

1-28-2008

# State v. Stone Clerk's Record v. 3 Dckt. 34571

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6  
**LAW CLERK THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO**

FARON STONE

PETITIONER \_\_\_\_\_ and

APPELLANT

vs.

STATE OF IDAHO

DEFENDANT \_\_\_\_\_ and

RESPONDENT

HON. N. RANDY SMITH AND  
HON. WM. H. WOODLAND District Judge

Appealed from the District Court of the SIXTH  
Judicial District of the State of Idaho, in and for

BANNOCK County.

MOLLY HUSKEY

APPELLATE PUBLIC DEFENDER

Attorney \_\_\_\_\_ For Appellant \_\_\_\_\_

LAWRENCE G. WARDEN

IDAHO ATTORNEY GENERAL

Attorney \_\_\_\_\_ For Respondent \_\_\_\_\_

Filed this \_\_\_\_\_ day of \_\_\_\_\_

2006

28

Clerk

Deputy

Supreme Ct. Appeals  
Entered on A-3 by \_\_\_\_\_

Volume III

34569 + 34571

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FARON STONE, )  
)  
)  
PETITIONER-APPELLANT, )  
vs. )  
)  
STATE OF IDAHO, )  
)  
DEFENDANT-RESPONDENT, )  
\_\_\_\_\_)  
STATE OF IDAHO, )  
)  
PLAINTIFF-RESPONDENT, )  
vs. )  
)  
FARON STONE, )  
)  
DEFENDANT-APPELLANT, )

Supreme Court No.34569  
34571

Volume III

**CLERK'S RECORD**

Appeal from the District Court of the Sixth Judicial District of the State of  
Idaho, in and for the County of Bannock.

Before **HONORABLE William H. Woodland and HONORABLE N.**

**Randy Smith**, District Judges.

For Appellant:

**Molly Huskey**  
State Appellate Public Defender  
Post Office Box 83720  
Boise, Idaho 83720-0005

For Respondent:

**LAWRENCE G. WASDEN**  
Idaho Attorney General  
Post Office Box 83720  
Boise, Idaho 83720-0010

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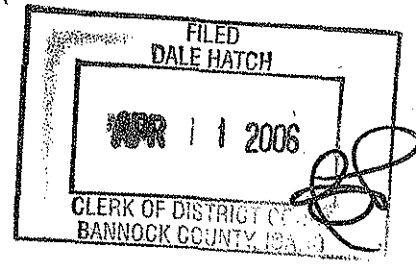
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*Amiel*

**CRAIG W. PARRISH**  
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P. O. Box 4321  
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(208) 234-1234

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421



**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE, )  
)  
Defendant, )  
)  
\_\_\_\_\_ )

Case No. CR 2005-08728-FE-B

**DEFENDANT'S MOTION FOR  
CHANGE OF VENUE**

COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

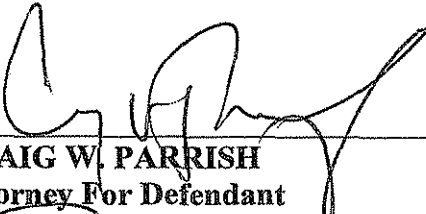
The Defendant respectfully requests that the Court enter an Order, changing the venue of this proceeding from Bannock County. This Motion is based upon the grounds and for the reasons that it is not possible for the Defendant to receive a fair and impartial trial in Bannock County, as a result of the nature of the allegations against the Defendant, and the pre-trial publicity. The jury pool has been tainted and prejudiced and not able to




set aside what information may have already been made available to them through the media, hearsay, and other sources, and are therefore not qualified.

This Motion is further based upon the records and files in this matter.

DATED this 11 day of April, 2006.

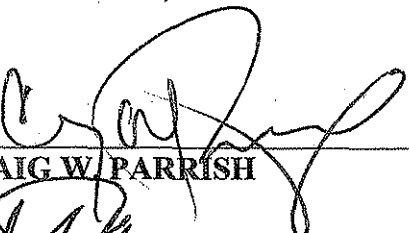

  
\_\_\_\_\_  
**CRAIG W. PARRISH**  
Attorney For Defendant

  
\_\_\_\_\_  
**DON T. MARLER**  
Attorney For Defendant

**CERTIFICATE OF SERVICE**


On this 11 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION FOR CHANGE OF VENUE**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
**CRAIG W. PARRISH**  
  
\_\_\_\_\_  
**DON T. MARLER**

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
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**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

2006 ARR 11  
BY   
DEPUTY CLERK

*Granting*

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE, )  
)  
Defendant, )

Case No. CR 2005-08728-FE-B

**DEFENDANT'S MOTION TO  
WEAR CIVILIAN CLOTHING  
DURING TRIAL PROCEEDING**

COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

The Defendant respectfully requests that the Court enter an Order, allowing the Defendant to wear civilian clothing during the trial proceeding, and further allow the Defendant to remain shackle-free and handcuff-free in the presence of the jury during said proceedings.

This Motion is further based upon the records and files in this matter.

DATED this 11 day of April, 2006.

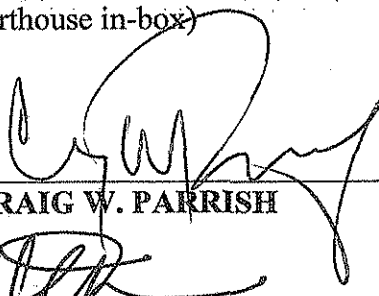
  
\_\_\_\_\_  
**CRAIG W. PARRISH**  
Attorney For Defendant

  
\_\_\_\_\_  
**DON T. MARLER**  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this 11 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION TO WEAR CIVILIAN CLOTHES DURING TRIAL PROCEEDING**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
**CRAIG W. PARRISH**

  
\_\_\_\_\_  
**DON T. MARLER**

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

*denied*  
2006 APR 11 10:15  
BY [Signature]  
CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARON STONE, )  
 )  
 Defendant, )  
 )

Case No. CR 2005-08728-FE-B  
**DEFENDANT'S MOTION TO  
RETRIEVE BULLET**

COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

The Defendant requests that the Court order that the bullet that is lodged in the person of Officer Hill, be retrieved. The Defendant would argue that the evidence is likely to be exculpatory in nature, and therefore needs to be made available to the Defendant.

This Motion is further based upon the records and files in this matter.

DATED this 11 day of April, 2006.

  
\_\_\_\_\_  
CRAIG W. PARRISH  
Attorney For Defendant

  
\_\_\_\_\_  
DON T. MARLER  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this 11 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION TO RETRIEVE BULLET**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
CRAIG W. PARRISH

  
\_\_\_\_\_  
DON T. MARLER

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

2006 APR 11 10:00 AM  
BY \_\_\_\_\_  
CLERK, DISTRICT COURT

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE, )  
)  
Defendant, )  
\_\_\_\_\_ )

Case No. CR 2005-08728-FE-B  
**DEFENDANT'S MOTION TO  
VOID SEARCH WARRANT AND  
REQUEST FOR FRANKS  
HEARING**

COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

The Defendant requests that the Court void the search warrant heretofore issued by the Magistrate. The Defendant states that he can and will make:

“ . . . a substantial preliminary showing that a false statement knowingly and intelligently, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and of the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant’s request.” Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 2674 (1978).

The U.S. Supreme Court further stated:

“In sum, and to repeat with some embellishment what we stated at the beginning of this opinion: There is, of course, a presumption of validity with respect to the affidavit supporting the search warrant. To mandate an evidentiary hearing, the challenger’s attack must be more than conclusory and must be supported by more than a mere desire to cross-examine. There must be allegations of deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof. They should point out specifically the portion of the warrant affidavit that is claimed to be false; and they should be accompanied by a statement of supporting reasons. Affidavits or sworn or otherwise reliable statements of witnesses should be furnished, or their absence satisfactorily explained. Allegations of negligence or innocent mistake are insufficient. The deliberate falsity or reckless disregard whose impeachment is permitted today is only that of the affiant, not of any non-governmental informant. Finally, if these requirements are met, and if, when material that is the subject of the alleged falsity or reckless disregard is set to one side, there remains sufficient content in the warrant affidavit to support a finding of probable cause, no hearing is required. On the other hand, if the remaining content is insufficient, the defendant is entitled, under the Fourth and Fourteenth Amendments, to his hearing. Whether he will prevail at that hearing, is of course, another issue.”

In the instant case, the following offer of proof is being submitted:

(1) The Day-Time/Night-Time No Knock Search Warrant was based upon false information and/or in reckless disregard for the truth. The Magistrate, in his warrant stated:

“Officer Adam Anderson, having this day by affidavit and sworn testimony shown there is probable cause to believe that said affidavit is true that certain property consisting of suspected controlled substances, including marijuana, and other controlled substances, United States currency and other evidences of use, and trafficking of controlled substances located at 211 Circle Inn, No. 24, Chubbuck, Bannock County, Idaho.”

The language of the warrant only relates to drugs and controlled substances. This is also the case as to language in the above warrant which begins: “For the following property and seize if found”. There is absolutely no mention by the Magistrate that the

warrant was issued for any other reason. The Magistrate's finding or statement of probable cause is only as to drugs. Most importantly, there is no inclusion by the Magistrate that the basis for the warrant was related to weapons or potential violence.

(2) The Affidavit states that the officers submitting the affidavit has over two years experience. His qualifications and therefore his competency are overstated, exaggerated or at least vague to be misleading. The words chosen by the affiant puts his affidavit in question, i.e.:

- (a) Attended several drug interdiction schools (emphasis added).
- (b) Has over 800 hours of training (emphasis added).
- (c) Involved in numerous investigations (emphasis added).
- (d) Involved in numerous drug trafficking investigations (emphasis added).
- (e) Based upon your affiant's conversations with other experienced law enforcement officers; what other officers, how many times; and what was the context and content of those conversations.

(3) The portion of the affidavit entitled "Statement Of Facts And Support Of Probable Cause" also demonstrates that it is based on false information or a reckless disregard for the truth:

- (a) The search took place on May 7, 2006, the affiant is stating that he is relying upon unreliable information from a person who wanted the Defendant evicted for a no-knock warrant for which information was supplied on March 7, 8 and 15, of 2005. The affiant knew this information was stale and that it was unreliable and not corroborated.



(b) The affiant fails to mention and acknowledge that children would be present on the premises where the search was to be conducted. The affiant intentionally chose to use the language that Maria Villa and her children frequented the trailer. The affiant knew that the children lived in the trailer and had reason to believe they would be there when the search took place.

(c) The affiant acknowledges that the search of the garbage was on May 3, 2005, and the search was not until May 7, 2005. There is no evidence that the Defendant was involved with anything that was found presents the supposition for only the purpose of getting the warrant.

(d) The affiant concludes by making general conclusions from the information that he says he received that it is credible and reliable. None of the information is from his direct knowledge. He attempts to insinuate and exaggerate to get the warrant.

Specifically, he states:

“12. Based on the violent history of Faron Stone, him being a convicted felon, the shell casings found during the garbage pull on May 3, 2005, and the information that he is carrying a firearm on him, your affiant requests a daytime/nighttime no-knock service warrant for officer safety purposes.

12. Your affiant also knows that the sale, use and manufacturing of narcotics often occur during the nighttime hours. In order to obtain and preserve evidence, your affiant applies for a daytime/nighttime no-knock search warrant.


WHEREFORE, your affiant prays for a no-knock warrant to search in the Daytime/nighttime 211 Circle Inn No. 24, Chubbuck, Bannock County, Idaho, the Ranelda Stone residence, to search for and seize, suspected controlled substances, including marijuana, methamphetamine, cocaine, along with implements and paraphernalia used in the manufacture, sale and use of controlled substances, including but not limited to chemicals, glassware, tubing, items used to manufacture methamphetamine, scales, ziplock baggies, paper bindles, photographs, ledger books, or sheets, memorializing the sale of any controlled substance, all apparent instrumentalities or items connected with the sale or use of controlled

substances or evidencing the same. United States currency or other valuables easily liquidated for cash located in close proximity to controlled substances or in such amounts or situated or packaged in such a way to make it apparent that such are proceeds or instrumentalities of trafficking in controlled substances, and/or other indicia including packaging materials, records, utility receipts, envelopes, letters, firearms, keys, and other indicia of control, ownership or occupancy of said residence, outbuildings and vehicles.”

This Motion is further based upon the records and files in this matter.

DATED this 11 day of April, 2006.


  
\_\_\_\_\_  
CRAIG W. PARRISH  
Attorney For Defendant


  
\_\_\_\_\_  
DON T. MARLER  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this 11 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION TO VOID SEARCH WARRANT AND REQUES FOR FRANKS HEARING**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
CRAIG W. PARRISH

  
\_\_\_\_\_  
DON T. MARLER

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

2006 APR 11 11:01 AM  
BY [Signature] DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	Case No. CR 2005-08728-FE-B
vs.	)	
	)	<b>DEFENDANT'S MOTION IN</b>
FARON STONE,	)	<b>LIMINE</b>
	)	
Defendant,	)	
	)	

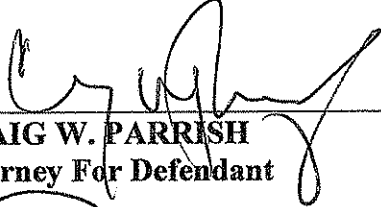
COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:


The Defendant respectfully requests that the Court enter an Order, confirming the fact that since the Defendant has challenged the reasonableness of the search and claim it was unreasonable, that the State of Idaho now has the burden of proving that it was in fact reasonable.

Furthermore, the Defendant does hereby request that the Court give a jury instruction to the jury herein at the appropriate time, reflecting the same.

This Motion is further based upon the records and files in this matter.

DATED this 11 day of April, 2006.

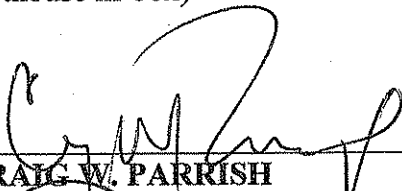
  
\_\_\_\_\_  
**CRAIG W. PARRISH**  
Attorney For Defendant


  
\_\_\_\_\_  
**DON T. MARLER**  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this \_\_\_\_\_ day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION IN LIMINE**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
**CRAIG W. PARRISH**

  
\_\_\_\_\_  
**DON T. MARLER**

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

2006 APR 11 11:28 AM  
REPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE, )  
)  
Defendant, )  
\_\_\_\_\_ )

Case No. CR 2005-08728-FE-B  
**DEFENDANT'S MOTION TO  
COMPEL DISCOVERY;  
MOTION FOR SANCTIONS;  
MOTION TO CONTINUE**

COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

The Defendant asserts that the State has failed and refused to comply with the Request For Discovery filed by the Defendant herein and as ordered by the Court in separate proceedings. The Defendant therefore requests that all matters that are discoverable be ordered to be delivered to counsel for the Defendant on a date and time certain. The duty for disclosure is a continuing obligation on the part of the State.

In the alternative, since the Defendant has requested on more than one occasion for the State to respond to discovery, and the State has failed and refused, the Defendant requests that sanctions be imposed by the Court and that the Court further order that only the evidence that has been disclosed as of the date of this motion may be admitted at trial, and that any evidence of any kind that has not been disclosed as of that date, cannot be admitted.

Further, depending upon the ruling on this Motion, the Defendant requests that the trial be continued to a later time and date. The Defendant states that given the non-compliance of the State as to discovery, that the Defendant is not adequately and fully prepared to go to trial. To require the Defendant to proceed to trial without the discovery and the time to prepare, would be prejudicial to the Defendant.

This Motion is further based upon the records and files in this matter.

DATED this 16 day of April, 2006.

  
\_\_\_\_\_  
**CRAIG W. PARRISH**  
Attorney For Defendant

  
\_\_\_\_\_  
**DON T. MARLER**  
Attorney For Defendant

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

2006 APR 11  
CLERK

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARON STONE, )  
 )  
 Defendant, )  
 )

Case No. CR 2005-08728-FE-B

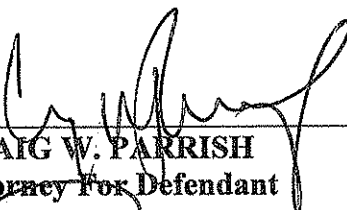
**DEFENDANT'S MOTION FOR  
ADDITIONAL TIME TO  
RESPOND TO STATES  
DISCOVERY**


COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

The Defendant requests that the Court enter an Order, granting the Defendant an additional thirty (30) days to respond to the State's Discovery Request which has heretofore been submitted. This extension is being sought for thirty (30) days after the State provides a response to Defendant's discovery request.

This Motion is further based upon the records and files in this matter.

DATED this 11 day of April, 2006.

