

7-16-2015

Idaho v. Youmans Clerk's Record Dckt. 42795

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

LDONNA MARIE YOUMANS,

Defendant-Appellant.

Supreme Court Case No. 42795

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE THOMAS F. NEVILLE

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

JAMES K. DICKINSON

ATTORNEY FOR INTERVENOR

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User	Judge
7/12/2013	NCRF	PRSCHOKF	New Case Filed - Felony
	PROS	PRSCHOKF	Prosecutor assigned Ada County Prosecutor
	XSEA	PRSCHOKF	Case Sealed
	CRCO	TCPACKCF	Criminal Complaint
	WARI	TCPACKCF	Warrant Issued - Arrest Bond amount: 50000.00 Defendant: Youmans, Ldonna Marie
	STAT	TCPACKCF	STATUS CHANGED: Inactive
7/15/2013	WART	TCMCCOSL	Warrant Returned Defendant: Youmans, Ldonna Marie
	XUNS	TCMCCOSL	Case Un-sealed
	STAT	TCMCCOSL	STATUS CHANGED: Pending
	BOOK	TCMCCOSL	Booked into Jail on:
	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 07/15/2013 01:30 PM)
	CONH	TCEMERYV	Hearing result for Video Arraignment scheduled on 07/15/2013 01:30 PM: Conference Held
	ARRN	TCEMERYV	Hearing result for Video Arraignment scheduled on 07/15/2013 01:30 PM: Arraignment / First Appearance
	CHGA	TCEMERYV	Judge Change: Administrative
	HRSC	TCEMERYV	Hearing Scheduled (Preliminary 07/29/2013 08:30 AM)
	BSET	TCEMERYV	BOND SET: at 25000.00 - (I18-1401 Burglary)
	BCON	TCEMERYV	Condition of Bond: No Contact Garden Plaza of Valley View
	NOTH	MADEFRJM	Notice Of Hearing
	NOAP	TCCHRIKE	Notice Of Appearance / Borton
7/16/2013	BNDS	TCWADAMC	Bond Posted - Surety (Amount 25000.00)
	RQDD	TCOLSOMC	Defendant's Request for Discovery
7/23/2013	PHRD	TCCHRIKE	Preliminary Hearing Response to Request for Discovery and Objections
	RQDS	TCCHRIKE	State/City Request for Discovery
7/24/2013	PHRD	TCTONGES	Preliminary Hearing Response to Request for Discovery and Objections / first supplemental
7/29/2013	CONT	CCMANLHR	Continued (Preliminary 08/20/2013 08:30 AM)
	NOTH	CCMANLHR	Notice Of Hearing
	PHRD	TCOLSOMC	Preliminary Hearing Response to Request for Discovery and Objections / Second Supplemental
7/30/2013	PHRD	TCCHRIKE	Preliminary Hearing Response to Request for Discovery and Objections / Third Supplemental

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User	Judge
8/20/2013	HRHD	CCMANLHR	Hearing result for Preliminary scheduled on 08/20/2013 08:30 AM: Hearing Held
	BOUN	CCMANLHR	Hearing result for Preliminary scheduled on 08/20/2013 08:30 AM: Bound Over (after Prelim)
	CHGB	CCMANLHR	Change Assigned Judge: Bind Over
	HRSC	CCMANLHR	Hearing Scheduled (Arraignment 09/09/2013 09:00 AM)
	COMP	CCJOHNLE	Amended Complaint
	COMT	CCJOHNLE	Commitment
8/22/2013	INFO	TCCHRIKE	Information
8/23/2013	PROS	PRHEBELE	Prosecutor assigned R. Scott Bandy
	PROS	PRHEBELE	Prosecutor assigned Tamera B Kelly
9/9/2013	DCAR	DCELLISJ	Hearing result for Arraignment scheduled on 09/09/2013 09:00 AM: District Court Arraignment- Court Reporter: Sue Wolf Number of Pages: Less than 100 pages
	HRSC	DCELLISJ	Hearing Scheduled (Entry of Plea 09/30/2013 09:00 AM)
9/30/2013	DCHH	DCELLISJ	Hearing result for Entry of Plea scheduled on 09/30/2013 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages
	HRSC	DCELLISJ	Hearing Scheduled (Jury Trial 12/10/2013 09:00 AM)
	HRSC	DCELLISJ	Hearing Scheduled (Pretrial Conference 12/02/2013 03:00 PM)
	PLEA	DCELLISJ	A Plea is entered for charge: - NG (118-1401 Burglary)
	PLEA	DCELLISJ	A Plea is entered for charge: - NG (118-1401 {AT} Burglary (Attempted))
	PLEA	DCELLISJ	A Plea is entered for charge: - NG (118-705 Arrests & Seizures-Resisting or Obstructing Officers)
	PLEA	DCELLISJ	A Plea is entered for charge: - NG (137-2732(c)(3) {M} Controlled Substance-Possession of)
10/1/2013		DCELLISJ	Notice of Jury Trial Setting
10/9/2013	ORDR	DCMAXWKK	Order for Production of Preliminary Hearing Transcript
10/11/2013	ESTM	TCCHRIKE	Estimate Cost Of Transcript
10/18/2013	RSDS	TCWRIGSA	State/City Response to Discovery
	RSDD	TCCHRIKE	Defendant's Response to Discovery / Supplemental

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User		Judge
10/21/2013	NOTC	TCCHRIKE	Notice of Payment of Estimated Cost of Preliminary Hearing Transcript	Thomas F. Neville
10/25/2013	RSDS	TCJOHNCS	State/City Response to Discovery/Addendum	Thomas F. Neville
10/31/2013	MOTN	TCCHRIKE	Motion for Leave to Amend Information	Thomas F. Neville
	NOTC	TCCHRIKE	Notice and Memorandum in Support of 404(b) Evidence	Thomas F. Neville
11/4/2013	MOTN	TCCHRIKE	Defendant's Motion in Limine to Suppress Evidence IRE 403	Thomas F. Neville
	MOTN	TCCHRIKE	Defendant's Motion to Compel Production of Complete Video Recording	Thomas F. Neville
	NOHG	TCWRIGSA	Notice Of Hearing (11-25-13@3:00pm)	Thomas F. Neville
	HRSC	TCWRIGSA	Hearing Scheduled (Hearing Secheduled 11/25/2013 03:00 PM)	Thomas F. Neville
	RSDS	TCWRIGSA	State/City Response to Discovery/ Addendum [unable to locate - possibly entered in error]	Thomas F. Neville
11/8/2013	OBJE	TCLANGAJ	State's Objection to Defendant's Motion in Limine to Suppress Evidence	Thomas F. Neville
	RSPN	TCLANGAJ	State's Response to Defendant's Motion to Compel	Thomas F. Neville
11/12/2013	HRSC	DCELLISJ	Hearing Scheduled (Hearing Scheduled 11/14/2013 09:00 AM)	Thomas F. Neville
	NOHG	TCCHRIKE	Notice Of Hearing(11/14/13 @9AM)	Thomas F. Neville
	MOVA	TCLANGAJ	Motion To Vacate and Continue Pretrial Conference and Jury Trial	Thomas F. Neville
11/13/2013	TRAN	CCJOHNLE	Transcript Filed	Thomas F. Neville
11/14/2013	CONT	DCELLISJ	Continued (Jury Trial 03/04/2014 09:00 AM)	Thomas F. Neville
	CONT	DCELLISJ	Continued (Pretrial Conference 02/10/2014 03:00 PM)	Thomas F. Neville
	DCHH	DCELLISJ	Hearing result for Hearing Scheduled scheduled on 11/14/2013 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Jury Trial 03/04/2014 09:00 AM)	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Pretrial Conference 02/10/2014 03:00 PM)	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Motion to Suppress 01/02/2014 02:30 PM) Motion to Compel and 404 B motions	Thomas F. Neville
		DCELLISJ	Notice of Jury Trial Re-Setting	Thomas F. Neville
	ORDR	CCJOHNLE	Order To Amend Information	Thomas F. Neville

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User		Judge
11/20/2013	RSDS	TCCHRIKE	State/City Response to Discovery / Second Addendum	Thomas F. Neville
12/23/2013	MOWI	TCCHRIKE	Motion to Withdraw as Counsel	Thomas F. Neville
	AFSM	TCCHRIKE	Affidavit of Counsel in In Support Of Motion to Withdraw as Counsel	Thomas F. Neville
1/2/2014	DCHH	DCELLISJ	Hearing result for Motion to Withdraw scheduled on 01/02/2014 02:30 PM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Review Hearing 01/06/2014 09:00 AM) For public defender appointed	Thomas F. Neville
	ORDR	CCJOHNLE	Order Allowing Withdrawal of Joseph W. Borton as Counsel Of Record For Defendant Ladonna Marie Youmans	Thomas F. Neville
1/3/2014	RQDD	TCLANGAJ	Defendant's Request for Discovery	Thomas F. Neville
1/6/2014	DCHH	DCELLISJ	Hearing result for Review Hearing scheduled on 01/06/2014 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: For public defender appointed LESS THAN 100 pages	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Review Hearing 01/21/2014 09:00 AM)	Thomas F. Neville
1/21/2014	DCHH	DCELLISJ	Hearing result for Review Hearing scheduled on 01/21/2014 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages	Thomas F. Neville
	CONT	DCELLISJ	Continued (Jury Trial 05/13/2014 09:00 AM)	Thomas F. Neville
	CONT	DCELLISJ	Continued (Pretrial Conference 05/05/2014 03:00 PM)	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Motion 04/08/2014 01:30 PM) Motions to Suppress, Motion in Limine, 404B motion and Motion to Compel	Thomas F. Neville
		DCELLISJ	Notice of Jury Trial Re-Setting	Thomas F. Neville
1/23/2014	NOHG	TCCHRIKE	Notice Of Hearing(04/08/14@1:30PM)	Thomas F. Neville
4/8/2014	DCHH	DCELLISJ	Hearing result for Motion scheduled on 04/08/2014 01:30 PM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: Motions to Suppress, Motion in Limine, 404B motion and Motion to Compel LESS THAN 100 pages	Thomas F. Neville
4/14/2014	AINF	DCELLISJ	Amended Information	Thomas F. Neville

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User	Judge
4/17/2014	ORDR	DCELLISJ	Order Granting IN Part and Denying in Part State's Motion for 404B Evidence
	ORDR	DCELLISJ	Order Denying Defendant's Motion in Limine To Suppress Evidence
4/24/2014	RSDS	TCWRIGSA	State/City Response to Discovery/ Third Addendum
4/28/2014	NOHG	TCCHRIKE	Notice Of Hearing(05/05/14@3PM)
	MOCN	TCOLSOMC	Motion To Continue JT
5/1/2014	AFFD	TCLANGAJ	Affidavit of Charlene Davis in Support of Motion to Continue Jury Trial
5/2/2014	OBJE	TCCHRIKE	Objection to the Defendant's Motion to Continue Jury Trial
5/5/2014	MISC	TCCHRIKE	Defendant's List of Potential Witnesses
	DCHH	DCELLISJ	Hearing result for Pretrial Conference scheduled on 05/05/2014 03:00 PM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages
	CONT	DCELLISJ	Continued (Jury Trial 07/01/2014 09:00 AM)
	HRSC	DCELLISJ	Hearing Scheduled (Pretrial Conference 06/16/2014 03:00 PM)
5/6/2014		DCELLISJ	Notice of Jury Trial Re-Setting
	ORDR	DCELLISJ	Order Granting Continuance
6/5/2014	MOTN	TCCHRIKE	Motion to Admit Preliminary Hearing Transcript of Clarence Sateren at Trial
	RSDS	TCCHRIKE	State/City Response to Discovery / Fourth Addendum
	NOHG	TCCHRIKE	Notice Of Hearing(06/16/14@3PM)
6/16/2014	HRSC	DCELLISJ	Hearing Scheduled (Pretrial Conference 06/19/2014 09:00 AM)
	DCHH	DCELLISJ	Hearing result for Pretrial Conference scheduled on 06/16/2014 03:00 PM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages
6/19/2014	DCHH	DCELLISJ	Hearing result for Pretrial Conference scheduled on 06/19/2014 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages
	HRSC	DCELLISJ	Hearing Scheduled (Status 06/30/2014 03:00 PM)

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User	Judge	
6/19/2014	STEL	DCELLISJ	State Exhibit List [file stamped 6/16/14]	Thomas F. Neville
	MISC	DCELLISJ	State's Witness List [file stamped 6/16/14]	Thomas F. Neville
6/27/2014	RSDS	TCLANGAJ	State/City Response to Discovery/Fifth Addednum	Thomas F. Neville
6/30/2014	MOCN	TCOLSOMC	Motion To Continue - denied.	Thomas F. Neville
	MOAF	TCOLSOMC	Motion & Affidavit for Material Witness Bond	Thomas F. Neville
	CONT	DCELLISJ	Continued (Jury Trial 09/09/2014 09:00 AM)	Thomas F. Neville
	DCHH	DCELLISJ	Hearing result for Status scheduled on 06/30/2014 03:00 PM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: Less than 100 pages	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Pretrial Conference 08/18/2014 03:00 PM)	Thomas F. Neville
7/1/2014		DCELLISJ	Notice of Jury Trial Re-Setting	Thomas F. Neville
8/18/2014	DCHH	DCELLISJ	Hearing result for Pretrial Conference scheduled on 08/18/2014 03:00 PM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages	Thomas F. Neville
	EXLT	DCMAXWKK	Defendant's List of Potential Trail Exhibits	Thomas F. Neville
9/9/2014	AINF	DCELLISJ	2nd Amended Information	Thomas F. Neville
	JTST	DCELLISJ	Hearing result for Jury Trial scheduled on 09/09/2014 09:00 AM: Jury Trial Started REPORTER: SUE WOLF 300 Pages or more	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Jury Trial 09/10/2014 09:00 AM) Day two jury trial	Thomas F. Neville
9/10/2014	DCHH	DCELLISJ	Hearing result for Jury Trial scheduled on 09/10/2014 09:00 AM: District Court Hearing Held Court Reporter: Sue Wolf Number of Transcript Pages for this hearing estimated: Day two jury trial LESS THAN 300 pages	Thomas F. Neville
9/11/2014	HRSC	DCELLISJ	Hearing Scheduled (Jury Trial 09/11/2014 09:00 AM) Day three jury trial	Thomas F. Neville
	DCHH	DCELLISJ	Hearing result for Jury Trial scheduled on 09/11/2014 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: Day three jury trial LESS THAN 200 pages	Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Sentencing 11/10/2014 09:00 AM)	Thomas F. Neville

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User	Judge
9/11/2014	BCON	DCELLISJ	Condition of Bond: Revoked by Court after jury verdicts of guilty
	JUIN	DCELLISJ	Jury Instructions Filed
	VERD	DCELLISJ	(3) Verdict Forms filed
9/22/2014	INTP	DCELLISJ	Order to Pay from the Interlock Device Fund FOR ABC/MRT
	RSDS	TCCHRIKE	State/City Response to Discovery / Sixth Addendum
11/10/2014	DCHH	DCELLISJ	Hearing result for Sentencing scheduled on 11/10/2014 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages
	FIGT	DCELLISJ	Finding of Guilty (118-1401 Burglary)
	JAIL	DCELLISJ	Sentenced to Jail or Detention (118-1401 Burglary) Confinement terms: Penitentiary determinate: 3 years. Penitentiary indeterminate: 7 years. R/J rec. T/C rider
	CONC	DCELLISJ	Concurrent Sentencing (118-1401 Burglary) Concurrent with: Count II
	SNPF	DCELLISJ	Sentenced To Pay Fine 500.00 charge: 118-1401 Burglary
	FIGT	DCELLISJ	Finding of Guilty (118-1401 {AT} Burglary (Attempted))
	JAIL	DCELLISJ	Sentenced to Jail or Detention (118-1401 {AT} Burglary (Attempted)) Confinement terms: Penitentiary determinate: 2 years. Penitentiary indeterminate: 3 years. R/J rec/ T/C rider
	CONC	DCELLISJ	Concurrent Sentencing (118-1401 {AT} Burglary (Attempted) Concurrent with: Count I
	SNPF	DCELLISJ	Sentenced To Pay Fine 240.50 charge: 118-1401 {AT} Burglary (Attempted)
	FIGT	DCELLISJ	Finding of Guilty (137-2732(c)(3) {M} Controlled Substance-Possession of)
	JAIL	DCELLISJ	Sentenced to Jail or Detention (137-2732(c)(3) {M} Controlled Substance-Possession of) Confinement terms: Jail: 180 days.
	CONC	DCELLISJ	Concurrent Sentencing (137-2732(c)(3) {M} Controlled Substance-Possession of) Concurrent with: Count I & II
	STAT	DCELLISJ	STATUS CHANGED: closed pending clerk action
	JDMT	DCMAXWKK	Judgment of Conviction and Sentence
12/15/2014	NOTA	TCOLSOMC	NOTICE OF APPEAL
	APSC	TCOLSOMC	Appealed To The Supreme Court
1/2/2015	ORDR	DCELLISJ	Order Appointing SAPD on Direct Appeal

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User	Judge
2/10/2015	PROS	PRCURTAH	Prosecutor assigned Brian Naugle Thomas F. Neville
3/30/2015	CHGA	DCMAXWKK	Judge Change: Administrative George Carey
	HRSC	DCMAXWKK	Hearing Scheduled (Rider Review 04/27/2015 09:00 AM) George Carey
		DCMAXWKK	Order to Transport (Rider Review: 4-27-15 @ 9 AM) George Carey
4/3/2015	NOTA	CCJOHNLE	Amended NOTICE OF APPEAL George Carey
4/27/2015	DCHH	DCELLISJ	Hearing result for Rider Review scheduled on 04/27/2015 09:00 AM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages George Carey
	PROB	DCELLISJ	Probation Ordered (I18-1401 {AT} Burglary (Attempted)) Probation term: 5 years. (Felony Probation & Parole) George Carey
	AMJD	DCELLISJ	Amended JudgmentSentence modified on 4/27/2015. (I18-1401 Burglary) George Carey
	COPT	DCELLISJ	Confinement Option Recorded: Penitentiary suspended. George Carey
	AMJD	DCELLISJ	Amended JudgmentSentence modified on 4/27/2015. (I18-1401 {AT} Burglary (Attempted)) George Carey
	PROB	DCELLISJ	Probation Ordered (I18-1401 Burglary) Probation term: 10 years. (Felony Probation & Parole) George Carey
	CONP	DCELLISJ	Condition(s) of Probation Entered: - I18-1401 Burglary - Standard terms of probation, follow probation officers rules. No contact with Garden Valley plaza direct or indirect. Auth. 120 days disc. jail for p.o. No employment or training for emploment of licensure that would involve access to controlled substance whether for human or animal consumption unless approved by p.o. George Carey
4/28/2015	CHGA	DCELLISJ	Judge Change: Administrative Thomas F. Neville
	HRSC	DCELLISJ	Hearing Scheduled (Motion 07/07/2015 02:00 PM) Thomas F. Neville
	ORDR	DCLYKEMA	Order Suspending Sentence and Order of Probation Thomas F. Neville
6/19/2015	MEMO	TCKEENMM	Memorandum in Response to Discovery Allegations Thomas F. Neville
7/2/2015	NOHG	TCMARKSA	Notice Of Hearing 7-7 9:00 Thomas F. Neville
	HRSC	TCMARKSA	Hearing Scheduled (Hearing Scheduled 07/07/2015 09:00 AM) Thomas F. Neville
7/7/2015	DCHH	DCELLISJ	Hearing result for Hearing Scheduled scheduled on 07/07/2015 09:00 AM: District Court Hearing Held Court Reporter: KASEY REDLICH Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages Thomas F. Neville

State of Idaho vs. Ldonna Marie Youmans

Date	Code	User		Judge
7/7/2015	HRSC	DCELLISJ	Hearing Scheduled (Hearing Scheduled 07/21/2015 01:30 PM)	Thomas F. Neville
7/13/2015	TRAN	DCELLISJ	Transcript Filed 04/08/14 05/05/14 06/19/14 & 04/27/15	Thomas F. Neville
7/14/2015	OBJE	TCWEGEKE	Objection to State's Memorandum in Response to Discovery Allegations	Thomas F. Neville
7/16/2015	RSPN	TCMARKSA	State's Response Memorandum to Youmans' Jurisdiction Argument	Thomas F. Neville
7/21/2015	HRSC	DCELLISJ	Hearing Scheduled (Hearing Scheduled 07/27/2015 09:00 AM)	Thomas F. Neville
	DCHH	DCELLISJ	Hearing result for Hearing Scheduled scheduled on 07/21/2015 01:30 PM: District Court Hearing Held Court Reporter: SUE WOLF Number of Transcript Pages for this hearing estimated: LESS THAN 100 pages	Thomas F. Neville
7/27/2015	DCHH	DCELLISJ	Hearing result for Hearing Scheduled scheduled on 07/27/2015 09:00 AM: District Court Hearing Held Court Reporter: Vanessa Starr Number of Transcript Pages for this hearing estimated: Less than 100 pages	Thomas F. Neville
7/30/2015	NOTC	TCWEGEKE	Notice of Transcript Lodged - Supreme Court No. 42795	Thomas F. Neville
8/3/2015	ORDR	DCELLISJ	Order RE: Jurisdiction and Incorporating By Reference	Thomas F. Neville
	ORDR	DCELLISJ	Order Granting Motion to Supplement the Record	Jonathan Medema

JUL 12 2013

CHRISTOPHER D. RICH, Clerk
By COURTNEY PACKER
DEPUTY

DR # 13-311092

GREG H. BOWER
Ada County Prosecuting Attorney

Kari L Higbee
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451

COMPLAINT

Youmans's DOB: [REDACTED]
Youmans's SSN: [REDACTED]

PERSONALLY APPEARED Before me this 12th day of July 2013, Kari L Higbee, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did commit the crimes of: I. BURGLARY, FELONY, I.C. §18-1401 and II. ATTEMPTED BURGLARY, FELONY, I.C. §18-1401, 18-306 as follows:

COUNT I

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

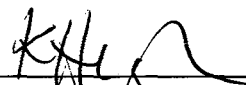
COUNT II

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did attempt to enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft by trying the door knob to access the apartments.

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


Said Complainant therefore prays that a Warrant issue for the arrest of the Defendant and that LADONNA MARIE YOUMANS, may be dealt with according to law.

GREG H. BOWER
Ada County Prosecutor



Kari L Higbee
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 12th day of July 2013.



Magistrate

7-12-13
PC 12
[Signature]

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO. _____

vs
Radonna Marie Yumans

CLERK H. Manley

PROSECUTOR K. Higbee

DATE 7, 12, 2013 TIME 1054

COMPLAINING WITNESS Det. Paparello

CASE ID. Gardia for Steckel 071213 BEG. 105416

COURTROOM 204 END 105922

JUDGE

STATUS

- | | |
|--|---|
| <input type="checkbox"/> BERECZ | <input type="checkbox"/> MacGREGOR-IRBY |
| <input type="checkbox"/> BIETER | <input type="checkbox"/> MANWEILER |
| <input type="checkbox"/> CAWTHON | <input type="checkbox"/> McDANIEL |
| <input type="checkbox"/> COMSTOCK | <input type="checkbox"/> MINDER |
| <input type="checkbox"/> DAY | <input type="checkbox"/> OTHS |
| <input checked="" type="checkbox"/> GARDUNIA | <input type="checkbox"/> REARDON |
| <input type="checkbox"/> HARRIGFELD | <input type="checkbox"/> STECKEL |
| <input type="checkbox"/> HAWLEY | <input type="checkbox"/> SWAIN |
| <input type="checkbox"/> HICKS | <input type="checkbox"/> WATKINS |
| <input type="checkbox"/> _____ | |
| <input type="checkbox"/> _____ | |

- STATE SWORN
- PC FOUND
- COMPLAINT SIGNED
- AMENDED COMPLAINT SIGNED
- AFFIDAVIT SIGNED
- JUDICIAL NOTICE TAKEN
- NO PC FOUND
- EXONERATE BOND
- SUMMONS TO BE ISSUED
- WARRANT ISSUED
- BOND SET \$ 50,000.-
- NO CONTACT

D.R. # _____

- DISMISS CASE
- IN CUSTODY

COMMENTS

- AGENT'S WARRANT
- RULE 5(B)
- FUGITIVE
- MOTION & ORDER TO CONSOLIDATE

023865

NO. _____ FILED _____
A.M. 8:00 P.M. _____

JUL 15 2013

CHRISTOPHER D. RICH, Clerk
By STORMY McCORMACK
DEPUTY

DR # 13-311092
OFFICER: PAPORELLO
AGENCY: Boise Police Department

GREG H. BOWER
Ada County Prosecuting Attorney

Kari L Higbee
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

RECEIVED
Ada County Sheriff
WARRANTS

JUL 12 2013

Gary Raney, Sheriff
BOISE, IDAHO

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)
)

Case No. CR-FE-2013-0009451 0101
ARREST WARRANT

Address: 2107 BRYSON, BOISE, ID 83713
DOB: [REDACTED] SSN: [REDACTED]
Sex: Female Race: White Height: 5'4" Weight: 135 lbs.
Hair/Eyes: Blond/Blue

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

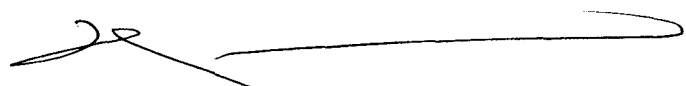
**ARRESTED
ADA COUNTY SHERIFF**

SM

A COMPLAINT UPON OATH having been this day laid before me by Kari L Higbee, Deputy Prosecuting Attorney, stating that the crime(s) of: I. BURGLARY, FELONY, I.C. §18-1401 and II. ATTEMPTED BURGLARY, FELONY, I.C. §18-1401, 18-306 have been committed, and accusing LADONNA MARIE YOUMANS thereof;

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above at any time during the day or night, and to bring her before me at my office in the County of Ada, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Ada County.

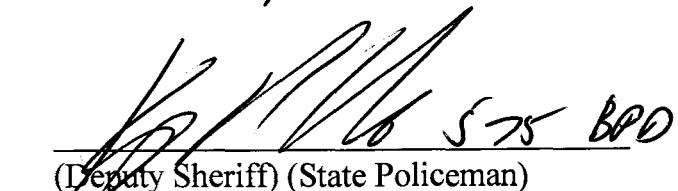
DATED This 12th day of July, 2013.


Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

Bond \$ 50,000

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing LADONNA YOUMANS into Court this 12 day of JULY, 2013.


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

COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, having been brought before me under this Warrant, is committed for examination to the Sheriff of Ada County, State of Idaho, and is admitted to bail in the sum of \$ _____, surety, cash or by undertaking of two sufficient sureties, and is committed to the custody of the Sheriff of Ada County until such bail is given. This Cause is continued for further appearance until _____ day of _____, 2013.

Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

ORDER OF RELEASE

TO THE SHERIFF OF ADA COUNTY, IDAHO:

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

DATED: _____

Magistrate for the District Court
of the Fourth Judicial District,
Magistrate Division

NCIC ENTRY: (Additional Levels Inclusive)

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

BY: KH
DATED: 7/12/13

Ldonna Marie Youmans CR-FE-2013-0009451

DOB: [REDACTED]

Scheduled Event: Video Arraignment Monday, July 15, 2013 01:30 PM

Judge: Kevin Swain

Clerk: Michelle Enney Interpreter: _____

Prosecuting Agency: AC BC EA GC MC

Pros: Paul Henderson

PD / (Attorney): Todd Lakey

- 1 I18-1401 Burglary F
- 2 I18-1401 AT Burglary (Attempted) F

20357 Case Called Defendant: Present Not Present In Custody

Advised of Rights Waived Rights PD Appointed Waived Attorney

Guilty Plea / PV Admit N/G Plea Advise Subsequent Penalty

Bond \$ 25,000 ROR Pay / Stay Payment Agreement

In Chambers PT Memo Written Guilty Plea No Contact Order

Advises of charge
Bond Info

PIH 7/29/2013 8:30

No Contact location Garden Plaza of Valley View

Finish () Release Defendant

20754

FILED
 AM _____ P.M. _____
Monday, July 15, 2013
 CHRISTOPHER D. RICH, CLERK OF THE COURT
 BY: JOE DEFRUSCO
 DEPUTY CLERK

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
 MAGISTRATE DIVISION**

200 W. Front Street, Boise Idaho 83702

STATE OF IDAHO,)
 Plaintiff.)
 vs.)
 Ldonna Marie Youmans)
 2107 Bryson Rpad)
 Boise, ID 83713)
 Defendant.)

Case No: CR-FE-2013-0009451

NOTICE OF HEARING

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

Preliminary... Monday, July 29, 2013... 08:30 AM
 Judge: Theresa Gardunia

I HEREBY CERTIFY that the foregoing is a true and correct copy of this Notice of Hearing entered by the court and on file in this office. I further certify that copies of this notice were served as follows:

Defendant: Mailed _____ Hand Delivered _____ Signature _____
 Clerk _____ Date _____ Phone () _____

Todd M Lakey
 1310 N. Main St.
 Meridian ID 83642

J. Burton

Private Counsel: Mailed _____ Hand Delivered _____ Signature _____
 Clerk _____ Date _____ Phone () _____

Prosecutor: Interdepartmental Mail _____ Ada Boise Eagle G.C. Meridian
 Clerk _____ Date _____

Public Defender: Interdepartmental Mail _____
 Clerk _____ Date _____

Other: _____

Mailed _____ Hand Delivered *f* _____ Signature *Spaul* _____
 Clerk _____ Date _____ Phone () _____ 7-13-13

Dated: 7/15/2013

CHRISTOPHER D. RICH
 Clerk of the Court
 By: *Christopher D. Rich*
 Deputy Clerk

Cite Pay Website: <https://www.citepayusa.com/payments> Supreme Court Repository: <https://www.idcourts.us>

Handwritten scribbles

NO. _____ FILED _____
A.M. _____ P.M. 3-

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

JUL 15 2013

CHRISTOPHER D. RICH, Clerk
By ELAINE TONG
DEPUTY

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

Case No.: CR-FE-13 9451

NOTICE OF APPEARANCE

YOU WILL PLEASE TAKE NOTICE that Joe Borton of the firm Borton Lakey Law Offices hereby enters his appearance as the attorney of record for the Defendant Ladonna Marie Youmans in the above-captioned matter.

Respectfully requested of the State on the 15th day of July, 2013.

BORTON LAKEY LAW OFFICES

By _____
Joe Borton

Handwritten signature of Joe Borton

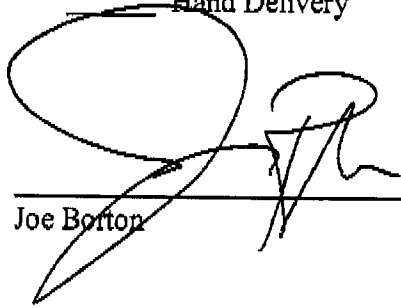
Handwritten mark

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of July, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

- U.S. Mail
- Facsimile
- Overnight Mail
- Hand Delivery



A handwritten signature in black ink, appearing to read 'Joe Borton', is written over a horizontal line. The signature is stylized and somewhat cursive.

Joe Borton

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

THE STATE OF IDAHO,
Plaintiff,

vs.

YOUMANS LADONNA MARIE
Defendant

NO. 9
FILED
P.M.
JUL 16 2013
CHRISTOPHER D. RICH, Clerk
By CHERYL WADAMS
DEPUTY

NOTICE OF COURT DATE
AND
BOND RECEIPT

Suzanne

YOU ARE HEREBY NOTIFIED that you must appear in Court
on 29 July 2013 at 08:30AM hrs, at the:

Ada County Courthouse
200 West Front Street
Boise, 83702

If you have been arrested for a Citation, This Notice of Court Date Supersedes any other Court Date for this case. If you have been given a date by the court you must keep those appearances, failing to do so will cause a warrant for arrest and forfeiture of bond.

You are further notified that if you fail to appear as specified herein, your bond will be forfeited and a Warrant of Arrest will be issued against you.

BOND RECEIPT No: 955522

Charge: Arrest: {F} FIRST DEGREE BURGLARY

Bond Amount: \$ 25,000.00

Case # CRFE20130009451

Bond # PC30-01043966

Bond Type: Surety

Warrant #:

Agency: Guardian Bail Bonds

Insurance: Continental Heritage Insurance Company

Bondsman: HOAGLAND STEPHENE

Address: 4285 S. Tindaris Ave
Meridian, ID 83642

[Handwritten signature]

This is to certify that I have received a copy of this NOTICE TO APPEAR.
I understand that I am being released on the conditions of posting bail and
my promise to appear in the court at the time, date, and place described in this notice.

DATED: 7/15/2013

[Handwritten signature: Youmans Ladonna Marie]
DEFENDANT

NO. _____
A.M. _____ FILED _____ P.M. _____

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

JUL 16 2013

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

CR-FE-2013-0009451

**DEFENDANT'S FIRST REQUEST FOR
DISCOVERY**

TO: The Above Named Plaintiff and its Attorney of Record:

PLEASE TAKE NOTICE that the defendant, LaDonna Marie Youmans, by and through undersigned counsel and pursuant to Rule 16(b) of the Idaho Rules of Criminal Procedure, hereby requests discovery and inspection of the following information, evidence and materials:

1. Statement of Defendant. Permit Defendant to inspect and copy or photograph: any relevant written or recorded statements made by Defendant, or copies thereof, within the possession, custody or control of the State, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by Defendant whether before or after arrest to a peace officer, prosecuting attorney or his agent.

MO

2. Defendant's prior record. Furnish Defendant such copy of Defendant's prior criminal record, if any, as is now or may become available to the prosecuting attorney.

3. Documents and tangible objects (UNREDACTED COPIES). Permit Defendant to inspect and copy or photograph unredacted copies of all books, papers, documents, reports, photographs, tangible objects, or copies or portions thereof which are in the possession, custody or control of the prosecuting attorney and which are material to the preparation of the defense or intended for use by the prosecutor as evidence at trial, or obtained from or belonging to Defendant.

4. Reports of examinations and tests. Permit Defendant to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case or copies thereof within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence. This request also extends to any and all notes, graphs, charts or other preliminary data or findings of any type or kind performed during and in the course of such testing or examinations, or which in any way relates to the results of such tests provided.

5. Prosecution witnesses. Furnish to Defendant a written list of names and *addresses of all persons having knowledge of relevant facts* who may be called by the State as a witness at trial together with any record or prior felony convictions of any such person which is within the knowledge of the prosecuting attorney or his agents.

6. Police reports (UNREDACTED COPIES). Furnish to Defendant unredacted copies of all reports, notes, and memoranda in the prosecuting attorney's possession which were made by any police officer or investigatory agent (including Victim-Witness coordinators employed either by the Ada County Sheriff's Office or the Ada County Prosecutor's Office) in connection with the investigation or prosecution of the case.

7. Handwritten Notes. Furnish to Defendant any and all original handwritten notes or memoranda of any agents of the State of Idaho who participated in any way in the investigating, arresting or prosecuting the Defendant in this case.

This request extends to and includes any and all Victim Witness Coordinators, whether employed by the City Police Department, the County Sheriff's Office or the County Prosecutor's Office, who have had any meetings, phone calls or other contact with any individual who is

deemed or considered to be "a" or "the" victim in this case. This request applies whether or not the original handwritten notes or memoranda have subsequently been included in another written report.

Furnish to Defendant the original handwritten notes or memoranda of any agent of the government regarding any of the statements made by prospective witnesses, whether or not the original notes have subsequently been included in other written reports.

8. Brady Materials. Furnish to Defendant any and all other, further or additional material of whatever type or kind, which is or may be exculpatory, which tends to negate the guilt of the accused as to the offense charged, which would tend to reduce the punishment therefore, or which is otherwise discoverable within the meaning of *Brady v. Maryland*, 373 U.S. 83 (1963), including, but not limited to the following:

(a) The results of tests, experiments, examinations, searches or seizures, which produced evidence favorable to the defendant or failed to produce evidence tending to incriminate the defendant.

(b) The name(s) and address of any other person considered a possible suspect in the case and/or any evidence (including, but not limited to, statements of person interviewed by investigative agents in connection with this case which include the names of other persons connected with the commission of the offenses with which Defendant is charged) which in any way indicates that other persons may have committed, or aided in the commission of, these crimes;

(c) Any evidence in this case which the government has intentionally or inadvertently destroyed, or for whatever cause, no longer has within its possession. *Brady v. Maryland*, 373 U.S. 83 (1963);

(d) Any evidence, information, testimony, transcripts, or statements indicating that any prospective prosecution witness on any occasion has given false, misleading, or contradictory information regarding the charges at bar or any other matter to any persons, including those involved in law enforcement and their agents or informers, or has engaged in perjury before any court;

(e) Any evidence, information, testimony, transcripts, or statements indicating or showing that the complaining witness is not a truthful person or is a threatening, aggressive, or assaultive person;

(f) Any evidence, information, testimony, transcripts, or statements indicating that any prospective prosecution witness has given a statement which contradicts that of another potential prosecution witness;

(g) The existence and substance of any deals or understandings entered into between any law enforcement agency and any prospective witness to this incident;

(h) Any evidence, information, testimony, transcripts, or statements indicating that any witness is biased or prejudiced regarding the defendant or any case in any way. *United States v. Bagley*, 473 U.S. 667 (1985).

9. Dispatch Tapes. Furnish Defendant with tape recorded copies of any and all calls made to or from City or County Law Enforcement Dispatch in connection with this case. This request extends to and includes, but is not limited to the following:

(a) Calls made by any person who is not a law enforcement officer or in the employ of any law enforcement agency, to the Dispatch for the purpose of reporting a crime or their belief that a crime had happened, was happening, or was about to happen.

