 4 5 6 7 8 9	Q. corner an what's go A. Q. A. Q. buttocks of	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A	2 3 4 5 6 7 8 9	 A. This is hand had left the hanger before John Howard started kicking. Q. And so once it went between A first's buttocks, you're saying This took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started
2 3 4 5 6 7 8 9 10	Q. corner an what's go A. Q. A. Q. buttocks o A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A	2 3 4 5 6 7 8 9 10	 A. The shand had left the hanger before John Howard started kicking. Q. And so once it went between A signal 's buttocks, you're saying The started took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it?
2 3 4 5 6 7 8 9 10 11	Q. corner an what's go A. Q. A. buttocks o A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A terio 's one time? Yes. That's all that had happened in that	2 3 4 5 6 7 8 9 10 11	 A. This shand had left the hanger before John Howard started kicking. Q. And so once it went between A signal 's buttocks, you're saying This took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it? A. Yes.
2 3 4 5 6 7 8 9 10 11 12	Q. corner an what's go A. Q. A. buttocks o A. Q. locker roo	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A You saw a coat hanger go between A Yes. That's all that had happened in that om that day as far as you're concerned?	2 3 4 5 6 7 8 9 10 11 12	 A. This shand had left the hanger before John Howard started kicking. Q. And so once it went between A signal 's buttocks, you're saying This took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it? A. Yes. Q. And you're sure it was the hook end that
2 3 4 5 6 7 8 9 10 11 12 13	Q. corner an what's go A. Q. buttocks o A. Q. locker roo A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A 's one time? Yes. That's all that had happened in that om that day as far as you're concerned? As far as I seen.	2 3 4 5 6 7 8 9 10 11 12 13	 A. This is hand had left the hanger before John Howard started kicking. Q. And so once it went between A is is buttocks, you're saying This took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it? A. Yes. Q. And you're sure it was the hook end that was up between A is is buttocks?
2 3 4 5 6 7 8 9 10 11 12 13 14	Q. corner an what's go A. Q. buttocks o A. Q. locker roo A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A ssert 's one time? Yes. That's all that had happened in that om that day as far as you're concerned? As far as I seen. As far as you saw, right. (Inaudible.)	2 3 4 5 6 7 8 9 10 11 12 13 14	 A. This shand had left the hanger before John Howard started kicking. Q. And so once it went between A signal 's buttocks, you're saying T took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it? A. Yes. Q. And you're sure it was the hook end that was up between A started
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. corner an what's go A. Q. buttocks o A. Q. locker roo A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A You saw a coat hanger go between A Yes. That's all that had happened in that om that day as far as you're concerned? As far as I seen. As far as you saw, right. (Inaudible.) At the time it was placed between his	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 A. This is hand had left the hanger before John Howard started kicking. Q. And so once it went between A is is buttocks, you're saying T is took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it? A. Yes. Q. And you're sure it was the hook end that was up between A is buttocks? A. Yes. Q. How many times did John Howard kick at
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. corner an what's go A. Q. buttocks of A. Q. locker roo A. Q. buttocks,	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A 's one time? Yes. That's all that had happened in that om that day as far as you're concerned? As far as I seen. As far as you saw, right. (Inaudible.) At the time it was placed between his would you describe how that happened.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 A. This is hand had left the hanger before John Howard started kicking. Q. And so once it went between A is is buttocks, you're saying T is took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it? A. Yes. Q. And you're sure it was the hook end that was up between A is buttocks? A. Yes. Q. How many times did John Howard kick at
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. corner an what's go A. Q. buttocks of A. Q. locker roo A. Q. buttocks, A. Q. buttocks, A. Q. buttocks, A. Q. buttocks, A. Q. buttocks, A. Q. buttocks, A. C. buttocks, A. C. buttocks, C. C. buttocks, C. C. C. C. C. C. C. C. C. C. C. C. C.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A You saw a coat hanger go between A Yes. That's all that had happened in that on that day as far as you're concerned? As far as I seen. As far as I seen. As far as you saw, right. (Inaudible.) At the time it was placed between his would you describe how that happened. The placed it in there. How? Went like this, and it went between his Was John Howard kicking his hand during ess? By "his," I mean Tumous hand.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Time's hand had left the hanger before John Howard started kicking. Q. And so once it went between A is so buttocks, you're saying Time's took his hand off that coat hanger right away? A. Yes. Q. And you're sure of that? A. Yes. Q. And that's when John Howard started kicking at it? A. Yes. Q. And you're sure it was the hook end that was up between A is buttocks? A. Yes. Q. How many times did John Howard kick at that coat hanger total? A. Maybe five or six. Q. And you're sure of that? A. Yes. Q. How many times did John Howard kick at that coat hanger total? A. Maybe five or six. Q. And as he was kicking it, did you hear A. He was screaming.
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1	Q. Did you hear John I'm sorry. Did you	1	MS. BAUGES: Actually, you can just leave it
2	hear T	2	there, if you don't mind.
3	kicking that coat hanger?	3	MR. WOOD: I just want to turn it around so
4	A. As I said before, I heard him laughing.	4	the judge can see it a little better. Go ahead and
5	Q. And it's your position that he continued	5	climb back and sit down and I'll get this out of
6	to laugh as the kicking went on?	6	your way.
7	A. Yes.	7	MS. BAUGES: Actually, I'm going to use it
8	Q. Now, on direct I believe you testified	8	right now, so you can stay there, and we can leave
9	that A pulled the hanger from between his	9	the exhibit right there, Counsel.
10	buttocks. Did I hear you right about that?	10	THE COURT: I'm not sure Mr. Wood's done.
11	A. He yeah. He was his hand was	11	MS. BAUGES: Oh, okay.
12	Q. So he put you said yes? I did hear	12	THE COURT: Are you done with this witness?
13	you right about that? That was your testimony on	13	MR. WOOD: Oh, sir, would you mind initialling
14	direct; right?	14	that and put today's date on it.
15	A. Yes. He was reaching back to pull it out	15	THE COURT: Mr. Wood, do you have any other
16	as I was leaving the room.	16	questions of this witness?
17	Q. And did you see him actually pull it out?	17	MR. WOOD: Yes, I do.
18	A. No, I didn't see him actually pull it	18	Second, you may sit down again.
19	out.	19	BY MR. WOOD:
20	Q. You didn't see anybody actually pull it	20	Q. Now, after this incident, you were
21	out, huh?	21	interviewed by Mr. Hardcastle at the Dietrich
22	A. No.	22	school, weren't you?
23	MR. WOOD: I think that's all I've got on the	23	A. Yes, I was.
24	diagram. I'm going to move it, and then you can use	24	Q. And you told Mr. Hardcastle that you saw
25	it if you want to redirect on it.	25	T pull the coat hanger out of A states butt,
	27		28
1	didn't you?	1	Q. What, was it like Monday or Tuesday of
2	A. I don't remember exactly what I told him.	2	the next week?
3	That's been a while ago.	3	A. I don't remember exactly what day it was.
4	Q. Well, wouldn't you have told him the	4	Q. But it was pretty quick after the
5	truth? You would have told Mr. Hardcastle the	5	incident occurred?
6	truth, wouldn't you?	6	A. Maybe a week or so.
7	A. Yes.	7	Q. And you admit that you told him that
8	Q. I mean, you were trying to be careful and	8	Terms went over and pulled the coat hanger out of
9	give Mr. Hardcastle accurate information	9	A butt?
10	A. Yes.	10	A. Yeah.
11	Q weren't you?	11	Q. You did not tell Mr. Hardcastle that you
12	A. Yes.	12	had seen Terror stick that coat hanger in Antwon's
13	Q. I mean, he's like the district supervisor	13	or between Antwon's buttocks, did you?
14	of your school district where you go to school;	14	A. I believe I did.
15	right?	15	Q. I'm not asking what you believe,
16	A. Yes.	16	Mr. Received I'm asking what do you remember that you can swear to under oath?
17	 Q. You knew it was serious? A. Yes. 	17	
18		18	A. I
19	Q. And he interviewed you within, what, a	19	Q. You don't remember telling Mr. Hardcastle
20	couple of days of this incident on the 22nd?	20	that you saw The way stick that coat hanger
21	A. Yes.	21	between A
22	Q. Was it the very next day that he	22	A. Yes, I do.
23	interviewed you, that Mr. Hardcastle interviewed	23	Q. You did not tell Mr. Hardcastle that you
24 25	you? A. I don't believe so.	24 25	observed The West laughing after the coat hanger was placed between American's buttocks, did you?
20	29	25	

	A 14 1 1 1		
1	A. Yes, I did.	1	tape measured those out, the exact distance?
2	Q. And you're sure of that?	2	A. Just guessing.
3	A. Yes, I am.	3	Q. You're just guessing. Okay. There were
4	MR. WOOD: One minute, please.	4	a couple of questions I just wanted to clarify. And
5	(Discussion held off the record.)	5	you can go ahead and sit down now. There were a
6	MR. WOOD: Thank you.	6	couple of questions I just wanted to clarify. You
7	THE COURT: Redirect.	7	had testified that you had seen T
8	MS. BAUGES: Thank you, Your Honor.	8	hanger; is that correct?
9		9	A. Yes.
10	REDIRECT EXAMINATION BY MS. BAUGES:	10	Q. And then
11	Q. Why don't you come on over here by the	11	MR. WOOD: Excuse me. I missed that. I
12	diagram again. So when you drew this diagram, is	12	apologize. Would you mind repeating that question?
13	this to scale?	13	MS. BAUGES: That he had seen T
14	A. No.	14	the hanger.
15	Q. Okay. So and by "scale," I mean is	15	MR. WOOD: Okay. Thank you. Appreciate it.
16	this the exact amount of feet or distance between	16	BY MS. BAUGES:
17	these landmarks you've drawn?	17	Q. You got a few questions about: Was
18	A. No.	18	T anal always here? Was T anal always there? Was
19	 Q. This is just your best approximation; 	19	this a process? Were people moving throughout the
20	right?	20	locker room as this was going on?
21	A. Yes.	21	A. Yes. Most
22	Q. Okay. And when you were testifying on	22	Q. Did that include T
23	cross, you were asked very specific, you know, 5	23	A. Yes. He wasn't in the exact same spot
24	feet, 10 feet, that kind of a thing. Are you	24	throughout the entire thing.
25	guesstimating or are you absolutely positive, if we	25	Q. Okay.
	31		32
1	A. There was – the entire football team was	1	A. I was facing towards the showers by the A
2	in there. Everybody was moving around.	2	while I was getting dressed.
3			
	Q. So when you answered questions about was	3	Q. You said that you may not have been
4	he here the whole time, was that just at the time	4	Q. You said that you may not have been paying attention to what you were hearing. Were you
4 5	he here the whole time, was that just at the time that the hanger was shoved up or what were you	4	Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing?
4 5 6	he here the whole time, was that just at the time that the hanger was shoved up or what were you thinking about when you were answering those	4 5 6	 Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing? A. Yes. Everybody was talking throughout
4 5 6 7	he here the whole time, was that just at the time that the hanger was shoved up or what were you thinking about when you were answering those questions?	4 5 6 7	 Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing? A. Yes. Everybody was talking throughout the locker room, and I couldn't clearly hear what
4 5 6 7 8	he here the whole time, was that just at the time that the hanger was shoved up or what were you thinking about when you were answering those questions? A. Just, yeah, at the time the hanger was	4 5 6 7 8	 Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing? A. Yes. Everybody was talking throughout the locker room, and I couldn't clearly hear what anybody was saying.
4 5 6 7 8 9	 he here the whole time, was that just at the time that the hanger was shoved up or what were you thinking about when you were answering those questions? A. Just, yeah, at the time the hanger was placed. 	4 5 6 7 8 9	 Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing? A. Yes. Everybody was talking throughout the locker room, and I couldn't clearly hear what anybody was saying. Q. Okay. Now, you mentioned that Amount was
4 5 7 8 9	 he here the whole time, was that just at the time that the hanger was shoved up or what were you thinking about when you were answering those questions? A. Just, yeah, at the time the hanger was placed. Q. Okay. And if you have any questions 	4 5 6 7 8 9	 Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing? A. Yes. Everybody was talking throughout the locker room, and I couldn't clearly hear what anybody was saying. Q. Okay. Now, you mentioned that A was kind of at an angle?
4 5 7 8 9 10 11	he here the whole time, was that just at the time that the hanger was shoved up or what were you thinking about when you were answering those questions? A. Just, yeah, at the time the hanger was placed. Q. Okay. And if you have any questions about questions that are being asked, please feel	4 5 6 7 8 9 10	 Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing? A. Yes. Everybody was talking throughout the locker room, and I couldn't clearly hear what anybody was saying. Q. Okay. Now, you mentioned that A was kind of at an angle? MR. WOOD: Was in a what? I'm sorry.
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1	Q. Okay. So there were two people there	1	Q. But you aren't sure?
2	when you were talking about this incident; correct?	2	MR. WOOD: Objection. She's leading. Telling
3	A. Yes.	3	a witness it's possible that he said this
4	Q. Okay. Do you remember exactly what you	4	THE COURT: That is a leading question.
5	said to them?	5	MS. BAUGES: Okay.
6	A. Not 100 percent, no.	6	BY MS. BAUGES:
7	Q. Okay. Is what you're testifying here	7	Q. So I think going back to the last
8	today the best of your recollection of this incident	8	question, you don't remember exactly what you said?
9	that happened in October?	9	A. No, I don't.
10	A. Yes.	10	Q. But you could have said something?
11	Q. Okay. So you just said you don't	11	A. Yes, ma'am.
12	remember exactly what you said to Mr. Hardcastle,	12	Q. Okay. Is this locker room very big?
13	and I think you said was it Ms. Shaw?	13	A. Not huge.
14	A. Mrs. Shaw, yes.	14	Q. Okay. About what size, would you say,
15	Q. Mrs. Shaw. Thank you. You had a couple	15	taking using this courtroom as a guide?
16	questions about: You said this, didn't you? Is	16	A. Maybe from the edge of that where the
17	your testimony that you actually remember saying	17	thermometer not thermometer, the thermostat is at
18	certain things to Mr. Hardcastle or Mrs. Shaw, or do	18	over.
19	you remember what you said to them?	19	Q. Okay. And then how deep?
20	A. I don't remember specifically what I	20	A. About like this.
21	said, if that's what you're asking.	21	Q. About like this. Okay. So you were
22	Q. Okay. It's possible you could have said	22	you fairly close
23	something to the effect of who took out the hanger;	23	A. Yeah.
24	is that correct?	24	Q to Anima and Taking when this was
25	A. Yes.	25	going on?
	35		36
1	A. Uh-huh.	1	BY MS. BAUGES:
2	Q. Okay. You also said something I just	1 2	
	Q. Okay. Tou also said something I just	2	Q. What did you see after that?
3	wanted to clarify. You said the hanger went in one	3	A. I saw John kicking it.
3			•
	wanted to clarify. You said the hanger went in one	3	A. I saw John kicking it.
4	wanted to clarify. You said the hanger went in one time. Could you explain what you mean by that, the	3 4	A. I saw John kicking it. Q. Okay.
4 5	wanted to clarify. You said the hanger went in one time. Could you explain what you mean by that, the hanger went in one time.	3 4 5	 A. I saw John kicking it. Q. Okay. A. After Total had let go of it.
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1	THE COURT: States thank you very much. You	1	is going to swear you in. You need to raise your
2	may step down.	2	right hand and face her.
3	MR. WOOD: May I approach the drawing board?	3	
4	THE COURT: Sure.	4	
5	MR. WOOD: I would like to move into evidence	5	A
6	as Defense A this diagram that Mr. R	6	being produced as a witness on behalf of the
7	and dated 4/22/16.	7	plaintiff, was duly sworn on his oath and testified
8	MS. BAUGES: The State has no objection for	8	as follows:
9	appellate record purposes, but as the witness	9	
10	stated, it's not to scale. He's not sure of the	10	THE COURT: So, A
11	dimensions, so I would say to demonstrate what we	11	There's a little gate in front of that chair. Why
12	were talking about in testimony.	12	don't you just let yourself in and have a seat.
13	THE COURT: It's to be admitted to demonstrate	13	That's good.
14	the witness's testimony.	14	Go ahead.
15	MS. BAUGES: Thank you, Your Honor.	15	
16	THE COURT: Thank you.	16	DIRECT EXAMINATION BY MS. BAUGES:
17	(Defendant's Exhibit Á, S erve R eserv 's	17	Q. Could you please state your name and
18	Drawing, admitted.)	18	spell it for the record. Just your last name.
19	Next witness.	19	A. M
20	MS. BAUGES: The State calls A	20	Q. Okay. Now, go ahead and state your full
21	Your Honor.	21	name?
22	THE COURT: I'm going to guess that thing's	22	
23	going to come back out, isn't it, Mike?	23	Q. How old are you, A
24	Sir, if you'd come in, please, and just	24	A. I'm 18.
25	wait right there for a second. This lady over here	25	Q. Okay. How old were you on October 22nd,
	39		40
1			
1	2015?	1	quick. I want to direct your attention to after
1 2	2015? A. I was 17.	1 2	quick. I want to direct your attention to after football practice.
2	A. I was 17.	2	football practice.
2 3	 A. I was 17. Q. Were you on the Dietrich football team in 	2 3	football practice. A. After football practice.
2 3 4	 A. I was 17. Q. Were you on the Dietrich football team in October of 2015? 	2 3 4	football practice. A. After football practice. Q. Okay?
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	to come here, and I went over to him and gave him a	4	A. Yeah.
	· · · · ·	1	
2	hug. He told me to give him a hug. He had his	2	
3	hands out like he was going to give me a hug. And I	3	today? A. Yes.
4	gave him a hug, and he signaled for one of my other	4	
5	friends to come over, and he stuck a hanger up my	5	Q. Could you point to where he's seated and
	butt. And then, like, he forced it in, and then	6	pick out an article of clothing that he's wearing?
	another kid came over and kicked it in. And then he	7	A. Blue tie, first row, the first
8	pulled it out, and it was bleeding.	8	Q. Do you want to go ahead and point to
9	And I didn't tell until after it	9	where he is. Blue tie?
10	happened, the day after it happened, because one of	10	A. Yeah.
11	my little brothers said something to my parents, and	11	THE COURT: The record will reflect
12	they noticed.	12	identification of the defendant.
13	Q. And let me stop you right there. I'm	13	MS. BAUGES: Okay.
14	going to go back to the hanger. So you previously	14	BY MS. BAUGES:
15	testified you looked over your shoulder. Who did	15	Q. Now, I want to go into a little more
16	you see over your shoulder?	16	detail, and I apologize.
17	A. A was (unintelligible.) I hugged	17	A. That's all right.
18	A and then The shoved it up there, and I	18	Q. So you said so you felt an object go
19	saw him. Then, like, I fell into my friend's arms,	19	up your rectum?
20		20	A. Yes.
21	Q. And let me stop you right there again,	21	Q. Okay. When you very first felt that
22	because I want to focus on what you just told me.	22	object touch your skin, did it go all the way up
23	A. Okay.	23	your rectum or was there a pause or
24	Q. So you said a person named it was a	24	A. There was it hit, and then it got
25	person named T	25	shoved deeper in.
	43		44
1	Q. Okay. Okay. When you say "it hit," what	1	MR. WOOD: Judge and I see this technique
2	do you mean it hit?	2	all the time, and I want to lodge an objection to
3	A. It hit the side, like the inside, and	3	it. I know that it's local practice to let the
4	then it got shoved in, and I screamed. And then it	4	lawyer go back over and repeat all the she's just
5	got kicked in deeper by John Howard.	5	buttressing her witness. I object to it. It's a
6	Q. Was there a difference in force between	6	violation of due process of law. The prosecutor is
7	when it was initially inserted and what you describe	7	testifying in this case, and I strongly object to
8	as the kicking?	8	what is local practice. Thank you.
9	A. What do you I don't	9	THE COURT: Objection noted. It's a
10	Q. That was a bad question. Could you feel	10	restatement of testimony in anticipation, I hope, of
11	well, let me ask this: You said the first time	11	a question.
12	it went in, and I mean actually went up your anus	12	BY MS. BAUGES:
13	A. Yes.	13	Q. And then you testified that John kicked
14	Q you looked back, and you identified	14	it further in. And how did you know that, that it
15	that that was T	15	was John?
16	A. Yeah.	16	A. Because I looked behind me again. I fell
17	Q. Okay. And then you said you felt it get	17	forward, and then I looked behind me again to see
18	pushed or, excuse me, kicked deeper in?	18	what was happening, and it was John kicking it in
19	MR. WOOD: Objection. She's leading. The	19	deeper and deeper. And I turned around again, and I
20	function of direct is not	20	landed in my friend's arms.
21	THE COURT: She's restating the witness's	21	Q. Okay. How did you feel when this
22	testimony	22	happened?
23	MR. WOOD: to repeat the testimony.	23	A. Pretty upset and
24	THE COURT: and I haven't heard the	24	Q. How did you physically feel when this
25	question.	25	happened?
	45	1	46

1	MR. WOOD: Excuse me?	1	again?
			THE COURT: You may.
2	Q. How did you physically feel when this	2	THE COORT. Tou may.
3	happened?	3	
4	MR. WOOD: Thank you.	4	CROSS EXAMINATION BY MR. WOOD:
5	A. I just I felt really bad, a little bit	5	Q. A is it okay if I call you A
6	betrayed, but and confused at the same time.	6	A. Yeah.
7	Q. Okay. So you've just expressed emotions.	7	Q. That I call you by your first name?
8	How did you physically feel? How did your body	8	A. Yeah.
9	feel?	9	Q. Would you come down off the witness stand
10	A. Terrible.	10	and approach that drawing board that I put out
11	Q. Could you explain that a little bit more?	11	there.
12	A. Pain that I have never felt took over my	12	A. Okay.
13	body. It just hurt a lot, and but I kept it to	13	Q. And there's some markers up on the
14	myself.	14	judge's bench right behind your left shoulder.
15	Q. Did you make	15	THE COURT: In this little basket, A
16	A. I screamed, but afterwards, I kept it to	16	MR. WOOD: You can move those down where
17	myself.	17	they're closer. Would you angle that drawing board
	-		a little bit towards more towards me so I can
18	Q. A did you want this to happen?	18	
19	A. Never.	19	see.
20	Q. Did you give permission for this to	20	Can you see it okay, Judge?
21	happen?	21	THE COURT: I'm fine.
22	A. No, I did not.	22	MR. WOOD: How about that? Is that okay?
23	MS. BAUGES: No further questions, Your Honor.	23	THE COURT: That's not so good.
24	THE COURT: Mr. Wood.	24	MR. WOOD: Put it back a little more towards
25	MR. WOOD: May I approach the drawing board	25	him.
	47		48
1	THE COURT: There you go. Great.	1	A. I think so.
2	BY MR. WOOD:	2	Q. A before I forget, will you
3	Q. That's great, A Would you start	3	THE COURT: Hold on. Hold on, Mike, until I
4	out by drawing the outline of the locker room with	4	take care of this. Go ahead.
5	the stalls, with the benches the way it was on	5	BY MR. WOOD:
6	October the 22nd, the day you're telling us about.	6	Q. A before I forget, will you please
7	And draw it big so it fills that whole sheet of	7	write in the upper left-hand corner there "A
8	paper. Okay?	8	4/22/16." Okay. You've drawn us a floor plan,
9	A. Sure.	9	A right?
	Q. Thank you.	10	A. Yeah.
10			
11	THE COURT: Take your time, A If that's	11	C J
12	if you got it wrong, go ahead and start over.	12	the judge about happened to you in?
13	MR. WOOD: No big hurry, A	13	A. Yes.
14	will take it out on me if it takes too long.	14	Q. Okay. Would you please have you ever
15	THE WITNESS: You just want me to draw what it	15	drawn a diagram of that room before?
16	was like or just	16	A. No, I haven't.
	-		Q. Nobody no lawyer's asked you to make
17	BY MR. WOOD:	17	
17 18	BY MR. WOOD: Q. Yeah, I want to you know, I know,	17 18	them a picture; huh?
	BY MR. WOOD:		them a picture; huh? A. No.
18	BY MR. WOOD: Q. Yeah, I want to you know, I know,	18	them a picture; huh?
18 19	BY MR. WOOD: Q. Yeah, I want to you know, I know, like, there's shower stalls and benches and lockers.	18 19	them a picture; huh? A. No.
18 19 20	BY MR. WOOD: Q. Yeah, I want to you know, I know, like, there's shower stalls and benches and lockers. I want a complete picture of the floor layout with	18 19 20	them a picture; huh? A. No. Q. Would you please you have described
18 19 20 21	BY MR. WOOD: Q. Yeah, I want to you know, I know, like, there's shower stalls and benches and lockers. I want a complete picture of the floor layout with all that stuff in it. Does that make sense?	18 19 20 21	them a picture; huh? A. No. Q. Would you please you have described that at some point a guy named what's that guy's
18 19 20 21 22	BY MR. WOOD: Q. Yeah, I want to you know, I know, like, there's shower stalls and benches and lockers. I want a complete picture of the floor layout with all that stuff in it. Does that make sense? A. Yeah.	18 19 20 21 22	them a picture; huh? A. No. Q. Would you please you have described that at some point a guy named what's that guy's first name that asked you for the hug?
18 19 20 21 22 23	BY MR. WOOD: Q. Yeah, I want to you know, I know, like, there's shower stalls and benches and lockers. I want a complete picture of the floor layout with all that stuff in it. Does that make sense? A. Yeah. Q. Okay.	18 19 20 21 22 23	 them a picture; huh? A. No. Q. Would you please you have described that at some point a guy named what's that guy's first name that asked you for the hug? A. A. Herminian

1	Q. Would you please put an "H" for where	1	Q. And so you walked up to him. You walked
2	A was when he asked for the hug. Now, you've got	2	down the benches to where he's standing, and your
3	him next to that	3	testimony was at some point H
4	A. Table.	4	him A instead of H
5	Q. It's a table, but it's made up of	5	A. Yeah.
6	benches, huh?	6	Q. Is that okay with you?
7	A. Yeah. Of benches, yeah.	7	A. Yeah, definitely.
8	Q. So is he standing or sitting, A	8	Q. A you think he signaled. What
9	A. He's standing.	9	makes you think he signaled?
10	Q. He's standing, and you think he asked you	10	A. Because he's like this.
11	where were you? Where did you start out?	11	Q. Could you do that for us one more time.
12	A. I came from the entrance, and then I	12	A. Hug, signal.
13	Q. Where was he when he asked for the hug	13	Q. And you're standing erect and moving your
14	or where were you when he asked	14	fingers as if he's beckoning you to come closer;
15	A. I was right here.	15	true?
16	Q. Put an "A1" where you were when he asked	16	A. Yes.
17	for the hug?	17	Q. Is that what he was doing?
18	A. A what?	18	A. Yes.
19	Q. A1.	19	Q. Is that what you construed as signalling
20	A. A1?	20	somebody?
21	Q. Yes. So you're down at the other end of	21	A. Yes.
22	that table made out of benches; right?	22	Q. And is there anything else he did that
23	A. Yeah.	23	you construed as some kind of signal?
24	Q. So do you walk up to H	24	A. No, sir.
25	A. He had his arms out.	25	Q. So at the time you say you noticed him
	51		52
1	making these finger movements, did you notice where	1	A that's when he signaled for him to
1 2	making these finger movements, did you notice where Taking Wate was?	1 2	A that's when he signaled for him to come that way.
			-
2	T ana Was?	2	come that way.
2 3	T ALL Was? A. He was behind me.	2 3	come that way. Q. And could you see you know who John
2 3 4	T EACH Was? A. He was behind me. Q. Where? Could you put a "T1" where he	2 3 4	come that way. Q. And could you see you know who John Howard was?
2 3 4 5	T ANNE Was? A. He was behind me. Q. Where? Could you put a "T1" where he was.	2 3 4 5	come that way. Q. And could you see you know who John Howard was? A. Yeah.
2 3 4 5 6	T W was? A. He was behind me. Q. Where? Could you put a "T1" where he was. A. But he walked up to there.	2 3 4 5 6	come that way. Q. And could you see you know who John Howard was? A. Yeah. Q. Did you see where Howard was?
2 3 4 5 6 7	 Two was? A. He was behind me. Q. Where? Could you put a "T1" where he was. A. But he walked up to there. Q. Up to where? Put a "T1" where he walked. 	2 3 4 5 6 7	 come that way. Q. And could you see you know who John Howard was? A. Yeah. Q. Did you see where Howard was? A. I think he was off to the side.
2 3 4 5 6 7 8	 Two was? A. He was behind me. Q. Where? Could you put a "T1" where he was. A. But he walked up to there. Q. Up to where? Put a "T1" where he walked. THE COURT: So then I'm A1 is for where 	2 3 4 5 6 7 8	 come that way. Q. And could you see you know who John Howard was? A. Yeah. Q. Did you see where Howard was? A. I think he was off to the side. Q. I'm not asking what you think, A
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 Two was? A. He was behind me. Q. Where? Could you put a "T1" where he was. A. But he walked up to there. Q. Up to where? Put a "T1" where he walked. THE COURT: So then I'm A1 is for where A. was at the point in time MR. WOOD: Right. THE COURT: that the MR. WOOD: The gesture THE COURT: young man asked him MR. WOOD: took place, and now I'm asking where was T when the gesture took place. THE COURT: Well, let's clarify gestures. BY MR. WOOD: Q. The gesture you construed as a signal THE COURT: Thank you. Q by A took place, where was T 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 come that way. Q. And could you see you know who John Howard was? A. Yeah. Q. Did you see where Howard was? A. I think he was off to the side. Q. I'm not asking what you think, A We're under oath in a courtroom, and I've got to ask you are you sure enough to tell me under oath. I've got to push for that. Are you sure enough to testify under oath where Howard was when this thing got rolling? A. I don't know where he was once he was - Q. So you go up to A ? A. Yes. Q. Am I right about that? A. Yeah. Q. And A it's your testimony that A gave you a hug? A. Yes.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. He was? A. He was behind me. Q. Where? Could you put a "T1" where he was. A. But he walked up to there. Q. Up to where? Put a "T1" where he walked. THE COURT: So then I'm A1 is for where A was at the point in time MR. WOOD: Right. THE COURT: that the MR. WOOD: The gesture THE COURT: young man asked him MR. WOOD: The gesture e THE COURT: took place, and now I'm asking where was T when the gesture took place. THE COURT: Well, let's clarify gestures. BY MR. WOOD: Q. The gesture you construed as a signal THE COURT: Thank you. Q by A took place, where was T ?? Would you put a "T1" there. A. So I walked up A was right there. T , right here, T1. But when I walked this 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 come that way. Q. And could you see you know who John Howard was? A. Yeah. Q. Did you see where Howard was? A. I think he was off to the side. Q. I'm not asking what you think, A We're under oath in a courtroom, and I've got to ask you are you sure enough to tell me under oath. I've got to push for that. Are you sure enough to testify under oath where Howard was when this thing got rolling? A. I don't know where he was once he was - Q. So you go up to A ? A. Yes. Q. Am I right about that? A. Yeah. Q. Right? A. Yeah.