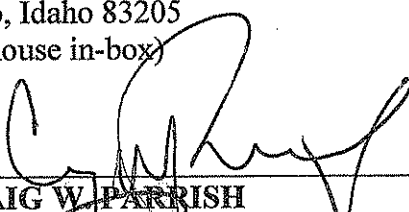
  
CRAIG W. PARRISH  
Attorney For Defendant

  
DON T. MARLER  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this 11 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION FOR ADDITIONAL TIME TO RESPOND TO STATE'S DISCOVERY**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
CRAIG W. PARRISH

  
DON T. MARLER



**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

2006 APR 11 11:58:15  
BY [Signature] DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARON STONE, )  
 )  
 Defendant, )

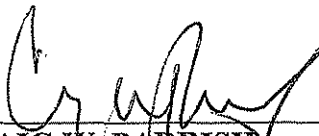
Case No. CR 2005-08728-FE-B  
**DEFENDANT'S MOTION TO  
PRODUCE ADDITIONAL  
DISCOVERY**


COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

The Defendant respectfully requests that the Court enter an Order, allowing the Defendant access to all written and visual media coverage which has been generated through television, newspaper or radio, regarding the incident which is at issue in this matter and all subsequent news coverage regarding the same.

This Motion is further based upon the records and files in this matter.

DATED this 11 day of April, 2006.

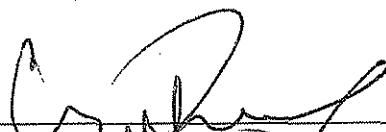

  
\_\_\_\_\_  
**CRAIG W. PARRISH**  
Attorney For Defendant

  
\_\_\_\_\_  
**DON T. MARLER**  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this 11 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION TO PRODUCE ADDITIONAL DISCOVERY**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
**CRAIG W. PARRISH**  
  
\_\_\_\_\_  
**DON T. MARLER**

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT

2006 APR 14 PM 3:32

BY  DEPUTY CLERK

*denied*

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE, )  
)  
Defendant, )  
\_\_\_\_\_ )


Case No. CR 2005-08728-FE-B  
**DEFENDANT'S MOTION  
IN LIMINE**


COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:

The Defendant alleges that the ballistics expert that the State intends to call at the trial in this matter is not competent to testify and therefore should be excluded as a witness for the State. The Defendant argues that said witness is without the qualifications to form an opinion and that his opinions are speculative and conclusory in fashion and would not be probative to the jury.

This Motion is further based upon the records and files in this matter.

DATED this 14 day of April, 2006.

  
\_\_\_\_\_  
CRAIG W. PARRISH  
Attorney For Defendant

  
\_\_\_\_\_  
DON T. MARLER  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this 14 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION IN LIMINE**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
CRAIG W. PARRISH

  
\_\_\_\_\_  
DON T. MARLER

**CRAIG W. PARRISH**  
Attorney at Law  
P. O. Box 4321  
Pocatello, Idaho 83205-4321  
(208) 234-1234

**DON T. MARLER**  
Attorney at Law  
P. O. Box 4747  
Pocatello, Idaho 83205-4747  
(208) 233-1421

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT

2006 APR 14 PM 4:32

BY   
DEPUTY CLERK

*Granting  
July 1*

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE, )  
)  
Defendant, )  
\_\_\_\_\_ )

Case No. CR 2005-08728-FE-B

**DEFENDANT'S MOTION TO  
TAKE DEPOSITION DUCES  
TECUM**

COMES NOW, Faron Stone, the Defendant in the above entitled matter, acting by and through his attorneys of record, Craig W. Parrish and Don T. Marler, and hereby moves the Court for an Order, as follows:


The Defendant requests that pursuant to Rule 15 of the Idaho Criminal Rules, that the Defendant be allowed to take the deposition of the ballistics expert for the State of Idaho. The Defendant believes that the said potential witness is not competent to testify. The deposition of said witness would allow the Defendant to further evaluate the testimony, the qualifications and the competency of said witness, more particularly since the Defendant would request that the Notice of Taking Deposition be "duces tecum".

The Defendant further requests that any and all expenses of the taking of the deposition be paid by the State of Idaho.

This Motion is further based upon the records and files in this matter.

DATED this 14 day of April, 2006.

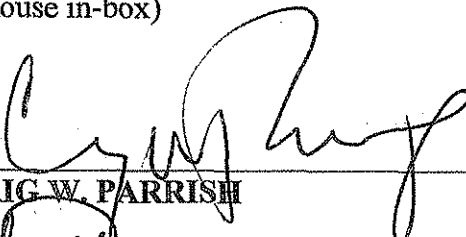
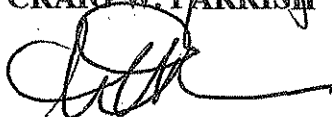
  
\_\_\_\_\_  
CRAIG W. PARRISH  
Attorney For Defendant

  
\_\_\_\_\_  
DON T. MARLER  
Attorney For Defendant

**CERTIFICATE OF SERVICE**

On this 14 day of April, 2006, I certify that a true and correct copy of the foregoing **DEFENDANT'S MOTION TO TAKE DEPOSITION DUCES TECUM**, was served upon the following:

Bannock County Prosecuting Attorney  
P.O. Box P  
Pocatello, Idaho 83205  
(Courthouse in-box)

  
\_\_\_\_\_  
CRAIG W. PARRISH  
  
\_\_\_\_\_  
DON T. MARLER

MARK L. HIEDEMAN  
BANNOCK COUNTY PROSECUTING ATTORNEY  
P.O. Box P  
Pocatello, Idaho 83205-0050  
(208) 236-7280

VIC A. PEARSON, ISB #6429  
Chief Deputy Prosecutor

FILED  
BANNOCK COUNTY  
CLERK OF THE DISTRICT

2006 APR 21 PM 3:25

BY   
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARON STONE )  
 aka LEMUEL MYRON STONE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

CASE NO. CR-05-8728-FE-B

RESPONSE TO DEFENDANT'S  
MEMO TO JUDGE RANDY SMITH  
DATED APRIL 18, 2006

TO: DON MARLER, P. O. BOX 4747, Pocatello, Idaho, and CRAIG PARRISH, P O  
BOX 4321, Pocatello, Idaho, Attorneys for the Defendant.

COMES NOW, the State of Idaho, by and through VIC A. PEARSON, Chief  
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to  
Defendant's Memo to Judge Randy Smith dated April 19, 2006 as follows:

1. Production of weapons, vest, bullets and bullet fragments for independent lab  
testing

**RESPONSE:** The weapons, vest, and bullets may be picked up at the Chubbuck Police Department for independent lab testing. The bullet fragments may be picked up at the Idaho State Police Detectives office for independent lab testing.

2. Copy of dispatch tapes and logs regarding Stone and/or incident

**RESPONSE:** Chubbuck Police Department and Bannock County Sheriff's Department dispatch tapes and logs have already been supplied. Pocatello Police Department dispatch recordings are attached hereto and incorporated by reference. Idaho State Police is working on copying such tapes/logs and shall be forwarded upon receipt.

3. Copy of lab reports regarding seized items arising from surveillance and incident

**RESPONSE:** Please see previously provided forensic reports. Forensic reports concerning fingerprint information will not be available until approximately April 28, 2006. Lab reports concerning the search of garbage are included in Chubbuck Police Report No. 05-C2103 attached hereto and incorporated by reference.

4. Any individual officer reports regarding surveillance and/or incident

**RESPONSE:** Please see previously provided law enforcement reports and Chubbuck Police Department Report No. 05-C2103 is attached hereto and incorporated by reference. The Bannock County Prosecutor's Office knows of no other individual officer reports at this time.

5. Lists and copies of all photos incident/charge related

**RESPONSE:** This information has already been provided.

6. Any and all audio and video tapes made regarding the incident

**RESPONSE:** This information has already been provided.

7. Bullet from the person of Phil Hill



**RESPONSE:** Judge Smith ruled that the Bannock County Prosecutor's Office would not have to provide this information.

8. List of drug related items seized in incident

**RESPONSE:** This information is contained in the law enforcement reports previously provided.

9. Production of drug related items seized for independent lab testing

**RESPONSE:** Chubbuck Police Department has been informed of Judge Smith's ruling on this matter and instructed to provide this information. Please see response #1 and contact Chubbuck Police Department to collect these items.

10. Anticipated trial witnesses including substance of testimony

**RESPONSE:**

CPD: Phil Hill, Mike Ballard, Dana May, Adam Anderson, Jean Higgins, Paul Gilbert, Marty Frasure, Matt Galloway, Farley Merica, Rob Butterfield

**CHUBBUCK OFFICERS WILL TESTIFY CONCERNING SERVICE OF SEARCH WARRANTS AND THE ENSUING INCIDENT**

=====

ISP: John Ganske, John Kempf, Tom Sellers, Frank Csajko, Kyle Fullmer, Chuck Burke, Gary Brush

**ISP OFFICERS WILL TESTIFY TO THEIR INVOLVEMENT IN THE POST INCIDENT INVESTIGATION**

=====

PPD: Scott Marchand, Cliff Kelley, Bill Collins, Kirk Howe, Roger Schei, Steve Williams, Scott Matson, Justin Buck, Adrian Wadsworth, Forrest Peck, Nathan

Diekemper, Tim Dillon, Ralph Daniels, Jim Peterson, John Walker

PPD OFFICERS WILL TESTIFY TO THEIR INVOLVEMENT IN THE POST INCIDENT INVESTIGATION

=====

BCS: Toni Vollmer, Mark Ballard, Andy Thomas, Howard Manwaring, Doug Armstrong, Kevin Fannesbeck, Tom Foltz, Mike Dahlquist, Tony Manu, Jon Hay, Alex Hamilton, Dan Argyle, Jim Daley, Jeff Young, Phil Nickle, Justin Cannon, Monte Steele, Clint Brown, Andy Iverson, Jeremy Taysom, and Paul Fagnant, John Everson

BCS OFFICERS WILL TESTIFY TO THEIR INVOLVEMENT IN THE POST INCIDENT INVESTIGATION

=====

FBI: Kyle Wight

WILL TESTIFY TO THEIR INVOLVEMENT IN THE POST INCIDENT INVESTIGATION

=====

FHP: Patrick Teton

WILL TESTIFY TO THEIR INVOLVEMENT IN THE POST INCIDENT INVESTIGATION

=====

LAB: Dwight Van Horn, Skyler Anderson

WILL TESTIFY TO THE TESTING OF ITEMS SEIZED

=====

OTHER: Arlene Mitani, Brian Price, Gabriel Longoria, Ivan Anderson

WILL TESTIFY TO THEIR EXPERIENCE DURING THE INCIDENT

=====

**MEDICAL PERSONNEL:** All medical staff that provided services to any involved parties including but not limited to doctors, paramedics and nurses.

**WILL TESTIFY TO MEDICAL TREATMENT GIVEN TO INJURED INDIVIDUALS INVOLVED IN INCIDENT**

=====

**CAL RANCH:** CAL Ranch employee(s)

**WILL TESTIFY TO THE SALE OF A FIREARM TO MARIA VILLA**

=====

11. Copies of any photos/audio tapes/video tapes made by agents of Bannock County

**RESPONSE:** This information has already been provided.

12. List of all photos/audio tapes/video tapes made by agents of Bannock County including officers involved in each

**RESPONSE:** This information has already been provided.

13. Location of items of possible evidence value observed/found by each officer including physical reconstruction location dimensions by any law enforcement agency

**RESPONSE:** Judge Smith ruled that the Bannock County Prosecutor's Office would not have to provide this information.

14. Copy of drawing including dimension locations of all items of possible evidence value with regard to floor plan of structure, interior wall of structure, exterior walls of structure, and surrounding property by any law enforcement agency

**RESPONSE:** For a copy of the incident reconstruction please see the attached 3.5" diskette.

15. Copies of any/all interview recordings of Defendant, co-Defendant, officers and witness by the Idaho State Police.

**RESPONSE:** Please see previously provided recordings and Idaho State Police interviews of the defendant and Chubbuck Police Officers in the following Exhibits: #156 - Anderson/Frasure/Hill/Gilbert interviews; #159 - Ballard interview; #160 - Stone interview. These Exhibits are attached and incorporated by reference.

16. Copies of all Policy & Procedure Manuals, for all involved law enforcement agencies;

**RESPONSE:** All agencies have been informed of Judge Smith's ruling on this matter and instructed to provide their Policy & Procedure Manuals to the Idaho State Police Department Detective's office.

17. Any pre-warrant (preparation) execution reports;

**RESPONSE:** Please see previously provided information and Chubbuck Police Department Report No. 05-C2178 attached hereto and incorporated by reference.

18. Any post warrant execution (debriefing) reports;

**RESPONSE:** Please see previously provided information.

19. Any surveillance reports regarding Stone and/or co-Defendants;

**RESPONSE:** See Response to number 4.

20. Any inter/intra-agency reports regarding Stone and/or incident;

**RESPONSE:** There are no know inter/intra-agency reports regarding Stone and/or incident;

21. Copies of any individual Tactical Team officer's certifications;

**RESPONSE:** This information has already been provided.

22. List of all Police Department memberships in Law Enforcement Associations and copies of any Accreditations;

**RESPONSE:** This information has already been provided.

23. List of all Tactical Team incident deployments in last 5 years;

**RESPONSE:** Judge Smith ruled that the Bannock County Prosecutor's Office would not have to provide this information.

24. List of complaints against each officer involved in the Stone incident in last 5 years including resolutions;

**RESPONSE:** Please see the list of complaints against each officer involved in the Stone incident in last 5 years including resolutions attached hereto and incorporated by reference.

25. List of any/all discipline actions for each officer involved in the Stone incident in the last 5 years;

**RESPONSE:** Please see the list of any/all discipline actions for each officer involved in the Stone incident in the last 5 years attached hereto and incorporated by reference.

26. List of each Stone related incident officer's time of employment with Police Department, and if less than 5 years prior agency employment;

**RESPONSE:** This information has already been provided.

27. All medical reports regarding Phil Hill and Mike Ballard;

**RESPONSE:** Please see previously provided medical reports and reports from Dr. Gregson concerning Michael Ballard and from Drs. Joseph and McRoberts concerning Phil Hill attached hereto and incorporated by reference.

28. List of all officers involved in Stone incident and description of the extent of each officers participation from Bannock County;

**RESPONSE:** Judge Smith ruled that the Bannock County Prosecutor's Office would not have to provide this information.

29. Results of any investigation performed by any law enforcement agency or laboratory with regard to source point, flight path, resting point, and initiating party for any bullets or bullet fragments recovered from the scene.

**RESPONSE:** For a copy of the incident reconstruction please see previously provided information and the attached 3.5" diskette. This information may also be viewed by making arrangements with Det. Tom Sellers.

30. A copy of the co-Defendant's prior criminal record and any background information related to her;

**RESPONSE:** This information has already been provided.

31. Copies of all audio and video recordings of the Critical incident investigation performed by Bannock County subsequent to the events on or about May 9, 2005;

**RESPONSE:** This information has already been provided.

32. Statements by the Defendant;

**RESPONSE:** This information has already been provided.

33. Any and all statements both written, recorded or video taped of the co-Defendant or co-conspirators in this case whether before or after arrest in response to interrogation or contact by peace officer or law enforcement agency or otherwise;

**RESPONSE:** Please see Response to number 15.

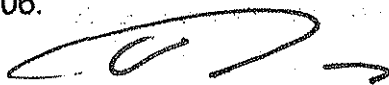
34. A copy of the Defendant's prior criminal record;

**RESPONSE:** This information has already been provided.

35. Copies of all written and visual media coverage generated through television, newspaper or radio regarding the incident at issue and all subsequent news coverage regarding the same-

**RESPONSE:** Judge Smith ruled that the Bannock County Prosecutor's Office would not have to provide this information.

DATED this 21 day of April, 2006.



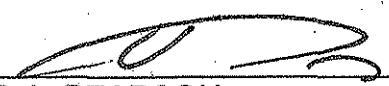
VIC A. PEARSON  
Chief Deputy Prosecuting Attorney

**CERTIFICATE OF DELIVERY**

I HEREBY CERTIFY That on this 21 day of April, 2006, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

DON MARLER  
ATTORNEY AT LAW  
P. O. BOX 4747  
POCATELLO ID 83205

mail –  
postage prepaid  
 hand delivery  
 facsimile

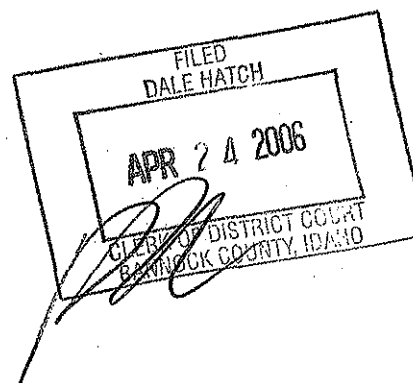


VIC A. PEARSON

ORIGINAL

MARK L. HIEDEMAN  
BANNOCK COUNTY PROSECUTING ATTORNEY  
P.O. Box P  
Pocatello, Idaho 83205-0050  
(208) 236-7280

VIC A. PEARSON, ISB #6429  
Chief Deputy Prosecutor



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE )  
aka LEMUEL MYRON STONE, )  
)  
Defendant. )  
\_\_\_\_\_ )

CASE NO. CR-05-8728-FE-B

RESPONSE TO DEFENDANT'S  
THIRD POLICE PROCEDURE  
REQUEST FOR DISCOVERY  
AND INSPECTION

TO: DON MARLER, P. O. BOX 4747, Pocatello, Idaho, and CRAIG PARRISH, P O  
BOX 4321, Pocatello, Idaho, Attorneys for the Defendant.