(b) Calls made by any person who is not a law enforcement officer or in the employ of any law enforcement agency, to the Dispatch for the purpose of making any report whatsoever concerning the conduct or activity of this Defendant, whether or not the person believed that such conduct constituted a crime.

(c) Calls made by any person who is a law enforcement officer or in the employ of any law enforcement agency, to the Dispatch for the purpose of reporting a crime, or their belief that a crime had happened, was happening, or was about to happen.

(d) Calls made by any person who is a law enforcement officer or in the employ of any law enforcement agency, to the Dispatch for the purpose of making any report whatsoever concerning the conduct or activity of this Defendant, whether or not the person believed that such conduct constituted a crime.

(e) Calls made by the Dispatch to any law enforcement officer or person in the employ of any law enforcement agency, in response to, in connection with, or as a result of any call or calls received by Dispatch from any person or persons (whether or not the person making such call into Dispatch was a law enforcement officer or person in the employ of any law enforcement agency).

(f) Calls made by any law enforcement officer or any person in the employ of any law enforcement agency **TO** Dispatch, after such officer or person had first received a call or message **FROM** Dispatch, directing them to take any action which brought them into contact with the Defendant, directing them to respond to

a place where the Defendant was known or suspected to be, or directing them to respond to any situation where they did in fact encounter the Defendant or some person who directed them to the Defendant.

(g) Calls made by any law enforcement officer or person in the employ of any law enforcement agency **TO** Dispatch, after such officer or person had first received a call or message **FROM** any other law enforcement officer or person in the employ of a law enforcement agency, who had, in their turn previously received a call **FROM** Dispatch, directing them to take any action which brought them into contact with the Defendant, directing them to respond to a place where the Defendant was known or suspected to be, or directing them to respond to any situation where they did in fact encounter the Defendant or some person who directed them to the Defendant. (By this subparagraph, Defendant is requesting tapes of calls made by an officer or other law enforcement employee back to Dispatch, after such officer or person responded to a call from a different officer or person who had received a direct call from Dispatch).

10. Other Crime(s) Evidence. Inform Defense counsel, in writing, as to whether or not the State of Idaho intends to introduce any evidence of "other crimes, wrongs or acts" in addition to the crimes charged against the Defendant in this Complaint. If so, provide the following:

- (a) The date(s), time(s) and place (s) of the crime(s), wrong(s), or act(s);
- (b) A description of the crime(s), wrong(s) or act(s) involved;
- (c) The names, addresses and telephone number of all individuals involved in the crime(s), wrong(s), or act(s) as either principals, accomplices, victims or witnesses;
- (d) The purpose of which the State of Idaho intends to introduce such evidence. (See Rule 404 of the Idaho Rules of Evidence).

11. Tape Recordings. Disclose and Furnish to Defense Counsel the following:

- (a) Whether Defendant has been the subject of electronic surveillance, eavesdropping, wiretaps and/or other recordings (both audio and/or visual);
- (b) Whether any application was made to any court for authorization to intercept or record any conversation by Defendant, any conversation related to Defendant, and/or any communication instrument controlled, owned or used by Defendant, and, if any such application was made, produce a copy thereof;
- (c) Whether any order authorizing surveillance, eavesdropping, wiretaps or other recordings were granted, if any such order was issued, produce a copy thereof; and

- (d) Produce copies of any and all recordings of intercepted conversations, statements, and/or other activities of Defendant, and all logs, memoranda, and transcripts relating to such intercepted conversations, statements and/or other activities.

12. Furnish Defendant with any exculpatory information regarding the Defendant to and including information concerning the credibility of all government witnesses, including information which may be considered to be employment misconduct by any government witness. *Giglio v. United States* 405 US 150 (1972).

13. Search and Arrest Warrants. Furnish Defendant with search and arrest warrants and any related affidavits and law enforcement statements and materials utilized to obtain search and arrest warrants in connection with this case.

This duty to disclose exists absence a request and continues throughout the case. *US v Agurs*. 427 US 97 (1976).

Furthermore *Kyles v. Whitley* 514 US 419 (1995) imposes upon the State an affirmative duty to learn of any favorable evidence known to the others acting on the government's behalf, including the police, and a resulting duty to disclose that evidence to the Defense Counsel, and request is hereby made for its immediate discovery and production.

**ALL RESPONSES TO THESE REQUESTS SHALL BE PROVIDED TO THE DEFENSE WITHIN
FOURTEEN (14) DAYS OF THE DATE OF THIS REQUEST PURSUANT TO ICR 16(e)**

Respectfully requested of the State on the 16th day of July, 2013.

BORTON LAKEY LAW OFFICES

By

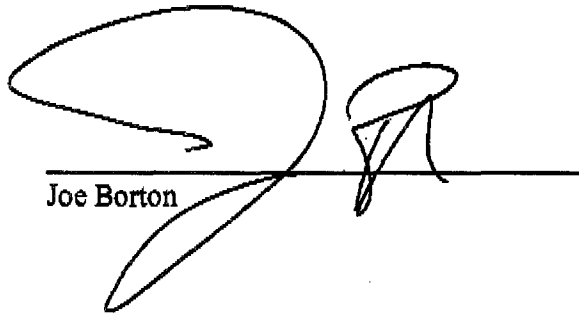
Joe Borton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of July, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery



Joe Borton

7/23/13
8:00

NO. 10 FILED
A.M. _____ P.M. _____

JUL 23 2013

CHRISTOPHER D. RICH, Clerk
By ELAINE TONG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jonathan Roundy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2013-0009451
Plaintiff,)	
vs.	)	PRELIMINARY HEARING
	)	RESPONSE TO REQUEST FOR
LADONNA MARIE YOUMANS,	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

COMES NOW, Jonathan Roundy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

ll

file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 95. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

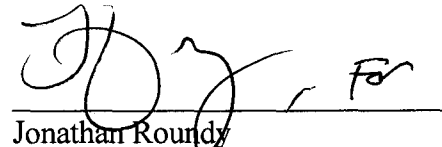
NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.

A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.

Other

RESPECTFULLY SUBMITTED this 22 day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

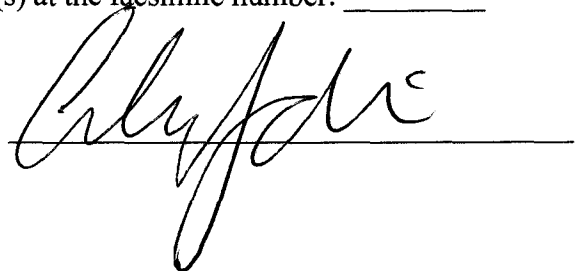

Jonathan Roundy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July 2013, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Joseph Borton, P.O. Box 10, Meridian, ID 83680

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By hand delivering copies of the same to defense counsel.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____



JUL 23 2013

CHRISTOPHER D. RICH, Clerk
By ELAINE TONG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jonathan Roundy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451
REQUEST FOR DISCOVERY

TO THE ABOVE NAMED DEFENDANT:

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

- (1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

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

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

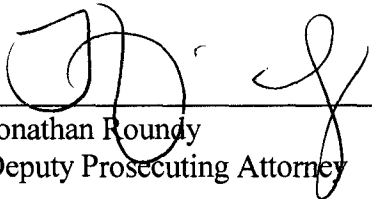
(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to Idaho Criminal Rule 16(c)(4), including the facts and data supporting the opinion and the witness's qualifications.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 22 day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney


Jonathan Roundy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July 2013, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Joseph Borton, P.O. Box 10, Meridian, ID, 83680

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____



253
PM
7/29
8:30

NO. _____ FILED _____
A.M. _____ P.M. _____

JUL 24 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jonathan Roundy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2013-0009451
Plaintiff,)	
vs.	)	FIRST SUPPLEMENTAL
	)	PRELIMINARY HEARING
LADONNA MARIE YOUMANS,	)	RESPONSE TO REQUEST FOR
	)	DISCOVERY AND OBJECTIONS
Defendant.)	
_____)	

COMES NOW, Jonathan Roundy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following First Supplemental Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

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file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's page 96. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):


NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.

A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.

Other

RESPECTFULLY SUBMITTED this 24 day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

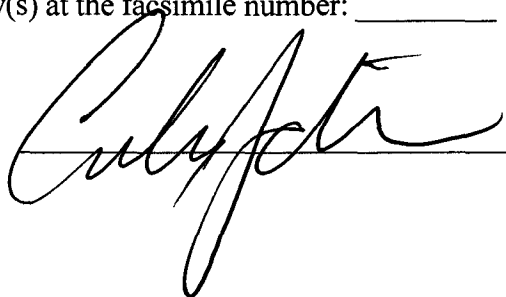

Jonathan Roundy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July 2013, I caused to be served, a true and correct copy of the foregoing First Supplemental Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Joseph Borton, P.O. Box 10, Meridian, ID 83680

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By hand delivering copies of the same to defense counsel.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____



FILED 7/29/13 AT 9:17 A.M.
 CHRISTOPHER D. RICH,
 CLERK OF THE DISTRICT COURT
 BY Amey
 Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
L DONNA MARIE YOUNG)
)
 Defendant.)

PRELIMINARY HEARING NOTICE / MINUTE SHEET
 Case Number FE2013-9451
 Case Called GARDONIA 91629
 Ada Special J. Randy
 PD / Attorney J BOERTON

- Defendant: Present Not Present In Custody _____ PD Appointed Waived Attorney
- Advised of Rights Waived Rights In Chambers Interpreter _____
- Bond \$ 25,000 Motion for Bond Reduction Denied / Granted _____
- Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived
- State / Defense / Mutual Request for Continuance Reviewing addtl disc
- State / Defense Objection / No Objection to Continuance _____
- Case continued to 8-20-13 at 8:30 am/pm for PH
- Defendant Waives Preliminary Hearing Hearing Held Commitment Signed
- Case Bound Over to Judge _____ on _____ at _____ am/pm
- Case Dismissed after Preliminary Hearing / On State's Motion Release Defendant, This Case Only

ADA COUNTY COURTHOUSE, 200 W. FRONT ST., BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

DATED 07/29/13

CHRISTOPHER D. RICH, Clerk of the District Court
 By: Amey
 Deputy Clerk

I hereby certify that copies of this notice were served as follows:

- Defendant Hand Delivered
- Defense Attorney Hand Delivered
- Public Defender Hand Delivered
- Prosecutor Hand Delivered

Signature L Donna Marie Young

Clerk F/m Date 7/29/13

253
PH
8/20
8:30

NO. _____ FILED _____
A.M. _____ P.M. 2

JUL 29 2013

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jonathan Roundy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2013-0009451
Plaintiff,)	
vs.	)	SECOND SUPPLEMENTAL
	)	PRELIMINARY HEARING
LADONNA MARIE YOUMANS,	)	RESPONSE TO REQUEST FOR
	)	DISCOVERY AND OBJECTIONS
Defendant.)	
_____)	

COMES NOW, Jonathan Roundy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Second Supplemental Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

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file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 97 through 103. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):


NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.

A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.

Other

RESPECTFULLY SUBMITTED this 26 day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney


Jonathan Roundy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of July 2013, I caused to be served, a true and correct copy of the foregoing Second Supplemental Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Joseph Borton, P.O. Box 10, Meridian, ID 83680

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By hand delivering copies of the same to defense counsel.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____



PH
8/20
8/20

NO. _____ FILED _____
A.M. _____ P.M. _____

JUL 30 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jonathan Roundy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2013-0009451
Plaintiff,)	
vs.	)	THIRD SUPPLEMENTAL
	)	PRELIMINARY HEARING
LADONNA MARIE YOUMANS,	)	RESPONSE TO REQUEST FOR
	)	DISCOVERY AND OBJECTIONS
Defendant.)	
_____)	

COMES NOW, Jonathan Roundy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Third Supplemental Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

10

file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's page 104. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These documents are specifically identified in subsection 4A above.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):


NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.

A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.

Other

RESPECTFULLY SUBMITTED this 29 day of July 2013.

GREG H. BOWER
Ada County Prosecuting Attorney



Jonathan Roundy
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July 2013, I caused to be served, a true and correct copy of the foregoing Third Supplemental Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Joseph Borton, 141 E. Carlton Ave., Meridian, ID, 83642

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By hand delivering copies of the same to defense counsel.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____



Time	Speaker	Note
1:37:00 PM	Defendant	Ladonna Marie Youmans FE-2013-9451, Present on Bond
1:37:05 PM	State	Jonathan Roundy, AC Prosecutor
1:37:08 PM	Defense	Joe Borton, Defense Attorney
1:37:11 PM	Judge	Judge Theresa Gardunia
1:37:13 PM	Jonathan Roundy, AC Prosecutor	Files an amended complaint
1:38:52 PM	State Witness #1	Clarence Sateren, Sworn (hard of hearing)
1:39:08 PM	Joe Borton, Defense Attorney	Moves to exclude witnesses
1:39:24 PM	Judge Theresa Gardunia	Witnesses will be excluded
1:39:53 PM	Clarence Sateren	Direct Examination of the Witness
1:39:53 PM	Clarence Sateren	I was missing prescription pills
1:40:32 PM	Clarence Sateren	The pills were missing, Hydrocordone
1:42:22 PM	Joe Borton, Defense Attorney	Cross Examination of the Witness
1:42:22 PM	Clarence Sateren	I am 96 years old, my Dr. is from St. Als
1:45:11 PM	Clarence Sateren	the housekeeper, my sister, my niece comes to see me
1:49:34 PM	Clarence Sateren	I only took it when I had the pain
1:52:24 PM	Jonathan Roundy, AC Prosecutor	Re-Direct Examination of the Witness
1:52:28 PM	Clarence Sateren	nothing has gone missing in 14 years, not that I'm aware of
1:55:01 PM	Joe Borton, Defense Attorney	Re-Cross Examination of the Witness
1:55:04 PM		
1:57:52 PM	Jonathan Roundy, AC Prosecutor	Objection
1:57:54 PM	Judge Theresa Gardunia	Allows it - Overruled
1:59:03 PM	Clarence Sateren	Jeremiah Villanueva does not sound familiar to me
1:59:23 PM	Jonathan Roundy, AC Prosecutor	Objection - speculation
1:59:39 PM	Joe Borton, Defense Attorney	Response
1:59:47 PM	Judge Theresa Gardunia	Overruled
2:00:28 PM	Judge Theresa Gardunia	Nothing further, witness steps down
2:01:41 PM	state Witness #1	Charles Faylor, Sworn
2:02:34 PM	Jonathan Roundy, AC Prosecutor	Direct Examination of the Witness
2:02:35 PM	Charles Faylor	Manager of Garden Valley...
2:02:58 PM	Charles Faylor	5-22-13 is when he came to talk to me
2:04:18 PM	Charles Faylor	had 15 - 25 in there and now they are missing

<u>2:04:51 PM</u>	Charles Faylor	reviewed video down his hallway 22-15th
<u>2:05:13 PM</u>	Charles Faylor	noticed pink scrubs proceed down the hallway
<u>2:05:50 PM</u>	Charles Faylor	someone was looking for an unlocked door
<u>2:08:03 PM</u>	Jonathan Roundy, AC Prosecutor	Hands the witness states #1
<u>2:08:24 PM</u>	Charles Faylor	Packet of photos (6 pages)
<u>2:09:11 PM</u>	Charles Faylor	these are all on the 15th of May
<u>2:10:17 PM</u>	Joe Borton, Defense Attorney	objection - foundation
<u>2:10:57 PM</u>	Judge Theresa Gardunia	Sustained
<u>2:12:25 PM</u>	Charles Faylor	she did not sign in
<u>2:15:11 PM</u>	Charles Faylor	did not see her enter, but saw her exit
<u>2:18:25 PM</u>	Charles Faylor	texted picture and response, was recognize her and she used to work for us
<u>2:19:28 PM</u>	Charles Faylor	checked some more tapes and she had been here 6 times before
<u>2:20:41 PM</u>	Charles Faylor	the person on the video is here today in the white sleeveless top
<u>2:20:53 PM</u>	Jonathan Roundy, AC Prosecutor	moves to admit states #1
<u>2:20:58 PM</u>	Joe Borton, Defense Attorney	no objection
<u>2:21:09 PM</u>	Judge Theresa Gardunia	States #1 is admitted
<u>2:21:17 PM</u>	Joe Borton, Defense Attorney	Cross Examination of the Witness
<u>2:21:17 PM</u>	Charles Faylor	names people with room keys
<u>2:24:48 PM</u>	Charles Faylor	everyone is supposed to sign in
<u>2:30:37 PM</u>	Charles Faylor	3 maintance staff in Spring of 2013
<u>2:37:17 PM</u>	Charles Faylor	Villanueva took cash and jewelry
<u>2:38:36 PM</u>	Jonathan Roundy, AC Prosecutor	Re-Direct Examination of the Witness
<u>2:38:43 PM</u>		
<u>2:39:58 PM</u>	Joe Borton, Defense Attorney	Re-Cross Examination of the Witness
<u>2:40:00 PM</u>		
<u>2:41:19 PM</u>	Charles Faylor	Nothing further, witness steps down
<u>2:41:41 PM</u>	State Witness #3	Eric Wallentine, Sworn
<u>2:43:01 PM</u>		
<u>2:43:03 PM</u>	Eric Wallentine	Knows the defendant, she is here in the white dress. She worked for my company for quite some time
<u>2:43:37 PM</u>	Eric Wallentine	Her performance was not in compliance with what we want in our company
<u>2:44:49 PM</u>	Joe Borton, Defense Attorney	objection -

<u>2:44:59 PM</u>	Jonathan Roundy, AC Prosecutor	asks that it be admitted for limited purpose
<u>2:45:23 PM</u>	Eric Wallentine	Objection sustained
<u>2:45:54 PM</u>	Joe Borton, Defense Attorney	Cross Examination of the Witness
<u>2:45:57 PM</u>	Eric Wallentine	80 employees
<u>2:50:00 PM</u>	Eric Wallentine	Nothing further, witness steps down
<u>2:50:07 PM</u>	State Witness #4	Officer Kip Paporello, Sworn
<u>2:51:17 PM</u>	Officer Kip Paporello	property crimes
<u>2:51:23 PM</u>	Jonathan Roundy, AC Prosecutor	Direct Examination of the Witness
<u>2:51:23 PM</u>		
<u>2:52:26 PM</u>	Officer Kip Paporello	she admitted to being at the facility and in Clarances room, but couldn't tell me why
<u>2:54:14 PM</u>	Officer Kip Paporello	she admitted it was her in the still pictures
<u>2:54:49 PM</u>	Officer Kip Paporello	I served the warrant myself
<u>2:55:33 PM</u>	Officer Kip Paporello	she went into the house and began emptying her pockets into her purse
<u>2:56:00 PM</u>	Officer Kip Paporello	she had a prescription bottle in her purse and 17 loose pills in her purse
<u>2:56:28 PM</u>	Joe Borton, Defense Attorney	Cross Examination of the Witness
<u>2:56:28 PM</u>		
<u>2:58:44 PM</u>	Officer Kip Paporello	I did not have an audio, I tried to record from my iPhone
<u>3:03:17 PM</u>	Officer Kip Paporello	I can't say they are his
<u>3:04:35 PM</u>	Jonathan Roundy, AC Prosecutor	objection - speculation
<u>3:04:48 PM</u>	Joe Borton, Defense Attorney	Response
<u>3:05:10 PM</u>	Judge Theresa Gardunia	Allows it
<u>3:05:58 PM</u>	Officer Kip Paporello	Nothing further, witness steps down
<u>3:06:04 PM</u>	Jonathan Roundy, AC Prosecutor	Submits
<u>3:06:11 PM</u>	Joe Borton, Defense Attorney	Closing
<u>3:06:51 PM</u>	Jonathan Roundy, AC Prosecutor	Rebuttal
<u>3:08:29 PM</u>	Judge Theresa Gardunia	Finds PC
<u>3:11:17 PM</u>	Judge Theresa Gardunia	Judge Finds PC, Case Bound Over to Judge Neville 9-9-13 at 9:00 am Commitment Signed
<u>3:11:54 PM</u>	Judge Theresa Gardunia	State signs for the exhibit
<u>3:12:04 PM</u>		End of Case

FILED 8/20/13 AT 3:12 P.M.
 CHRISTOPHER D. RICH,
 CLERK OF THE DISTRICT COURT
 BY [Signature]
 Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
Ladonna Marie Yarmans)
 Defendant.)

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number FE 13-9451
 Case Called Gardina 13700
 Ada Special J. Randy
 PD / Attorney J. Barton

- Defendant: Present Not Present In Custody _____ PD Appointed Waived Attorney
- Advised of Rights Waived Rights In Chambers Interpreter _____
- Bond \$ 25,000 Motion for Bond Reduction Denied / Granted _____
- Amended Complaint Filed Complaint Amended by Interlineation Reading of Complaint Waived
- State / Defense / Mutual Request for Continuance _____
- State / Defense Objection / No Objection to Continuance _____
- Case continued to _____ at _____ am/pm for _____
- Defendant Waives Preliminary Hearing Hearing Held Commitment Signed
- Case Bound Over to Judge Neville on 9-9-13 at 9:00 am
- Case Dismissed after Preliminary Hearing / On State's Motion Release Defendant, This Case Only

ADA COUNTY COURTHOUSE, 200 W. FRONT ST., BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

DATED 8/20/13

CHRISTOPHER D. RICH, Clerk of the District Court

By: [Signature]
 Deputy Clerk

I hereby certify that copies of this notice were served as follows:

- Defendant Hand Delivered
- Defense Attorney Hand Delivered
- Public Defender Hand Delivered
- Prosecutor Hand Delivered

Signature [Signature]

Clerk [Signature] Date 8/20/13

DR # 13-311092

AUG 20 2013

CHRISTOPHER D. RICH, Clerk
By HEIDI MANLEY
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jonathan Roundy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451

**A M E N D E D
C O M P L A I N T**

Youmans's DOB: 
Youmans's SSN: 

PERSONALLY APPEARED Before me this 20th day of Aug 2013, Jonathan Roundy, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did commit the crimes of: I. BURGLARY, FELONY, I.C. §18-1401, II. ATTEMPTED BURGLARY, FELONY, I.C. §18-1401, 18-306, III. RESISTING AND/OR OBSTRUCTING AN OFFICER, MISDEMEANOR, I.C. §18-705 and IV. POSSESSION OF A CONTROLLED SUBSTANCE, MISDEMEANOR, I.C. §37-2732(c) as follows:

COUNT I

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

COUNT II

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did attempt to enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft by trying the door knob to access the apartments.

COUNT III

That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did willfully resist, obstruct and/or delay a public officer, to-wit: Officer Paporello, in the discharge and/or attempt of a duty of his office, by entering her house and closing the door, resisting arrest, attempting to keep evidence from being discovered and/or struggling with Officer Paporello.

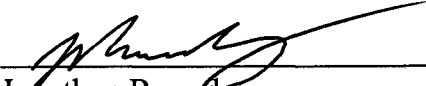
COUNT IV

That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Hydrocodone, a Schedule III controlled substance.

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

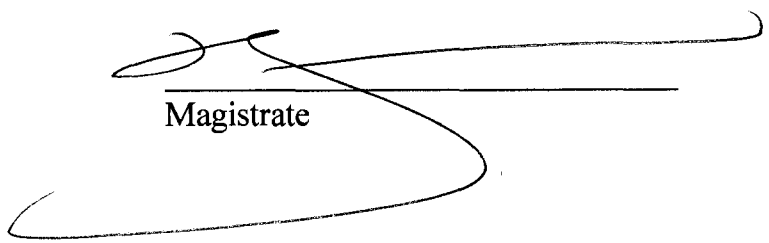
GREG H. BOWER

Ada County Prosecutor



Jonathan Roundy
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 20th Aug day of ~~July~~ 2013.



Magistrate

AUG 20 2013

CHRISTOPHER D. RICH, Clerk
By HEIDI MANLEY
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jonathan Roundy
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)
 _____)

Case No. **CR-FE-2013-0009451**

COMMITMENT

Defendant's DOB [REDACTED]
Defendant's SSN [REDACTED]

THE ABOVE NAMED DEFENDANT, LADONNA MARIE YOUMANS,
having been brought before this Court for a Preliminary Examination on the 20th day of
Aug, 2013, on a charge that the Defendant on or between the 15th day of April,
2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did commit the
crimes of: I. BURGLARY, FELONY, I.C. §18-1401, II. ATTEMPTED BURGLARY,
FELONY, I.C. §18-1401, 18-306, III. RESISTING AND/OR OBSTRUCTING AN

OFFICER, MISDEMEANOR, I.C. §18-705 and IV. POSSESSION OF A CONTROLLED SUBSTANCE, MISDEMEANOR, I.C. §37-2732(c) as follows:

COUNT I

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

COUNT II

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did attempt to enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft by trying the door knob to access the apartments.

COUNT III

That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did willfully resist, obstruct and/or delay a public officer, to-wit: Officer Paporello, in the discharge and/or attempt of a duty of his office, by entering her house and closing the door, resisting arrest, attempting to keep evidence from being discovered and/or struggling with Officer Paporello.

COUNT IV

That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Hydrocodone, a Schedule III controlled substance.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

WHEREFORE, IT IS ORDERED that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 25,000.

DATED this 20th day of Aug, 2013.



MAGISTRATE

152
AUG
9/19

NO. _____ FILED _____
A. _____ P.M. _____

AUG 22 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451

INFORMATION

Defendant's DOB: 
Defendant's SSN: 

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that LADONNA MARIE YOUMANS is accused by this Information of the crimes of: I. BURGLARY, FELONY, I.C. §18-1401, II. ATTEMPTED BURGLARY, FELONY, I.C. §18-1401, 18-306, III. RESISTING AND/OR OBSTRUCTING AN OFFICER, MISDEMEANOR, I.C. §18-705 and IV. POSSESSION OF A CONTROLLED SUBSTANCE, MISDEMEANOR, I.C. §37-2732(c), which crimes were committed as follows:

COUNT I

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

COUNT II

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COUNT IV

That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Hydrocodone, a Schedule III controlled substance.

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


for GREG H. BOWER
Ada County Prosecuting Attorney

Ada County Mugshot - Prosecutor's Office



User: PRLATICJ



Photo Taken: 2013-07-12 15:50:25

Name: YOUMANS, LADONNA MARIE

Case #: CR-FE-2013-0009451

LE Number: 623865

DOB: [REDACTED]

SSN: [REDACTED]

Height: 504

Weight: 140

Drivers License Number:

Drivers License State:

Sex: F Race: W Eye Color: BLU Hair Color: BLN Facial Hair:

Marks: ANKLE, RIGHT

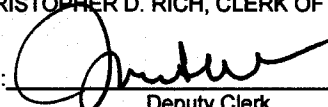
Scars:

Tattoos:

000061

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>12:06:18 PM</u>	Court	called ROLL CALL ST v KIMBERLY BAKER CRFE13-01631 ST v JEREMY BARBEE CRFE13-09811 ST v LUKE CROSS CRFE13-09469 ST v KELLY CARPENTIER CRFE05-01367 ST v LDONNA YOUNANS CRFE13-09451 ST v JEVON PETRICK CRFE11-17519ST v JACKSON FUREY CRFE13-06634 ST v JUSTIN HALL CRFE13-10063 ST v FRANCIS & JUSTIN MARCH CRFE13 ST v WAYNE MARSH CRFE10-03160 Court did Advice of Rights
<u>01:09:36 PM</u>	Court	called ST v LDONNA YOUNANS CRFE13-09451 . present on bond
<u>01:09:52 PM</u>	Joe Borton	defense counsel present earlier Court arraigning in his absence
<u>01:10:03 PM</u>	Joshua Haws	counsel for State
<u>01:10:20 PM</u>	Court	copy of information to defendant, Court advised of penalties that could be imposed
<u>01:11:35 PM</u>	Defendant	true name waive formal reading
<u>01:11:45 PM</u>	Court	at request of Mr. Borton set over to September 30, 2013 @ 900 a.m.
<u>01:12:18 PM</u>	End Case	

Time	Speaker	Note
09:25:49 AM	Court	called ST v Ldonna Youmans CRFE13-09451 , presnt on bond
09:26:05 AM	Joe Borton	counsel for defendant
09:26:11 AM	Tamera Kelly	counsel for State
09:26:17 AM	Joe Borton	enters not guilty plea
09:27:08 AM	Court	set jury trial on December 10 @ 9:00 a.m. and pretrial conf on Dec. 2 @ 3:00 p.m. Will look for prelim order quickly. Set discovery deadlines for October 25th and disp. motions by November 1st.
09:28:18 AM	End Case	

FILED
Tuesday, October 01, 2013 at 02:15 PM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: 
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

LDONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

**NOTICE OF JURY
TRIAL SETTING**

ADA COUNTY PROSECUTING ATTORNEY/TAMERA KELLY
INTER DEPT MAIL

JOSEPH BORTON
BORTON LAKEY LAW OFFICES
141 E CARLTON AVE
MERIDIAN ID 83642

THE HONORABLE THOMAS F. NEVILLE HAS SET THE ABOVE-ENTITLED
MATTER FOR TRIAL BEFORE THE COURT AND A JURY ON:

PRETRIAL CONFERENCE.....Monday, December 02, 2013 @ 03:00 PM
Judge: Thomas F. Neville

JURY TRIAL.....Tuesday, December 10, 2013 @ 09:00 AM
Judge: Thomas F. Neville

THE DEFENDANT SHALL BE PERSONALLY PRESENT AT THE PRETRIAL
CONFERENCE UNLESS EXCUSED BY THE COURT.

THE COURT SET DISCOVERY DEADLINES FOR: October 25, 2013

ALL DISPOSITIVE MOTIONS TO BE FILED BY: November 1, 2013

Proposed Jury Instructions shall be submitted at least five days prior to trial.

CHECK BULLETIN BOARD ON DAY OF TRIAL FOR COURTROOM NUMBER.

cc: Counsel/je

 NOTICE OF JURY TRIAL SETTING

RECEIVED

OCT 08 2013

ADA COUNTY CLERK

NO. _____ FILED 2:38
A.M. _____ P.M.

OCT 09 2013

CHRISTOPHER D. RICH, Clerk
By KARI MAXWELL
DEPUTY

182
PTC
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3p

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

Case No.: CR-FE-2013-0009451

ORDER FOR PRODUCTION OF
PRELIMINARY HEARING TRANSCRIPT

IT IS HEREBY ORDERED that the transcript for the Preliminary Hearing in the above captioned matter held on August 20, 2013 be prepared and produced to counsel for the parties within ~~_____ days from the date of this Order~~ *as soon as possible after payment is received.* *Jm*
DATED this 9th day of October, 2013.

Jm

Thom Neville

Honorable Thomas F. Neville
District Judge

KM

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of October, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702

- U.S. Mail
- Facsimile
- Overnight Mail
- Hand Delivery

Joseph W. Borton
BORTON-LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, ID 83642

- U.S. Mail
- Facsimile
- Overnight Mail
- Hand Delivery

Yvonne Maxwell
Deputy Clerk

182
PTC
12/2
31

NO. _____ FILED _____
A.M. _____ P.M. 4

OCT 11 2013

CHRISTOPHER O. RICH, Clerk
By RAE ANN NIXON
Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	
)	
vs.	)	Case No. CRFE-2013- 0009451
)	
LADONNA M. YOUMANS,	)	ESTIMATED COST OF
	)	TRANSCRIPT
Defendant.)	
_____)	

An Order for transcript was filed in the above-entitled matter on **October 9, 2013**, and a copy of said Order was received by the Transcription Department on **October 10, 2013**. I certify the estimated cost of preparation of the transcript to be:

Type of Hearing: Preliminary
Date of Hearing: August 20, 2013 Judge: Theresa Gardunia
99 Pages x \$3.25 = \$321.75 = 30 Day Preparation
99 Pages x \$3.75 = \$371.25 = 14 Day Expedited Preparation

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty-five (35) days (or expedited days) from the date payment is received. The transcriber may make application to the District Judge for an extension of time in which to prepare the transcript.

Please make checks payable to: **SUE WOLF** and mail or deliver to the **TRANSCRIPTION DEPARTMENT, 200 WEST FRONT STREET, ROOM 4172, BOISE, IDAHO, 83702.**

Dated this October 11, 2013.

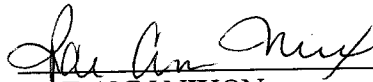


RAE ANN NIXON
Transcript Coordinator

CERTIFICATE OF MAILING

I certify that on October 11, 2013, a true and correct copy of the Estimated Cost of Transcript was forwarded to Defendant's attorney of record, by first class mail, at:

BORTON LACEY LAW OFFICES
141 E. CARLTON AVE.
MERIDIAN ID 83642



RAE ANN NIXON
Transcript Coordinator

182

NO. _____ FILED _____
A.M. _____ P.M. *220*

OCT 18 2013

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
_____)

Case No. CR-FE-2013-0009451
DISCOVERY
RESPONSE TO COURT

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

RESPECTFULLY SUBMITTED this 17 day of October 2013.

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly

Tamera Kelly
Deputy Prosecuting Attorney

SW

1582
12/2
3

NO. _____ FILED _____
A.M. _____ P.M. _____

OCT 18 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

CR-FE-2013-0009451

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

COMES NOW the Defendant LaDonna Marie Youmans, by and through her counsel of record, Joseph W. Borton of the firm BORTON LAKEY LAW OFFICES, and hereby provides supplemental responses to the State's Request for Discovery as follows:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

RESPONSE: See attached records nos. 0001-0024.

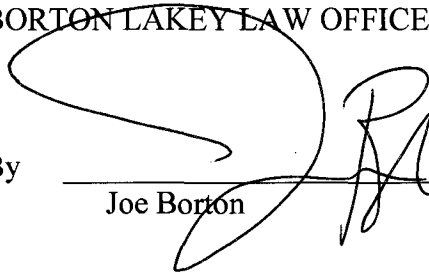
✓

DATED this 17th day of October, 2013.

BORTON LAKEY LAW OFFICES

By

Joe Borton



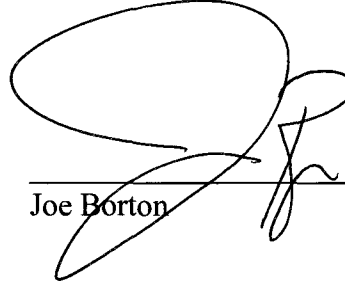
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of October, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery

Joe Borton





Youmans, Ladonna M

47 Y old Female, DOB: 10/19/1965
2107 Bryson Road, Boise, ID-83713
Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS
W/C IDAHO
PCP: McMillan St Als Medical Group
Appointment Facility: STATE SPECIALIST AB

06/19/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC EP back DOI 2-28-2013 MRI results, still the same

History of Present Illness

Work Comp Injury:

injury occurred at work Ladonna presents for follow up.

PHYSICIAN INFORMATION

Requesting: Martinez, Stephen C

PATIENT INFORMATION

Name: Youmans, Ladonna M

DOB: [REDACTED]

Sex: female

Tel: 208-571-7436

REPORT DETAILS

Procedure Name: MRI LUMBAR SPINE W/O
CONTRAST

Session Id: 592355

REPORT DATES

Order: 06/19/2013

Procedure: 06/19/2013 09:01:00

REPORT

Exam :Note

See Below For Report

See Below For Report

See Below For Report

06/19/20130901 EST

Report Status: Final

Ordering Provider: STEPHEN C MARTINEZ

PROCEDURE: MRI LUMBAR SPINE WITHOUT CONTRAST

COMPARISON: None.

INDICATIONS: Sprain of back. Low back, left hip and leg pain for 3 months.
Symptoms post lifting injury.

TECHNIQUE: Noncontrast sagittal and axial imaging was performed of the lumbar spine. Specific sequences and parameters are listed on DR system.

FINDINGS:

GENERAL COMMENTS: Normal vertebral body height, alignment and marrow signal. Visualized paraspinal and retroperitoneal structures are unremarkable.

CONUS MEDULLARIS: Normal in morphology and signal characteristics. Conus is not low-lying.

LUMBAR DISC LEVELS:

L1-L2: Normal for age.

L2-L3: Normal for age.
L3-L4: Normal for age.
L4-L5: Normal for age.
L5-S1: Mild disc degenerative changes with subtle broad-based disc bulge. No significant central spinal canal compromise. There is mild left foraminal stenosis.

OTHER: None.

CONCLUSION: Mild spondylotic changes involving the L5-S1 intervertebral joint. No significant central spinal canal compromise at any level. There is mild left foraminal stenosis at the L5-S1 level

Dictated by: Neil Davey, M.D. on 6/19/2013 at 9:01
Electronically Authenticated By: Neil Davey, M.D. on 6/19/2013 at 9:01
Gem State Radiology

She reports continued left low back pain. She states that her mid back has become sore recently. She states that robaxin was ineffective for her pain. Tramadol is only slightly helpful. No foot or toe numbness. No shooting pains to the legs. **To review - DOI: 1/30/13 was assisting a client with a transfer and the client's legs gave out suddenly causing acute onset of pain to the left low back area. Denies prior back injuries of significance. No radiographs performed in UC.**

Current Medications

-tramadol 50 mg tablet 1 tab(s) 3 times daily
Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset
codeine: rash, itchy

Vital Signs

Ht 64, Wt 149, BMI 25.57, BP 110/70, HR 72, RR 16, Pain 6, LMP Date hyst ylcuevas MA.

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Lower back:

PALPATION: left and right L4-L5 paraspinal tenderness, no CVA tenderness, no muscle spasm.

MOTOR SYSTEM: lumbar flexion/extension/rotation/bending all slightly restricted.

SENSORY EXAM: unremarkable.

GAIT: slight pain with weightbearing.