1	A. This way.	1	Q. –- and you guys hug?
2	Q. You were facing A	2	A. Yes.
3	A. Yeah. He was this way, and I was this	3	Q. And while you're hugging, does anything
4	way.	4	happen?
5	Q. Now, on that wall you've drawn some	5	A. A hanger got shoved up my butt. That's
6	oblong	6	one thing.
7	A. That's the showers.	7	Q. A hanger?
8	Q. Okay.	8	A. A hanger.
9	A. I didn't know at the time if you wanted	9	Q. Now, you have your back to whoever is
10	them.	10	shoving that hanger in your butt, don't you?
11	Q. I know what they were. I just wanted to	11	A. Yeah, but I do turn around.
12	make it clear for the record. So you've got some	12	Q. And you're facing A when it's placed
13	rectangles with some little dangly things hanging	13	between your buttocks, aren't you?
14	from	14	A. Yes, but in the process, I (inaudible.)
15	A. Shower hangers. The shower faucet thing.	15	Q. And when you look back, the hanger is
16	Q. That's the place where the water comes	16	already between your buttocks, isn't it?
17	out of. Okay. So you're not facing the showers,	17	A. Yes.
18	are you, when you hug A	18	Q. And you know what kind of hanger it is,
19	A. No.	19	don't you?
	_		•
20	Q. You're facing the right side of your	20	A. (No audible response.)
21	diagram, aren't you?	21	Q. You know it's a plastic hanger, don't
22	A. Well, he was it feels like if I was at	22	you?
23	if I'm me and you're A it's just like this.	23	A. It -
24	Q. And then you approach A	24	Q. I mean, when that hanger went up between
25	A. I approached him.	25	your buttocks, you realized it was a plastic hanger;
	55		56
1	right?	1	Q. That hanger the coat hangers I've
2	A. It was	2	seen, A come down both sides, and then they
3	Q. It's just a yes or no question. Yes, I	3	have kind of a rounded end
4	recognize it as a plastic hanger or, no, I didn't.	4	A. Yeah.
5	A. No.	5	Q on both ends. Is it one of those ends
6	Q. Why not?	6	that you're talking about?
7	A. Because it felt it didn't feel	7	A. Can I draw it for you?
8	plastic, sir.	8	Q. Huh?
9	Q. Okay. The it was the hook end that	9	A. Or do you just want
10	was placed	10	Q. There's room there seems to me to be
11	A. No.	11	room at the bottom of that. Draw a solid line
12	Q between your buttocks, wasn't it?	12	underneath your diagram and then draw a picture of
13	A. No.	13	the hanger. Okay. And draw it all across the page
14	Q. And you're emphatic on that. You're	14	so it divides them. Good deal. Thank you. Now
15	really	15	draw the hanger.
16	A. Yes.	16	A. The hanger is like this. It goes down
17	Q shaking your head at me as you tell me	17	like this. Messed up. But this part, sir. Longer
18	that.	18	than that. That part.
19	A. Yes.	19	Q. So it's those the tips of the shoulder
20	Q. So you're sure of that?	20	part that you're saying was placed
21	A. Yeah.	21	A. Yes.
22	Q. What part of the hanger did you think was	22	Q. And you're saying that you think it was
23	shoved between your buttocks?	23	placed up your rectum or anus?
24	A. The sides, not the hanger part. It did	24	A. Yes.
25	not hook.	25	Q. Am I hearing you right about that?
	57		58

1	Α.	Yes.	1	A. It was my ripped boxers, though, from the
2		How were you dressed at the time this	2	wedgie before practice.
3	happene	-	3	Q. And you're sure of that?
4		I was in the middle of getting dressed in	4	A. Yes.
5		my clothes.	5	Q. And you're sure that it was not the hook
6	_	So what clothes	6	end of that?
7	A.	I had boxers on.	7	A. No. Because the hook would have caught,
8	Q.		8	and if he ripped, it would have really done really
9		I had – it was just boxers and a shirt.	9	big damage, sir.
10	Q.	-	10	Q. Because you told people about what had
11	shirt on?		11	happened to you, didn't you? Didn't you, A
12		l did, yes.	12	A. Yes, I did.
13		And that hanger was shoved up between	13	Q. And you first told Mr. Hardcastle what
14		ocks while you had boxers on?	14	had happened to you, didn't you?
14	-	Yes.	14	THE COURT: May the witness be seated?
			16	MR. WOOD: Excuse me, Judge?
16	Q.	How was that how could that happen, Weren't the boxers solid?	1	THE COURT: May the witness be seated?
17	~ 		17	•
18		It was forced up there.	18	MR. WOOD: I would like him
19		And the boxers were on prior to it being	19	BY MR. WOOD:
20		there; correct?	20	Q. Well, go ahead and retake the witness
21		Yes.	21	stand if you don't mind coming down again, A
22		And they remained on throughout this;	22	Okay. Let me pull that thing out of your way.
23	correct?	N ₂ -	23	But you didn't tell anybody about this
24		Yes.	24	happening until the next morning, did you, A
25	Q.	And	25	A. Yes. Well, my little brother, his
		59		60
1	-	and he he was there in the but he told	1	the day you went back to school, that very next day,
2		nts. And once my parents found out, they	2	and asked you about the coat hanger, didn't she?
3	-	ing and everything, and they came to me and	3	A. Yes, she did.
4		e. I didn't tell. But they asked me the	4	Q. And you made a statement to her about the
5	-	. They're like, "A nne , did you get a	5	coat hanger?
6	hanger s	hoved up your butt?" I'm like, "Yes." I		
7	_		6	A. Yes.
	told then		7	Q. She wasn't recording or taking notes,
8	told then Q.	So you first told your mom about the	7 8	Q. She wasn't recording or taking notes, obviously?
9	told then Q. wedgie; r	So you first told your mom about the ight?	7 8 9	 Q. She wasn't recording or taking notes, obviously? A. Not that I know of.
9 10	told then Q. wedgie; r A.	So you first told your mom about the ight? Yes .	7 8 9 10	 Q. She wasn't recording or taking notes, obviously? A. Not that I know of. Q. And did she take you back in to talk to
9 10 11	told then Q. wedgie; r A. Q.	So you first told your mom about the ight? Yes. And you told her about that, and you went	7 8 9 10 11	 Q. She wasn't recording or taking notes, obviously? A. Not that I know of. Q. And did she take you back in to talk to Mr. Hardcastle?
9 10 11 12	told then Q. wedgie; r A. Q. to school	So you first told your mom about the ight? Yes. And you told her about that, and you went . And did you actually go in with her to	7 8 9 10 11 12	 Q. She wasn't recording or taking notes, obviously? A. Not that I know of. Q. And did she take you back in to talk to Mr. Hardcastle? A. That day after that happened, I left to
9 10 11	told then Q. wedgie; r A. Q. to school the princi	So you first told your mom about the ight? Yes. And you told her about that, and you went . And did you actually go in with her to pal to tell the principal how that	7 8 9 10 11 12 13	 Q. She wasn't recording or taking notes, obviously? A. Not that I know of. Q. And did she take you back in to talk to Mr. Hardcastle? A. That day after that happened, I left to the hospital
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 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 	told then Q. wedgie; r A. Q. to school the princi happene A. Q. A. Q. the wedg sure you A. Q. A.	So you first told your mom about the ight? Yes. And you told her about that, and you went . And did you actually go in with her to pal to tell the principal how that d? I think so. You're not sure? Not sure. But after you told the principal about ie or she did or whoever did that, you're told your mom about it? I told my mom the next day. And your dad?	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. She wasn't recording or taking notes, obviously? A. Not that I know of. Q. And did she take you back in to talk to Mr. Hardcastle? A. That day after that happened, I left to the hospital Q. Let me just focus on this one question. I'm asking after you told your mom, did she take you back in to tell Mr. Hardcastle? MS. BAUGES: Your Honor, I would object to the form. He said take him back in, and I think A testified previously that he wasn't sure if he went the first time, so I think it's a little confusing. BY MR. WOOD: Q. Did you go THE COURT: Clarify the question, please.

		<u> </u>	the partial in complete parts of the first state in the first state.
1	A. I can't remember, sir.	1	he said in making an out-of-court statement.
2	Q. No idea?	2	MR. WOOD: It's hearsay? They've been putting
3	A. No.	3	in hearsay all afternoon.
4	Q. But you did eventually talk to	4	THE COURT: I'm going to allow the question.
5	Mr. Hardcastle, didn't you?	5	MR. WOOD: Does he know thank you.
6	A. Yes, I did.	6	BY MR. WOOD:
7	Q. And you told Mr. Hardcastle about the	7	Q. Do you want to try the question again,
8	hug; right?	8	A
9	A. Yeah.	9	A. Yeah. (Unintelligible.)
10	Q. And you told Mr. Hardcastle that you were	10	Q. I'm just asking you again
11	sure it was a metal hanger; right?	11	A. Yeah, I know.
12	A. I can't remember what we talked about.	12	Q about telling Mr. Hardcastle that you
13	Q. Now you can't remember what you talked	13	were sure it was a metal hanger.
14	about?	14	A. Yes.
15	A. I can't remember what I told him, sir.	15	Q. And you did tell him that; right?
16	Q. You do know you were being extra careful	16	A. Yeah.
17	to be accurate, though; right?	17	Q. And you were trying to be accurate as
18	A. Yes, I know.	18	best you could; right?
19	Q. And were you accurate, to the best of	19	A. (No audible response.)
20	your knowledge, that day?	20	Q. Excuse me?
21	A. Yes.	21	A. Yes.
22	Q. Didn't you tell him that you were sure it	22	Q. When you talked to Mr. Hardcastle,
23	was a metal hanger?	23	though, you weren't sure who took it out, were you?
24	MS. BAUGES: Objection, Your Honor. I think	24	A. I knew who took it out.
25	this is getting into hearsay, asking the victim what	25	Q. Who did you tell Mr. Hardcastle took it
	63		64
1	out?	1	A. No.
2	А. т	2	Q. But you do know that St. Luke's is the
3	Q. And you also told Mr. Hardcastle that you	3	hospital you were at?
4	had bleeding from your anus after that coat hanger	4	A. Yes.
5	was taken out, didn't you?	5	Q. You know you were there on October 23rd
6	A. Yes, I did.	6	of the year 2015, the day after you say this
7	Q. That afternoon, after you had your	7	happened?
8	discussion that first discussion with	8	A. Yes.
9	Mr. Hardcastle, you were taken to St. Luke's	9	Q. And you do know that you were attempting
10	Hospital in Jerome, weren't you?	10	to be totally accurate in what you told the doctor;
11	A. Yeah.	11	right?
12	Q. And you were interviewed by a doctor at	12	A. Yes.
13	St. Luke's Hospital, weren't you?	13	Q. I'm handing you what's been marked as
14	A. I was yeah, I was interviewed. I was	14	Defendant's Exhibit C, A You ever see that
15	asked questions by – yes.	15	before?
16	Q. And you were careful to tell that doctor	16	A. No.
17	the truth?	17	(Inaudible discussion between counsel and
18	A. Yes.	18	Court.)
19	Q. And you have been allowed to read this	19	THE COURT: We can do it out here.
20	report?	20	MS. BAUGES: You want to do it out here?
21	A. Whose report?	21	THE COURT: Yeah. So Mike is moving for the
22	Q. The doctor who saw you, Dr. Brian Johnson.		admission of a
23	A. I've never read them.	23	MR. WOOD: Defence C.
24	Q. You haven't seen the report from Brian	24	(Inaudible discussion between counsel and
25	Johnson?	25	Court.)
			*
	65		66

1	MS. BAUGES: I actually think it's accurate	1	facing when you felt that hanger go between your
2	that it's self-authenticating, although I think Your	2	buttocks?
3	Honor does have discretion in terms of medical	3	A. Same way I'm standing now.
4	information regarding hearsay at the preliminary	4	Q. Excuse me?
5	hearing. So for purposes of the preliminary hearing	5	A. Same way I'm standing now. Facing that
6	only, I think you have the discretion, Your Honor.	6	way, and he was in front of me.
7	THE COURT: I'm going to let it in, but then	7	Q. Who was in front of you?
8	it's going in	8	A. A
9	MS. BAUGES: A sealed envelope, Your Honor.	9	Q. A was it in front of you. And which
10	THE COURT: Okay. In keeping with	10	way were you facing when that hanger went between
11	(unintelligible.)	11	your buttocks?
12	MR. WOOD: Thank you.	12	A. I was facing the same way, but I
13	MS. BAUGES: And I apologize. Just real	13	Q. Okay. We're not in the same room, so
14	quickly, is that the entire document? I didn't get	14	l've got to
15	a chance to look at that. Counsel, is this the	15	A. (Unintelligible) the same room.
16	entire document?	16	Q. Were you facing the lockers?
17	MR. WOOD: I tried to. Let me check. Is it	17	A. I was facing to the junior high. I was
18	complete? Was that complete?	18	facing straight (unintelligible.)
19	MS. BAUGES: I believe it was.	19	Q. And is that facing the lockers on the
20	BY MR. WOOD:	20	wall? You're facing A
21	Q. A nnee , would you mind re-approaching	21	A. Yes, I'm facing A
22	this diagram.	22	Q. And you're facing A
23	A. Yeah.	23	MR. WOOD: Can I approach the witness just to
24	Q. Thank you. A nimum , were you facing the	24	get
25	right of that diagram or which direction were you	25	THE COURT: Sure.
	67		68
1	BY MR. WOOD:	1	A. John
2	Q. H is where A is? Am I getting that	2	Q. Was he in the room?
3	right?	3	A. John Howard, you mean?
4	A. Yes.	4	Q. No, John R
5	Q. Okay. So you're facing the H at the time	5	A. John Rand ?
6	that coat hanger goes between your buttocks;	6	Q. Maybe I've got the first name wrong.
7	correct?	7	THE COURT: S
8	A. Yes.	8	MR. WOOD: Second Research You're right.
9	Q. And you're sure of that?	9	THE WITNESS: No, I didn't hear him say
10	A. Yes.	10	anything.
11	Q. What do you do when you feel the coat	11	BY MR. WOOD:
12	hanger go between your buttocks?	12	Q. And you told us you didn't hear T
13	A. Scream.	13	say anything. Am I remembering that right?
14	Q. Okay.	14	A. No.
15	A. (Unintelligible.)	15	Q. It's a lawyer thing. When you answer
16	Q. Anything else?	16	that question no, it makes it sound like, no, he did
17	A. Mostly scream.	17	something.
18	Q. Okay. Did you	18	A. Oh.
19	A. Fell into my friend's arms.	19	Q. Did T error say anything that you heard
20	Q. Did you hear anybody else say anything?	20	right when that coat hanger went between your
20	Did you hear T	20	buttocks?
22	A. I was in too much pain, sir.	22	A. No, I don't remember hearing anything.
23	Q. And did you hear John Research say anything?	22	Q. Okay. How about John Howard?
23	A. John?	23	A. No.
24	Q. Right.	24	Q. How long was the coat hanger between your
	69		70
	UU	1	10

1	buttocks by the first time you felt a kick on that	1	I'm seeing that, you've got yourself all the way
2	hanger?	2	down at the end of that table made out of benches;
3	A. About a second, a few seconds until it	3	right?
4	got – until it penetrated.	4	A. Yeah, but my drawing's not very good, but
5	Q. Now, your is it your testimony that	5	I was close pretty close to the showers.
6	your boxers were still up?	6	Q. And how far would you say between that
7	A. Are still what?	7	table and the showers?
8	Q. Still up.	8	A. Is that a table?
9	A. Yes, but they are ripped.	9	Q. That's all right.
10	Q. They're ripped in back?	10	A. Did I spell it right?
11	A. Yes.	11	Q. Don't worry about it. I withdraw it.
12	Q. But they stay up throughout this?	12	It's not that important.
13	A. Yes.	13	A. Okay.
14	Q. You're sure of that?	14	Q. I withdraw the question. Did you move
15	A. Yes.	15	from that A 4? Did you go anywhere?
16	Q. And Howard was able to kick the coat	16	A. Well, after America was done holding me, I
17	hanger; right?	17	after I got shoved, he let go. And then I turned
18	A. (No audible response.)	18	around, and that's where my friend was.
			Q. In which direction was your friend?
19	Q. And did you stay well, where were you?	19	•
20	Put a what number are we up to, A	20	A. He was behind me. He was this way.
21		21	Q. And
22	Q. A 4. Put an "A 4" where you	22	A. And once the hanger got shoved up, I
23	were standing when you felt that first kick.	23	jumped, and I, like, fell that way into his arms.
24	A. A. 4?	24	Q. You fell into his arms right there in the
25	Q. Yeah, if you don't mind. So, A	25	locker room, huh?
	71		72
1	A. Yes, I did.	1	closer, but almost from me to you.
2	Q. What was your friend's name?	2	Q. But slightly closer than you and I are
3		3	right now, huh?
4	Q. And the coat hanger was already withdrawn	4	A. Yeah.
5	from between your buttocks, wasn't it?	5	MR. WOOD: Okay. And for the record, that's
6	A. Once I was in his arms, it was yanked	6	about is 20 feet okay for an approximation?
7	out.	7	THE COURT: Yeah.
8	Q. And who do you say yanked it out?	8	MR. WOOD: The judge says, yeah, it's okay.
9	A. John.	9	BY MR. WOOD:
10	Q. Excuse me?	10	Q. In that locker room, you were never held
11	А. т.	11	down on the ground, on the floor, were you?
12	Q. Your testimony is that Territy pulled the	12	A. That was in the
13	coat hanger out from between your buttocks; is that	13	Q. Wait. In the locker room. Just that
14	right?	14	question.
15	A. Yes.	15	A. No.
16	Q. And how long total would you say that	16	Q. No. Okay. So you were never held down
17	coat hanger was between your buttocks?	17	on the floor in that locker room?
18	A. About 3 seconds.	18	A. No.
19	Q. About 3 seconds?	19	Q. Okay. You say that you were actually
20	A. Yeah. It was stuck there.	20	bleeding from the rectum that night?
21	Q. Excuse me?	21	A. Yes.
22	A. It was stuck there.	22	Q. Were you bleeding immediately after?
23	Q. And how far from the sinks were you when	23	A. Yeah. Right after it got yanked out, it
24	you fell into T III 's arms?	24	started bleeding.
25	A. About from me to a little bit more	25	Q. Excuse me?
	73		74

1	A. Right after it got yanked out, it started	1	Q. A couldn't stand up any longer.
2	bleeding.		Go ahead and sit down. You deserve a break.
3	Q. Now, A was asked by you to check out		A the first part of the next week,
	how you were back there; right?	4	they took you to a CARES interview. Do you remember
4	A. Yeah.		that one?
	Q. And he did that, didn't he?	-	A. I do.
6	A. (No audible response.)	6	Q. And you told the CARES people that your
8	Q. A looked between your buttocks for you	8	pants were pulled down before the coat hanger was
_	to tell you how you were doing, didn't he?	9	placed between your buttocks, didn't you?
9	A. He didn't ask me. He just	10	A. I can't remember.
10	Q. But he did that?		
11	-	11	
12	 A. Yeah, he looked, and it was bleeding. Q. And at first he said 	12	were pulled down? A. I
13	-	13	
14	A. And it wasn't only A	14	Q. This is the only time you had any kind of
15	Q. At first A said, "Dude, you're a	15	incident that involved a coat hanger; right?
16	mess"; right?	16	A. Yes.
17	A. No.	17	Q. In fact, the only problems you'd had with
18	Q. But the last thing A said to you is,	18	Terms or even John Howard was you didn't like the
19	"Dude, you're fine"; right?	19	way they talked about girls in the locker room
20	A. No.	20	sometimes; right?
21	Q. You deny that emphatically. Do I	21	A. Yeah.
22	understand that right?	22	Q. Excuse me?
23	A. Yeah.	23	A. For the most part, yeah.
24	Q. You understand you're under oath?	24	Q. For the most part or that was it? Were
25	A. Yes, I do. 75	25	there other problems that you need to tell us about?
1	A. Besides all the stuff that happened at	1	76 A. Yes.
2	football camp. Besides that, I no problems	2	Q. Now, prior to telling your version to
3	between us.	3	Mr. Hardcastle, you had spoken to your mother;
4	Q. Okay. Now, you talked to people from the	4	correct?
5	attorney general's office, didn't you?	5	A. Correct.
6	A. Yes.	6	Q. And she was
7	Q. You talked to a professional factual		A. Before
8	investigator called Officer Pittz, didn't you?	8	Q quite upset?
9	A. I think so.	9	A. Before (unintelligible) before, yes.
10	Q. Okay. And you told him it was the hook	10	Q. You said she was crying?
11	end of this hanger that was stuck in your between	11	A. Yes.
12	your buttocks, didn't you?	12	Q. Did she tell you that you had suffered a
13	A. No. It was never the hook.	13	very serious assault?
14	Q. You deny telling him that; right?	14	A. Yes.
15	A. Yeah.	15	Q. Did she tell you that?
16	Q. Am I hearing that?	16	MS. BAUGES: Objection, Your Honor. At this
17	A. It was the	17	point, I'm going to renew my objection as to
18	Q. So if he claims you told him that, he's	18	hearsay. He's asking about statements that were
19	wrong about that, huh?	19	made out of court.
20	A. Yes, sir.	20	MR. WOOD: It's not hearsay. It's
21	Q. And you told him there were two	21	communicating with a witness. And I'm offering it,
22	insertions into your anus, didn't you?	22	obviously, not for the truth of the matter, but for
23	A. No, just one.	23	the impact it might have had on this witness's
24	Q. So if his affidavit says two, he's wrong	24	testimony.
25	about what you told him; right?	25	THE COURT: I will allow it for that purpose.
	77		78

1	BY MR. WOOD:	1	Q. Anywhere. Anywhere.
2	Q. And your mother told you that she was	2	A. No.
3	going to notify Mr. Hardcastle of this coat hanger	3	Q. Has anybody ever shown you a coat hanger
4	incident, didn't she?	4	saying, "Is this the one, A
5	A. She said it was a bad incident, but	5	A. No. I just know.
6	Q. And then she told you that she was going	6	Q. Okay.
7	back in and notifying Mr. Hardcastle, didn't she?	7	(Inaudible conversation between counsel.)
8	A. I don't think so, sir.	8	MS. BAUGES: Could we have a sidebar?
9	Q. Does that mean that you are more sure	9	(Discussion held off the record between
10	that you went back in with her?	10	Court and counsel.)
11	A. (No audible response.)	11	MR. WOOD: Should I move D in? Is it in?
12	Q. Do you now think you went back in,	12	THE COURT: I'm going to let D in under Rule
13	A	13	5.1 of the Idaho Criminal Rules regarding
14	A. It's kind of hard to remember everything.	14	preliminary hearings and lab reports.
15	It was a long time ago.	15	MR. WOOD: May I have one second?
16	Q. Right.	16	BY MR. WOOD:
17	A. Plus I try to forget it.	17	Q. A at the time that you were at the
18	Q. So you're not sure still, huh?	18	hospital, your mom was there in the room; right?
19	A. No.	19	A. (Unintelligible.)
20	Q. Okay. An when you went to the	20	Q. The time that first day after this
21	hospital, they took swabs of your anus, didn't they?	21	incident, they took you to St. Luke's in Jerome,
22	A. Yes.	22	your mom sat in the examination room with you,
23	Q. And did you were you ever shown a coat	23	didn't she?
	hanger and asked if that was the coat hanger?	23	A. Yes.
24 25	A. At the hospital?	24	Q. And when you went to the CARES interview
25	79	25	80
			00
	the stars of the stars devices a second stars device the stars devices the stars of the stars devices the stars devices the stars devices a second stars devices a stars devices a second stars devices a stars de		
1	that next week and you were interviewed by the lady	1	right?
2	on videotape, remember that?	2	A. Yes.
	on videotape, remember that? A. The lady on the videotape?	2 3	A. Yes.Q. It was very stressful; correct?
2	on videotape, remember that? A. The lady on the videotape? Q. Yeah. They were when you're in that	2	 A. Yes. Q. It was very stressful; correct? A. (No audible response.)
2 3	on videotape, remember that? A. The lady on the videotape? Q. Yeah. They were when you're in that little room and that lady's talking to you talking	2 3	 A. Yes. Q. It was very stressful; correct? A. (No audible response.) Q. Excuse me?
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	revenuelser, but itle upper land to release there in times		A No.
1	remember, but it's very hard to place them in time	1	A. No.
2	as far as what came first, what came next, exactly	2	Q. And you're sure of that?
3	where you're standing, that kind of stuff?	3	A. Yes.
4	A. Something	4	Q. And you're telling this judge that A
5	Q. The details, but	5	never told you, "You're fine, Dude"? You're sure of
6	A. But things that are important, a lot of	6	that?
7	the time I can remember.	7	A. Yes.
8	Q. And you've always been able to do that	8	Q. You understand you're under oath?
9	over at Dietrich High; right?	9	A. Yes, I do.
10	A. I've always yes.	10	Q. How many times was that hanger kicked?
11	Q. Excuse me?	11	A. Multiple times.
12	A. Yes.	12	Q. Multiple. Multiple can be two or ten.
13	Q. When you experience something under high	13	Was it ten times?
14	stress, like you've told us this incident in the	14	A. No.
15	locker room had a lot of stress for you, later are	15	Q. Was it two times?
16	you can people kind of tell you what happened and	16	A. About three or four.
17	you go with their event, their version of events?	17	Q. About three or four is your best
18	A. I've kind of stuck with mine.	18	you're not really sure of that? Am I hearing you
19	Q. Do you doesn't the fact that you're	19	right? You're not sure how many times that hanger
20	all stressed out make you listen to the details of	20	was kicked?
21	what other people tell you?	21	A. Three.
22	A. No.	22	Q. You think three?
23	Q. You don't think so?	23	A. Yes.
24	A. (No audible response.)	24	Q. And you're sure of that?
25	Q. Excuse me?	25	A. Yeah.
	83		84
1	MR. WOOD: Judge, first I'd like to move this	1	A. This is the room it happened in. This is
		1	
2	diagram in for demonstrative purposes.	2	- these are - well, there's three different rooms.
2 3	diagram in for demonstrative purposes. THE COURT: Same same same	2 3	– these are – well, there's three different rooms. There's this room. That's the locker room. Then
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1	Q. You said your boxers were ripped?	1	bad question. Was it how much of your back side,
2	A. They were ripped.	2	your bottom, your buttocks could you see because
3	Q. Explain what happened.	3	your boxers were ripped, if you know?
4	A. I got a power wedgie that ripped my	4	A. The back.
5	boxers.	5	Q. The back? What do you mean by "the
6	Q. When did this happen?	6	back"?
7	A. This was before practice.	7	A. The back of the boxers.
8	Q. Okay. Who gave you the wedgie?	8	Q. The whole back of the boxers?
9	A. It was T	9	A. Not the whole back of the boxers. A big
10	Q. Okay. Now, I'm sure that it's common	10	portion of the back of the boxers. I think there
11	vernacular, but could you just kind of explain what	11	was a little bit on the front too that was ripped.
12	you mean by super wedgie.	12	Q. Okay. Would it help to use your hands?
13	A. A wedgie that it's it's a wedgie	13	A. (No audible response.)
14	that's so hard that it rips your underwear. They	14	Q. I'm trying to figure out how much of your
15	pull so hard that it rips your underwear.	15	buttocks was exposed because of the rip in your
16	Q. Okay. And how bad was your underwear	16	boxers.
17	ripped?	17	A. My butt was really exposed.
18	A. Pretty bad.	18	Q. Okay.
19	Q. Could you please describe and I	19	A. It was exposed to the point that the
20	apologize. Could you just get into more detail.	20	hanger could actually penetrate that it was exposed.
21	How did they look?	21	Q. Okay. One thing about this diagram, is
22	A. Torn up.	22	this, I'm going to say, to scale? Do you know what
	Q. Okay.	22	that means, "to scale"?
23	A. I don't		A. To exact.
24	_	24	
25	Q. No, I completely understand. It was a	25	Q. Right, right. Is this an exact, you
	87		88
1	know, replica of the locker room?	1	A. Yes.
2	A. From my memory.	2	Q for the record.
23	A. From my memory.Q. From your memory, but, like, for example	2 3	Q for the record.A. I didn't draw the door.
2 3 4	 A. From my memory. Q. From your memory, but, like, for example MS. BAUGES: May I approach the exhibit, Your 	2 3 4	 Q for the record. A. I didn't draw the door. Q. Okay. And that's fine. So when I mean
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1	but to scale, that's where everybody was.	1	happening?
2	Q. Okay. And when I'm saying "to scale," I	2	A. Pretty well.
	mean exactly in terms of, you know, where	3	Q. Pretty well? Is it exact?
3		4	A. The people that the three people, yes,
4	MR. WOOD: It's asked and answered. He just said that's where everybody was. Now she comes back	5	but
5	with another case. It's just more leading. It	6	Q. Okay.
6	shows dissatisfaction with the reply. I object to		A. The people I named, but not yeah.
8	it.	8	Q. Now, you said there was a question
9	THE COURT: Sustained.	9	about the seconds. There was a question about you
10	MR. WOOD: It's a standard	10	I'm sorry. You testified regarding the seconds
11	THE COURT: Sustained.	11	before it penetrated, and I think the question was
12	MR. WOOD: prosecutor	12	in relation to the first shoving in and then the
13	THE COURT: Sustained.	13	kicking, and so I just wanted to clarify. Did the
14	MR. WOOD: technique.	14	hanger penetrate when it was first shoved in?
15	THE COURT: Sustained.	15	A. Once it was shoved in, it like it
16	BY MS. BAUGES:	16	happened fast, so
17	Q. Okay. And so getting back on the track,	17	Q. Sure.
18	this is where you were. Well, I won't restate your	18	A it it might have moved around when
19	testimony at this point, but oh, go ahead and sit	19	it was shoved in, but it was shoved in.
20	down. Sorry.	20	Q. Okay. So it was shoved in?
21	So in terms of angles, you know, where	21	A. Yes.
22	people were facing and stuff, do you know well,	22	MR. WOOD: Objection. She's leading.
23	how good is your memory in terms of the exact	23	MS. BAUGES: I'll move on, Your Honor.
24	details in terms of the angles everyone was standing	24	BY MS. BAUGES:
25	at at the exact moments that these things were	25	Q. You said it wasn't only A who looked.
	91		92
1	Could you elaborate on that. And do you know what	1	THE COURT: Thank you.
2	I'm talking about?	2	A nneal , thank you very much for your
3	A. Looked?	3	testimony today. I know this hasn't been easy for
4	Q. So you were asked a question regarding	4	you. You can be excused now. Thank you.
5	somebody checked out your anus, and the question was	5	THE WITNESS: Okay. Thank you.
6	A did, and you said it was someone it wasn't	6	MR. WOOD: Can I move that diagram in? I
7	only A	7	think it's we're up to E now.
8	A. It was almost the whole locker room.	8	THE COURT: It's already in. We just need to
9	There was a group of people in the locker room.	9	get it marked and put in the record. Deysi, take
10	Q. Okay.	10	this one as well and get it in an envelope and seal
11	A. It was the people that were surrounding	11	it up.
12	me.	12	Next witness.
13	Q. And you were asked a question about	13	MS. BAUGES: Your Honor, that's going to be
14	problems with Territorian John, prior problems.	14	all the witnesses for the preliminary hearing.
15	Could you tell us a little bit more about that.	15	THE COURT: Okay.
16	A. Like problems that I had with them?	16	Mr. Wood, are you going to call any
17	Q. Uh-huh.	17	witnesses?
18	A. Well, at the for instance, at the	18	MR. WOOD: The defense does not intend to call
19	football camp, they were just humping everybody.	19	witnesses at the prelim, Judge.
20	That was just a problem that I had with them. That	20	THE COURT: All right. Argument, then.
21	was just another problem, but besides that, we were	21	MS. BAUGES: Yes, Your Honor. Your Honor, the
22	and the hanger thing, the wedgie thing. Besides that, there was no really further problems.	22	State has to prove, as you're aware, a number of elements: The date, October 22nd, 2015, on or
23 24	MS. BAUGES: Okay. No further questions, Your	23 24	around. The witnesses have testified that was the
24	Honor.	24	date.
1 20		120	uale.
	93		94

1	In the State of Idaho. Mr. R	1	up there, and then hands off, and then when it was
2	testified as to that.	2	kicked, it was kicked further in. Didn't go to the
3	The defendant, The Wash he was	3	side. Didn't go here. It was enough shoved in that
4	identified by both witnesses.	4	the kicks made it go in further and further, not
5	Caused an object. That is a hanger. I	5	fall out, and that's important.
6	think the Complaint specifically says "coat hanger,"	6	It's also important that A
7	but a hanger to penetrate the opening of A	7	that it may have wiggled around, but it went in. It
8		8	penetrated him, and he screamed. He screamed, and
9	Now, there were some discrepancies	9	it hurt. That is substantial evidence to meet all
10	brought out about the kind of hanger. Was it wire?	10	of those.
11	Was it plastic? Was it the hook? Was it the end?	11	Now, I'm aware that certain things were
12	THE COURT: Was it brown? Was it black?	12	put into evidence regarding medical examinations the
13	MS. BAUGES: Was it brown? Was it black? If	13	day after, about lack of DNA on the particular
14	you recall, A said that it felt like the side,	14	hanger that the State has as evidence, which was
15	and it felt like wire, but he never testified that	15	collected well, I won't go there because that's
16	he saw it. And he said it felt like it wasn't the	16	not in evidence, but there is nothing, however, in
17	hook because it didn't catch. And you heard	17	the record that connects that to conclusions such
18	testimony from someone that actually saw the hanger	18	as: Is it possible that this could be the hanger
19	go in that said it was plastic. And a plastic	19	and because of the way it was collected or how long
20	hanger probably wouldn't catch. So these details,	20	it had been on the locker room floor or anything
21	these: "Was it the side? Was it the hook? Was it	21	like that that isn't possible that it's the same
22	black? Was it brown?" they don't change the fact	22	hanger. And regardless whether or not that is the
23	that both witnesses said a hanger was shoved up	23	particular hanger isn't the issue. We don't have to
24	A subtocks.	24	prove which hanger it is.
25	Now, S was able to say it was shoved	25	The same thing with the medical. Just
	95		96
1	because there is a medical report the next day that	1	All of those elements have been shown to the
2	says, you know, certain things about whether or not	2	probable cause degree by the testimony that you have
3	certain injuries were found, there is nobody here to	3	here today, Your Honor. Thank you.
4	testify that therefore the logical conclusion is	4	THE COURT: Mr. Wood.
5	that there was no penetration. That is nowhere in	5	MR. WOOD: Yes, Judge. The prosecuting
6	the report. So those documents effectively tell the	6	attorney ignores the fact that although her
7	Court nothing about the specific elements in this	7	witnesses are consistent on conclusions, they are
8	case other than, perhaps, conjecture, but the State	8	extremely inconsistent on how the events occurred.
9	has presented sufficient evidence to overcome that	9	In fact, they are not balanceable. One of those
10	conjecture.	10	guys is wrong. Either A
11	For the purpose of sexual abuse, the	11	different incident. She's got two totally
12	hanger was shoved up his anus and with enough force	12	inconsistent witnesses.
13	that the victim was in pain, and you heard from	13	A says he's facing A who R
14	Second Record that the defendant was laughing. There	14	doesn't even include in the picture. Reference has him
15	was physical maltreatment. Enough force that it was	15	facing a completely different way, facing the shower
16	with physical maltreatment. And how do we know the	16	stalls.
17	purpose? Because when it happened, the defendant	17	A lim wearing shorts split up the
18	was laughing is the testimony you heard today.	18	back. Received He is totally unclothed and getting
19	The penetration was against A	19	ready to get in the shower. Fell into Tes arms,
20	Mercenness will. He testified he didn't give	20	The Herman Rest is when I was
21	permission. He didn't want this to happen. And the	21	was within 5 feet of the wash basin is when I was
22 23	penetration was accomplished by the use of force. Your Honor , that is inherent from the act itself	22 23	leaving.
	where a coat hanger hook was pushed with such force		Did the thing get pulled out in 3 to 5 seconds? No. It was in there up to a minute. I
24 25	that it got lodged in the anus of A	24 25	can't tell. He was absolutely in close proximity, 4
20	11at it got lodged in the ands of A	20	98
	<i></i>	1	