COMES NOW, the State of Idaho, by and through DENNIS P.

WILKINSON, Chief Criminal Deputy Prosecuting Attorney in and for the County of  
Bannock, Idaho, and responds to Defendant's Supplemental Request for Discovery as  
follows:

RESPONSE TO DEFENDANT'S THIRD SUPPLEMENTAL REQUEST FOR DISCOVERY AND  
INSPECTION

Page 1



**DOCUMENTS AND TANGIBLE EVIDENCE REQUEST # 1:** Audio tapes of Chubbuck Police, Pocatello Police, Bannock County Sheriff's and Idaho State Police radio transmissions for the day before and the day of the incident.

**RESPONSE:** Audiotapes for the incident in this matter have been previously provided. The State objects to defendant's request for audiotapes concerning radio transmissions for the day before and other incidences occurring the day of the incident in the case at hand as irrelevant and overbroad.

**DOCUMENTS AND TANGIBLE EVIDENCE REQUEST # 2:** Copies of all diagrams that have been, or may be, made involving the incident.

**RESPONSE:** Please see diagrams attached hereto and incorporated by reference and other diagrams that have previously been provided.

**POLICE PROCEDURE REQUEST # 1:** Copies of all firearms qualifications for Chubbuck officers involved in the incident.

**RESPONSE:** Information concerning Chubbuck officers firearm qualifications has previously been provided.

**POLICE PROCEDURE REQUEST # 2:** Copies of all SWAT training records for Chubbuck officers involved in the incident.

**RESPONSE:** Information concerning Chubbuck officers SWAT training has previously been provided.

**POLICE PROCEDURE REQUEST # 3:** Copies of all POST training records for Chubbuck officers involved in the incident.

**RESPONSE:** Information concerning Chubbuck officers POST training has previously been provided.

**POLICE PROCEDURE REQUEST # 4:** Copies of all Pre-SWAT testing for Chubbuck officers involved in the incident, including: (1) written testing, (2) oral boards notes, (3) physical fitness testing, (4) shooting scores, and (5) any other relevant information.

**RESPONSE:** Information concerning Chubbuck officers Pre-SWAT testing for Chubbuck officers involved in the incident, including: (1) written testing, (2) oral boards notes, (3) physical fitness testing, (4) shooting scores, and (5) any other relevant information has previously been provided as they were included in the training documents previously requested.

**POLICE PROCEDURE REQUEST # 5:** Copies of all Chubbuck Police Department training records for SWAT, Special Response Team, and Specialty team training.

**RESPONSE:** Information concerning Chubbuck Police Department training records for SWAT, Special Response Team, and Specialty Team Training has previously been provided as they were included in the training documents previously requested.

**POLICE PROCEDURE REQUEST #6:** Copies of all training Chubbuck Police Department manuals, outlines, and documents for SWAT, Special Response Team, and Specialty Team Training.

**RESPONSE:** Information concerning Chubbuck Police Department manuals, outlines, and documents for SWAT, Special Response Team, and Specialty Team Training has previously been provided as they were included in the training documents previously requested.

**POLICE PROCEDURE REQUEST # 7:** Copies of all Chubbuck Police Department Firearms Qualification record for officers involved.

**RESPONSE:** Information concerning Chubbuck Police Department Firearms Qualification record for officers involved has previously been provided as they were included in the training documents previously requested.

**POLICE PROCEDURE REQUEST # 8:** Copies of any and all Disciplinary Records for all Chubbuck officers involved in the incident.

**RESPONSE:** The State objects to request # 8 based upon relevancy.

**POLICE PROCEDURE REQUEST # 9:** Copies of all maintenance records on all Chubbuck Police Department firearms.

**RESPONSE:** Maintenance records on all Chubbuck Police Department firearms can be viewed by making arrangements with the Chubbuck Police Department.

**POLICE PROCEDURE REQUEST # 10:** A full inventory equipment listing of all Chubbuck Police Department SWAT/Special Response Team at the time of the incident.

**RESPONSE:** Information concerning a full inventory equipment listing of all Chubbuck Police Department SWAT/Special Response Team at the time of the incident has previously been provided as they were included in the police reports previously requested.

**POLICE PROCEDURE REQUEST # 11:** Copies of all Chubbuck Police Department SWAT/Special Response Team Meeting Minutes for the period of one-year prior to the date of the incident.

**RESPONSE:** The State objects to request # 11 based upon relevancy and the request being overbroad.

**POLICE PROCEDURE REQUEST # 12:** Copies of all Use of Force Forms held in the Chubbuck Police Department files.

**RESPONSE:** The State objects to request # 12 based upon relevancy and the request being overbroad.

**POLICE PROCEDURE REQUEST # 13:** Copies of the Chubbuck Police Department Pre-Raid Plan involving the incident, including and an (*sic*) all photos, notes, diagrams, and any other relevant information.

**RESPONSE:** Information concerning copies of the Chubbuck Police Department Pre-Raid Plan involving the incident, including and an (*sic*) all photos, notes, diagrams, and any other relevant information has previously been provided or does not exist.

**POLICE PROCEDURE REQUEST # 14:** Copies of the Chubbuck Police Department Pre-Raid Threat Analysis sheet, forms, notes, including any notes made by individual officers involved in the incident.

**RESPONSE:** Information concerning copies of the Chubbuck Police Department Pre-Raid Threat Analysis sheet, forms, notes, including any notes made by individual officers involved in the incident has previously been provided or does not exist.

**POLICE PROCEDURE REQUEST # 15:** Copy of any and all Post-Raid Briefing information including any written information, recorded information, diagrams, and any other relevant information by all law enforcement agencies involved in the incident.

**RESPONSE:** Information concerning copy of any and all Post-Raid Briefing information including any written information, recorded information, diagrams, and any other relevant information by all law enforcement agencies involved in the incident has previously been provided in the police reports.

**POLICE PROCEDURE REQUEST # 16:** Copies of any and all outside agency reviews and/or reports involving the incident.

**RESPONSE:** Information concerning copies of any and all outside agency reviews and/or reports involving the incident has previously been provided.

**POLICE PROCEDURE REQUEST # 17:** Copies of any and all outside agency reviews of the Chubbuck Police Department policies, procedures, including but not limited to this particular incident.

**RESPONSE:** Information concerning copies of any and all outside agency reviews of the Chubbuck Police Department policies, procedures, including this particular incident has previously been provided. The State objects to a request for information concerning any other agency reviews of the Chubbuck Police Department policies, and procedures involving other incidences based upon relevancy and the request being overbroad.

**POLICE PROCEDURE REQUEST # 18:** Copies of the Pocatello Police Department, Bannock County Sheriff's Department, and Idaho State Police's Pre and Post Raid Briefing.

**RESPONSE:** Information concerning copies of the Pocatello Police Department, Bannock County Sheriff's Department, and Idaho State Police's Pre and Post Raid

Briefing has previously been provided in all police reports. The State objects to a request for information concerning any other copies of Pocatello Police Department, Bannock County Sheriff's Department, and Idaho State Police's Pre and Post Raid Briefing involving other incidences based upon relevancy and the request being overbroad.

**POLICE PROCEDURE REQUEST # 19:** Lot numbers of bullets in each SWAT weapon at the time of the incident.

**RESPONSE:** The State objects to a request for information concerning lot numbers of bullets in each SWAT weapon at the time of the incident other than what has previously been provided based upon relevancy and the request being overbroad.

**POLICE PROCEDURE REQUEST # 20:** Copies of the training records of every Weapon Training Officer who provided training to and for each officer involved in the incident.

**RESPONSE:** The State objects to a request for information concerning copies of the training records of every Weapon Training Officer who provided training to and for each officer involved in the incident other than what has previously been provided based upon relevancy and the request being overbroad.

**POLICE PROCEDURE REQUEST # 21:** Copies of Chubbuck Police Department Policies and Procedures regarding the loading of every weapon, and/or weapon type, carried by the officers involved in the incident.

**RESPONSE:** Information concerning copies of Chubbuck Police Department Policies and Procedures regarding the loading of every weapon, and/or weapon type, carried by

the officers involved in the incident can be viewed by making arrangements with Chubbuck Police Department.

**POLICE PROCEDURE REQUEST # 22:** Copies of Chubbuck Police Department SWAT/Special Response Team Policy and Procedures.

**RESPONSE:** Information concerning copies of Chubbuck Police Department SWAT/Special Response Team Policy and Procedures can be viewed by making arrangements with Chubbuck Police Department.

**POLICE PROCEDURE REQUEST # 23:** Copies of Chubbuck Police Department Swat / Special Response team Policy and Procedures regarding approved bullets.

**RESPONSE:** Information concerning copies of Chubbuck Police Department Swat / Special Response team Policy and Procedures regarding approved bullets can be viewed by making arrangements with Chubbuck Police Department.

**POLICE PROCEDURE REQUEST # 24:** Copies of any and all reports regarding the types of bullets – including specific lot numbers – for each weapon carried by officers involved in the incident.

**RESPONSE:** The State objects to a request for information concerning lot numbers of bullets in each SWAT weapon at the time of the incident other than what has previously been provided based upon relevancy and the request being overbroad.

**EXCULPATORY EVIDENCE REQUEST # 1:** Copies of all law enforcement personnel and/or Chubbuck employee, e-mail messages, department bulletins, text messages, PAD messages, and other notices pertaining to the incident.

**RESPONSE:** The State objects to a request for information concerning copies of all law enforcement personnel and/or Chubbuck employee, e-mail messages, department bulletins, text messages, PAD messages, and other notices pertaining to the incident based upon relevancy and the request being overbroad.

**EXCULPATORY EVIDENCE REQUEST # 2:** Copies of all post-incident drug and alcohol testing of officers involved in the incident.

**RESPONSE:** There are no known post-incident drug and alcohol testing of officers involved in the incident.

**EXCULPATORY EVIDENCE REQUEST # 3:** Copies of all medical records of Chubbuck Police Department officers who claim an injury resulting from the incident.

**RESPONSE:** Information concerning copies of all medical records of Chubbuck Police Department officers who claim an injury resulting from the incident has previously been provided.

**EXCULPATORY EVIDENCE REQUEST # 4:** Copies of all psychological reports of officers involved in the incident.

**RESPONSE:** There are no known psychological reports of officers involved in the incident.

**EXCULPATORY EVIDENCE REQUEST # 5:** Copies of all post-incident counseling records of officers involved in the incident.

**RESPONSE:** There are no known post-incident counseling records of officers involved in the incident.



**OTHER INFORMATION:** Attached are five (5) audio tape recordings of visits made with the defendant at the Bannock County Jail.

DATED this 18 day of April, 2006.

  
\_\_\_\_\_  
VIC A. PEARSON  
Chief Deputy Prosecuting Attorney

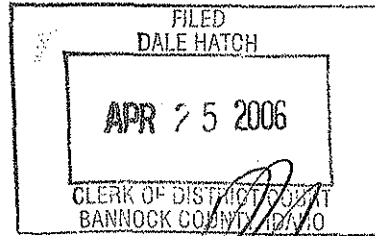
**CERTIFICATE OF DELIVERY**

I HEREBY CERTIFY That on this 18 day of April, 2006, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

DON MARLER  
ATTORNEY AT LAW  
P. O. BOX 4747  
POCATELLO ID 83205

mail –  
postage prepaid  
 hand delivery  
 facsimile

  
\_\_\_\_\_  
VIC A. PEARSON



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2005-8728-FE

STATE OF IDAHO, )  
)  
Plaintiff, )  
)  
vs. )  
)  
FARON STONE, )  
)  
Defendant. )

MINUTE ENTRY AND ORDER

Various motions, filed by the Defendant, came before the Court for hearing on April 18, 2006, pursuant to notice. Appearing at the hearing for the State of Idaho was Vic A. Pearson, Bannock County Deputy Prosecuting Attorney. Appearing with the Defendant at the hearing were Don T. Marler and Craig Parrish.

Prior to the hearing, the Court received and reviewed the Defendant's Second Supplemental Request for Discovery and Inspection, the Defendant's Third Supplemental Request for Discovery and Inspection, the Defendant's Motion to Register No. CR-2005-8728-FE  
MINUTE ENTRY & ORDER  
PAGE 1

Compel Discovery; Motion for Sanctions; Motion to Continue, the Defendant's Second Motion to Compel Discovery and Inspection, the Defendant's Motion to Produce Additional Discovery, the Defendant's Motion for Additional Time to Respond to State's Discovery, two documents entitled Defendant's Motion in Limine, the Defendant's Motion to Void Search Warrant and Request for Franks Hearing, the Defendant's Brief in Support of Motion to Suppress (however, the Court did not find any Motion to Suppress in the file), the Defendant's Motion for Written Voir Dire Questionnaire, the Proposed Jury Questionnaire, the Defendant's Motion for Change of Venue, the Defendant's Motion to Retrieve Bullet, the Defendant's Motion to Take Deposition Duces Tecum, and the Defendant's Motion to Wear Civilian Clothing During Trial Proceeding. The State had not responded to these motions.

At the hearing, the Court heard argument from respective counsel regarding each of the Motions, discussed each of the Motions, and ruled as follows as to each of them:

1. As to the Motion to Compel Discovery; Motion for Sanctions; Motion to Continue, and the Defendant's Second Motion to Compel Discovery and Inspection, the Court **GRANTED** the Motions to Compel and the Motion to Continue and **DENIED** the Motion for Sanctions. The State will produce, by April 21, 2006, at 5:00 p.m. the following

(from Bannock County, the City of Pocatello, the City of Chubbuck, and/or the Idaho State Police) as specified:

a. All weapons, vests, bullets, and bullet fragments involved in this incident, for lab testing;

b. A copy of all dispatch tapes and logs regarding the Defendant or this incident;

c. A copy of all lab reports regarding seized items arising from surveillance and/or this incident;

d. A list of all of the witnesses that the State intends to call at trial and a paragraph regarding each witness, detailing the substance of the witness's testimony;

e. A copy of the incident reconstruction drawing, including dimension locations of all items of possible evidence value with regard to floor plan of structure, interior wall of structure, exterior walls of structure, and surrounding property by any law enforcement agency;

f. A copy of all interview recordings of the Defendant, the Co-defendant, any officers, and witnesses;

g. A copy of all Policy and Procedure Manuals (for each law enforcement agency involved in this incident) either given to the Defendant's counsel or put in one central location for their review;

h. A list of all complaints, filed against any officer involved in this incident, for the past five years;

i. A list of all disciplinary actions, taken against any officer involved in this incident, for the past five years;

j. A copy of all of the medical records of Phil Hill and Mike Ballard, arising from this incident; and

k. A copy of audio and video recordings of the Critical Accident Investigation, performed by any of the agencies (including the one undertaken by Bannock County subsequent to the events on or about May 9, 2005);

2. The Court **VACATED** the trial presently set for April 25, 2006. The Court then reset this trial for July 25, 2006 at 9:00 a.m.;

3. The Court finds that, given the Court's rulings as to these motions, sanctions are inappropriate for the State's actions regarding this discovery;

4. As to the Defendant's Motion for Additional Time to Respond to State's Discovery, the Court **GRANTED** the Motion. The Defendant will respond to the State's Discovery on or before May 12, 2006 at 5:00 p.m.;

Register No. CR-2005-8728-FE

MINUTE ENTRY & ORDER

PAGE 3

5. As to the two Motions in Limine (filed by the Defendant), the Court **DENIED** the Motion in Limine regarding the reasonableness of the search and the jury instruction concerning it. The Court will determine whether the search was reasonable in resolving the Motion to Suppress, and the jury will hear about it if the Court deems it was reasonable;

The Court found the Motion in Limine, concerning the qualifications of the ballistics expert, to be premature at this time and **DENIED** it;

6. As to the Motion to Void Search Warrant and Motion to Suppress, the Court gave the Defendant until April 28, 2006 to file any additional information in support of the Motions. The Court then gave the State until May 12, 2006 to respond to the Motions. The Court will then hold a hearing as to both Motions on May 23, 2006 at 9:00 a.m.;

7. As to the Motion for Written Voir Dire Questionnaire, the Court will allow the jury to receive and complete a written voir dire questionnaire, if both parties agree (1) that it should be given to the potential jury members and (2) on the questions in the questionnaire. Such questionnaire must however be given to the Court on or before June 1, 2006;

8. As to the Motion for Change of Venue, the Court **DENIED** the Motion. There is an insufficient showing in this record to grant a change in venue;

9. As to the Motion to Retrieve Bullet, the Court **DENIED** the Motion. This is a renewal of the same motion that the Court has previously denied. There is no additional information in this record, causing the Court to change its decision as to this Motion;

10. As to the Motion to Take Deposition Duces Tecum, the Court **GRANTED** the Motion. The deposition must, however, be taken prior to July 1, 2006;

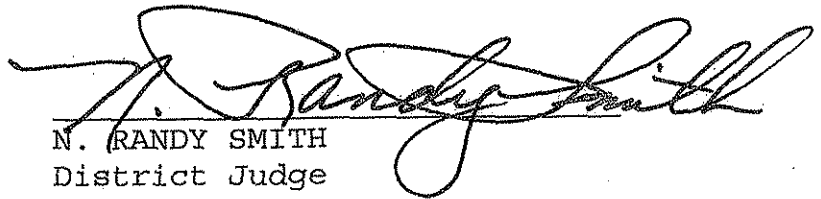
11. As to the Motion to Wear Civilian Clothing During Trial Proceeding, the Court **GRANTED** the Motion;

12. As to the Motion to Produce Additional Discovery, the Court **DENIED** the Motion. If the Defendant wants to

discover information from third parties, it should proceed to try to get such information. If it is not allowed access to such information, then it may seek the assistance of the Court.