Assessments

1. SPRAIN OF BACK NOS - 847.9 (Primary)

Treatment

1. SPRAIN OF BACK NOS

Continue -tramadol tablet, 50 mg, 1 tab(s), orally, 3 times daily, as needed for pain, 40, Refills 0
ice, mod work, continue HEP, physiatry referral, this condition is deemed reasonably medically work related.
Please refer to the OMR form for work restrictions (if any) and follow up instructions. Please give OMR form to employer for review.

Referral To: Kevin Krafft Physical Medicine and Rehabilitation

Reason: sprain of back with DDD

Procedures

Medication Dispensed:

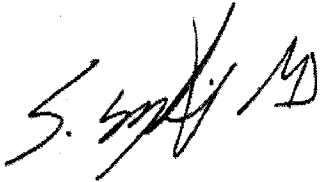
Dispensed by: Luna-Cuevas, Yolanda 6/19/2013 6:59:36 PM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent .

Medication verified: Ordering provider verified correct medication prior to it being dispensed (Tramadol 2 bottles).

Follow Up

Follow up with Specialist as referred.



Electronically signed by Stephen Martinez , MD on 06/21/2013 at 07:57 PM MDT

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DO [REDACTED] rogress Note: STEPHEN C. MARTINEZ, MD 06/19/2013

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOB [REDACTED]
2107 Bryson Road, Boise, ID-83713
Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS
W/C IDAHO
PCP: McMillan St Als Med Grp
Appointment Facility: STATE SPECIALIST AB

06/04/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC EP back pain isnt able to sleep and the tramadol is not working well

History of Present Illness

Work Comp Injury:

injury occurred at work Ladonna presents for follow up. She reports continued back pain and stiffness. MRI of the lumbar spine has not yet been authorized by the WC surety. No foot or toe numbness. She has not attended PT recently due to difficulty obtaining approval from the surety. **To review - DOI: 1/30/13 was assisting a client with a transfer and the client's legs gave out suddenly causing acute onset of pain to the left low back area. Denies prior back injuries of significance. No radiographs performed in UC.**

Current Medications

-tramadol 50 mg tablet 1 tab(s) 3 times daily
Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Surgical History

hysterectomy laps assisted total

Family History

No Family History documented.

Social History

Occupation: CNA.

Tobacco Use

Are you a: *current smoker*

How often do you smoke? *every day*

How many cigarettes a day do you smoke? *6-10*

How soon after you wake do you smoke your first cigarette? *6-30 min*

Are you interested in quitting? *Ready to quit*

Smoking: yes, years: ,determination:.

no Alcohol (beer, wine,spirits).

no Recreational drug use.

Allergies

ibuprofen: stomach upset

codeine: rash, itchy

Hospitalization/Major Diagnostic Procedure

No Hospitalization History.

Vital Signs

Ht 64, Wt 146.4, BMI 25.13, BP 116/70, HR 78, RR 16, O2 sat % 98, Pain 7/10, LMP Date hyst

Angie Valdez RMA.

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Lower back:

PALPATION: left L3-L5 paraspinal tenderness, left SI joint tenderness, no flank tenderness.

STRAIGHT LEG RAISING: positive at 90 degrees on right and left.

MOTOR SYSTEM: lumbar flexion/extension/rotation/bending all slightly restricted.

SENSORY EXAM: unremarkable.

GAIT: no pain with weightbearing.

Assessments

1. SPRAIN OF BACK NOS - 847.9 (Primary)

Treatment

1. SPRAIN OF BACK NOS

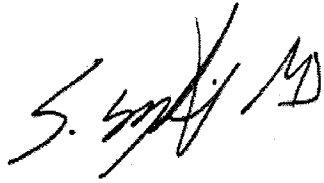
Stop -tramadol tablet, 50 mg, 1 tab(s), orally, 3 times daily, as needed for pain, 40

Start Robaxin tablet, 500 mg, 2 tab(s), orally, TID prn pain or spasms, 40

ice, mod work, continue HEP, MRI referral pending surety approval. Advised to discontinue soma. IPMP search suggests Ladonna is taking soma currently - which she denies. This condition is deemed reasonably medically work related. Please refer to the OMR form for work restrictions (if any) and follow up instructions. Please give OMR form to employer for review.

Follow Up

Follow up after MRI exam



Electronically signed by Stephen Martinez , MD on 06/10/2013 at 07:55 PM MDT

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DO [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 06/04/2013

Note generated by [REDACTED] R/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOB [REDACTED]

2107 Bryson Road, Boise, ID [REDACTED]

Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS

W/C IDAHO

PCP: McMillan St Als Med Grp

Appointment Facility: STATE SPECIALIST AB

04/22/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC EP Back DOI 1-30-13 not improving

History of Present Illness

Work Comp Injury:

injury occurred at work Ladonna presents for follow up. She reports continued left low back pain and stiffness. She reports that continued difficulties with surety authorization of PT has precluded her from participating in physical therapy regularly. She noted low back discomfort with prolonged standing and walking. No foot or toe numbness. Occasional shooting pains to the left leg. **To review - DOI: 1/30/13 was assisting a client with a transfer and the client's legs gave out suddenly causing acute onset of pain to the left low back area. Denies prior back injuries of significance. No radiographs performed in UC.**

Current Medications

-Norco (generic) 325/10 325 mg-10 mg tablet 1 tab(s) TID prn pain. May cause drowsiness

Tylenol Caplet Extra Strength 500 mg tablet 2 tab(s) every 6 hours

Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset

codeine: rash, itchy

Vital Signs

Ht 64, Wt 147, BMI 25.23, BP 110/70, HR 76, RR 16, Pain 6, LMP Date hyst

ylcuevas MA.

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Lower back:

PALPATION: left L4-L5 paraspinal tenderness, left SI joint tenderness, no CVA tenderness, no muscle spasm.

STRAIGHT LEG RAISING: positive at 60 degrees on right and left.

MOTOR SYSTEM: lumbar flexion/extension/rotation/bending all slightly restricted.

SENSORY EXAM: unremarkable.

GAIT: no pain with weightbearing.

Assessments

1. SPRAIN OF BACK NOS - 847.9 (Primary)

Treatment

1. SPRAIN OF BACK NOS

Stop -Norco (generic) 325/10 tab, 1-2 tab(s), orally, at bedtime as needed for pain. May cause drowsiness, 20

Continue -tramadol tablet, 50 mg, 1 tab(s), orally, 3 times daily, as needed for pain, 40, Refills 0

Diagnostic Imaging: MRI LUMBAR SPINE

ice, mod work, continue HEP, MRI referral, this condition is deemed reasonably medically work related. Please

Patient: Youmans, Ladonna M DOB [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 04/22/2013

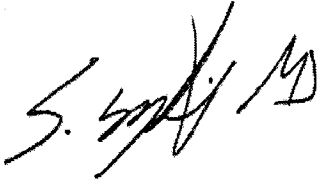
Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

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Defendant0006

refer to the OMR form for work restrictions (if any) and follow up instructions. Please give OMR form to employer for review.

Follow Up

Follow up after MRI exam



Electronically signed by Stephen Martinez , MD on 04/29/2013 at 09:36 PM MDT

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DO [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 04/22/2013

Note generated by eClinicalworks EMR/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOB [REDACTED]
2107 Bryson Road, Boise, ID-83713
Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS
W/C IDAHO

PCP: McMillan St Als Med Grp
Appointment Facility: STATE SPECIALIST AB

04/22/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

- 1. WC EP left knee DOI 2-28-13 improving

History of Present Illness

Work Comp Injury:

injury occurred at work Ladonna presents for follow up. She reports that her left knee pain and stiffness have improved. Still with slight left knee discomfort from time to time. No redness. No swelling. She feels better able to stand and walk on the left knee. **To review - DOI: 2/28/13 suffered injury to the left knee while on the job. She was cleaning a client's home and dusting. She attempted to stand up quickly. Unfortunately, her left leg was caught under the frame of the client's bed and as she stood up quickly, she twisted the left knee forcefully. She developed acute onset of severe left knee pain and swelling. She was seen on DOI in ER and xrays of the left knee negative. (ER records reviewed).**

Current Medications

None

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset
codeine: rash, itchy

Vital Signs

BP 110/70, HR 76, RR 16, Pain 3
ylcuevas MA.

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Knee / Shin:

INSPECTION: left knee: faint medial knee ecchymosis again noted, no erythema, no scars from previous knee surgery.

RANGE OF MOTION: Extension =0, flexion =110; gait normal, squat cautious.

CREPITUS: none.

PALPATION: pos medial JLT, neg lateral JLT, MCL and LCL with tenderness, no popliteal fossa tenderness.

COLLATERAL LIGAMENTS: no pain with valgus and varus stress, no laxity with valgus or varus stress.

MCMURRAY: positive.

PATELLOFEMORAL JOINT: no crepitations, negative apprehension sign.

Assessments

- 1. Sprain of knee NOS - 844.9 (Primary), L

Treatment

1. Sprain of knee NOS

Stop -Norco (generic) 325/10 tablet, 325 mg-10 mg, 1 tab(s), orally, TID prn pain. May cause drowsiness, 20
Continue tramadol tablet, 50 mg, 1 tab(s), orally, TID prn pain, 40
ice, mod work, PT referral, HEP, this injury is deemed (on a more probable than not basis) work related. Please

give Occupational Medicine Report (OMR) form to employer for review. Please complete OMR form for work restrictions (if any). Medications dispensed in clinic: the patient was counseled (verbally or in written form) regarding the indications for use, benefits, common risks, common side effects of the medication(s). The patient chose to receive medication at the point of care.

Referral To: Meridian St Lukes Elks Rehab Physical Therapy

Reason: sprain L knee

2. Others

Stop -Norco (generic) 325/10 tablet, 325 mg-10 mg, 1 tab(s), orally, TID prn pain. May cause drowsiness

Procedures

Medication Dispensed:

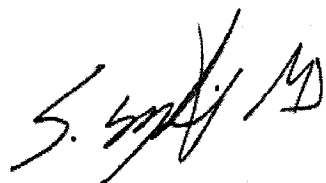
Dispensed by: Luna-Cuevas, Yolanda 4/22/2013 4:05:55 PM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent .

Medication verified: Ordering provider verified correct medication prior to it being dispensed (Tramadol 2 bottles).

Follow Up

3 Weeks



Electronically signed by Stephen Martinez , MD on 04/29/2013 at 09:36 PM MDT

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DOB [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 04/22/2013

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOI [REDACTED]
2107 Bryson Road, Boise, ID-83713
Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS

W/C IDAHO

PCP: McMillan St Als Med Grp

Appointment Facility: STATE SPECIALIST AB

04/01/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC EP Back DOI 1/30/13, no improvement

History of Present Illness

Work Comp Injury:

injury occurred at work Ladonna presents for follow up. She reports continued left low back pain and stiffness. No foot or toe numbness. She has attended just 2x PT sessions to date. She reports that the surety does not have a NOI on file so she has not attended PT as the surety is not aware of her WC claim. She reports stiffness to the left low back area. **To review - DOI: 1/30/13 was assisting a client with a transfer and the client's legs gave out suddenly causing acute onset of pain to the left low back area. Denies prior back injuries of significance. No radiographs performed in UC.**

Current Medications

-Norco (generic) 325/10 325 mg-10 mg tablet 1 tab(s) TID prn pain. May cause drowsiness

Soma 350 mg tablet 1 tab(s) 4 times a day

Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset

codeine: rash, itchy

Vital Signs

Ht 64, Wt 147, BMI 25.23, BP 136/80, HR 88, RR 14, Pain 6/10, LMP Date hyst

Maria M Gonzalez, LPN.

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Lower back:

PALPATION: no vertebral spine tenderness, left L4-L5 paraspinal tenderness, left SI joint tenderness, no CVA tenderness, no muscle spasm.

STRAIGHT LEG RAISING: positive at 60 degrees on right and left.

MOTOR SYSTEM: lumbar flexion/extension/rotation/bending all slightly limited by pain.

SENSORY EXAM: unremarkable.

GAIT: no pain with weightbearing.

Assessments

1. SPRAIN OF BACK NOS - 847.9 (Primary)

Treatment

1. SPRAIN OF BACK NOS

Continue -Norco (generic) 325/10 tab, 1-2 tab(s), orally, at bedtime as needed for pain. May cause drowsiness, 20, Refills 0

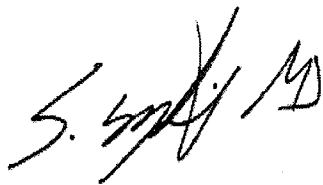
Continue -tramadol tablet, 50 mg, 1 tab(s), orally, 3 times daily, as needed for pain, Refills 0

ice, mod work, PT referral (compliance encouraged), continue HEP, this condition is deemed reasonably medically

work related. Please refer to the OMR form for work restrictions (if any) and follow up instructions. Please give OMR form to employer for review.

Follow Up

3 Weeks



Electronically signed by Stephen Martinez , MD on 04/03/2013 at 07:51 PM MDT

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DOB: [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 04/01/2013

Note generated by [REDACTED] R/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOB: [REDACTED]
2107 Bryson Road, Boise

Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS

W/C IDAHO

PCP: McMillan St Als Med Grp

Appointment Facility: STATE SPECIALIST AB

04/01/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC EP L Knee

History of Present Illness

Work Comp Injury:

injury occurred at work Ladonna presents for follow up. She reports interval improvement to her left knee pain and stiffness. No swelling or redness. She reports some discomfort with bending activities. She has been icing her left knee as directed. **To review - DOI: 2/28/13 suffered injury to the left knee while on the job. She was cleaning a client's home and dusting. She attempted to stand up quickly. Unfortunately, her left leg was caught under the frame of the client's bed and as she stood up quickly, she twisted the left knee forcefully. She developed acute onset of severe left knee pain and swelling. She was seen on DOI in ER and xrays of the left knee negative. (ER records reviewed).**

Current Medications

None

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset
codeine: rash, itchy

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Knee / Shin:

INSPECTION: left knee: faint medial knee ecchymosis noted, no erythema, no scars from previous knee surgery.

RANGE OF MOTION: Extension =0, flexion =40; gait antalgic.

CREPITUS: none.

PALPATION: pos medial JLT, pos lateral JLT, MCL and LCL with tenderness, no popliteal fossa tenderness.

COLLATERAL LIGAMENTS: no pain with valgus and varus stress, no laxity with valgus or varus stress.

MCMURRAY: positive.

Assessments

1. Sprain of knee NOS - 844.9 (Primary), L

Treatment

1. Sprain of knee NOS

Continue -Norco (generic) 325/10 tablet, 325 mg-10 mg, 1 tab(s), orally, TID prn pain. May cause drowsiness, 20 ice, mod work, discontinue knee immobilizer, crutches as needed for comfort, this injury is deemed (on a more probable than not basis) work related. Please give Occupational Medicine Report (OMR) form to employer for review. Please see OMR form for work restrictions (if any). Medications dispensed in clinic: the patient was counseled (verbally or in written form) regarding the indications for use, benefits, common risks, common side effects of the medication(s). The patient chose to receive medication at the point of care.

Procedures

Medication Dispensed:

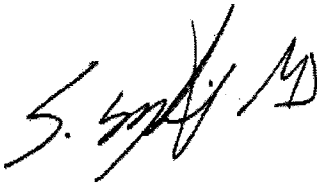
Dispensed by: Luna-Cuevas, Yolanda 4/1/2013 3:26:58 PM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent .

Medication verified: Ordering provider verified correct medication prior to it being dispensed (Norco).

Follow Up

3 Weeks



Electronically signed by Stephen Martinez , MD on 04/03/2013 at 07:51 PM MDT

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DOB: [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 04/01/2013

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOB: [REDACTED]
2107 Bryson Road, Boise, ID-83713
Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS
W/C IDAHO
PCP: McMillan St Als Med Grp
Appointment Facility: STATE STREET UC

03/20/2013

Progress Note: Becky J. Wells, PA

Reason for Appointment

- 1. WC Back Pain
- 2. Missed Appt with Dr Martinez on 3-18-2013. Instructed to come to UC. pain is about the same.

History of Present Illness

Note:

47 year old female presents with c/o General Note: See previous WC notes for LBP and LT knee injuries. Pt has cancelled last 2 appts with Dr Martinez. Continuing to have pain per pt. Has appt with Dr Martinez on 4-1-13. No new sx's per pt. , Onset: injury, work related, Severity: moderate, Relieved by: Norco.

Current Medications

None

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset
codeine: rash, itchy

Review of Systems

*Multisystem ROS by System:

CONSTITUTIONAL normal. RESPIRATORY normal. CVS normal. GI normal. MUSCULOSKELETAL **pertinent positives- c/o,** back pain, left knee pain. NEURO/PSYCH normal.

Vital Signs

Ht 64, Wt 146, BMI 25.06, BP 137/81, HR 90, RR 20, Temp 97.5, O2 sat % 98
j smith ma.

Examination

Lower back:

- INSPECTION: normal curvature of spine.
- PALPATION: no vertebral spine tenderness, left and right L4-L5 paraspinal tenderness, left SI joint tenderness, no CVA tenderness, no muscle spasm.
- STRAIGHT LEG RAISING: 90 degrees bilaterally.
- MOTOR SYSTEM: lumbar flexion/extension/rotation/bending all slightly limited by pain.
- SENSORY EXAM: normal exam .
- REFLEXES: bilaterally symmetrical.
- GAIT: no pain with weightbearing.

Knee / Shin:

- INSPECTION: left knee: faint medial knee ecchymosis noted, no erythema, no scars from previous knee surgery.
- RANGE OF MOTION: , FROM but with pain, left.
- CREPITUS: none.
- PALPATION: tenderness on medial jointline, left.
- COLLATERAL LIGAMENTS: no pain with valgus and varus stress, no laxity with valgus or varus stress.
- MCMURRAY: positive.

Assessments

1. Sprain of knee NOS - 844.9 (Primary), L
2. SPRAIN OF BACK NOS - 847.9 (Primary)

Treatment**1. Sprain of knee NOS**

Continue -Norco (generic) 325/10 tablet, 325 mg-10 mg, 1 tab(s), orally, TID prn pain. May cause drowsiness, 21
This injury is deemed (on a more probable than not basis) work related. Please give Occupational Medicine Report (OMR) form to employer for review. Please see OMR form for work restrictions (if any). Medications dispensed in clinic: the patient was counseled (verbally or in written form) regarding the indications for use, benefits, common risks, common side effects of the medication(s). The patient chose to receive medication at the point of care. , Patient was advised to not operate machinery or drive while taking the prescribed medication., ID verification for controlled substances completed and confirmed., An electronic board of pharmacy report was accessed and reviewed on this patient. , All questions answered to parents/patient's satisfaction. Parent/patient verbalized understanding of aftercare and agrees with plan.

2. SPRAIN OF BACK NOS

as above.

ProceduresMedication Dispensed:

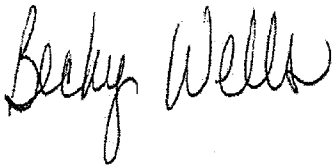
Dispensed by: Amani, Jessica 3/20/2013 12:31:55 PM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent
Dispensed hydrocodone bit/acetaminophen 10mg/25mg tab 20.

Medication verified: Ordering provider verified correct medication prior to it being dispensed. Verified by Becky Wells..

Follow Up

Follow up with Specialist as referred.



Electronically signed by Becky Wells , PA on 03/29/2013 at 11:07 AM MDT

Sign off status: Completed

STATE STREET UC
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-344-7799
Fax: 208-344-7152

Patient: Youmans, Ladonna M DOB [REDACTED] Press Note: Becky J. Wells, PA 03/20/2013

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

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Youmans, Ladonna M

47 Y old Female, DOB [REDACTED]

2107 Bryson Rd, Boise, ID [REDACTED]

Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS

W/C IDAHO

PCP: McMillan St Als Med Grp

Appointment Facility: STATE SPECIALIST AB

03/04/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC NTU Lt. Knee DOI 2-28-2013 calf and foot, under bed, twig knee, painful

History of Present Illness

Work Comp Injury:

injury occurred at work DOI: 2/28/13 suffered injury to the left knee while on the job. She was cleaning a client's home and dusting. She attempted to stand up quickly. Unfortunately, her left leg was caught under the frame of the client's bed and as she stood up quickly, she twisted the left knee forcefully. She developed acute onset of severe left knee pain and swelling. She was seen on DOI in ER and xrays of the left knee negative. (ER records reviewed). She reports continued left knee pain and bruising. Swelling has improved somewhat. She reports that she had a left knee injury at age 17, but that her left knee has felt well for the past 30 years leading up to the DOI. She is tolerating norco for pain. She is using crutches for ambulation. No SOB.

Current Medications

-tramadol 50 mg tablet 1 tab(s) 3 times daily

Vitamin C tablet 1 tab(s) once a day

-Norco (generic) 325/10 tab 1-2 tab(s) at bedtime as needed for pain. May cause drowsiness

hormone therapy as directed

Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset

codeine: rash, itchy

Vital Signs

Ht 64, Wt crutches, BP 140/80, HR 76, RR 16, Pain 6, LMP Date hyst ylcuevas MA.

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Knee / Shin:

INSPECTION: left knee: faint medial knee ecchymosis noted, no erythema, no scars from previous knee surgery.

RANGE OF MOTION: Extension =0, flexion =40; gait antalgic.

CREPITUS: none.

PALPATION: pos medial JLT, pos lateral JLT, MCL and LCL with tenderness, no popliteal fossa tenderness.

COLLATERAL LIGAMENTS: no pain with valgus and varus stress, no laxity with valgus or varus stress.

MCMURRAY: positive.

Assessments

1. Sprain of knee NOS - 844.9 (Primary), L

Treatment

1. Sprain of knee NOS

Continue -Norco (generic) 325/10 tablet, 325 mg-10 mg, 1 tab(s), orally, TID prn pain. May cause drowsiness, 20

ice, mod work, discontinue knee immobilizer, crutches as needed for comfort, injury is deemed (on a more probable than not basis) work related. Please give Occupational Medicine Report (OMR) form to employer for review. Please see OMR form for work restrictions (if any). Medications dispensed in clinic: the patient was counseled (verbally or in written form) regarding the indications for use, benefits, common risks, common side effects of the medication(s). The patient chose to receive medication at the point of care.

Procedures

Medication Dispensed:

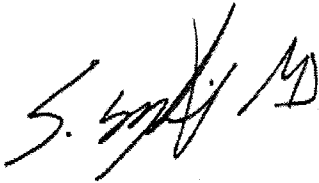
Dispensed by: Luna-Cuevas, Yolanda 3/4/2013 5:41:17 PM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent .

Medication verified: Ordering provider verified correct medication prior to it being dispensed (Norco).

Follow Up

2 Weeks



Electronically signed by Stephen Martinez , MD on 03/08/2013 at 01:15 PM MST

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DC [REDACTED] Press Note: STEPHEN C. MARTINEZ, MD 03/04/2013

Note generated by [REDACTED] M Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOI [REDACTED]
2107 Bryson Rd, Boise, ID 83725
Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS
W/C IDAHO
PCP: McMillan St Als Med Grp
Appointment Facility: STATE SPECIALIST AB

02/20/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC EP back DOI 1-30-13, no improvement

History of Present Illness

Work Comp Injury:

injury occurred at work Ladonna presents for follow up. She reports continued left low back pain and stiffness. No foot or toe numbness. She reports pain with bending, twisting, and heavy lifting activities. She takes norco for pain at bedtime. **To review - DOI: 1/30/13 was assisting a client with a transfer and the client's legs gave out suddenly causing acute onset of pain to the left low back area. Denies prior back injuries of significance. No radiographs performed in UC.**

Current Medications

hormone therapy as directed

-Norco (generic) 325/10 tab 1-2 tab(s) at bedtime as needed for pain. May cause drowsiness

-Flexeril 10 mg tablet 1 tab(s) 3 times a day

Tylenol 325 mg tablet 2 tab(s) every 4 hours

Vitamin C tablet 1 tab(s) once a day

Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset

codeine: rash, itchy

Vital Signs

Ht 64, Wt 142, BMI 24.37, BP 110/70, HR 70, RR 14, Pain 5/10, LMP Date hyst

Maria M Gonzalez, LPN .

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Lower back:

INSPECTION: normal curvature of spine.

PALPATION: no vertebral spine tenderness, left and right L4-L5 paraspinal tenderness, left SI joint tenderness, no CVA tenderness, no muscle spasm.

STRAIGHT LEG RAISING: positive at 60 degrees on right and left.

MOTOR SYSTEM: lumbar flexion/extension/rotation/bending all slightly limited by pain.

SENSORY EXAM: normal exam .

GAIT: no pain with weightbearing.

Assessments

1. SPRAIN OF BACK NOS - 847.9 (Primary)

Treatment

1. SPRAIN OF BACK NOS

Stop Tylenol tablet, 325 mg, 2 tab(s), orally, every 4 hours

Stop -Flexeril tablet, 10 mg, 1 tab(s), orally, 3 times a day, as needed for spasms. May cause drowsiness, 21

Continue -Norco (generic) 325/100 tab, 1-2 tab(s), orally, at bedtime as needed for pain. May cause drowsiness, 20,
Refills 0

Start -tramadol tablet, 50 mg, 1 tab(s), orally, 3 times daily, as needed for pain, 40, Refills 0

ice, mod work, PT referral, HEP, discussed risks of tramadol lowering seizure threshold and its interaction with opiates with patient. She understands drug warnings and accepts risks due to her back pain. This condition is deemed reasonably medically work related. Please refer to the OMR form for work restrictions (if any) and follow up instructions. Please give OMR form to employer for review.

Referral To: Meridian St Lukes Elks Rehab Physical Therapy

Reason: sprain of back

Procedures

Medication Dispensed:

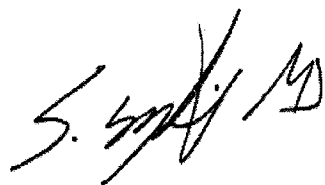
Dispensed by: Luna-Cuevas, Yolanda 2/20/2013 1:49:03 PM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent .

Medication verified: Ordering provider verified correct medication prior to it being dispensed (Norco, Tramadol 2 bottles).

Follow Up

3 Weeks



Electronically signed by Stephen Martinez , MD on 03/01/2013 at 04:26 PM MST

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DO [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 02/20/2013

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DO [REDACTED]
2107 Bryson Rd, Boise, ID 83713
Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS
W/C IDAHO
PCP: McMillan St Als Med Grp
Appointment Facility: STATE SPECIALIST AB

02/07/2013

Progress Note: STEPHEN C. MARTINEZ, MD

Reason for Appointment

1. WC NTU back DOI: 1-30-13 transferring a client, both legs tingley, sharp pain

History of Present Illness

Work Comp Injury:

injury occurred at work DOI: 1/30/13 was assisting a client with a transfer and the client's legs gave out suddenly causing acute onset of pain to the left low back area. No numbness to the feet or toes, but tingling to the right and left thigh. Denies prior back injuries of significance. She reports that norco helps, but she is having to take two tabs at bedtime for relief. Tramadol was ineffective. No urinary difficulties. No radiographs performed in UC.

Current Medications

hormone therapy as directed
Vitamin C tablet 1 tab(s) once a day
-Norco (generic) 325/5 325 mg-5 mg tablet 1 tablet q hs
Tylenol 325 mg tablet 2 tab(s) every 4 hours
Ultram 50 mg tablet 1 tab(s) Q4-6H prn for pain
Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset
codeine: rash, itchy

Vital Signs

Ht 64, Wt 144, BMI 24.71, BP 110/70, HR 76, RR 16, Temp 98.0, O2 sat % 96, Pain 5, LMP Date hyst ylcuevas MA.

Examination

Brief Exam:

GENERAL APPEARANCE: NAD, well nourished.

Lower back:

INSPECTION: normal curvature of spine.

PALPATION: no vertebral spine tenderness, left and right L1-L5 paraspinal tenderness, positive bilateral SI joint tenderness, no CVA tenderness, no muscle spasm.

STRAIGHT LEG RAISING: positive at 60 degrees on right and left.

MOTOR SYSTEM: lumbar flexion/extension/rotation/bending all moderately limited by pain.

SENSORY EXAM: normal exam .

GAIT: slight pain with weightbearing, antalgic gait.

Assessments

1. SPRAIN OF BACK NOS - 847.9 (Primary)

Treatment

1. SPRAIN OF BACK NOS

Stop -Norco (generic) 325/5 tablet, 325 mg-5 mg, 1 tablet, orally, q hs
Continue Tylenol tablet, 325 mg, 2 tab(s), orally, every 4 hours

Stop Ultram tablet, 50 mg, 1 tab(), orally, Q4-6H prn for pain
Start -Flexeril tablet, 10 mg, 1 tab(), orally, 3 times a day, as needed for spasms. May cause drowsiness, 21
Start -Norco (generic) 325/10 tab, 1-2 tab(s), orally, at bedtime as needed for pain. May cause drowsiness, 20,
Refills 0
ice, mod work, this condition is deemed reasonably medically work related. Please refer to the OMR form for work
restrictions (if any) and follow up instructions. Please give OMR form to employer for review.

Procedures

Medication Dispensed:

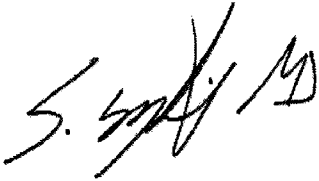
Dispensed by: Luna-Cuevas, Yolanda 2/7/2013 10:42:03 AM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent .

Medication verified: Ordering provider verified correct medication prior to it being dispensed (Norco, Flexeril).

Follow Up

2 Weeks



Electronically signed by Stephen Martinez , MD on 02/15/2013 at 07:47 AM MST

Sign off status: Completed

STATE SPECIALIST AB
6052 W STATE ST
BOISE, ID 837032739
Tel: 208-947-1947
Fax: 208-947-1945

Patient: Youmans, Ladonna M DO [REDACTED] Progress Note: STEPHEN C. MARTINEZ, MD 02/07/2013

Note generated [REDACTED] R/PM Software (www.eClinicalWorks.com)



Youmans, Ladonna M

47 Y old Female, DOB [REDACTED]
2107 Bryson Road, Boise

Home: 208-571-7436

Guarantor: Youmans, Ladonna M Insurance: TRAVELERS

W/C IDAHO

PCP: McMillan St Als Med Grp

Appointment Facility: WEST BOISE UC

02/04/2013

Progress Note: Jenna L. Maffey, PA-C

Reason for Appointment

1. WC Lower back and left hip pain since lifting injury at work 5 days ago.

History of Present Illness

Lower back:

47 year old female presents with c/o Low back pain DOI: 1/28/13 or 1/29/13 Pt states she was trying to transfer a client from a wheelchair to his chair when his legs gave out and she had to hold all his weight until she could get him down into his seat. She felt pain in her lower back and left hip at the time of injury. Pain has not gotten any better over the last week. She states that it is difficult for her to sleep because she cannot get comfortable. Pt denies LE weakness. .

c/o Radiation of pain to lateral hip, to lower left leg.

c/o Tingling/numbness tingling down her buttocks to her left outter thigh.

c/o Range of motion limited secondary to pain.

c/o current medications tylenol, making her sick to her stomach. Pt is allergic to NSAIDs. .

Denies : Fall.

Direct trauma.

Previous injury.

Previous surgery.

Previous therapy.

Previous imaging.

Bowel and bladder incontinence.

Fever.

Previous back problems.

Chronic pain meds.

Current Medications

Vitamin C tablet 1 tab(s) once a day

hormone therapy as directed

Tylenol 325 mg tablet 2 tab(s) every 4 hours

Medication List reviewed and reconciled with the patient

Past Medical History

Fibromyalgia

Allergies

ibuprofen: stomach upset

codeine: rash, itchy

Vital Signs

Ht 64, Wt 144, BMI 24.71, BP 109/74, HR 80, RR 20, Temp 98.2, O2 sat % 99, Pain 6, LMP Date hyst MLaw/RT.

Examination

Brief Exam:

GENERAL APPEARANCE: no acute distress.

**NEUROLOGIC EXAM: alert and oriented x 3, non-focal exam, motor strength - 5/5 upper and lower extremities, DTR's 2+ bilaterally and symmetric, normal sensation, gait normal.

Lower back:

Patient: Youmans, Ladonna M DOB [REDACTED]

Note generated by eC

Progress Note: Jenna L. Maffey, PA-C 02/04/2013

Software (www.eClinicalWorks.com)

000093Defendant0022

INSPECTION: normal curvature of spine, no visible edema, no visible spasms.
PALPATION: no vertebral spine tenderness, paraspinal tenderness worse on the left. Left SI joint tenderness, no CVA tenderness, no muscle spasm.
STRAIGHT LEG RAISING: negative bilaterally.
MOTOR SYSTEM: normal strength in the lumbar region, normal in feet, toes and legs.
SENSORY EXAM: normal bilateral LE, normal soft touch.
REFLEXES: bilaterally symmetrical.
GAIT: no pain with weightbearing.

Assessments

1. Back sprain, NOS - 847.9 (Primary), left lower

Treatment

1. Back sprain, NOS

Start Ultram tablet, 50 mg, 1 tab(s), orally, Q4-6H prn for pain, 20, Refills 0
Start -Norco (generic) 325/5 tablet, 325 mg-5 mg, 1 tablet, orally, q hs, 12, Refills 0
Apply an ice pack to the area regularly, rest, avoid heavy lifting. Stay active. Gentle stretching. Avoid aggravating activity. Bed rest is not recommended. Medication use was reviewed with patient/parent. Pt refused flexeril, norco for severe pain at night, not to be used at work. Pt is allergic to NSAIDs, will give Ultram. Medication ordered was dispensed to patient in clinic with instructions regarding its use, risks, benefits and side effects as well as any warnings to avoid driving or operating machinery if given a substance that could alter their judgement. , This injury is deemed reasonably work related. A copy of the OMR was given to the patient. The patient was instructed to give the OMR to his/her employer. A referral to Occupational Medicine was completed today. Follow up with Dr. Martinez for a recheck and ongoing management. If inner thigh numbness or urinary incontinence develops, go to ER immediately.,.

Referral To: Stephen Martinez Family Practice
Reason: lower back sprain,

Procedures

Medication Dispensed:

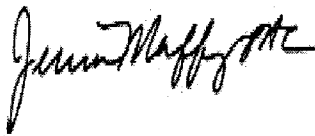
Dispensed by: Cassens, Angela M 2/4/2013 6:58:10 PM > .

Program/Medication Information: Vantage program, medication information sheet given to patient/parent
Norco 5/325 mg acetamenophin count 20, Ultram count 20, 50 mg.

Medication verified: Second staff member verified correct medication, dosage and instructions prior to the medication being dispensed to the correct patient. .

Follow Up

with Occ med



Electronically signed by Jenna Maffey, PA-C on 04/28/2013 at 08:19 AM MDT

Sign off status: Completed

WEST BOISE UC

Patient: Youmans, Ladonna M DO [REDACTED] Press Note: Jenna L. Maffey, PA-C 02/04/2013

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

000094 Defendant0023

11197 W FAIRVIEW AVE
BOISE, ID 837137935
Tel: 208-378-8011
Fax: 208-322-8095

Patient: Youmans, Ladonna M DC [REDACTED] Progress Note: Jenna L. Maffey, PA-C 02/04/2013

Note generated by [REDACTED] PM Software (www.eClinicalWorks.com)

182
PTC
12/2
3/2

NO. _____ FILED _____
A.M. _____ P.M. 4:40

OCT 21 2013

CHRISTOPHER D. RICH, Clerk
By RAE ANN NIXON
DEPUTY

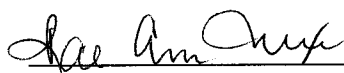
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CRFE-2013- 0009451
)	
vs.	)	NOTICE OF PAYMENT OF
	)	ESTIMATED COST OF
	)	PRELIMINARY HEARING
LADONNA M. YOUMANS,	)	TRANSCRIPT
)	
Defendant.)	
_____)	

I hereby certify that the estimated cost of transcript in the above-entitled matter has been paid to the court on October 21, 2013.

Said transcript will be filed with the Clerk of the District Court on or before thirty (30) days (or expedited days) from date of this notice.

Dated October 21, 2013.



RAE ANN NIXON
Ada County Transcript Coordinator

NOTICE OF PAYMENT OF ESTIMATED COST OF TRANSCRIPT



000096

192
PTC
12/12
3:00

NO. _____ FILED _____
A.M. _____ P.M. 2

OCT 25 2013

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
_____)

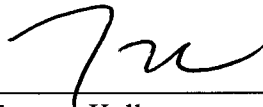
Case No. CR-FE-2013-0009451

**ADDENDUM TO DISCOVERY
RESPONSE TO COURT**

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted an Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 25 day of October 2013.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

u

157
12/2
3

NO. _____
A.M. _____ P.M. _____

4

OCT 31 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451
MOTION FOR LEAVE TO
AMEND INFORMATION

COMES NOW, Tamera Kelly, Ada County Deputy Prosecuting Attorney, and moves the court for an order pursuant to I.C.R. 7(e) allowing the State to amend the Information filed and identified by the Ada County Clerk as CRFE2013-0009451, State v. Youmans. Specifically, the State moves to amend the conduct language in Count I. An Information was filed on August 22, 2013 charging the Defendant with crimes of: I. Burglary, Felony, I.C. §18-1401, II. Attempted Burglary, Felony, I.C. §18-1401, 18-306, III. Resisting and Obstructing an Officer, Misdemeanor, I.C. §18-705, and IV. Possession of a Controlled Substance, Misdemeanor, I.C. §37-2732(c).

In the Information filed on August 22, 2013, Count I read as follows:

✓

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

The State moves to amend Count I as follows:

That the Defendant, LADONNA MARIE YOUMANS, on or between the 8th day of May, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: an apartment, the property of the Clarence Sateren a resident of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

DATED this 31 day of October 2013.