		-	
1	to 5 feet of the wash basins by the time it gets	1	develop them through investigation, not just put on
2	pulled out.	2	inherently conflicting versions and argue that they
3	The testimony presented by the prosecutor	3	somehow justified that a crime was committed and
4	in this case is so inherently conflicting as not to	4	probably T W committed it.
5	prove an event. We know from A that he	5	We don't even have a clear portrayal of a
6	sometimes gets mixed up, but A	6	crime being committed. You've got conflicting
7	supposed penetration lasted 3 to 5 seconds, not long	7	descriptions of events in a high school locker room
8	enough to determine whether there has actually been	8	where there was supposedly a bunch of people around
9	penetration of his anus.	9	but just two people the State calls in. And you
10	You have seen the medical reports. They	10	have the object described totally inconsistently.
11	were put in as evidence by the defense indicating	11	It was the hook end according to R
12	that the very next afternoon that Dr. I believe it's	12	of that. It was the hanger end that's placed
13	Johnson says there's no obvious signs of trauma	13	between A nnual 's buttocks. A nnual in his diagram
14	here. There's no bruising on his skin. A	14	where he lined off the bottom section, he describes
15	claiming he's held by A	15	those shoulder sections. Those that's the part
16	tight holding, and there's no obvious signs of	16	that he felt between his buttocks and that he claims
17	trauma anywhere that are pointed out. You have no	17	was shoved up his anus showing no trauma, no
18	evidence of an object that shows connection to	18	lacerations within 24 hours.
19	having been placed up this young man's anus.	19	This is inherently conflicting and does
20	The State totally fails to corroborate	20	not justify a bind over for felony trial. This is
21	two totally inconsistent descriptions of this event,	21	why the State is allowed to refile these things. If
22	irreconcilable descriptions. This is the	22	they can go out and put Humpty Dumpty back together
23	presentation of evidence that is legally inherently	23	again, fine, but not with two witnesses out of a
24	conflicting and cannot be the basis for a bind over.	24	bunch of people that were present in that room, not
25	If the facts are here, the State has to continue to	25	with two witnesses who present inherently
	99		100
		1	
1	conflicting stories, not without totally devoid of	1	this case is to be bound over. Thank you, Judge.
2	scientific corroborating evidence of penetration.	2	THE COURT: Okay. Thank you. All right.
2 3	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within	2 3	THE COURT: Okay. Thank you. All right. Mr. W
2 3 4	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events.	2 3 4	THE COURT: Okay. Thank you. All right. Mr. Weige is being charged under Idaho Code Section 18-6608 which states that:
2 3 4 5	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events. If the Court seriously considers binding	2 3 4 5	THE COURT: Okay. Thank you. All right. Mr. W is being charged under Idaho Code Section 18-6608 which states that: "Every person who, for the purpose of
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2 3 4 5 6 7	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events. If the Court seriously considers binding over, I would ask that you strike from the bind over the elements of for the purpose of sexual arousal,	2 3 4 5 6 7	THE COURT: Okay. Thank you. All right. Mr. W is being charged under Idaho Code Section 18-6608 which states that: "Every person who, for the purpose of sexual arousal, gratification or abuse, causes the penetration, however slight, of the genital or anal
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events. If the Court seriously considers binding over, I would ask that you strike from the bind over the elements of for the purpose of sexual arousal, gratification. I would ask that you totally strike that it was achieved by duress or threats of immediate harm or subsection (2) or (3) and (4) that also do not apply. If it's to be bound over, let's bind it over as what the State has presented today. I would not I would ask the Court not to give them this entire statute to shoot at when they have to put Humpty Dumpty together again before trial. So the statute that is charged should be substantially narrowed, if this young man is to be sent to trial, and get rid of all this verbiage that may apply in other cases but certainly don't apply here in which there is a total lack of evidence justifying a bind over. And, again, I'm referring to the sexual arousal or gratification portion, the threats of immediate or great bodily harm under	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	THE COURT: Okay. Thank you. All right. Mr. W is being charged under Idaho Code Section 18-6608 which states that: "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." Anyway, there's a not capable of giving consent section. This is a preliminary hearing. Pursuant to Rule 5.1 of the Idaho Criminal Rules, a finding of probable cause is to be based upon substantial evidence upon every material elements of the offense charged. It goes on to talk about the hearsay exceptions we've discussed. The evidence that's before the Court is

1	has met its burden at this stage that but I am	1	be fine, Judge. I just ask for a chance, some
2	finding that there has not been any evidence of	2	flexibility to call back.
3	purpose here, other than abuse, and it is by use of	3	THE COURT: Ms. Bauges?
4	force or violence. The others not being relevant.	4	MS. BAUGES: That's fine, Your Honor.
5	The Court makes that finding based upon the	5	MR. WOOD: Thank you.
6	essential element of penetration being established	6	THE COURT: All right. Thank you.
7	by most notably by A	7	
8	Mr. Research Again, they differ in detail with regard	8	(Recess.)
9	to who, what, and where precisely people were at any	9	
10	particular moment, but the essence of their	10	
11	testimony is similar, that Mr. We inserted a	11	
12	hanger I'm not certain what hanger or what part	12	
13	of a hanger into the anal opening of	13	
14	Mr. M eaning and for that reason I am going to send	14	
15	it on to district court. Do we have a date?	15	
16	THE CLERK: May 3rd.	16	
17	THE COURT: May 3rd will be your initial	17	
18	appearance, Mr. W	18	
19	MR. WOOD: Judge, I'm not sure about that	19	
20	May 3rd date. Can I double-check that and get back	20	
21	to the Court and counsel if there's a problem?	21	
22	THE COURT: Yeah. What would be the next	22	
23	date?	23	
24	THE CLERK: May 17th.	24	
25	MR. WOOD: And that could be May 3rd could	25	
	103		104

1	TRANSCRIBER'S CERTIFICATE
2	
3	
4	STATE OF IDAHO)) SS
5	County of Jerome)
6	
7	I, DENISE K. SCHLODER, do hereby certify:
8	That the above and foregoing
9	transcription was transcribed by me from digital
10	audio provided, and that the transcript is true and
11	correct to the best of my ability from the portions
12	of the proceeding that could be heard on the digital
13	audio, consisting of pages 1 through 104, inclusive.
14	I further certify that I have no interest
15	in the event of the action.
16	WITNESS my hand this 14th day
17	of July 2016.
18	
19	Denise K. Schloder,
20	Transcriber
21	
22	
23	
24	
25	

105

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. The way (DOB: 1000) 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 <u>www.idcourts.us</u>.

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

toll-free Fax: (208) 854-8074

From: Deysi Sandoval Sent: 09/01/2016 11:16 AM To: Cc: Hemmer, Casey Subject: W Attachments: W

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	SEP 0 1 2016	Ø
BRE	NDA FARNWORTH, GLE	Rik Aho

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 R W ,)
)
Defendant.)

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 <u>l</u> day of <u>September</u> 2016.

John K. Butler

District Judge

ORDER TO DISMISS (W , Page 1

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

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)

____ U.S. Mail Postage Prepaid

Hand Delivered

Overnight Mail Facsimile

Electronic Mail (Email)

By: Deputy Clerk

ORDER TO DISMISS (W), Page 2

From: Keith Roark Sent: 12/18/2016 2:05 PM To: Hemmer, Casey Cc: Panther, Paul; Lee Schlender (Subject: St. v. John Howard Attachments:

Mr. Hemmer:

My clients, Shelly, Tim and National 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 Table Mathematical Stoker 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 Wattactions 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 set the base 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 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 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. We 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.



This message and any files attached are protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 keith@roarklaw.com. From: Sent: 05/26/2016 9:59 AM To: Minyard, Catherine Cc: Bauges, Brenda Subject: T

	FILEROM	30			
	MAY 2 6 2015	B			
BRENDA FARNWORTH CLERK DISTRICT COURT LINCO A DAHO					

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,	\rightarrow	Case No. CR16- 213	
T W .	<u>}</u>	ORDER)
Defendant.	5		
)		

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.

2016. ATED NOI DISTRICT JUDGE

MOTION FOR PREPARATION OF FRELIWINARY 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 **methods**. 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 (
Subject: A M	5540
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 Mathematical filed in Lincoln County. It is our understanding that you have reached and completed disposition of charges against T Mathematical Mathematical 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.



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From: Judge Butler	
Sent: 08/16/2016 2:45 PM	
To: Spillman, Jason	
Cc: Deysi Sandoval (); Keo Kelley ()	
Subject: St. v. T W 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

				COURT				JUDICIAL I		
OF	THE	STATE	OF ID.	AHO, IN	AND) FOR	THE	COUNTY OF	: Lincal	In.

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

1

I hereby request approval to:

Video record []	proadcast [] 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.

News Organization Represented

Print Name

Signature

KTVB

Phone Number

Please fax back to 375-7770 Date

Request for Approval and Order - Page 1

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:

[X] 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:

[X] 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:

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

[] DENIED.

2016 DATED this 28 day of July

District/Magistrate Judge

Request for Approval and Order - Page 2

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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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 1/10/16

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

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

(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 (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.

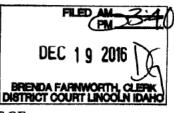
Thanks,

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 Sent: Thursday, August 25, 2016 3:47 PM To: Calbo&Depew; Hemmer, Casey Subject: John Howard From: Sent: 12/20/2016 9:04 AM To: catherine.minyard@ag.idaho.gov; 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,
Case No. CR-2016-214
vs.
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 4

Randy/J. toker District Judge

ORDER TO DISMISS (HOWARD), Page 1

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this <u>20</u> day of <u>lecember</u>, 201(a., 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

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

By: Deputy

ORDER TO DISMISS (HOWARD), Page 2

From: Keith Roark Sent: 12/19/2016 8:57 AM To: Randy Stoker Cc: Hemmer, Casey; Explored 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

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 [1				
Sent: Sunday, December	er 18, 2016	5 1:30 PM					
To: Randy Stoker							
Cc: Hemmer, Casey);	; L	ee Schlender)
Subject: St. v. John Ho	ward						

Dear Judge Stoker:

As you may or may not not know, I am one of the attorneys representing A and his M parents, Tim and Shelly M 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 Satureday, 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 are entitled to such transcript. As you will note, I have copied both Mr. Hemmer and Mr. M 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





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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 < worker > 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.

- >
- >
- >
- >

> 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:

On Fri, May 27, 2016 at 11:37 AM, Pittz, Anthony 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,

?



Investigator Criminal Law Division

Office of Attorney General

Phone:

Fax: (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

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



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM

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r. (

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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

1

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 THAT 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 1 st day of November 2016.

E.Lee Schlende fo aintiffs Attorneys

CERTIFICATE OF SERVICE day of 2016 I caused a true and correct copy I certify that on,

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

NOTICE OF SUBPEONA (COPY OF SUBPEONA TO BE ATTACHED)

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

SOUTHERN District of IDAHO



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)

D 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

Manage and Defendants John Howard and Target Ware on or about October 22, 2015.

PLACE: LAW OFFICES OF E.LEE

DATE AND TIME:

ON OR BEFORE NOVEMBER 15 2016 AT 4:00 PM ON SAID DATE

DELIVERED BY U.S. MAIL AND/OR CD DISK.

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 2	016	
	CLERK OF COURT	2 fine
	Signature of Clerk or Deputy Clerk Attorney's signature	E.LEE SCHLENDER
The name, address, e-ma	il address, and telephone number of the att	torney representing (name of party)
	-	, who issues or requests this subpoena, IS:

E. LEE Schlender Law Offices

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 sub	poena for (name of individual and title, if an	y)	
	`		
I served the sub	ppoena by delivering a copy to the nar	ned person as follows:	
		on (date)	; or
I returned the so	ubpoena unexecuted because:		
tendered to the wit	na was issued on behalf of the United mess the fees for one day's attendance		
\$	·		
fees are \$	for travel and \$	for services, for	a total of \$
I declare under per	nalty of perjury that this information i	s true.	
e:	Server's signature		re
		Printed name and title	
		Server's addres.	S

Additional information regarding attempted service, etc.:

E. Lee Schlender, ISBN 1171 SCHLENDER LAW OFFICES



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM



Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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

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

1

In this case, an investigation was conducted by THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO into allegations raised by A

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 herby 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.

```
STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS
```

2

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 form 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 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.

day of November 20 8. DATED this chlender, Schlender Law Offices for B Lee 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 152016 I caused a true and correct copy of al

this entire document to be served as indicated below:

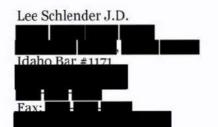
Mr. Brian Julian Anderson, Julian & Hull LLP C. W. Moore Plaza 250 South Fifth Street, Suite 700 PO Box 7426 Boise, ID 83707-7426 Fax: (The Description of the second seco

Office of the Attorney Ge	eneral
Criminal Division	
Paul Panther, Division Cl	nief
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

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

5



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 !



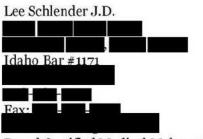
From: Lee Schlender Sent: 12/01/2016 11:25 AM To: Hemmer, Casey Cc: Subject: Re: Marcological case Attachments:image002.jpg

No problem.

I had overlooked it as well.

She can send it to my address below.

Lee



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 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 To: Hemmer, Casey Subject: Marcal 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.

Sent from ipad of Mr. E.Lee Schlender



From: 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!

Clargie Rahr District 5 Probation & Parole Presentence Investigator 208-736-3080 Ext 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: 11/03/2016 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.



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.

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, . Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance of the information it contains.

1.

From: Deysi Sandoval [**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



From: Bauges, Brenda Sent: Friday, March 4, 2016 2:38 PM

To: 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/ Fax: 208/

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, . Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance of the information it contains.





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

Mutare

Voice Message from Outside Caller on 4/12/16 10:48 AM (81 second msg)

MESSAGE:

"Hi Sandy this is Shelly Matter 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

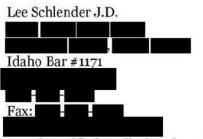
ORIGINAL FILE NAME: M4CFFA601A92A615ATT001 - 041216-104847-4547-1160412.96166399@audix-1.mp3

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.



Board Certified Medical Malpractice

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM



Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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

Exhibit A to Order re: Stipulation for Protection l

The Office of the Attorney General conducted a criminal investigation regarding allegations raised by A mathematical 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 herby 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. Miscellancous.

1. This Order shall not prevent either party form 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

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

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.

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 20 BAE. 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 83720-0010

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

Dated this 2 day of November 2016

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 day of WALK 2016 I caused a true and correct copy of I certify that on

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: (19)

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

PLACEHOLDER IMAGE:

NOTE: Document contains no images or text

ORIGINAL NAME: M4EB4A7051621944ATT002 - ATT00001.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 !



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 [**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



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM



Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO

M A

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 Matteria Matteria (); 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.

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

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 herby 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 form 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.

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. Kee/Schlender, Schlender Law Offices for Plaintiff day of November 2016. DATED this

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

Ву _____

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:

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.

> E. Lee Schlender, Attorney for Plaintiff

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

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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From: 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 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.	0
Thank you,	
Sandy Piotrowski	
Idaho Hope Card Administrator	
Victim/Witness Coordinator	
Office of the Idaho Attorney General	
PO Box 83720	
Boise, ID 83720	
toll-free (
Fax: <u>(208) 854-8074</u>	
From: Shelly March [mailto: Sent: Monday, March 07, 2016 10:04 AM To: Piotrowski, Sandra Subject: Re: Attorney General contact	
Ok thanks so much!	

On Fri, Mar 4, 2016 at 9:23 AM, Piotrowski, Sandra

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



wrote:

From: catherine.minyard@ag.idaho.gov Sent: 12/19/2016 3:26 PM

To:

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,

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 _____ day of ______ 201_.

Randy J. Stoker District Judge

ORDER TO DISMISS (HOWARD), Page 1

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	U.S. Mail Postage Prepaid
Deputy Attorney General	Hand Delivered
P.O. Box 83720	Overnight Mail
Boise, ID 83720-0010	Facsimile
	Electronic Mail (Email)
Brad Calbo	U.S. Mail Postage Prepaid
Calbo & DePew	Hand Delivered
P.O. Box 9	Overnight Mail
414 N. Lincoln, Ste. 5	Facsimile
Jerome, ID 83338	Electronic Mail (Email)
Fax: (

ORDER TO DISMISS (HOWARD), Page 2

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?



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 Gamma There were conflicting reports of what happened. What was consistent from talking with Gamma John, and other witnesses was that John had been saying things about other players' sisters and Gamma said something about John's sister. Gamma said something about John's sister while Gamma was showering. When Gamma 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 Gamma pushed his head down into his crotch region, Gamma 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 Gamma while Gamma 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 **Gamma** 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 ~ Fax: 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 General shoving John's head into his crotch. Was anything followed up on with this information? Was General 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?

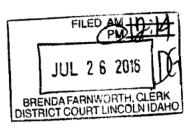
Thank you

<image002.jpg> | Tony Pittz

Investigator Criminal Law Division Office of Attorney General Phone: Fax: (208) 854-8083

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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 LINCOUN

)

)

)

)

STATE OF IDAHO	
Plaintiff(s),	
VS.	
JOHN RK. Haward, 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-2014	-214	
Date:	129/1.	o	
Time:	2 P.VI	4 9	a Marca and a star and a field data to data data to a survey of the star and and and and a star a survey of the
Location:	MAN	Louis T Rooming	
Presiding Judge:	MAGKS	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 ir all respects with the provisions of that rule.

ALEX RIGUINS		
Print Nama		
Signature		1
News Organization Represented	Phone Number	na se in the second state of t
Date		

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

06.08.10

1

To:12088862458

State of Waho Vs. John R.K. HowaG

(R-2016-214

OPDER

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:

[X^{1} GRAMTED 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:

[X] 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:

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

ENIED

All images and audio recordings captured in the courtroom, whether before, during or after the actual court proceedings, by any peol 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.

CATED this 77 day of JUN 2016 Minh

REQUEST TO OBTAIN APPROVAL TO VIDEO/AUDIC RECORD: BROADCAST, OR PHOTOGRAPHIA COURT PROCEEDING Page 2

CERTIFICATE OF MAILING

I hereby certify that on the $\underline{\mathcal{H}}$ day of $\underline{\mathcal{JU}}$, 2010, 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 EMOI ()Faxed ()Court Folder
Attorney General Office	 () U.S. Mail () Hand delivered E [Mai] () Faxed () Court Folder
Brad Calbo	() U.S. Mail () Hand delivered $E/Mai/$ () Faxed () Court Folder
CC: TCA	Jonat

Clerk

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

66.08.10

3

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 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

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

Fax:

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 schlender/ state v. W and Howard Attachments: Antwon's poem in hospital .jpeg; image002.jpg

Casey,

Thought you might find this useful.

A wrote this while he was hospitalized recently at Canyon View in Twin Falls.

Lee Schlender J.D.

			,	
Idaho) Bar	#1171		

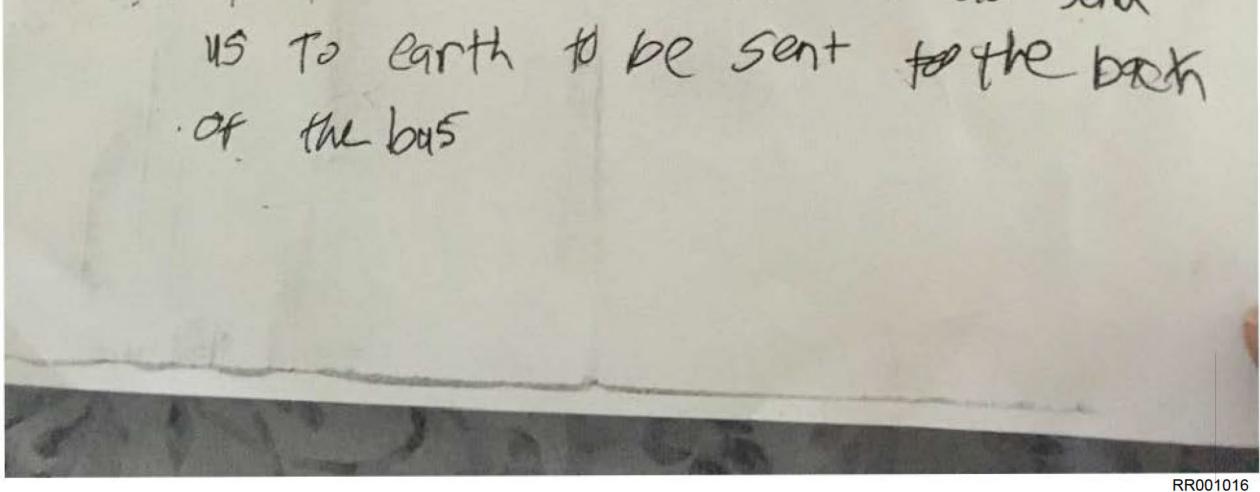


Board Certified Medical Malpractice



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pople 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 signat work and bullying can get them Far sut what societ dosont know is that a kricked in hanger can bruise and queetvate the peart It knyes you Walking on a stub Brinks. of the burden put on You by the prople that you thought you what once leved The worlds not Use to Reople/interme -ike A THY Liks To pound yoy TO The ground and lockenthe the Abor for your opper tuniting and Leave you helpless without a sound por You why ford why does this to us sond





From:

. Sent: 04/25/2016 10:31 AM To: Bauges, Brenda Cc: Subject: John RK Howard Attachments:Untitled.PDF - Adobe Acrobat.pdf

Fifth Judicial District Co In and For the Cour 111 West B Stre Shoshone, Idaho	et Suite C
STATE OF IDAHO, Plaintiff.	APH 2 5 2016
VS.	BRENDA FARNWORTH CLERK
John R.K. Howard))
) Case No: CR-2016-0000214
Defendant. DOB:) NOTICE OF HEARING)))

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

Preliminary	Friday, June 10, 201602:00 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: Brad Calbo		Mailed Faxed to (208)	Hand Delivered 324-5597	_E-Mail
P.O. Box 9 Jerome ID 83338				
Prosecutor:	Brenda M Bauges			
		Mailed	Hand Delivered	_E-Mailx
		Brenda Clerk O By:	April 25, 2016 Farnworth The District Court The District Court Agria, Deputy Clerk 796	

From: catherine.minyard@ag.idaho.gov Sent: 01/05/2017 7:27 AM

Subject: FW: Voice Message from Outside Caller on 1/3/17 5:08 PM for 3096 Attachments:010317-1000-1170103.101216255@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 **and-tube**.

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 this message 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-

Mr.Spillman:

I received a copy of Mr. Roark's note objecting to a mental exam of A

In the concept of a "party" to a criminal proceeding, Amount is certainly that.

We do strongly object to any mental or physical examination of A

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

Board Certified Medical Malpractice

?

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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 **source** that's **source**. 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

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

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:		
Sent: 01/06	/2017 1:43 PM	

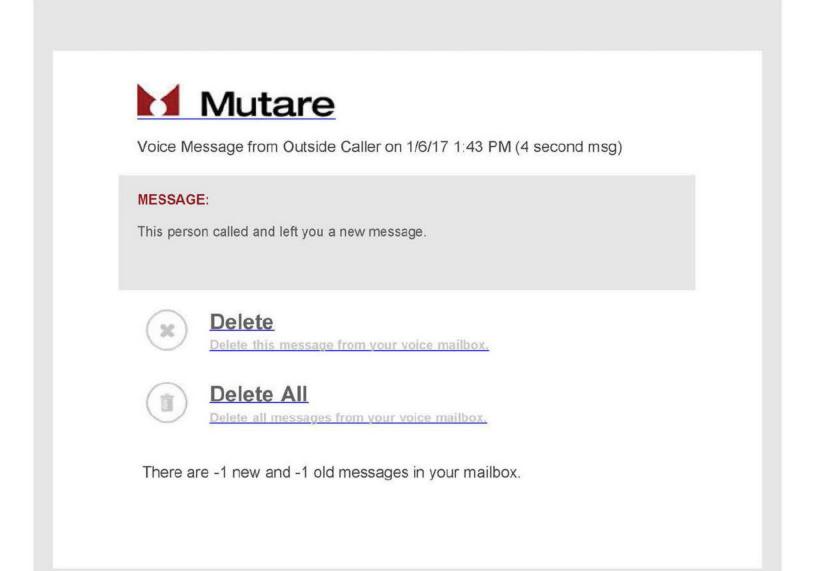
To:

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 (

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

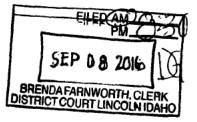


PLACEHOLDER IMAGE:

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. JOHN R.K. HOWARD, Defendant.

CASE NO. CR-2016-214

ORDER TO DISQUALIFY

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.

ORDER TO DISQUALIFY (HOWARD), Page 1

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this <u>8</u> day of September, 2016, I caused to be served a

true and correct copy of the foregoing Order to Disqualify to:

Casey J. Hemmer	U.S. Mail Postage Prepaid
Deputy Attorney General	Hand Delivered
P.O. Box 83720	Overnight Mail
Boise, ID 83720	Facsimile
FAX: (208) 854-8083	Electronic Mail (Email)
Brad Calbo	U.S. Mail Postage Prepaid
Calbo & DePew	Hand Delivered
P.O. Box 9	Overnight Mail
414 N. Lincoln, Stc. 5	Facsimile
Jerome, ID 83338	Electronic Mail (Email)
Fax: (208) 324-5597	

Deputy Clerk By_

5th District TCA

ORDER TO DISQUALIFY (HOWARD), Page 2

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 the service of t



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

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 < work 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 **Termin** W**MM**. 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

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Casey,

Assuming on cross of A 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 I will make proper objections.

I was just told that the hearing tomorrow has been postponed until July 29.

Lee



Board Certified Medical Malpractice

?

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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 Co In and For the Cour 111 West B Stre Shoshone, Idaho	ity of Lincoln et Suite C	FILED AM A A
STATE O	F IDAHO,)	SEP 06 2016
	Plaintiff.		ý	BRENDA STAT
VS.)	BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO
John R.K.	Howard)	
2632 Twir	n Flower Dr.)	
Keller, TX	83352-0800) Case No:	CR-2016-0000214
	Defendant.			OF HEARING
DOB:	9/25/1997)	
)	
)	

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 ConferenceMonday, September 12, 201611:00 AMJudge: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 Dolivered	E Moil
		Mailed		Hand Delivered	_E-Mail
Private Counsel:		Mailed		Hand Delivered	_E-Mail <u>x</u> _
Brad Calbo					
P.O. Box 9 Jerome ID 83338					
Prosecutor:	Casey J Hemmer				
		Mailed		Hand Delivered	_E-Mailx
CC: Crystal	Rigby				
		Dated: <u>Tuesday, September 6, 2016</u> Brenda Farnworth Clerk Of The District Court By: Deysi Gatera, Beputy Clerk DOC22 /196			
				V	

From:

Sent: 06/03/2016 3:17 PM To: Spillman, Jason Cc: Hemmer, Casey; Piotrowski, Sandra; Brenda Bauges; Lee Schlender (Subject: RE: St v. War and Howard Attachments:

Jason:

Thanks for getting back. A **second** 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 schoolmates found him walking around Dietrich, upset with his mother, and called the two coaches who instructed him to bring A school 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 school 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 the 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 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

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 **management**.

R. KEITH ROARK, ISBN 2230 THE ROARK LAW FIRM, LLP Attorneys at Law This message and any files attached hereto is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that any dissemination of this communication in any form is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and any <u>attached fi</u>les, destroy any hard copies in existence, and notify R. Keith Roark immediately at (**TO**)

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 Added 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 Added 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 Added 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

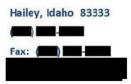
Jason Slade Spillman Lead Deputy Attorney General Special Prosecutions Unit P.O. Box 83720 Boise, ID 83720-0010

From: Keith Roark Date: June 1, 2016 at 5:34:16 PM MDT To: "Bauges, Brenda" Subject: St v. Warmand 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 and his testimony.

R. KEITH ROARK, ISBN 2230 THE ROARK LAW FIRM, LLP Attorneys at Law 515 1st Ave South



This message and any files attached hereto is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that any dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 (ma) management (fax) or (management).

From:

. Sent: 03/08/2016 8:43 AM To: Bauges, Brenda Cc: Subject: John Howard Attachments:Untitled.PDF - Adobe Acrobat.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.
JOHN R.K. HOWARD,
Defendant.

Case No. CR- 2/16- 214

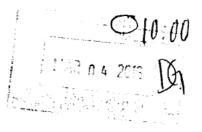
ORDER TO SEAL

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 $\underline{4}$ 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.)	case no. <u>(R-2016-</u> 214
JOHN R.K. HOWARD,)	ARREST WARRANT
Defendant.)	
	,	

Address:				
DOB:	SSN:	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



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

Daytime or nighttime X

Bond \$ 75,000°

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)

ARREST WARRANT (HOWARD), Page 2

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:

(Additional Levels Inclusive)

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

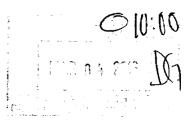
DATED:

Judge

NCIC ENTRY:

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:	

ARREST WARRANT (HOWARD), Page 3



LAWRENCE G. WASDEN Idaho Attorney General

۰.,

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. <u>(R-2016-214</u>)
JOHN R.K. HOWARD,)) MOTION TO SEAL
Defendant.))

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



necessary to temporarily seal the affidavit to preserve the defendant's right to a fair trial.

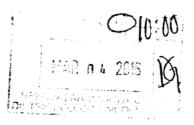
DATED this $\underline{4}$ day of March, 2016.

۰.

BRE DAM BAUGES

Deputy Attorney General, Special Prosecutor for Lincoln County

STATE'S MOTION TO SEAL (HOWARD), Page 2



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: SSN:
Defendant.

CASE NO. __ (R-2016-214

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this <u>4</u> day of <u>March</u> 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.

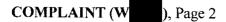
Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.

BRENDA M. BAUGE

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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

MAGISTRATE



From: Sent: 12/16/2016 3:45 PM To: catherine.minyard@ag.idaho.gov; Cc: Subject: Howard Attachments: 12162016154546.pdf

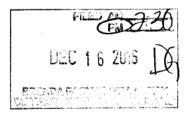
	Fifth Judicial District Court, State of Ida In and For the County of Lincoln 111 West B Street Suite C Shoshone, Idaho 83352-0800	HILD FIND STAR
STATE OF IDAHO, Plaintiff.)	DEC 1 6 2015
VS.)	ENDERAFTECTIC
John R.K. Howard	Ś	DEFICIENCY AND ALLEND
ļ.)) Case No:	CR-2016-0001144
DoB:)) NOTICE O))	F HEARING

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		
Brad Calbo				
P.O. Box 9 Jerome ID 83338				
Prosecutor:	Casey J Hemmer			
		Mailed	Hand Delivered	_E-Mailx
		Bre Cle By:	day, December 16, 2016 enda Farnworth erk Of The District Court ysi Garcia, Deputy Clerk C22 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,

 \mathbf{r}_{i}

Case No. CR-2016-1144

VS,

ORDER

John R. K Howard,

Defendant.

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 day of December 2016. Randy J. Stoker **District Judge**

RR001055

CERTIFICATE OF SERVICE

I hereby certify that on the $\underline{1}$ ($\underline{2}$ 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

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 () U.S. Mail

- () Hand delivered
- () Faxed
- () Court Folder
- (X) Email

Clerk ²

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 **Sent:** [**100**] Sent: Friday, August 19, 2016 8:24 AM To: Hemmer, Casey; Calbo&Depew Cc: Cheri Mattson Subject: John Howard

08/18/2015	16:13	2083245597
------------	-------	------------

DEPEW

AUG 19 2016

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: 10 SIGNED: John K. Butler District Judge

CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that on the $\underline{19}$ day of $\underline{A1915}$, 2016 I caused a true and accurate copy of the foregoing to be forwarded to the following using the method indicated:

(ASEY HEMME) Brends Bauges P.O. Box 83720 Boise, ID 83720

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

Shelli Tubbs Linda Wright Trial Court Administrator P.O. Box 126 Twin Falls, ID 83303 () U.S. Mail
() Hand-delivery
() Fax *E* [*mai*]
() Courthouse Box

() U.S. Mail
() Hand-delivery *Email*() Fax
() Courthouse Box

() U.S. Mail

() Hand-delivery Emal

- () Fax
- () Courthouse Box

Deputy CLerk

From: Hemmer, Casey Sent: 12/05/2016 10:51 AM To: 'Lee Schlender' Cc: Subject: RE: schlender re Ma 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 [**Sent:** Monday, December 05, 2016 10:46 AM To: Hemmer, Casey Subject: schlender re Ma

Casey,

Sure could use the audio CD of the interviews; we have depositions next week and need to get those

transcribed soon.



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:

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

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 **and my cell is and my cell**. 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: Machine Order entered Attachments: ATT00001.htm; ATT00002.htm; Atty General Order Machine, pdf; image002.jpg

Casey,

See attached.

Lee Schlender J.D.

Idaho Bar #1171



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



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.

STATES Co. Dated: November 03, 2016

Lynn Winmill B 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



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM



Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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

Exhibit A to Order re: Stipulation for Protection

The Office of the Attorney General conducted a criminal investigation regarding allegations raised by A Mathematical 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

Case 1:16-cv-00202-BLW Document 25 Filed 11/03/16 Page 4 of 6

Each individual who receives any Protected Materials herby 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 form 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

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

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.

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 BAE. 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 83720-0010

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

Dated this 2 day of November 2016

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 2016 I caused a true and correct copy of I certify that on day of h

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: **(19) 10** SERVED BY: email. <u>dwolff@alhlaw.com</u>

Office of the Attorney General Criminal Division Paul Panther, Division Chief Casey Hemmer, Deputy A.G.D 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

5



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

SCHLENDER & BROWN PLLC

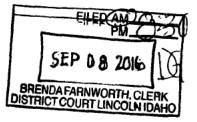
Lee Schlender J.D. Joseph F.Brown, M.D.J.D. Offices Meridian and Mt.Home Idaho

Fax: **Mathematic** 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. JOHN R.K. HOWARD, Defendant.

CASE NO. CR-2016-214

ORDER TO DISQUALIFY

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.