IT IS SO ORDERED.

DATED April 21, 2006

  
N. RANDY SMITH  
District Judge

Copies to:

Vic A. Pearson  
Craig Parrish  
Don T. Marler

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT

CRAIG W. PARRISH (#4763)  
PARRISH LAW OFFICE  
PO BOX 4321  
POCATELLO ID 83205-4321  
(208)234-1234

DON T. MARLER (#6119)  
ATTORNEY AT LAW  
PO BOX 4747 BY \_\_\_\_\_  
POCATELLO ID 83205-4747 DEPUTY CLERK  
(208) 233-4121

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )

Plaintiff, )

vs. )

FARON STONE, )

Defendant. )

CASE NO. CR-2005-8728-FE


MOTION TO SUPPRESS


COMES NOW the Defendant, FARON STONE, by and through his attorneys, Craig W. Parrish and Don T. Marler, and hereby moves this Court pursuant to Rule 12, Idaho Criminal Rules, for its order suppressing any and all evidence obtained as a result of that Search warrant that was attempted to be served on Defendant on or about the 7<sup>th</sup> of May 2005. Defendant requests such suppression on the grounds and for the reasons that the search warrant was illegally obtained, was unconstitutionally defective, and was illegally executed in violation of the Defendant's rights against unreasonable searches and seizures as guaranteed by the United States Constitution, Amendment 4, and/or the Idaho State Constitution, Article § 17 and are the fruits of an illegal warrant and search in violation of Defendant's constitutional rights as set forth herein.

Defendant requests that all evidence obtained subsequent to such illegal and defective conduct be suppressed, including but not limited to, written reports, recorded and written statements from defendant and any and all witnesses, physical evidence and exhibits discovered or

developed subsequent to the illegal search warrant execution, any and all photos, videos or other electronic media relating to the incident, and testimony of experts developed through the use and evaluation of illegally obtained evidence.

Dated this the 28 day of APRIL, 2006.

  
\_\_\_\_\_  
Craig W. Parrish, Attorney for Defendant

  
\_\_\_\_\_  
Don T. Marler, Attorney for Defendant

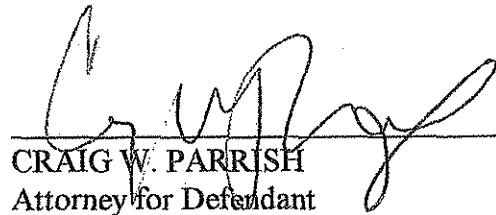
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I served a true copy of the forgoing document by mail with the correct postage thereon to the attorney listed below on this 28 day of APRIL, 2006.

Document Served: **MOTION TO SUPPRESS**

BANNOCK COUNTY PROSECUTOR  
COURTHOUSE INBOX  
POCATELLO ID 83205

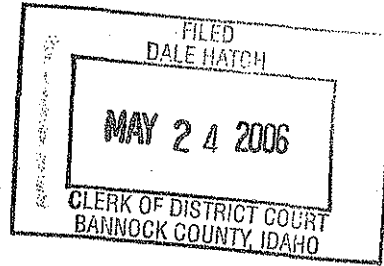
  
\_\_\_\_\_  
DON T MARLER  
Attorney for Defendant

  
\_\_\_\_\_  
CRAIG W. PARRISH  
Attorney for Defendant



MARK L. HIEDEMAN  
 BANNOCK COUNTY PROSECUTOR  
 P.O. BOX P  
 POCATELLO, IDAHO 83205  
 Telephone: (208) 236-7280

VIC A. PEARSON, ISB #6429  
 Chief Deputy Prosecutor



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARON STONE )  
 aka LEMUEL MYRON STONE, )  
 )  
 Defendant. )

CASE NO. CR-05-8728-FE-B  
**\*\*AMENDED\*\***  
 PROSECUTING ATTORNEY'S  
 INFORMATION

MARK L. HIEDEMAN, Prosecuting Attorney, in and for Bannock County, State of Idaho, who, in the name and by the authority of said State prosecutes in its behalf, in proper person comes into said District Court in the County of Bannock, State of Idaho, on the 19<sup>th</sup> day of May, 2006, and gives the Court to understand and be informed that FARON STONE aka LEMUEL MYRON STONE is accused by this information of the crime of 1 COUNT AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER, Idaho Code §18-903, 18-907(1)(a) and 18-915; and 1 COUNT UNLAWFUL POSSESSION OF A FIREARM, Idaho Code §18-3316, committed as follows, to-wit:

COUNT 1  
AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER  
(Detective Mike Ballard and Officer Phil Hill)

That the said FARON STONE aka LEMUEL MYRON STONE, in the County of Bannock, State of Idaho, on or about the 7th day of May, 2005, did actually, intentionally and unlawfully touch or strike Detective Mike Ballard and Officer Phil Hill, peace officers, against their will, by use of a deadly weapon or instrument, to-wit a 357 Magnum.

COUNT 2  
UNLAWFUL POSSESSION OF A FIREARM

That the said FARON STONE aka LEMUEL MYRON STONE in the County of Bannock, State of Idaho, on or about the 7th day of May, 2005, did purchase, own, possess and/or have custody or control of a firearm, 357 Magnum, while having been previously convicted of a felony.

All of which is contrary to the form of the statute in such case in said State made and provided and against the peace and dignity of the State of Idaho.



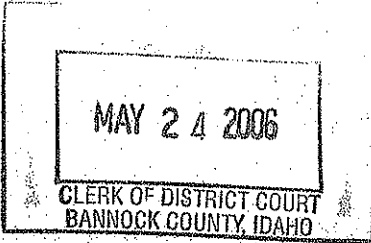
MARK L. HIEDEMAN  
Prosecuting Attorney  
Bannock County, Idaho

STATE OF IDAHO            )  
  ) ss.  
COUNTY OF BANNOCK    )

I, DALE HATCH, Clerk of the District Court of the Sixth Judicial District, in and for the County of Bannock, State of Idaho, do hereby certify that the foregoing is a true and correct copy of the original information filed in my office on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Deputy



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO vs. FARON STONE

1. Name: FARON STONE Age: 41

Address: Bannock County Jail DOB: 9-25-64

Married: YES  NO  Children: 2 -<sup>nd</sup> Laurell Stone Shantel Stone

2. What schooling have you completed? 12<sup>th</sup> Shopan Football  
High School Diploma, GED or HSE? NO

3. Do you read and understand the English Language? YES  NO

4. Have you ever been treated or counseled for mental illness, disease or disorder?  
YES  NO  N/A  
If yes, please explain \_\_\_\_\_  
Are you at this time receiving treatment for the same? N/A  
When were you last treated or counseled? N/A

5. Are you presently addicted to the use of alcohol or drugs? YES  NO

6. Have you taken any alcohol, drug or medication within the last 48 hours? YES  NO   
If your answer is yes, indicate the last time you took such alcohol, drugs or medication, and what it was. N/A

If your answer is yes, are you unable, as a result of such alcohol, drugs or medication, to understand these questions, or to understand the information given to you by your attorney or by the Court? YES  NO

I hereby certify truly, under penalty of perjury, that I have answered the foregoing questions truthfully and correctly to the best of my knowledge.

Dated 6/27/06

Signature Faron E. Stone

7. Have you been represented by an attorney at all stages of these proceedings? YES  NO

• What is your attorney's name? Don Marler - Greg Davis?

• Have you had enough time to discuss all of the ramifications of this case with your attorney? YES  NO

• Have you fully discussed all facts and circumstances surrounding the charges against you with your attorney? YES  NO

• Has your attorney discussed fully with you the nature of the charges against you, your involvement with the crime, your arrest, the elements of the crime which you committed, any defenses (legal or otherwise) you may have to the charges, and possible consequences of your guilty plea? YES  NO

• Has your attorney discussed your Constitutional and Civil rights with you? YES  NO

• Are you satisfied with your attorney's services? YES  NO

• In your opinion, have you been adequately and competently represented by your attorney? YES  NO

8. Do you claim any violation of your Constitutional or Civil rights? YES  NO

9. What crime(s) are you accused of committing? AGG. BATT. AGAINST POLICE + FELONY IN POSSESSION OF FIRE ARM.

• Have you received and read the Prosecutor's Information charging you with such crimes? YES  NO

• Do you understand that each crime charged in the Information is a felony? YES  NO

• What is the maximum sentence that you may receive for each crime charged? 25 years. 5 years on possession.

• Do you realize that you may be imprisoned in the State Penitentiary? YES  NO

I hereby certify truly, under penalty of perjury, that I have answered the foregoing questions truthfully and correctly to the best of my knowledge.

Dated 5/23/06

Signature Faron E. Stone

- Do you understand that your sentence may be imposed with no right to probation or parole? YES  NO
- Do you understand that if there is more than one crime charged, that the sentences may be consecutive? YES  NO

10. Do you understand that you have the following Constitutional Rights, relating to the crime(s) charged against you?

- (a) to the presumption that you are innocent, until proven by the State beyond a reasonable doubt to be guilty? YES  NO
- (b) to a speedy and public trial by jury? YES  NO
- (c) to a jury trial where the State must convince all jurors of your guilt as to each element of the crime beyond a reasonable doubt? YES  NO
- (d) to present evidence in your own behalf? YES  NO
- (e) to the process of the Court to compel the attendance of witnesses to testify in your behalf? YES  NO
- (f) to remain silent and not to make any statement to the Court or any person (including any law enforcement officer, policeman or other official) that will incriminate you, or in any way help to prove the charged crime(s) against you? YES  NO
- (g) to require that all persons who have accused you of a crime appear in Court and be questioned under oath? YES  NO

11. Do you realize that if you enter a plea of guilty that you give up your above listed rights in Question 10, which are constitutional rights under the 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Amendments to the Constitution of the United States and similar rights under the Idaho Constitution? YES  NO

12. Has any person (including a law enforcement officer or policeman) threatened you or done anything to make you enter this plea against your will? YES  NO

I hereby certify truly, under penalty of perjury, that I have answered the foregoing questions truthfully and correctly to the best of my knowledge.

Dated

5/23/06

Signature

Jaron E. Stone

13. Has any person promised you that you will receive any special sentence, reward, favorable treatment, or leniency with regard to the plea you are about to enter? YES  NO

If your answer is yes, what promises have been made and by whom? SEE PLEA AGREEMENT

14. Do you understand that the only person who can promise what sentence you actually receive is the Judge? YES  NO

15. Do you understand that the Judge is not required to follow the sentence recommended by either your attorney or the prosecutor? YES  NO

16. Do you understand that by pleading guilty to a felony, you run the risk that if you have new felony charges in the future, you could be charged as a persistent violator? YES  NO

Do you understand that if you are convicted as a persistent violator, the court in that new case could sentence you to an enhanced sentence which could be life imprisonment? YES  NO

17. Are you a citizen of the United States of America? YES  NO

*N/A* • If you answered no to the above question, do you understand that a consequence of your plea(s) of Guilty in this case is your deportation and exclusion from the United States? YES  NO

*N/A* • Do you understand that if you are deported or excluded from the United States, and you chose to reenter the United States, you could be charged with a new felony? YES  NO

*N/A* • Do you understand that another consequence of your plea(s) of Guilty in this case is possible denial of naturalization to become a citizen of the United States? YES  NO

I hereby certify truly, under penalty of perjury, that I have answered the foregoing questions truthfully and correctly to the best of my knowledge.

Dated 5/29/06 Signature Joson E. Stone

N/A

• If you answered no to being a citizen of the United States, are you a lawful permanent resident of the United States? YES  NO

N/A

• If you answered yes to the previous "permanent resident" question, do you understand that your plea(s) of Guilty in this case may result in the loss of your status as a lawful permanent resident of the United States? YES  NO

18. By pleading guilty to a felony, as a citizen of the United States, do you understand each of the following happens:

(a) You lose your right to be on a jury? YES  NO

(b) You lose your right to possess or purchase a firearm? YES  NO

(c) If you possess a firearm after being convicted of a felony, you may be charged with a new felony? YES  NO

(d) You lose your right to vote in local, state, and federal elections? YES  NO

(e) You lose the right to hold public office? YES  NO

19. Do you admit the truth of the charge(s) against you as stated in the Prosecuting Attorney's Information? YES  NO

20. Do you disagree with any statement in the Prosecuting Attorney's Information? YES  NO

21. Is this a North Carolina v. Alford Guilty Plea? YES  NO

22. Do you admit that you are guilty of the acts and conduct charged in the Information? YES  NO

23. Have you therefore instructed your attorney not to raise any defense(s) as to your involvement in or whether you committed this crime(s)? YES  NO

24. Have you answered all questions on this Questionnaire truthfully and of your own free will? YES  NO

I hereby certify truly, under penalty of perjury, that I have answered the foregoing questions truthfully and correctly to the best of my knowledge.

Dated 5/13/06

Signature Jason E. Stearns

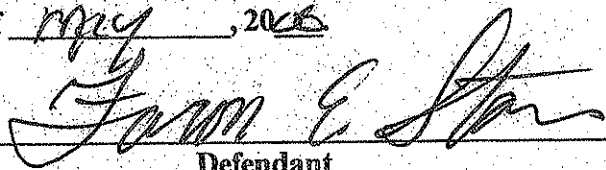
25. Is it still your desire to enter a guilty plea at this time? YES  NO

26. Do you swear under penalty of perjury that your answers to these questions are true and correct? YES  NO

27. Are you pleading GUILTY to the crime(s) freely and voluntarily? YES  NO

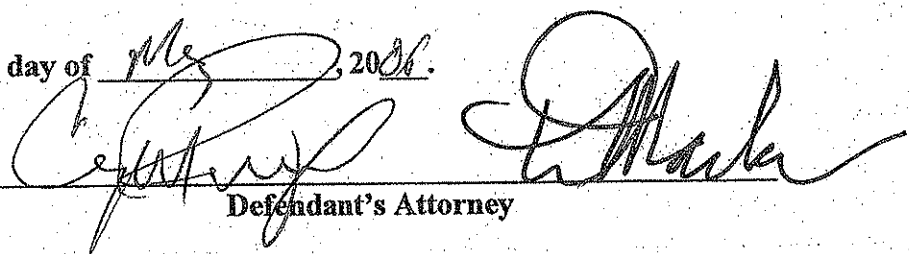
I hereby certify truly, under penalty of perjury, that I have answered the questions on pages 1, 2, 3, 4, 5, and 6 of this Questionnaire truthfully, understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this Questionnaire freely and voluntarily. Furthermore, no one has threatened me to do so.

Dated this 23 day of May, 2006

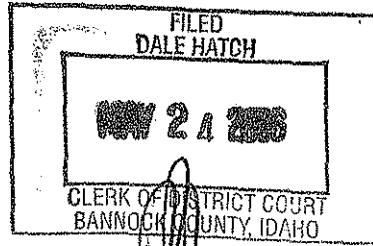
  
\_\_\_\_\_  
Defendant

I hereby acknowledge that I have discussed, in detail, the foregoing questions and answers with my client.