Greg H. Bower
Ada County Prosecuting Attorney



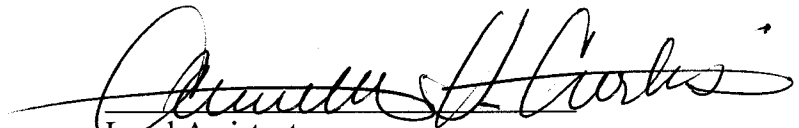
By: Tamera Kelly
Ada County Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October 2013, I caused to be served, a true and correct copy of the foregoing Motion for Leave to Amend Information upon the individual(s) named below in the manner noted:

Name and address: **Joseph W. Borton, Attorney at Law, 717 E. Carlton Avenue, Meridian, ID 83642.**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By Hand Delivering said document to defense counsel.
- By emailing a copy of said document to defense counsel.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

NO. _____
AM. _____ FILED _____ P.M. _____

4

OCT 31 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)
 _____)

Case No. CR-FE-2013-0009451

**NOTICE AND MEMORANDUM
IN SUPPORT OF
404(b) EVIDENCE**

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney for Ada County, State of Idaho, and makes the following declaration: The State intends to introduce evidence at trial of prior bad acts by Defendant pursuant to Rule of Evidence 404(b). This evidence will relate to (1) the Defendant's drug-seeking behavior that occurred in March 2013, and (2) the Defendant and her behaviors while inside of the Garden Plaza of Valley View on April 15, April 18, May 6, May 8, May 14, and May 15, 2013. This evidence is both substantive evidence of the charged conduct and acts prior to the charged conduct that may be considered prior bad acts.

The State, in an abundance of caution, includes the conduct in its Notice and Memorandum to give Notice to the Defendant that the State seeks to admit such evidence at trial.

The State intends to present the evidence regarding Defendant's prior conduct in the form of witness testimony and inquiring on cross-examination if given the opportunity. The State intends to introduce such evidence under the authority of Idaho Rules of Evidence 404(b) for the purpose of proving intent and/or common scheme or plan.

I. FACTUAL BACKGROUND

The Information, filed on August 22, 2013, charges the Defendant with felony crimes of Burglary and Attempted Burglary and misdemeanor crimes of Resisting and Obstructing an Officer and Possession of a Controlled Substance (Hydrocodone). The felony charged conduct is alleged to have occurred on or between April 15, 2013 and May 15, 2013¹. The misdemeanor conduct is alleged to have occurred on July 12, 2013.

In 2012, the Defendant was employed by Homewatch Caregivers (Homewatch) to provide home health care based upon contracts received by Homewatch. In the fall of 2012, the Defendant had several contracts to work with individuals living at Garden Plaza of Valley View (Garden Plaza). The Defendant was assigned to work at Garden Plaza seven (7) times in October 2012, eight (8) times in November 2012, and five (5) times in December 2012. The Defendant did not receive any contracts to work at Garden Plaza after December 11, 2013. The Defendant's employment with Homewatch was eventually terminated on April 18, 2013.

¹ Contemporaneously with the filing of this Motion, the State has filed a Motion for Leave to Amend its Information. The State seeks to amend the Information by limiting the conduct in Count I to on or between May 8 and May 15, 2013.

Garden Plaza is a retirement home that has both Independent Living units as well as Assisted Living units. The residents at the Independent Living units have prescription drugs kept in their rooms. Residents in Assisted Living have their prescription drugs locked up at the facility. Lunch for both residents is served in a dining hall from 11:30 a.m. to 12:30 p.m. Because of this, most residents are not in their rooms during the lunch hour.

On May 22, 2013, Clarence Sateren, a resident of Independent Living at Garden Plaza reported that approximately 15-20 Hydrocodone 5/325 mg. pills were missing from his room. The report was given to Chuck Faylor, manager of Garden Plaza. Mr. Faylor reviewed the video surveillance outside of Mr. Sateren's room and discovered that on May 15, 2013, at approximately 11:40 a.m., a woman exited Mr. Sateren's room. Mr. Faylor noticed that the Defendant was dressed in medical scrubs as if she was a home health worker. Mr. Faylor also noticed that prior to exiting Mr. Sateren's room, the woman was in the hallway attempting to enter other apartments before she entered Mr. Sateren's room. Mr. Faylor checked additional surveillance videos and saw after the woman left Mr. Sateren's room, she continued down another hallway, checking doors and briefly entering two rooms. Mr. Faylor contacted the Manager of Homewatch, who identified the Defendant as the woman on the video.

Mr. Faylor continued to view the surveillance videos of Garden Plaza. Mr. Faylor discovered that between April 15, 2013 and May 15, 2103, the Defendant entered Garden Plaza six (6) times: April 15, April 18, May 6, May 8, May 14, and May 15, 2013. Mr. Faylor observed that each time the Defendant entered Garden Plaza she entered and exited from resident's apartments, sometimes exiting quickly, other times exiting after some time had passed. Mr. Faylor also noted that the Defendant behaved similarly each time she was in Garden Plaza, i.e.

that the Defendant wore medical scrubs five out of six times, that the Defendant entered the facility every time during the lunch hour when residents are often away from their rooms, that the Defendant would check door handles of Independent Living rooms, that the Defendant would enter unlocked rooms of Independent Living residents, that the Defendant would follow residents after leaving their rooms for a bit, then turn around and enter the resident's room, that the Defendant would not try door handles or enter rooms when people were in the same hallway as her, and that the Defendant would have something in her hands and/or pocket of her scrubs after exiting some rooms.

After Mr. Faylor's discovery of the Defendant's patterns on the surveillance video, he contacted law enforcement. Detective Paparello of the Boise City Police Department was assigned the case. During Detective Paparello's investigation, he learned that the Defendant sought prescription pain pills from a co-worker. Detective Paparello interviewed Justine Jones, an employee of Homewatch. Ms. Jones stated the Defendant told her that the Defendant recently injured her leg while helping a patient and her doctor did not prescribe her enough Norco. Ms. Jones, in an attempt to sympathize in regard to pain, shared that her boyfriend recently hurt himself at work and needed prescription pain pills to help him. During this conversation, the Defendant asked Ms. Jones if she could get the Defendant some pain pills. Feeling uncomfortable by the request, Ms. Jones did not answer. In the days following the conversation, the Defendant sent Ms. Jones several text messages, requesting prescription pain pills. Ms. Jones reported the conduct to a supervisor at Homewatch. The manager of Homewatch learned of the complaint and recorded a confrontation call between Ms. Jones and the Defendant regarding the Defendant's request for prescription pain pills.

Detective Paparello eventually met with the Defendant at her home and interviewed her about her contacts with Garden Plaza during April 15, to May 15, 2013. After being shown a still image from the surveillance video, the Defendant admitted to Detective Paparello that she was the person in the photograph. When questioned regarding her reasoning for being at Garden Plaza, after being fired from Homewatch, the Defendant stated she was there to visit previous clients. The Defendant admitted she did not know Clarence Sateren. The Defendant attempted to name the clients she was there to visit, but incorrectly stated their names. Ultimately, the Defendant could not explain why she was in Mr. Sateren's room or why she was seen on the video testing door knobs.

II. PRIOR BAD ACTS SOUGHT TO BE INTRODUCED DURING JURY TRIAL

The State seeks to admit the Defendant's prescription drug seeking behavior that occurred in early March, 2013. The State seeks to admit such evidence through the testimony of Justine Jones and Eric Wallentine. The State also seeks to admit such evidence through the audio recording of the confrontation call made by Justine Jones to the Defendant.

The State also seeks to admit evidence regarding the six (6) unsolicited visits of the Defendant to Garden Plaza. The State seeks to admit such evidence through the testimony of Chuck Faylor. The State will seek to admit testimony of Detective Paparello and/or Eric Wallentine for identification purposes. The State will also seek to admit the video clips from each unsolicited visit of the Defendant to Garden Plaza.

III. ARGUMENT

Defendant's prescription drug seeking conduct and her repeated unsolicited visits to Garden Plaza are both relevant and probative to the case at hand. To determine whether or not

404(b) evidence is admissible, the district court must initially determine whether there is sufficient evidence to establish the other crime or wrong as fact. *State v. Grist*, 147 Idaho 49, 205 P.3d 1185, 1188 (2009). The district court must then determine whether evidence is relevant or probative to matters other than propensity. *State v. Diggs*, 141 Idaho 303, 305, 108 P.3d 1003, 1005 (Idaho App. 2005). Finally, the district court must conduct a 403 analysis and weigh the probative value against the danger of unfair prejudice. *Id.*

A. Sufficient Evidence to Establish Prior Bad Acts

The trial court has the discretion to consider on a case-by-case basis whether sufficient evidence to establish prior bad acts exists. *Grist*, 147 Idaho 49, 205 P.3d at 1188. Although the Supreme Court has not specifically articulated what standard of proof is required to meet this prong of the 404(b) analysis, it has stated that the trial court must determine that there is sufficient evidence to support a reasonable conclusion that the act occurred and that the defendant was the actor. *Id.* The trial court is free to accept the State's offer of proof that such evidence existed to meet this minimal standard. *State v. Parmer*, 147 Idaho 210, 207 P.3d 186, 191 (Idaho App. 2009). The Court has discretion to also consider affidavits, stipulations, live testimony, or hold extensive evidentiary hearings for each witness prior to trial in making its determination. *Id.*

There is sufficient evidence to establish the prior bad acts of the Defendant. In regard to category #1, the Defendant's drug seeking behavior, the conduct is documented in Detective Paparello's report which contains interviews with both Justine Jones and Eric Wallentine. The State can produce substantive evidence of the prior bad acts at trial through the testimony of Justine Jones and Eric Wallentine, and through the audio recording of the confrontation call that

corroborates Ms. Jones claims. Justine Jones can identify the Defendant in regard to her request and subsequent text messages. Detective Paparello's report has been disclosed to Defense along with the audio recording of the confrontation call made by Justine Jones to the Defendant.

There is also sufficient evidence to establish the Defendant entered into Garden Plaza six different times, including the charged conduct. The Defendant is on surveillance video for all six visits she had with Garden Plaza. In addition to video, Mr. Faylor has also created a nine (9) page statement describing her moves and behaviors while on the surveillance video. The videos and statement have been disclosed to the defense. Additionally, the Defendant admits to being inside Garden Plaza on several dates. Detective Paparello and Eric Wallentine can identify the Defendant on each video.

B. Relevance

In the present case, the State seeks to admit evidence of the Defendant's drug seeking actions for purposes of establishing her intent to commit the crime of theft, namely, theft of valuable prescription drugs. The Defendant's request for prescription pills shows the Defendant's desire for the pills as well as her willingness to obtain the pills through means other than a valid prescription. The Defendant's repeated request of her co-worker for pain pills illustrates the Defendant's intent in entering Garden Plaza. The Defendant has no plausible reason for entering apartments of former clients and people she does not know, other than to look for prescription medication. The Defendant is the only person to enter Mr. Sateren's room when Mr. Sateren was not present. Days after the Defendant is seen leaving Mr. Sateren's room, he discovers that fifteen (15) to twenty (20) Hydrocodone pills were missing from his room.

The Defendant's drug-seeking behavior is relevant to this case, relevant to the element of intent, one that the State is required to prove beyond a reasonable doubt.

The State also seeks to admit the Defendant's repeated unsolicited visits to Garden Plaza, along with her mannerisms and behavior that resemble the actions of a thief, for the permissible purposes of establishing Defendant's intent and common scheme and plan under Idaho Rules of Evidence Rule 404(b). This evidence is also relevant as required by Idaho Rule of Evidence 402. This evidence, depending on whether the State is able to amend its Information as requested in a separate motion is both charged conduct as well as prior acts.

The evidence of the Defendant's repeated unsolicited visits to Garden Plaza are relevant for several reasons. First, her repeated visits illustrate her common scheme and/or plan by entering the retirement and looking for unattended rooms where prescription bottles are kept. It is significant that the Defendant checked doors of the Independent Living units, and never the Assisted Living Units. It is also significant that every time, the Defendant entered Garden Plaza during the lunch hour, when residents are likely to be away from their room. The Defendant mannerisms during the time she is in the hallway are also very telling of her theft scheme: checking doors, walking away from others in the hallway, putting her ear to the outside of doors, and entering rooms she did not have permission to enter.

This evidence is also relevant to illustrate the Defendant's intent in entering Clarence Sateren's room. The repeated visits to Garden Plaza and her mannerisms show her intent to commit the crime of theft, which illustrates her intent in entering Mr. Sateren's room uninvited.

C. Balancing Probative Value and Unfair Prejudice

The probative value of Defendant's prior bad acts is substantially outweighed by the danger of unfair prejudice in this case. All 404(b) evidence has prejudicial value. However, the issue is not whether it is prejudicial, but whether the probative value of that evidence is *substantially* outweighed by the danger of *unfair* prejudice. Idaho Rules of Evidence 404(b)(emphasis added). Any Idaho Rules of Evidence 403 rulings are within the district court's sole discretion. *See Diggs*, 141 Idaho at 306, 108 P.3d at 1006.

In this case, the reasons set forth above that make the evidence relevant are the same reasons that make it probative. The evidence is probative to establish Defendant's intent to commit the crime of theft. The evidence is probative to show her common scheme of entering a facility that was familiar to her, entering during the lunch hour, and only testing doors handles and entering rooms when no one was there in the hallway.

Moreover, if the Court is concerned about the danger of unfair prejudice, it can limit the effects of any unfair prejudice that may result by introducing a limiting jury instruction informing the jury the limited purpose for which 404(b) evidence should be considered, and that it is not to be considered for any other purpose than that instructed by the Court. In *State v. Scovell*, Defendant was charged with four counts of lewd conduct with a minor under the age of sixteen. 136 Idaho 587, 38 P.3d 625 (Idaho App. 2001). On appeal, the Idaho Court of Appeals affirmed *inter alia* the district court's decision to allow the State to present the victim's testimony about incidents of sexual molestation by Defendant during the eighteen months preceding the time covered by the indictment. *Scovell*, 136 Idaho at 591, 38 P.3d at 629. After determining that the evidence was relevant to the victim's credibility, the Court reasoned that the "risk of unfair

prejudice was further reduced by the trial court's instruction that the jurors were not to consider the uncharged acts as proof that Scovell had criminal propensities or behaved in conformity with them by committing the charged crimes." *Id.* Any concern regarding unfair prejudice can be addressed through a limiting instruction in this case as well.

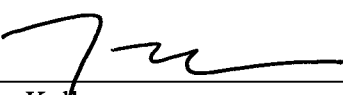
CONCLUSION

For the foregoing reasons, the State requests that this Court allow the State to introduce evidence of Defendant's prior bad act of requesting prescription pain killers from her co-worker and her six (6) unsolicited visits to Garden Plaza as 404(b) evidence at trial. This evidence is relevant to the Defendant's intent to commit the crime of theft while entering Garden Plaza and residential units within the facility. The Defendant's repeated unsolicited visits are also relevant to show her common scheme or plan of entering the facility in order to take prescription pills.

In the alternative, if the Court finds this evidence to be inadmissible in the State's case-in-chief, the State gives notice of its potential use for impeachment, should the Defendant choose to testify.

DATED this 31 day of October 2013.

GREG H. BOWER
Ada County Prosecuting Attorney



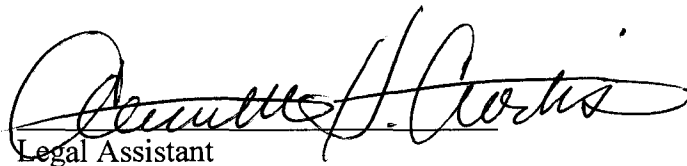
By: Tamera Kelly
Deputy Ada County Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October 2013, I caused to be served, a true and correct copy of the foregoing 404(b) NOTICE AND MEMORANDUM CASE CR-FE-2013-0009451 upon the individual(s) named below in the manner noted:

Name and address: **Joseph W. Borton, Attorney at Law, 141 E. Carton Avenue, Meridian, ID 83642.**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By Hand Delivering said document to defense counsel.
- By emailing a copy of said document to defense counsel.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

322/18
3/2/13

NO. 8 FILED
A.M. _____ P.M. _____

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

NOV 04 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

Case No.: CR-FE-2013-0009451

**DEFENDANT'S MOTION IN LIMINE TO
SUPPRESS EVIDENCE IRE 403**

COMES NOW the Defendant, by and through counsel of record, Joe Borton of the firm Borton Lakey Law Offices, and hereby moves this Court pursuant to Idaho Rules of Evidence 401 and 403 to exclude from the trial of this matter certain misleading and incomplete surveillance video snippets which will State offer as evidence of the alleged crime being committed. This surveillance video produced by the State is admittedly incomplete and inherently misleading. For reasons to be addressed in greater detail herein and at a pre-trial evidentiary hearing which is requested on this matter, the State will be unable to show the necessary foundation or remedy the misleading nature of this proposed video.

U

As the Court well knows Idaho Rule of Evidence 403 states, "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." *State v. Page*, 135 Idaho 214, 218, 16 P.3d 890, 894 (2001). The decision whether to admit the evidence is a matter of discretion for the trial court. *Davidson v. Beco Corp.*, 114 Idaho 107, 110, 753 P.2d 1253, 1256 (1987). A court that errors in applying the rules of evidence which results in the defendant's deprivation of her due process right to a fair trial, raises implications of constitutional considerations that could have been violated. *See. State v. Dunlap*, 2013 WL 4539806 (2013); Idaho Const. art. I, § 13; U.S. Const. amend VI; U.S. Const. amend. XIV.

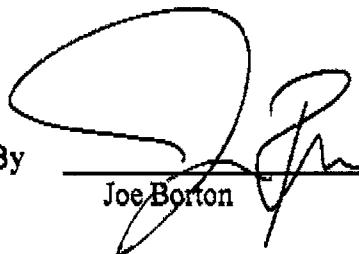
In this case, the surveillance video which the State has produced in discovery is incomplete and ultimately confusing and misleading. This surveillance video was provided by a senior living facility yet it displays frequent gaps in its recording, which last from seconds to many minutes. Once viewed by the Court it will be apparent that Ms. Youmans would be unfairly prejudiced by viewing the State's snippets of an otherwise misleading and incomplete surveillance video. The State has conceded through a witness who testified at the preliminary hearing, that the video technology used to capture the video is outdated and allowed for gaps to occur in the recording, and that the video would shut off and on based on where persons were within the premises. The State is unable to produce a complete unedited version of the surveillance video despite requests in discovery to do so. Experts of the transcript from that testimony are not yet available but will supplement this Motion once the transcript is completed.

WHEREFORE, Defendant respectfully requests that this Court set a brief evidentiary hearing to view the subject video in light of the issues raised herein, and that in the interest of preserving a fair trial for Ms. Youmans an Order be entered excluding its presentation to the jury.

Oral argument is requested.

DATED this 1st day of November, 2013.

BORTON LAKEY LAW OFFICES

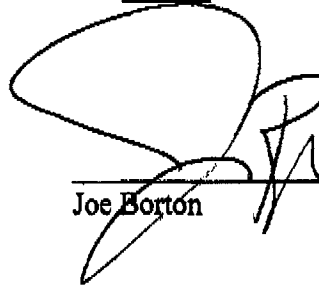
By  _____
Joe Borton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of November, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

_____ U.S. Mail
 X Facsimile
_____ Overnight Mail
_____ Hand Delivery

 _____
Joe Borton

NO. 8
A.M. FILED P.M.

NOV 04 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

Case No.: CR-FE-2013-0009451

**DEFENDANT'S MOTION TO COMPEL
PRODUCTION OF COMPLETE VIDEO
RECORDING**

Comes now the Defendant, by and through her counsel of record, BORTON LAKEY LAW OFFICES, and pursuant to Idaho Rule of Criminal Procedure 16(k) and 16(b)(9) moves this Court for its Order to compel the State to produce a *complete unedited* copy of the surveillance video which it has offered and which it will rely on as part of its case in chief. The State has reported to counsel that it is unable to produce a complete copy of video recording, but that counsel would be allowed to view it. In light of the concerns regarding this video raised in Defendant's Motion to suppress filed concurrently herewith, Defendant requests that an Order be entered requiring the State to produce a complete copy of the entire surveillance video for the date range of the alleged crime.

Oral argument is requested.

DATED this 1st day of November, 2013.

BORTON LAKEY LAW OFFICES

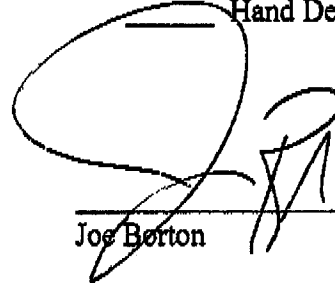
By 
Joe Borton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of November, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery


Joe Borton

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HS
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A.M. _____ P.M. _____

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GREG H. BOWER
Ada County Prosecuting Attorney

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700


IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451
NOTICE OF HEARING

TO: Joseph W. Borton her Attorney of Record, you will please take notice that on the 25th day of November 2013, at the hour of 3:00 pm of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Tamera Kelly, will move this Honorable Court regarding the State's Motion for Leave to Amend Information and Notice and Memorandum in Support of 404(b) Evidence in the above-entitled action.

DATED this 4 day of November 2013

GREG H. BOWER
Ada County Prosecuting Attorney


By: Tamera Kelly
Deputy Prosecuting Attorney

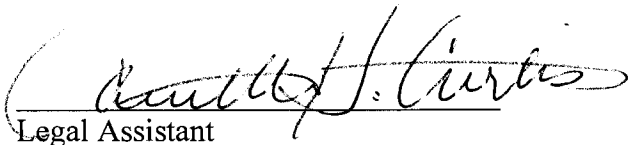


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11/14 day of November 2013, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted:

Name and address: Joseph W. Borton, Attorney at Law, 141 W. Carlton Avenue, Meridian, ID 83642

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

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A.M. _____ P.M. *JJR*

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CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451
**STATE'S OBJECTION TO
DEFENDANT'S MOTION
IN LIMINE TO SUPPRESS
EVIDENCE**

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho and objects to Defendant's Motion in Limine to Suppress Evidence IRE 403. The State requests this Court enter an Order denying the Defendant's request for several reasons. First, this Motion requests

I. FACTUAL BACKGROUND

The Information, filed on August 22, 2013, charges the Defendant with felony crimes of Burglary and Attempted Burglary and misdemeanor crimes of Resisting and Obstructing an Officer

and Possession of a Controlled Substance (Hydrocodone). The felony charged conduct is alleged to have occurred on or between April 15, 2013 and May 15, 2013¹. The misdemeanor conduct is alleged to have occurred on July 12, 2013.

In 2012, the Defendant was employed by Homewatch Caregivers (Homewatch) to provide home health care based upon contracts received by Homewatch. In the fall of 2012, the Defendant had several contracts to work with individuals living at Garden Plaza of Valley View (Garden Plaza). The Defendant was assigned to work at Garden Plaza seven (7) times in October 2012, eight (8) times in November 2012, and five (5) times in December 2012. The Defendant did not receive any contracts to work at Garden Plaza after December 11, 2013. The Defendant's employment with Homewatch was eventually terminated on April 18, 2013.

Garden Plaza is a retirement home that has both Independent Living units as well as Assisted Living units. The residents at the Independent Living units have prescription drugs kept in their rooms. Residents in Assisted Living have their prescription drugs locked up at the facility. Lunch for residents is served in a dining hall from 11:30 a.m. to 12:30 p.m. Because of this, most residents are not in their rooms during the lunch hour.

On May 22, 2013, Clarence Sateren, a resident of Independent Living at Garden Plaza reported that approximately 15-20 Hydrocodone 5/325 mg pills were missing from his room. The report was given to Chuck Faylor, manager of Garden Plaza. Mr. Faylor reviewed the video surveillance outside of Mr. Sateren's room and discovered that on May 15, 2013, at approximately 11:40 a.m., a woman exited Mr. Sateren's room. Mr. Faylor noticed that the woman was dressed in medical scrubs as if she was a home healthcare worker. Mr. Faylor also noticed that prior to exiting Mr. Sateren's room, the woman was in the hallway attempting to enter other apartments before she

¹ Contemporaneously with the filing of this Motion, the State has filed a Motion for Leave to Amend the Information. The State seeks to amend the Information by limiting the conduct in Count I to on or between May 8 and May 15, 2013.

entered Mr. Sateren's room. Mr. Faylor checked additional surveillance videos and saw after the woman left Mr. Sateren's room, she continued down another hallway, checking doors and briefly entering two rooms. Mr. Faylor contacted the Manager of Homewatch about the video, who later identified the Defendant as the woman on the video.

Mr. Faylor continued to view the surveillance videos of Garden Plaza. Mr. Faylor discovered that between April 15, 2013 and May 15, 2013, the Defendant entered Garden Plaza six (6) times: April 15, April 18, May 6, May 8, May 14, and May 15, 2013. Mr. Faylor observed that each time the Defendant entered Garden Plaza she entered and exited from resident's apartments, sometimes exiting quickly, other times exiting after some time had passed. Mr. Faylor also noted that the Defendant behaved similarly each time she was in Garden Plaza, i.e. that the Defendant wore medical scrubs five out of six times, that the Defendant entered the facility every time during the lunch hour when residents are often away from their rooms, that the Defendant would check door handles of Independent Living rooms, that the Defendant would enter unlocked rooms of Independent Living residents, that the Defendant would follow residents after leaving their rooms for a bit, then turn around and enter the resident's room, that the Defendant would not try door handles or enter rooms when people were in the same hallway as her, and that the Defendant would have something in her hands and/or pocket of her scrubs after exiting some rooms.

After Mr. Faylor's discovery of the Defendant's patterns on the surveillance video, he contacted law enforcement. Detective Paparello of the Boise City Police Department was assigned the case. As a part of the investigation, Detective Paparello requested a copy of the surveillance video. Due to the nature of the surveillance video program, Mr. Faylor was unable to "burn" i.e. copy the video onto a CD/DVD. Instead, Mr. Faylor played the surveillance video at his desk and recorded the video clips with his iPhone, then made a thumb drive for Detective Paparello, containing all of the video clips. The surveillance video used by Garden Plaza, like many other

businesses, is activated by motion sensors. Therefore, Garden Plaza's video surveillance is provided in "clips", segments of video prompted by motion inside the building. Mr. Faylor included every video clip where the Defendant was depicted in the hallways from April 15, 2013 to May 15, 2013.

II. ARGUMENT

Relevant evidence is defined as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." IRE 401. Evidence that is not relevant is generally found to be inadmissible. IRE 402. Evidence that is found to be relevant may be excluded if, its probative value is substantially outweighed by the danger of unfair prejudice and/or the danger of confusing the issues and/or misleading the jury. IRE 403. All evidence may have some prejudicial value toward a defendant. However, the issue is not whether it is prejudicial, but whether the probative value of that evidence is *substantially* outweighed by the danger of *unfair* prejudice. IRE 403 (emphasis added).

Defendant's request to exclude and/or suppress the State's video should be denied for several reasons. First, the surveillance video from Garden Plaza is relevant to the State's case in proving that the Defendant entered apartments within Garden Plaza with the intent to commit the crime of theft. The video segments from Garden Plaza provide an accurate depiction of the Defendant's presence and mannerisms while she was inside of Garden Plaza during April and May 2013. The value of the surveillance video is highly probative to the State, because it is a true depiction of the Defendant's criminal conduct. In this sense, the Garden Plaza video is akin to vehicle dash camera video that depicts a criminal defendant performing field sobriety tests during a driving under the influence investigation.

Second, the surveillance video is not *unfairly* prejudicial to the Defendant. The Defendant claims that once the Court views the video, "it will be apparent that Ms. Youmans would be

unfairly prejudiced by viewing the State's snippets of an otherwise misleading and incomplete surveillance video." However, the Defendant brings forth no proof as to why the video is incomplete, just the Defendant's mere claim that it is "incomplete." Additionally, the Defendant is unable to explain what exactly is misleading about the State's evidence. This is further illustrated by defense counsel's admission that he has not viewed the entire video footage held by Garden Plaza. *See* Defendant's Motion to Compel Production of Complete Video Recording, filed November 4, 2013. It appears that Defendant does not like the format of the surveillance video, but Defendant's dislike for the format, does not make evidence "misleading" or "incomplete." Additionally, any prejudice to the Defendant is not outweighed by the probative value to the State.

Third, Defendant's claim that "the State will be unable to show the necessary foundation" is a mere allegation. It is also a premature allegation. The State should be given the opportunity to lay foundation for the video(s) during trial and not precluded based upon Defendant's suspicions or claims.

III. CONCLUSION

The State respectfully requests that the Defendant's Motion to Suppress (Exclude) be denied.

RESPECTFULLY SUBMITTED this 8 day of November 2013.

GREG H. BOWER
Ada County Prosecuting Attorney



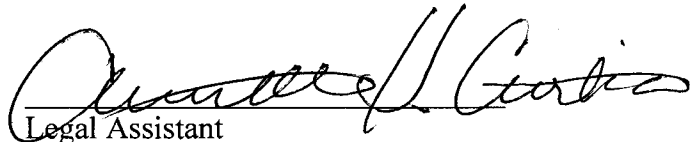
By: Tamera Kelly
Ada County Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 8th day of November 2013, I caused to be served, a true and correct copy of the foregoing State's Objection to Defendant's Motion in Limine to Suppress Evidence upon the individual(s) named below in the manner noted:

Name and address: **Joseph W. Borton, Attorney at Law, 141 Carlton Avenue, Meridian, ID 83642**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By Hand Delivering said document to defense counsel.
- By emailing a copy of said document to defense counsel.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

NOV 08 2013

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451
**STATE'S REPOSE TO
DEFENDANT'S MOTION
TO COMPEL**

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho and objects to Defendant's Motion to Compel Production of Complete Video Recording because the Defendant's Motion is premature, discovery has been made available to the Defendant.

I. DISCOVERY FACTUAL HISTORY

The Information, filed on August 22, 2013, charges the Defendant with felony crimes of Burglary and Attempted Burglary and misdemeanor crimes of Resisting and Obstructing an

Officer and Possession of a Controlled Substance (Hydrocodone). The felony charged conduct is alleged to have occurred on or between April 15, 2013 and May 15, 2013. The misdemeanor conduct is alleged to have occurred on July 12, 2013.

On September 30, 2013, the Defendant entered a plea of Not Guilty and this case was set for trial. Prior to the not guilty plea, defense counsel requested to view property held in evidence at the Ada County Sheriff's Office. On September 26, 2013, the State complied with counsel's request and allowed for counsel to view items booked into evidence with the help of Detective Paparello of the Boise Police Department. During the meeting at the Ada County Sheriff's Office, counsel for Defendant learned or confirmed that a video from Garden Plaza of Valley View (Garden Plaza) was booked into property, in two forms, on a disc and a thumb drive. Defense counsel requested a copy of the video(s) booked into evidence. On September 20, 2013, counsel for Defendant sent the State a letter, requesting "a CD/DVD containing the entire unedited surveillance video." On October 10, 2013, the State received a copy of the contents of the CD and thumb drive booked into evidence and disclosed it to the Defendant.

On October 18, 2013, the State filed a Formal Discovery Response in this case, acknowledging its previous disclosure of the DVD and copy of the thumb drive. On October 25, 2013, the State filed an addendum to the Formal Response, adding additional police reports. On October 22, 2013, Defense counsel sent the State another letter requesting any other video footage stating "please let me know either way if the State can produce the complete stock footage that these clips were pulled from." The State called counsel for Defendant shortly after being in receipt of the request. The State notified counsel that the entire video footage would be made available, upon appointment, for his review at Garden Plaza, but Garden Plaza and therefore the State, are unable to provide the video on a separate CD/DVD. The State told counsel that the surveillance video at Garden Plaza is a motion sensed camera, therefore, if no

STATE'S REPOSE TO DEFENDANT'S MOTION TO COMPEL (YOUMANS) Page 2

one is in the hallway, the camera will not record. The State shared with counsel that the video that depicts the Defendant inside Garden Plaza, previously disclosed, is a collection of video segments triggered by the Defendant's motions within the hallway.

II. ARGUMENT

Idaho Criminal Rule 16(a) and (b) defines the State's duty in disclosing evidence to the Defendant. ICR 16(a), (b). In specific regard to "Documents and Tangible Objects", the State's requirement is the following:

[u]pon written request of the defendant, the prosecuting attorney shall permit the defendant to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney and which are material to the preparation of the defense, or intended for use by the prosecutor as evidence at trial, or obtained from or belonging to the defendant.

Rule 16(b)(4).

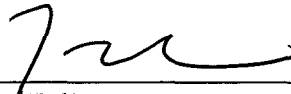
The Defendant's Motion to Compel should be denied. The State has complied ICR 16. The State disclosed the video segments between April 15, 2103 and May 15, 2013, which depict the Defendant within Garden Plaza. The State is unable to produce video footage that does not exist, i.e. the surveillance video camera does not record the hallways when no one is there to trigger the motion sensor.

Though the State questions its materiality, the State has also made available to the Defendant, the entire surveillance videos from April and May 2013. The State is not required to make a copy of evidence for the Defendant, i.e. "prosecuting attorney shall permit the Defendant to inspect and copy or photograph." As of the writing of this response, counsel for the Defendant has not scheduled an appointment to view the video surveillance located at Garden Plaza.

The State respectfully requests this Court to deny the Defendant's Motion to Compel, finding that the State has complied with ICR Rule 16.

RESPECTFULLY SUBMITTED this 8 day of November 2013.

GREG H. BOWER
Ada County Prosecuting Attorney



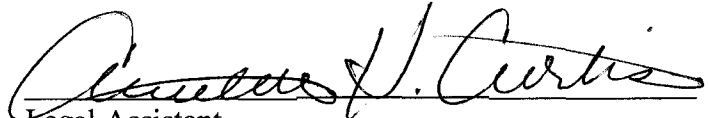
By: Tamera Kelly
Ada County Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of November 2013, I caused to be served, a true and correct copy of the foregoing State's Objection to Defendant's Motion in Limine to Suppress Evidence upon the individual(s) named below in the manner noted:

Name and address: **Joseph W. Borton, Attorney at Law, 141 Carlton Avenue, Meridian, ID 83642**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By Hand Delivering said document to defense counsel.
- By emailing a copy of said document to defense counsel.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

NO. _____ FILED _____
A.M. _____ P.M. _____

NOV 12 2013

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

Case No.: CR-FE-2013-0009451

**NOTICE OF HEARING -- DEFENDANT'S
MOTION TO SUPPRESS VIDEO
RECORDING**

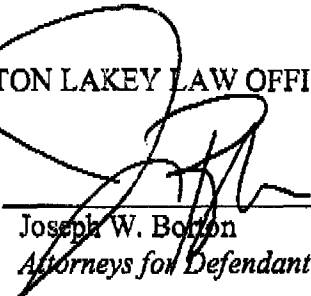
TO THE ABOVE-NAMED PARTIES AND THEIR ATTORNEYS OF RECORD:

YOU, AND EACH OF YOU, ARE HEREBY NOTIFIED that on the 14th day of November, 2013 at the hour of 9:00 a.m., or as soon thereafter as counsel may be heard, in the Courtroom in Boise, in the County of Ada, State of Idaho, the above-entitled case is hereby set for a Scheduling Conference before the Honorable Thomas F. Neville.

DATED this 12th day of November, 2013.

BORTON LAKEY LAW OFFICES

By



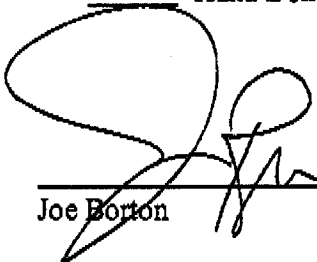
Joseph W. Borton
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of November, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
Attn: Tamera Kelly
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

- U.S. Mail
- Facsimile
- Overnight Mail
- Hand Delivery



Joe Borton

182
HS
11/14
900

NO. _____ FILED _____
A.M. _____ P.M. _____

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

NOV 12 2013

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Case No.: CR-FE-2013-0009451

Plaintiff,

**MOTION TO VACATE AND CONTINUE
PRE-TRIAL CONFERENCE AND JURY
TRIAL**

v.

LADONNA MARIE YOUMANS,

Defendant.

COMES NOW Defendant LaDonna Marie Youmans, by and through her attorney of record Joseph W. Borton of the firm Borton Lakey Law Offices and hereby motions this court for its Order to VACATE AND RESET the December 2, 2013 Pre-Trial Conference and December 10, 2013 three-day Jury Trial in this matter to hearing and trial at a date and time convenient to all parties and the Court.

This Motion is necessary in order to allow the Defendant to continue and complete discovery necessary in this matter, as well as obtain a copy of the preliminary hearing transcript which has not yet been produced. Defendant and the State have each raised pre-trial Motions

Handwritten mark

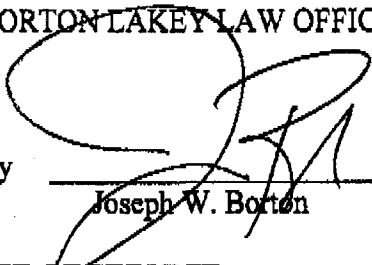
which need to be addressed and resolved prior to trial, and which implicate the trial preparations of the Defendant.

Counsel for the Defendant has let the State know if its desire for a continuance as noted, and that the Defendant is willing to waive her right to a speedy trial to accommodate this request, and based upon that representation the State noted it does not object to the request. The Defendant will be present in Court on this matter with counsel on November 14 at 9:00 a.m. and is willing to express that waiver to the Court.

RESPECTFULLY SUBMITTED this 13th day of November, 2013.