ORDER TO DISQUALIFY (HOWARD), Page 1

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	U.S. Mail Postage Prepaid
Deputy Attorney General	Hand Delivered
P.O. Box 83720	Overnight Mail
Boise, ID 83720	Facsimile
FAX: (208) 854-8083	Electronic Mail (Email)
Brad Calbo	U.S. Mail Postage Prepaid
Calbo & DePew	Hand Delivered
P.O. Box 9	Overnight Mail
414 N. Lincoln, Stc. 5	Facsimile
Jerome, ID 83338	Electronic Mail (Email)
Fax: (208) 324-5597	

Deputy Clerk By_

5th District TCA

ORDER TO DISQUALIFY (HOWARD), Page 2

From: Minyard, Catherine		
Sent: 09/01/2016 10:14 AM		
To: Deysi Garcia (, () , (), () , (), () , (), (t.
Cc: Hemmer, Casey;		
Subject: State v. T	Willia, Lincoln County Case No. CR-2016-213	
Attachments: Proposed Orde	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 N
VS.)
T) ORDE
Defendant.)

Case No. CR-2016-213 ORDER TO DISMISS

The Court having heard the motion heretofore made in the case of *State v*. The R W 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 _____ day of ______ 2016.

John K. Butler District Judge

ORDER TO DISMISS (W. . . .), Page 1

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:

Fax: (208) 436-0141

Casey J. Hemmer	U.S. Mail Postage Prepaid
Deputy Attorney General	Hand Delivered
P.O. Box 83720	Overnight Mail
Boise, ID 83720-0010	Facsimile
Fax: 208-854-8083	Electronic Mail (Email)
Michael J. Wood Attorney at Law 184 Gooding St. West Twin Falls, ID 83301	U.S. Mail Postage Prepaid Hand Delivered Overnight Mail

Facsimile Electronic Mail (Email)

By: ______ Deputy Clerk

ORDER TO DISMISS (W

From: Joseph Jos

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
egal Assistant
/ictim/Witness Coordinator
INCOLN COUNTY PROSECUTOR
elephone:
acsimile:
imail:

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 Sent: Thursday, March 10, 2016 1:15 PM To: Sue Gregory Subject: No Contact Order-Odyssey

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

Defendant,)
vs.)) NO CONTACT ORDER I.C. 18-920-I.C.R. 46.2
STATE OF IDAHO Plaintiff,) CASE NO. CR

TO THE DEFENDANT: You have been charged with the following crime (s):

Count Statute	Charge D	Charge Description		
Against the alleged victim(s): <u>Alleged Victim's Name</u> 1	DOB	DL	Address	
2				
3				

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_

Alleged Victim's school

Alleged Victim's work

This Order is subject to the following exceptions:

 \Box No exceptions

Telephone	contact allowed between the hours of	a.m. and	p.m. for the
- respirone	contact and i ca betti cen the hours of_		pinni ioi ine

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

 \Box 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

 \Box 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

Undergraduate	1988 - 1991 B.S. Biology	Regis University	Denver, Colorado
	 Magna Cur 	n Laude	
Medical School	1991 - 1995 <i>M.D</i> .	University of Colorado School of Medicine	Denver, Colorado
Residency	1995 - 1998 Family Medicin	University of Colorado at Rose Medical Cente	r Denver, Colorado
Fellowship	1998-1999 Advanced Train	University of Colorado ing Track in Perinatal Care	Denver, Colorado
		d skills in operative obstetrics, OB ultrasound, to ent of complicated pregnancies	ubal ligation and
		mily medicine residents at St. Anthony, Rose and sidency faculty	l University Hospitals as
	 Directed : 	regional ALSO course	
		ultrasound course at the AAFP Family Co e in Providence, RI	entered Maternity Care
PRACTICE			
1999-2001	Westlake Fam	ily Physicians	Greeley, Colorado
2000-2001	Rose Family M Resident Prec	Medicine Center epting	Denver, Colorado
2001-2005	Moffat Family		Craig, Colorado
2001-2005		nysician - The Memorial Hospital	Craig, Colorado
2003-2005		tor for Mine Rescue Team - Colowyo Mine	Meeker, Colorado
2005-2014		ic — Jerome Family Medicine nily Care Physicians)	Jerome, Idaho
2005-present	Emergency Pl	nysician – St. Luke's Jerome	Jerome, Idaho
HOSPITAL AFFII	JATIONS		
2005-present	St. Luke's Jerc	me	Jerome, Idaho
r r r		Benedict's Family Medical Center)	J
2001-2005	The Memorial		Craig, Colorado
1999-2001		do Medical Center	Greeley, Colorado
1998-2001	Rose Medical	Center	Denver, Colorado
1998-2000	St. Anthony F		Denver, Colorado
1998-2000	Porter Advent		Denver, Colorado
1998-1999	University Ho	spital	Denver, Colorado

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: C: Hemmer, Casey; Piotrowski, Sandra; Bauges, Brenda Subject: FW: St v. Walland 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 more 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 more 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 more 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. War 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 Amaza and his testimony.

R. KEITH ROARK, ISBN 2230 THE ROARK LAW FIRM, LLP Attorneys at Law



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 - 052316-1160523.97000959@audix-1.mp3

From: 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 Hi Shelly, If you have any questions, please let me know.

wrote:

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



From:			1	
Sent: 01/06/	2017 11:32 A	M		
To:				
Cc:				
Subject: FW	: Voice Mes	sage from Outs	ide Caller on 1/6/1	17 11:28 AM for 3096
Attachment	s:010617-	-117	0106.101287423@	audix-1.mp3

Another one. This is from phone number (

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

Mutare

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. The William, Preliminary Hearing Attachments: State vs. The William, 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. R. W. ,)
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

1	I N D E X	
2		
3	WITNESSES:	PAGE
4	S ree R	E
5	Direct Examination by Ms. Bauges Cross Examination by Mr. Wood Redirect Examination by Ms. Bauges	5 9 31
6		
7	Direct Examination by Ms. Bauges Cross Examination by Mr. Wood	4 0 4 8
8	Redirect Examination by Ms. Bauges	85
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1	COURTROOM OF THE MAGISTRATE COURT	1	THE COURT: STATE R
2		2	All right. Mr. Recent if you'd come in,
3	LINCOLN COUNTY COURTHOUSE	3	please. If you could just stand there, face the
4	LINCOLN COUNTY, SHOSHONE, IDAHO	4	clerk, raise your right hand, the clerk will swear
5	APRIL 22, 2016, FRIDAY, 2:00 P.M.	5	you in.
6		6	
7	THE COURT: We'll take up Case CR-16-213,	7	
8	State of Idaho vs. The West This is the time	8	S
9	scheduled for preliminary hearing in this matter.	9	being produced as a witness on behalf of the
10	Anything preliminarily?	10	plaintiff, was duly sworn on his oath and testified
11	MR. WOOD: Move to exclude witnesses.	11	as follows:
12	THE COURT: If you have been summoned as a	12	
13	witness in this matter, I will ask that you wait in	13	THE COURT: I'm going to rely on counsel to be
14	the hallway until you're called. You are not to	14	aware of who's a witness and who isn't a witness in
15	discuss your testimony with anybody in the hall or	15	terms of the Court's prior order excluding witnesses
16	have anybody discuss your testimony with you while	16	until they testify.
17	you are in the hall, and then after you've	17	MS. BAUGES: Your Honor, does that include
18	testified, you are either free to go or you can	18	potential witnesses or just witnesses that
19	remain in the courtroom.	19	THE COURT: It does include potential
20	All right. Go ahead.	20	witnesses.
21	MS. BAUGES: The State calls S	21	MS. BAUGES: I believe anybody that has
22	he's downstairs, Your Honor.	22	knowledge of the – that was in the locker room at
23	THE COURT: Okay. You want to go	23	the time should be excluded, and I'm not aware of
24	MS. BAUGES: He's in the sheriff's office.	24	everybody who that is, but I do see one person that
24	THE BAILIFF: Who do you need?	24	was in the locker room at the time.
25	-	25	was in the locker room at the time.
	3		4
1	THE COURT: All right. If there's a	1	A. At the football field.
2	possibility you might be called as a witness and,	2	Q. Okay. And is that football field in
2 3	possibility you might be called as a witness and, apparently, if you were present in a locker room,	2 3	Q. Okay. And is that football field in Dietrich?
2 3 4	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to	2 3 4	Q. Okay. And is that football field inDietrich?A. Yes, it is.
2 3 4 5	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you.	2 3 4 5	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln?
2 3 4 5 6	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead.	2 3 4 5 6	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes.
2 3 4 5	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you.	2 3 4 5	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho?
2 3 4 5 6	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor.	2 3 4 5 6	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh.
2 3 4 5 6 7	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead.	2 3 4 5 6 7	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho?
2 3 4 5 6 7 8	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and	2 3 4 5 6 7 8	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day?
2 3 4 5 6 7 8 9	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record.	2 3 4 5 6 7 8 9	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after
2 3 4 5 6 7 8 9	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and	2 3 4 5 6 7 8 9 10	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that.
2 3 4 5 6 7 8 9 10 11	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record.	2 3 4 5 6 7 8 9 10 11	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes.
2 3 4 5 6 7 8 9 10 11 12	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Sever Record, R.	2 3 4 5 6 7 8 9 10 11 12	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that.
2 3 4 5 6 7 8 9 10 11 12 13	possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Some Record, R. G. How old are you?	2 3 4 5 6 7 8 9 10 11 12 13	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting
2 3 4 5 6 7 8 9 10 11 12 13 14	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Some Record, R. Some Record. A. 17 years old. 	2 3 4 5 6 7 8 9 10 11 12 13 14	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting changed, and a bunch of people were getting ready to
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Some Resolved, Resolved, Q. How old are you? A. 17 years old. Q. Do you attend school? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting ready to shower, and A was about to get in the shower
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Some Remain, Remainder Remainder State State	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting ready to shower, and A was about to get in the shower when The table of the shower when The table of table of the table of table of the table of table of
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 possibility you might be called as a witness and, apparently, if you were present in a locker room, you might fall under that category, so I'm going to ask that you step out. Okay. Thank you. Go ahead. MS. BAUGES: Thank you, Your Honor. DIRECT EXAMINATION BY MS. BAUGES: Q. Could you please state your name and spell your last name for the record. A. Some Reference, Reference, Reference, Some and the state of the record. Q. How old are you? A. 17 years old. Q. Do you attend school? A. Yes, ma'am. Q. Where? A. Dietrich High School. Q. Were you on the Dietrich football team in October of 2015? A. Yes, I was. Q. So I'm going to direct your attention to October 22nd, 2015. Did you have practice that day? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Okay. And is that football field in Dietrich? A. Yes, it is. Q. County of Lincoln? A. Yes. Q. State of Idaho? A. Uh-huh. Q. Okay. Did anything unusual happen after practice on that day? A. Yes. Q. Could you please describe that. A. We were all in the locker room getting ready to shower, and A was about to get in the shower when T came up behind him with a hanger and put it in his butt. And then John was sitting – John – I can't remember his last name was sitting on the bench by the lockers behind T – or A and was kicking it. Q. And what happened after that? Do you know? A. A multiple the hanger out and stumbled

1 A. Just laughing: 1 BY MS: BAUGES: 3 MR: WCOD: Objection. No foundation. He's 3 A. He looked like he was in pain. 4 indicated he left the room. Could he see who was 4 Q. Now, you said a person named Time was 6 THE COURT: I don't know that it was a 7 A. Yes, It is. 7 THE COURT: Ckay. Go ahead. 7 A. Yes, It is. 8 Q. Do you see that person. Time in the Courtoron today? 10 BY MS: BAUGES: I can rephrase. 8 Q. Do you see that person. Time in the 11 Q. At the time that you were actually in the 1 Q. Could you please point out where he's 11 Cocker com observing the hanger – the hanger 11 Q. Could you please point out where he's 12 TIME was showing it in, and somebody was – 11 MS. BAUGES: Thank you. 13 A. Yes, Time and ubne were laughing at 14 MS. BAUGES: Thank you. 14 A. Yes, It ko. MS. BAUGES: Thank you. 11 14 A. Yes, It ko. MS. BAUGES: Thank you. 16 15 A. Yes, It ko. MS. BAUGES: Thank you. 17 16 A. Ye				
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4 indicated he left the room. Could he see who was 4 Q. Now, you said a person named T was 5 laughing or not? 5 the one who initially inserted the hanger into 6 THE COURT: I don't know that it was a 7 A. Yes, it is. 7 hornological question. 8 M. S. BAUGES: I can rephrase. 7 A. Yes, it is. 10 BY MS. BAUGES: I can rephrase. 7 A. Yes, it is. 9 Q. Do you see that person, T in the 10 BY MS. BAUGES: I can rephrase. 7 A. Yes, it is. 9 Q. Do you see that person, T in the 10 BY MS. BAUGES: I can rephrase. 10 C. Could you please point out where he's 10 11 BY MS. BAUGES: I can rephrase. 10 A. Yes, I do. 11 10 C. Could you please point out where he's 12 incident will call the you wais disomebody was - 14 A. A blue tie and a gray shirt. 15 MS. BAUGES: Thank you. 10 10 further questions. 12 addition the defendant. 11 MS. BAUGES: Thank you. Your Honor. No 10 10 further questions. 11 11 MS. BAUGES: Thank you. Your Honor. No <tr< td=""><td>2</td><td>Q. Who was laughing?</td><td>2</td><td>Q. Could you please restate that.</td></tr<>	2	Q. Who was laughing?	2	Q. Could you please restate that.
 s laughing or not? THE COURT: I don't know that it was a chronological question. MS. BAUGES: I can rephrase. THE COURT: Okay. Go ahead. D' A. A the time that you were actually in the locker room observing the hanger - the hanger indicated well call it - you said somebody was indicated well call it - you well said it for the farwards. During that time frame, did you have it furth you you you observe anything about it furth you you you have to you well for you? A. He looked like he was clearly in pain. MR. WOOD: Objection. No, It withing an it would you please draw - first, could you angle that if drawing board a little more towards myself and the prosecutor but so that the judge can see it, please. Can you see that? THE COURT: The you. You have far you well well for you.	3	MR. WOOD: Objection. No foundation. He's	3	A. He looked like he was in pain.
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 chronological question. MS BAUGES: I can rephrase. THE COURT: Okay. Go ahead. WAS. BAUGES: A. the time that you were actually in the courtor today? A. Yes, I do. C. Could you please point out where he's seated and identify an article of clothing that he's wearing. A. Yes, I do. C. Could you please point out where he's seated and identify an article of clothing that he's wearing. A. Yes, I do. C. Could you please point out where he's seated and identify an article of clothing that he's wearing. A. Yes, III, and Somebody vas - artherwards. During that time frame, did you hear A. Yes, IIII and John were laughing at A. Yes, IIII and John were laughing at A. Yes, IIII and John were laughing at A. He looked like he was clearly in pain. MR. WOOD: Objection. No, I'll withdraw it. Z. Kusus me, sir. Z. THE COURT: Mr. Wood. THE COURT: You might try this one. Oh, there's a whole set. COSS EXAMINATION BY MR. WOOD: Q. Mr. REW would you indoming around and standing in front of the drawing board. And could you please draw first, could you angle that drawing board a little more towards myself and the toroughout hey incident with the hanger; is that Courtor but so that the judge can see it, please. C. Any yue see that? THE COURT: I'm good. I can lean out. BY MR. WOOD: Q. You uplease draw, taking up as much d. Here, did you ever see III move from that correct? A. Yes, sir. G. You were standing in front of it. G. You were standing in front of it. G	5	laughing or not?	5	the one who initially inserted the hanger into
8 MS_BAUGES: I can rephrase. 8 Q. Do you see that person, T in the 9 THE COURT: Okay. Go ahead. 9 courtroom today? 11 Q. At the time that you were actually in the 10 Q. Could you please point out where he's 12 locker room observing the hanger the hanger 13 waaring. 12 locker room observing the hanger the hanger 13 waaring. 14 THE coult: and then there was staggering 14 A. A blue tie and a gray shirt. 15 kicking it, and somebody was 15 MS. BAUGES: Thank you. 16 afterwards. During that time frame, did you hear 16 No further questions. 17 anything? THE COURT: The record will reflect the 16 18 A. Yes, ID and John were laughing atout 16 MS. BAUGES: Thank you, Your Honor. No 10 Q. Okay. Did you observe anything about 20 MR. WOOD: Objection. No, I'll withdraw it. 20 MR. WOOD: Objection. No, I'll withdraw it. 21 THE COURT: Mr. Wood. 21 markers? 1 from. And you have drawn an R about halfway on that 22 COSS EXAMINATION BY MR. WOOD	6	THE COURT: I don't know that it was a	6	A state is butt. Is that the word you used?
 THE COURT: Okay. Go ahead. BY MS. BAUGES: C. At the time that you were actually in the locker room observing the hanger the hanger incident well call it you said somebody was incident well call it you might try this one. Oh, it	7	chronological question.	7	A. Yes, it is.
10 BY MS. BAUGES: 10 A. Yes, i do. 11 Q. At the time that you were actually in the Q. Could you please point out where he's 13 Incident well call t you said somebody was	8	MS. BAUGES: I can rephrase.	8	Q. Do you see that person, T
11 Q. At the time that you were actually in the 11 Q. Could you please point out where he's 12 locker room observing the hanger	9	THE COURT: Okay. Go ahead.	9	courtroom today?
12 locker room observing the hanger the hanger 12 seated and identify an article of clothing that he's 13 incident w'll call it you said somebody was 12 seated and identify an article of clothing that he's 14 Torn was showing it in, and somebody was 14 A. A blue tie and a gray shirt. 15 kicking it, and then there was staggering 15 MS. BAUGES: Thank you. 16 afterwards. During that time frame, did you hear 17 THE COURT: The record will reflect the 16 A. Yes. Torn and John were laughing at 18 MS. BAUGES: Thank you, Your Honor. No 17 THE COURT: The record will reflect the 18 identification of the defendant. 19 A. He looked like he was clearly in pain. 17 THE COURT: Sure. Until you get those knees 20 O. Okay. Did you observe anything about 20 ITHE COURT: Sure. Until you get those knees 21 markers? 20 THE COURT: Sure. Until you get those knees 21 markers? 1 from. And you have drawn an R about halfway on that 2 THE COURT: You might thy this one. Oh, 1 from. And you have drawn an R about halfway on that 3 A. Yes. 4 <td>10</td> <td>BY MS. BAUGES:</td> <td>10</td> <td>A. Yes, I do.</td>	10	BY MS. BAUGES:	10	A. Yes, I do.
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14 Time was showing it in, and somebody else was 14 A. A blue tie and a gray shirt. 15 kicking it, and then there was staggering 15 MS. BAUGES: Thank you. 17 anything? 16 No further questions. 18 A. Yes. Time and John were laughing at 17 THE COURT: The record will reflect the 19 Amer. 18 identification of the defendant. 20 Q. Okay. Did you observe anything about 20 further questions. 21 Amer. MR. WOOD: Objection. No, I'll withdraw it. 23 23 MR. WOOD: Objection. No, I'll withdraw it. 23 THE COURT: Mr. Wood. 24 Excuse me, sir. 24 replaced, do you want me to carry it for you? 25 7 MR. WOOD: May I retrieve the drawing board? 26 7 And there's a bench that runs around what 27 THE COURT: You might try this one. Oh, 3 3 there's a whole set. 1 4 Q. And there's a bench that runs around what 1 5 CROSS EXAMINATION BY MR. WOOD: 1 A. Yes. 1 dana standing in front of the drawing board. And<	12	locker room observing the hanger the hanger	12	seated and identify an article of clothing that he's
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18 A. Yes. T and John were laughing at 18 identification of the defendant. 19 A. M. Wood. 20 20 Q. Okay. Did you observe anything about 20 further questions. 21 A. He looked like he was clearly in pain. 18 identification of the defendant. 22 A. He looked like he was clearly in pain. 17 THE COURT: Mr. Wood. 22 A. He looked like he was clearly in pain. 18 identification of the defendant. 23 MR. WOOD: Objection. No, I'll withdraw it. 22 MR. WOOD: May I retrieve the drawing board? 24 Excuse me, sir. 23 THE COURT: Sour Unit you get those knees 25 7 8 1 from. And you have drawn an R about halfway on that 25 CROSS EXAMINATION BY MR. WOOD: 6 1 from. And you have drawn an R about halfway on that 3 datading in front of the drawing board. And 6 0. Kores standing in front of it. 18 4 Can you see that? 1 8 0. You were standing in front of it. 19 5 cold you please draw - first, could you angle that 9 0. You were standing in front of it.	17		17	THE COURT: The record will reflect the
 A Markers? A. He looked like he was clearly in pain. MR. WOOD: Objection. No, I'll withdraw it. Excuse me, sir. THE coURT: Sure. Until you get those knees treplaced, do you want me to carry it for you? THE COURT: Sure. Until you get those knees treplaced, do you want me to carry it for you? THE COURT: Sure. Until you get those knees treplaced, do you want me to carry it for you? there's a whole set. GROSS EXAMINATION BY MR. WOOD: and standing in front of the drawing board. And could you please draw – first, could you angle that drawing board a little more towards myself and the proscutor but so that the judge can see it, please. Can you see that? THE COURT: I'm good. I can lean out. BY MR. WOOD: Woold you please draw, taking up as much of that piece of paper as possible, the locker room, the floor layout of the locker room. Woody out this incident with the hanger; is that correct? A. Yes, sir. Q. You neever left or you weren't taking a shower or something like that? A. Iwas changing throughout the event. Q. You neever left or you weren't taking a shower or something like that? A. Iwas changing throughout the event. Q. You neever left or you weren't taking a shower or something like that? A. Iwas changing throughout the event. A. Not really. He followed A mover to there, did you ever see There. He was walking towards it when I was leaving. 			18	identification of the defendant.
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25 25 MR. WOOD: (Inaudible.) Do we have any 1 markers? 8 1 THE COURT: You might try this one. Oh, 1 from. And you have drawn an R about halfway on that 2 THE COURT: You might try this one. Oh, 1 from. And you have drawn an R about halfway on that 3 A. Yes. 3 A. Yes. 4 0. Mr. Referst would you mind coming around 6 that bench? 7 and standing in front of the drawing board. And 7 A. I was standing in front of it. 8 could you please draw first, could you angle that 8 Q. You were standing in front of it. 9 oraw you see that? 7 A. I was standing in front of it. 10 prosecutor but so that the judge can see it, please. 1 Q is that correct? Excuse me? 12 THE COURT: I'm good. I can lean out. 13 Q. Because we're on tape, you've got to 15 of that piece of paper as possible, the locker room. 14 Speak real loud. 15 of that piece of paper as possible, the locker room. 16 Q. I don't mean to be yelling at you either, 16 correct? 20 A. Yes. 18 20 A. Yes, sir. 20 Q. You never left or you weren't taking a 21 A. I was changi		-		
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2THE COURT: You might try this one. Oh, there's a whole set.wall of lockers that exists in that room; correct?3A. Yes.4CROSS EXAMINATION BY MR. WOOD: Q. Mr. Rem, would you mind coming around and standing in front of the drawing board. And could you please draw first, could you angle that drawing board a little more towards myself and the prosecutor but so that the judge can see it, please.7A. Iwas standing in front of it. Q. You were standing in front of it. Q. You were standing in front of it.10Can you see that?7A. Iwas standing in front of it. throughout everything you have told the judge A. Yes.11Can you see that?11Q is that correct? Excuse me?12THE COURT: I'm good. I can lean out.12A. Yes.13BY MR. WOOD:13Q. Because we're on tape, you've got to14of that piece of paper as possible, the locker room.14Shower of something like the locker room.17Now, you were present in this room16A. Yes.18throughout this incident with the hanger; is that correct?17Would you please put an "T" for where19Q. You never left or you weren't taking a shower or something like that?18Not really. He followed A mover form that 221A. Iwas changing throughout the event.2A. Not really. He followed A mover to the sink area over here. He was walking towards it when I was leaving.		7		8
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1	Q. And when you say "the sink area," you	1	Q. Where is A locker?
2			A. I think it's over here.
	point to the top of your diagram, a little square	2	
3	that is right at the top of your diagram?	3	Q. I'm not asking what you think. Do you
4	A. Yeah. There's a doorway right here by	4	know where his locker is? You've just drawn a
5	the lockers, and across from the doorway is sinks	5	circle. Would you put an "A" in that circle if
6	and then a stall for a bathroom.	6	that's A
7	Q. Okay. And it's your testimony under oath	7	it's A size is If you think that's A size is locker,
8	that The was at T and never really moved, huh?	8	put an "A" in it. And you did, huh?
9	A. As I said before, he walked towards T	9	A. Yes.
10	or A as I was leaving the building or	10	Q. Now, it's an upside down A. It's right
11	leaving the room.	11	side up to you, but upside down to me, huh?
12	Q. Okay. Now, when you saw Mr. W	12	A. Iguess, yeah.
13	did you hear him say anything?	13	Q. Had you seen A over by his locker?
14	A. I didn't really hear him say anything.	14	A. No.
15	Q. Excuse me?	15	Q. What was he doing?
16	A. I didn't really hear him say anything.	16	A. He was undressing, getting ready to
17	Q. And you're sure of that?	17	shower.
18	A. Yes.	18	Q. He was undressing all the way over there
19	Q. Could you please write down an "A" for	19	at A, huh?
20	A where A was during this.	20	A. Uh-huh.
21	A. Where he started?	21	Q. Why wasn't he undressing over at his
22	Q. Where he started. That would be good.	22	locker?
23	And what is he doing there?	23	A. He never really undressed by his locker.
24	A. He was facing towards the sinks. He was	24	He just his clothes were scattered all throughout
25	undressing, getting ready to take a shower.	25	the locker room throughout the football season.
	11		12
1	Q. Were you hearing A say something at	1	A. The curved part that rests in the
2	A?	2	shoulders of a shirt.
3	A. I didn't really pay attention to what	3	Q. Okay. And would you describe that hanger
4	anybody was saying.	4	to us.
5	Q. So he might have been saying things, and	5	
5			A. It was like a would you like me to
6	you didn't	6	draw it?
6 7	you didn't A. He could have.	7	draw it? Q. No, sir. I'd like you to describe it to
6 7 8	you didn't A. He could have. Q didn't notice? You've told us that	7 8	draw it? Q. No, sir. I'd like you to describe it to us verbally.
6 7 8 9	you didn't A. He could have. Q didn't notice? You've told us that you saw A	7 8 9	draw it? Q. No, sir. I'd like you to describe it to us verbally. A. It was like an upside down V with a
6 7 8 9 10	you didn't A. He could have. Q didn't notice? You've told us that you saw A move. Can you do a broken line in the direction you saw him move. And as T	7 8 9 10	draw it? Q. No, sir. I'd like you to describe it to us verbally. A. It was like an upside down V with a horizontal bar that goes across the bottom of it
6 7 8 9 10 11	you didn't A. He could have. Q didn't notice? You've told us that you saw A move. Can you do a broken line in the direction you saw him move. And as T stood there, are you telling us that he already had the	7 8 9 10 11	draw it? Q. No, sir. I'd like you to describe it to us verbally. A. It was like an upside down V with a horizontal bar that goes across the bottom of it with a hook on top.
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6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 you didn't A. He could have. Q didn't notice? You've told us that you saw A move. Can you do a broken line in the direction you saw him move. And as T stood there, are you telling us that he already had the hanger in his hand, that T had a hanger in his hand as he stood there at T? A. Yes. Q. And you're sure of that? A. Yes. Q. How was he holding it? A. Like this. By his side. Q. Excuse me? A. By his side. Q. And what part of the hanger did he have ahold of? A. The curved part that rests in the 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 draw it? Q. No, sir. I'd like you to describe it to us verbally. A. It was like an upside down V with a horizontal bar that goes across the bottom of it with a hook on top. Q. And the hangers that I think of are coat hangers. Is that a fair description of what this thing was? A. Yes. Q. And the coat hangers I'm familiar with have a hook on top that comes off the top of the incline sides. Is that a fair description of this coat hanger? A. Yes. Q. And coat hangers can be made out of various materials. So what material was this coat hanger made out of?

4	^	Voc Lam	4	Δ	Maybe 30 seconds to a minute.
1		Yes, I am.	1	A.	-
2		Was it different in size or shape from	2	Q.	Did he say anything after he picked it
3	the norm		3	up?	
4		No.	4	A.	No.
5		coat hanger? So the hook was a hook,	5	Q.	Are you sure of that?
6		s bent down back towards the hanger	6	Α.	Yes.
7		Yes.	7	Q.	
8	-	correct? Excuse me?	8		of John Howard. And you're putting that JH
9	Α.	Yes.	9	right abou	ut the same place as the hanger originally
10	Q.	And it is your testimony under oath that	10	was; corr	ect?
11	T h	ad that coat hanger in his hand at T? Am I	11	Α.	Yes.
12	understar	nding that correctly?	12	Q.	And you're sure of that?
13	Α.	Yes	13	Α.	Yes.
14	Q.	Did you see where T W got that	14	Q.	And was he seated or standing?
15	hanger?		15	Α.	He was seated.
16	Α.	It was sitting on this bench.	16	Q.	And how was he dressed?
17	Q.	So you're telling us you saw	17	Α.	He had a pair of shorts and a shirt.
18	Α.	(Unintelligible.)	18	Q.	And was he saying anything?
19	Q.		19	Α.	Not that I'm aware of.
20	Α.	Uh-huh.	20	Q.	Could he have said things that you didn't
21	Q.	Excuse me?	21	hear?	0 ,
22		Yes.	22		He probably could ha∨e, yes.
23		And when did you see him pick it up?	23		You're not really paying close attention
24	A.	Before it all happened.	24		folks, are you?
25	Q.	How long before it all happened?	25	A.	Not at the time. I was just trying to
25	۵.	15	20	 .	16
1	get out o	f there.	1	Q.	So will you please put a circle along
2	Q.	Just getting dressed and going home, huh?	2	that dotte	d line for the position A was in when
3	Right?		3	he whe	n you say T
4	Α.	Yeah. I wasn't really listening to what	4	between	his buttocks.
5	they were	e saying. I was watching.	5	Α.	What do you mean a circle? Which way he
6	Q.	And it is your testimony that you	6	was facir	ng?
7	actually s	aw T	7	Q.	No. I'm
8	-	buttocks?	8	Α.	How would a circle help that?
9	Α.	Yes.	9	Q.	-
10	Q.	And you are at R when that happens?	10	location.	So just a normal zero. So you have
11		Yes.	11		irtually in the same location; true?
12	Q.	How many feet is that approximately? I	12	Α.	He was facing towards the showers.
13		I can't say for sure.	13	Q.	He's at an angle?
14	•	Maybe 15.	14	Α.	Yes.
15	Q.	How many?	15	Q.	Has Terror moved?
16	Α.		16	Α.	No.
17	Q.	10 or 15?	17	Q.	And how is A dressed?
18		(No audible response.)	18	Â.	He was wearing a pair of underwear and
19		And you couldn't tell from the angle that	19		k them off.
20		looking at whether that coat hanger somehow	20	Q.	So the underwear is on the floor at zero?
21	-	Antwon's anus, could you?	21	A.	Somewhere around there.
22	•	No, I could not.	22	Q.	So even before A, huh?
23		All you know is that it went between his	23	A.	(No audible response.)
24	buttocks;	-	24	Q.	Excuse me?
25		Yes.	25	A.	Yes.
		17			18
			1		

1	Q. So when A is at A, he is totally	1	THE COURT: You may proceed.
2	naked?	2	THE WITNESS: It was in there from the time
3	A. Yes.	3	that it went in until the time I left.
4	Q. And you're sure of that?	4	BY MR. WOOD:
5	A. Yes.	5	Q. And how long would you say that was?
6	Q. Prior to or simultaneous with no,	6	A. I don't know.
7	strike that. Was Taking or seated?	7	Q. Could it have been five seconds?
8	A. He was standing.	8	A. Maybe a minute or so.
9	Q. And was A standing or seated?	9	Q. You're saying maybe a minute or so? So
10	A. He was standing.	10	you think it could have been as much as a minute
11	Q. How long was the hanger between A	11	A. Yeah.
12	buttocks?	12	Q is that correct?
13	A. Well, I didn't exactly time it.	13	A. Yes.
14	Q. And I understand that, sir. If you'd	14	Q. And in that minute, did you see who
15	just give us your best estimate. We are counting on	15	pulled it out?
16	you to be as accurate as you can be, but I	16	A. No, I did not.
17	understand that you didn't have a stopwatch.	17	Q. After it was placed between his buttocks,
18	A. I don't know how long it was in.	18	which way did A go?
19	Q. Well, let's do it this way. Could it	19	A. Towards the line.
20	have been for five seconds?	20	Q. Well, your line now portrays that towards
21	MS. BAUGES: Objection, asked and answered.	21	the sinks, huh?
22	The witness has said he doesn't know.	22	A. Yes.
23	MR. WOOD: It is not asked and answered. "I	23	Q. Is he saying anything?
24	don't know" invites approximation, and it invites	24	A. He was acting as if he was in pain.
25	hypothetical	25	Q. And can you describe that moment
25	19	25	
			20 A. Yes.
1	particularly? What are the things he was doing that	1	
2	caused you to believe that he was acting as if he's	2	Q. And you understand you're under oath?
3	in pain?	3	A. Yes.
4	A. Well, the sounds he was making. He was	4	Q. And you understand that we're looking for
5	moaning as if in pain.	5	accurate testimony; correct?
6	Q. Was me saying any words?	6	A. Yes.
7	A. No, he was not. Not that I recall.	7	Q. And you're being careful to be accurate?
8	Q. And how far down that dotted line was	8	A. Yes.
9	A when you left the room?	9	Q. Did T ill say anything as he placed that
10	A. Just about to the sink.	10	coat hanger between A
11	Q. How far would you say?	11	A. No, he did not.
12	A. Maybe about here.	12	Q. Did you ever hear him say anything
13	Q. And how many feet is that?	13	with words, I'm saying. I'm asking about between
14	A. About 5 or so maybe.	14	A being at A and arriving at 5 feet to these
15	Q. You've drawn another circle along the	15	sinks, did you ever here T
16	dotted line that is much closer to the sinks, and	16	A. I heard him laughing.
17	you say that's about 5 feet or so, huh?	17	Q. And you watched these proceedings, and
18	A. Yes.	18	you stood there and watched?
19	Q. Was the hanger still in his between	19	A. As I said before, I was getting dressed,
20	his buttocks when he reached that location?	20	and I left.
21	A. As I said before, it was in there from	21	Q. So you continued in the operation of
22	the time that it happened until the time I left.	22	getting dressed, getting your clothes on; correct?
23	Q. And so he still had that between his	23	You were involved that was your primary function
24	buttocks within 5 feet of the sinks is your	24	at that time was putting your clothes on
25	testimony?	25	A. Yes.
	21		22