Dated this 23 day of May, 2006.

  
\_\_\_\_\_  
Defendant's Attorney





IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR2005-0008728-FE  
STATE OF IDAHO,

Plaintiff,

-vs-

FARON STONE aka LEMUEL MYRON  
STONE,

Defendant.

MINUTE ENTRY & ORDER

The above named Defendant appeared in Court on the 23rd day of May, 2006 with counsel, Don T. Marler and Craig W. Parrish, for further proceedings. Cleve B. Colson, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

At the outset, the State moved to dismiss I Count Aggravated Battery Upon a Law Enforcement Officer, I Count Possession of a Controlled Substance, Methamphetamine and Part II of the Prosecuting Attorney's Information charging the Defendant with having used a "Firearm", and Part III of the Prosecuting

Attorney's Information charging the Defendant with the crime of being a persistent violator. The Defendant then entered pleas of guilty to the charges of **I COUNT AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER, I.C. 18-903, 18-907(1) (a) and 18-915; and I COUNT UNLAWFUL POSSESSION OF A FIREARM, I.C. 18-3316**. There being no objection, said motion was **GRANTED**. The State then submitted an amended Prosecuting Attorney's Information to the Court.

Thereafter, the Defendant moved to withdraw his plea of Not Guilty heretofore entered and there being no objection, said Motion was **GRANTED**.

When asked by the Court, the Defendant entered a plea of **GUILTY** to the charges of **I COUNT AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER, I.C. 18-903, 18-907(1) (a) and 18-915; and I COUNT UNLAWFUL POSSESSION OF A FIREARM, I.C. 18-3316** and submitted his signed and completed Questionnaire to the Court. Following questioning by the Court, the Defendant's plea was accepted as being voluntarily and knowingly given.

IT IS HEREBY ORDERED that a pre-sentence investigation report be prepared prior to sentencing and this matter is hereby referred to the Idaho State Board of Corrections for such report.

IT IS FURTHER ORDERED that the **DUE DATE** for said pre-sentence investigation report shall be **JULY 7, 2006 NO LATER THAN 12:00**

(NOON) WITH COPIES DELIVERED TO THE COURT AND COUNSEL BY SAID  
DATE.

IT IS FURTHER ORDERED that the SENTENCING in this matter be and the same is hereby set THURSDAY JULY 13, 2006 AT THE HOUR OF 9:00 A.M. at the Bannock County Courthouse, Pocatello, Idaho before the undersigned Judge.

IT IS FURTHER ORDERED that the Defendant is hereby **REMANDED** back to the custody of the Bannock County Sheriff pending further proceedings.

DATED May 23, 2006.

  
N. RANDY SMITH  
District Judge

Copies to:  
Mark L. Hiedeman  
Don T. Marler  
Craig W. Parrish  
Probation & Parole  
Bannock County Jail

Case No. CR2005-0008728-FE  
MINUTE ENTRY & ORDER  
Page 3

**DON T. MARLER**  
ISB # 6119  
Attorney at Law  
P.O. Box 4747  
Pocatello, ID 83205  
Telephone: (208) 233-4121  
Facsimile: (208) 233-4174

**CRAIG PARRISH**  
ISB # 4763  
Parrish Law Office  
P.O. Box 4321  
Pocatello, ID 83205  
Telephone: (208) 234-1234  
Facsimile: (208) 234-1244

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,  
Plaintiff,

vs.

FARON STONE,  
Defendant.

Case No. CR- 2005-8728-FE

**NON BINDING  
PLEA AGREEMENT**

COMES NOW, State of Idaho, the Plaintiff in the above entitled matter, acting by and through its attorney of record, Vic Pearson, Bannock County Chief Deputy Prosecuting Attorney, and comes now, Faron Stone, the Defendant in the above entitled matter, individually and by and through his counsel of record, Don T. Marler and Craig Parrish, and hereby enter into the following Plea Bargain Agreement, pursuant to Rule 11(c) of the Idaho Criminal Rules.

Plea Agreement  
Page 1

**WHEREAS**, through the Amended Prosecuting Attorney's Information the Defendant, Faron Stone, has been charged with the crimes of Count I, Aggravated Battery Upon A Law Enforcement Officer, Idaho Code §18-903, §18-907(1)(a), and §18-915; and Count II, Unlawful Possession of a Firearm, Idaho Code §18-3316.

**WHEREAS**, the parties in this matter have agreed to a disposition of the same, the following conditions are hereby agreed to and entered into:

**IT IS HEREBY AGREED** that the Defendant, Faron Stone, shall plead guilty to Count I, Aggravated Battery Upon A Law Enforcement Officer as charged under, Idaho Code §18-903, §18-907(1)(a), and §18-915; and Count II Unlawful Possession of a Firearm, Idaho Code §18-3316.

**IT IS FURTHER AGREED** that under Count I, Aggravated Battery Upon A Law Enforcement Officer, for the purpose sentencing both officer Phil Hill and officer Mike Ballard will be allowed to make victim's statements.

**IT IS FURTHER AGREED** that the State, at Sentencing, will recommend a Unified Sentence of fifteen (15) years with seven and one-half (7½) fixed and seven and one-half (7½) indeterminate.

**IT IS FURTHER AGREED** that the State will not initiate any affirmative action with regard to any charges being brought by the United States Government which would arise from the incident in the instant case.

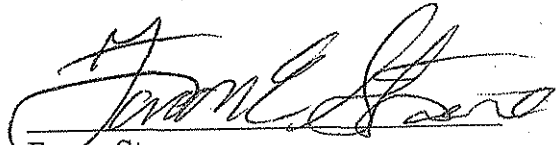
IT IS FURTHER AGREED and understood that this Plea Agreement is NOT

binding on the Court.

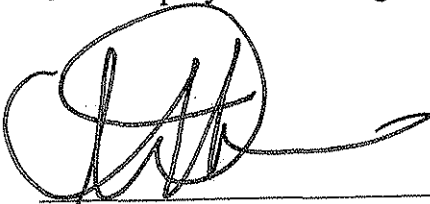
DATED this 23 of May, 2006.

 For VAP

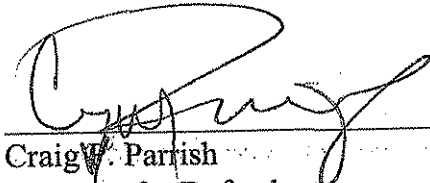
Vic Pearson  
Chief Deputy Prosecuting Attorney




Earon Stone  
Defendant



Don T. Marler  
Attorney for Defendant



Craig W. Parrish  
Attorney for Defendant

FILED  
 BANNOCK COUNTY  
 CLERK OF THE COURT  
 2006 AUG 21 AM 3:05  
 BY  DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

FARON STONE,

Defendant,

DS-  
 CASE NO. CR-FE-8728


MOTION TO WITHDRAW  
 PLEA

COMES NOW Defendant, FARON STONE, and requests that this court allow the withdrawal of the plea of guilty, in the above-named case.

Mr. Stone believes that there is "just reason" pursuant to Idaho Criminal Rule 33(c) to allow the withdrawal of the plea. Mr. Stone prays that the Court would liberally exercise the discretion that is afforded it to allow the withdrawal of the plea for the reasons that are listed in the Brief accompanying this Motion. Mr. Stone asserts that the failure to allow him to deliberate upon the plea agreement and that his attorneys' failure to explain the non-binding nature of the agreement and their overreaching to secure his agreement militate in favor of the allowance of the withdrawal of the plea.

Oral argument is requested.

DATED this 31 day of July, 2006.


  
 Faron Stone

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that my attorney served a true copy of the forgoing document by mail with the correct postage thereon to the attorney listed below on this 31 day of July, 2006.

Document Served:

BANNOCK COUNTY PROSECUTOR  
PO BOX P  
POCATELLO ID 83205

  
\_\_\_\_\_  
Faron Stone



FILED  
BANNOCK COUNTY  
CLERK OF THE COURT  
2005 AUG -2 PM 3:05  
BY *[Signature]*  
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,  
Plaintiff,

vs.

FARON STONE,  
Defendant,

CASE NO. *CR-12-8728*  
TRANSCRIPTION OF  
DEFENDANT'S  
AFFIDAVIT

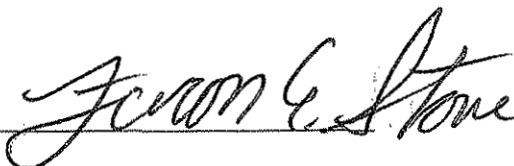
I, Faron Stone, do swear that the following is a true and accurate version of the following:

[At sentencing,] I was under the impression the Judge could not go higher than [the] 71/2 plus 71/2 year sentence that the prosecutor and the attorney agreed to. It was after I plead guilty that I understood [the] Judge was not bound by it. Even though my attorneys told me that the hearing made it seem like I understood that the Judge wasn't bound. I thought that the guilty plea could be withdrawn if he wanted to go higher than the 71/2 plus 71/2. I did not understand [that] the legal implications of the hearing were specifically designed to not allow me to take back my plea.

Besides, I only had 48 hours to make this decision which was not enough time to make. I felt very pressured to take the plea. My attorneys told me that the 71/2 plus 71/2

was the longest I [would] have to do. This information was false. I feel that they weren't totally forthcoming with all the information I needed to make an informed decision.

Dated this 31 day of August, 2006.

A handwritten signature in cursive script that reads "Faron E. Stone". The signature is written in black ink and is positioned above a horizontal line.

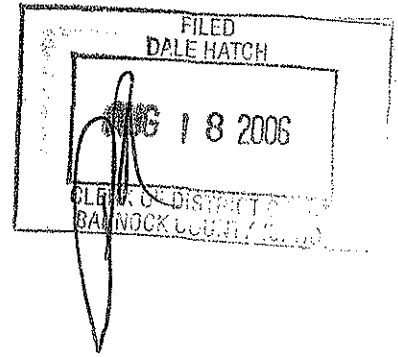
Faron Stone

**CERTIFICATE OF SERVICE**

I hereby certify that my attorney served a copy of this Transcription of Affidavit to the

**Bannock County Prosecutors by personal delivery to their inbox:**

**Bannock County Prosecutor  
Prosecutor's Inbox**



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2005-0008728-FE  
STATE OF IDAHO,

)  
)  
) Plaintiff,

-vs-

)  
) FARON STONE,

)  
) Defendant.  
)  
)

MINUTE ENTRY & ORDER

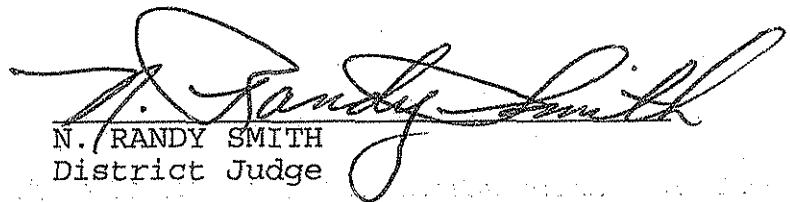
The above-named Defendant appeared in Court on the 14th day of August, 2006 with his counselors, Don T. Marler and Craig W. Parrish, for the purpose of Defendant's Motion to Withdraw Plea. Jared Olson, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

At the hearing, Mr. Parrish and Mr. Marler advised the Court they felt there was a conflict of interest with their representation of this case. After discussion, the Court asked that a written motion to withdraw as counsel of record be filed with the Court, after which another hearing will be scheduled.


IT IS HEREBY ORDERED that hearing on Defendant's Motion to Withdraw Plea of Guilty is **VACATED** and will be rescheduled after the Court hears counsels Motion to Withdraw. The Court also **VACATED** the sentencing scheduled for Thursday, August 17, 2006.

IT IS FURTHER ORDERED that the Defendant is hereby **REMANDED** back to the custody of the Bannock County Sheriff pending further proceedings.

DATED August 17, 2006.

  
N. RANDY SMITH  
District Judge

Copies to:  
Mark L. Hiedeman  
Don T. Marler  
Craig W. Parrish  
Bannock County Jail

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT  
2006 AUG 18 PM 4:14  
BY   
DEPUTY CLERK

CRAIG W. PARRISH (#4763)  
PARRISH LAW OFFICE  
PO BOX 4321  
POCATELLO ID 83205  
(208)234-1234

Attorney for Plaintiff

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

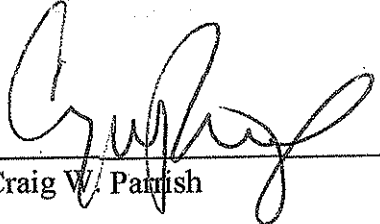
STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARON STONE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

CASE NO. CR-2005-8728-FE

**MOTION TO WITHDRAW  
AS COUNSEL OF RECORD**

COMES NOW Craig W. Parrish, counsel of record for Faron Stone, and per the Defendant's specific request following his Motion to Withdraw Guilty Plea Hearing, held on August 14, 2006, and per leave of the Court, hereby moves this Court leave to withdraw as counsel of record in the above matter.

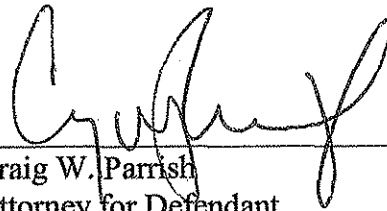
DATED this 15<sup>th</sup> day of AUGUST, 2006.

  
\_\_\_\_\_  
Craig W. Parrish

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing MOTION was served on the 15<sup>th</sup> day of August, 2006, to the following:

BANNOCK COUNTY PROSECUTING ATTORNEY'S OFFICE  
COURTHOUSE IN BOX  
POCATELLO ID 83205



Craig W. Parrish  
Attorney for Defendant

DON T. MARLER  
Attorney at Law  
707 North Seventh Ave. Suite F  
P.O. Box 6369  
Pocatello, ID 83205-6369  
Telephone: (208) 478-7600  
Fax: (208) 478-7602  
Idaho State Bar No. 6119

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT  
2006 AUG 16 PM 4:55  
BY  DEPUTY CLERK

Attorney for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

FARON STONE,


Defendant.

CASE NO. CR-2005-8728-FE

MOTION TO WITHDRAW  
AS COUNSEL OF RECORD

COMES NOW Don T. Marler, counsel of record for Faron Stone, and per the Defendant's specific request following his Motion to Withdraw Guilty Plea Hearing, held on August 14, 2006, and per leave of the Court, hereby moves this Court leave to withdraw as counsel of record in the above matter.

DATED this 16<sup>th</sup> of August, 2006.



Don T. Marler



**CERTIFICATE OF SERVICE**

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Pocatello, Idaho; that on the 16 day of August, 2006, I served a true and correct copy of the following-described pleading or document on the party listed below:

Document Served: **MOTION TO WITHDRAW AS COUNSEL OF RECORD**

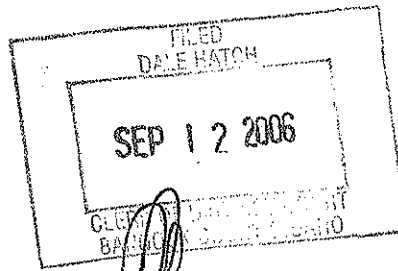
Party Served:

Method of Service:

Mark L. Hiedeman  
Bannock County Prosecutor  
P.O. Box P  
Pocatello, Idaho 83205

U.S. Mail – postage prepaid  
 Hand-delivery  
 Fax

  
\_\_\_\_\_  
Don T. Marler



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2005-0008728-FE  
STATE OF IDAHO,

Plaintiff,

-vs-

FARON STONE,

Defendant.

MINUTE ENTRY & ORDER

The above-named Defendant appeared in Court on the 5th day of September, 2006 with his counselors, Don T. Marler and Craig W. Parrish, for the purpose of Defendant's Motion to Withdraw as Counsel. Jared Olson, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

After discussion between the Court and counsel, the Court advised the Defendant that he was allowing Mr. Marler and Mr. Parrish to withdraw from this matter and would appoint the Defendant a public defender. The Court also ordered that the Court Reporter prepare a transcript of the hearing held on the 23<sup>rd</sup> day of May, 2003 where the Defendant entered his plea of guilty.

IT IS HEREBY ORDERED that Kent V. Reynolds of the Public Defenders Office will is appointed to represent the Defendant in all further proceedings.

IT IS FURTHER ORDERED that the Defendant is hereby **REMANDED** back to the custody of the Bannock County Sheriff pending further proceedings.

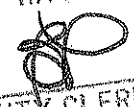
DATED September 8, 2006.