BORTON LAKEY LAW OFFICES

By



Joseph W. Borton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of November, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

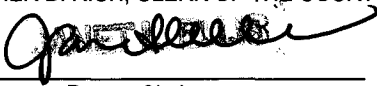
Ada County Prosecutor's Office
Attn: Tamera Kelly
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

____ U.S. Mail
 Facsimile
____ Overnight Mail
____ Hand Delivery



Joe Borton

Time	Speaker	Note
09:29:40 AM	Court	called ST v LADONNA YOUMANS CRFE13-09451 , present on bond
09:29:56 AM	Todd Lakey	counsel for defendant
09:30:04 AM	Tamera Kelly	counsel for State
09:30:10 AM	Court	prelim transcript completed yesterday. Court has several matters, Court has State's Motion for Leave to Amend Information. Court stated threshold issue
09:30:54 AM	Todd Lakey	stated would like more time to review on whether have any objections
09:31:11 AM	Court	understands that it is making the pleading in Count I more specific narrowing the time frame. Would be in everyone's interest. Court inclined to go forward with that motion today. Pretty straight forward and have had time since motion filed on October 31st. Court inclined to grant the Motion to Amend Information and will enter that order now. Reserve right for defendant to come back later if an issue. Court going to Motion to Suppress. Understand defendant will waive speedy trial to allow more time for these motions
09:33:42 AM	Court	inquired of defendant regarding speedy trial rights
09:33:52 AM	Defendant	understands, waived speedy trial
09:34:00 AM	Tamera Kelly	no objection to vacate and reset trial
09:34:09 AM	Court	grants motion to vacate and reset trial. Court re: video
09:35:53 AM	Tamera Kelly	asking for entire surveillance video, would accomodate them to come and view the video but has yet to come do that.
09:39:59 AM	Court	reset jury trial for March 4, 2014 @ 9:00 a.m. and pretrial conf. on Feb 10, 2014 @ 3:00 p.m. Court set mot to suppress on January 2, 2014 @ 3:30 p.m. and Motion to Compel and 404 B
09:40:37 AM	C	
09:41:04 AM	End Case	

FILED
Thursday, November 14, 2013 at 01:47 PM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: 
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

LDONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

**NOTICE OF JURY
TRIAL SETTING**

ADA COUNTY PROSECUTING ATTORNEY/TAMERA KELLY
INTER DEPT MAIL

JOSEPH BORTON
BORTON LAKEY LAW OFFICE
141 E CARLTON AVENUE
MERIDIAN ID 83642

THE HONORABLE THOMAS F. NEVILLE HAS SET THE ABOVE-ENTITLED
MATTER FOR TRIAL BEFORE THE COURT AND A JURY ON:

MOTION TO SUPPRESS/MOTION TO COMPEL & 404 B
MOTION.....Thursday, January 02, 2014 @ 02:30 PM
Judge: Thomas F. Neville

PRETRIAL CONFERENCE.....Monday, February 10, 2014 @ 03:00 PM
Judge: Thomas F. Neville

JURY TRIAL.....Tuesday, March 04, 2014 @ 09:00 AM
Judge: Thomas F. Neville

THE DEFENDANT SHALL BE PERSONALLY PRESENT AT THE PRETRIAL
CONFERENCE UNLESS EXCUSED BY THE COURT.

Proposed Jury Instructions shall be submitted at least five days prior to trial.

CHECK BULLETIN BOARD ON DAY OF TRIAL FOR COURTROOM NUMBER.

cc: Counsel/je

NOTICE OF JURY TRIAL SETTING

NO. _____ FILED _____
A.M. _____ P.M. *12:48*

NOV 14 2013

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

RECEIVED

NOV 08 2013

Ada County Clerk

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant,)
)
_____)

Case No. CRFE-2013-0009451

**ORDER TO AMEND
INFORMATION**

The Motion of Amend Information having come before this Court, and good cause appearing therefore;

IT IS HEREBY ORDERED, that the Information in the above entitled case be amended in Count I, pursuant to the Motion.

SO ORDERED this 4th day of November, 2013.

JM

J. Mendel

District Court Judge

102

NO. _____ FILED _____
A.M. _____ P.M. _____

NOV 20 2013

CHRISTOPHER D. RICH, Clerk
By KATHINKA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

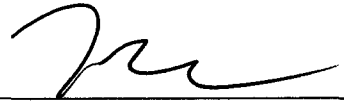
THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
_____)

Case No. CR-FE-2013-0009451
SECOND ADDENDUM TO
DISCOVERY RESPONSE TO
COURT

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Second Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 19 day of November 2013.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

1

1/2
2/30

NO. _____ FILED _____
A.M. _____ P.M. _____

DEC 23 2013

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

Joe Borton [ISB No. 5552]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

Defendant.

Case No.: CR-FE-2013-0009451


MOTION TO WITHDRAW AS COUNSEL

COMES NOW Defendant LaDonna Marie Youmans, by and through her attorney of record Joseph W. Borton of the firm Borton Lakey Law Offices and hereby moves to withdraw as attorney of record in the above captioned action for Defendant LaDonna M Youmans. This Motion is based upon the Affidavit of Joe Borton filed contemporaneously herewith and upon the files and records in this action.

✓

RESPECTFULLY SUBMITTED this 23rd day of December, 2013.

BORTON LAKEY LAW OFFICES


By 
Joseph W. Borton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of December, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

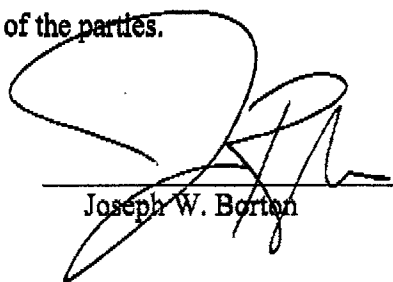
Ada County Prosecutor's Office
Attn: Tamera Kelly
200 West Front Street, Room 3191
Boise, Idaho 83702
Fax: 208-287-7709

- U.S. Mail
- Facsimile
- Overnight Mail
- Hand Delivery


Joe Borton

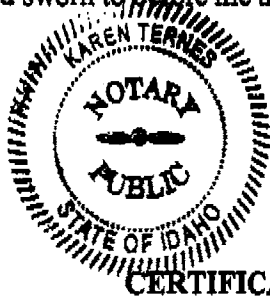
3. The basis for this request is the Defendant's failure to abide by the terms and conditions of her engagement agreement with counsel, a breach which has caused irreparable harm to the attorney-client relationship which prevents counsel from continuing to represent Defendant in this matter. This circumstance cannot be waived or resolved by any act short of withdrawal from the case. I have discussed these matters with the Defendant and she has acknowledged the basis for the request.


4. Granting the Motion should not result in any delay in determination and disposition of the pending action and the rights of the parties.



 Joseph W. Borton

Subscribed and sworn to before me this 23rd day of December, 2013.





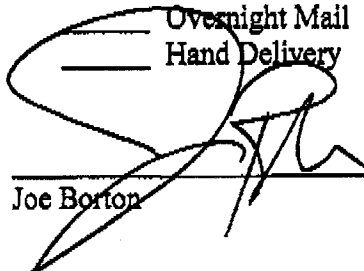
 Notary Public for Idaho
 Residing at: Boise, Idaho
 My Commission Expires: 6-30-2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of December, 2013, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
 Attn: Tamera Kelly
 200 West Front Street, Room 3191
 Boise, Idaho 83702
 Fax: 208-287-7709

- U.S. Mail
- Facsimile
- Overnight Mail
- Hand Delivery



 Joe Borton

Time	Speaker	Note
02:38:29 PM	Court	called ST v LADONNA YOUMANS CRFE13-09451 , defendant present on bond.
02:39:11 PM	Joe Borton	counsel for defendant
02:39:19 PM	Tamera Kelly	counsel for State
02:39:23 PM	Court	notes this is time set for Defendant's Motion to Compel and Motion in Limine/ Motion to Suppress and State's 404B Motions. Recently Motion to Withdraw filed. Court would typically ask counsel if they are financially secure.
02:41:38 PM	Joe Borton	argument on the Motion to Withdraw and replacement counsel.
02:43:38 PM	Court	disappointed we are having this issue now.
02:44:44 PM	Defendant	paid the \$3,000 retainer, thought would not have to pay more until trial, just started working 3 weeks ago.
02:46:08 PM	Court	so not able to meet financial obligations.
02:46:26 PM	Defendant	response
02:47:12 PM	Tamera Kelly	don't object to withdrawal, but witnesses are elderly from Assisted Living facility. Have concern if trial reset.
02:47:55 PM	Court	does not know how to avoid resetting trial if motion granted.
02:48:23 PM	Joe Borton	response
02:48:28 PM	Court	will grant the Motion to Withdraw, request that Mr. Borton provide an order allowing withdrawal. Court would entertain a Motion to appoint public defender, have tried to get someone up here in anticipation of this motion. Would have to set over to Monday to find out who her attorney would be. Will go off record to wait for Mr. Rolfsen.
02:52:07 PM	Court	enters proposed order.
02:52:14 PM	Off record	
02:52:20 PM	Court	has caused order of withdrawal to be filed.
02:57:02 PM	Eric Rolfsen	now here from public defender's office.
02:57:51 PM	Court	inquires of defendant, to be considered under oath. Does not qualify for a free lawyer but subject to reimbursement.
03:00:06 PM	Eric Rolfsen	
03:00:31 PM	Joe Borton	tenders to Eric Rolfsen his file.
03:00:41 PM	Court	states trial was set for March 4th. Could set over to Monday to see who assigned attorney would be. P.D. appointed on reimbursement basis. Set over to January 6 @ 9:00 a.m.
03:08:16 PM	End Case	

Joe Borton [ISB No. 5552]
Todd Lakey [ISB No. 4856]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, Idaho 83642
Office: (208) 908-4415
Fax: (208) 493-4610
joe@borton-lakey.com

Attorneys for Defendant

NO. _____
FILED
A.M. _____ P.M. 2:52

JAN -2 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

v.

LADONNA MARIE YOUMANS,

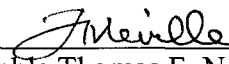
Defendant.

Case No.: CR-FE-2013-0009451

**ORDER ALLOWING WITHDRAWAL OF
JOSEPH W. BORTON AS COUNSEL OF
RECORD FOR DEFENDANT LADONNA
MARIE YOUMANS**

This matter having come before the Court on attorney Joe Borton's Motion to Withdraw as Attorney of Record for Defendant LaDonna Marie Youmans and good cause appearing therefor, Defendant's Motion is Granted and IT IS HEREBY ORDERED AND THIS DOES ORDER, that Joe Borton and the firm Borton Lakey Law Offices be withdrawn as attorneys for Defendant LaDonna Marie Youmans in this matter.

DATED this 2nd day of January, 2014.



Honorable Thomas F. Neville
District Judge

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2 day of January, 2014, I served a true and correct copy of the foregoing by delivering the same to each of the following individuals by the method indicated below, addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702

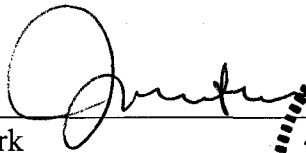
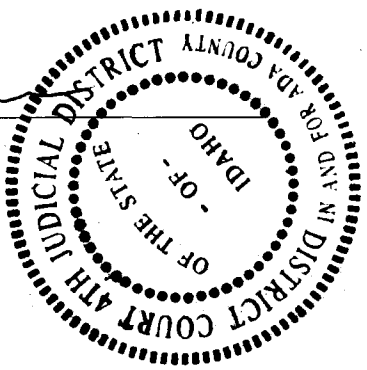
U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery

Joe Borton
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, ID 83642

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery

LaDonna Marie Youmans
2107 N. Bryson Rd.
Boise, ID 83716

U.S. Mail
 Facsimile
 Overnight Mail
 Hand Delivery

Clerk 


1/8/2
RA
1/16
9:00

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. _____ FILED _____
A. _____ P.M. _____
JAN 03 2014
CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff

vs.

LDONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

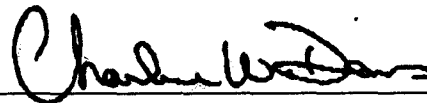
PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

DATED, Friday, January 03, 2014.



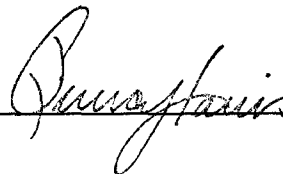
CHARLENE W DAVIS
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Friday, January 03, 2014, I mailed a true and correct copy of the within instrument to:

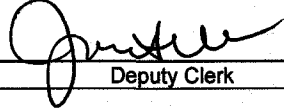
ADA COUNTY PROSECUTOR
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



Time	Speaker	Note
10:26:49 AM	Court	called ST v LADAONNA YOUMANS CRFE13-09451, present on bond
10:26:59 AM	Charlene Davis	counsel for defendant
10:27:09 AM	Tamera Kelly	counsel for State
10:27:14 AM	Charlene Davis	got the file late Friday afternoon have not reviewed any of this
10:27:29 AM	Court	notes trial set in March
10:27:36 AM	Charlene Davis	would like two weeks to visit with client and review the file
10:27:59 AM	Court	will set over to January 21, 2014 @ 9:00 am
10:28:39 AM	End Case	

Time	Speaker	Note
09:44:23 AM	Court	called ST v LDONAA YOUMANS CRFE13-09451 , present on bond
09:44:35 AM	Charlene Davis	counsel for defendant
09:44:42 AM	Tamera Kelly	counsel for State
09:44:50 AM	Charlene Davis	has discovery cannot be ready for trial in March, request May setting, received offers and not acceptable. Make Oral Motion to Continue
09:46:01 AM	Tamera Kelly	prepared to reset trial today
09:46:56 AM	Court	reset trial to May 13, 2014 @ 9:00 a.m. Pre trial conf. on May 5, 2014 @ 3:00 p.m. Court inquired if new motion cutoff needed
09:48:14 AM	Charlene Davis	would like little more time to do discovery
09:49:10 AM	Court	will reset to March 10th
09:49:58 AM	Tamera Kelly	requested to argue the 404 B motion
09:52:11 AM	Court	will set hearings for all 3 motions if counsel are ready. Set for april 8, 2014 @ 1:30 p.m. Defendant needs to be here for this hearing
09:55:16 AM	End Case	

FILED
Tuesday, January 21, 2014 at 02:20 PM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: 
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

LDONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

**THIRD NOTICE OF JURY
TRIAL SETTING**

ADA COUNTY PROSECUTING ATTORNEY/TAMERA KELLY
INTER DEPT MAIL

ADA COUNTY PUBLIC DEFENDER/CHARLENE DAVIS
INTER DEPT MAIL

THE HONORABLE THOMAS F. NEVILLE HAS SET THE ABOVE-ENTITLED
MATTER FOR TRIAL BEFORE THE COURT AND A JURY ON:

MOTION.....Tuesday, April 08, 2014 @ 01:30 PM
Judge: Thomas F. Neville

PRETRIAL CONFERENCE.....Monday, May 05, 2014 @ 03:00 PM
Judge: Thomas F. Neville

JURY TRIAL.....Tuesday, May 13, 2014 @ 09:00 AM
Judge: Thomas F. Neville


THE DEFENDANT SHALL BE PERSONALLY PRESENT AT THE PRETRIAL
CONFERENCE UNLESS EXCUSED BY THE COURT.

THE COURT SET DISCOVERY DEADLINES FOR: **March 10, 2014**

Proposed Jury Instructions shall be submitted at least five days prior to trial.

CHECK BULLETIN BOARD ON DAY OF TRIAL FOR COURTROOM NUMBER.

cc:Counsel/je

 NOTICE OF JURY TRIAL SETTING

182
4/5
1/28
1/20

NO. _____
A.M. _____ FILED _____ P.M. 2

JAN 23 2014

CHRISTOPHER D. RICH, Clerk
By **KATRINA CHRISTENSEN**
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
_____)

Case No. CR-FE-2013-0009451

NOTICE OF HEARING

TO: Charlene W. Davis, her Attorney of Record, you will please take notice that on the 8th day of April 2014, at the hour of 1:30 of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Tamera Kelly, will move this Honorable Court regarding the State's Memorandum in Support of 404(b) Evidence in the above-entitled action.

DATED this 23 day of January 2014

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

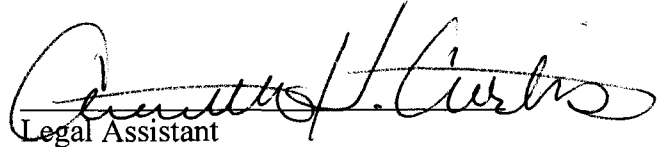


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of January 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted:

Name and address: Charlene Davis, Ada County Public Defender's Office

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>1:20:31 PM</u>		ST vs LDONNA YOUMANS CRFE13-09451 defendant present on bond
<u>1:40:30 PM</u>	Tamera Kelly	counsel for State
<u>1:40:35 PM</u>	Charlene Davis	counsel for defendant
<u>1:41:31 PM</u>	Court	inquired re: Motion to Amend if Amended Information filed
<u>1:41:51 PM</u>	Tamera Kelly	stated Court granted did not think needed to file
<u>1:42:08 PM</u>	Court	stated believe should have an amended information. Amends Court I. Court stated three motions, Motion to Compel complete recording, seen State's response, have Seen defendant's Motion in Limine, Motion to Suppress as well as State's Memo in support of Motion re: 404B evidence. Is State saying cannot produce a complete tape?
<u>1:44:32 PM</u>	Tamera Kelly	surveillance video prepared by security guard at Garden Plaza, was not able to make complete copy of the tape, he video taped the screen of his computer. Then given to law enforcement. Video made covers 6 days. State made that video available for defense counsel to review, neither Mr. Borton or Ms. DAVIS have viewed that. Mr. Faylor stated he could not make copy of that video and contacted I.T. person to try and he also could not make copy. Ms. Davis found someone that believes can do that. Have made appointment for him to come to sheriff's office and try to make that copy. Not sure how far back the surveillance video goes.
<u>1:47:43 PM</u>	Court	motion activated tape.
<u>1:48:05 PM</u>	Tamera Kelly	film does contain a date each time it starts new snippet. Not sure if it would film in solid stream or if it would stop and start each new snippet.
<u>1:49:02 PM</u>	Court	inquired if that would satisfy defense's motion.
<u>1:49:31 PM</u>	Charlene Davis	spoke with Ms. Kelly over lunch hour. Do not know how much information is on that hard drive. Do not need to go further on Motion to Compel
<u>1:50:29 PM</u>	Court	will hear argument on the Motion to Suppress
<u>1:50:37 PM</u>	Charlene Davis	Ms. Davis re: Mr. Faylor taking I-phone and recording snippets off the computer screen. Object for variety of reasons. Hard to see a video recording of a video recording. Would like an original copy off the hard drive. Object to the video. Ms. Kelly stated they would be muted so you would not hear Mr. Faylor's comments.

<u>1:53:14 PM</u>	Court	stated if jury wanted to hear again they would be brought back into courtroom with counsel and then muted
<u>1:53:35 PM</u>	Charlene Davis	Idaho Rule 106, snippets of video that are not complete. Worked at Garden Plaza up to December 2012. Defendant went to visit some of her former clients after that. Do not know if there is add'l video to be included as have not reviewed that video yet. Not knowing if there is anything exculpatory, would like video suppressed. We are month away from trial. State has one snippet for the Court to review.
<u>1:58:01 PM</u>	Court	will hear what is needed in the courtroom. Not going to take back a c.d. to view in chambers.
<u>1:58:56 PM</u>	Tamera Kelly	brought video that state is calling charged conduct.
<u>1:59:22 PM</u>	Court	papers have described it, understand it is motion activated tape. Series of snippets which is what you get with motion activated tape. Believe it is accurately described. Not sure what value in looking at tape
<u>2:00:06 PM</u>	Charlene Davis	Video shows defendant going in and out of apartments, and that is not necessarily true. What is really happening is defendant standing in doorway. Then video clicks off. State is saying defendant coming out of the apartment each time and that is not what happened.
<u>2:01:44 PM</u>	Court	if that is all it picks up, than question is if it is relevent, and if so can it be explained to the jury. Ms. Davis can cross on that and can show jury what short comings is or are. Court comfortable with concept that if video running then there is still motion. If it stops then there is no motion
<u>2:03:11 PM</u>	Charlene Davis	There are double images. Can be at one end of hall then it stops, then video picks up and shows at other end of hall with nothing in between.
<u>2:03:48 PM</u>	Court	response, can that be explained in some fashion.
<u>2:04:02 PM</u>	Tamera Kelly	surveillance video would only take up motion, only couple clips where that occurs. More in video tape then what Ms. Davis describes.
<u>2:05:21 PM</u>	Charlene Davis	cont'd argument on Motion to Suppress. Probative value substantially outweighed by the prejudice.
<u>2:06:47 PM</u>	Tamera Kelly	different argument than the motion filed by Mr. Borton. Not sure whether can make lawful copy. Mr. Simpson stated that the computer is lawful copy. RE: Rule of Completeness. Video made available prior to December 132. Ms Davis became counsel at first of year and video was made available and Ms. Davis did not come to review. Computer is at the property room. Been opportunity to review. Video clips during noon hours when most residents are out to lunch. Video of defendant opening door knobs.

<u>2:14:07 PM</u>	Charlene Davis	Regarding making video available, Ms. Kelly stated could review the I-phone video, investigator thought they could make copy of hard drive. Was then told on February 6th, that hard drive booked into evidence in the jail. Was then told the hard drive was proprietary. Tim Simpson with computer surveillance was set up for any part of it to be recorded. Relayed that to Ms. Kelly.
<u>2:17:59 PM</u>	Court	will rule on Motion in Limine/Motion to Suppress. Court understands defendant employed in 2012 for Home Watch Care Givers. Defendant had several clients at Garden Plaza retirement. Has independant units as well as assisted living units. Independant Units keep their meds in their units where assisted living's meds were locked up. May 22, 2013, Clarence Saterun reported that 15-20 Hydrocodone were missing from his room. He takes pills for pain only as needed. Reported to Mr. Faylor who reviewed the surveillance video, saw defendant enter Garden Plaza enter 6 times. Observed her entering into residents apartments and defendant was wearing scrubs at least 5 of the 6 times and coming when residents were at lunch and exiting with something in her pocket. Mr. Faylor contacted law enforcement an detective Papparillo that defendant complained to co worker that she injured her leg on job and her doctor had not prescribed enough pain pills for the injury. She inquired of co worker whether she could get her some pain pills. On October 31, 2013 State filed this motion seeking to introduce defendant's various visits when defendant was not working as well as defendant's drug seeking behavior. Standard of review, Court has broad discretion. Court may defer ruling until evidence unfolds. Court thinks despite limitations, video surveillance is relevent pursuant to 401. This motion brought pursuant to 403. Can be excluded if probative value is substantially outweighed by prejudice. Court cannot find that there is risk or unfair prejudice. Defense after reviewing the tape may be able to put things into context to avoid confusing or misleading the jury. Nature of video has its limitations but from what Court understands that with assistance, Mr. Faylor can explain what is filmed, when it starts and when it stops. Not know whether video is complete so Court cannot rule on that. For all reasons Court denies Motion to Suppress. Going to State's 404 b motion
<u>2:30:54 PM</u>		

<p><u>2:31:15 PM</u></p>	<p>Tamera Kelly</p>	<p>argued. Filed in abundance of caution. Statements defendant made to co worker. would admit through Ms. Jones. Confront call made. Sufficent evidence. Probative value is two fold. Evidence of Intent. Evidence is probative and evidence of drug seeking behavior. Video portion clips, State has to prove intent element beyond reasonable doubt.</p>
<p><u>2:37:38 PM</u></p>	<p>Charlene Davis</p>	<p>Not being able to review all the evidence, puts defense in quandry. In regards to statements, party oponent, Ms. Jones not a party to this action. No evidence regarding confront call. What Ms. Jones has to offer does not add to this case.</p>
<p><u>2:42:22 PM</u></p>	<p>Ms. Kelly</p>	<p>responded.</p>
<p><u>2:43:45 PM</u></p>	<p>Court</p>	<p>ruled re: Standard of Review for 404B Motion, regarding admissability of defendant's prior conduct, do apply two part standard. ST vs Johnson case from 2010, St vs Cross, 1999 case. Other evidence of other crimes, can be used if notice is filed. State has argued that defendant's behavior in alleging that defendant asked a co worker for pills is motive for obtaining pills from the residents of Garden Plaza. Court finds it is classic evidence of criminal propensity. In this case State asking because defendant asked co worker for pills that when she entered Garden Plaza she must have been entering with criminal propensity. Probative Value of that evidence would be substantially outweighed for undue prejudice. Court will deny that 404b. Next in introducing testimony from Mr. Faylor as well as the video clips when defendant had no business being there. Court finds that this is admissable. Defendant was dressing similarly each time she entered the residence. Court finds similarity between the charged and uncharged was part of a course of conduct, defendant's pattern wearing same type of scrubs and checking same area where prescription drugs were kept and entering in and out of residence. Court finds defendant's prior visits to Garden Plaza is relevant and is part of common scheme and plan, and there fore probative value is not substantially outweighed by undue prejudice. Court grants in part and denies in part. Court will ask Ms. Kelly to prepare an order that conform with Court's ruling</p>
<p><u>2:55:32 PM</u></p>	<p>End Case</p>	

NO. _____ FILED 3:44
A.M. _____ P.M.

APR 14 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2013-0009451
)	
vs.	)	AMENDED
	)	INFORMATION
LADONNA MARIE YOUMANS,)	
	)	Defendant's DO
Defendant.	)	Defendant's SSN
)	

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that LADONNA MARIE YOUMANS is accused by this Information of the crimes of: I. BURGLARY, FELONY, I.C. §18-1401, II. ATTEMPTED BURGLARY, FELONY, I.C. §18-1401, 18-306, ~~III. RESISTING AND/OR OBSTRUCTING AN OFFICER, MISDEMEANOR, I.C. §18-705~~ and ~~IV.~~ ^{III.} POSSESSION OF A CONTROLLED SUBSTANCE, MISDEMEANOR, I.C. §37-2732(c), which crimes were committed as follows:

COUNT I

That the Defendant, LADONNA MARIE YOUMANS, on or between the 8th day of May, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: an apartment, the property of Clarence Sateren a resident of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

COUNT II

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did attempt to enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft by trying the door knob to access the apartments.

COUNT III

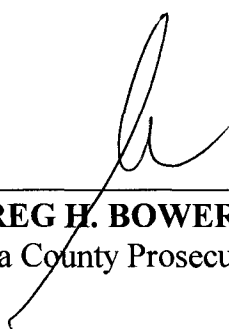
That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did willfully resist, obstruct and/or delay a public officer, to-wit: Officer Paporello, in the discharge and/or attempt of a duty of his office, by entering her house and closing the door, resisting arrest, attempting to keep evidence from being discovered and/or struggling with Officer Paporello.

*Dismissed
Marillo*

COUNT ~~IV~~ III.

That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Hydrocodone, a Schedule III controlled substance.

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



GREG H. BOWER
Ada County Prosecuting Attorney

NO. _____
A.M. _____ FILED P.M. 4:43

APR 17 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2013-0009451
)	
vs.	)	ORDER GRANTING, IN
	)	PART, and DENYING IN
LADONNA MARIE YOUMANS,	)	PART, THE STATE'S
	)	MOTION FOR 404b
Defendant.	)	EVIDENCE
_____)	

The Court heard argument regarding the State's Motion for 404b Evidence (Notice and Memorandum in Support) heretofore made in the case of State of Idaho vs.

LADONNA MARIE YOUMANS. The Court, having heard the arguments of counsel, having reviewed the briefs of the parties, and being fully advised in the premises, does

hereby grant the State's Motion in part, and deny the State's Motion in part. The Court

Grants the State's request to introduce as evidence, the Defendant's six (6) visits to

Garden Plaza of Valley View, including the surveillance video, that occurred between

**ORDER GRANTING, IN PART, and DENYING IN PART, THE STATE'S
MOTION FOR 404b EVIDENCE (YOUMANS), Page 1**

J

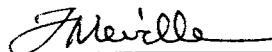
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April 15, 2013 and May, 2013. The Court denies the State's request to introduce the Defendant's previous request for prescription pills from a co-worker. The Court incorporates all of the findings of fact and conclusions of law that this Court articulated on the record at the conclusion of the hearing on April 8, 2014.

JM

IT IS HEREBY ORDERED that the State's Motion for 404b evidence is granted in part, and denied in part.

DATED, this 17th day of April, 2014.



Thomas F. Neville
District Judge

NO. _____
FILED _____
A.M. _____ P.M. 4:44

APR 17 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451

**ORDER DENYING
DEFENDANT'S MOTION *IN*
LIMINE TO SUPPRESS
EVIDENCE**

The Court heard argument regarding Defendant's motion *in limine* to suppress evidence heretofore made in the case of State of Idaho vs. LADONNA MARIE YOUMANS. The Court having heard the arguments of counsel, having reviewed the briefs of the parties, and being fully advised in the premises does hereby deny Defendant's motion *in limine* to suppress evidence. The Court incorporates all of the

JM

**ORDER DENYING DEFENDANT'S MOTION *IN LIMINE* TO SUPPRESS
EVIDENCE, (YOUMANS), Page 1**

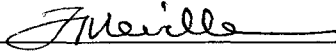
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findings of fact and conclusions of law that this Court articulated on the record at the conclusion of the hearing on April 8, 2014.

JN

IT IS HEREBY ORDERED that Defendant's motion to suppress is denied.

DATED, this 17th day of April, 2014.



Thomas F. Neville
District Judge

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NO. _____
A.M. _____ FILED _____ P.M. 2

APR 24 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

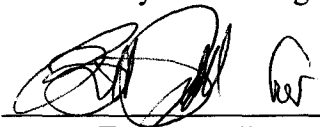
THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
)
)
_____)

Case No. CR-FE-2013-0009451
THIRD ADDENDUM TO
DISCOVERY RESPONSE TO
COURT

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Third Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 24 day of April 2014.

GREG H. BOWER
Ada County Prosecuting Attorney


By: Tamera Kelly
Deputy Prosecuting Attorney

SW

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NO. _____ FILED _____
A.M. _____ P.M. 340

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

APR 28 2014

CHARLENE W. DAVIS, ISB #7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

Case No. CR-FE-2013-9451

vs.

NOTICE OF HEARING
(Motion to continue Jury Trial)

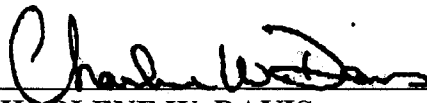
LADONNA MARIE YOUMANS,

Defendant.

TO: THE STATE OF IDAHO, Plaintiff, and to Tamera Kelly, Ada County Prosecutor's Office:

YOU, AND EACH OF YOU, ARE HEREBY NOTIFIED that the above-named Defendant will call on for hearing Motion to continue, now on file with the Court. Said hearing shall take place on May 5th, 2014, at 3:00 p.m., in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED Monday, April 28, 2014.

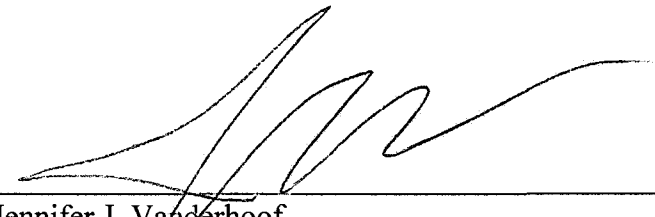


CHARLENE W. DAVIS
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Monday, April 28, 2014, I mailed (served) a true and correct copy of the within instrument to:

Tamera Kelly
Ada County Prosecutor's Office
Interdepartmental Mail



Jennifer J. Vanderhoof

APR 28 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

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ADA COUNTY PUBLIC DEFENDER
CHARLENE W. DAVIS, ISB#7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

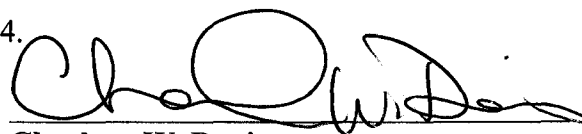
STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)
 _____)

Criminal No. CR-FE-2013-9451

MOTION TO CONTINUE JURY TRIAL

COMES NOW, the above-named Defendant, LaDonna Marie Youmans, by and through her Attorney of Record, the Ada County Public Defender's Office, Charlene W. Davis, handling attorney, and hereby moves this Honorable Court for its Order to continue the Jury Trial now scheduled for the 13th day of May, 2014, at the hour of 9:00 a.m. Defense Counsel needs more time to review the evidence of the video surveillance the State just gave defense counsel.

DATED, this 28th day of April, 2014.



Charlene W. Davis
Attorney for Defendant

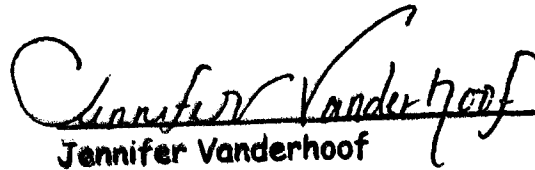
MO

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 28th day of April, 2014, I mailed a true and correct copy of the foregoing to the:

Ada County Prosecutor, Tamera Kelly

by depositing the same in the Interdepartmental Mail.


Jennifer Vanderhoof

182
PAC
515
8-

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

MAY 01 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Criminal No. CR-FE-2013-9451

AFFIDAVIT OF CHARLENE W. DAVIS
IN SUPPORT OF THE MOTION TO
CONTINUE JURY TRIAL

STATE OF IDAHO)
)
)ss.
COUNTY OF ADA)

I, Charlene W. Davis, after first being duly sworn do attest to the following:

1. I am the Attorney of Record for LaDonna Marie Youmans (hereinafter referred to as Defendant) in Case No. CR-FE-2013-9451.
2. The Public Defender's Office was appointed on January 2nd, 2014.
3. The Public Defender's Office opened the defendant's file on January 3rd, 2014.
4. On January 15th, 2014 a review hearing was held before this honorable court and another review hearing was set for January 21st, 2014.
5. I met with the defendant for the first time to discuss her case on January 17th, 2014.

h

6. On January 21st, 2014 at the review hearing defense counsel told this court that she could not be ready for a Jury Trial scheduled for March 4th, 2014.
7. The case was reset for Jury Trial to May 13th, 2014.
8. On February 3rd, 2014 I received an email from Darby Lewis, an investigator for the Public Defender's Office stating that the Garden Plaza was still possession of the hard drive that contained video necessary for a possible defense for this case.
9. On February 6th, 2014 I was informed by the State by email that the State had taken possession of the hard drive and booked it into property at the Ada County Jail. And that I could make an appointment to view the video through either the State or Detective Paparello.
10. On February 7th, 2014 I responded to the States email and requested to make a copy of the hard drive.
11. On February 11th, 2014 I was informed by my investigator, Darby Lewis, that Tim Simpsons with Computer Surveillance Systems installed the security system at Garden Plaza.
12. On February 12th, 2014 I was informed by the State that the video is "proprietary" and that I could not make a copy of the video but that either my investigator or I could view the video at the Ada County Jail.
13. On March 21st, 2014 I informed the State by email that Tim Simpsons had relayed to Darby Lewis that the hard drive was set up so that any video footage could be copied and downloaded. I cannot recall what date I found this information out before relaying it to the State.
14. On March 27th, 2014 the State emailed me and let me know they would try and get ahold of Mr. Simpsons.
15. On April 8th, 2014 a motion to compel hearing was held and I withdrew that motion based on Ms. Kelley's statements to me that I could get a copy of the hard drive.
16. On April 10th, 2014 the State let me know that they had talked to Mr. Simpsons and that I could get a copy of the hard drive however, I would need a terabit hard drive to copy all the information that I needed.
17. On April 15th, 2014 our office ordered a terabit hard drive from Office Max that arrived on April 16th, 2014.

18. On an unknown date I dropped the hard drive off at the State's reception desk.
19. On April 23rd, 2014 Ms. Kelley dropped off the terabit hard drive to the Public Defenders reception desk.
20. On April 25th, 2014 Tyler Maxey a support specialist of the Ada County Information Technology Office informed me that there were only 500 megabits of information on the hard drive and that it was not in video format.
21. On April 30th, 2014 I informed Ms. Kelley with the State of the information that Mr. Maxey relayed to me in regards to the terabit hard drive.
22. On April 30th, 2014 I was informed by the State that our I.T. person would need to bring a monitor, power cords, keyboard, and mouse in addition to the terabit hard drive in order to copy the information and that I would also need to get a HIPPA order from the court.
23. I believe based on the defendant's statements to Darby Lewis and me, that there could be exculpatory evidence on the hard drive that I still do not have a copy of and I believe there is video on the hard drive that I would like to introduce into evidence at Trial. At this current time neither the State or I have apparently figured out how to make a copy of the hard drive.
24. Good cause exists to grant a continuance in this matter. Defendant should not have to go through trial without reviewing the evidence against her.

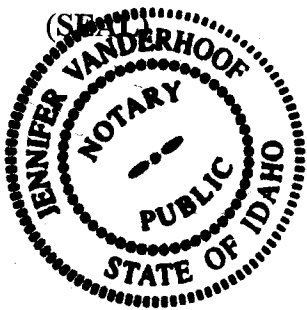
DATED, this 1st day of May, 2014.



Charlene W. Davis
Attorney for Defendant

STATE OF IDAHO)
)ss.
COUNTY OF ADA)

SUBSCRIBED and SWORN to before me, a Notary Public, in and for the State of Idaho, County of Ada, on this 1st day of May, 2014.



Jennifer Vanderhoof
Jennifer Vanderhoof, Notary Public for Idaho
Residing at: Nampa, Idaho
My commission expires: 5/22/18

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 1st day of May, 2014, I mailed a true and correct copy of the foregoing to the:

Tamera Kelley, Ada County Prosecutor

by depositing the same in the Interdepartmental Mail.