1	Q.	and getting out of there? What door	1	Twa	s laughing based on what your ears told
2	did you le	ave by?	2	you; correc	ct?
3	Α.	This door.	3	Α.	I watched him as I walked out of the
4	Q.	So you went out that door that's up by	4	room. As	I was walking over here, I turned around
5	the sinks,	and in approaching that door, where was	5	Q.	Wait a minute. You just told us you were
6	Т		6	walking ou	t of the room and your eyes
7	— <u>A</u> .	He was maybe about here following A	7	Α.	No. I told you I was facing the door.
8	Q.	So you've got him along that dotted line	8	My back w	as to Terror as I was walking out the door.
9	too, altho	ugh way up towards the A	9	Q.	And so you were turned around watching
10	Α.	Yes.	10	T ana as	you walked out the door, huh?
11	Q.	correct? Excuse me?	11	Α.	I was walking along here, and I could see
12	Α.	Yes.	12	them until	I turned here to go out the door.
13	Q.	And so you walked down those lockers and	13	Q.	And you claim you could see them
14		nd that little partition and then out the	14	laughing?	
15	door?		15		Yes.
16	Α.	Yes.	16		And you're sure of that?
17	Q.	You didn't stop and become involved with	17		Yes.
18		r have any exchanges with T error or John	18	Q.	And you're sure that when A
19	Howard, d		19		don't you put a "2" in that top circle,
20		No.	20		at's 5 feet from the sink so I can call
21		And, in fact, your back was to John	21		Okay. You're sure that that coat
22		nd Territaria as you traveled down those lockers	22		s still between A
23		e corner and out the door, wasn't it?	23	reached ci	
24		Yes.	24	A.	
25		So you're telling us that you think	25		Correct?
20	Q .	23		ς.	24
1	Α.	Yes.	1	Α.	T s hand had left the hanger before
1	A. Q.	Yes. But at that time, you were around the	1		T aking 's hand had left the hanger before ard started kicking.
1 2 3	Q.	But at that time, you were around the	1 2 3	John How	T urned 's hand had left the hanger before ard started kicking. And so once it went between A nalys is
2	Q. corner an	But at that time, you were around the dheaded out the door. You're not watching	2	John How Q.	ard started kicking. And so once it went between A
2 3	Q. corner an what's go	But at that time, you were around the	2 3 4	John How Q. buttocks, y	ard started kicking. And so once it went between A nd So rou're saying T able 1 took his hand off
2 3 4	Q. corner an what's go A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah.	23	John How Q. buttocks, y that coat h	ard started kicking. And so once it went between Americans rou're saying Target took his hand off anger right away?
2 3 4 5 6	Q. corner an what's go A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me?	2 3 4 5	John How Q. buttocks, y that coat h A.	ard started kicking. And so once it went between Articles rou're saying The took his hand off anger right away? Yes.
2 3 4 5	Q. corner an what's go A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah.	2 3 4 5 6	John How Q. buttocks, y that coat h A. Q.	ard started kicking. And so once it went between Americans rou're saying Target took his hand off anger right away?
2 3 4 5 6 7	Q. corner an what's go A. Q. A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A	2 3 4 5 6 7	John How Q. buttocks, y that coat h A. Q. A.	ard started kicking. And so once it went between Articles's rou're saying Territory took his hand off anger right away? Yes. And you're sure of that?
2 3 4 5 6 7 8 9	Q. corner an what's go A. Q. A. Q. buttocks o	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A	2 3 4 5 6 7 8	John How Q. buttocks, y that coat h A. Q. A. Q.	ard started kicking. And so once it went between Article's rou're saying Termine took his hand off anger right away? Yes. And you're sure of that? Yes. And that's when John Howard started
2 3 4 5 6 7 8	Q. corner an what's go A. Q. A. Q. buttocks o	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A	2 3 4 5 6 7 8 9	John How Q. buttocks, y that coat h A. Q. A.	ard started kicking. And so once it went between Amounts rou're saying Thinking took his hand off anger right away? Yes. And you're sure of that? Yes. And that's when John Howard started t?
2 3 4 5 6 7 8 9 10 11	Q. corner an what's go A. Q. A. Q. buttocks o A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A 's one time? Yes. That's all that had happened in that	2 3 4 5 6 7 8 9 10	John How Q. buttocks, y that coat h A. Q. A. Q. kicking at i A.	ard started kicking. And so once it went between Amounts rou're saying Thinking took his hand off anger right away? Yes. And you're sure of that? Yes. And that's when John Howard started t?
2 3 4 5 6 7 8 9 10	Q. corner an what's go A. Q. A. Q. buttocks o A. Q. locker roo	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A	2 3 4 5 6 7 8 9 10 11	John How Q. buttocks, y that coat h A. Q. A. Q. kicking at i A. Q.	ard started kicking. And so once it went between A source it went between A source it was pou're saying T took his hand off anger right away? Yes. And you're sure of that? Yes. And that's when John Howard started t? Yes.
2 3 4 5 6 7 8 9 10 11 12	Q. corner an what's go A. Q. buttocks o A. Q. locker roo A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A 's one time? Yes. That's all that had happened in that om that day as far as you're concerned? As far as I seen.	2 3 4 5 6 7 8 9 10 11 12	John How Q. buttocks, y that coat h A. Q. kicking at i A. Q. was up bet	ard started kicking. And so once it went between Amounts rou're saying Total took his hand off anger right away? Yes. And you're sure of that? Yes. And that's when John Howard started t? Yes. And you're sure it was the hook end that
2 3 4 5 6 7 8 9 10 11 12 13 14	Q. corner an what's go A. Q. buttocks o A. Q. locker roo A.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A You saw a coat hanger go between A Yes. That's all that had happened in that on that day as far as you're concerned? As far as I seen. As far as you saw, right. (Inaudible.)	2 3 4 5 6 7 8 9 10 11 12 13	John How Q. buttocks, y that coat h A. Q. kicking at i A. Q. kicking at i A. Q. was up bet A.	ard started kicking. And so once it went between A started so rou're saying T took his hand off anger right away? Yes. And you're sure of that? Yes. And that's when John Howard started t? Yes. And you're sure it was the hook end that tween A started's buttocks? Yes.
2 3 4 5 6 7 8 9 10 11 12 13	Q. corner an what's go A. Q. A. Q. buttocks o A. Q. locker roo A. Q.	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A You saw a coat hanger go between A Yes. That's all that had happened in that om that day as far as you're concerned? As far as I seen. As far as you saw, right. (Inaudible.) At the time it was placed between his	2 3 4 5 6 7 8 9 10 11 12 13 14	John How Q. buttocks, y that coat h A. Q. kicking at i A. Q. was up bet A. Q.	ard started kicking. And so once it went between A sources sources ago and the source of the source of the source of the source of the sources of the source
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. corner an what's go A. Q. buttocks of A. Q. locker roo A. Q. buttocks,	But at that time, you were around the d headed out the door. You're not watching ing on; right? Yeah. Excuse me? Yeah. You saw a coat hanger go between A You saw a coat hanger go between A Yes. Yes. That's all that had happened in that om that day as far as you're concerned? As far as I seen. As far as you saw, right. (Inaudible.) At the time it was placed between his would you describe how that happened.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	John How Q. buttocks, y that coat h Q. A. Q. kicking at i A. Q. was up bet A. Q. that coat h	ard started kicking. And so once it went between A rou're saying T took his hand off anger right away? Yes. And you're sure of that? Yes. And that's when John Howard started t? Yes. And you're sure it was the hook end that tween A S buttocks? Yes. How many times did John Howard kick at anger total?
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	Q. Did you hear John I'm sorry. Did you	1	MS. BAUGES: Actually, you can just leave it
2	hear T	2	there, if you don't mind.
3	kicking that coat hanger?	3	MR. WOOD: I just want to turn it around so
4	A. As I said before, I heard him laughing.	4	the judge can see it a little better. Go ahead and
5	Q. And it's your position that he continued	5	climb back and sit down and I'll get this out of
6	to laugh as the kicking went on?	6	your way.
7	A. Yes.	7	MS. BAUGES: Actually, I'm going to use it
8	Q. Now, on direct I believe you testified	8	right now, so you can stay there, and we can leave
9	that A pulled the hanger from between his	9	the exhibit right there, Counsel.
10	buttocks. Did I hear you right about that?	10	THE COURT: I'm not sure Mr. Wood's done.
11	A. He yeah. He was his hand was	11	MS. BAUGES: Oh, okay.
12	Q. So he put you said yes? I did hear	12	THE COURT: Are you done with this witness?
13	you right about that? That was your testimony on	13	MR. WOOD: Oh, sir, would you mind initialling
14	direct; right?	14	that and put today's date on it.
15	A. Yes. He was reaching back to pull it out	15	THE COURT: Mr. Wood, do you have any other
16	as I was leaving the room.	16	questions of this witness?
17	Q. And did you see him actually pull it out?	17	MR. WOOD: Yes, I do.
18	A. No, I didn't see him actually pull it	18	S ame , you may sit down again.
19	out.	19	BY MR. WOOD:
20	Q. You didn't see anybody actually pull it	20	Q. Now, after this incident, you were
21	out, huh?	21	interviewed by Mr. Hardcastle at the Dietrich
22	A. No.	22	school, weren't you?
23	MR. WOOD: I think that's all I've got on the	23	A. Yes, I was.
24	diagram. I'm going to move it, and then you can use	24	Q. And you told Mr. Hardcastle that you saw
25	it if you want to redirect on it.	25	T pull the coat hanger out of A state is butt,
	27		28
1	didn't you?	1	Q. What, was it like Monday or Tuesday of
-	A. I don't remember exactly what I told him.		the next week?
2	-	2	
2 3	That's been a while ago.	3	A. I don't remember exactly what day it was.
	That's been a while ago. Q. Well, wouldn't you have told him the	-	A. I don't remember exactly what day it was.Q. But it was pretty quick after the
3	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the	3 4 5	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred?
3 4 5 6	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you?	3 4 5 6	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so.
3 4 5 6 7	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes.	3 4 5 6 7	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that
3 4 5 6 7 8	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and	3 4 5 6 7 8	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that
3 4 5 6 7 8 9	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and give Mr. Hardcastle accurate information	3 4 5 6 7 8 9	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that The went over and pulled the coat hanger out of A butt?
3 4 5 6 7 8 9 10	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and give Mr. Hardcastle accurate information A. Yes.	3 4 5 6 7 8 9 10	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that The went over and pulled the coat hanger out of A butt? A. Yeah.
3 4 5 6 7 8 9 10	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and give Mr. Hardcastle accurate information A. Yes. Q weren't you?	3 4 5 6 7 8 9 10 11	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that The went over and pulled the coat hanger out of A Yeah. Q. You did not tell Mr. Hardcastle that you
3 4 5 6 7 8 9 10 11 12	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and give Mr. Hardcastle accurate information A. Yes. Q weren't you? A. Yes.	3 4 5 6 7 8 9 10 11 12	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that The went over and pulled the coat hanger out of A yeah. Q. You did not tell Mr. Hardcastle that you had seen The stick that coat hanger in A stick that coat hanger in
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3 4 5 6 7 8 9 10 11 12 13 14 15 16	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and give Mr. Hardcastle accurate information A. Yes. Q weren't you? A. Yes. Q. I mean, he's like the district supervisor of your school district where you go to school; right? A. Yes.	3 4 5 6 7 8 9 10 11 12 13 14 15 16	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that The went over and pulled the coat hanger out of A week. A Yeah. Q. You did not tell Mr. Hardcastle that you had seen The stick that coat hanger in A stick 's buttocks, did you? A. I believe I did. Q. I'm not asking what you believe, Mr. Reference I in asking what do you remember that you
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and give Mr. Hardcastle accurate information A. Yes. Q weren't you? A. Yes. Q. I mean, he's like the district supervisor of your school district where you go to school; right? A. Yes. Q. You knew it was serious?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that The went over and pulled the coat hanger out of A yeah. Q. You did not tell Mr. Hardcastle that you had seen The stick that coat hanger in A size 's buttocks, did you? A. I believe I did. Q. I'm not asking what you believe, Mr. Reference I im asking what do you remember that you can swear to under oath?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	That's been a while ago. Q. Well, wouldn't you have told him the truth? You would have told Mr. Hardcastle the truth, wouldn't you? A. Yes. Q. I mean, you were trying to be careful and give Mr. Hardcastle accurate information A. Yes. Q weren't you? A. Yes. Q. I mean, he's like the district supervisor of your school district where you go to school; right? A. Yes. Q. You knew it was serious? A. Yes.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. I don't remember exactly what day it was. Q. But it was pretty quick after the incident occurred? A. Maybe a week or so. Q. And you admit that you told him that The went over and pulled the coat hanger out of A Yeah. Q. You did not tell Mr. Hardcastle that you had seen The stick that coat hanger in A stick 's butt's A. I believe I did. Q. I'm not asking what you believe, Mr. R I masking what do you remember that you can swear to under oath?
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	A 14 1 11		
1	A. Yes, I did.	1	tape measured those out, the exact distance?
2	Q. And you're sure of that?	2	A. Just guessing.
3	A. Yes, I am.	3	Q. You're just guessing. Okay. There were
4	MR. WOOD: One minute, please.	4	a couple of questions I just wanted to clarify. And
5	(Discussion held off the record.)	5	you can go ahead and sit down now. There were a
6	MR. WOOD: Thank you.	6	couple of questions I just wanted to clarify. You
7	THE COURT: Redirect.	7	had testified that you had seen Testing pick up the
8	MS. BAUGES: Thank you, Your Honor.	8	hanger; is that correct?
9		9	A. Yes.
10	REDIRECT EXAMINATION BY MS. BAUGES:	10	Q. And then
11	Q. Why don't you come on over here by the	11	MR. WOOD: Excuse me. I missed that. I
12	diagram again. So when you drew this diagram, is	12	apologize. Would you mind repeating that question?
13	this to scale?	13	MS. BAUGES: That he had seen T
14	A. No.	14	the hanger.
15	Q. Okay. So and by "scale," I mean is	15	MR. WOOD: Okay. Thank you. Appreciate it.
16	this the exact amount of feet or distance between	16	BY MS. BAUGES:
17	these landmarks you've drawn?	17	Q. You got a few questions about: Was
18	A. No.	18	Terms always here? Was Terms always there? Was
19	Q. This is just your best approximation;	19	this a process? Were people moving throughout the
20	right?	20	locker room as this was going on?
21	A. Yes.	21	A. Yes. Most
22	Q. Okay. And when you were testifying on	22	Q. Did that include T
23	cross, you were asked very specific, you know, 5	23	A. Yes. He wasn't in the exact same spot
24	feet, 10 feet, that kind of a thing. Are you	24	throughout the entire thing.
25	guesstimating or are you absolutely positive, if we	25	Q. Okay.
	31		32
1	A. There was the entire football team was	1	A. I was facing towards the showers by the A
2	in there. Everybody was moving around.	2	while I was getting dressed.
2 3	in there. Everybody was moving around. Q. So when you answered questions about was	2 3	while I was getting dressed. Q. You said that you may not have been
2 3 4	in there. Everybody was moving around. Q. So when you answered questions about was he here the whole time, was that just at the time	2 3 4	while I was getting dressed. Q. You said that you may not have been paying attention to what you were hearing. Were you
2 3 4 5	in there. Everybody was moving around. Q. So when you answered questions about was he here the whole time, was that just at the time that the hanger was shoved up or what were you	2 3 4 5	while I was getting dressed. Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing?
2 3 4 5 6	in there. Everybody was moving around. Q. So when you answered questions about was he here the whole time, was that just at the time that the hanger was shoved up or what were you thinking about when you were answering those	2 3 4 5 6	 while I was getting dressed. Q. You said that you may not have been paying attention to what you were hearing. Were you paying attention to what you were seeing? A. Yes. Everybody was talking throughout
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1	Q. Okay. So there were two people there	1	Q. But you aren't sure?
2	when you were talking about this incident; correct?	2	MR. WOOD: Objection. She's leading. Telling
3	A. Yes.	3	a witness it's possible that he said this
4	Q. Okay. Do you remember exactly what you	4	THE COURT: That is a leading question.
5	said to them?	5	MS. BAUGES: Okay.
6	A. Not 100 percent, no.	6	BY MS. BAUGES:
7	Q. Okay. Is what you're testifying here	7	Q. So I think going back to the last
8	today the best of your recollection of this incident	8	question, you don't remember exactly what you said?
9	that happened in October?	9	A. No, I don't.
10	A. Yes.	10	Q. But you could have said something?
11	Q. Okay. So you just said you don't	11	A. Yes, ma'am.
12	remember exactly what you said to Mr. Hardcastle,	12	Q. Okay. Is this locker room very big?
13	and I think you said was it Ms. Shaw?	13	A. Not huge.
14	A. Mrs. Shaw, yes.	14	Q. Okay. About what size, would you say,
15	Q. Mrs. Shaw. Thank you. You had a couple	15	taking using this courtroom as a guide?
16	questions about: You said this, didn't you? Is	16	A. Maybe from the edge of that where the
17	your testimony that you actually remember saying	17	thermometer not thermometer, the thermostat is at
18	certain things to Mr. Hardcastle or Mrs. Shaw, or do	18	over.
19	you remember what you said to them?	19	Q. Okay. And then how deep?
20	A. I don't remember specifically what I	20	A. About like this.
21	said, if that's what you're asking.	21	Q. About like this. Okay. So you were
22	Q. Okay. It's possible you could have said	22	you fairly close
23	something to the effect of who took out the hanger;	23	A. Yeah.
24	is that correct?	24	Q to Animal and Taking when this was
25	A. Yes.	25	going on?
	35		36
1	A. Uh-huh.	1	BY MS. BAUGES:
2			
2	Q. Okay. You also said something I just	2	Q. What did you see after that?
3	Q. Okay. You also said something I just wanted to clarify. You said the hanger went in one	2	 Q. What did you see after that? A. I saw John kicking it.
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3 4 5	wanted to clarify. You said the hanger went in one time. Could you explain what you mean by that, the hanger went in one time.	3 4 5	 A. I saw John kicking it. Q. Okay. A. After The same had let go of it.
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1	THE COURT: S , thank you very much. You	1	is going to swear you in. You need to raise your
2	may step down.	2	right hand and face her.
3	MR. WOOD: May I approach the drawing board?	3	
4	THE COURT: Sure.	4	
5	MR. WOOD: I would like to move into evidence	5	
6	as Defense A this diagram that Mr. Received initialed	6	being produced as a witness on behalf of the
7	and dated 4/22/16.	7	plaintiff, was duly sworn on his oath and testified
8	MS. BAUGES: The State has no objection for	8	as follows:
9	appellate record purposes, but as the witness	9	
10	stated, it's not to scale. He's not sure of the	10	THE COURT: So, A
11	dimensions, so I would say to demonstrate what we	11	There's a little gate in front of that chair. Why
12	were talking about in testimony.	12	don't you just let yourself in and have a seat.
13	THE COURT: It's to be admitted to demonstrate	13	That's good.
14	the witness's testimony.	14	Go ahead.
15	MS. BAUGES: Thank you, Your Honor.	15	
16	THE COURT: Thank you.	16	DIRECT EXAMINATION BY MS. BAUGES:
17	(Defendant's Exhibit Ă, S ector R	17	Q. Could you please state your name and
18	Drawing, admitted.)	18	spell it for the record. Just your last name.
19	Next witness.	19	A. M
20	MS. BAUGES: The State calls A	20	Q. Okay. Now, go ahead and state your full
21	Your Honor.	21	name?
22	THE COURT: I'm going to guess that thing's	22	
23	going to come back out, isn't it, Mike?	23	Q. How old are you, A
24	Sir, if you'd come in, please, and just	24	A. I'm 18.
25	wait right there for a second. This lady over here	25	Q. Okay. How old were you on October 22nd,
	39		40
1	2015?	1	quick. I want to direct your attention to after
1 2	2015? A. Iwas 17.	1 2	quick. I want to direct your attention to after football practice.
		1	
2	A. I was 17.	2	football practice.
2 3	 A. I was 17. Q. Were you on the Dietrich football team in 	2 3	football practice. A. After football practice.
2 3 4	 A. I was 17. Q. Were you on the Dietrich football team in October of 2015? 	2 3 4	football practice. A. After football practice. Q. Okay?
2 3 4 5	 A. I was 17. Q. Were you on the Dietrich football team in October of 2015? A. Yes, I was. 	2 3 4 5	football practice. A. After football practice. Q. Okay? A. Okay.
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	to some have and locant events him and some him -		A Yeeh
	to come here, and I went over to him and gave him a	1	A. Yeah.
2	hug. He told me to give him a hug. He had his	2	Q. Do you see that person in the courtroom
3	hands out like he was going to give me a hug. And I	3	today?
4	gave him a hug, and he signaled for one of my other	4	A. Yes.
5	friends to come over, and he stuck a hanger up my	5	Q. Could you point to where he's seated and
6	butt. And then, like, he forced it in, and then another kid came over and kicked it in. And then he	6	pick out an article of clothing that he's wearing?
			A. Blue tie, first row, the first
8	pulled it out, and it was bleeding. And I didn't tell until after it	8	Q. Do you want to go ahead and point to where he is. Blue tie?
9		9	_
10	happened, the day after it happened, because one of	10	A. Yeah. THE COURT: The record will reflect
11	my little brothers said something to my parents, and they noticed.	12	identification of the defendant.
13	Q. And let me stop you right there. I'm	13	MS. BAUGES: Okay.
			BY MS. BAUGES: OKay.
14	going to go back to the hanger. So you previously	14	
15	testified you looked over your shoulder. Who did	15	Q. Now, I want to go into a little more
16	you see over your shoulder?	16	detail, and I apologize.
17	A. A was (unintelligible.) I hugged	17	A. That's all right.
18	A nne , and then T heorem , he shoved it up there, and I	18	Q. So you said so you felt an object go
19	saw him. Then, like, I fell into my friend's arms,	19	up your rectum?
20		20	A. Yes.
21	Q. And let me stop you right there again,	21	Q. Okay. When you very first felt that
22	because I want to focus on what you just told me.	22	object touch your skin, did it go all the way up
23	A. Okay.	23	your rectum or was there a pause or
24	Q. So you said a person named it was a	24	A. There was it hit, and then it got
25	person named T	25	shoved deeper in.
1	Q. Okay. Okay. When you say "it hit," what	1	MR. WOOD: Judge and I see this technique
2	do you mean it hit?	2	all the time, and I want to lodge an objection to
3	A. It hit the side, like the inside, and	3	it. I know that it's local practice to let the
4	then it got shoved in, and I screamed. And then it	4	lawyer go back over and repeat all the she's just
5	got kicked in deeper by John Howard.	5	buttressing her witness. I object to it. It's a
6	Q. Was there a difference in force between	6	violation of due process of law. The prosecutor is
7	when it was initially inserted and what you describe		testifying in this case, and I strongly object to
8	as the kicking?	8	what is local practice. Thank you.
9	A. What do you I don't	9	THE COURT: Objection noted. It's a
10	Q. That was a bad question. Could you feel	10	restatement of testimony in anticipation, I hope, of
11	well, let me ask this: You said the first time	11	a question.
12	it went in, and I mean actually went up your anus A. Yes.	12	BY MS. BAUGES:
13	Q you looked back, and you identified	13	Q. And then you testified that John kicked
14		14	it further in. And how did you know that, that it was John?
15	that that was Terret? A. Yeah.	15	
16		16	A. Because I looked behind me again. I fell
17	Q. Okay. And then you said you felt it get	17	forward, and then I looked behind me again to see
18	pushed or, excuse me, kicked deeper in?	18	what was happening, and it was John kicking it in
19	MR. WOOD: Objection. She's leading. The function of direct is not	19	deeper and deeper. And I turned around again, and I landed in my friend's arms
20		20	landed in my friend's arms.
21	THE COURT: She's restating the witness's	21	Q. Okay. How did you feel when this
22	testimony	22	happened?
23	MR. WOOD: to repeat the testimony.	23	A. Pretty upset and
24	THE COURT: and I haven't heard the	24	Q. How did you physically feel when this
25	question.	25	happened?
1	45		46

4	MR. WOOD: Excuse me?	4	again?
1		1	_
2	Q. How did you physically feel when this	2	THE COURT: You may.
3	happened?	3	
4	MR. WOOD: Thank you.	4	CROSS EXAMINATION BY MR. WOOD:
5	A. I just I felt really bad, a little bit	5	Q. A is it okay if I call you A
6	betrayed, but and confused at the same time.	6	A. Yeah.
7	Q. Okay. So you've just expressed emotions.	7	Q. That I call you by your first name?
8	How did you physically feel? How did your body	8	A. Yeah.
9	feel?	9	Q. Would you come down off the witness stand
10	A. Terrible.	10	and approach that drawing board that I put out
11	Q. Could you explain that a little bit more?	11	there.
12	A. Pain that I have never felt took over my	12	A. Okay.
13	body. It just hurt a lot, and but I kept it to	13	Q. And there's some markers up on the
14	myself.	14	judge's bench right behind your left shoulder.
15	Q. Did you make	15	THE COURT: In this little basket, A
16	A. I screamed, but afterwards, I kept it to	16	MR. WOOD: You can move those down where
17	myself.	17	they're closer. Would you angle that drawing board
18	Q. A did you want this to happen?	18	a little bit towards more towards me so I can
19		19	see.
20	Q. Did you give permission for this to	20	Can you see it okay, Judge?
21	happen?	21	THE COURT: I'm fine.
22	A. No, I did not.	22	MR. WOOD: How about that? Is that okay?
23	MS. BAUGES: No further questions, Your Honor.	23	THE COURT: That's not so good.
24	THE COURT: Mr. Wood.	24	MR. WOOD: Put it back a little more towards
25	MR. WOOD: May I approach the drawing board	25	him.
	47		48
1	THE COURT: There you go. Great.	1	A. I think so.
1 2	THE COURT: There you go. Great. BY MR. WOOD:	1 2	 A. I think so. Q. Additional before I forget, will you
		· ·	
2	BY MR. WOOD:	2	Q. A before I forget, will you
2 3	BY MR. WOOD: Q. That's great, A	2	Q. A before I forget, will you THE COURT: Hold on. Hold on, Mike, until I
2 3 4	BY MR. WOOD: Q. That's great, A nnual . Would you start out by drawing the outline of the locker room with	2 3 4	 Q. A before I forget, will you THE COURT: Hold on. Hold on, Mike, until I take care of this. Go ahead.
2 3 4 5	BY MR. WOOD: Q. That's great, A nnum . Would you start out by drawing the outline of the locker room with the stalls, with the benches the way it was on	2 3 4 5	 Q. A before I forget, will you THE COURT: Hold on. Hold on, Mike, until I take care of this. Go ahead. BY MR. WOOD: Q. A before I forget, will you please
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1	Q.	Would you please put an "H" for where	1	Q.	And so you walked up to him. You walked
2	A was	when he asked for the hug. Now, you've got	2	down the	benches to where he <u>'s stan</u> ding, and your
3	him next	to that	3	testimony	was at some point H can I call
4	Α.	Table.	4	him A	instead of H
5	Q.	It's a table, but it's made up of	5	Α.	Yeah.
6	benches,	huh?	6	Q.	Is that okay with you?
7	Α.	Yeah. Of benches, yeah.	7	Α.	Yeah, definitely.
8	Q.	So is he standing or sitting, A	8	Q.	A you think he signaled. What
9	Α.	He's standing.	9	makes yo	ou think he signaled?
10	Q.	He's standing, and you think he asked you	10	Α.	Because he's like this.
11	where	were you? Where did you start out?	11	Q.	Could you do that for us one more time.
12	Α.	I came from the entrance, and then I	12	Α.	Hug, signal.
13	Q.	Where was he when he asked for the hug	13	Q.	And you're standing erect and moving your
14	or where	were you when he asked	14	fingers as	if he's beckoning you to come closer;
15	Α.	l was right here.	15	true?	
16	Q.	Put an "A1" where you were when he asked	16	Α.	Yes.
17	for the hu	ıg?	17	Q.	Is that what he was doing?
18	Α.	A what?	18	Α.	Yes.
19	Q.	A1.	19	Q.	Is that what you construed as signalling
20	Α.	A1?	20	somebod	y?
21	Q.	Yes. So you're down at the other end of	21	Α.	Yes.
22	that table	made out of benches; right?	22	Q.	And is there anything else he did that
23	Α.	Yeah.	23	you cons	trued as some kind of signal?
24	Q.	So do you walk up to H	24	Α.	No, sir.
25	Α.	He had his arms out.	25	Q.	So at the time you say you noticed him
		51			52
1	making th	nese finger movements, did you notice where	1	Α.	that's when he signaled for him to
1 2	-	nese finger movements, did you notice where was?	1 2	A. come tha	that's when he signaled for him to
	T			come tha	that's when he signaled for him to
2	T A .	was?	2	come tha	that's when he signaled for him to at way. And could you see you know who John
2 3	T A .	Weas? He was behind me.	2 3	come tha Q. Howard v	that's when he signaled for him to at way. And could you see you know who John
2 3 4	T ana V A. Q. was.	Weas? He was behind me.	2 3 4	come tha Q. Howard v A.	that's when he signaled for him to at way. And could you see you know who John was?
2 3 4 5	T IIIIII V A. Q. was. A.	Weas? He was behind me. Where? Could you put a "T1" where he	2 3 4 5	come tha Q. Howard v A. Q.	that's when he signaled for him to at way. And could you see you know who John vas? Yeah.
2 3 4 5 6	T V A. Q. was. A. Q.	was? He was behind me. Where? Could you put a "T1" where he But he walked up to there.	2 3 4 5 6	come tha Q. Howard v A. Q.	that's when he signaled for him to at way. And could you see you know who John vas? Yeah. Did you see where Howard was? I think he was off to the side.
2 3 4 5 6 7	T M V A. Q. was. A. Q. THI	was? He was behind me. Where? Could you put a "T1" where he But he walked up to there. Up to where? Put a "T1" where he walked.	2 3 4 5 6 7	come tha Q. Howard v A. Q. A. Q.	that's when he signaled for him to at way. And could you see you know who John vas? Yeah. Did you see where Howard was? I think he was off to the side.
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2 3 4 5 6 7 8 9 10 11	V A. Q. Was. A. Q. THI A MR THI MR THI	We was? He was behind me. Where? Could you put a "T1" where he But he walked up to there. Up to where? Put a "T1" where he walked. E COURT: So then I'm A1 is for where vas at the point in time . WOOD: Right. E COURT: that the . WOOD: The gesture E COURT: young man asked him	2 3 4 5 6 7 8 9 10 11 12 13	come tha Q. Howard v A. Q. A. Q. We're und you are y got to pus testify und got rolling	that's when he signaled for him to at way. And could you see you know who John vas? Yeah. Did you see where Howard was? I think he was off to the side. I'm not asking what you think, A der oath in a courtroom, and I've got to ask ou sure enough to tell me under oath. I've sh for that. Are you sure enough to der oath where Howard was when this thing g?
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1	A. This way.	1	Q. and you guys hug?
2	Q. You were facing A	2	A. Yes.
3	A. Yeah. He was this way, and I was this	3	Q. And while you're hugging, does anything
4	way.	4	happen?
5	Q. Now, on that wall you've drawn some	5	A. A hanger got shoved up my butt. That's
6	oblong	6	one thing.
7	A. That's the showers.	7	Q. A hanger?
8	Q. Okay.	8	A. A hanger.
9	A. I didn't know at the time if you wanted	9	Q. Now, you have your back to whoever is
10	them.	10	shoving that hanger in your butt, don't you?
11	Q. I know what they were. I just wanted to	11	A. Yeah, but I do turn around.
12	make it clear for the record. So you've got some	12	Q. And you're facing A when it's placed
13	rectangles with some little dangly things hanging	13	between your buttocks, aren't you?
14	from	14	A. Yes, but in the process, I (inaudible.)
15	A. Shower hangers. The shower faucet thing.	15	Q. And when you look back, the hanger is
16	Q. That's the place where the water comes	16	already between your buttocks, isn't it?
17	out of. Okay. So you're not facing the showers,	17	A. Yes.
18	are you, when you hug A	18	Q. And you know what kind of hanger it is,
	A. No.		don't you?
19		19	•
20	Q. You're facing the right side of your	20	A. (No audible response.)
21	diagram, aren't you?	21	Q. You know it's a plastic hanger, don't
22	A. Well, he was – it feels like if I was at	22	you?
23	– if I'm me and you're A	23	A. It
24	Q. And then you approach A and	24	Q. I mean, when that hanger went up between
25	A. I approached him.	25	your buttocks, you realized it was a plastic hanger;
	55	<u> </u>	56
1	right?	1	Q. That hanger the coat hangers I've
2	A. It was	2	seen, A come down both sides, and then they
3	Q. It's just a yes or no question. Yes, I	3	have kind of a rounded end
4	recognize it as a plastic hanger or, no, I didn't.	4	A. Yeah.
5	A. No.	5	Q on both ends. Is it one of those ends
6	Q. Why not?	6	that you're talking about?
7	A. Because it felt it didn't feel	7	A. Can I draw it for you?
8	plastic, sir.	8	Q. Huh?
9	Q. Okay. The it was the hook end that	9	A. Or do you just want
10	was placed	10	Q. There's room there seems to me to be
11	A. No.	11	room at the bottom of that. Draw a solid line
12	Q between your buttocks, wasn't it?	12	undemeath your diagram and then draw a picture of
13	A. No.	13	the hanger. Okay. And draw it all across the page
14	Q. And you're emphatic on that. You're	14	so it divides them. Good deal. Thank you. Now
15	really	15	draw the hanger.
16	A. Yes.	16	A. The hanger is like this. It goes down
17	Q shaking your head at me as you tell me	17	like this. Messed up. But this part, sir. Longer
18	that.	18	than that. That part.
19	A. Yes.	19	Q. So it's those the tips of the shoulder
20	Q. So you're sure of that?	20	part that you're saying was placed
21	A. Yeah.	21	A. Yes.
22	Q. What part of the hanger did you think was	22	Q. And you're saying that you think it was
22	shoved between your buttocks?	23	placed up your rectum or anus?
23	-		A. Yes.
124	Δ The sides not the hander part It did	1.77	
	A. The sides, not the hanger part. It did	24	
25	A. The sides, not the hanger part. It did not hook. 57	24	Q. Am I hearing you right about that? 58

1	Α.	Yes.	1	A. It was my ripped boxers, though, from the
2		How were you dressed at the time this	2	wedgie before practice.
3	happened		3	Q. And you're sure of that?
4		I was in the middle of getting dressed in	4	A. Yes.
5		my clothes.	5	Q. And you're sure that it was not the hook
6	_	So what clothes	6	end of that?
7	A.	I had boxers on.	7	A. No. Because the hook would have caught,
8	Q.		8	and if he ripped, it would have really done really
9		I had – it was just boxers and a shirt.	9	big damage, sir.
10	Q.	-	10	Q. Because you told people about what had
11	shirt on?	And you're sure you nad boxers and a	11	happened to you, didn't you? Didn't you, A
12		l did, yes.	12	A. Yes, I did.
13	_	And that hanger was shoved up between	13	Q. And you first told Mr. Hardcastle what
14		ocks while you had boxers on?	14	had happened to you, didn't you?
15	-	Yes.	15	THE COURT: May the witness be seated?
16		How was that how could that happen,	16	MR. WOOD: Excuse me, Judge?
17		Weren't the boxers solid?	17	THE COURT: May the witness be seated?
		It was forced up there.	18	MR. WOOD: I would like him
18		-		BY MR. WOOD:
19		And the boxers were on prior to it being there; correct?	19 20	
20		Yes.		Q. Well, go ahead and retake the witness
21			21	stand if you don't mind coming down again, A
22		And they remained on throughout this;	22	Okay. Let me pull that thing out of your way.
23	correct?	Yes.	23	But you didn't tell anybody about this
24			24	happening until the next morning, did you, A
25	Q.	And	25	A. Yes. Well, my little brother, his
		59		60
1	-	and he he was there in the but he told	1	the day you went back to school, that very next day,
2		nts. And once my parents found out, they	2	and asked you about the coat hanger, didn't she?
3	-	ing and everything, and they came to me and	3	A. Yes, she did.
4		e. I didn't tell. But they asked me the	4	Q. And you made a statement to her about the
5	-	. They're like, "A nned , did you get a	5	coat hanger?
6	_	hoved up your butt?" I'm like, "Yes." I	6	A. Yes.
7	told then		7	Q. She wasn't recording or taking notes,
8		So you first told your mom about the	8	obviously?
9	wedgie; r	-	9	A. Not that I know of.
10		Yes.	10	Q. And did she take you back in to talk to
11		And you told her about that, and you went	11	Mr. Hardcastle?
12		. And did you actually go in with her to	12	A. That day after that happened, I left to
13	-	pal to tell the principal how that	13	the hospital
14	happene		14	Q. Let me just focus on this one question.
15	-	I think so.	15	I'm asking after you told your mom, did she take you
16	Q.	You're not sure?	16	back in to tell Mr. Hardcastle?
17	A.	Not sure.	17	MS. BAUGES: Your Honor, I would object to the
18	Q.	But after you told the principal about	18	form. He said take him back in, and I think A
19	-	ie or she did or whoever did that, you're	19	testified previously that he wasn't sure if he went
20	sure you	told your mom about it?	20	the first time, so I think it's a little confusing.
21	-	I told my mom the next day.	21	BY MR. WOOD:
1			6	
22	Q.	And your dad?	22	Q. Did you go
22 23	Q. A.		23	THE COURT: Clarify the question, please.
22 23 24	Q. A. brother.	And your dad? And my dad and my brother, my older	23 24	THE COURT: Clarify the question, please. Q. Did you go in and see Mr. Hardcastle
22 23	Q. A.	And your dad?	23	THE COURT: Clarify the question, please.