  
N. RANDY SMITH  
District Judge

Copies to:  
Mark L. Hiedeman  
Don T. Marler  
Craig W. Parrish  
Office of Public Defender  
Bannock County Jail  
Stephanie Morse (Court Reporter)

MARK L. HIEDEMAN  
BANNOCK COUNTY PROSECUTING ATTORNEY  
P.O. Box P  
Pocatello, Idaho 83205-0050  
(208) 236-7280

VIC A. PEARSON, ISB #6429  
Chief Deputy Prosecutor

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT  
2006 APR 27 AM 10:32  
BY   
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARON STONE )  
 aka LEMUEL MYRON STONE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

CASE NO. CR-05-8728-FE-B

SUPPLEMENTAL  
RESPONSE TO DEFENDANT'S  
MEMO TO JUDGE RANDY SMITH  
DATED APRIL 18, 2006

TO: DON MARLER, P. O. BOX 4747, Pocatello, Idaho, and CRAIG PARRISH, P O  
BOX 4321, Pocatello, Idaho, Attorneys for the Defendant.

COMES NOW, the State of Idaho, by and through VIC A. PEARSON, Chief  
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and supplements its  
response to Defendant's Memo to Judge Randy Smith dated April 19, 2006 as follows:


2. Copy of dispatch tapes and logs regarding Stone and/or incident

**RESPONSE:** Idaho State Police tapes/logs are attached hereto and incorporated by  
reference.

29. Results of any investigation performed by any law enforcement agency or laboratory with regard to source point, flight path, resting point, and initiating party for any bullets or bullet fragments recovered from the scene.

**RESPONSE:** A corrected copy of the incident reconstruction is attached hereto and incorporated by reference.

DATED this 27 day of April, 2006.

  
\_\_\_\_\_  
VIC A. PEARSON  
Chief Deputy Prosecuting Attorney

**CERTIFICATE OF DELIVERY**


I HEREBY CERTIFY That on this 27 day of April, 2006, a true and correct copy of the foregoing SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

DON MARLER  
ATTORNEY AT LAW  
P. O. BOX 4747  
POCATELLO ID 83205

mail –  
postage prepaid  
 hand delivery  
 facsimile

  
\_\_\_\_\_  
VIC A. PEARSON

MARK L. HIEDEMAN  
BANNOCK COUNTY PROSECUTING ATTORNEY  
P.O. BOX P  
POCATELLO, IDAHO 83205-0050  
(208) 236-7280

FILED  
2006 JUN -1 10 48  
BY   
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,	)	
	)	CASE NO. CR-05-8728-FE-B
Plaintiff,	)	
	)	
v.	)	MOTION FOR
	)	RETURN OF EVIDENCE
FARON STONE,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the State of Idaho by and through VIC A. PEARSON,  
Deputy Prosecutor for Bannock County, and moves this court for an Order directing  
defense counsel to return evidence turned over to them in discovery. (See the attached  
lists)

This motion is based upon the interests of justice.

DATED this 31 day of May, 2006.

  
\_\_\_\_\_  
VIC A. PEARSON  
Deputy Prosecuting Attorney

Chubbuck Police Department  
5160 Yellowstone Ave.  
Chubbuck, Idaho 83202

Phone: 208-237-0770 Fax: 208-237-0944



**Capt. D. Ken Quinn**  
**Patrol Division**

# Fax

To Fax #: \_\_\_\_\_

Attention: Vic Pearson

Organization: Bannock Co. Prosecutors Office Date/Time: 5-31-06

Re: Faron Stone case # of pages: 5

Urgent       Confidential       For Your Information

Reply Requested       Per Your Request       Take Appropriate Action

*Vic,*

• Comments: *Bill advised you needed copies of evidence turned over in Faron Stone case to file a motion to get it returned. 2 guns, 2 vests; several packages of drug evidence. The sooner the better! Ken*

The information contained in this facsimile message is confidential and intended solely for the use of the individual or organization named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, copying or unauthorized use of this communication is strictly prohibited. If you have received this facsimile in error, please notify the sender immediately by telephone and return the facsimile to the sender at the above address via United States Postal Service. Thank You.

# CHUBBUCK POLICE DEPARTMENT

K. RANDY SEVERE  
Chief of Police

5160 Yellowstone Avenue  
P.O. Box 5604  
Chubbuck, Idaho 83202-5604  
Dispatch Phone (208) 237-7172  
Records Office (208) 238-2376  
Detective's (208) 238-2374 or 238-2375

"Emergency 9-1-1"  
Fax (208) 237-0944

D. KEN QUINN  
Asst. Chief of Police

## C.P.D. EQUIPMENT SIGN OUT

Date item taken 04/21/06

Name BURT SCHEI

Address 13631 N. MARBLE AVE. DA 83202

Phone # (208) 604-1027

Description of item taken Sub-machine gun, used by Ofc. Phil Hill  
on 5-7-05.

Make, Model, Serial # Heckler & Koch Universal Machine Pistol, 40 cal,  
162-00967

Place of repair and/or reason for item being signed out Court order of Judge R. Smith  
for independant ballistic testing

Projected return date 7-1-06

Signature [Signature]

I understand that the above listed property belongs to the City of Chubbuck / Chubbuck Police Department. By signing above, I accept responsibility for the listed property and understand that I will be held financially responsible for any damage and/or loss.

(Attach copy of D.L. or I.D. Card)

Date property returned to CPD \_\_\_\_\_

Property accepted by \_\_\_\_\_



# CHUBBUCK POLICE DEPARTMENT

K. RANDY SEVERE  
Chief of Police

5160 Yellowstone Avenue  
P.O. Box 5604  
Chubbuck, Idaho 83202-5604  
Dispatch Phone (208) 237-7172  
Records Office (208) 238-2376  
Detective's (208) 238-2374 or 238-2375

"Emergency 9-1-1"  
Fax (208) 237-0944

D. KEN QUINN  
Asst. Chief of Police


## C.P.D. EQUIPMENT SIGN OUT

Date item taken 04/21/06 Name BRYCE SCHEI'  
 Address 1363 N. MARBEE AVE. ID. 83202  
 Phone # (208) 604-1027  
 Description of item taken Duty handgun issued to Ofc. Paul Gilbert before on and after May 07, 2005  
 Make, Model, Serial # Glock 22; P.X.D. 893-45  
 Place of repair and/or reason for item being signed out Court order of Judge R. Smith for independent ballistics testing  
 Projected return date 7/16  
 Signature [Signature]

I understand that the above listed property belongs to the City of Chubbuck / Chubbuck Police Department. By signing above, I accept responsibility for the listed property and understand that I will be held financially responsible for any damage and/or loss.

(Attach copy of D.L. or I.D. Card)

Date property returned to CPD \_\_\_\_\_  
Property accepted by \_\_\_\_\_

	<h2>Chubbuck Police Department</h2> <p>5160 Yellowstone Avenue P.O. Box 5604                  Chubbuck, ID 83202-5604 (208) 237-7172</p>
	<h3>Evidence Property Receipt</h3>

CPD Law Incident #: 05-C2103	Date of Delivery: 04/21/2006	Defendant / Property Owner: Faron Stone
Delivered to: -Brian-Emfield <i>Brett Schei</i>		Attention / Care of:
Upon signing this form, the recipient acknowledges that he or she did in fact receive all the items listed from the Chubbuck Police Department on this date. Further, the recipient accepts full responsibility for the proper storage, care or disposal of any evidence still linked to an active criminal or civil case. With the exception of law enforcement agencies and prosecuting attorneys, a photocopy of picture identification must be attached to this document as verification of identity.		

CDP ID #:	Description of Item(s):	Purpose / Reason:
05-CE0423	Manilla envelope containing 3 lighters, scale	ROA per Vic Pearson BCPO
	straw and broken pen	
05-CE0425	IPS Lab envelope containing 2 vials with the	ROA per Vic Pearson BCPO
	rinse of syringes.	

Signature of Releasing Party:	<i>[Signature]</i> (176)
Signature of Recipient:	<i>[Signature]</i>
Signature of Delivering Party (If Applicable):	<i>[Signature]</i>

RESET

E-MAIL

HOW-TO

HOME



# Chubbuck Police Department

5160 Yellowstone Avenue P.O. Box 5604  
Chubbuck, ID 83202-5604 (208) 237-7172

## Evidence Property Receipt

CPD Law Incident #: 05-C2188	Date of Delivery: 04/21/2006	Defendant / Property Owner: Faron Stone
Delivered to: Brian Emfield <i>Bret Schei</i>		Attention / Care of:
Upon signing this form, the recipient acknowledges that he or she did in fact receive all the items listed from the Chubbuck Police Department on this date. Further, the recipient accepts full responsibility for the proper storage, care or disposal of any evidence still linked to an active criminal or civil case. With the exception of law enforcement agencies and prosecuting attorneys, a photocopy of picture identification must be attached to this document as verification of identity.		

CDP ID #:	Description of Item(s):	Purpose / Reason:
05-CE0440 &	Large ISP lab envelope containing six	ROA per Vic Pearson BCPO
05-CE0441	bindles and two straws w/ white residue	
05-CE0442	IPS Lab envelope containing spoon w/ white	ROA per Vic Pearson BCPO
	residue in black bag	
05-CE0451	Goldpoint vest (Ser #9900370557-558-559)	ROA per Vic Pearson BCPO
05-CE0452	Goldpoint vest (Ser #9800295217-218-219)	ROA per Vic Pearson BCPO

Signature of Releasing Party: *[Signature]*

Signature of Recipient: *[Signature]*

Signature of Delivering Party (If Applicable): *[Signature]*

RESET

E-MAIL

HOW-TO

HOME



**Idaho State Police**  
**INVESTIGATIONS**  
205 LAKE SHORE #3  
CHUBBUCK ID 83202  
Phone - (208) 237-1210  
Fax - (208) 237-1369

To:	Vic	From:	Tom
Fax:		Pages:	including cover sheet 2
Phone:		Date:	05-30-06
Re:		CC:	

Urgent     For Review     Please Comment     Please Reply     Please Recycle

Vic,

Here is what was signed over to Defuse  
in the Stone case

This is what needs returned.

*Tom*



### IDAHO STATE POLICE RECEIPT FOR PROPERTY

Place: ISP R5 Investigations

Date: 4/28/06

I hereby acknowledge receipt this date from Administrative Assistant Lisa Key, the following items as is:

From Case Z05000046:

- Exh. 1- .223 casing ✓
- Exh 2 - .223 casing ✓
- Exh 3 - .223 casing ✓
- Exh 4 - .223 casing ✓
- Exh 5 - ferret rounds (2) ✓
- Exh 6 - ferret rounds (2) ✓
- Exh 7 - ferret rounds (6) ✓
- Exh 11- shell casing ✓
- Exh 12- shotgun rounds ✓
- Exh 14 - shell casing ✓
- Exh 15 - metal fragment ✓
- Exh 16 - metal fragment ✓
- Exh 17 - shell casing ✓
- Exh 18 - live round ✓
- Exh 19 - .357 rounds (2) ✓
- Exh 20 - shell casing ✓
- Exh 22 - metal fragment ✓
- Exh 23 - ferret round ✓
- Exh 24 - Glock magazine ✓
- Exh 29 - Enfamil can ✓
- Exh 30 - .357 round ✓
- Exh 31 - ferret round ✓
- Exh 53 - bullet - floor ✓
- Exh 54 - bullet - floor ✓
- Exh 59 - .357 round - night stand ✓
- Exh 67 - shotgun shells, 2 .357 rds, 1 9mm ✓
- Exh 75 - 9mm ✓
- Exh 78 - bullet in wall ✓
- Exh 80 - .357 round ✓
- Exh 81 - shotgun shell ✓
- Exh 83 - shotgun shell ✓
- Exh 84 - .357 round ✓
- Exh 85 - .223 casing ✓
- Exh 100- ferret round ✓
- Exh 101- ferret round ✓
- Exh 113- bullet in ground ✓
- Exh 114- bullet in ground ✓
- Exh 116- bullet fragment ✓
- Exh 119- gun frame ✓
- Exh 129- .40 cal casing ✓
- Exh 130- .40 cal casing ✓
- Exh 131- .40 cal casing ✓
- Exh 132- .40 cal casing ✓
- Exh 142- bullet from Hill's vest ✓
- Exh 143- bullet from Ballard's vest ✓
- Exh 146- bullet from .40 cal ✓
- Exh 147- bullet from .357 ✓
- Exh 148- .40 cal round ✓

Brian Enfield (Brian Enfield.)  
Defendant/Owner

4/28/06  
Date

Lisa Key  
Witness

Z05000046  
Case Number

Randall D. Schulthies  
Chief Public Defender  
P.O. Box 4147  
Pocatello, Idaho 83205-4147  
(208) 236-7040

FILED  
2006 OCT 16  
80

Kent V. Reynolds  
Deputy Public Defender  
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,	)	CASE NO. CR-2005-0008728-FE-B
	)	
Plaintiff	)	MOTION TO WITHDRAW
v.	)	GUILTY PLEA
	)	
FARON STONE,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the Defendant, Faron Stone, by and through his attorney of record, Kent V. Reynolds, Bannock County Deputy Public Defender of the Bannock County Public Defender's Office, and moves this Court for its order allowing the Defendant to withdraw his guilty plea entered on or about May 23, 2006, on the following grounds:

1. Prior counsel's inadequate representation of the Defendant.
2. Prior counsel's misrepresentation regarding certain key evidence allegedly implicating the Defendant in the commission of the alleged crime to which the

Defendant pled guilty. Prior counsel represented to Defendant that the police had recovered the .357 handgun purportedly used by the Defendant; that it was the handgun that fired the shots which struck the officers. Defendant relied on this misrepresentation to enter the guilty plea when in fact the .357 handgun had not been recovered by the police. This misrepresentation was a critical piece of evidence allegedly tying the Defendant to the commission of the crimes of aggravated battery on a police law officer and was a major factor in the Defendant's decision to enter into the plea agreement and plead guilty to one count of felony aggravated battery upon a police officer.

3. Prior counsel hired a private investigator out of the State of Utah to assist in the preparation of Defendant's defense to the crimes alleged and the crime to which he plea guilty. In some manner, Defendant either told or apprised by prior counsel that the investigator could prove that the officers injured in the incident were not the results of bullets fired from the handgun allegedly used by the Defendant if the Defendant was allowed to move out of the state of Idaho. Prior counsel did not undertake any efforts to facilitate Defendant's release so that he could move out of state so that the investigator could undertake his investigation to prove this defense.
4. Prior counsel did not pursue the defense outlined herein. The alleged weapon used by the Defendant was a .357 handgun. The police did not locate a .357 slug or slugs, which were the alleged slugs which struck the officers. The police only located a .22 slug or slugs from the residence. The fact that the slugs located by

the police following the incident did not include .357 slugs is a critical fact. If the no .357 slugs were located, then the alleged handgun purportedly used by the Defendant could not have been the weapon used by the Defendant to commit the alleged crimes and the crime to which the Defendant pled guilty. These facts, along with the fact that the ,357 handgun was never recovered was critical evidence which directly tied the Defendant to the alleged crimes. If no .357 slugs were located and no .357 handgun was located, the State could not have proved beyond a reasonable doubt that the Defendant was involved in the commission of the crime.

4. In addition to the allegations set forth in paragraph 4, prior counsel either did not advise Defendant of the foregoing until after he had entered guilty plea, or failed to investigate these facts adequately prior to the entry of the guilt plea.
5. The evidence developed during this case established that the officers hit by bullets, were fired from other police officers and not from the handgun allegedly used by the Defendant. In order for the State to prove its case against the Defendant, the State would have been required to establish that the unlawful aggravated striking of the law enforcement officers by means of bullets fired from a handgun was the handgun used by the Defendant. The fact the officers were struck by "friendly fire" negates this guilty establishing element of the crime of aggravated battery upon a police officer.
6. In addition to the claim set forth in paragraph 5, this defense was not adequately investigated by prior counsel. This potential defense was not fully explained to



Defendant by prior counsel and Defendant did not fully learn of this defense until after the Defendant had entered his guilty plea.

7. The decision to enter into the plea agreement and the plea of guilty to one count of aggravated battery upon a police officer was based upon the allegation that Defendant had knowledge prior to the police officers entry into the trailer that the individuals entering into the trailer were in fact police officers. There were factual discrepancies about whether or not the police, prior to entry into the house and firing weapons to make entry into the residence, disclosed in any manner that the individuals were police officers. Defendant was not aware when the initial entry occurred that the individuals were police officers. The failure of the police officers to identify themselves as police officers prior to entry is a defense to one of the elements the State would have to prove in order to establish Defendant's guilt. Idaho Code §18-915 provides that one of the elements is that the Defendant either "knows or has reason to know of the victim's status" in order to be guilty of the crime of aggravated battery upon certain persons, i.e., police officers. The evidence would or could have established that the Defendant did not know or have reasons to know that the individuals making entry into the house by using firearms as the means of access were police officers. These facts would have provided the Defendant with a defense to the alleged crimes with which he was charged and to the crime to which he pled guilty.
8. The defense outlined in paragraph 7 was not fully explained or investigated by prior counsel. Due to prior counsel's inadequate representation, Defendant

entered into a plea agreement with the State and entered a guilty plea to one count of aggravated battery upon a police officer. The Defendant's plea was not made voluntarily and knowingly because of this potential defense that could have been presented to the jury.