Jennifer Vanderhoof

182
3-5/15

NO. _____ FILED _____
A.M. _____ P.M. _____

MAY 02 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
)
_____)

Case No. CR-FE-2013-0009451

**OBJECTION TO THE
DEFENDANT'S MOTION TO
CONTINUE JURY TRIAL**

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and hereby notifies the Court and Counsel of the State's objection to the Defendant's Motion to Continue the Jury Trial scheduled to commence on May 13, 2014.

Defendant's Motion filed April 28, 2014, is the third time that the Defendant requested a continued jury trial. The State is prejudiced by this request. The State has several civilian witnesses who are elderly. Since the first continuance, one witness developed dementia and is unable to testify.

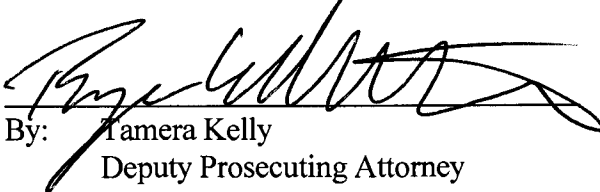
OBJECTION TO DEFENDANT'S MOTION TO CONTINUE JURY TRIAL (YOUMANS)

Additionally, the State objects to Defendant's request because the Defendant has had the opportunity to review the surveillance video footage since January 2, 2014. The Defendant's claims about discovery are not a matter of production by the State, but rather a matter of convenience for defense counsel. Further, the Defendant should not be prejudiced by continuing to trial on May 13, 2014. It is the State's understanding that the Defendant is seeking video footage of the Defendant walking in hallways to show that the Defendant was at the crime scene to visit friends. The Defendant is still free to call witnesses to produce this defense. The State believes witness testimony of the Defendant being at the crime is more valuable evidence as opposed to video clips of the Defendant walking in hallways, which really do not show that the Defendant was at the crime scene to visit with friends and/or past clients.

Therefore, the state respectfully requests that this Court enter an order denying the Defendant's motion.

DATED this 2nd day of May 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

FK
By: 
Tamera Kelly
Deputy Prosecuting Attorney

OBJECTION TO DEFENDANT'S MOTION TO CONTINUE JURY TRIAL (YOUMANS)

Page 2

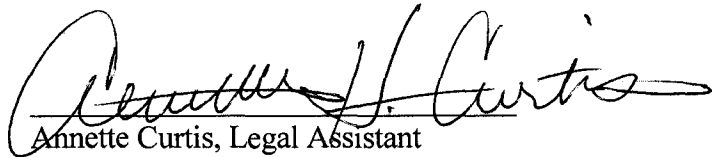
000171

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May 2014, I caused to be served, a true and correct copy of the foregoing OBJECTION TO DEFENDANT'S MOTION TO CONTINUE TRIAL upon the individual named below in the manner noted:

Name and address: **Charlene Davis, Ada County Public Defender, 200 W. Front Street, Suite 1107, Boise, Idaho 83702.**

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____


Annette Curtis, Legal Assistant

180
Page
235

NO. 1050 FILED
A.M. _____ P.M. _____

MAY 05 2014

CHRISTOPHER D. RICH, Clerk
By **KATRINA CHRISTENSEN**
DEPUTY

**ADA COUNTY PUBLIC DEFENDER
CHARLENE W. DAVIS, ISB#7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

THE STATE OF IDAHO,

Plaintiff,

vs.

LADONNA MARIE YOUMANS,

Defendant.

Criminal Case No. CR-FE-2013-9451

**DEFENDANT'S LIST OF
POTENTIAL WITNESSES**

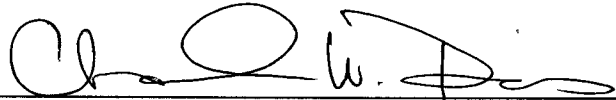
COMES NOW, LADONNA MARIE YOUMANS, the defendant above-named, by and through counsel Ransom J. Bailey, Ada County Public Defender's Office, and provides the following list of the defendant's potential witnesses:

- 1) Tim Brown
Willow Park Assisted Living
2600 N Milwaukee Ave
Boise, Idaho 83704
208-854-3829
- 2) Ruth Higby
Garden Plaza Valley View
1130 N. Allumbaugh
Boise, Idaho 83706
208-323-0311

[Handwritten mark]

- 3) Tim Simpsons
Computers Surveillance Systems
117 East Main Street
Emmett, Idaho 83617
208-365-3632
- 4) Robert Youmans
2107 North Bryson Road
Boise, Idaho 83713
208-850-8906
- 5) Officer Laura Newell
Ada County Sheriff
- 6) Jeremiah Villanueva
6818 Holiday Drive
Boise, Idaho 83709
- 7) Officer Paporello
Ada County Sheriff

DATED, this 5th day of May 2014.



Charlene W. Davis
Attorney for Defendant


CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on 5th day of May, 2014, I served a true and correct copy of the within instrument to:

**Tamera Kelly
Ada County Prosecutor's Office
Interdepartmental Mail**


Charlene W. Davis

Time	Speaker	Note
03:10:50 PM	Court	called ST v LDONNA YOUMANS CRFE13-09451 , present on bond, time set for pre trial conference
03:11:14 PM	Charlene Davis	counsel for defendant
03:11:20 PM	Tamera Kelly	counsel for State
03:12:28 PM	Court	if grants, will be the fourth trial reset.
03:16:25 PM	Charlene Davis	argued the Motion to reset Jury Trial
03:19:43 PM	Tamera Kelly	filed an objection, because of prejudice to the State. This video has been available to view for quite some time. Do not believe that a copy would be available to make
03:25:40 PM	Charlene Davis	have same issues with elderly witnesses as well that their memories are not as well. Believe can overcome the technical difficulties. Would like add'l three months
03:27:59 PM	Court	reluctantly will grant Motion to Continue. Court will reset trial ro July 1st @ 9:00 a.m. and pre trial conf. On June 16, 2014 @ 3:00 p.m. Will need to go on that date. No further resets
03:33:50 PM	End Case	

FILED
Tuesday, May 06, 2014 at 08:43 AM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: 
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

LDONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

**NOTICE OF JURY
TRIAL RESETTING**

ADA COUNTY PROSECUTING ATTORNEY/TAMERA KELLY
INTER DEPT MAIL

ADA COUNTY PUBLIC DEFENDER/CHARLENE DAVIS
INTER DEPT MAIL

THE HONORABLE THOMAS F. NEVILLE HAS SET THE ABOVE-ENTITLED
MATTER FOR TRIAL BEFORE THE COURT AND A JURY ON:

PRETRIAL CONFERENCE.....Monday, June 16, 2014 @ 03:00 PM
Judge: Thomas F. Neville

JURY TRIAL.....Tuesday, July 01, 2014 @ 09:00 AM
Judge: Thomas F. Neville

THE DEFENDANT SHALL BE PERSONALLY PRESENT AT THE PRETRIAL
CONFERENCE UNLESS EXCUSED BY THE COURT.

Proposed Jury Instructions shall be submitted at least five days prior to trial.

CHECK BULLETIN BOARD ON DAY OF TRIAL FOR COURTROOM NUMBER.

cc: Counsel/je

NOTICE OF JURY TRIAL SETTING



RECEIVED

APR 28 2014

ADA COUNTY CLERK

ADA COUNTY PUBLIC DEFENDER
CHARLENE W. DAVIS, ISB#7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

NO. _____ FILED
A.M. 9:55 P.M. _____

MAY -6 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)
 _____)

Criminal No. CR-FE-2013-9451

ORDER GRANTING CONTINUANCE

For good cause appearing, this Court hereby grants Defendant's MOTION TO CONTINUE JURY TRIAL.

IT IS HEREBY ORDERED, AND THIS DOES ORDER, that the Jury Trial is rescheduled to the 1st day of July, 2014, at the hour of 9:00 a.m.

DATED, this 6th day of May, 2014.

Thomas F. Neville
Thomas F. Neville
District Judge

ORDER GRANTING CONTINUANCE

JUN 05 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

*182
PCC
6/16
KH*

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)
 _____)

Case No. CR-FE-2013-0009451
**MOTION TO ADMIT
PRELIMINARY HEARING
TRANSCRIPT OF CLARENCE
SATEREN AT TRIAL**

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and moves this Court for an order finding that the preliminary hearing transcript of the testimony of Clarence Sateren is admissible for trial. This motion is made pursuant to Idaho Code §9-336 and Idaho Rule of Evidence 804(b)(1).

I. FACTUAL BACKGROUND

The Information, filed on August 22, 2013, charges the Defendant with felony crimes of Burglary and Attempted Burglary, and misdemeanor crimes of Resisting and Obstructing an Officer and Possession of a Controlled Substance (Hydrocodone). The charged conduct in

✓

Count I is alleged to have occurred on or between May 8, 2013 and May 15, 2013. The charged conduct in Count I is specific to the crime victim, Clarence Sateren.

On May 22, 2013, Clarence Sateren, a resident of Independent Living at Garden Plaza, reported that approximately 15-20 Hydrocodone 5/325 mg pills were missing from his room. The report was given to Chuck Faylor, manager of Garden Plaza. Mr. Faylor reviewed the video surveillance outside of Mr. Sateren's room and discovered that on May 15, 2013, at approximately 11:40 a.m., a woman exited Mr. Sateren's room. Mr. Faylor noticed that the woman was dressed in medical scrubs as if she was a home health worker. Mr. Faylor also noticed that prior to exiting Mr. Sateren's room, the woman was in the hallway attempting to enter other apartments before she entered Mr. Sateren's room. Mr. Faylor checked additional surveillance videos and saw after the woman left Mr. Sateren's room, she continued down another hallway, checking doors and briefly entering two rooms. Mr. Faylor contacted the Manager of Homewatch, who identified the Defendant as the woman on the video.

II. PROCEDURAL HISTORY

The State filed a complaint, charging the Defendant with Burglary, and a warrant against the Defendant with Burglary on July 12, 2013. The Defendant hired counsel to assist her with the criminal charges. The Defendant was arraigned on July 15, 2013. A preliminary hearing was held on August 20, 2013. The State called Clarence Sateren as a witness, who testified and was subject to cross-examination. The Court found probable cause.

On August 22, 2013, the Information in this case was filed, charging the Defendant with Felony Burglary and Felony Attempted Burglary, in addition to two misdemeanor charges. The Defendant pleaded Not Guilty on September 30, 2013. This case was set for trial in December of 2013. On November 12, 2013, Defendant filed a Motion to Continue the Jury Trial. On November 14, 2013, this Court granted Defendant's Motion, after the Defendant waved her right to a speedy trial. During this hearing, the State stated that the Continuance did not have prejudiced to the State, except for the fact that many of the State's witnesses are elderly, living in assisted living.

This case was reset for trial on March 4, 2014. On December 23, 2013, the Defendant's privately retained counsel filed a Motion to Withdraw as Counsel, stating that Defendant had a

“failure to abide by the terms and conditions of her engagement agreement with counsel.” A hearing was held on this issue on January 2, 2014. During this hearing, the State again stated the only prejudice to the State was the age of the civilian witnesses, who are elderly. The Court granted the privately retained counsel’s request to withdraw. On that same day, the Court also appointed the Public Defender to this case, after finding the Defendant indigent.

On January 21, 2014, a hearing was held and the Defendant requested another continuance because the newly appointed counsel would not be able to be prepared for trial in March and that counsel already had a trial scheduled. This case was re-set for trial on May 13, 2014. On May 5, 2014, the Defendant requested another continuance because defense had not reviewed surveillance video. The State again mentioned the prejudice to the State because most of the civilian witnesses are elderly. Specifically, the State mentioned that one or more witnesses is likely now unable to testify at trial.

On May 1, 2014, the State’s investigator met with Mr. Sateren in order to prepare for the May 13, 2014 jury trial. Mr. Sateren conveyed that he was not mentally and physically able to testify at the upcoming jury trial. See State’s Exhibit 1. Mr. Sateren was served with a subpoena that afternoon. After being served with the subpoena, the State received notification from Chuck Faylor that Mr. Sateren was upset and distressed about the possibility of returning to Court. The State requested documentation from Mr. Sateren’s doctor, which was provided to the State via email. See State’s Exhibit 2. The State also contacted family members of Mr. Sateren and received an email from his nephew describing his current physical condition. See State’s Exhibits 3 and 4.

III. ARGUMENT

A preliminary hearing transcript is admissible if two provisions are met. These provisions are almost identical. First, Idaho Code §9-336 must be satisfied. Second, Idaho Rule of Evidence 804(b)(1). Under Idaho Code §9-336 testimony from a preliminary hearing may be admitted if:

- (1) The testimony being offered is of a material fact and the testimony being offered is the most probative than any other evidence available to the party.
- (2) The witness is unavailable, and
- (3) That during the preliminary hearing, the opposing side had an adequate opportunity to prepare and cross-examine the witness.

Under IRE 804(b)(1), former testimony is admissible if: (1) the witness is unavailable, and (2) the opposing counsel had a prior opportunity with similar motive to cross-examine the witness.

In summary, the moving party must show before a preliminary hearing transcript is used that (1) the witness is unavailable, (2) opposing counsel had a prior adequate opportunity to cross-examine that witness, and (3) the testimony of the unavailable witness is of a material fact and cannot be offered through any other form of evidence available to the moving party.

A witness is unavailable if he “is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity.” IRE 804(a)(4). A witness is not “unavailable” if their infirmity is only temporary. See State v. Perry, 144 Idaho 266, 269, 159 P.3d 903, 906 (Ct. App. 2007). The witness’s unavailability “must be of a duration that a continuance is not a practical alternative.” Id. (quoting State v. Button 134 Idaho 864, 868, 11 P.3d 483, 487 (Ct. App. 2000)).

In Perry, the Court of Appeals found that a witness for the State was not “unavailable” finding a witness’s illness caused by an infection from a cancer treatment was not “of such duration that a continuance was not a practical alternative.” Id. at 270, 159 P.3d at 907. The Court based the reasoning on the witness’s ability to testify the day before the trial and the lack of information as to whether if she would be able to testify if the trial were continued a few days. Id.

In this case, Mr. Sateren should be considered “unavailable” due to his current medical condition. The letter from Mr. Sateren’s physician, Dr. John Guicheteau, states that his multiple medical issues compromise his ability to respond to the Court. Mr. Sateren is ninety-seven years old. The Court can draw inferences from Dr. Guicheteau’s letter combined with Mr. Sateren’s age, ninety-seven, to reason that his condition is of such a duration that a continuance would not remedy his ability to appear. Dr. Guicheteau’s letter is supplemented by letters from his (Mr. Sateren’s) nephew and sister that provide their observations of Mr. Sateren’s current condition when he is outside of his room.

In this case, it should be undisputed that the Defendant, through her prior counsel, had an adequate opportunity to cross-examine Mr. Sateren at the preliminary hearing. The Defendant was in receipt of discovery prior the hearing, and nothing has been disclosed since the preliminary hearing that may have changed the scope of the direct testimony or

cross-examination. It should also be undisputed that Mr. Sateren's testimony is of material facts, namely that his prescription pills were missing, the timeframe the pills were missing, and the fact that no one else would be inside of his room except his housekeeper and his sister. These are facts that the State must put forward to a Jury in order to provide proof that the Defendant committed the crime of Burglary. This evidence is not available through other means, because it would be considered hearsay for another to describe Clarence's testimony.

IV. CONCLUSION

For the foregoing reasons, the State requests that this Court allow the State to introduce Mr. Sateren's testimony at the preliminary hearing at trial. The State is requesting that the Court find (1) Mr. Sateren unavailable, that (2) the Defendant had an adequate prior opportunity to cross-examine Mr. Sateren at the preliminary hearing, and (3) that Mr. Sateren's testimony is of a material fact that cannot be introduced at trial through any other evidence.

DATED this 5 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Ada County Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 5th day of June 2014, I caused to be served, a true and correct copy of the foregoing Motion to Admit Preliminary Hearing Transcript of Clarence Sateren at Trial upon the individual(s) named below in the manner noted:

Name and address: Charlene Davis, Ada County Public Defender

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By Hand Delivering said document to defense counsel.
- By emailing a copy of said document to defense counsel.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____



Legal Assistant

INVESTIGATIVE REPORT

To: Deputy Prosecutor Tamera Kelly
From: Investigator Jim Lardieri
Date: May 2, 2014
Re: **State v. LaDonna Youmans**

On 5/1/14, Deputy Prosecutor Kelly and I met with a witness associated with this case. The meeting took place at the Garden Plaza of Valley View retirement home in Boise. The witness is identified as:

Clarence Sateren
[REDACTED]

Facilities manager Charles Faylor was also present for the meeting which commenced at 2:41 pm. Deputy Prosecutor Kelly spoke with Sateren about the possibility of him testifying at the upcoming trial. He said that he would not be able to testify again and said he would not be up to doing that. Deputy Prosecutor Kelly explained to Sateren that witnesses were needed to prosecute the case. Sateren said that he was ninety-seven years old and that his hearing was bad. He also cited health concerns including suffering a heart attack in the past. He also said that he had some sort of heart related episode about three months ago that was not a heart attack.

Sateren said that he would tell the judge that he didn't feel well enough to come to court if he was ordered to do so. He also said that he felt that a person's health needed to be taken into account.

At the conclusion of the conversation, I served Sateren with a subpoena for the trial. The meeting was concluded at 2:50 pm.

SAMG Curtisian Internal Medicine

6140 W Curtisian Ln Ste 300

Boise, ID 83704-0107

(208)367-6575

Fax: (208)367-6597

Provider: Guicheteau MD, John

PCP: John E Guicheteau MD

05/01/2014

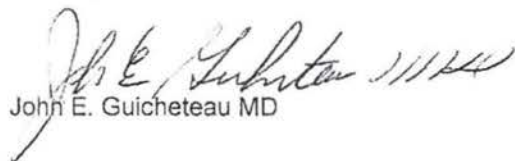
Clarence Sateren
1130 N Allumbaugh St Apt 272
Apt 272
Boise, ID 83704-8799

To Whom It May Concern,

Clarence is a nonagenarian with multiple medical issues which compromised his ability to respond to his court summons.

These include, but are not limited to: coronary disease, dyspnea (shortness of breath), hypertension, macular degeneration, chronic renal failure, etc.

Sincerely,


John E. Guicheteau MD

STATE'S
EXHIBIT

000186

2

Tamera Kelly

From: robpayne725@comcast.net
Sent: Saturday, May 31, 2014 5:40 PM
To: Tamera Kelly
Subject: Clarence Sateren

My name is Rob Payne. I am Clarence Saterens nephew and legal power of attorney. I reside in Olympia Wa. I'm writing this on behalf of my soon to be 97 year old uncle (7/8/17). I'm in Boise now for visit and see a definite decline in his physical stamina since my last visit six months ago! An outing for him consists of maybe an hour being away from his apartment. I had him out for a haircut a couple days ago and he didn't get through it! He got overheated and felt very light headed and faint. Emergency restroom stops are VERY common with him and they don't always end in a pleasant manner. Being a WWII veteran he is very patriotic and believes in doing what right but he cannot continue with this trial physically or mentally!! He is very worried that he will be forced to go downtown to a trial. So to get right to the point Clarence WILL NOT be participating in any further action in this event. If he's served another subpoenaed he still WILL NOT participate further. He needs to relax with as little stress as possible. I'm asking please dismiss him from any further action in this matter. If you could please send him a note saying he will not be called as a witness. Thank you!! Rob Payne Cell
Sent via BlackBerry from T-Mobile

05/31/14

Mr. Kelly

My name is Helen Payne. I am Clarence Sateren's sister.

This statement is in regard to Clarence being subpoenaed to be a witness at a trial.

Clarence is almost 97 years of age and he is not physically capable to be a witness. His health has declined dramatically in the past year. He is no longer able to leave his apartment for no more than 1 hour, without being totally exhausted. When he gets exhausted, he becomes very pale, short of breath, sweats profusely, is very unsteady on his feet. He needs to lie down immediately. He also has a bladder condition he contends with.

Since I see him several times a week, I am totally aware of his physical limitations. He is very stressed about this situation and

STATE'S
EXHIBIT

0001884

of it. At his age, shouldn't he be allowed to live in peace?

He did testify about a year ago in regard to this case. It wore him out for several days. If he felt capable to testify he would do so, but he says he absolutely isn't able to do so again.

I am very concerned about his health. This whole situation has been detrimental to his physical and mental well being.

Helen Payne

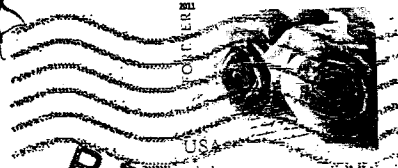


Ms. [redacted] M. Payne



BOISE ID 837

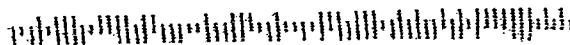
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PROSECUTING ATTORNEY'S OFFICE
ADA COUNTY

*Tamara Kelly
200 West Front St.
Room 3191
Boise, Idaho 83702*



PP 152
26116

NO. _____ FILED _____
A.M. _____ P.M. _____

JUN 05 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
)
_____)

Case No. CR-FE-2013-0009451
FOURTH ADDENDUM TO
DISCOVERY RESPONSE TO
COURT

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Fourth Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 5 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

✓

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JUN 05 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamer Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)


Case No. CR-FE-2013-0009451

NOTICE OF HEARING

TO: Charlene Davis, her Attorney of Record, you will please take notice that on the 16th day of June 2014, at the hour of 3:00 o'clock of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Tamera Kelly, will move this Honorable Court regarding the State's Motion to Admit Preliminary Hearing Transcript of Clarence Sateren at Trial in the above-entitled action.

DATED this 5th day of June 2014

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

✓

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 5th day of June 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted:

Name and address: Charlene Davis, Ada County Public Defender's Office

- By depositing copies of the same in the United States mail, postage prepaid, first class.
- By depositing copies of the same in the Interdepartmental Mail.
- By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- By faxing copies of the same to said attorney(s) at the facsimile number: _____



Legal Assistant

Time	Speaker	Note
03:26:46 PM	Court	called ST v LDONNA YOUMANS CRFE13-09451 , present on bond.
03:27:04 PM	Charlene Davis	counsel for defendant
03:27:11 PM	Tamera Kelly	counsel for State
03:27:17 PM	Court	has a Motion to admit the prelim hearing transcript of one of the witnesses at trial with attached exhibits.
03:29:09 PM	Tamera Kelly	is asking the testimony of Mr. Satteren in lieu of him at trial.
03:36:43 PM	Charlene Davis	Object to State's Motion on two basis. Prelim hearing level handled by different counsel. Need more information.
03:40:53 PM	Court	will consider further pending information from Dr. Guiceteau. Take under advisement. Court maybe can do a trial deposition in his room. Court has identified the pages in the prelim hearing transcript to review. This is very close to being physically unavailable.
03:45:40 PM	PASS	
04:11:29 PM	Court	recalled ST v LDONNA YOUMANS CRFE13-09451 , Court and counsel had a side bar conference and understand that the case will not settle. Court inquired of counsel regarding having a trial deposition for unavailable witness. Court will reset this pre trial conf. over to Thursday, June 19, 2014 @ 9:00 a.m.
04:14:07 PM	End Case	

JUN 16 2014

CHRISTOPHER D. RICH, Clerk
 By JANET ELLIS
 DEPUTY

GREG H. BOWER
 Ada County Prosecuting Attorney

Tamera Kelly
 Deputy Prosecuting Attorney
 200 W. Front Street, Room 3191
 Boise, Idaho 83702
 Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)
 _____)

Case No. CR-FE-2013-0009451
STATE'S EXHIBIT LIST

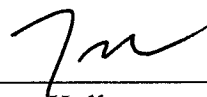
COMES NOW, THE STATE OF IDAHO, by and through the undersigned
 Deputy Prosecuting Attorney, and submits its following exhibit list:

Exhibit No.	Description	Offered	Admitted	Date
	A. REAL EVIDENCE			
1.	Surveillance video – April 15			
2.	Surveillance video – April 18			
3.	Surveillance video – May 6			
4.	Surveillance video – May 8			

5.	Surveillance video – May 14			
6.	Surveillance video – May 15			
7.	Map of Garden Plaza of Valley View			
8.	Interview with Defendant audio - Paparello			

DATED this 16 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

NO. _____ FILED _____
A.M. _____ P.M. *4:45*

JUN 16 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 W. Front St., Room 3191
Boise ID 83702
Telephone: 208-287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant,)
)
_____)

Case No. CR-FE-2013-0009451
**STATE'S LIST OF
POTENTIAL TRIAL
WITNESSES**


COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and does hereby provide the following list of trial witnesses:

1. Kip Paparello, c/o Boise Police Department
2. Charles Faylor, c/o Ada County Prosecuting Attorney's Office
3. Eric Wallentine, c/o Ada County Prosecuting Attorney's Office
4. Autumn Mullins, c/o Ada County Prosecuting Attorney's Office
5. Halima Krdzic, c/o Ada County Prosecuting Attorney's Office

6. Clarence Sateren, c/o Ada County Prosecuting Attorney's Office
7. Lila Bevington, c/o Ada County Prosecuting Attorney's Office
8. Ruth Sigloh, c/o Ada County Prosecuting Attorney's Office

DATED this 14 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



Tamera Kelly
Deputy Prosecuting Attorney

Time	Speaker	Note
08:33:54 AM		ST vs LDONNA YOUMANS CRFE13-09451
09:15:58 AM	Court	on the record
09:16:06 AM	Tamera Kelly	counsel for State
09:16:13 AM	Charlene Davis	counsel for defendant who is present on bond.
09:16:22 AM	Court	continuation of pre trial conference. Court had suggested a video deposition for the 97 year old victim in independent living facility.
09:17:47 AM	Tamera Kelly	Mr. Satteran has agreed to the video deposition as long as a family member here to help look out for his well being if he should get to tired.
09:18:49 AM	Court	purpose to monitor him
09:18:55 AM	Tamera Kelly	re: availability would have court reporter and videographer and available next Thursday or Friday as well as sister.
09:20:48 AM	Court	inquired of Ms. Davis
09:21:09 AM	Charlene Davis	Ms. Davis stated available next Friday but no on Thursday.
09:21:49 AM	Court	inquired if counsel satisfied that court reporter would administer the oath.
09:23:33 AM	Counsel	satisfied with that.
09:23:41 AM	Court	would need to make the jury aware of why video is being done.
09:24:44 AM	Tamera Kelly	stated will advise the videographer would need the tape Friday to allow Ms. Davis time to view.
09:29:43 AM	Charlene Davis	would like to have client there
09:29:59 AM	Tamera Kelly	would need to look at rules
09:30:08 AM	Court	since trial deposition defendant would normally be there for trial. She could be at furtherest point in the room.
09:30:41 AM	Court	has list of witnesses and exhibit list.
09:36:42 AM	Charlene Davis	has 3 witnesses she would call.
09:38:02 AM	Court	inquired length of trial, counsel believed could be done in 2 days will advertise as 3. Will use one alternate. Seating chart for 27. Will go over on morning of trial. Court would like counsel to stipulate to alternate being in box 13.
09:40:31 AM	Counsel	so stipulate to alternate being in box 13.
09:44:37 AM	Counsel	inquired about larger jury panel.
09:46:31 AM	Court	will ask for 70. If no verdict on Thursday night may have to come back on Friday, 4th of July. Court requested any issues to be brought up outside the jury. Court going to proposed instructions. Set over to June 30th @ 3:00 p.m. for further status conference.
09:51:19 AM	End Case	

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NO. _____ FILED _____
A.M. _____ P.M. 339

JUN 27 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
)
)
_____)

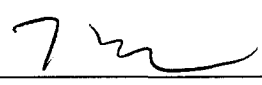
Case No. CR-FE-2013-0009451

**FIFTH ADDENDUM TO
DISCOVERY RESPONSE TO
COURT**

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Fifth Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 27 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney


By: Tamera Kelly
Deputy Prosecuting Attorney



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NO. 1040 FILED
A.M. _____ P.M. _____

JUN 30 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

CHARLENE W. DAVIS, ISB #7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff,
vs.
LADONNA YOUMANS,
Defendant.

Case No. CR-FE-2013-9451

MOTION AND AFFIDAVIT FOR
MATERIAL WITNESS BOND

COMES NOW, Charlene Davis of the Ada County Public Defender's office, counsel of record for LADONNA YOUMANS, the above-named Defendant, and moves this Court to set bail for Ruth Higby, a material witness for Defendant in the above-entitled criminal matter. Attached hereto and incorporated by reference herein is an affidavit of undersigned counsel pursuant to ICR 46.1.

Should this Court require oral argument concerning counsel's motion, undersigned counsel requests this Court grant leave to proceed *ex parte, in camera*, and on a sealed record with regard to this motion. Such *ex parte* proceedings are essential to protect attorney-client communications, attorney work-product, and defense strategy prior to trial, which must be disclosed to make a showing to grant this request. Disclosure of this information at this time would violate Defendant's rights to present a defense, to the effective assistance of counsel, to compulsory process to secure witnesses, to confront

MO

the evidence against her, to due process, to equal protection of the laws, and to the freedom from compulsory self-incrimination, as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the U.S. Constitution, and by all other applicable law.

DATED, this 30th day of June 2014.

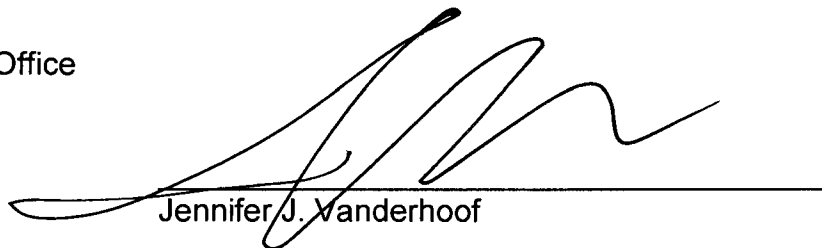


Charlene Davis
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 30th day of June 2014, I mailed (served) a true and correct copy of the within instrument to:

Tamera Kelly
Ada County Prosecutor's Office
Interdepartmental Mail



Jennifer J. Vanderhoof

Affidavit of Charlene Davis

I, Charlene Davis, after first being duly sworn (affirmed), do attest to the following:

- 1) I am over the age of eighteen years.
- 2) I am employed as a Deputy Public Defender for the county of Ada with a license to practice law in the state of Idaho.
- 3) I am counsel of record for LADONNA YOUMANS in a criminal action prosecuted by the state of Idaho in Ada County case number CR-FE-2013-9451.
- 4) That Ruth Higby is a material witness for the defense in the aforementioned criminal matter.
- 5) On Thursday, June 26th, 2014, I was informed by Darby Lewis, an investigator in our office, that Ms. Higby was not happy about having to appear in court and that she is scheduled to have surgery on July 1st, 2014.
- 6) On Friday, June 27th, 2014, I was informed by Mr. Lewis that the surgery is a shunt to open an artery and that Ms. Higby refused to give Mr. Lewis any documentation on the surgery.
- 7) On Friday, June 27th, 2014, I was also informed by Mr. Lewis that he felt Ms. Higby was lying about her surgery and he is continuing to try to obtain information on her surgery.

I certify (or declare) under penalty of perjury pursuant to the law of the state of Idaho that the foregoing is true and correct. This certification or declaration is made pursuant to I.C. § 9-1406 and ICR 2.1

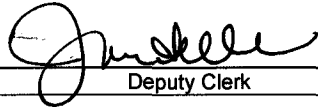
DATED, this 30th day of June 2014.



Charlene Davis
Affiant/Attorney at Law

Time	Speaker	Note
04:12:33 PM	Court	called ST v LDONNA YOUMANS CRFE13-09451, present on bond
04:12:51 PM	Charlene Davis	counsel for defendant
04:13:00 PM	Tamera Kelly	counsel for State
04:13:12 PM	Court	notes since last time here received supplementary letter from Dr. Guiteau.
04:15:17 PM	Tamera Kelly	deposition completed and copies received on Friday.
04:15:50 PM	Court	two motions filed by defense today, Frist Motion to Continue and the Motion for Witness bond.
04:16:55 PM	Charlene Davis	would still like to continue trial. Investigator spoke with Ms. Higby on Friday that she was having a surgery on Tuesday. She would not provide documentation of that and she said she was not coming to Court. Is a resident of the Gardenview.
04:18:29 PM	Court	also has a Motion for Material Witness Bond.
04:18:51 PM	Charlene Davis	Ms. Higby is in her 90's and considered "Firey" At a loss on what to do, so filed a Motion for Witness Bond.
04:19:42 PM	Court	rule 46.1 says can provide an affidavit stating that testimony is material, affidavit states material but does not say how. Court does not do trial by ambush, but would need to know how it is material.
04:23:58 PM	Charlene Davis	Ms. Higby's testimony shows that she was there for other reason than G/T
04:24:29 PM	Tamera Kelly	response Count I is burglary for Mr. Satterrun, Count II is Attempted nothing State can show she was not there to visit. She can be visiting clients but also doing G/T in other rooms
04:25:49 PM	Charlene Davis	important for jury to hear there are witnesses available that defendant was there visiting other clients
04:26:33 PM	Court	Such testimony if can get, would buttress testimony that she was visiting not their to do theft.
04:27:12 PM	Court	read that her claim is she is scheduled for surgery
04:27:44 PM	Tamera Kelly	request Court deny Motion to Continue, witness was subpoenaed either last week or week before, so not much notice for trial. Mr. Faylor had requested that if subpoenaed anyone that he meet with clients personally and serve the subpoena so that they would not be dismissed. Witness bond does not consider her age, her health, she turns 91 in 10 days. Got a sense from Mr. Faylor her health is the issue. Mr. Faylor thought that Ms. Higby's son was driving from McCall to pick her up for surgery.
04:31:14 PM	Court	If Court denies Motion to Continue and considers witness bond, is she going to be helpful to defendant's case.
04:31:21 PM	Charlene Davis	Her testimony to Mr. Lewis was helpful, but if she would not testify would have called Mr. Lewis as rebuttal. In February she was happy, and how she remembers Ms. Youmans. Mr. Lewis contacted Mr. Faylor Thursday morning and he said he did not say she could not have access to Ms. Higby. Mr. Lewis called Ms. Higby and she said she was not going to come to Court and would not give documentation and she was waiting for her son to go to lunch.
04:35:17 PM	Court	if Ms. Higby is scheduled for surgery tomorrow

<u>04:35:32 PM</u>	Tamera Kelly	Mr. Faylor stated surgery was going to be in recent days.
<u>04:36:53 PM</u>	Court	this case is old. Court will deny Motion to Continue. Grant the Motion for Witness Bond. Inquired how much
<u>04:38:05 PM</u>	Charlene Davis	ok with nominal amount
<u>04:38:14 PM</u>	Tamera Kelly	state this witness does not have transportation. Inquired of logistics, would Ms. Higby have to turn in on warrant.
<u>04:39:20 PM</u>	Charlene Davis	willing to give her that transportation. If Witness bond issued
<u>04:41:12 PM</u>	Mr. Lewis	stated he does not even know what Ms. Higby's son's name is
<u>04:42:06 PM</u>	Court	if Court were to grant Motion to continue, might be another trial deposition. Court reluctant, but considering granting the Motion to Continue.
<u>04:43:26 PM</u>	Tamera Kelly	has another 95 year old witness ready to testify, if reset, would like to do her video deposition of her as well in case something were to happen to her and that it be at defense expense. It is \$195
<u>04:50:26 PM</u>	Court	will consider that at later time. Court will set trial on September 9, 2014 @9:00 a.m. with pre trial conf. on August 18, 2014 @ 3:00 p.m. This will make the 5th trial reset.
<u>04:52:00 PM</u>		

FILED
Tuesday, July 01, 2014 at 08:30 AM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: 
Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff,

vs.

LDONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

**FIFTH NOTICE OF JURY
TRIAL SETTING**

ADA COUNTY PROSECUTING ATTORNEY/TAMERA KELLY
INTER DEPT MAIL

ADA COUNTY PUBLIC DEFENDER/CHARLENE DAVIS
INTER DEPT MAIL

THE HONORABLE THOMAS F. NEVILLE HAS SET THE ABOVE-ENTITLED
MATTER FOR TRIAL BEFORE THE COURT AND A JURY ON:

PRETRIAL CONFERENCE.....Monday, August 18, 2014 @ 03:00 PM
Judge: Thomas F. Neville

JURY TRIAL.....Tuesday, September 09, 2014 @ 09:00 AM
Judge: Thomas F. Neville

THE DEFENDANT SHALL BE PERSONALLY PRESENT AT THE PRETRIAL
CONFERENCE UNLESS EXCUSED BY THE COURT.

Proposed Jury Instructions shall be submitted at least five days prior to trial.

CHECK BULLETIN BOARD ON DAY OF TRIAL FOR COURTROOM NUMBER.

cc: Counsel/je

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>03:24:32 PM</u>	Court	called ST v LDONNA YOUMANS CRFE13-09451 , present on bond
<u>03:24:51 PM</u>	Charlene Davis	counsel for defendant
<u>03:24:56 PM</u>	Tamera Kelly	counsel for State
<u>03:25:01 PM</u>	Court	inquired if all trial video is complete
<u>03:25:12 PM</u>	Charlene Davis	Ms. Davis stated deposition set for next week for Ruth Higby
<u>03:26:31 PM</u>	Court	has the States and defendants witness list
<u>03:27:22 PM</u>	Charlene Davis	tenders to the Court defendants exhibit list.
<u>03:28:34 PM</u>	Court	will use one alternate. 7 peremptories, one hr voir dire, 20 minutes opening 30 minutes closing.
<u>03:30:20 PM</u>	Tamera Kelly	issue of an audio recording of the defendant. Interviewed by the officer. Ms. Davis objected to that audio. Have done some redacting. Jury may be able to tell it has been redacted. Det. Papparillo takes a phone call twice, speaking to someone in presence of the defendant.
<u>03:33:04 PM</u>	Court	adds context to the conversation between the detective and the defendant
<u>03:33:31 PM</u>	Charlene Davis	you can barely hear Mr. Faylor's conversation with the officer. Confusing to him having conversation and then continuing interview with the defendant.
<u>03:34:32 PM</u>	Court	will have the State play again and decide if can work that out. Court will have add'l pre trial on morning of trial and have jurors in the courtroom at 9:30 a.m.
<u>03:37:09 PM</u>	Tamera Kelly	one of witnesses has an interpreter, bosnian. HELEMA KRDZIC, has interpreter arranged through Sandra Barrios.
<u>03:38:11 PM</u>	End Case.	