		Land Margare Shere also		
1		l can't remember, sir.	1	he said in making an out-of-court statement.
2	Q.	No idea?	2	MR. WOOD: It's hearsay? They've been putting
3	Α.	No.	3	in hearsay all afternoon.
4		But you did eventually talk to	4	THE COURT: I'm going to allow the question.
5		castle, didn't you?	5	MR. WOOD: Does he know thank you.
6		Yes, I did.	6	BY MR. WOOD:
7		And you told Mr. Hardcastle about the	7	Q. Do you want to try the question again,
8	hug; right	?	8	A
9	Α.	Yeah.	9	A. Yeah. (Unintelligible.)
10	Q.	And you told Mr. Hardcastle that you were	10	Q. I'm just asking you again
11	sure it wa	as a metal hanger; right?	11	A. Yeah, I know.
12	Α.	I can't remember what we talked about.	12	Q about telling Mr. Hardcastle that you
13	Q.	Now you can't remember what you talked	13	were sure it was a metal hanger.
14	about?		14	A. Yes.
15	Α.	I can't remember what I told him, sir.	15	Q. And you did tell him that; right?
16	Q.	You do know you were being extra careful	16	A. Yeah.
17	to be acc	urate, though; right?	17	Q. And you were trying to be accurate as
18	Α.	Yes, I know.	18	best you could; right?
19	Q.	And were you accurate, to the best of	19	A. (No audible response.)
20		wledge, that day?	20	Q. Excuse me?
21	•	Yes.	21	A. Yes.
22		Didn't you tell him that you were sure it	22	Q. When you talked to Mr. Hardcastle,
23		etal hanger?	23	though, you weren't sure who took it out, were you?
24		. BAUGES: Objection, Your Honor. I think	24	A. I knew who took it out.
25		ting into hearsay, asking the victim what	25	Q. Who did you tell Mr. Hardcastle took it
20	tine le get	63		64
1	out?		1	A. No.
2	Α.		2	Q. But you do know that St. Luke's is the
-				
3	Q.	And you also told Mr. Hardcastle that you	3	
3 4		And you also told Mr. Hardcastle that you ling from your anus after that coat hanger	3	hospital you were at?
4	had bleed	ling from your anus after that coat hanger	4	hospital you were at? A. Yes.
4 5	had bleed was take	ding from your anus after that coat hanger n out, didn't you?	4	hospital you were at? A. Yes. Q. You know you were there on October 23rd
4 5 6	had bleed was taker A.	ding from your anus after that coat hanger n out, didn't you? Yes, I did.	4 5 6	hospital you were at? A. Yes. Q. You know you were there on October 23rd of the year 2015, the day after you say this
4 5 6 7	had bleed was taker A. Q.	ding from your anus after that coat hanger n out, didn't you? Yes, I did. That afternoon, after you had your	4 5 6 7	hospital you were at? A. Yes. Q. You know you were there on October 23rd of the year 2015, the day after you say this happened?
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1	MS. BAUGES: I actually think it's accurate	1	facing when you felt that hanger go between your
2	that it's self-authenticating, although I think Your	2	buttocks?
3	Honor does have discretion in terms of medical	3	A. Same way I'm standing now.
4	information regarding hearsay at the preliminary	4	Q. Excuse me?
5	hearing. So for purposes of the preliminary hearing	5	A. Same way I'm standing now. Facing that
6	only, I think you have the discretion, Your Honor.	6	way, and he was in front of me.
7	THE COURT: I'm going to let it in, but then	7	Q. Who was in front of you?
8	it's going in	8	A. A
9	MS. BAUGES: A sealed envelope, Your Honor.	9	Q. And was it in front of you. And which
10	THE COURT: Okay. In keeping with	10	way were you facing when that hanger went between
11	(unintelligible.)	11	your buttocks?
12	MR. WOOD: Thank you.	12	A. I was facing the same way, but I –
13	MS. BAUGES: And I apologize. Just real	13	Q. Okay. We're not in the same room, so
14	quickly, is that the entire document? I didn't get	14	I've got to
15	a chance to look at that. Counsel, is this the	15	A. (Unintelligible) the same room.
16	entire document?	16	Q. Were you facing the lockers?
17	MR. WOOD: I tried to. Let me check. Is it	17	A. I was facing to the junior high. I was
18	complete? Was that complete?	18	facing straight (unintelligible.)
19	MS. BAUGES: I believe it was.	19	Q. And is that facing the lockers on the
20	BY MR. WOOD:	20	wall? You're facing A
21	Q. A would you mind re-approaching	21	A. Yes, I'm facing A
22	this diagram.	22	Q. And you're facing A
23	A. Yeah.	23	MR. WOOD: Can I approach the witness just to
24	Q. Thank you. A n the set of the 	24	get
25	right of that diagram or which direction were you	25	THE COURT: Sure.
	67		68
	BY MR. WOOD:	1	A. John
2	Q. H is where A is? Am I getting that	2	Q. Was he in the room?
3	right?	3	A. John Howard, you mean?
	A. Yes.	4	Q. No, John R
5	Q. Okay. So you're facing the H at the time	5	A. John R
	that coat hanger goes between your buttocks;	6	Q. Maybe I've got the first name wrong.
	correct?	7	THE COURT: S
8	A. Yes.	8	MR. WOOD: Same Reade. You're right.
9	Q. And you're sure of that?	9	THE WITNESS: No, I didn't hear him say
	A. Yes.		anything.
10	Q. What do you do when you feel the coat	10	BY MR. WOOD:
12		12	Q. And you told us you didn't hear T
	hanger go between your buttocks? A. Scream.		
13		13	say anything. Am I remembering that right? A. No.
14	Q. Okay. A. (Upintolligible)	14	
15	A. (Unintelligible.)	15	Q. It's a lawyer thing. When you answer
16	Q. Anything else?	16	that question no, it makes it sound like, no, he did
17	A. Mostly scream.	17	something.
18	Q. Okay. Did you	18	A. Oh.
19	A. Fell into my friend's arms.	19	Q. Did T error say anything that you heard
20	Q. Did you hear anybody else say anything?	20	right when that coat hanger went between your
21	Did you hear T able say something?	21	buttocks?
22	A. I was in too much pain, sir.	22	A. No, I don't remember hearing anything.
23	Q. And did you hear John Research say anything?	23	Q. Okay. How about John Howard?
24	A. John?	24	A. No.
25	Q. Right.	25	Q. How long was the coat hanger between your
1	69		70

2 hanger? 2 down at the end of that table made out of benches; 3 A. About a second, a few seconds until it 3 right? 4 A. Yesh, but my drawing's not very good, but 5 5 your boxes were still up? 6 Q. And how far would you say between that 7 A. Are still what? 7 A. Are still what? 7 8 Q. Shill up. 8 A. Yes, but they are ripped. 9 Q. That's all right. 10 Q. They're ripped in back? 10 A. Yes. 11 Q. South was able to kick the coat 14 Q. You're sure of that? 14 Q. I withdraw the question. Did you move 15 A. Yes. 13 A. Okay. 16 A. Moleourd was able to kick the coat 17 -affer I got shoved, he let go. And then lturned? 17 anger, right? 14 Q. I with a was done holding me, I 17 anger, right? 14 A. Hewas behind me. He was this way. 21 A. A. 2 A. And once the hanger of shoved, he let go. And then lturned? 22 A. A. A. 2 A. And once the hanger of shoved up, I	1	buttocks by the first time you felt a kick on that	1	I'm seeing that, you've got yourself all the way
4got - until it percettated.4A. Yeah, but my drawing's not very good, but50. Now, your - is it your testimony that5I was close - protty close to the showers.7A. Are still what?0. And how far would you say between that7A. Are still what?7109A. Yes, but they are ripped.9A. Yes, but they are ripped.100. They're ripped in back?10A. Did I spell it right?11A. Yes.110. Don't worn y about it. I withdraw it.1213A. Okay.13A. Yes.13A. Okay.14Q. You're sure of that?14Q. I withdraw the question. Did you move15A. Yes.13A. Okay.16A. (No audible response.)19Q. And than ut mumber are we up to, AL17A. de.20A. A. A.20Put a - what number are we up to, AL2121A. A. A.A. A.22Q. Ad A.4. Wein, if where you?23Yeah, if you don't mind. So, AL124A. All Hith Eth that way into his arms.25A. Ad the coat hanger was already withdraw?36A. Oroc I was in his arms, it was yanked37A. Yes, I did.38Q. And who do you say yanked it out?49A. Adu the coat hanger was already withdraw?5A. Oroc I was in his arms, it was yanked6A. Oroc I was in his arms, it was yanked7A. Hes.7A. Gres.	2	hanger?	2	down at the end of that table made out of benches;
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7 A. Are still what? 7 table and the showers? 8 Q. Still up. 8 A. Is that a table? 9 A. Yes, but they are ripped. 9 Q. That's all right. 10 Q. They're ripped in back? 10 A. Did I spell it right? 11 Q. You're sure of that? 11 Q. Don't worry about it. Withdraw it. 12 Q. But they stay up throughout this? 12 It's not that important. 13 A. Yes. 13 A. Okay. 14 Q. You're sure of that? 14 Q. Iwithdraw the question. Did you move 15 A. Meadible response. 13 A. Okay. 16 A. du' dualble response. 19 Q. In which direction was your friend? 17 - After I got shoved he let go. And then I turned 18 18 around, and that's where my friend? 20 20 A. Main and first kick. 21 Q. And - 21 A. A 22 A. And once thanger got shoved up, I 22 West stating when you fiel thaf first kick. 23 jumped, and I, like, fell that way tho his arms. 22 Q. Yea, Hidt. <t< td=""><td>6</td><td></td><td>6</td><td></td></t<>	6		6	
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1	A. Right after it got yanked out, it started	1	Q. A long I couldn't stand up any longer.
2	bleeding.	2	Go ahead and sit down. You deserve a break.
3	Q. Now, A was asked by you to check out	3	A nimum , the first part of the next week,
4	how you were back there; right?	4	they took you to a CARES interview. Do you remember
5	A. Yeah.	5	that one?
6	Q. And he did that, didn't he?	6	A. Ido.
7	A. (No audible response.)	7	Q. And you told the CARES people that your
8	Q. A looked between your buttocks for you	8	pants were pulled down before the coat hanger was
9	to tell you how you were doing, didn't he?	9	placed between your buttocks, didn't you?
10	A. He didn't ask me. He just	10	A. I can't remember.
11	Q. But he did that?	11	Q. Might you have told them that your pants
12	A. Yeah, he looked, and it was bleeding.	12	were pulled down?
13	Q. And at first he said	13	A. I
14	A. And it wasn't only A It was	14	Q. This is the only time you had any kind of
15	Q. At first A said, "Dude, you're a	15	incident that involved a coat hanger; right?
16	mess"; right?	16	A. Yes.
17	A. No.	17	Q. In fact, the only problems you'd had with
18	Q. But the last thing Assid to you is,	18	Terms or even John Howard was you didn't like the
19	"Dude, you're fine"; right?	19	way they talked about girls in the locker room
20	A. No.	20	sometimes; right?
21	Q. You deny that emphatically. Do I	21	A. Yeah.
22	understand that right?	22	Q. Excuse me?
23	A. Yeah.	23	A. For the most part, yeah.
24	Q. You understand you're under oath?	24	Q. For the most part or that was it? Were
25	A. Yes, I do.	25	there other problems that you need to tell us about?
	75		76
1	A. Besides all the stuff that happened at	1	A. Yes.
1 2	A. Besides all the stuff that happened at football camp. Besides that, I – no problems	1	 A. Yes. Q. Now, prior to telling your version to
2	football camp. Besides that, I no problems	2	Q. Now, prior to telling your version to
2 3	football camp. Besides that, I no problems between us.	2	Q. Now, prior to telling your version to Mr. Hardcastle, you had spoken to your mother;
2 3 4	football camp. Besides that, I no problems between us. Q. Okay. Now, you talked to people from the	2 3 4	Q. Now, prior to telling your version to Mr. Hardcastle, you had spoken to your mother; correct?
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2 3 4 5 6	football camp. Besides that, I no problems between us. Q. Okay. Now, you talked to people from the attorney general's office, didn't you? A. Yes.	2 3 4 5 6	 Q. Now, prior to telling your version to Mr. Hardcastle, you had spoken to your mother; correct? A. Correct. Q. And she was
2 3 4 5 6 7	football camp. Besides that, I – no problems between us. Q. Okay. Now, you talked to people from the attorney general's office, didn't you? A. Yes. Q. You talked to a professional factual	2 3 4 5 6 7	 Q. Now, prior to telling your version to Mr. Hardcastle, you had spoken to your mother; correct? A. Correct. Q. And she was A. Before
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1 Q. And your mother told you that she was going to notify Mr. Harccastle of this coat hanger incident, didt's the? A. No. 3 Q. And then she told you that she was going to notify Mr. Harccastle of this coat hanger i waying. "Its this the one, "any the methand notifying Mr. Harccastle, didt's he?? A. No. I just know. 4 A. She said it was a bad incident, but - G. Okay. 5 A. Idon't think so, sir. G. Okay. 9 Q. Does that mean that you are more sure M. No. I just know. 10 A. Idon't think so, sir. M. No. Joust hat mean that you are more sure 11 A. (No audible response.) M. Mr. WOOD: Should I move D in? Is it in? 12 Q. Do you now think you went back in, M. WoOD: Should I move D in? Is it in? 13 A. It's kind of hard to remember everything. M. WoOD: May I have one second? 14 A. It's kind of hard to remember everything. M. WoOD: May I have one second? 15 M. No. BY MR. WOOD: 20 Okay. A more you went to the D. M. Minteligible. 21 A. Yes. G. And did you - were you ever shown a coat hanger? 23 A. The lady on the videotape? A. Wes. 3 A. The lady on the videotape? A. Wes.				A
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 A. I don't think so, sir. 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. Does that mean that you are more sure 13 A. (No audible response.) 14 A. (No audible response.) 15 It was a long time ago. 16 Q. Right. 17 A. Plus I try to forget it. 18 O. Okay. A. The forget it. 19 A. No. 21 D. And did you - were you ever shown a coat hanger? 25 A. At the hospital? 26 A. The takyon the was the coat hanger? 27 A. Yes. 20 O. Kay. But your mom sat in even when you? 21 that next week and you were interviewed by the lady 1 23 A. The takyon the videotapp? 4. A. Yes.	1	BY MR. WOOD:	1	Q. Anywhere. Anywhere.
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9 Q. Does that mean that you are more sure 10 that you went back in with her? 9 (Discussion held off the record between Court and coursel.) 11 A. (No audible response.) 11 MR. WOOD. Should I move D in? Is it in? 12 Q. Do you now think you went back in, 12 THE COURT: I'm going to let D in under Rule 13 A It's kind of hard to remember everything. 14 MR. WOOD? May I have one second? 16 Q. Right. 15 It was a long time ago. 16 MR. WOOD? May I have one second? 16 Q. So you're not sure still, huh? 16 BY MR. WOOD? May I have one second? 16 Q. Okay. A when you went to the 20 Q. And did you – were you ever shown a coat 16 hanger and asked if that was the coat hanger? 24 A. Yes. 20 Q. And did you – were you ever shown a coat 2 A. The lady on the videotape? Q. And did you – were you ever shown a coat 1 1 ingit? 2 A. The lady on the videotape? Q. And when you went to the CARES interview 2 1 that next week and you were interviewed by the lady 1 1 ingit? 3 A. The lady on the videot	7	back in and notifying Mr. Hardcastle, didn't she?	7	(Inaudible conversation between counsel.)
10 that you went back in with her? 10 Court and coursel.) 11 A. (No audible response.) 11 MR. WOOD: Should I move Din? Is it in? 12 O. Do you now think you went back in, 13 THE COURT: Im going to let Din under Rule 14 A. It's kind of hard to remember everything. 15 If twas a long time ago. 16 Q. Right 16 BY MR. WOOD: May I have one second? 18 Q. So you're not sure still, huh? 16 BY MR. WOOD: 19 A. No. 10 C. The time - that first day after this 20 O. Adad dy ou – were you ever shown a coat 11 incident, they took you to St. Luke's in Jerome, 21 hanger and asked if that was the coat hanger? 24 A. Yes. 23 25 A. At the hospital? 24 A. Yes. 26 24 hanger, emember that? 2 24 A. Yes. 25 A. The lady on the videotape? 2 A. (No audible response.) 2 26 A. The lady on the videotape? 3 Q. It was very stressful; correct? 4 3 A. The lady on the videotape? 3 Q. It was very	8	A. I don't think so, sir.	8	MS. BAUGES: Could we have a sidebar?
11 A. (No audible response.) 11 MR. WOOD: Should I move D in? Is it in? 12 Q. Do you now think you went back in, 11 MR. WOOD: Should I move D in? Is it in? 14 A. It's kind of hard to remember everything. 11 THE COURT: I'm going to let D in under Rule 15 It was a long time ago. 11 MR. WOOD: May I have one second? 16 Q. Right. 15 MR. WOOD: 17 A. Plus I try to forget it. 16 BY MR. WOOD: 18 Q. So you're not sure still, huh? 18 hospital, they took swabs of your anus, didn't the?? 2 A. Yes. Q. And idi you – were you ever shown a coat 14 hospital, they took you to St. Luke's in Jerome, 21 hanger and asked if that was the coat hanger? 24 A. Yes. 23 G. And when you were intherviewed by the lady 19 A. The lady on the videotape? 4 A. (No audible response.) 5 Q. Yeah. They were – when you're in that 5 interviewed when you're in that about wanting to be a chef and all that stuff. 7 Q. You've got to answer out loud. We're 8 A. No, sir. 9 Q. Was that – 17 Q. You've got to ask this	9	Q. Does that mean that you are more sure	9	(Discussion held off the record between
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			24	A. What do you mean?
	24	Q. You told us that when you felt that coat	1	

		1	-
1	remember, but it's very hard to place them in time	1	A. No.
2	as far as what came first, what came next, exactly	2	Q. And you're sure of that?
3	where you're standing, that kind of stuff?	3	A. Yes.
4	A. Something	4	Q. And you're telling this judge that A
5	Q. The details, but	5	never told you, "You're fine, Dude"? You're sure of
6	A. But things that are important, a lot of	6	that?
7	the time I can remember.	7	A. Yes.
8	Q. And you've always been able to do that	8	Q. You understand you're under oath?
9	over at Dietrich High; right?	9	A. Yes, I do.
10	A. I've always yes.	10	Q. How many times was that hanger kicked?
11	Q. Excuse me?	11	A. Multiple times.
12	A. Yes.	12	Q. Multiple. Multiple can be two or ten.
13	Q. When you experience something under high	13	Was it ten times?
14	stress, like you've told us this incident in the	14	A. No.
15	locker room had a lot of stress for you, later are	15	Q. Was it two times?
16	you can people kind of tell you what happened and	16	A. About three or four.
17	you go with their event, their version of events?	17	Q. About three or four is your best
18	A. I've kind of stuck with mine.	18	you're not really sure of that? Am I hearing you
19	Q. Do you doesn't the fact that you're	19	right? You're not sure how many times that hanger
20	all stressed out make you listen to the details of	20	was kicked?
21	what other people tell you?	21	A. Three.
22	A. No.	22	Q. You think three?
23	Q. You don't think so?	23	A. Yes.
24	A. (No audible response.)	24	Q. And you're sure of that?
25	Q. Excuse me?	25	A. Yeah.
	83		84
1	MR. WOOD: Judge, first I'd like to move this	1	A. This is the room it happened in. This is
2	diagram in for demonstrative purposes.	2	these are well, there's three different rooms.
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			these are well, there's three different rooms.
3	THE COURT: Same same same	3	these are well, there's three different rooms. There's this room. That's the locker room. Then
3	THE COURT: Same same same (unintelligible.)	3 4	these are well, there's three different rooms. There's this room. That's the locker room. Then there's the junior high locker room, and then
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1	Q. You said your boxers were ripped?	1	bad question. Was it how much of your back side,	
2	A. They were ripped.	2	your bottom, your buttocks could you see because	
3	Q. Explain what happened.	3	your boxers were ripped, if you know?	
4	A. I got a power wedgie that ripped my	4	A. The back.	
5	boxers.	5	Q. The back? What do you mean by "the	
6	Q. When did this happen?	6	back"?	
7	A. This was before practice.	7	A. The back of the boxers.	
8	Q. Okay. Who gave you the wedgie?	8	Q. The whole back of the boxers?	
9	A. It was T	9	A. Not the whole back of the boxers. A big	
10	Q. Okay. Now, I'm sure that it's common	10	portion of the back of the boxers. I think there	
11	vernacular, but could you just kind of explain what	11	was a little bit on the front too that was ripped.	
12	you mean by super wedgie.	12	Q. Okay. Would it help to use your hands?	
13	A. A wedgie that it's it's a wedgie	13	A. (No audible response.)	
14	that's so hard that it rips your underwear. They	14	Q. I'm trying to figure out how much of your	
15	pull so hard that it rips your underwear.	15	buttocks was exposed because of the rip in your	
16	Q. Okay. And how bad was your underwear	16	boxers.	
17	ripped?	17	A. My butt was really exposed.	
18	A. Pretty bad.	18	Q. Okay.	
19	Q. Could you please describe and I	19	A. It was exposed to the point that the	
20	apologize. Could you just get into more detail.	20	hanger could actually penetrate that it was exposed.	
21	How did they look?	21	Q. Okay. One thing about this diagram, is	
22	A. Torn up.	22	this, I'm going to say, to scale? Do you know what	
23	Q. Okay.	23	that means, "to scale"?	
24	A. I don't	24	A. To exact.	
25	Q. No, I completely understand. It was a	25	Q. Right, right. Is this an exact, you	
	87		88	
1 1	KNOW FEDUCA OF THE INCKEL FOOTH Z	1 1	Δ Υρε	
1	know, replica of the locker room?	1	A. Yes. $\Omega \rightarrow 0$ for the record	
2	A. From my memory.	2	Q for the record.	
23	A. From my memory.Q. From your memory, but, like, for example	2 3	Q for the record.A. I didn't draw the door.	
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1	but to scale, that's where everybody was.	1	happening?
2	Q. Okay. And when I'm saying "to scale," I	2	A. Pretty well.
	mean exactly in terms of, you know, where	3	Q. Pretty well? Is it exact?
3		4	A. The people that the three people, yes,
4	MR. WOOD: It's asked and answered. He just	5	but
5	said that's where everybody was. Now she comes back	_	-
6	with another case. It's just more leading. It	6	Q. Okay. A. The people I named, but not yeah.
7	shows dissatisfaction with the reply. I object to		
8	it. THE COURT: Sustained.	8	Q. Now, you said there was a question about the seconds. There was a question about you
	MR. WOOD: It's a standard		
10	THE COURT: Sustained.	10	I'm sorry. You testified regarding the seconds
11		11	before it penetrated, and I think the question was
12	MR. WOOD: prosecutor THE COURT: Sustained.	12	in relation to the first shoving in and then the
13	MR. WOOD: technique.	13	kicking, and so I just wanted to clarify. Did the
14	THE COURT: Sustained.	14	hanger penetrate when it was first shoved in?
15		15	A. Once it was shoved in, it like it
16	BY MS. BAUGES:	16	happened fast, so
17	Q. Okay. And so getting back on the track,	17	Q. Sure.
18	this is where you were. Well, I won't restate your	18	A it it might have moved around when
19	testimony at this point, but oh, go ahead and sit	19	it was shoved in, but it was shoved in.
20	down. Sorry.	20	Q. Okay. So it was shoved in?
21	So in terms of angles, you know, where	21	A. Yes.
22	people were facing and stuff, do you know well,	22	MR. WOOD: Objection. She's leading.
23	how good is your memory in terms of the exact	23	MS. BAUGES: I'll move on, Your Honor.
24	details in terms of the angles everyone was standing	24	BY MS. BAUGES:
25	at at the exact moments that these things were	25	Q. You said it wasn't only A who looked.
	91		92
1	Could you elaborate on that. And do you know what	1	THE COURT: Thank you.
2	I'm talking about?	2	A lighted , thank you very much for your
3	A. Looked?	3	testimony today. I know this hasn't been easy for
4	Q. So you were asked a question regarding	4	you. You can be excused now. Thank you.
5	somebody checked out your anus, and the question was	5	THE WITNESS: Okay. Thank you.
6	A did, and you said it was someone it wasn't	6	MR. WOOD: Can I move that diagram in? I
7	only A Could you elaborate on that.	7	think it's we're up to E now.
8	A. It was almost the whole locker room.	8	THE COURT: It's already in. We just need to
9	There was a group of people in the locker room.	9	get it marked and put in the record. Deysi, take
10	Q. Okay.	10	this one as well and get it in an envelope and seal
11	A. It was the people that were surrounding	11	it up.
12	me.	12	Next witness.
13	Q. And you were asked a question about	13	MS. BAUGES: Your Honor, that's going to be
14	problems with Terror and John, prior problems.	14	all the witnesses for the preliminary hearing.
15	Could you tell us a little bit more about that.	15	THE COURT: Okay.
16	A. Like problems that I had with them?	16	Mr. Wood, are you going to call any
17	Q. Uh-huh.	17	witnesses?
18	A. Well, at the for instance, at the	18	MR. WOOD: The defense does not intend to call
19	football camp, they were just humping everybody.	19	witnesses at the prelim, Judge.
20	That was just a problem that I had with them. That	20	THE COURT: All right. Argument, then.
21	was just another problem, but besides that, we were	21	MS. BAUGES: Yes, Your Honor. Your Honor, the
22	and the hanger thing, the wedgie thing. Besides	22	State has to prove, as you're aware, a number of
23	that, there was no really further problems.	23	elements: The date, October 22nd, 2015, on or
- ·		1 1 1	around. The witnesses have testified that was the
24	MS. BAUGES: Okay. No further questions, Your	24	
24 25	MS. BAUGES: Okay. No further questions, Your Honor. 93	24	date. 94

1	In the State of Idaho. Mr. R	1	up there, and then hands off, and then when it was
2	testified as to that.	2	kicked, it was kicked further in. Didn't go to the
3	The defendant, T	3	side. Didn't go here. It was enough shoved in that
4	identified by both witnesses.	4	the kicks made it go in further and further, not
5	Caused an object. That is a hanger. I	5	fall out, and that's important.
6	think the Complaint specifically says "coat hanger,"	6	It's also important that A testified
7	but a hanger to penetrate the opening of A	7	that it may have wiggled around, but it went in. It
8	M	8	penetrated him, and he screamed. He screamed, and
9	Now, there were some discrepancies	9	it hurt. That is substantial evidence to meet all
10	brought out about the kind of hanger. Was it wire?	10	of those.
11	Was it plastic? Was it the hook? Was it the end?	11	Now, I'm aware that certain things were
12	THE COURT: Was it brown? Was it black?	12	put into evidence regarding medical examinations the
13	MS. BAUGES: Was it brown? Was it black? If	13	day after, about lack of DNA on the particular
14	you recall, A said that it felt like the side,	14	hanger that the State has as evidence, which was
15	and it felt like wire, but he never testified that	15	collected well, I won't go there because that's
16	he saw it. And he said it felt like it wasn't the	16	not in evidence, but there is nothing, however, in
17	hook because it didn't catch. And you heard	17	the record that connects that to conclusions such
18	testimony from someone that actually saw the hanger	18	as: Is it possible that this could be the hanger
19	go in that said it was plastic. And a plastic	19	and because of the way it was collected or how long
20	hanger probably wouldn't catch. So these details,	20	it had been on the locker room floor or anything
21	these: "Was it the side? Was it the hook? Was it	21	like that that isn't possible that it's the same
22	black? Was it brown?" they don't change the fact	22	hanger. And regardless whether or not that is the
23	that both witnesses said a hanger was shoved up	23	particular hanger isn't the issue. We don't have to
24	A s buttocks.	24	prove which hanger it is.
25	Now, S upp was able to say it was shoved	25	The same thing with the medical. Just
	95		96
1	because there is a medical report the next day that	1	All of those elements have been shown to the
2	says, you know, certain things about whether or not	2	probable cause degree by the testimony that you have
3	certain injuries were found, there is nobody here to	3	here today, Your Honor. Thank you.
4	testify that therefore the logical conclusion is	4	THE COURT: Mr. Wood.
5	that there was no penetration. That is nowhere in	5	MR. WOOD: Yes, Judge. The prosecuting
6	the report. So those documents effectively tell the	6	attorney ignores the fact that although her
7	Court nothing about the specific elements in this	7	witnesses are consistent on conclusions, they are
8	case other than, perhaps, conjecture, but the State	8	extremely inconsistent on how the events occurred.
9	has presented sufficient evidence to overcome that	9	In fact, they are not balanceable. One of those
10	conjecture.	10	guys is wrong. Either A nnee or R esea diagramed a
11	For the purpose of sexual abuse, the	11	different incident. She's got two totally
12	hanger was shoved up his anus and with enough force	12	inconsistent witnesses.
13	that the victim was in pain, and you heard from	13	A says he's facing A who R
14	Second Reference that the defendant was laughing. There	14	doesn't even include in the picture. Reference has him
15	was physical maltreatment. Enough force that it was	15	facing a completely different way, facing the shower
16	with physical maltreatment. And how do we know the	16	stalls.
17	purpose? Because when it happened, the defendant	17	A lim wearing shorts split up the
18	was laughing is the testimony you heard today.	18	back. Received the shower Follinte Tech arms
19	The penetration was against A	19	ready to get in the shower. Fell into The's arms,
20	Mercenters will. He testified he didn't give	20	T HE REAL REAL No mention of Here He
21	permission. He didn't want this to happen. And the	21	was within 5 feet of the wash basin is when I was
22	penetration was accomplished by the use of force.	22	leaving.
23	Your Honor, that is inherent from the act itself	23	Did the thing get pulled out in 3 to
24	where a coat hanger hook was pushed with such force that it got lodged in the anus of American Materia	24	5 seconds? No. It was in there up to a minute. I
		25	can't tell. He was absolutely in close proximity, 4
25	97		98