9. Consistent with the grounds outlined in paragraphs 7 and 8, there are facts indicating that Defendant believed that the person or persons entering the house by use of a shotgun, was a person by the name of "Jose Speedy", a person that occupants including the Defendant, assuming he was there, believed to be a person who was armed and dangerous. These facts provide a defense to the material element the State would have been required to prove at trial; the element that Defendant "knew or had reason to know of the victim's status." See Idaho Code §18-915. Prior counsel did not adequately advise the Defendant of this defense; nor did prior counsel adequately investigate this potential defense. Thus, Defendant did not enter into the plea agreement and plead guilty to one count of aggravated battery upon a police officer voluntarily and knowingly because of this potential defense that could have been presented to the jury.
10. Consistent with the foregoing grounds in paragraphs 7, 8 and 9, Defendant has a self-defense claim that was not sufficiently and adequately investigated by prior counsel. Defendant was never advised by prior counsel of his right to defend his home from violent intruders. Defendant did not enter into the plea voluntarily and knowingly.

11. There was evidence that the co-defendant fired the shots which struck the police officers. This was a defense not fully investigated by prior counsel and one that was not fully explained to Defendant prior to entering into the plea agreement and the plea.
12. There was evidence that the co-defendant fired five shots in close proximity in the area next to the door through which the officers were entering; and that these rounds did not strike the police officers negating one of the material elements the state would have been required to prove at trial. (This is consistent with the contention set forth earlier regarding the officers being struck by rounds fired by other officers; the so-called friendly fire.) These facts and the potential defense were not adequately investigated by prior counsel. The plea was deficient based upon the foregoing.
13. For purpose of the this contention though it is not admitted, it is assumed that Defendant fired the handgun. The alleged handgun used by the Defendant, the .357 handgun, has a five round magazine. This would have made it impossible for the Defendant to have fired the five shots, which exited through the wall and then re-loaded and fired the weapon again which allegedly struck one of the officers due to the short period of time in which the shooting occurred. This defense was either not investigated by prior counsel or was not adequately investigated by prior counsel. Material misrepresentations made by prior counsel about the .357 handgun being recovered and other misrepresentations made by prior counsel mislead the Defendant into entering into the plea agreement and pleading guilty.

14. The bullets allegedly fired by the .357 handgun or other rounds were not examined by an independent lab to determine their forensic firing characteristics. As no independent testing was performed, Defendant did not have an adequate opportunity to raise potential defenses that may have existed to the alleged crime.
15. Prior counsel did not investigate law, regulations or protocol governing the use of firearms and deadly weapons when entering into a residence. Defendant did not have an adequate opportunity to raise potential defenses that may have existed to the alleged crime.
16. Prior counsel did not investigate the law, regulations or protocol governing the use of firearms and deadly weapons when entering into a residence where the police were on notice that the occupants of the house included other family members, including women, children and infants. Defendant did not have an adequate opportunity to raise this potential defense that may have existed to the alleged crime.
17. The investigation reports indicate the Chubbuck police officers interviewed by the investigating agency, Idaho State Police, were represented by one attorney, Joe Fillicetti. This dual representation by Mr. Fillicetti was a conflict of interest and created a situation for collusion by the police officers in recounting how the alleged incident occurred. This was an issue not explored by prior counsel. The failure to explore this conflict and the potential for collusion by the police officers pertaining to key elements lead the Defendant into entering the plea involuntarily and not knowingly.

18. Defendant believes he was coerced and forced by prior counsel into entering into the plea agreement and entering his plea.
19. Defendant was lead to believe both misrepresentations and representations by prior counsel that if the court/judge was not bound to follow the plea agreement prior to entry of the guilty plea or at the time the plea was entered, that the Defendant was not bound to the plea agreement and to his plea and that he could withdraw his plea.
20. Prior to entering the plea agreement and entering his plea, Defendant had been placed in look-down and segregation at the Bannock County Jail. As a result of these actions, the Defendant was not psychologically stable and was under psychological distress at the time he entered the plea agreement and the plea. Defendant believes that the psychological distress impacted his ability to enter into the plea agreement and to plead guilty knowingly and voluntarily.
21. The final ground is the fact that the Defendant was never I.D. at the alleged scene. This implicates a defense to the crimes charged. The State was required to place the Defendant at the alleged scene and would have been required to prove this element beyond a reasonable doubt. Prior counsel did not fully explore this defense even if the Notice of Alibi raised this issue.

Based upon the foregoing, the Defendant did not knowingly, competently, and voluntarily enter into the plea agreement and plead guilty to one count of felony aggravated battery upon a police officer as alleged in the Prosecuting Attorney's Information. Based upon the foregoing, Defendant should be allowed to withdraw his guilty plea and proceed to trial. The Defendant

should be given an opportunity to investigate the defenses asserted herein. The allegations asserted in the foregoing raise issues under the 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution and Article 1§13 of the Idaho Constitution pertaining to Defendant's right to counsel and due process rights.

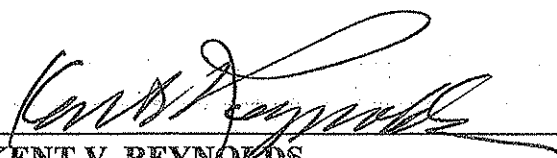
Oral argument is requested.

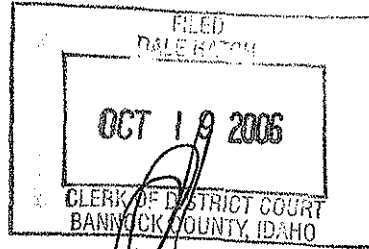
DATED this 16 day of October 2006

  
\_\_\_\_\_  
KENT V. REYNOLDS  
Deputy Public Defender

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16 day of October 2006, a true and correct copy of the foregoing MOTION TO WITHDRAW GUILTY PLEA was served upon the Bannock County Prosecuting Attorney, by depositing a copy of the same in the Prosecutor's in-box, Bannock County Courthouse, Pocatello, Idaho.

  
\_\_\_\_\_  
KENT V. REYNOLDS  
Deputy Public Defender



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR2005-0008728-FE  
STATE OF IDAHO,

Plaintiff,

-vs-

FARON STONE aka LEMUEL MYRON  
STONE,

Defendant.

MINUTE ENTRY & ORDER

The above named Defendant appeared in Court on the 19th day of October, 2006, with his counsel, Kent V. Reynolds, for sentencing. Mark L. Hiedeman, Bannock County Prosecuting Attorney, appeared on behalf of the State of Idaho.

The Defendant having heretofore on the 23rd day of May, 2006 entered a plea of **GUILTY** to the charge(s) of **I COUNT AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER, I.C. 18-903, 18-907(1) (a) and 18-915; and I COUNT UNLAWFUL POSSESSION OF A FIREARM, I.C. 18-3316;** a pre-sentence investigation report having been ordered and

received.

Mr. Reynolds first presented the Court with a potential conflict that he may have in representing the Defendant. The Court then asked if Mr. Reynolds were requesting to withdraw. He replied that he was not. Then, after discussion with the Defendant, he said that he was. After argument, the Court **DENIED** the motion and requested Mr. Reynolds proceed.

Mr. Reynolds then made argument regarding the Defendant's Motion to Withdraw Guilty Plea filed with the Court on the 16<sup>th</sup> day October, 2006. The State objected. After argument, the Court **DENIED** the Motion and proceeded to sentencing.

A pre-sentence investigation report having been ordered and received, the Defendant and counsel were given the opportunity to make corrections to the report.

The Court then asked the State if the victims would like to make a impact statement. Officer Michael Ballard, and Officer Phil Hill presented their statements to the Court.

The Court then heard comments and recommendations from respective counsel and being fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Defendant be and he is herewith sentenced to the custody of the Idaho Department of Corrections, pursuant to Idaho Code 19-2513, on the



charge of I COUNT UNLAWFUL POSSESSION OF A FIREARM, I.C. 18-3316 to a FIXED TERM OF FIVE (5) YEARS and a subsequent INDETERMINATE TERM OF ZERO (0) YEARS. On the charge of I COUNT AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER, I.C. 18-903, 18-907(1)(a), the Court sentenced the Defendant to a FIXED TERM OF TWENTY (20) YEARS and a SUBSEQUENT INDETERMINATE TERM OF FIVE (5) YEARS to run CONSECUTIVELY to the prior sentence for Unlawful Possession of a Firearm. During the fixed term of confinement, said Defendant shall not be eligible for parole or discharge, credit or reduction of sentence for good conduct, except for meritorious service. Said defendant may be considered for parole or discharge at any time during the indeterminate period of said sentence.

IT IS FURTHER ORDERED that the Defendant shall be given credit for FIVE HUNDRED FOUR (504) DAYS served in the Bannock County Jail on this charge.

IT IS FURTHER ORDERED that said Defendant be and he is hereby REMANDED to the custody of the Bannock County Sheriff to be by him delivered to the proper officer or officers and to be by said officer or officers conveyed to said site.

Defendant is herewith advised that in the event said Defendant desires to appeal the foregoing sentence, said appeal must be filed with the Idaho Supreme Court no later than forty-two

(42) days from the date said sentence is imposed.

COMMITMENT ORDER

Now, on this 19th day of October, 2006, the Prosecuting Attorney with the Defendant and his counsel, Kent V. Reynolds, came into Court. The Defendant was duly informed by the Court of the nature of the Information filed against him for the crime(s) of **I COUNT AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER, I.C. 18-903, 18-907(1)(a) and 18-915; and I COUNT UNLAWFUL POSSESSION OF A FIREARM, I.C. 18-3316**, committed on or about the 2nd day of June, 2006, of his arraignment and plea of **GUILTY** as charged in the Information on the 23rd day of May, 2006.

The Court then asked the Defendant if he had any legal cause to show why judgment should not be pronounced against him to which he replied that he had none. And no sufficient cause being shown or appearing to the Court;

NOW, THEREFORE, the said Defendant having been convicted of the crime(s) of **I COUNT AGGRAVATED BATTERY UPON A LAW ENFORCEMENT OFFICER, I.C. 18-903, 18-907(1)(a) and 18-915; and I COUNT UNLAWFUL POSSESSION OF A FIREARM, I.C. 18-3316**, it is hereby ordered, considered and adjudged that the said Defendant, **FARON STONE aka LEMUEL MYRON STONE**, be imprisoned and kept at a site designated by the Idaho State Board of Corrections for the charge

of I COUNT UNLAWFUL POSSESSION OF A FIREARM, I.C. 18-3316 to a  
FIXED TERM OF FIVE (5) YEARS and a subsequent INDETERMINATE TERM  
OF ZERO (0) YEARS. On the charge of I COUNT AGGRAVATED BATTERY  
UPON A LAW ENFORCEMENT OFFICER, I.C. 18-903, 18-907(1)(a), the  
Court sentenced the Defendant to a FIXED TERM OF TWENTY (20) YEARS  
and a SUBSEQUENT INDETERMINATE TERM OF FIVE (5) YEARS to run  
CONSECUTIVELY to the prior sentence for Unlawful Possession of a  
Firearm, commencing from the date of his sentence.

IT IS FURTHER ORDERED that any surety, cash, or property bond  
posted, if any, is hereby EXONERATED.

DATED: October 19, 2006.

  
N. RANDY SMITH  
District Judge

Copies to:  
Mark L. Hiedeman  
Office of Public Defender  
Probation & Parole  
Records Administrator  
Bannock County Sheriff  
State Appellate Public Defender

Case No. CR2005-0008728-FE  
MINUTE ENTRY & ORDER  
Page 5

NAME: FARON STONE AKA LEMUEL MYRON STONE - DOB: 9-25-64/7-25-64/9-25/65- SS#: 518-72-3187/518-78-5794- DATE OF OFFENSE: JUNE 2, 2006

Case No. CR2005-0008728-FE  
MINUTE ENTRY & ORDER  
Page 6

**RANDALL D. SCHULTHIES**  
**Chief Public Defender**  
P. O. Box 4147  
Pocatello, Idaho 83205  
(208) 236-7040

**KENT V. REYNOLDS**  
**Deputy Public Defender**  
ISB 3739

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT

2006 DEC -1 PM 4:39

BY  DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
 )  
 Plaintiff/Respondent, )  
 )  
 vs. )  
 )  
 )  
 FARON STONE, )  
 )  
 Defendant/Appellant. )  
 \_\_\_\_\_ )

Case No. CR-2005-08729-FE-B

**NOTICE OF APPEAL**

**TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO AND ITS ATTORNEY,  
ALAN G. LANCE, ATTORNEY GENERAL FOR THE STATE OF IDAHO,  
BANNOCK COUNTY PROSECUTING ATTORNEY, AND THE CLERK OF THE  
ABOVE NAMED COURT; CLERK OF THE SUPREME COURT; STATE  
APPELLATE PUBLIC DEFENDER; AND BANNOCK COUNTY COURT  
REPORTER**

**NOTICE IS HEREBY GIVEN:**

1. The above named Defendant/Appellant, Faron Stone, appeals against the above named Plaintiff/Respondent, to the Idaho Supreme Court from that certain Minute Entry and Order and Commitment Order, dated the 19<sup>th</sup> day of November, 2006, by the Honorable N. Randy Smith, Sixth District Judge, presiding.

**Notice Of Appeal**  
**Page 1**

2. The Defendant/Appellant has the right to appeal to the Idaho Supreme Court the Judgments and Orders described in Paragraph 1 above. These appear to be appealable orders under and pursuant to Idaho Code §19-2801, et seq., and Rule 11 (c)(1)(6)(9), of the Idaho Appellate Rules.

3. The Defendant/Appellant requests that the preparation of the Clerk's record and standard reporter's transcript as defined in Rule 25, Idaho Appellate Rules, and further requests that a transcript of the following proceedings also be prepared:

1. Sentencing Hearing held on October 19, 2006.

4. I certify:

(b) That a copy of this Notice has been served on the Court Reporter.

(b) That Appellant is exempt from paying the estimated transcript fee because he has previously been determined to be indigent and has been represented at all stages of the proceedings by the Public Defender's Office for the Sixth Judicial District of the State of Idaho, County of Bannock.

(c) That Appellant is exempt from paying any estimated fee for the preparation of the record because he is indigent and has been represented by the Public Defender's Office at all stages of the proceedings.


(d) That Appellant is exempt from paying the appellate filing fee because he is indigent and has been represented by the Public Defender's Office at all stages of the proceedings.

(e) That service has been made upon all parties required to be served pursuant to Rule 20 of the Idaho Appellate Rules, and Idaho Code §67-1410(1).

5. The issues to be presented upon appeal, are as follows:

- (e) Did the Court abuse its discretion in sentencing the Defendant to Twenty(20) years fixed and Five (5) years indeterminate?

DATED this 1 day of <sup>December</sup> ~~November~~, 2006.

  
KENT V. REYNOLDS  
Deputy Public Defender

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1 day of <sup>December</sup> ~~November~~ 2006, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** upon the Bannock County Prosecuting Attorney, and the Court Reporter, by depositing a copy of the same in the Prosecutor's in-box and the Court Reporter's in-box, Bannock County Courthouse, Pocatello, Idaho; and by depositing in the United States Mail, postage prepaid, to: Lawrence Wadsen, Attorney General - State of Idaho, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; and State Appellate Public Defender, P. O. Box 83720, Boise, Idaho 83720.

  
KENT V. REYNOLDS  
Deputy Public Defender

**Randall D. Schulthies**  
**Chief Public Defender**  
**P.O. Box 4147**  
**Pocatello, Idaho 83205-4147**  
**(208) 236-7040**

**KENT V. REYNOLDS**  
**Deputy Public Defender**  
**ISB 3739**

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT

2006 DEC -1 PM 4: 38

BY.  DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,	)	
	)	CASE NO. CR-2005-08728-FE- B
Plaintiff/ Respondent	)	
	)	
vs.	)	
	)	MOTION TO APPOINT STATE
FARON STONE aka LEMUEL MYRON	)	APPELLATE DIVISION
	)	
Defendant/Appellant.	)	
	)	

COMES NOW, Faron Stone, the Respondent in the above entitled matter, and hereby moves the Court for an Order, as follows:

The Defendant has filed a Notice Of Appeal for the Court's review of the Court's Order, dated October 19, 2006, by the Honorable N. Randy Smith, Sixth District Judge. A Notice Of Appeal has been filed on November 30, 2006. The Defendant respectfully requests that the Court enter an Order, appointing the State Appellate Division to assist the Defendant with his Appeal in this matter, and that further, said appointment shall be relative to the appeal proceedings only.