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

CHARLENE W. DAVIS, ISB #7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

AUG 18 2014

CHRISTOPHER D. RICH, Clerk
By KARI MAXWELL
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LADONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-9451

DEFENDANT'S LIST OF
POTENTIAL TRIAL
EXHIBITS

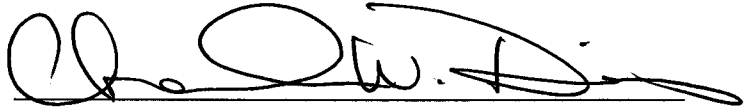
COMES NOW, LADONNA MARIE YOUMANS, the defendant above-named, by and through counsel CHARLENE W. DAVIS, Ada County Public Defender's Office, and provides the following list of the defendant's potential trial exhibits:

I. EXHIBITS:

- A) Medical Records from Primary Health on LaDonna Youmans dated 6-19-2013
- B) Medical Records from Primary Health on LaDonna Youmans dated 6-4-2013
- C) Medical Records from Primary Health on LaDonna Youmans dated 4-22-2013
- D) Medical Records from Primary Health on LaDonna Youmans dated 4-1-2013
- E) Medical Records from Primary Health on LaDonna Youmans dated 3-20-2013
- F) Medical Records from Primary Health on LaDonna Youmans dated 3-4-2013
- G) Medical Records from Primary Health on LaDonna Youmans dated 2-20-2013
- H) Medical Records from Primary Health on LaDonna Youmans dated 2-7-2013
- I) Medical Records from Primary Health on LaDonna Youmans dated 2-4-2013

KM

DATED Monday, August 18, 2014.



Charlene W. Davis
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Monday, August 18, 2014, I mailed (served) a true and correct copy of the within instrument to:

Tamera Kelly
Ada County Prosecutor's Office
Hand Delivery



Charlene W. Davis

GREG H. BOWER
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

NO. _____
FILED
A.M. _____ P.M. 2:46

SEP -9 2014



CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
_____)

Case No. CR-FE-2013-0009451

**SECOND AMENDED
INFORMATION**

Defendant's DOB: 
Defendant's SSN: 

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that LADONNA MARIE YOUMANS is accused by this Information of the crimes of: I. BURGLARY, FELONY, I.C. §18-1401, II. ATTEMPTED BURGLARY, FELONY, I.C. §18-1401, 18-306, and III. POSSESSION OF A CONTROLLED SUBSTANCE, MISDEMEANOR, I.C. §37-2732(c), which crimes were committed as follows:

COUNT I

That the Defendant, LADONNA MARIE YOUMANS, on or between the 8th day of May, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: an apartment, the property of Clarence Sateren a resident of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft.

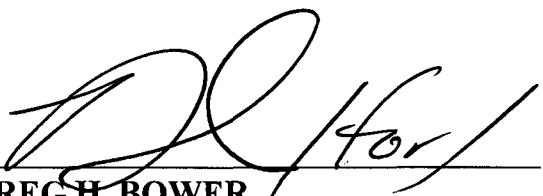
COUNT II

That the Defendant, LADONNA MARIE YOUMANS, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did attempt to enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft by trying the door knob to access the apartments.

COUNT III

That the Defendant, LADONNA MARIE YOUMANS, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Hydrocodone, a Schedule III controlled substance.

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



GREG H. BOWER
Ada County Prosecuting Attorney

Time	Speaker	Note
08:38:59 AM		STATE OF IDAHO vs LDONNA YOUMANS CRFE13-09451 - Jury Trial day 1
09:21:07 AM	Court	called case. Defendant present on bond
09:21:14 AM	Tamera Kelly	counsel for the State
09:21:20 AM	Charlene Davis	counsel for the defendant
09:22:54 AM	Court	inquired about the length of the trial.
09:23:07 AM	Tamera Kelly	think might take 2 but could go into 3
09:23:18 AM	Court	re: bosnian witness that needs interpreter. Court goes over jury list. Not acquainted with anyone. one hour for voir dire. Opening 20 minutes. Closing 45 minutes.
09:28:11 AM	Tamera Kelly	related by marriage to Juror #392.
09:29:52 AM	Charlene Davis	Juror #428, investigator for her office knows her.
09:34:48 AM	Court	re: whether going on all 4 counts
09:34:59 AM	Tamera Kelly	will move to dismiss Count 3
09:35:11 AM	Charlene Davis	no objection
09:35:18 AM	Court	grants motion to Dismiss Count 3. Requested 2nd Amended Information to re-number Count 3. Court goes over proposed seating chart. Court will ask counsel to stipulate to juror #13 will be the alternate
09:44:36 AM	Counsel	stipulate
09:44:39 AM	Court	inquired any other issues
09:44:45 AM	Tamera Kelly	re: video surveillance audio has conversation that is not admissible. Suggestion is to play it without sound. Well test it at lunch
09:46:32 AM	Charlene Davis	conkurs
09:46:37 AM	Tamera Kelly	also forgot to add a photograph of pills that was not on exhibit list
09:47:00 AM	Charlene Davis	previously disclosed, no objection.
09:47:53 AM	Tamera Kelly	has bosnian interp. set for 4:30 today for a witness, will interrupt if someone else on stand to accomodate her.
09:50:03 AM	Court	goes over witness list
09:52:23 AM	State	moved to exclude witnesses
09:52:31 AM	Charlene Davis	conkurs
09:52:36 AM	Court	grants motion to exclude - take short recess
09:58:47 AM	Jury present	
10:00:45 AM	Court	welcomes jury
10:00:50 AM	Clerk	roll call
10:03:32 AM	Court	inquired of jurors regarding hearing devices.
10:04:18 AM	Court	introductory instructions
10:07:35 AM	Clerk	swears the jury pool for voir dire

10:09:05 AM	Clerk	draws the names of the 27 jurors for voir dire
10:16:58 AM	Court	voir dire of jury pool
10:39:53 AM	Tamera Kelly	voir dire of jury pool - move to excuse juror #392
10:41:15 AM	Court	voir dire of juror #392
10:41:43 AM	Charlene Davis	concur, stip to excuse
10:41:52 AM	Court	excused juror #392
10:42:24 AM	Clerk	draws the new juror #395
10:43:11 AM	Court	voir dire of juror #395
10:43:24 AM	Tamera Kelly	cont'd voir dire
11:18:00 AM	Tamera Kelly	passed panel for cause
11:18:08 AM	Court	will take short recess
11:18:40 AM	Recess	
11:18:46 AM		
11:31:20 AM	jury present	
11:31:24 AM	Charlene Davis	voir dire of jury panel - move to excuse juror #426 for cause
11:38:45 AM	Court	voir dire of juror #426
11:42:21 AM	Charlene Davis	cont'd voir dire - withdraw motion to excuse on juror #426 - cont'd voir dire
12:11:14 PM	Charlene Davis	passed panel for cause
12:11:21 PM	Court	and counsel exercise peremptory challenges off the record.
12:35:47 PM	Court	seats selected jury panel
12:35:55 PM	Counsel	concur with jury as seated
12:36:00 PM	Clerk	swears jury panel
12:36:39 PM	Court	excused remaining jurors
12:38:22 PM	Court	instructs seated jury. Admonished and excused for lunch.
12:43:08 PM	Jury	excused for lunch recess
12:43:50 PM	Court	inquired of State who first two witnesses are
12:44:26 PM	Tamera Kelly	response
12:44:54 PM	Court	in recess
02:21:53 PM	Court	back on the record. Taking up issues outside the jury. Court has now had filed second amended information.
02:22:57 PM	Charlene Davis	re: one of the witnesses Mr. Wallentine, discussed with Ms. Kelly, will not be saying she was fired, just that she was employed from this date to this date.
02:23:50 PM	Tamera Kelly	Not relevant will not ask that.
02:24:24 PM	Court	ready for the jury
02:27:35 PM	Court	overview the jury trial
02:30:20 PM	Clerk	reads formal information
02:32:31 PM	Tamera Kelly	opening statement

<u>02:38:16 PM</u>	Charlene Davis	Opening statement
<u>02:43:27 PM</u>	Tamera Kelly	called ERIC WALLENTINE /SWORN and direct examined. Owner of Home Watch Care Givers - direct examination
<u>02:48:17 PM</u>	Witness	identified the defendant
<u>02:52:40 PM</u>	Charlene Davis	no questions
<u>02:52:46 PM</u>	Witness excused	not subject to recall
<u>02:52:54 PM</u>	Tamera Kelly	called CHARLES FAYLOR / Manager of Garden Plaza Valley View, SWORN and direct examined - cont'd to State's exhibit 7. Move to admit state's exhibit 7 as illustrative purposes
<u>02:59:28 PM</u>	Charlene Davis	no objection
<u>02:59:32 PM</u>	Court	admits State's exhibit 7 for illustrative exhibits
<u>02:59:45 PM</u>	Tamera Kelly	published exhibit 7. Cont'd direct examination, cont'd to State's exhibit 6. Move to admit and publish.
<u>03:25:01 PM</u>	Charlene Davis	renew prior objections from the previous hearings
<u>03:25:22 PM</u>	Court	side bar
<u>03:25:45 PM</u>	Court	notes objections for the record, overrule the objection - admits States exhibit 6
<u>03:32:01 PM</u>	Tamera Kelly	requested witness mark exhibit 7 with the path taken by the defendant
<u>03:32:19 PM</u>	Charlene Davis	objection, speculation
<u>03:32:27 PM</u>	Court	overrules objection. Allow jury to make that determination.
<u>03:32:47 PM</u>	Tamera Kelly	cont'd
<u>03:37:46 PM</u>	Charlene Davis	objects speculation
<u>03:37:53 PM</u>	Tamera Kelly	asking witness for his observation, can rephrase
<u>03:43:16 PM</u>	Charlene Davis	objection, speculation
<u>03:43:22 PM</u>	Court	overruled
<u>03:43:32 PM</u>	Tamera Kelly	cont'd
<u>03:46:30 PM</u>	Charlene Davis	speculation
<u>03:46:38 PM</u>	Tamera Kelly	response, it's witnesses observations
<u>03:47:00 PM</u>	Court	overruled objection
<u>03:53:42 PM</u>	Tamera Kelly	cont'd to State's exhibit 1, move to admit and publish
<u>03:55:09 PM</u>	Charlene Davis	standing objection
<u>03:55:22 PM</u>	Court	overruled objection, admits State's exhibit 1
<u>03:56:37 PM</u>	Court	take short recess for the jury
<u>04:09:41 PM</u>	Jury	present and seated
<u>04:09:57 PM</u>	Tamera Kelly	cont'd direct examination and publication of exhibit 1.

<u>04:17:49 PM</u>	Tamera Kelly	cont'd to State's exhibit 2, moved to admit and publish
<u>04:18:31 PM</u>	Charlene Kelly	same objection
<u>04:18:37 PM</u>	Court	same ruling, overruled, admit State's 2
<u>04:18:46 PM</u>	Tamera Kelly	published exhibit 2 and direct examination
<u>04:23:24 PM</u>	Charlene Davis	objection, speculation
<u>04:23:41 PM</u>	Tamera Kelly	response.
<u>04:23:49 PM</u>	Charlene Davis	response
<u>04:24:07 PM</u>	Court	overruled, leave to jury on how to assess
<u>04:24:19 PM</u>	Tamera Kelly	cont'd
<u>04:27:14 PM</u>	Tamera Kelly	has interpreter for witness present, would like to take her out of order
<u>04:29:19 PM</u>	Interpreter	AMRA TEMEN-GODINJAK SWORN to Interpret
<u>04:29:38 PM</u>	Tamera Kelly	called PAULEMA KRZIC/SWORN and direct examined
<u>04:33:54 PM</u>	Charlene Davis	cross examination of witness
<u>04:34:45 PM</u>	Witness excused	not subject to recall.
<u>04:35:11 PM</u>	Tamera Kelly	recalls Mr. Faylor to the stand. Cont'd to exhibit 3, move to admit and publish.
<u>04:36:44 PM</u>	Charlene Davis	same objection
<u>04:36:49 PM</u>	Court	preserves objections admits State's exhibit 3
<u>04:37:24 PM</u>	Tamera Kelly	published exhibit 3
<u>04:47:49 PM</u>	Charlene Davis	objects speculation
<u>04:47:56 PM</u>	Tamera Kelly	rephrase question
<u>04:48:03 PM</u>	Charlene Davis	same objection
<u>04:48:09 PM</u>	Court	have not heard response
<u>04:48:25 PM</u>	Charlene Davis	is going to ask him to speculate
<u>04:48:33 PM</u>	Court	overrules, preserve objection
<u>04:48:45 PM</u>	Tamera Kelly	continued
<u>04:52:13 PM</u>	Tamera Kelly	cont'd to State's exhibit 4, move to admit and publish
<u>04:52:45 PM</u>	Charlene Davis	same objection
<u>04:52:53 PM</u>	Court	preserves objection, admits State's exhibit 4
<u>04:53:15 PM</u>	Tamera Kelly	published state's exhibit 4
<u>05:07:31 PM</u>	Tamera Kelly	cont'd to state's exhibit 5, move to admit and publish

<u>05:07:48 PM</u>	Charlene Davis	same objection
<u>05:07:59 PM</u>	Court	preserves objection, admits State's exhibit 5
<u>05:08:32 PM</u>	Tamera Kelly	published to jury
<u>05:30:14 PM</u>	Court	admonished and excused jury for the evening
<u>05:31:35 PM</u>	Court	inquired next witness after Mr. Faylor
<u>05:33:20 PM</u>	Tamera Kelly	response
<u>05:33:34 PM</u>	Court	
<u>05:33:37 PM</u>	End Day 1	

Time	Speaker	Note
<u>08:39:09 AM</u>		ST vs LDONNA YOUMANS CRFE13-009451 JURY TRIAL DAY TWO
<u>09:13:56 AM</u>	Court	called the case. defendant present on bond
<u>09:14:05 AM</u>	Tamera Kelly	counsel for the State
<u>09:14:11 AM</u>	Charlene Davis	counsel for defendant
<u>09:14:17 AM</u>	Court	makes record of objections made by Ms. Davis which were preserved based on the record on April 8th. Two Motions by the defendant in Limine to suppress based on Rule 403 and the State's Motion for 404b. Court would like to incorporate the record from April 8th including the record Ms. Davis made objections yesterday to State's exhibits 1-6.
<u>09:16:47 AM</u>	Charlene Davis	tried not to confuse the jury.
<u>09:17:03 AM</u>	Court	concur, would like the ruling from April 8th as if set forth fully today. Court does not find after hearing yesterday that probative value is substantially outweighed by the risk or unfair prejudice. It was approp to admit those exhibits.
<u>09:26:47 AM</u>	Charlene Davis	Had also brought up best evidence rule on April 8th as well. That was brief part of the motion
<u>09:27:12 AM</u>	Court	not remembering that being a big part of the motion, rationale is to produce the best and most reliable evidence, and the Court is comfortable after hearing from Mr. Faylor.
<u>09:28:35 AM</u>	Court	recall Mr. Faylor then Det. Papparillo then the Sateren Video. Court inquired if it would be helpful for the jury that this video deposition was taken for the convenience of a witness that is elderly, and would instruct re: video depositions in giving it the same weight as if it was a live witness.
<u>09:30:29 AM</u>	Tamera Kelly	concur with that, and possibly tell jury that it was stipulated by counsel as well as the same reason with defense witness Ruth Higby
<u>09:31:01 AM</u>	Charlene Davis	concur, they are both in their 90's. In both videos they give their age.
<u>09:32:13 AM</u>	Charlene Davis	re: conversation between Mr. Faylor and the Court that the Court realized Mr. Faylor's parents live in his neighborhood
<u>09:33:10 AM</u>	Court	that was disclosed months ago by the prosecutor. Do not know him, know his parents. Do not know their first names but live in the neighborhood.
<u>09:37:27 AM</u>	Jury	is present and seated
<u>09:37:41 AM</u>	Tamera Kelly	recalled Mr. Faylor- resworn for new jury day / cont'd redirect examination.
<u>09:50:40 AM</u>	Charlene Davis	cross examination
<u>10:10:34 AM</u>	Tamera Kelly	redirect examination
<u>10:18:07 AM</u>	Charlene Davis	Recross examination
<u>10:20:52 AM</u>	witness	excused not subject to recall
<u>10:21:03 AM</u>	Court	takes short recess
<u>10:41:59 AM</u>	Jury	present and seated
<u>10:42:04 AM</u>	Tamera Kelly	calls <u>Det KIP PAPORELLO</u> /SWORN and direct examined. BOISE POLICE DEPT DETECTIVE.

<u>10:46:59 AM</u>	Witness	identified the defendant
<u>10:47:05 AM</u>	Tamera Kelly	cont'd direct examination Cont'd to State's exhibit 8. Move to admit State's exhibit 8
<u>11:03:44 AM</u>	Charlene Davis	no objection
<u>11:04:06 AM</u>	Court	admits State's exhibit 8
<u>11:04:19 AM</u>	Tamera Kelly	published State's exhibit 8.
<u>11:04:39 AM</u>	Charlene Davis	objects, foundation
<u>11:04:51 AM</u>	Court	overruled hasn't had opportunity to lay foundation
<u>11:07:33 AM</u>	Charlene Davis	objects not enough foundation
<u>11:08:19 AM</u>	Tamera Kelly	believe he has layed the proper foundation.
<u>11:08:38 AM</u>	Court	will sustain the objection at this point. Not enough information on what officers relying on.
<u>11:09:06 AM</u>	Tamera Kelly	cont'd foundation.
<u>11:11:19 AM</u>	Charlene Davis	question in aid of objection - continues objection
<u>11:12:42 AM</u>	Tamera Kelly	response
<u>11:13:15 AM</u>	Court	overruled objection
<u>11:13:24 AM</u>	Tamera Kelly	cont'd
<u>11:14:32 AM</u>	Charlene Davis	cross examination
<u>11:18:37 AM</u>	Tamera Kelly	objections
<u>11:18:42 AM</u>	Court	
<u>11:18:49 AM</u>	Charlene Davis	cont'd cross
<u>11:18:55 AM</u>	Tamera Kelly	objects
<u>11:19:04 AM</u>	Charlene Davis	response
<u>11:19:11 AM</u>	Tamera Kelly	relevance and hearsay
<u>11:19:38 AM</u>	Court	not sure of how this would be relevant with Det Paporello
<u>11:20:09 AM</u>	Charlene Davis	cont'd
<u>11:24:09 AM</u>	Tamera Kelly	objects, calls for hearsay
<u>11:24:17 AM</u>	Court	overruled
<u>11:24:21 AM</u>	Witness	answers
<u>11:24:26 AM</u>	Charlene Davis	cont'd cross examination
<u>11:24:43 AM</u>	Tamera Kelly	redirect examination.
<u>11:27:33 AM</u>	Charlene Davis	recross examination
<u>11:28:03 AM</u>	Witness	excused, not subject to recall

<u>11:28:16 AM</u>	Tamera Kelly	called LYLA BEVINGTON /SWORN and direct examined.
<u>11:39:03 AM</u>	Charlene Davis	cross examination of witness
<u>11:43:34 AM</u>	Tamera Kelly	objects relevance
<u>11:43:44 AM</u>	Court	sustains
<u>11:43:59 AM</u>	Charlene Davis	cont'd
<u>11:44:04 AM</u>	Tamera Kelly	objects relevance
<u>11:45:47 AM</u>	Court	and counsel had side bar
<u>11:45:56 AM</u>	Charlene Davis	cont'd
<u>11:47:04 AM</u>	Tamera Kelly	redirect
<u>11:48:08 AM</u>	Charlene Davis	no recross
<u>11:48:14 AM</u>	Witness	excused not subject to recall
<u>11:49:12 AM</u>	Court	will excuse jury for lunch until 1:00
<u>11:50:15 AM</u>	Court	made record of side bar re: last witness and what medications she was taking.
<u>11:53:14 AM</u>	Recess	
<u>01:07:25 PM</u>	Court	back on the record outside the jury.
<u>01:08:27 PM</u>	Tamera Kelly	Issue re: Tim Simpson and Darby Lewis did not know they would be fact witnesses. Concern what they would be testifying about.
<u>01:09:48 PM</u>	Charlene Davis	Mr. Simpson knows the surveillance system. Witness found during the investigation of the case
<u>01:11:11 PM</u>	Tamera Kelly	he put the computer together for Garden Valley but did not install that system
<u>01:14:29 PM</u>	Charlene Davis	rebuttal witness
<u>01:17:25 PM</u>	Court	how admissable if Ms. Higby was given chance to say if she remembers and she don't remember how is it admissable through Mr. Lewis
<u>01:18:02 PM</u>	Charlene Davis	response
<u>01:18:31 PM</u>	Tamera Kelly	do not know what rule of evidence Ms. Davis relying on to come in and comment on hearsay, Mr. Lewis would be completely hearsay
<u>01:18:58 PM</u>	Charlene Davis	would like to address at later point
<u>01:19:36 PM</u>	Court	ready for the jury
<u>01:21:01 PM</u>	Jury present	and seated
<u>01:21:34 PM</u>	Tamera Kelly	moves to admit State's exhibit 9 video depo of Clarence Sateren
<u>01:22:01 PM</u>	Charlene Davis	no objection
<u>01:22:07 PM</u>	Court	admits State's exhibit 9 - Court instructs the jury re: video deposition.
<u>01:22:11 PM</u>		

<u>01:23:02 PM</u>	Tamera Kelly	published the video deposition of <u>Clarence Sateren</u>
<u>01:50:43 PM</u>	Tamera Kelly	State will rest
<u>01:50:54 PM</u>	Charlene Davis	called <u>TIMOTHY SIMPSON</u> /SWORN Computer retailer and installer - direct examination.
<u>01:59:04 PM</u>	Tamera Kelly	objects, move to strike, question in aid of objection - Move to strike for lack of foundation
<u>02:00:29 PM</u>	Charlene Davis	response
<u>02:00:51 PM</u>	Court	instructs jury to disregard the last answer
<u>02:02:55 PM</u>	Witness	excused not subject to recall
<u>02:03:24 PM</u>	Charlene Davis	called <u>ROBERT DAVID YOUMANS</u> /SWORN and direct examined
<u>02:07:38 PM</u>	Tamera Kelly	answer calls for hearsay
<u>02:07:50 PM</u>	Court	sustains
<u>02:07:55 PM</u>	Charlene Davis	cont'd
<u>02:10:59 PM</u>	Tamera Kelly	cross examination
<u>02:13:07 PM</u>	Charlene Davis	redirect objection
<u>02:13:18 PM</u>	Tamera Kelly	objection relevance
<u>02:13:28 PM</u>	Charlene Davis	response
<u>02:13:38 PM</u>	Court	overruled the objection
<u>02:14:11 PM</u>	Charlene Davis	redirect
<u>02:14:24 PM</u>	witness	excused not subject to recall
<u>02:14:40 PM</u>	Recess	
<u>02:37:21 PM</u>	Court	back on the record outside the jury
<u>02:37:29 PM</u>	Charlene Davis	re: Darby Lewis bringing him in under the hearsay exception of 804-3
<u>02:38:42 PM</u>	Court	re:being unavailable as a witness. Ms. Higby was available as a witness during the trial deposition. How unavailable. Ms Higby is unavailable.
<u>02:40:01 PM</u>	Charlene Davis	Her memory is no longer unavailable.
<u>02:40:59 PM</u>	Court	does not know what is coming in the video deposition.
<u>02:42:07 PM</u>	Tamera Kelly	reads from transcript
<u>02:44:17 PM</u>	Court	Mr. Lewis had telephone conference
<u>02:45:11 PM</u>	Charlene Davis	response
<u>02:45:44 PM</u>	Court	does not believe that have fit this in under Rule 804-3 - have not pointed that out. Court will tentatively exclude the testimony of Darby Lewis at this point. Have not made the showing on how relevant, and how it fits
<u>02:46:58 PM</u>	Charlene Davis	Is not used to prove the matter asserted.
<u>02:47:11 PM</u>	Court	what purpose is being offered

<u>02:47:20 PM</u>	Charlene Davis	response
<u>02:47:28 PM</u>	Court	understood that was asked her that on the video deposition that the teapot was from Ms. Youmans
<u>02:48:17 PM</u>	Tamera Kelly	response. Does not believe fits under 804-3.
<u>02:49:16 PM</u>	Court	does not see how any of this fits
<u>02:49:46 PM</u>	Charlene Davis	Talking about
<u>02:50:44 PM</u>	Tamera Kelly	definition of unavailability 804 A-3 definition of unavailability
<u>02:51:06 PM</u>	Court	will give Ms. Davis chance to articulate this. Play video then decide if can get Mr. Darby on. Court would like to get the jury
<u>02:53:15 PM</u>	recess	
<u>03:04:55 PM</u>	Court	outside the jury
<u>03:05:00 PM</u>	Charlene Davis	ready to go with video then defendant's testimony. Believe can finish her today.
<u>03:05:29 PM</u>	Court	Court has tried to speculate where Ms. Davis trying to go. Will put burden on Ms. Davis to articulate to the Court how it is relevant.
<u>03:07:45 PM</u>	Jury	present and seated
<u>03:08:25 PM</u>	Charlene Davis	has Defendant's exhibit J, deposition of Ruth Higby .
<u>03:08:45 PM</u>	Tamera Kelly	no objection to publishing
<u>03:09:32 PM</u>	Court	admits exhibit J.
<u>03:09:39 PM</u>	Charlene Davis	published the video deposition of Ruth Higby
<u>03:21:14 PM</u>	Tamera Kelly	cross examination
<u>03:22:32 PM</u>	Deposition complete	
<u>03:22:39 PM</u>	Charlene Davis	called LDONNA YOUMANS/SWORN and direct examined. Defendant in this case
<u>03:43:48 PM</u>	Tamera Kelly	objection foundation
<u>03:43:56 PM</u>	Court	basis for belief, Court will give a little leeway, Sustain for proper foundation
<u>03:44:22 PM</u>	Charlene Davis	cont'd
<u>03:50:57 PM</u>	Tamera Kelly	objections calls for hearsay
<u>03:51:04 PM</u>	Charlene Davis	rephrase question
<u>03:51:11 PM</u>	Court	sustains
<u>03:51:14 PM</u>	Charlene Davis	rephrase
<u>03:51:20 PM</u>	Tamera Kelly	objection
<u>03:51:27 PM</u>	Court	can answer yes or no
<u>03:51:39 PM</u>	Charlene Davis	cont'd

<u>03:52:40 PM</u>	Tamera Kelly	objectioni hearsay
<u>03:52:46 PM</u>	Charlene Davis	just asking a yes or no question - Cont'd to Defendant's exhibit I
<u>04:07:33 PM</u>	Tamera Kelly	objects
<u>04:07:38 PM</u>	Court	sustains
<u>04:08:41 PM</u>	Charlene Davis	layed foundation
<u>04:08:54 PM</u>	Tamera Kelly	objects, no foundation
<u>04:09:05 PM</u>	Court	medical document is all hearsay - Sustain not admit
<u>04:10:20 PM</u>	Charlene Davis	cont'd
<u>04:11:40 PM</u>	Tamera Kelly	objects relevance
<u>04:11:49 PM</u>	Charlene Davis	response
<u>04:11:54 PM</u>	Court	sustains
<u>04:11:57 PM</u>	Charlene Davis	cont'd
<u>04:12:06 PM</u>	Tamera Kelly	objects, foundation
<u>04:12:14 PM</u>	Court	sustained
<u>04:12:37 PM</u>	Charlene Davis	cont'd
<u>04:13:44 PM</u>	Tamera Kelly	objects
<u>04:13:50 PM</u>	Charlene Davis	direct examined
<u>04:14:35 PM</u>	Tamera Kelly	objects
<u>04:14:39 PM</u>	Court	sustained
<u>04:14:44 PM</u>	Charlene Davis	cont'd
<u>04:16:37 PM</u>	Tamera Kelly	objects
<u>04:16:42 PM</u>	Charlene Davis	will withdraw question
<u>04:17:00 PM</u>	Tamera Kelly	objects
<u>04:17:05 PM</u>	Charlene Davis	response
<u>04:18:30 PM</u>	Court	objecting on foundation what is basis for taking
<u>04:19:03 PM</u>	Charlene Davis	response
<u>04:19:32 PM</u>	Tamera Kelly	relevance
<u>04:19:44 PM</u>	Charlene Davis	response
<u>04:20:16 PM</u>	Tamera Kelly	objects
<u>04:20:21 PM</u>	Court	fair for the defendant to state what she is thinking this is for

<u>04:20:33 PM</u>	Tamera Kelly	confused where this is going.
<u>04:22:58 PM</u>	Charlene Davis	cont'd
<u>04:23:03 PM</u>	Court	will keep exhibit I for the record even though it is not admitted
<u>04:23:23 PM</u>	Tamera Kelly	cross examination
<u>04:35:19 PM</u>	Charlene Davis	Redirect examination
<u>04:36:21 PM</u>	Witness excused	
<u>04:36:46 PM</u>	SIDE BAR	
<u>04:37:53 PM</u>	Court	excused jury for balance of the day.
<u>04:40:46 PM</u>	recess	
<u>04:54:30 PM</u>	Court	calls case outside the jury. Court makes record of side bar and take up issue of Darby Lewis testifying
<u>04:55:34 PM</u>	Charlene Davis	makes offer of proof.
<u>04:58:13 PM</u>	Court	record of Ruth Higby
<u>04:58:24 PM</u>	Charlene Davis	response
<u>05:00:23 PM</u>	Court	how relevent
<u>05:01:08 PM</u>	Charlene Davis	they had a relationship
<u>05:01:15 PM</u>	Tamera Kelly	how not offered for the truth in matter asserted
<u>05:03:05 PM</u>	Court	is a close call for the Court, but in exercise of Court's discretion will allow testimony. Will need an offer of proof outside the jury. Court inquired if any rebuttal
<u>05:05:11 PM</u>	Tamera Kelly	if any would be Det. Paporello.
<u>05:05:25 PM</u>	Court	goes over jury instructions.
<u>05:20:26 PM</u>	Charlene Davis	would like to review further
<u>05:20:35 PM</u>	Tamera Kelly	asking for instruction, re: defendant's burden well over the evening do some further research to see if still want a modification.
<u>05:21:46 PM</u>	Court	has not previously given that instruction. Defendant's burden to provide a valid prescription under ID law. Have not ever given that instruction before.
<u>05:22:36 PM</u>	Tamera Kelly	may be that it prevents defendant from arguing.
<u>05:22:56 PM</u>	Court	some instances where defendant would have burden to prove such as self defense, but in this context, not sure defendant has burden.
<u>05:23:23 PM</u>	Tamera Kelly	in code section defendant has burden of showing valid instruction.
<u>05:28:15 PM</u>	Court	will have the parties review over night IDJI 440
<u>05:29:05 PM</u>	End Case	

Time	Speaker	Note
08:41:12 AM		State of Idaho vs LDONNA YOUMANS CRFE13-09451 JURY TRIAL DAY 3 - Defendant present on bond
09:06:21 AM	Court	calls case
09:06:33 AM	Tamera Kelly	counsel for State
09:06:40 AM	Charlene Davis	counsel for Defendant
09:06:47 AM	Court	inquired about IDJI 440 if approp to give some form of that prescription
09:07:21 AM	Charlene Davis	concur
09:07:25 AM	Tamera Kelly	states inconsistent with the statute argued but was some discussion re: prescription. Leave in the Court's discretion
09:08:05 AM	Court	Has reviewed St vs Nabb case, was a Delivery case. Court it appears that there is some evidence, this instruction is appropriate. Numbered 18a.
09:10:18 AM	Charlene	concur with Court,
09:10:26 AM	Tamera Kelly	leave in Court's discretion
09:10:45 AM	Counsel	no objection to the instructions
09:10:52 AM	Court	instructions are settled and accepted by counsel. Court reads into record 18a.
09:11:56 AM	Court	inquired if counsel ready to put on offer of proof.
09:13:09 AM	Charlene Davis	response - Calls Darby Lewis/SWORN
09:14:50 AM	Charlene Davis	DARBY LEWIS direct examined by counsel for offer of proof.
09:17:08 AM	Tamera Kelly	no cross examination - stand on objection, Memory is a hearsay statement.
09:18:12 AM	Court	notes objection, close call for the Court. In exercise of discretion will allow this witness to continue.
09:19:11 AM	Court	inquires about credentials of Mr. Lewis. - Court ready for the jury
09:22:58 AM	Jury	present and seated
09:23:29 AM	Court	welcomes jury day 3 jury trial. All present. Instructs the jury witness on the stand has been sworn.
09:24:02 AM	Charlene Davis	dx DARBY LEWIS/previously sworn. Private Investigator
09:25:51 AM	Tamera Kelly	cross examination
09:26:27 AM	Witness excused	not subject to recall
09:26:36 AM	Charlene Davis	Defense rests
09:26:44 AM	Tamera Kelly	no Rebuttal evidence
09:26:50 AM	Court	Instructs the jury
09:50:21 AM	Tamera Kelly	closing argument
10:24:28 AM	Charlene Davis	closing argument

<u>10:47:58 AM</u>	Tamera Kelly	final closing argument
<u>10:59:58 AM</u>	Bailiff	Sworn to take charge of jury
<u>11:01:07 AM</u>	Court	excused jury for deliberations
<u>11:02:16 AM</u>	Court	instructs the alternate
<u>11:07:37 AM</u>	Court	in recess
<u>01:14:43 PM</u>	Court	back on record outside the jury. Court and counsel met in chambers on record with question approx. 12:30 p.m. Question 18a instruction re: valid prescription and instruction 16 does not mention state having that burden, wanted to know if that made difference. Court responded to jury they are to consider the instructions as a whole. Received another question to watch video
<u>01:18:02 PM</u>	Tamera Kelly	exhibits 4, 5 & 6 are the dates requested to watch again.
<u>01:20:40 PM</u>	Jury present	and seated
<u>01:21:15 PM</u>	Court	to jury foreman juror #395 will control the mouse on what they want to watch
<u>01:42:26 PM</u>	Jury	has completed watching video. return to deliberation room
<u>01:43:08 PM</u>	recess	
<u>02:08:20 PM</u>	Court	was advised at 1:59 jury had reached verdicts on all 3 counts
<u>02:09:14 PM</u>	Jury	present and seated
<u>02:09:51 PM</u>	Court	tendered verdicts from the jury foreman
<u>02:10:13 PM</u>	Court	viewed jury verdicts - reads verdict Count I: G, Count II G, Count III
<u>02:11:14 PM</u>	Court	thanks the jury for their service. Final Instruction to the jury. Jury excused from their service.
<u>02:16:33 PM</u>	Court	ordered PSI and set for November 10, 2014 @ 9:00 a.m. Court revoked bond pending disposition.
<u>02:17:34 PM</u>	Charlene Davis	requested to leave defendant on bond pending sentencing. Has made all her court appearances
<u>02:18:08 PM</u>	Court	declines leaving out of custody. Concern may have been under influence. Two guilty verdicts on two felony matters. Better to begin programming.
<u>02:19:52 PM</u>	End Case	

NO. _____ FILED _____
A.M. _____ P.M. 2:45

SEP 11 2014

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF IDAHO
By CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

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

THE STATE OF IDAHO,

Plaintiff,

vs.

LADONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

JURY INSTRUCTIONS

THOMAS F. NEVILLE
District Judge
Presiding

INSTRUCTION NO. 1

Ladies and Gentlemen of the Jury:

It is my duty as judge to instruct you concerning the law applicable to this case, and it is your duty as jurors to follow the law as I shall state it to you.

The jury determines the issues of fact that are presented by the allegations in the Second Amended Information and the defendant's plea of "not guilty". You should be uninfluenced by pity for the defendant or by passion or prejudice against her. You must not be biased against the defendant because she has been charged or because she has been brought before the court to stand trial. None of these facts is evidence of guilt, and you are not permitted to infer or to speculate that she is more likely to be guilty than innocent.

You are to be governed solely by the evidence introduced in this trial and the law as stated to you by the court. The law forbids you to be governed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling. Both the State and the defendant have a right to demand, and they do demand and expect, that you will conscientiously and dispassionately consider and weigh the evidence and apply the law of the case, and that you will reach just verdicts regardless of the consequences of such verdicts. The verdicts must express the individual opinion of each juror.

INSTRUCTION NO. 2

The law does not require you to accept all of the evidence which has been admitted. In determining what evidence you will accept, you must make your own evaluation of the evidence and determine the degree of weight you choose to give to that evidence.

The testimony of a witness may fail to conform to the facts as they occurred because the witness is intentionally telling a falsehood, or because he or she did not accurately see or hear that about which he or she testifies, or because his or her recollection of the event is faulty, or because he or she has not expressed himself or herself clearly in giving testimony. There is no formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves the reliability or unreliability of statements made to you by others. The same considerations that you use in your everyday dealings are the considerations which you apply in your deliberations.