1	to 5 feet of the wash basins by the time it gets	1	develop them through investigation, not just put on
2	pulled out.	2	inherently conflicting versions and argue that they
3	The testimony presented by the prosecutor	3	somehow justified that a crime was committed and
4	in this case is so inherently conflicting as not to	4	probably Target Ward committed it.
5	prove an event. We know from A	5	We don't even have a clear portrayal of a
6	sometimes gets mixed up, but A	6	crime being committed. You've got conflicting
7	supposed penetration lasted 3 to 5 seconds, not long	7	descriptions of events in a high school locker room
8	enough to determine whether there has actually been	8	where there was supposedly a bunch of people around
9	penetration of his anus.	9	but just two people the State calls in. And you
10	You have seen the medical reports. They	10	have the object described totally inconsistently.
11	were put in as evidence by the defense indicating	11	It was the hook end according to R
12	that the very next afternoon that Dr. I believe it's	12	of that. It was the hanger end that's placed
13	Johnson says there's no obvious signs of trauma	13	between A start is buttocks. A start in his diagram
14	here. There's no bruising on his skin. A	14	where he lined off the bottom section, he describes
15	claiming he's held by A	15	those shoulder sections. Those that's the part
16	tight holding, and there's no obvious signs of	16	that he felt between his buttocks and that he claims
17	trauma anywhere that are pointed out. You have no	17	was shoved up his anus showing no trauma, no
18	evidence of an object that shows connection to	18	lacerations within 24 hours.
19	having been placed up this young man's anus.	19	This is inherently conflicting and does
20	The State totally fails to corroborate	20	not justify a bind over for felony trial. This is
21	two totally inconsistent descriptions of this event,	21	why the State is allowed to refile these things. If
22	irreconcilable descriptions. This is the	22	they can go out and put Humpty Dumpty back together
23	presentation of evidence that is legally inherently	23	again, fine, but not with two witnesses out of a
24	conflicting and cannot be the basis for a bind over.	24	bunch of people that were present in that room, not
25	If the facts are here, the State has to continue to 99	25	with two witnesses who present inherently
			100
1	conflicting storios, not without totally dovoid of	1 4	this associate he hound over Thenk you Judge
1	conflicting stories, not without totally devoid of	1	this case is to be bound over. Thank you, Judge.
2	scientific corroborating evidence of penetration.	2	THE COURT: Okay. Thank you. All right.
2 3	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within	2 3	THE COURT: Okay. Thank you. All right. Mr. Woods being charged under Idaho Code Section
2 3 4	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events.	2 3 4	THE COURT: Okay. Thank you. All right. Mr. Weiges being charged under Idaho Code Section 18-6608 which states that:
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2 3 4 5 6 7	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events. If the Court seriously considers binding over, I would ask that you strike from the bind over the elements of for the purpose of sexual arousal,	2 3 4 5 6 7	THE COURT: Okay. Thank you. All right. Mr. W s being charged under Idaho Code Section 18-6608 which states that: "Every person who, for the purpose of sexual arousal, gratification or abuse, causes the penetration, however slight, of the genital or anal
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events. If the Court seriously considers binding over, I would ask that you strike from the bind over the elements of for the purpose of sexual arousal, gratification. I would ask that you totally strike that it was achieved by duress or threats of immediate harm or subsection (2) or (3) and (4) that also do not apply. If it's to be bound over, let's bind it over as what the State has presented today. I would not I would ask the Court not to give them this entire statute to shoot at when they have to put Humpty Dumpty together again before trial. So the statute that is charged should be	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	THE COURT: Okay. Thank you. All right. Mr. W s being charged under Idaho Code Section 18-6608 which states that: "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." Anyway, there's a not capable of giving consent section.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	scientific corroborating evidence of penetration. In fact, a totally normal finding by a doctor within 24 hours of the claimed events. If the Court seriously considers binding over, I would ask that you strike from the bind over the elements of for the purpose of sexual arousal, gratification. I would ask that you totally strike that it was achieved by duress or threats of immediate harm or subsection (2) or (3) and (4) that also do not apply. If it's to be bound over, let's bind it over as what the State has presented today. I would not I would ask the Court not to give them this entire statute to shoot at when they have to put Humpty Dumpty together again before trial. So the statute that is charged should be substantially narrowed, if this young man is to be sent to trial, and get rid of all this verbiage that may apply in other cases but certainly don't apply here in which there is a total lack of evidence justifying a bind over. And, again, I'm referring to the sexual arousal or gratification portion, the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE COURT: Okay. Thank you. All right. Mr. W s being charged under Idaho Code Section 18-6608 which states that: "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." Anyway, there's a not capable of giving consent section. This is a preliminary hearing. Pursuant to Rule 5.1 of the Idaho Criminal Rules, a finding of probable cause is to be based upon substantial evidence upon every material elements of the offense charged. It goes on to talk about the hearsay exceptions we've discussed.
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1	has met its burden at this stage that but I am	1	be fine, Judge. I just ask for a chance, some
2	finding that there has not been any evidence of	2	flexibility to call back.
3	purpose here, other than abuse, and it is by use of	3	THE COURT: Ms. Bauges?
4	force or violence. The others not being relevant.	4	MS. BAUGES: That's fine, Your Honor.
5	The Court makes that finding based upon the	5	MR. WOOD: Thank you.
6	essential element of penetration being established	6	THE COURT: All right. Thank you.
7	by most notably by A	7	
8	Mr. Research Again, they differ in detail with regard	8	(Recess.)
9	to who, what, and where precisely people were at any	9	
10	particular moment, but the essence of their	10	
11	testimony is similar, that Mr. W	11	
12	hanger I'm not certain what hanger or what part	12	
13	of a hanger into the anal opening of	13	
14	Mr. Meaning and for that reason I am going to send	14	
15	it on to district court. Do we have a date?	15	
16	THE CLERK: May 3rd.	16	
17	THE COURT: May 3rd will be your initial	17	
18	appearance, Mr. W	18	
19	MR. WOOD: Judge, I'm not sure about that	19	
20	May 3rd date. Can I double-check that and get back	20	
21	to the Court and counsel if there's a problem?	21	
22	THE COURT: Yeah. What would be the next	22	
23	date?	23	
24	THE CLERK: May 17th.	24	
25	MR. WOOD: And that could be May 3rd could	25	
	103		104

1	TRANSCRIBER'S CERTIFICATE
2	
3	
4	STATE OF IDAHO)) SS
5	County of Jerome)
6	
7	I, DENISE K. SCHLODER, do hereby certify:
8	That the above and foregoing
9	transcription was transcribed by me from digital
10	audio provided, and that the transcript is true and
11	correct to the best of my ability from the portions
12	of the proceeding that could be heard on the digital
13	audio, consisting of pages 1 through 104, inclusive.
14	I further certify that I have no interest
15	in the event of the action.
16	WITNESS my hand this 14th day
17	of July 2016.
18	
19	Denise K. Schloder,
20	Transcriber
21	
22	
23	
24	
25	

105

From: Spillman, Jason Sent: 06/27/2016 11:10 AM To: 'Keith Roark'; Lee Schlender (Cc: Hemmer, Casey; Piotrowski, Sandra Subject: RE: A M 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.

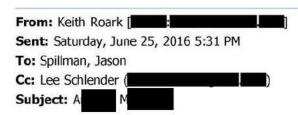
Mr. Wood did state in open court that he was thinking about filing a motion to challenge your client's competency to testify. We would obviously object to that motion, but since the motion doesn't actually exist I believe it would be inappropriate to speculate any further on this issue.

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

) –



Jason:

We understand that Mike Wood has made some kind of motion to have a mental exam performed on our client, A Mathematical 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



This message and any files attached are protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 the strictly attached files of the strict of the From: 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 2 & 2016

 MAR 2 & 2016
 MAR 2 & 2016

 THE COURT, having considered the above Request for Approval under Rule 45 of the STRUCT COURT LINCOLN IDAHO
 BRENDA FARNWORTH, CLERK

 Administrative Rules, hereby orders that permission to video record the above hearing is:
 BRENDA FARNWORTH, CLERK

 Image: Court Court Lincoln IDAHO
 Image: Court Court Lincoln IDAHO

 Image: Court Administrative Rules;
 Image: Court Administrative Rules;

 Image: Court Administrative Rules;
 Image: Court Administrative Rules;

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

[X] 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 <u>photograph</u> the above hearing is:

[X] 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 Zolle

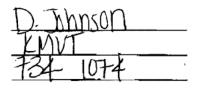
District/Magistrate Judge

REQUEST TO DETAIN APPROVAL TO VIDED RECORD, BROADCAST OR PHOTOGRAPH A COURT PROCEEDING

06.08.12

2

I hereby certify that on the $\underline{\mathcal{B}}$ day of \underline{MATCM} 20___, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:



() U.S. Mail
() Hand delivered
(*L*)-Faxed
() Court Folder

(FAX)

Trial Court Administrator () U.S. Mail

() U.S. Mail () Hand delivered EMail

() Hand delivered EMail

() Faxed

() Faxed

() Court Folder

() Court Folder

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

06.08.12

P.002/003

From: catherine.minyard@ag.idaho.

· ·

To:

Cc: 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,

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 <u>day of January 2017</u>.

Randy J. Stoker District Judge

ORDER (HOWARD), Page 1

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:

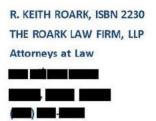
Casey J. Hemmer	U.S. Mail Postage Prepaid
Deputy Attorney General	Hand Delivered
P.O. Box 83720	Overnight Mail
Boise, ID 83720-0010	Facsimile
Fax: (208) 854-8083	Electronic Mail (Email)
Brad Calbo	U.S. Mail Postage Prepaid
Calbo & DePew	Hand Delivered
P.O. Box 9	Overnight Mail
414 N. Lincoln, Ste. 5	Facsimile
Jerome, ID 83338	Electronic Mail (Email)
Fax: (208) 324-5597	

ORDER (HOWARD), Page 2

From: Keith Roark				
Sent: 12/18/2016 1:29 PM				
To: Randy Stoker (
Cc: Hemmer, Casey;	; Lee Schlender ()	
Subject: St. v. John Howard		-02		
Attachments:				

Dear Judge Stoker:

As you may or may not not know, I am one of the attorneys representing A Marcon and his parents, Tim and Shelly M marcon 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 Satureday, 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 Marcon 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.



Fax: () -

This message and any files attached are protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 () for the or () for the or (fax) or (fax) or (fa From: 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 < > 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: Fax: (208) 854-8083

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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>



From: Bauges, Brenda Sent: 05/17/2016 9:48 AM To: 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:

 Fax:

 208/854-8083

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, . Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance of the information it contains.



From: Lee Schlend	ler
Sent: 12/01/2016 1	0:16 AM
To: Hemmer, Case	у
Cc:	
Subject: M	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.



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

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 < worker 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

>>

>>

>>

>> Sent from ipad of Mr. Schlender

>>

>>

>>

>>

From:	
Sent: 12/22/20	016 2:00 PM
To:	
Cc:	
Subject: RE: I	daho 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. _____ 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 [

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.

Since the

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



engaging voices | creating change

From: Kelly Miller Sent: Thursday, December 22, 2016 11:27 AM To: 'Bea Black' 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

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:

engagingvoices.org | ourgenderrevolution.org

engaging voices | creating change

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

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:	

Cc: 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 [**Sent: Constant Provided in C**

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 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 -

2

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"	
Date: November 2, 2016 at 11:	28:03 AM MDT
To: 'Lee Schlender'	
Cc: Brian Julian	, "Davonna L. Wolff"

Subject: Subpoena to AG, and Rule 35 Exam.

Mr. Schleder:

We will not be objecting to the referenced subpoena for AG \diamondsuit 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 second is available in November for a Rule 35 examination by Dr. Craig Beaver, but have not received any response. Please advise as toe A second 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 second. 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: _____

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From: Lee **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

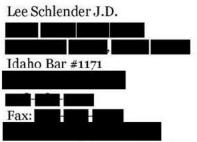
you and/or defense counsel; that can be done in the future if required. However I certainly

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



Board Certified Medical Malpractice

?

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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:040516-1160405.96028671@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

From: Randy Stoker Sent: 12/19/2016 8:09 AM To: Keith Roark Cc: Hemmer, Casey; Exception (1997); 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:	
Sent: Sunday, December 18, 2016 1:30 PM	
To: Randy Stoker	
Cc: Hemmer, Casey	Lee Schlender
Subject: St. v. John Howard	

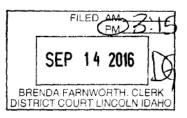
Dear Judge Stoker:

As you may or may not not know, I am one of the attorneys representing A Marcon and his parents, Tim and Shelly M marcon 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 Satureday, 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 Marcon 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

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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,

Plaintiff.

Vs

Case No. CR 2016-214 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

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

Garcia Dals Kristina Glascock, Clerk

By Deputy Clork

From: Hemmer, Casey Sent: 09/12/2016 4:45 PM To: Deysi Sandoval Cc: Minyard, Catherine; Calbo&Depew; 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

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 **State and at the time of the meeting.** Mr. Calbo's number is **State**.

Deysi Garcia, Deputy Clerk Lincoln County Magistrate Court

(208) 886-2173 (208) 886-2458 Fax From: Minyard, Catherine Sent: 09/07/2016 3:11 PM To: Deysi Garcia (Construction) 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 COUR	T OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, I	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

MOTION TO DISQUALIFY (HOWARD), Page 1

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

X Facsimile

Electronic Mail (Email)

Cathy/Minyard, Paralegal

MOTION TO DISQUALIFY (HOWARD), Page 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.		
JOHN R.K. HOWARD,		
Defendant.		

CASE NO. CR-2016-214 ORDER TO DISQUALIFY

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

ORDER TO DISQUALIFY (HOWARD), Page 1

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

ORDER TO DISQUALIFY (HOWARD), Page 2

From:		(
Sent: 06/25/2016 :	5:31 PM		
To: Spillman, Jasc	n		
Cc: Lee Schlender	(
Subject: A	M		<u> </u>
Attachments:			

Jason:

We understand that Mike Wood has made some kind of motion to have a mental exam performed on our client, A Mathematical 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

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Probably 3-4 days. I am unavailable the week of Nov. 7.

Casey

From: Deysi **Constant (1998)** 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: Sent: 06/27/2016 11:14 AM To: Spillman, Jason Cc: R K Roark Subject: Re: A M

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



Board Certified Medical Malpractice

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On Jun 27, 2016, at 11:10 AM, Spillman, Jason <

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

From: Keith Roark Sent: Saturday, June 25, 2016 5:31 PM To: Spillman, Jason Cc: Lee Schlender Subject: A

Jason:

We understand that Mike Wood has made some kind of motion to have a mental exam performed on our client, A Mathematical 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



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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* <u>N.J. Const. art. I, ¶ 22</u> and <u>N.J.S.A. 52:4B-35</u>, <u>*et seq.*</u> 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. <u>Const. Art. 1, par. 10 and</u>

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. <u>Weatherford v. Bursey</u>, 429 U.S. 545 (1977); <u>Wardius v. Oregon</u>, 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.,* <u>State v. Cusick,</u> 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 <u>Const. Art. 1, par. 10 and U.S.C.A. Const.</u> <u>Amends. 6 and 5</u>.

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. <u>Griswold v.</u> <u>Connecticut</u>, 381 U.S. 479, 483 (1965); and this constitutional privacy right of the victim has been recognized in criminal prosecutions. <u>See, e.g., United States v.</u> <u>Galloway</u>, 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.,* <u>The Victim's Right To Privacy:</u> <u>Imperfect Protection from The Criminal Justice</u> <u>System,</u> 8 ST. JOHN'S J. LEGAL COMMENT. 205 (Fall, 1992); <u>Raped Once,</u> <u>But Violated Twice:</u> <u>Constitutional Protections Of A Rape Victim's Privacy,</u> 66 ST. JOHN'S LAW REV. 151 (1992); Comment, <u>Arizona Criminal Procedure</u> <u>After The Victims' Bill Of Rights Amendment:</u> <u>Implications Of A Victim's</u> <u>Absolute Right To Refuse A Defendant's Discovery Request,</u> 23 ARIZ. ST. L.J. 831 (1991).

3. New Jersey Law protecting the privacy rights of crime victims. In <u>State v. D.R.H.</u>, 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 <u>D.H.R.</u>, 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),

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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 <u>D.H.R.</u>, 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*, <u>D.H.R.</u>, 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 <u>D.H.R</u>, *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. <u>See also, State v. Michaels,</u> 264 N.J. Super. 579 (App.Div. 1993) where the court followed <u>D.H.R.</u> applying the "substantial need" test in criminal discovery request involving charges of sexual abuse on a minor; and <u>State v. R.W.</u> 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 <u>Gilchrist</u> 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. <u>The rights of these individuals should be given full recognition and protection.</u> The Legislature has the responsibility to enhance and protect the necessary role of crime victims and witnesses in

⁵ <u>Gilchrist</u> at 147, 35.

<u>the criminal justice process</u>. In furtherance of this, the improved treatment of these persons should be assured through the establishment of specific rights. <u>These rights are among the most fundamental and important in</u> <u>assuring public confidence in the criminal justice system</u>. 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 <u>State in the Interest of K.P.</u>, 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 <u>State v. Muhammad</u>, 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); <u>State v. Hill</u>, 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); <u>State v. Cusumano</u>, 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 <u>State in the interest of K.P.</u>, 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 <u>State</u>

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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, <u>*N.J.S.A.* 52:4B-34</u> to -38. See, <u>State v. Timmendequas</u>, 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.

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* <u>N.J.S.A</u>. 52:4B-36 (a) (c) & (d).

⁶ N.J. Const. art. I, ¶ 22, Interpretive Statement

In <u>Gilchrist</u>, 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. <u>State v. Gilchrist</u>, 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 <u>L.J. P</u>., 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. <u>Id</u>. 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, <u>State v.</u> J.P., 2006 WL 1675714 (N. J. Super.App.) Div., 2006); <u>Korostynski v. State, Div. of Gaming Enforcement</u>, 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 <u>State v. L.J.P.</u>, 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 <u>State v. Henries</u>, 306 N.J. Super. 512, 704 A.2d 24 (App.Div.1997) in support of his position. It is not. <u>Henries</u> 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 <u>Henries</u> had no further relevance to the case at bar.

The other case cited by defendant <u>State v. Franklin</u>, 52 N.J. 399, 245 A.2d 356 (1968) is also not material to the issue in the instant matter. <u>Franklin</u> also did not

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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 <u>United States v. Benn</u>, 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, <u>United States v. Butler</u>, 481 F.2d 531 (D.C.Cir.1973). *See <u>Rasnick</u> <u>v. State</u>*, 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).; <u>Evans v. State</u>, 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 <u>Goldsmith</u> 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, <u>Harris v. State</u>, 331 Md. 137, 626 A.2d 946 (1993) and <u>Zaal v. State</u>, 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 <u>Fisher v. State</u> 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 <u>D.R.H</u>. and <u>Gilchrist</u>, *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 <u>veracity</u> 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 <u>Gilchrist</u> 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 <u>State v. Camejo</u>, 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? <u>Id.</u> 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. <u>See generally</u>, <u>Goldstein v.</u> 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)].

<u>Camejo</u>, 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

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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.

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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

Robert A. Butterworth, Attorney General and Belle B. Turner, Assistant Attorney General, Daytona Beach, Florida,

for Respondent

Louis M. Jepeway, Jr. of Jepeway and Jepeway, P.A., Miami, Florida,

Amicus Curiae for National Association of Criminal Defense Lawyers

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Re-Examining Motions to Compel Psychological Evaluations of Sexual Assault Victims

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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

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

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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.").

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

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.

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").

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.

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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 crossexamination 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 doctorpatient 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

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

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*.

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

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.

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").

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).

²³ See, e.g., Koerschner, 13 P.3d at 454.

²⁴ See, e.g., Braham, 571 P.2d at 640 (finding no error).

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:

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[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

³⁶ See infra Part II.

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.

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 "sympathyarousing" victims spinning believable tales-and subjecting "unattractive" defendants to undeserved convictionsoutweighed these problems.⁴⁰ The court noted in dicta that

³⁹ See id. at 848 n.10.

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).

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

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

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.

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.").

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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

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 crossexamination 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. Giacopassi & 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. & SOCY 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

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).

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 selfesteem.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

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 ATTY 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).

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).

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

⁷⁶ See Eric S. Janus & Paul E. Meehl, Assessing the Legal Standard for Predictions of Dangerousness in Sex Offender Commitment Proceedings, 3 PSYCHOL. PUB. POL'Y & 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.

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).

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

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).

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.

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

 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).

(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

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.

⁹⁰ FED. R. CIV. P. 35(a). The full text reads:

Rule 35. Physical and Mental Examination of Persons

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 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

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.

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).

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 rightswhile 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

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

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).

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 crossexamination 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 render independent records can 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

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. Walgraeve, 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] courtordered 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

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]rossexamination 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.").

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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 A better approach, then, is to allow expert evaluations. 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

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).

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

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).

^{123 623} F.2d 869 (3d Cir. 1980).

¹²⁴ Id. at 874; see also FED. R. EVID. 412.

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

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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

¹³² See id. at 854 n.1.

¹³³ See id. at 854.

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.*

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

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.").

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.

785

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).

ST. JOHN'S LAW REVIEW

786

From: Deysi Sandoval Sent: 09/02/2016 11:58 AM To: Calbo&Depew; Hemmer, Casey; Cheri Mattson Cc: Subject: Howard Attachments:Untitled.PDF

Plez	fax	back	to
------	-----	------	----

	TRICT COURT OF THE $\frac{577}{577}$ JUDICIAL I OF IDAHO, IN AND FOR THE COUNTY OF	
STATE PLAINTIFF(S))	BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO
) REQUEST TO	
X 7) APPROVAL TO	
V.) RECORD, BRC PHOTOGRAPH	
John R.K. 1	Housard) PROCEEDING	
DEFENDANT(S))	
	· · · · ·	• • • • · • · ·
I hereby request approval to:	n star i Star in star	<u>4</u>
Video record [] broa	dcast [] photograph the following court proce	eeding:
Case No.:	CR-2016-214	
Date;	9/06/16	
Time:	3:00 p.m.	New Address of Address and A
Location:	Hon, Eric Wildman	ê Deve ar we have a second a sec
Presiding Judge:	Hon, Eric Wildman	
I have read Rule 45 of the Ida	ho 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

Sez

Signature

KTVB

News Organization Represented

Phone Number

9/1/16 Date

Please fax back to 375-7770

Request for Approval and Order - Page 1

state of Waho
John R.K. HOWAE
CR-2016-214

F		Ð
	SEP 0 1 2016	A
B	TRICT COURT LINCOLN ID	rik Aho

KTI'B

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 ir. Rule 45 of the Idaho Coart 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 1 5 day of Sept , 2016 istrict/Wagistrate Judge

Request for Approval and Order - Page 2

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 X_Emailed Faxed to U.S. Postal Service
Brad Calbo Attorney at Law	Hand delivered X Emailed Faxed to U.S. Postal Service
5 th District TCA Cheri Mattson	Hand delivered Emailed Faxed U.S. Postal Service
KTVB Gary Salzman	Hand delivered X Faxed to 375-7770
By: Deysi Gartia, Dopaty Clerk	

From:	
Sent: 06/01/2016 :	5:34 PM
To: Bauges, Brend	la
Cc:	
Subject: St v. W	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 Amount and his testimony.

R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
and the second second
(1991)
Fax: (

This message and any files attached hereto is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that any dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 (

From:	
Sent: 12/21/2016 10:34 AM	
To: Criminal (Inclusive);	
Ce:	
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





From: Keith R	oark
Sent: 08/31/20	16 4:19 PM
To: Hemmer, C	Casey
Cc:	a concentration of the second s
Subject: T	W
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 Termina Week. Please respond.

R. KEITH ROARK, ISBN 2230 THE ROARK LAW FIRM, LLP Attorneys at Law 515 1st Ave South Hailey, Idaho 83333 () Fax: (208) 788-3918

This message and any files attached are protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 (208) 788-2427 or (208) 788 3918 (fax) or

From: Keith Roark Sent: 08/30/2016 4:06 PM To: Hemmer, Casey Cc: Subject: T
Mr. Hemmer:
It would appear from the repository that you dismiss the case against T ransferred W ran today. I would like a call and explanation ASAP.
R. KEITH ROARK, ISBN 2230
THE ROARK LAW FIRM, LLP
Attorneys at Law
515 1 st Ave South
Hailey Idaho 83333 (1997) Fax: (208) 788-3918

This message and any files attached are protected by the Electronic Communications Privacy Act, 18 U.S.C. Sections 2510-2521 and is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 (208) 788-2427 or (208) 788 3918 (fax) or From: Hemmer, Casey Sent: 12/01/2016 11:21 AM To: 'Lee Schlender' Cc: Subject: RE: Macana case Attachments:

My assistant is working on it now. Sorry about that, I thought everything went out.

Casey

-----Original Message-----From: Lee Schlender Sent: Thursday, December 01, 2016 10:16 AM To: Hemmer, Casey Subject: Machine 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.



Sent from ipad of Mr. E.Lee Schlender

From: Deysi Sandoval Sent: 07/07/2016 11:50 AM

To:

Minyard, Catherine

Cc: Subject: Emailing - Untitled PDF - Adobe Acrobat.pdf Attachments:Untitled PDF - Adobe Acrobat.pdf

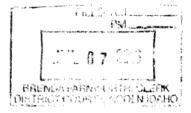


NAACP TRI-STATE CONFERENCE OF BRANCHES (IDAHO-NEVADA-UTAH) P.O. BOX 26622 SALT LAKE CITY, UT 84126-0622 TELEPHONE: (801) 250-5088 FAX: (801) 250-5111 Email: jdwnsscp@att.net



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 Table and Howard Water vs. the State of Idaho. There has been media attention on the town of Dictrich, Idaho and the assault of rape by penetration of a foreign objet 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 (

Sincerely. conetta Williams

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

Founded in 1909

From: Keith Roark Sent: 06/03/2016 3:17 PM To: Spillman, Jason Cc: Hemmer, Casey; Piotrowski, Sandra; Brenda Bauges; Lee Schlender (Subject: RE: St v. W and Howard Attachments:

Jason:

Thanks for getting back. A **second** 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 schoolmates found him walking around Dietrich, upset with his mother, and called the two coaches who instructed him to bring A 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 for 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 the 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 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

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 **management**.

R. KEITH ROARK, ISBN 2230 THE ROARK LAW FIRM, LLP Attorneys at Law This message and any files attached hereto is intended strictly for the use of the above listed addressee and may contain information that is **PRIVILEGED AND CONFIDENTIAL**. If you are not the addressee and have received or come into possession of this email, you are hereby notified that any dissemination of this communication in any form is strictly prohibited. If you have received this communication in 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 (**TO**)

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 mean 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 mean 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 mean 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: Band 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



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From: Deysi Sandoval Sent: 09/12/2016 2:00 PM To: Minyard, Catherine; Calbo&Depew Cc: Hemmer, Casey; 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 **the time** of the meeting. Mr. Calbo's number is

Deysi Garcia, Deputy Clerk Lincoln County Magistrate Court

(208) 886-2173 (208) 886-2458 Fax From: Sent: 03/04/2016 4:12 PM To: Bauges, Brenda Cc: Subject: RE: Proposed Orders Attachments:image001.jpg

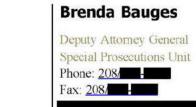
Brenda, Do you need any copies from the files?

Deysi Garcia, Deputy Clerk Lincoln County Magistrate Court

(208) 886-2173 (208) 886-2458 Fax

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.



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, . Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance of the information it contains.

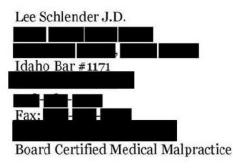


From:	Lee Schlender
Sent: 1	2/05/2016 10:46 AM
To: He	mmer, Casey
Cc:	
Subjec	t: schlender re M
Attach	ments:image002.jpg

Casey,

Sure could use the audio CD of the interviews; we have depositions next week and need to get those

transcribed soon.





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: 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 Martin 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, (only fed a Created investigation of a gaust A. II. (a such GENERAL OF THE STATE OF IDAHO into allegations raised by A Manual Manual A. II. (a such 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 analio, pla bages, v. lio 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

2

the subpoended 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.

5. Any Protected materials produced by either party, which shall include all documents, regardless of form, including portions of appeciation 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 ee Schlender, Schlender Law Offices for Plaintiff day of November 2016. DATED this

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

4

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 subpeona and for confirmation,

this email.

Best Regards,

lee Lee Schlender

SCHLENDER & BROWN PLLC

Lee Schlender J.D. Joseph F.Brown, M.D.J.D. Offices Meridian and Mt.Home Idaho

Fax: **Main Factor** Mr.Schlender: Board Certified Medical Malpractice

2

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

wrote:

Casey:

Trust you received the email with the subpoena, notice of subpoena and the agreement for nondisclosure.

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

SCHLENDER & BROWN PLLC

Lee Schlender J.D. Joseph F.Brown, M.D.J.D. Offices Meridian and Mt.Home Idaho

Fax: **Market Factor** 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 Metal 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.



Board Certified Medical Malpractice

E. Lee Schlender, ISBN 1171 SCHLENDER LAW OFFICES



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM



Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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:

In this case, an investigation was conducted by THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO into allegations raised by A Mathematica Mathematica is 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.

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

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 herby 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 form 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.

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 Schlender, Schlender Law Offices for By E. Lee. 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

> 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: 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 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 wrote:
Mr. Schlender:
Thank you for your response. We have no medical records regarding A potential of the potent
We will schedule A depo for the 17 th , 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:

<u>CONFIDENTIALITY NOTICE</u> - 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 Sent: Wednesday, November 02, 2016 12:14 PM To: Bret A. Walther Cc: Brian Julian; Davonna L. Wolff; Subject: Re: Subpoena to AG, and Rule 35 Exam.

Mr. Walther,

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 doctors is competent and well enough to have his deposition taken in November.

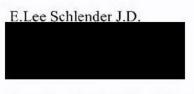
I called Canyon View hospital records department yesterday; the clerk stated neither your nor my request for records has been filled and they are "in the pipeline". I requested expediency; if you do have any of them them please provide a copy to me. The merger of the hospital with St.Lukes has created major administrative headaches.

A 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 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.



Sent from ipad of Mr. Schlender

On Nov 2, 2016, at 11:28 AM, Bret A. Walther < worker worker workers and workers where where the second sec

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 Analysis available in November for a Rule 35 examination by Dr. Craig Beaver, but have not received any response. Please advise as toe Analysis 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 Analysis. 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: ______

<u>CONFIDENTIALITY NOTICE</u> - 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 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.



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



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

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 Cou In and For the Coun 111 West B Stree Shoshone, Idaho	ty of Lincoln et Suite C	FILED AM A A
STATE O	F IDAHO,	, , , , , , , , , , , , , , , , , , , ,		SEP 06 2016
	Plaintiff.			BRENDA
VS.				BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHO
John R.K.	Howard)	
2632 Twir	n Flower Dr.)	
Keller, TX	83352-0800		Case No:	CR-2016-0000214
	Defendant.			OF HEARING
DOB:	9/25/1997			
)	
)	

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.

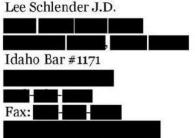
Defendant:	John R.K. Howard					
		Mailed		Hand Delivered	_E-Mail	
Private Counsel:		Mailed		Hand Delivered	_E-Mailx	
Brad Calbo						
P.O. Box 9 Jerome ID 83338						
Prosecutor:	Casey J Hemmer					
		Mailed		Hand Delivered	_E-Mailx	
CC: Crystal	Rigby					
		Dated:	Tuesda	y, September 6, 2016		
			Brenda	Farnworth f The District Court		
		_				
		By:	Deysi G	area, Deputy Clerk		
			DOC22			

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 [1999]: 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 ?



Board Certified Medical Malpractice

?

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On Nov 2, 2016, at 2:24 PM, Hemmer, Casey < <u>casey.hemmer@ag.idaho.gov</u> wrote:

Pages 2-5 came through blank.

Casey

From: Lee

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

П

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.



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



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM



Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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:

In this case, an investigation was conducted by THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF IDAHO into allegations raised by A Mathematica (Control of 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.

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS

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 herby 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 form 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.

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 Schlender, Schlender Law Offices for By E. Lee. 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

> E. Lee Schlender, Attorney for Plaintiff

STIPULATION FOR PROTECTION RE: PRODUCTION OF DOCUMENTS AND MATERIALS



Board Certified Medical Malpractice

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-				I
16	0	r	11	
.	U			

I UIII.	
Sent: 04/12/2016 11:47 AM	
Γο: Bauges, Brenda	
Cc:	
Subject: Voice Message from	n Outside Caller on 4/12/16 11:47 AM for 3089
Attachments:041216-	-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 Management of the 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

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 [**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

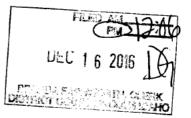
to the proposed Order. By that method, all signatures will appear on the same document.

Any questions; call me.



Board Certified Medical Malpractice

From:	
Sent: 12/16/2016 12:07PM	
To: catherine.minyard@ag.idaho.gov;	
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,	
VS.	
John R. K. Howard,	
Defendant.	

Case No. CR-2016-1144

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: December 16, 2016

G. RICHARD BEVAN Administrative District Judge Fifth Judicial District

C:

ORDER OF REASSIGNMENT

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 The Water 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: 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	. Heather. Couple of questions for you. Take right on
answer if you could give me a call back and again it's Tim	at 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; Subject: Howard Attachments:

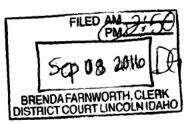
Meeting with Judge Stoker will be Wednesday September 14th at 1:30PM by phone.