**Motion To Appoint State Appellate Division**  
**Page 1**



DATED this 30<sup>th</sup> day of <sup>December</sup> November, 2006.

  
KENT V. REYNOLDS  
Deputy Public Defender

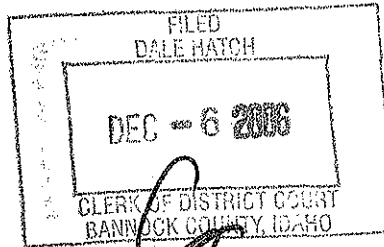
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 30<sup>th</sup> day of <sup>December</sup> November 2006, I served a true and correct copy of the foregoing **MOTION TO APPOINT STATE APPELLATE DIVISION** upon the Bannock County Prosecuting Attorney, by depositing a copy of the same in the Prosecutor's in-box, Bannock County Courthouse, Pocatello, Idaho; and served the following by depositing a copy of the same in the United States Mail, postage prepaid and addressed to: Lawrence G. Wasden, Attorney General - State of Idaho, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; State Appellate Public Defender's Office, Chief Appellate Unit, 3380 Americana Terrace, Suite 360, Boise, Idaho 83707.

  
KENT V. REYNOLDS  
Deputy Public Defender

Randall D. Schulthies  
Chief Public Defender  
P.O. Box 4147  
Pocatello, Idaho 83205-4147  
(208) 236-7040

KENT V. REYNOLDS  
Deputy Public Defender  
ISB 3739



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,	)	CASE NO. CR-2005-08728-FE-B
	)	
Petitioner,	)	
	)	
v.	)	ORDER RE: MOTION FOR
	)	APPOINTMENT OF STATE
FARON STONE aka LEMUEL MYRON STONE	)	APPELLATE PUBLIC DEFENDER
	)	
Respondent.	)	

THIS MATTER having come before the Court pursuant to Appellant's Motion for Appointment of State Appellate Public Defender; the Court having reviewed the pleadings on file and the motion; the Court being fully apprized in the matter and good cause appearing;

IT IS HEREBY ORDERED that Kent V. Reynolds, is withdrawn as counsel of record for the Defendant and the State Appellate Public Defender is hereby appointed to represent the Petitioner, Anthony J. Norman, in the above-entitled matters and for all further proceedings.

The appointment of the State Appellate Public Defender is for purposes of the appeal only.

DATED this 6<sup>th</sup> day of December, 2006.

  
N. RANDY SMITH  
District Judge

cc: Bannock County Prosecutor's Office  
Kent V. Reynolds  
Defendant  
State Appellate Public Defender  
Lawrence G. Wasden  
Stephen W. Kenyon

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,	)	
	)	Supreme Court No. _____
Plaintiff-Respondent,	)	
	)	
vs.	)	CLERK'S CERTIFICATE
	)	
FARON STONE,	)	OF APPEAL
	)	
Defendant-Appellant.	)	
_____	)	

Appealed from: Sixth Judicial District, Bannock County

Honorable, N. RANDY SMITH, presiding.

Bannock County Case No: CR-2005-8728-FE

Order of judgment appealed from: Minute Entry and Order and Commitment Order, dated the 19<sup>th</sup> day of November, 2006.

Attorney for Appellant: Molly Huskey, State Appellate Public Defender

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Defendant

Appealed against: Plaintiff

Notice of Appeal filed: Notice of Appeal 12-01-06

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

Request for additional records filed: No

Request for additional reporter's transcript filed: YES

Name of Reporter: Stephanie Morse

Was District Court Reporter's transcript requested? Yes

Dated December 26, 2006


DALE HATCH,  
Clerk of the District Court

(Seal)

By   
Deputy Clerk

**RANDALL D. SCHULTHIES**  
Chief Public Defender  
P. O. Box 4147  
Pocatello, Idaho 83205  
(208) 236-7040

**KENT V. REYNOLDS**  
Deputy Public Defender  
ISB 3739

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT  
2006 DEC 13 PM 4:24  
BY  DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO, )  
)  
Plaintiff/Respondent, )  
)  
vs. )  
)  
)  
FARON STONE, )  
)  
Defendant/Appellant. )  
\_\_\_\_\_ )

Case No. CR-2004-08729-FE-B

**AMENDED  
NOTICE OF APPEAL**

**TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO AND ITS ATTORNEY,  
ALAN G. LANCE, ATTORNEY GENERAL FOR THE STATE OF IDAHO,  
BANNOCK COUNTY PROSECUTING ATTORNEY, AND THE CLERK OF THE  
ABOVE NAMED COURT; CLERK OF THE SUPREME COURT; STATE  
APPELLATE PUBLIC DEFENDER; AND BANNOCK COUNTY COURT  
REPORTER**

**NOTICE IS HEREBY GIVEN:**

1. The above named Defendant/Appellant, Faron Stone, appeals against the above named Plaintiff/Respondent, to the Idaho Supreme Court from that certain Minute Entry and Order and Commitment Order, dated the 19<sup>th</sup> day of October, 2006, by the Honorable N. Randy Smith, Sixth District Judge, presiding.

2. The Defendant/Appellant has the right to appeal to the Idaho Supreme Court the Judgments and Orders described in Paragraph 1 above. These appear to be appealable orders under and pursuant to Idaho Code §19-2801, et seq., and Rule 11 (c)(1)(6)(9), of the Idaho Appellate Rules.

3. The Defendant/Appellant requests that the preparation of the Clerk's record and standard reporter's transcript as defined in Rule 25, Idaho Appellate Rules, and further requests that a transcript of the following proceedings also be prepared:

1. Sentencing Hearing held on October 19, 2006.

4. I certify:

(b) That a copy of this Notice has been served on the Court Reporter.

(b) That Appellant is exempt from paying the estimated transcript fee because he has previously been determined to be indigent and has been represented at all stages of the proceedings by the Public Defender's Office for the Sixth Judicial District of the State of Idaho, County of Bannock.

(c) That Appellant is exempt from paying any estimated fee for the preparation of the record because he is indigent and has been represented by the Public Defender's Office at all stages of the proceedings.

(d) That Appellant is exempt from paying the appellate filing fee because he is indigent and has been represented by the Public Defender's Office at all stages of the proceedings.

(e) That service has been made upon all parties required to be served pursuant to Rule 20 of the Idaho Appellate Rules, and Idaho Code §67-1410(1).

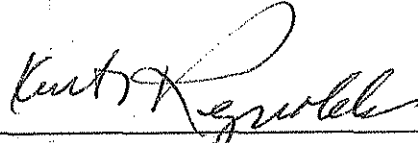
5. The issues to be presented upon appeal, are as follows:

**Amended Notice Of Appeal**

**Page 2**

- (e) Did the Court abuse its discretion in sentencing the Defendant to Twenty (20) years fixed and Five (5) years indeterminate?

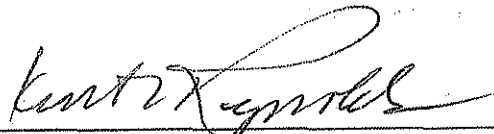
DATED this 13 day of December, 2006.



**KENT V. REYNOLDS**  
Deputy Public Defender

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13 day of December 2006, I served a true and correct copy of the foregoing **AMENDED NOTICE OF APPEAL** upon the Bannock County Prosecuting Attorney, and the Court Reporter, by depositing a copy of the same in the Prosecutor's in-box and the Court Reporter's in-box, Bannock County Courthouse, Pocatello, Idaho; and by depositing in the United States Mail, postage prepaid, to: Lawrence Wadsen, Attorney General - State of Idaho, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; and State Appellate Public Defender, P. O. Box 83720, Boise, Idaho 83720.




**KENT V. REYNOLDS**  
Deputy Public Defender



**Randall D. Schulthies**  
**Chief Public Defender**  
**P.O. Box 4147**  
**Pocatello, Idaho 83205-4147**  
**(208) 236-7040**

**KENT V. REYNOLDS**  
**Deputy Public Defender**  
**ISB 3739**

FILED  
BANNOCK COUNTY  
CLERK OF THE COURT  
2006 DEC 13 PM 4:24  
BY  CLERK

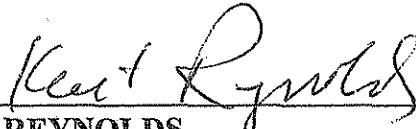
IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,	)	
	)	CASE NO. CR-2005-08728-FE- B
Plaintiff/ Respondent	)	
	)	
vs.	)	AMENDED
	)	MOTION TO APPOINT STATE
FARON STONE aka LEMUEL MYRON	)	APPELLATE DIVISION
	)	
Defendant/Appellant.	)	
<hr/>		

COMES NOW, Faron Stone, the Respondent in the above entitled matter, and hereby moves the Court for an Order, as follows:

The Defendant has filed a Notice Of Appeal for the Court's review of the Court's Order, dated October 19, 2006, by the Honorable N. Randy Smith, Sixth District Judge. A Notice Of Appeal was filed on December 1, 2006. The Defendant respectfully requests that the Court enter an Order, appointing the State Appellate Division to assist the Defendant with his Appeal in this matter, and that further, said appointment shall be relative to the appeal proceedings only.

13<sup>th</sup>  
DATED this 13<sup>th</sup> day of December, 2006.

  
\_\_\_\_\_  
**KENT V. REYNOLDS**  
Deputy Public Defender

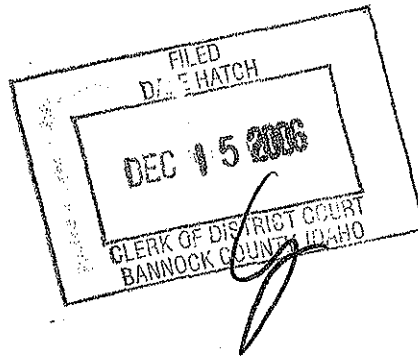
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13<sup>th</sup> day of December 2006, I served a true and correct copy of the foregoing **AMENDED MOTION TO APPOINT STATE APPELLATE DIVISION** upon the Bannock County Prosecuting Attorney, by depositing a copy of the same in the Prosecutor's in-box, Bannock County Courthouse, Pocatello, Idaho; and served the following by depositing a copy of the same in the United States Mail, postage prepaid and addressed to: Lawrence G. Wasden, Attorney General - State of Idaho, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; State Appellate Public Defender's Office, Chief Appellate Unit, 3380 Americana Terrace, Suite 360, Boise, Idaho 83707.

  
\_\_\_\_\_  
**KENT V. REYNOLDS**  
Deputy Public Defender

**Randall D. Schulthies**  
**Chief Public Defender**  
**P.O. Box 4147**  
**Pocatello, Idaho 83205-4147**  
**(208) 236-7040**

**KENT V. REYNOLDS**  
**Deputy Public Defender**  
**ISB 3739**



**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**


STATE OF IDAHO,	)	CASE NO. CR-2004-08728-FE-B
	)	
Petitioner,	)	
	)	<b>AMENDED</b>
v.	)	<b>ORDER RE: MOTION FOR</b>
	)	<b>APPOINTMENT OF STATE</b>
FARON STONE	)	<b>APPELLATE PUBLIC DEFENDER</b>
	)	
	)	
Respondent.	)	

**THIS MATTER** having come before the Court pursuant to Appellant's Motion for Appointment of State Appellate Public Defender; the Court having reviewed the pleadings on file and the motion; the Court being fully apprized in the matter and good cause appearing;

**IT IS HEREBY ORDERED** that Kent V. Reynolds, is withdrawn as counsel of record for the Faron Stone, in the above-entitled matters and for all further proceedings.

The appointment of the State Appellate Public Defender is for purposes of the appeal only.

DATED this 17<sup>th</sup> day of December, 2006.

  
N. Randy Smith  
District Judge

cc: Bannock County Prosecutor's Office  
Kent V. Reynolds  
Defendant  
State Appellate Public Defender  
Lawrence G. Wasden  
Stephen W. Kenyon

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,	)	Supreme Court No. _____
	)	
Plaintiff-Respondent,	)	
	)	Amended
vs.	)	CLERK'S CERTIFICATE
	)	
FARON STONE,	)	OF APPEAL
	)	
Defendant-Appellant.	)	
_____	)	

Appealed from: Sixth Judicial District, Bannock County

Honorable, N. RANDY SMITH, presiding.

Bannock County Case No: CR-2005-8728-FE

Order of judgment appealed from: Minute Entry and Order and Commitment Order, dated the 19<sup>th</sup> day of October, 2006.

Attorney for Appellant: Molly Huskey, State Appellate Public Defender

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Defendant

Appealed against: Plaintiff

Notice of Appeal filed: Notice of Appeal 12-13-06

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

Request for additional records filed: No

Request for additional reporter's transcript filed: YES

Name of Reporter: Stephanie Morse

Was District Court Reporter's transcript requested? Yes

Dated December 26, 2006

DALE HATCH,  
Clerk of the District Court

(Seal)

BY   
Deputy Clerk

# In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

FARON STONE aka LEMUEL MYRON  
STONE,

Respondent-Appellant

ORDER CONDITIONALLY  
DISMISSING APPEAL

Supreme Court No. 33766

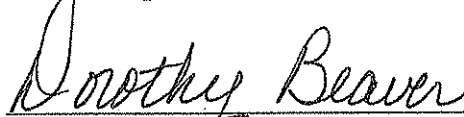
The NOTICE OF APPEAL filed December 1, 2006, is from the Minute Entry & Order entered by N. Randy Smith District Judge, on October 19, 2006. Appellate Rule 14 requires that an appeal be filed within forty-two (42) days from the date of entry of the final judgment. It appears that the NOTICE OF APPEAL was not filed within forty-two (42) days from the date of entry of the final Judgment entered October 19, 2006; therefore, good cause appearing,

IT HEREBY IS ORDERED that this appeal be, and hereby is, CONDITIONALLY DISMISSED for the reason the appeal may not be timely filed; however, the Appellant may file a RESPONSE to this Order, with regard to the issue of timeliness, within twenty-one (21) days from the date of this Order which shall show good cause, if any exists, why this appeal should not be dismissed.

IT FURTHER IS ORDERED that proceedings in this appeal shall be SUSPENDED pending an appropriate Order from the Court.

DATED this 21<sup>st</sup> day of December 2006.

For the Supreme Court



Dorothy Beaver, Deputy Clerk for  
Stephen W. Kenyon, Clerk

cc: Counsel of Record  
District Court Clerk  
District Court Reporter

# In the Supreme Court of the State of Idaho

FILED  
 BANNOCK COUNTY  
 JAN 20 11:15 AM '07  
 CLERK OF DISTRICT COURT

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, )  
 )  
 v. )  
 )  
 FARON STONE aka LEMUEL MYRON )  
 STONE, )  
 )  
 Defendant-Appellant. )

ORDER DISMISSING APPEAL  
 Supreme Court Docket No. 33766  
 Bannock County Case No. 2005-08728  
 Ref. No. 07-02

An ORDER CONDITIONALLY DISMISSING APPEAL was issued by this Court October 21, 2006 for the reason the appeal may not be timely filed but, allowed Appellant to file a response showing good cause why the appeal should not be dismissed. A RESPONSE TO CONDITIONAL DISMISSAL with AFFIDAVIT OF HEATHER R. CRAWFORD, ADMINISTRATIVE ASSISTANT, RE: RESPONSE TO CONDITIONAL DISMISSAL was filed by Appellant January 11, 2007. Therefore, after due consideration,

IT HEREBY IS ORDERED that the ORDER CONDITIONALLY DISMISSING APPEAL be, and hereby is, AFFIRMED and this appeal is DISMISSED.

DATED this 22 day of January 2007.

By Order of the Supreme Court

  
 \_\_\_\_\_  
 Stephen W. Kenyon, Clerk

cc: Counsel of Record  
 District Court Clerk  
 District Court Judge  
 District Court Reporter



# In the Supreme Court of the State of Idaho

STATE OF IDAHO, )

Plaintiff-Respondent, )

v. )

FARON STONE aka LEMUEL MYRON )  
STONE, )

Defendant-Appellant. )

REMITTITUR

NO. 33766

CR-2005-8728-110

FILED  
BANNOCK COUNTY  
2007 FEB 20 PM 3:41  
BY [Signature]

TO: SIXTH JUDICIAL DISTRICT, COUNTY OF BANNOCK.

The Court having entered an Order dismissing this appeal on January 22, 2007;  
therefore,

IT IS HEREBY ORDERED that the appeal herein from the Judgment of the  
District Court be, and hereby is, dismissed.

DATED this 13<sup>th</sup> day of February, 2007.

Stephen King  
Clerk of the Supreme Court  
STATE OF IDAHO

cc: Counsel of Record  
District Court Clerk  
District Judge