Mr. Hemmer can you please initiate and call Twin Falls at **the time** of the meeting. Mr. Calbo's number is

Deysi Garcia, Deputy Clerk Lincoln County Magistrate Court

(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:

ORDER OF REASSIGNMENT

From:

. Sent: 04/22/2016 10:27 AM To: Bauges, Brenda Cc: Subject: John Howard Attachments:Untitled.PDF - Adobe Acrobat.pdf

016 09:54	2087345538	TIMES-NEWS	PAGE 02/03
		Ĩ	FILED AND MITZ
			PM_10-15
			AMK 2 2 2016
ORDER			BRENDA FARNWORTH, CLERK
THE COURT, ha	aving considered the abov	re Request for Approval under Rule 45 of the Idaho I	DISTRICT COURT LINCOLN PART
		t permission to video/audio record the above hearing	
Administrative		rictions in addition to those set forth in Rule 45 of th	e Idaho Court
	One	camera, set location	
analasis a. L.M.	· · · ·		
			atoma -
[] DENIED.			
THE COURT, ha	iving considered the abov	e Request for Approval under Rule 45 of the Idaho (Court
		permission to broadcast the above hearing is:	
1 GRANTED	under the following restr	ictions in addition to those set forth in Rule 45 of th	e Idaho Court
Administrative			
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DENIED.		· · · ·	
THE COURT, ha	ving considered the abov	e Request for Approval under Rule 45 of the Idaho C	ourt
		permission to photograph the above hearing is:	
GRANTED	under the following restr	ictions in addition to those set forth in Rule 45 of th	e idaho Court
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DENIED.			
All images and a	audio recordings captured	in the courtroom, whether before, during or after	the actual
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with other med	ia organizations as requir	ed by Rule 45 of the Idaho Court Administrative Rule	25.
DATED this	22 day of ADYIL	2016 Mark Syra	
		Justice/Judge	
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CERTIFICATE OF MAILING

I hereby certify that on the $\frac{22}{2}$ day of \underline{Apri} , 20, 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 EMAI () Court Folder
Brad Calbo	() U.S. Mail () Hand delivered () F axed () Court Foider
Alex Riggins	() U.S. Mail () Hand delivered () Faxed () Court Folder
Shelli Tubs Trial (curl administrator	HAR

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

06.08.10

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From: Minyard, Catherine
Sent: 05/02/2016 3:11 PM
To: Deysi Sandoval (
Cc:
Subject: State v. W - 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 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	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 R W W) 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.

MOTION FOR CHANGE OF VENUE (W.), Page 1

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-deserveanswers/article_3a229871-fe57-56c2-86d4-cbeeb40e8d74.html

http://magicvalley.com/news/local/crime-and-courts/dietrich-school-leaders-notify-parents-of-rapeallegations/article_59d138b9-4931-5488-8fc8-163aea634671.html

http://magicvalley.com/news/local/crime-and-courts/teens-charged-in-dietrich-high-school-sexassault/article_bca2d948-db6c-576b-ac2e-99e1bc1d4cd3.html

http://magicvalley.com/news/local/crime-and-courts/update-dietrich-teen-arraigned-in-locker-roomsex-assault-case/article_7549bf63-2788-53d1-bffc-483479a2935e.html

http://magicvalley.com/news/local/crime-and-courts/year-old-accused-in-dietrich-high-schoolsexual-assault-arrested/article_72f177fc-e936-5b86-acde-05338f5950b6.html

http://magicvalley.com/news/local/crime-and-courts/dietrich-teen-testifies-teammates-conspired-toattack-him/article_93919f28-17c7-5f75-817a-89ad4d175b34.html

http://www.kmvt.com/content/news/Dietrich-teens-appear-in-court-for-alleged-sexual-assault-onstudent.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

MOTION FOR CHANGE OF VENUE (W), Page 2

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 X Facsimile

Cathy Minyard, Paralegal

MOTION FOR CHANGE OF VENUE (W.), Page 4

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rapty	anashkad ^{iy}	Posted: 3 days ago	 Birki.t.	REI

in 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 mined. 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 fack 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 sconer. And shame on you who are using her tragic demise as an opportunity to yeat your anti-religious beliefs.

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	Dietrich (Frailer frash))			

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!

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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 thil. fronic the accused are related to the people who mied to have the tather of the victim fired for saying vagina in a biology lesson. The real pussies are the Mormons of Dietrich.

· do NOT contact ma with unsolicited services or offers

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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

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	W M ,	
	Defendant.	

Case No. CR-2016-213

ORDER ALLOWING CHANGE OF VENUE

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

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	U.S. Mail Postage Prepaid
Deputy Attorney General	Hand Delivered
P.O. Box 83720	Overnight Mail
Boise, ID 83720-0010	Facsimile
FAX: (208) 854-8083	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

ORDER ALLOWING CHANGE OF VENUE (W , Page 2

From:				
Sent: 12/21/201	6 4:47 PM			
To:				
Cc:				
Subject: Record	s request			
Attachments:				

Mr. Roark,

Attached please find a copy of a letter that is also being mailed to you today regarding our response to your request for records.

I also read your response to my previous email. As I stated in my earlier email, I am not going to discuss this pending matter further at this time.

From:

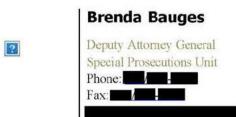
Sent: 03/14/2016 11:43 AM To: Bauges, Brenda Cc: Subject: RE: Request for Attempt to Arrest Attachments:image001.jpg

Packet has been worked up for issuance to a warrant officer.

From: Bauges, Brenda [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.



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, . 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

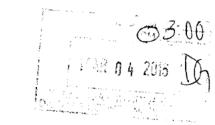
From: Deysi Sandoval [Sent: Friday, August 26, 2016 2:13 PM To: Calbo&Depew; Hemmer, Casey Subject: Howard

Arraignment will be in Gooding County at 3:30PM.

Deysi Garcia, Deputy Clerk Lincoln County Magistrate Court



From: Sent: 03/08/2016 8:42 AM To: Bauges, Brenda Cc: Subject: The West Attachments: Untitled.PDF - Adobe Acrobat.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,) Case No. CR- <u>2010</u> - <u>213</u>
vs.)
T. R. W. W.) ORDER TO SEAL
Defendant.	

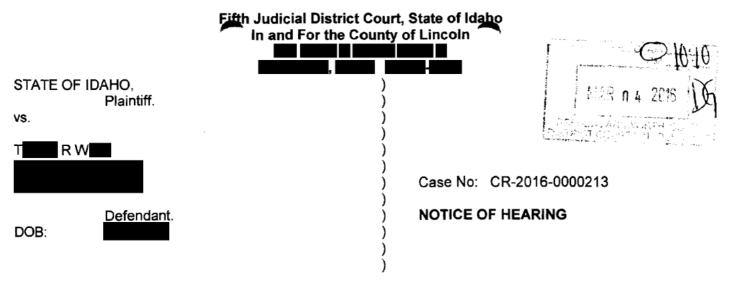
The Motion to Seal the probable cause affidavit having come before the Court and good cause appearing;

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 $\underline{4}$ day of March 2016.

Mark A. Ingram Magistrate Judge

ORDER TO SEAL (W 1



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 R W			
		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-Mailx
		Dotod: Eridov	March 4, 2016	
		Brenda	<u>, March 4, 2016</u> a Farnworth Of 7he ⊅istrict Court	
		By: Devst DOC22	Garcia, Deputy Clerk	

LAWRENCE G. WASDEN Idaho Attorney General

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

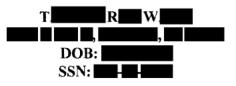
BRENDA M. BAUGES ISB#8185

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF

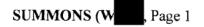
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOLN

STATE OF IDAHO,)
Plaintiff, vs.) case no. <u>(R- 2016-</u> 213
T R W,)) SUMMONS
Defendant.)
)

THE STATE OF IDAHO SENDS GREETING TO:



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 <u>18</u> day of <u>March</u>, 2016, before the Honorable <u>March</u> <u>1900</u> (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 <u>4</u> day of <u>March</u>, 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: (Facsimile: (

Defendant.

	IN THE DISTRICT COURT OF	THE	FIFTH JUDICIAL DISTRICT OF
	THE STATE OF IDAHO, IN A	ND FO	OR THE COUNTY OF LINCOLN
STATE OF I	DAHO,)	
VS.	Plaintiff,))	case no. <u>(R-2016-</u> 713
T. R	W.,)))	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



necessary to temporarily seal the affidavit to preserve the defendant's right to a fair trial.

DATED this $\underline{\underline{\mathcal{H}}}$ day of March, 2016.

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2mm λν BRENDA M. BAUGE

Deputy Attorney General, Special Prosecutor for Lincoln County

STATE'S MOTION TO SEAL (W

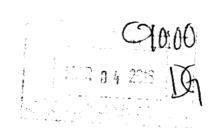
LAWRENCE G. WASDEN Idaho Attorney General

- r.

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: (



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.

CASE NO. 2016 - 213

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this \underline{H} day of \underline{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**urned** W.**4**, 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. 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

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

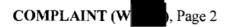
All of which is contrary to the form, force and effect of the statute in such case, and against the peace and dignity of the State of Idaho.

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

rend BRENDA M BAUGE

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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



. 1

From:			
Sent: 04/12/2016 10:44 AM			
To: Pittz, Anthony			
Cc:			
Subject: Voice Message from	Outside Caller	on 4/12/16 1	0:46 AM for 4140



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-

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

(208) 886-2173 (208) 886-2458 Fax

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 [**Sent:** Friday, August 26, 2016 2:42 PM To: Hemmer, Casey; Calbo&Depew Cc: 'Ruth Petruzzelli' Subject: John Howard From: 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

(208) -

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 **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 Figure 1 am the father of K P P 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

From:			
Sent: 01/04/2017 1:45 PM			
To:			
Cc:		-	
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.



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,

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

Enc.

Criminal Law Division P.O. Box 83720, Boise, Idaho 83720-0010 Telephone: The second state of the second st 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

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).

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

RULE 11 AGREEMENT - 2

class, if they are available.

- g. Defendant waives any *Estrada* rights and agrees to cooperate with the presentence investigation process.
- h. Pursuant to Idaho Criminal Rule 11(f)(1) and <u>State v. Murphy</u>, 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.
- 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 RULE 11 AGREEMENT - 3

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 11 AGREEMENT - 4

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).

RULE 11 AGREEMENT - 5

RR001346

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

DATE: 12-16-16

DATE: 12-16-16

and the second s

CASEY J. HEMMER Deputy Attorney General Special Prosecuting Attorney

BRAD CALBO Attorney for Defendant

UN

JOHN R.K HOWARD Defendant

RULE 11 AGREEMENT - 6

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 Co In and For the Cour 111 West B Stre Shoshone, Idaho	nty of Lincoln et Suite C	FILED AM
STATE OF IDAHO, Plaintiff. vs. John R.K. Howard	Shoshone, idano))))	A DISTRICT COURT LINCOLN IDAHO
Defendant.)) AMENDEI	CR-2016-0000214 D DF HEARING
NOTICE IS HEREBY GIVEN t	that the above-entitled case i) s 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-Maii
		Maneu		fiand Delivered_	
Private Counsel:		Mailed		Hand Delivered	E-MailX
Brad Calbo					
P.O. Box 9 Jerome ID 83338					
Prosecutor:	Casey J Hemmer				
		Mailed		Hand Delivered_	E-MailX
		Dated: By:	Brenda Clerk Of	August 26, 2016 Farnworth The District Cour	2
		-	Deysi G DOC22 7	areie Deputy Cleft	k

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 ~ Fax: 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

Mutare

Voice Message from Outside Caller on 5/24/16 8:42 AM (79 second msg)

MESSAGE:

"Hi Brenda this is Shelly Market Number. My number is **Market**. I talked to a **Market**?) 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 **Market**?) 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

wrote:

Judge Elgee is gone the week of the 6^{th} . | 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 6^{th} . Please let me know what works.

Thanks.

Deysi Garcia, Deputy Clerk Lincoln County Magistrate Court

(208) 886-2173 (208) 886-2458 Fax

From: 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 Attachments:image002.jpg

Dear Mr. Spillman,

Mr. Roark and I have filed the civil action above cited on behalf of A M

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 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.



?

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: Emails 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

wrote:

Judge Elgee is gone the week of the 6^{th} . 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 6^{th} . Please let me know what works.

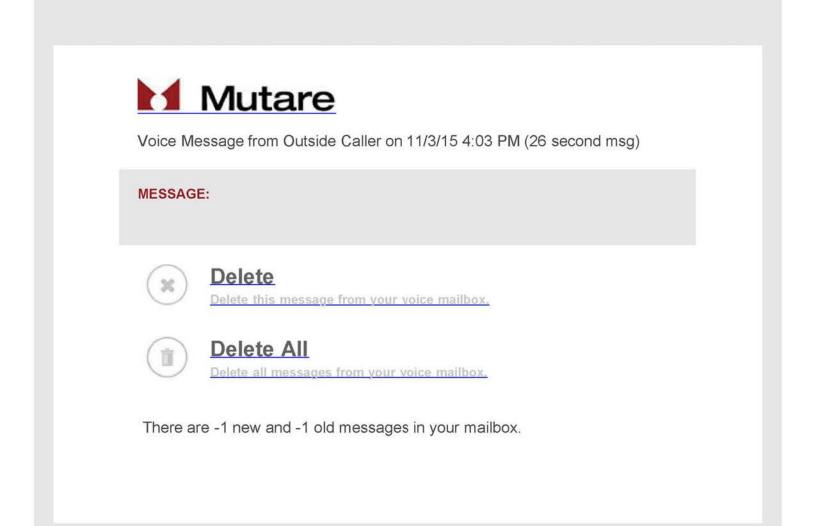
Thanks.

Deysi Garcia, Deputy Clerk Lincoln County Magistrate Court

(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



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 (
Cc: Hemmer, Casey;	
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

IN THE DISTRICT COUR	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 DOB: 09/25/1997 SSN: 1997 - 1997 ,) INFORMATION))		
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

INFORMATION (HOWARD), Page 1

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

INFORMATION (HOWARD), Page 2

From:	
Sent: 05/25/201	6 9:14 AM
To: Bauges, Bre	enda
Cc:	
Subject: Dietric	h 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-chargedwith-raping-black-disabled-teammate-with-a-coat-hanger/

Please also feel free to call me at the number below.

Best,

Jude

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 this address, or call me at **the stand**. Thanks.

From: Olson, Wendy (USAID) [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

From:

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, 2014 - 201

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 [**1999**] 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

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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 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 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

From: Lee Schlender 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 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 M

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 and not an attorney work product.

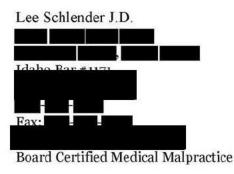
We would keep all the materials and subject matter confidential in every respect until your offices advise us

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,



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From: CHEMMER Sent: 06/09/2016 2:44 PM To: Hemmer, Casey Cc: Keith Roark; Heidi Southward Subject: Management and Howard case Attachments:

Casey,

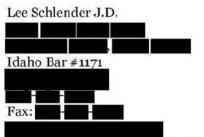
Assuming on cross of A more omorrow there appears that he is not consistent regarding the facts of the rape,

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 I will make proper objections.

I was just told that the hearing tomorrow has been postponed until July 29.

Lee



Board Certified Medical Malpractice

?

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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 (
Cc: Hemmer, Casey;
Subject: State v. John Howard, Lincoln County Case No. CR-2016-214

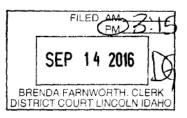
Ruth -

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,

Plaintiff.

Vs

Case No. CR 2016-214 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

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

Garcia Dals Kristina Glascock, Clerk

By Deputy Clork

Mr. Spillman,

Keith copied me on his note to you. I would like to add a comment.

The coaches arranged for A 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



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 Protective Order.Stipulation copy 2.docx; ATT00001.htm; ATT00002.htm; image002.jpg

Mr. Hemmer:

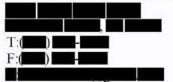
Attached is the stipulation with the changes acceptable I understand,

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



R. Keith Roark, ISBN 2230 THE ROARK LAW FIRM



Attorneys for Plaintiff

UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF IDAHO



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

1

The Office of the Attorney General conducted a criminal investigation regarding allegations raised against A.H. (a juvenile), T.W. (a juvenile) and John Howard;" that a M by 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 herby 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 form 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.

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

Ву_____

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: (The Description of the second seco

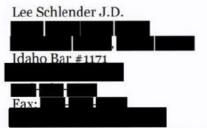
5

E. Lee Schlender, Attorney for Plaintiff

9

10

Thank You,



Board Certified Medical Malpractice

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On Nov 2, 2016, at 3:26 PM, Hemmer, Casey < ______ wrote:

<20161102151833973.pdf>



From: Pittz, Anthony	
Sent: 12/15/2015 3:28 PM	
To: Ben Hardcastle (
Cc:	
Subject: Student Interview form	ns and tentative schedule
Attachments: 20151215144745	719.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 start's dad and A start's dad. I will meet with P the start of a t 9 Thursday morning, followed by H the start of a fer wards. P the start 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.



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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 Attor	mey General's Office	,	Boise, Idaho	, have asked that
O A H		, a student in the Dietrich School, be made			
ava	ailable for int	erview			

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: <u>I spoke with A</u>'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

Ι, _	Investigator Anthony Pittz		, a duly sworn peace officer and member of the	
_	Idaho Attorney General's Office	,	Boise, Idaho	, have asked that
	A Plane, 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: <u>I spoke with A</u>'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

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 Real , a student in the Dietrich School, be made available for interview				

Date: 12/13	12015	Signature:
Time:3	6 Pm	Badge Number;

School Action

Date and time parents notified. If more than one attempt is made, include such information here:

I spoke with Sure '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

- 1. School records;
- 2. Parent mailing;
- *3. The police officer; and*
- 4. The witnessing administrator

Student Interview Form

Form for Signature of Officer

I, <u>Investigator Anthony Pittz</u>, a duly sworn peace officer and member of the <u>Idaho Attorney General's Office</u>, <u>Boise, Idaho</u>, have asked that <u>Guide Name</u>, 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: <u>I spoke with G</u> 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

- 1. School records;
- 2. Parent mailing;
- 3. The police officer; and
- 4. The witnessing administrator

Student Interview Form

Form for Signature of Officer

Ι, _	Investigator Anthony Pittz		, a duly sworn peace officer and member of the	
	Idaho Attorney General's Office	,	Boise, Idaho	, have asked that
	K P , a student in	the Diet	rich School, be mad	e available for interview

Date: 12/15/2015	Signature:	_
Time: 2:30 Pm	Badge Number:	

School Action

Date and time parents notified. If more than one attempt is made, include such information here: <u>I spoke with K</u>'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

- 1. School records;
- 2. Parent mailing;
- 3. The police officer; and
- 4. The witnessing administrator

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 Die		rich School, be made	e 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 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

- 1. School records;
- 2. Parent mailing;
- 3. The police officer; and
- 4. The witnessing administrator

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 T H	, a student in the Dietrich School, be made		h 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 '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

- 1. School records;
- 2. Parent mailing;
- 3. The police officer; and
- 4. The witnessing administrator

Student Interview Form

Form for Signature of Officer

Ι, _	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		nool, 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: <u>I called the number listed on S</u>'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

- 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:



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:	اک کا کا
I I VIIII	

Sent: 01/15/2016 3:56 PM To: Pittz, Anthony Cc: Subject: Re: Question on your notes Attachments:

Hello,	
	m a conversation with A (was the previous page notes talking with A (was the previous page notes talking with A
	n to track because I was trying to talk to A and write notes, but Shelly M and
	ng things and trying to speak for A
	said something to A during class, when I asked A about it, J and and
	ences for him and saying that J (in Computer class) had said something to A to the substantiate the details. She didn't think that
	ith A during class, but she couldn't say for sure. A PSR (one-on-one aid)
	ile she was in the room, but that She had left the room at one point for a minute.
	aid to A by him or T during that class.
	ith A about any details later that week, his mom told me that I couldn't talk to him
	from Lincoln County Sheriff's Deputy.
	out it was a hard conversation to track.
I'm glad to help clarify any o	other details if you have other questions.
Best regards,	
Ben Hardcastle	
Sent from my iPhone	
On Jan 15, 2016, at 9:19 AM	I, Pittz, Anthony wrote:
Ben,	
Deri,	
I've attached a copy of	a page from your notebook that you provided us with. It seems like it refers to you talking
	've a little confused on what exactly the notes mean. I read it as Jose telling you that A
	d grabbed A mind told him that he was going to do it to A more solar to that correct?
tolu film that I	a grabbed A find told him that he was going to do it to A worse. Is that conject?
And the other part abou	ut "they were being jerks again." What does that refer to?
And the other part abou	te they were being jerks again. What does that refer to:
Thank you,	
manic you,	
<image003.jpg></image003.jpg>	Tony Pittz
	Investigator
	Criminal Law Division
	Office of Attorney General
	Phone:
	Fax: (208) 854-8083

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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, **10**, **1**

<20160115090421187.pdf>

From: Hemmer, Casey Sent: 08/17/2016 8:50 AM To: 'Judge Butler'; Total Content of the sentence
Good morning. The 30 th will work for me.
Casey Hemmer
From: Judge Butler [mailto: Sent: Tuesday, August 16, 2016 2:45 PM To: Comparison (Comparison (Compari

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

(208) 886-2173 (208) 886-2458 Fax

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 [**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

(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

(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 [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 (208) 886-2173 (208) 886-2458 Fax

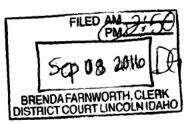
PLACEHOLDER IMAGE:

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:

ORDER OF REASSIGNMENT

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

From:
Sent: 03/18/2016 12:40PM
To: Bauges, Brenda
Cc:
Subject: T W
Attachments:Untitled.PDF - Adobe Acrobat.pdf

		Fifth Judicial District Co In and For the Cou 111 West B Stre Shoshone, Idaho	nty of Lincoln ' et Suite C	-09-10
STATE OF ID		,)	
	Plaintiff.)	
VS.)	Dr. T. Tole and H. C. S. S.
T R W)	(1) State of the second sec
) Case No:	CR-2016-0000213
DOB:	Defendant.) 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 R W	Mailed	Hand Delivered	E-Mail
Private Counsel:		Mailedx_	Hand Delivered	E-Mail
Michael J Wood				
184 Gooding Street V Twin Falls ID 83301	V			
Prosecutor:	Brenda M Bauges			
		Mailed	Hand Delivered	E-Mailx
		Dated: <u>Frid</u>	<u>ay, March 18, 2016</u>	
		Brei	nda Farnworth k Of 7he District Court	
		1 7	22 7/96	

~	· •
IN THE DISTRICT STATE OF ID STATE OF IDAHO	COURT OF THE FIFTH JUDICIAL DISTRICT OF THE AHO, IN AND FOR THE COUNTY OF LINCOLNMAR 18 2015 BRENDAFARNWORTH, CLERK DISTRICT COURT LINCOLNIDAHC
Plaintiff, vs. T R W W, Defendant.) NO CONTACT ORDER I.C. § 18-920) I.C.R. 46.2
TO THE DEFENDANT: Yo	u 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) <u>Alleged Victim's Name</u> 1. A. M.	: <u>DOB</u> <u>DL</u> <u>Address</u> <u>DOB</u> <u>DL</u>
You are ORDERED	to have no contact or attempt contact with the victim(s) listed above.
You are not to contact the vi-	ctim(s) in person or through any third person in writing or e-mail, by
telephone, pager, facsimile o	r by any other means. You are not to harass, follow, or communicate
with the named alleged victing	n(s) or to go within 300 feet of the following locations:
Alleged Victim's home	
Alleged Victim's school	
Alleged Victim's work	
This Order is subjec	t to the following exceptions:
🛛 No exceptions	
□ Telephone contact	allowed between the hours ofa.m. andp.m. for the
following purpose:	
To exchange child	ren through third party:
To obtain necessar	y personal property from the residence listed above with the
assistance of law enfo	rcement.

□ 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 $\frac{0-19-16}{10}$ 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

Garcia, Count Clerk (a 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 JUDE

CERTIFICATE OF SERVICE

X 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)

1 I certify that on <u>31816</u>, 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

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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRIC	łт
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LIN	¢¢
MAGISTRATE DIVISION	

BRENDA FARNWORTH, CLERK

FILED

CR-2016-0000213 State of Idaho vs. The R W 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

X	-Verified Name	IN	TERPRETER	
X	Appeared in person	In custody	Bond set \$	_OR release
	Failed to appear	Warrant issued	Bond forfeite	d
_x	Rights given x	Rights form signed	xRights u	nderstood
X	Penalties givenx	Penalties understood		

Counsel:_____P.D. appointed______Reimburse P.D.

Waived P.D. denied x 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. When 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 Machine case involving the school. Would you give me a call at your earliest convenience machine. 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

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

(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

Т

(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 **and - and** - **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

	Fif	th Judicial District Con In and For the Coun 111 West B Stree	ty of Lincoln et Suite C	FILED AM 3:44 PM 3:44
STATE OF IDAHO, Plainti vs.	iff.	Shoshone, Idaho)))	00000)))	AUG 2 5 2015 BRENDA FARNWORTH CLERK DISTRICT COURT LINCOLN IDAHO
John R.K. Howard				
) Case No:	CR-2016-0000214
DOB:	dant.) NOTICE ())	DF HEARING
NOTICE IS HEREBY	GIVEN that th	e above-entitled case is	s hereby set for:	
	Arraignment Judge:	Thursday, September Robert Elgee	1, 2016 0	01:30 PM

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-Mailx
Brad Calbo				
P.O. Box 9 Jerome ID 83338				
Prosecutor:	Casey J Hemmer			
		Mailed	Hand Delivered	_E-Mailx
		Brenda	ay, August 25, 2016 Farnworth f The Øistrict Court	
		By: Deysite DOC22	Sercia, Deputy Clerk	

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

Mutare

Voice Message from Outside Caller on 4/12/16 10:52 AM (54 second msg)

MESSAGE:

"Hi Brenda this is Shelly Matter from Dietrich. I don't have my case number that is for A the 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 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-

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 **100**-**100** or my cell phone number is **100**-**100** 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

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:

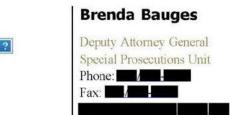
NOTE: Audio file, no image generated

ORIGINAL FILE NAME: MEB45A63205EB905ATT001 - 053016-125229-4140-1160530.97147647@audix-1.wav

From: Bauges, Brenda Sent: 03/14/2016 8:32 AM To: C: Pittz, Anthony Subject: Request for Attempt to Arrest Attachments:image003.jpg; John Howard.msg; Warrant - John Howard.pdf

Sergeant Owens,

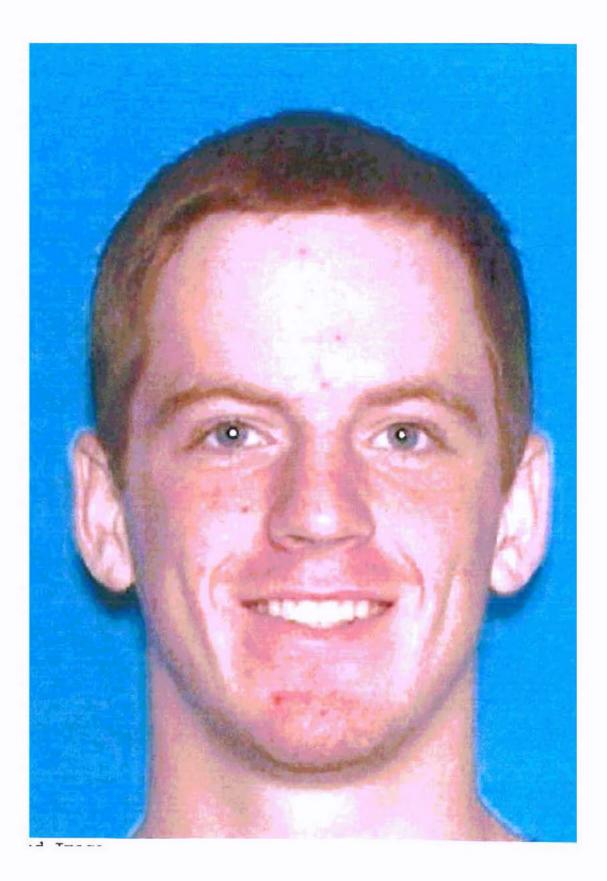
Thank you for speaking with me last week about this outstanding warrant from Idaho. As requested, I am attaching the warrant and photograph. Please let me know if there is any additional information you need from me. Thank you.



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, . Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance of the information it contains.



From: To: Sent: Subject: Pittz, Anthony Bauges, Brenda 3/10/2016 11:45:40 AM John Howard

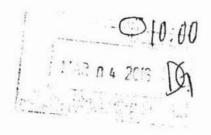




Tony Pittz

Investigator Criminal Law Division Office of Attorney General Phone: Fax: The State State

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, **Section 2019**. Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance of the information it contains.



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: (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.

Address:			
DOB:	SSN:	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



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

Daytime or nighttime X

Bond \$ 75,000°

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)

ARREST WARRANT (HOWARD), Page 2

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:

(Additional Levels Inclusive)

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

DATED:

Judge

NCIC ENTRY:

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:	

ARREST WARRANT (HOWARD), Page 3

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 [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

(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 () for the on September 6, 2016 at 3:00 p.m.

DATED this 1 day of September 2016.

Eric Wildran District Judge

ORDER GRANTING STATE'S MOTION TO APPEAR BY TELEPHONE (Howard),

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 Idah In and For the County of Lincoln 111 West B Street Suite C Shoshone, Idaho 83352-0800	FILED AM PM
STATE OF IDAHO,)	JUL 2 9 2016
Plaintiff.)	
VS.)	BRENDA FARNWORTH, CLERK DISTRICT COURT _INCOLN IDAHO
John R.K. Howard)	Contraction of the second sec second second sec
) Case No: (CR-2016-0000214
Defendant. DOB:)) NOTICE OF))	

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-Mailx
		Brenda	y, August 1, 2016 a Farnworth Of The District Court	
		By: Deysia DOG22	Garda, Deputy-Clerk 7/96	

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE '9 2015 STATE OF IDAHO, IN AND FOR THE COUNTY OF LINCOUNT UNCOUN IDAHO

STATE OF IDAHO, Plaintiff, vs. John R. F. Howard Defendants.

Case No. CR-2016-214

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-(cel8)

[] 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 <u>lo</u> day of <u>September</u>, 20 <u>loat</u> 9:00 a.m.

IT IS SO ORDERED.

DATED this <u>19</u> day of <u>JUIY</u>, 20<u>16</u>

unh Fr Magistrate Judge

1 - ORDER HOLDING DEFENDANT TO ANSWER TO DISTRICT COURT

From	:	
Sent:	12/22/2016 2:07 PM	Λ
To:		

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. 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, Γ 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 - 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

RR001451

From: catherine.minyard@ag.idaho.gov Sent: 12/19/2016 3:27 PM

To: 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,

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 _____ day of ______ 201_.

Randy J. Stoker District Judge

ORDER TO DISMISS (HOWARD), Page 1

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	U.S. Mail Postage Prepaid
Deputy Attorney General	Hand Delivered
P.O. Box 83720	Overnight Mail
Boise, ID 83720-0010	Facsimile
	Electronic Mail (Email)
Brad Calbo	U.S. Mail Postage Prepaid
Calbo & DePew	Hand Delivered
P.O. Box 9	Overnight Mail
414 N. Lincoln, Ste. 5	Facsimile
Jerome, ID 83338	Electronic Mail (Email)
Fax: (208) 324-5597	· · · · · · · · · · · · · · · · · · ·

By: Deputy Clerk

ORDER TO DISMISS (HOWARD), Page 2

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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:051716-1160517.96880383@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 **mathematical control**. 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

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

BRENDA FARNWORTH, CLERK DISTRICT COURT LINCOLN IDAHC

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: 10 SIGNED: John K. Butler District Judge

CERTIFICATE OF DELIVERY

I, the undersigned hereby certify that on the $\underline{19}$ day of $\underline{A1915}$, 2016 I caused a true and accurate copy of the foregoing to be forwarded to the following using the method indicated:

(asey Hemmer Brends Bauges P.O. Box 83720 Boise, ID 83720

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

Shelli Tubbs Linda Wright Trial Court Administrator P.O. Box 126 Twin Falls, ID 83303 () U.S. Mail
() Hand-delivery
() Fax *E* [*mai*]
() Courthouse Box

() U.S. Mail
() Hand-delivery *Email*() Fax
() Courthouse Box

() U.S. Mail

() Hand-delivery Emal

- () Fax
- () Courthouse Box

Deputy CLerk

From: Spillman, Jason Sent: 05/26/2016 4:33 PM To: Lucoff, Aaron (USAID) (Construction) Cc: Bauges, Brenda; Hemmer, Casey Subject: Dietrich Attachments:Howard Filed - Complaint.pdf; W Information (filed).pdf

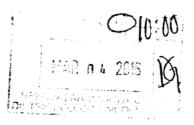
Hi Aaron,

Paul asked that we send you the charging documents and reports from our Dietrich cases. Attached please find the Wittenformation 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



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: SSN:
Defendant.

CASE NO. __ (R-2016-214

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this <u>4</u> day of <u>March</u> 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

COMPLAINT (W.), Page 1



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.

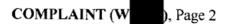
Said Complainant therefore prays that a Warrant issue for the Defendant and that he may be dealt with according to law.

BRENDA M. BAUGE

Deputy Attorney General and Special Prosecuting Attorney for Lincoln County

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

MAGIS



RECEIVED

MAY 0 2 2016

OFFICE OF THE ATTORNEY GENERAL LAWRENCE G. WASDENCRIMINAL DIVISION 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 2 8 2016
DISTRICT COURT LINCOLNIDAHO

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

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 Torow R W W 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, The Real Wards, 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.



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:

Sent: 02/07/2017 2:05 PM

To: 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

Mutare

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:

Sent: 02/02/2017 7:16 AM

To: 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 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