In determining the weight, if any, you will assign to a witness's testimony, you may consider such items as the interest or lack of interest of the witness in the outcome of this case; the bias or prejudice of a witness, if there be any; the age, the appearance, the manner in which the witness gives his or her testimony on the stand; the opportunity that the witness had to observe the facts concerning which he or she testifies; the probability or improbability of the witness's testimony when viewed in the light of all of the other evidence in the case; the contradiction, if any, of a witness's testimony by other evidence; statements, if any, made by the witness at other times

inconsistent with his or her present testimony; evidence, if any, that a witness's general reputation for truth, honesty or integrity is bad; a witness's previous conviction of a felony, if any; and the effect, if any, of alcohol or drugs upon the witness; are all items to be taken into your consideration in determining the weight, if any, you will assign to that witness's testimony.

INSTRUCTION NO. 3

You are the judges of the facts and of the effect and value of the evidence, but you must determine the facts from the evidence received here in court.

Statements of counsel are not evidence. However, if counsel for the parties have stipulated to any fact, you will treat that fact as being conclusively proved.

As to any question to which an objection was sustained, you must not speculate as to what the answer might have been or as to the reason for the objection.

You must not consider any offer of evidence that was rejected, nor any evidence that was stricken out by the Court; such matter is to be treated as though you had never heard it.

You must never speculate to be true any insinuation suggested by a question asked of a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

INSTRUCTION NO. 4

Evidence may be either direct or circumstantial. It is direct evidence if it proves a fact, without an inference, and which in itself, if true, conclusively establishes that fact. It is circumstantial evidence if it proves a fact from which an inference of the existence of another fact may be drawn.

An inference of fact is one which may logically and reasonably be drawn from another fact or group of facts established by the evidence.

The law makes no distinction between direct and circumstantial evidence as to the degree of proof required; each is accepted as a reasonable method of proof and each is respected for such convincing force as it may carry.

INSTRUCTION NO. 5

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

INSTRUCTION NO. 6

A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether her guilt is satisfactorily shown, he is entitled to a verdict of not guilty. This presumption places upon the State the burden of proving her guilty beyond a reasonable doubt. Reasonable doubt is not a mere possible doubt, because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. Reasonable doubt is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.

INSTRUCTION NO. 7

The defendant, Ladonna Marie Youmans, is here for trial upon a criminal Second Amended Information filed in this court accusing the defendant of the crimes of Count I. Burglary, Felony; Count II. Attempted Burglary, Felony; and Count III. Possession of a Controlled Substance, Misdemeanor.

The crime of Count I. Burglary, Felony, is alleged to have been committed as follows:

That the defendant, Ladonna Marie Youmans, on or between the 8th day of May, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did enter into a certain building, to-wit: an apartment, the property of Clarence Sateren a resident of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street, with the intent to commit the crime of theft.

The crime of Count II. Attempted Burglary, Felony, is alleged to have been committed as follows:

That the defendant, Ladonna Marie Youmans, on or between the 15th day of April, 2013 and the 15th day of May, 2013, in the County of Ada, State of Idaho, did attempt to enter into a certain building, to-wit: apartments, the property of the residents of Garden Plaza of Valley view located at 1130 N. Allumbaugh Street with the intent to commit the crime of theft by trying the door knob to access the apartments.

The crime of Count III. Possession of a Controlled Substance, Misdemeanor, is alleged to have been committed as follows:

That the defendant, Ladonna Marie Youmans, on or about the 12th day of July 2013, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Hydrocodone, a Schedule III controlled substance.

The defendant has pled not guilty to each of the charges. The State must prove every material allegation in the charges beyond a reasonable doubt.

INSTRUCTION NO. 8

In order for the defendant to be guilty of Count I. Burglary, Felony, the State must prove each of the following:

1. On or between the 8th and 15th days of May, 2013;
2. in the County of Ada, State of Idaho;
3. the defendant, Ladonna Marie Youmans, entered into a certain building, to-wit: an apartment, the property of Clarence Sateren a resident of Garden Plaza of Valley View located at 1130 N. Allumbaugh Street; and
4. at the time entry was made, the defendant had the specific intent to commit theft.

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

INSTRUCTION NO. 9

To prove that the defendant intended to commit a theft inside the apartment, the State is not required to prove that there was anything of value inside, nor must it prove that the defendant knew there was anything of value inside. Likewise, the State is not required to prove that the defendant actually stole or attempted to steal anything. The State need only prove that when the defendant entered the apartment, the defendant intended to steal anything inside that the defendant might desire to take.

INSTRUCTION NO. 10

The manner or method of entry is not an essential element of the crime of burglary. An entry can occur without the use of force or the breaking of anything.

The intent to commit the crime of theft must have existed at the time of entry.

INSTRUCTION NO. 11

A person steals property and commits theft when, with intent to deprive another of property or appropriate the same to the person or to a third party, such person wrongfully takes, obtains, or withholds such property from an owner thereof.

INSTRUCTION NO. 12

The phrase "intent to deprive" means:

a. The intent to withhold property or cause it to be withheld from an owner permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to such owner; or

b. The intent to dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

The phrase "intent to appropriate" means:

a. The intent to exercise control over property, or to aid someone other than the owner to exercise control over it, permanently or for so extended a period of time or under such circumstances as to acquire the major portion of its economic value or benefit; or

b. The intent to dispose of the property for the benefit of oneself or someone other than the owner.

INSTRUCTION NO. 13

"Property" means anything of value.

INSTRUCTION NO. 14

In order for the defendant to be guilty of Count II. Attempted Burglary, Felony, the State must prove each of the following:

1. On or between the 15th day of April, 2013 and the 15th day of May, 2013;
2. in the County of Ada, State of Idaho;
3. the defendant did some act which was a step towards committing the crime of burglary by attempting to enter into a certain building, to-wit: apartments, the property of residents of Garden Plaza of Valley View located at 1130 N. Allumbaugh Street, with the intent to commit the crime of theft, by trying door knobs to access the apartments; and
4. when doing so the defendant intended to commit the crime of burglary.

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

INSTRUCTION No. 15

An "attempt" is the doing of an act which is a step toward committing the charged crime and which is done with the intent to commit that crime.

For an act to be a step towards committing the crime, the act must be more than merely preparing to commit the crime. Acts done in planning to commit a crime, or in devising, obtaining, or arranging the means to commit it, are not sufficient to constitute an attempt. To be a step towards committing the crime, the act must be something done beyond mere preparation which shows that the defendant began carrying out the plan to commit the crime.

A person who has committed an act or acts constituting an attempt to commit a crime is guilty of attempting that crime even if the person does not proceed any further with the intent to commit the crime. It does not matter whether the person voluntarily abandoned any further efforts to complete the crime or was prevented or interfered with in completing the crime.

However, if a person intends to commit a crime but, before committing any act toward the ultimate commission of the crime, she freely and voluntarily abandons the original intent and makes no effort to accomplish the intended crime, the offense of attempt has not been committed.

INSTRUCTION NO. 16

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

1. On or about the 12th day of July, 2013;
2. in the County of Ada, State of Idaho;
3. the defendant, Ladonna Marie Youmans, possessed any amount of Hydrocodone; and
4. the defendant either knew it was Hydrocodone or believed it was a controlled substance.

If any of the above has not been proven beyond a reasonable doubt, you must find defendant not guilty of Count III. Possession of a Controlled Substance, Misdemeanor. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty of Count III. Possession of a Controlled Substance, Misdemeanor.

INSTRUCTION NO. 17

A person has possession of something if the person knows of its presence and has physical control of it, or has the power and intention to control it.

INSTRUCTION NO. 18

Under Idaho law Hydrocodone is a controlled substance.

INSTRUCTION NO. 18A

It is not unlawful to possess Hydrocodone if the person obtained it by a valid prescription from a practitioner acting in the course of a professional practice. The State must prove beyond a reasonable doubt that the defendant did not have a valid prescription for Hydrocodone or did not obtain Hydrocodone from a practitioner acting in the course of a professional practice.

INSTRUCTION NO. 19

Whenever evidence was admitted for a limited purpose, you must not consider it for any other purpose.

Your attention was called to these matters when the evidence was admitted. An example of this would be an exhibit which was admitted for illustrative purposes.

INSTRUCTION NO. 19A

Certain evidence was presented to you by video deposition. A deposition is testimony taken under oath before the trial and preserved upon video tape. This evidence is entitled to the same consideration you would give had the witness testified from the witness stand.

INSTRUCTION NO. 20

In crimes such as these of which the defendant is charged in the Second Amended Information, there must exist a union or joint operation of act or conduct and criminal intent. To constitute criminal intent it is not necessary that there should exist an intent to violate the law. Where a person intentionally does that which the law declares to be a crime, she is acting with criminal intent, even though she may not know that her act or conduct is unlawful.

INSTRUCTION NO. 21

The intent with which an act is done is manifested by the circumstances attending the act, the manner in which it is done, the means used, and the sound mind and discretion of the person committing the act.

INSTRUCTION NO. 22

Each criminal count charges a separate and distinct offense. You must decide each count separately on the evidence and the law applicable to it, uninfluenced by your decisions as to the other counts. The defendant may be convicted or acquitted on any or all of the offenses charged. Your finding as to each count must be stated in a separate verdict form.

INSTRUCTION NO. 23

The question of penalty or punishment is solely for the Court if it becomes relevant. Therefore, I instruct you not to concern yourselves with penalty or punishment. Your duty as jurors is solely to determine whether the defendant is guilty or not guilty.

INSTRUCTION NO. 24

If these instructions state any rule, direction or idea in varying ways, no emphasis is intended by me and none must be inferred by you. You are not to single out any certain sentence, or any individual point or instruction, and ignore the others, but you are to consider all the instructions as a whole, and are to regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

INSTRUCTION NO. 25

The attitude and conduct of jurors at the beginning of their deliberations are matters of considerable importance. It is rarely productive or good for a juror at the outset to make an emphatic expression of his or her opinion on the case or to state how he or she intends to vote. When one does that at the beginning, his or her sense of pride may be aroused, and he or she may hesitate to change his or her position even if shown that it is wrong. Remember that you are not partisans or advocates in this matter, but are judges.

INSTRUCTION NO. 26

Both the State and the defendant are entitled to the individual opinion of each juror.

It is the duty of each of you to consider the evidence for the purpose of arriving at verdicts if you can do so. Each of you must decide the case for yourself, but should do so only after a discussion of the evidence and instructions with the other jurors.

You should not hesitate to change an opinion if you are convinced it is erroneous. However, you should not be influenced to decide any question in a particular way because a majority of the jurors or any of them, favor such a decision.

INSTRUCTION NO. 27

Upon retiring to the jury room, you will select one of your number to act as Foreman, who will preside over your deliberations and who will sign the verdict forms to which you agree. In order to return a verdict it is necessary that all twelve of the jurors agree to the decision. As soon as all of you have agreed upon the verdicts, you shall have the verdict forms signed and dated by your Foreman and then inform the Bailiff that you have reached verdicts on all charges.



THOMAS F. NEVILLE
District Judge

JUROR QUESTION TO JUDGE DURING DELIBERATION

DO NOT DESTROY - RETURN TO BAILIFF

DATE 9-11-14

CASE # CR-FG-2013-000945/

TO JUDGE Newelle

FOREMAN NAME Eric Davis # 395

QUESTION AND/OR REMARK:

Instruction # 18-A notes that the state must prove that the defendant does not have a valid prescription, but we are going over instruction # 16 and it says nothing about the state proving the hydrocodone was hers or not. Does this matter or is the only thing that matters is that the defendant actually had the pills?

COURT'S RESPONSE:

The Court can only respond that the jury must "consider all the instructions as a whole, and [you] are to regard each in light of all the others" as provided in Instruction No. 24. Respectfully,



FOREMAN SIGNATURE

Thomas F. Newelle
DISTRICT JUDGE

000258

SEP 11 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

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

THE STATE OF IDAHO,

Plaintiff,

vs.

LADONNA MARIE YOUMANS,


Defendant.

Case No. CR-FE-2013-0009451

V E R D I C T

WE, The Jury, sworn to try the above-entitled matter, find the defendant guilty of Count III. Possession of a Controlled Substance, Misdemeanor.

Dated this 11th day of September, 2014.

 #395
FOREMAN

SEP 11 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

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

THE STATE OF IDAHO,

Plaintiff,

vs.

LADONNA MARIE YOUMANS,

Defendant.

Case No. CR-FE-2013-0009451

V E R D I C T

WE, The Jury, sworn to try the above-entitled matter, find the defendant guilty of Count II. Attempted Burglary, Felony.

Dated this 11th day of September, 2014.

 # 395
FOREMAN

A.M. FILED P.M.

SEP 11 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LADONNA MARIE YOUMANS,


Defendant.

Case No. CR-FE-2013-0009451

V E R D I C T

WE, The Jury, sworn to try the above-entitled matter, find
the defendant guilty of Count I. Burglary, Felony.

Dated this 11 day of September, 2014.

 #395
FOREMAN

SEP 22 2014

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
CHARLENE W. DAVIS, ISB #7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702

Telephone: (208) 287-7400

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff,
vs.
LADONNA MARIE YOUMANS,
Defendant.

Case No. CR-FE-2013-9451

ORDER FOR JAIL PROGRAM(S)

For good cause appearing, the defendant shall participate in the following Ada County Sheriff's program(s) on the next available date; *when space is available.*

- Substance Abuse Program (SAP)
- Active Behavior Change (ABC):

The Court further ORDERS Defendant shall be enrolled in the following ABC emphasis:

- ABC-MRT (Moral Reconciliation Therapy)
- ABC-AM (Anger Management)

Said participation shall be at the expense of:

- Defendant

Ada County (Interlock Fund), Idaho Code § 18-8010:

The necessary funds shall be transferred from the Interlock Fund, *if funds are available*, to the Ada County Sheriff's account to pay for the defendant's participation. The Ada County Treasurer, the Ada County Clerk, and the Ada County Sheriff shall comply with all necessary steps to facilitate the actual transfer of funds. *If funds are unavailable*, Defendant shall pay for his/her participation.

The defendant is hereby placed on notice that he/she may be subject to reimbursing Ada County for any and all monies used from the Interlock Fund for his/her participation in the above program(s).

SO ORDERED AND DATED, this 22nd day of September, 2014.

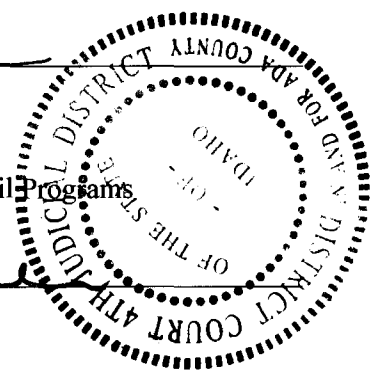
Thomas F. Neville
Thomas F. Neville
District Judge

Clerk will provide copies to:

- Public Defender
- Prosecutor

- TCA
- Ada County Jail Programs

Janet Ellis
Deputy Clerk



SK
11/10
A

NO. _____ FILED _____
A.M. _____ P.M. _____

SEP 22 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tamera Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

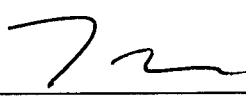
THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
)
_____)

Case No. CR-FE-2013-0009451
SIXTH ADDENDUM TO
DISCOVERY RESPONSE TO
COURT

COMES NOW, Tamera Kelly, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Sixth Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 27 day of September 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

✓

Time	Speaker	Note
09:16:35 AM	Court	called <u>ST v LDONNA YOUMANS</u> <u>CRFE13-09451</u> , present in custody, time set for sentencing.
09:16:53 AM	Charlene Davis	counsel for defendant
09:17:02 AM	Tamera Kelly	counsel for State
09:17:10 AM	Defendant	has read PSI, ready to proceed
09:18:46 AM	Tamera Kelly	Count I, 3+7 & R/J, on Count II 3+2 conc to count I, Count III, credit for time served. P.D. reimb. of \$1500 suspend any fine.
09:24:42 AM	Charlene Davis	re: clarification to criminal behavior in PSI. Request a W/J on Counts I, II & III, credit for time served on the misd. request a 7 year probation on Count I and 5 yr probation on Count II.
09:37:16 AM	Defendant	comments on own behalf
09:38:07 AM	Court	no legal cause shown why sentence should not be imposed . On Count I, fine of \$2500, susp. \$2,000. SBC for period of 10 years 3+7, May not work with Elderly or in CNA field. \$2,000 p.d. reimb. Count II, \$500 susp fine, SBC for period of 5 years conc to Count I, 2+3, on Count III, JOC 180 days conc. to Counts I & II, credit for time no fine or probation on Count III. Court R/J for eval purposes. Court recs. the 270 day T/C rider. Do all available CSC, adult education. If not placed in T/C rider rec. CAPP rider. Do not rec. trad. rider, will reserve jurisdiction to re-sentence if placed in trad. rider.
09:49:04 AM	End Case	

NOV 10 2014

CHRISTOPHER D. RICH, Clerk
By KARI MAXWELL
DEPUTY

1 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
2 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

3 THE STATE OF IDAHO,
4

5 Plaintiff,

Case No. CR-FE-2013-0009451

6 vs.

**JUDGMENT OF CONVICTION
AND SENTENCE**

7 LADONNA MARIE YOUIMANS,
8

DOB: [REDACTED]

SSN: [REDACTED]

9 Defendant.

10
11 The abovenamed matter came before the Court for sentencing on
12 10th day of November, 2014. The defendant appeared in person and
13 with her attorney, Charlene Davis. The State was represented by
14 Tamera Kelly as prosecuting attorney. The record reflects the
15 following: An Information was filed on the 22nd day of August,
16 2013. Arraignment was held on the 9th day of September, 2013, at
17 which time the defendant appeared in person and with counsel and
18 was advised of the charges and the possible penalties and was
19 further advised of her constitutional and statutory rights.
20 Thereafter, on the 30th day of September, 2013, the defendant
21 entered pleas of not guilty to the crimes alleged in the
22 Information. An Amended information was filed on the 14th day of
23 April, 2014. A Second Amended Information was filed on the 9th day
24 of September, 2014, charging the defendant with the crimes of
25 COUNT I. BURGLARY, FELONY, I.C. §18-1401; COUNT II. ATTEMPTED
26 BURGLARY, FELONY, I.C. §§18-1401, -306; and of COUNT III.
POSSESSION OF A CONTROLLED SUBSTANCE, MISDEMEANOR, I.C.
§37-2732(c), committed on or between the 15th day of April, 2013,
and the 12th day of July, 2013. Trial was held before the Court

KM

1 and a jury on the 9th, 10th, and 11th days of September, 2014. The
2 jury returned its Verdicts of GUILTY to COUNT I. BURGLARY, FELONY,
3 I.C. §18-1401; COUNT II. ATTEMPTED BURGLARY, FELONY, I.C.
4 §§18-1401, -306; and to COUNT III. POSSESSION OF A CONTROLLED
5 SUBSTANCE, MISDEMEANOR, I.C. §37-2732(c). Sentencing was continued
6 for preparation of a Presentence Investigation Report which was
7 completed and reviewed by the Court and counsel. The defendant
8 was given the opportunity to read the presentence investigation
9 report in its entirety. Counsel for the State and for the
10 defendant made statements and the defendant was given the
11 opportunity to make a statement and to offer evidence in
12 mitigation. Inquiry was made by the Court to determine if there
13 was any legal cause why judgment should not be pronounced, and
14 there being none, the Court rendered Judgment as follows:

15 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant
16 is guilty of the crimes of COUNT I. BURGLARY, FELONY, I.C.
17 §18-1401; COUNT II. ATTEMPTED BURGLARY, FELONY, I.C. §§18-1401,
18 -306; and of COUNT III. POSSESSION OF A CONTROLLED SUBSTANCE,
19 MISDEMEANOR, I.C. §37-2732(c). As a consequence, on Count I. the
20 defendant is committed to the custody of the State Board of
21 Correction for a period of ten (10) years, consisting of a fixed
22 term of three (3) years followed by an indeterminate term of seven
23 (7) years. The Court imposed a fine of \$2,500, with \$2,000
24 suspended. The defendant shall pay \$2,000 for Public Defender
25 reimbursement. On Count II. the defendant is committed to the
26 custody of the State Board of Correction for a period of five (5)
years, consisting of a fixed term of three (3) years followed by
an indeterminate term of two (2) years, concurrently with Count I.
The Court imposed a fine of \$500, suspended. The defendant shall
pay an amount to be determined by the Department of Correction,
not to exceed one hundred (\$100) dollars, for the cost of
conducting the presentence investigation and preparing the

1 presentence investigation report. The amount will be determined by
2 the Department and shall be based on the defendant's ability to
3 pay after the defendant pays the "net" \$500 fine and \$2,000 for
4 Public Defender reimbursement. On each of Counts I. and II., the
5 Court retains jurisdiction for 365 days for evaluative purposes
6 and recommends that the defendant be assigned to the 270-day
7 "T.C. rider," and that she be required to complete all available
8 cognitive self-change, substance abuse counseling, and adult
9 education (her G.E.D.). If the defendant is NOT assigned to the
10 "T.C. rider," the Court recommends that she be assigned to the
11 Correctional Alternative Placement Program (CAPP). The Court does
12 NOT recommend a "traditional" rider as it is inadequate to deal
13 with the defendant's significant substance abuse addiction.
14 (The Court reserves the right to re-sentence the defendant if she
15 is assigned to a "traditional" rider.) It is further ordered that
16 the defendant shall never again work as a Certified Nurses Aide
17 "CNA," or with vulnerable, elderly or infirm individuals in any
18 capacity. The period of retained jurisdiction shall not commence
19 until the defendant is taken into custody by the State Board of
20 Correction. The defendant shall receive credit for sixty-five (65)
21 days served as of the 10th day of November, 2014.

22 On Count III., the Court enters a Judgment of Conviction and
23 sentences the defendant to the custody of the Ada County Jail for
24 a period of one hundred eighty (180) days, with credit for sixty-
25 five (65) days served, concurrently with Counts I. and II.

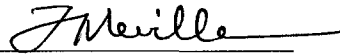
26 The defendant shall be taken into custody by the Department
of Correction forthwith.

IT IS ALSO ORDERED that Defendant shall fully comply with
the DNA Database Act.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy
of this Judgment and Commitment to the said Sheriff and the State
Board of Correction, which shall serve as the commitment of the

1 defendant. The Sheriff is directed to deliver custody of the
2 defendant to the State Board of Correction forthwith.

3 Dated this 10th day of November, 2014.

4 

5 THOMAS F. NEVILLE
6 District Judge

1
2 **CERTIFICATE OF SERVICE**

3 I do hereby certify that on the 10th day of November, 2014, I caused to
4 be emailed/mailed one copy of the within instrument in this cause as follows:

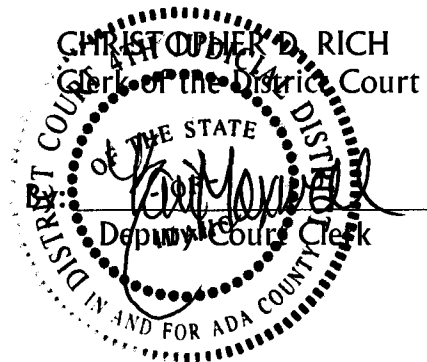
5 ADA COUNTY PROSECUTNG ATTORNEY'S OFFICE
6 VIA EMAIL

7 ADA COUNTY PUBLIC DEFENDER'S OFFICE
8 VIA EMAIL

9 PRESENTENCE INVESTIGATION TEAM/DEPT. OF PROBATION & PAROLE
10 VIA EMAIL

11 IDAHO DEPARTMENT OF CORRECTION
12 VIA EMAIL

13 ADA COUNTY JAIL
14 VIA EMAIL



Ada County Mugshot - Prosecutor's Office



User: PRLATICJ



Photo Taken: 2013-07-12 15:50:25

Name: YOUMANS, LADONNA MARIE

Case #: CR-FE-2013-0009451

LE Number: 623865

DOB: [REDACTED]

SSN: [REDACTED]

Height: 504

Weight: 140

Drivers License Number:

Drivers License State:

Sex: F Race: W Eye Color: BLU Hair Color: BLN Facial Hair:

Marks: ANKLE, RIGHT

Scars:

Tattoos:

1182

NO. _____ FILED 350
A.M. _____ P.M. 3

DEC 15 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

CHARLENE W. DAVIS, ISB #7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

LDONNA MARIE YOUMANS,

Defendant-Appellant.

Case No. CR-FE-2013-9451

NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE CLERK
OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

- 1) The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the final decision and order entered against her in the above-entitled action on November 10, 2014, the Honorable Thomas F. Neville, District Judge presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-10).
- 3) A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal is:
 - a) Did the district court abuse its discretion by imposing an excessive sentence?

MO

- b) Did the district court err in denying the defendant's motion to suppress?
 - c) Did the district court err in allowing the State's witness, Office Kip Paparello, testify about identifying Hydrocodone?
 - d) Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?
- 4) There is a portion of the record that is sealed. That portion of the record that is sealed is the pre-sentence investigation report (PSI).
 - 5) Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
 - a) Entry of plea held September 30, 2013 (Court Reporter: Sue Wolf. Estimated pages: 100).
 - b) Motion to Suppress and Motion to Compel held April 8, 2014 (Court Reporter: Sue Wolf. Estimated Pages: 100).
 - c) Jury Trial held September 9, 2014 through September 11, 2014. (Court Reporter: Sue Wolf. Estimated Pages: 800).
 - d) Sentencing hearing held November 10, 2014 (Court Reporter: Sue Wolf. Estimated pages: 100).
 - 6) Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
 - 7) I certify:
 - a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) mentioned in paragraph 5 above.
 - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, IAR 23(a)(8)).
 - d) Ada County will be responsible for paying for the reporter's transcript, as the client is indigent (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - e) That service has been made upon all parties required to be served pursuant to IAR 20.

DATED this 10th day of December 2014.



Charlene W. Davis
Attorney for Defendant

CERTIFICATE OF MAILING

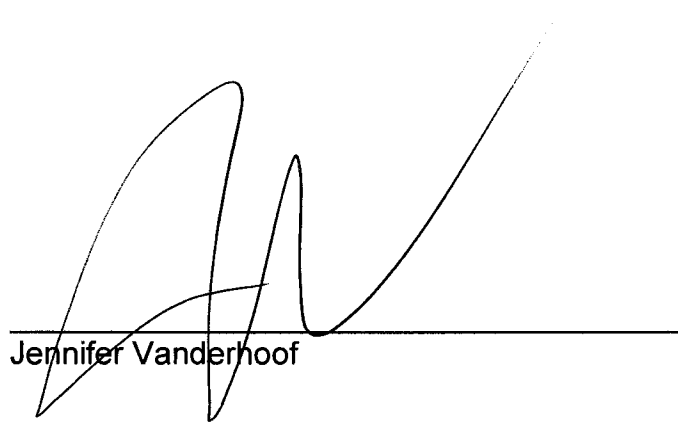
I HEREBY CERTIFY, that on this 10th day of December 2014, I mailed (served) a true and correct copy of the within instrument to:

Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Idaho Appellate Public Defender
3050 North Lake Harbor Lane, Suite 100
Boise, Idaho 83703

Sue Wolf
Court Reporter
Interdepartmental Mail

Tamera Kelly
Ada County Prosecutor's Office
Interdepartmental Mail



Jennifer Vanderhoof

RECEIVED
DEC 15 2014
ADA COUNTY CLERK

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant
CHARLENE W. DAVIS, ISB #7155
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. _____
A.M. _____ FILED P.M. 1:00

JAN 02 2015

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

LDONNA MARIE YOUMANS,

Defendant-Appellant.

Case No. CR-FE-2013-9451

ORDER APPOINTING STATE
APPELLATE PUBLIC DEFENDER ON
DIRECT APPEAL

Defendant has elected to pursue a direct appeal in the above-entitled matter. Defendant being indigent and having heretofore been represented by the Ada County Public Defender's office *(on a reimbursement basis)* in the District Court, the Court finds that, under these circumstances, appointment of appellate counsel is justified. The Idaho State Appellate Public Defender shall be appointed to represent the above-named Defendant in all matters pertaining to the direct appeal. *JM*

SO ORDERED AND DATED this 2nd day of January, 2015. *JM*

Thomas F. Neville
Thomas F. Neville
District Judge

CERTIFICATE OF MAILING

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have mailed one copy of the Order Appointing State Appellate Public Defender on Direct Appeal as notice pursuant to the Idaho Rules to each of the parties of record in this case in envelopes addressed as follows:

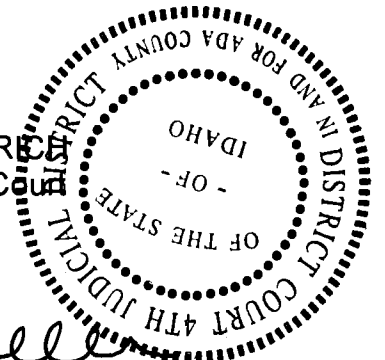
Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Idaho Appellate Public Defender
3050 North Lake Harbor Lane, Suite 100
Boise, Idaho 83703

Tamera Kelly
Ada County Prosecutor's Office
Interdepartmental Mail

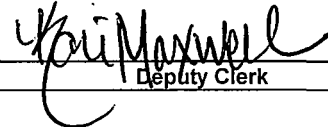
Ada County Public Defender
Attn: Jennifer Vanderhoof
Interdepartmental Mail

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho



Date: 1/2/15

By *Janell*
Deputy Clerk

FILED
Monday, March 30, 2015 at 11:58 AM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: 
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,) Case Number. CR-FE-2013-0009451
)
Plaintiff,) ORDER TO TRANSPORT
vs.)
)
LDONNA MARIE YOUMANS,)
DOB [REDACTED])
SSN. [REDACTED])
D [REDACTED])

It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that LDONNA MARIE YOUMANS be brought before the following hearing: **RIDER REVIEW.....Monday, April 27, 2015 @ 09:00 AM**

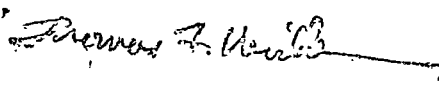
IT IS THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff return said Defendant to the custody of the Idaho State Penitentiary;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and retake him into custody from the Sheriff upon his return to the Penitentiary.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Monday, March 30, 2015.


THOMAS F. NEVILLE
District Judge

cc: PA/PD/DOC/ACJ

copy Janet
04/08/15
KW

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867

ERIK R. LEHTINEN
Chief, Appellate Unit
I.S.B. #6247
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83703
(208) 334-2712

NO. _____ FILED _____
A.M. _____ P.M. 4:16

APR 03 2015

CHRISTOPHER D. RICH, Clerk
By LAURIE JOHNSON
DEPUTY

ORIGINAL

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

LDONNA MARIE YOUMANS,

Defendant-Appellant.

CASE NO. CR 2013-9451

S.C. DOCKET NO. 42795

AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, JAN BENNETTS, ADA COUNTY PROSECUTOR, 200 WEST FRONT STREET 3RD FLOOR, BOISE , ID, 83702, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction and Sentence entered in the above-entitled action on the 10th day of November, 2015, the Honorable Thomas F. Neville, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

a. Did the district court abuse its discretion by imposing an excessive sentence?

b. Did the district court err in denying the defendant's motion to suppress?

c. Did the district court err in allowing the State's witness, Officer Kim Paparello, testify about identifying Hydrocodone?

d. Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

a. Entry of Plea held September 30, 2013 (Court Reporter: Sue Wolf, estimation of 100 pages);

b. Motion to Suppress and Motion to Compel held April 8, 2014 (Court Reporter: Sue Wolf, estimation of 100 pages);

c. Jury Trial held September 9 – 11, 2014, including, but not limited to, the voir dire, opening statements, closing arguments, jury

instruction conferences, reading of the jury instructions, any hearings regarding questions from the jury during deliberations, return of the verdict, and any polling of the jurors (Court Reporter: Sue Wolf, estimation of 800 pages); and

- e. Sentencing Hearing held on November 10, 2014 (Court Reporter: Sue Wolf, estimation of 100 pages).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

- a. Notice and Memorandum in Support of 404(b) Evidence lodged October 31, 2013;
- b. Defendant's List of Potential Witnesses filed May 5, 2014;
- c. State's Exhibit List filed June 19, 2014;
- d. State's Witness List filed June 19, 2014;
- e. Defendant's List of Potential Trial Exhibits filed August 18, 2014;
- f. All proposed and given jury instructions including, but not limited to, the Jury Instructions filed September 11, 2014;
- c. Any affidavits, objections, responses, briefs or memorandums, filed or lodged, by the state, appellant or the court in support of or in opposition to the Motion to Suppress, motion re: I.R.E 404(b) evidence and Motion to Compel; and

e. Any exhibits, including but not limited to letters or victim impact statements and other addendums to the PSI or other items offered at the sentencing hearing.

7. I certify:

- a That a copy of this Amended Notice of Appeal has been served on the Court Reporter, Sue Wolf;
- b That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- c That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- d That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e);
- e That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 3rd day of April, 2015.



SARA B. THOMAS
State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 3rd day of April, 2015, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

CHARLENE DAVIS
ADA COUNTY PUBLIC DEFENDER
200 W FRONT STREET ROOM 1107
BOISE ID 83702

SUE WOLF
COURT REPORTER
200 WEST FRONT ST
BOISE ID 83702
STATEHOUSE MAIL

GREG BOWER
ADA COUNTY PROSECUTOR
200 WEST FRONT STREET 3RD FLOOR
BOISE ID 83702
STATEHOUSE MAIL

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
PO BOX 83720
BOISE ID 83720-0010
Hand delivered to Attorney General's mailbox at Supreme Court


CYNTHYA R. HERRERA
Administrative Assistant

SBT/tmf/crh

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>12:18:12 PM</u>	Court	called <u>ST v LDONNA YOHMANS</u> <u>CRFe13-09451</u> , present in custody, time for rider review.
<u>12:18:28 PM</u>	Jon Loschi	counsel for defendant
<u>12:18:32 PM</u>	Scott Bandy	counsel for State
<u>12:20:42 PM</u>	Court	time for rider review
<u>12:20:48 PM</u>	Scott Bandy	stated defendant filed Notice of Appeal stating she did not have access to video equipment. All those records were supplied to counsel, would like a hearing on that issue to supplement the record.
<u>12:22:03 PM</u>	Court	not sure it has jurisdiction
<u>12:22:11 PM</u>	Scott Bandy	believes the Court does.
<u>12:23:24 PM</u>	Court	will set the hearing for July 7, 2015 @ 2:00 p.m.
<u>12:23:37 PM</u>	Scott Bandy	going to the Rider Review, defendant did a good rider. Only issue would have would being a vet tech, would have access to prescriptions for controlled substance.
<u>12:24:32 PM</u>	Jon Loschi	request Court grant probation and release today. No objection to advised future employers and access to medications.
<u>12:24:56 PM</u>	Defendant	comments on own behalf.
<u>12:26:25 PM</u>	Court	no legal cause shown why sentence should not be imposed. Court will place defendant on standard conds of probation and follow probation agreement. No contact with Garden Valley assisted Living either directly or indirectly. Auth. 120 days disc. jail for the prob. officer. No employment or training for employment or licensure that would involve access to controlled substances whether for human or animal consumption unless has permission from probation officer. Advised of rights to appeal.
<u>12:28:48 PM</u>	End Case	

APR 28 2015

CHRISTOPHER D. RICH, Clerk
By MARTHA LYKE
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 LADONNA MARIE YOUMANS,)
 DOB [REDACTED])
 SS# [REDACTED])
 Defendant.)
 _____)

Case No. CR-FE-2013-0009451

ORDER SUSPENDING SENTENCE
AND ORDER OF PROBATION

The Prosecuting Attorney, the defendant, LADONNA MARIE YOUMANS, with counsel, Jonathan Loschi, came into court this 27th day of April 2015.

AND WHEREAS, LADONNA MARIE YOUMANS was adjudged guilty in the District Court of the Fourth Judicial District in and for the County of Ada of the crimes of COUNT I: BURGLARY, FELONY, I.C. § 18-1401; COUNT II: ATTEMPTED BURGLARY, FELONY, I.C. §§ 18-1401, -306; and COUNT III: POSSESSION OF A CONTROLLED SUBSTANCE, MISDEMEANOR, I.C. § 37-2732(c) and was committed to the custody of the State Board of Correction, on **Count I**: for a period of ten (10) years, with three (3) years of said term to be FIXED and with the remaining seven (7) years INDETERMINATE; and on **Count II**: for a period of five (5) years, with three (3) years of said term to be FIXED and with the remaining

MLK

two (2) years INDETERMINATE, said term to run concurrently with the sentence imposed in Count I, and to commence immediately;

AND WHEREAS The court retained jurisdiction for three hundred sixty-five (365) days to suspend execution of Judgment pursuant to Section §19-2601 (4), of the Idaho Code;

AND WHEREAS, the District Court, having ascertained the desirability of suspending execution of the judgment and placing the defendant on probation for the balance of said sentence;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED That the sentence is hereby suspended and the defendant be placed on probation for the balance of the ten (10) year sentence upon the following conditions, to-wit:

1. That the probation is granted to and accepted by the probationer, subject to all its terms and conditions, and with the understanding that the court may, at any time, in case of the violation of the terms of the probation, cause the probationer to be returned to the court, revoke the probation and order the defendant returned to the custody of the State Board of Correction to serve the sentence originally imposed.

2. That the probationer shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court and subject to the rules of probation as prescribed by the Board of Correction and the District Court, and further the said probationer does hereby agree and consent to the search and seizure of his/her person, automobile, real property, and any other property at any time and at any place by any probation officer or any person assisting a probation officer and does waive his/her constitutional right to be free from such searches and seizures.

3. The probationer shall refrain from consorting with persons he/she knows to be criminals and therefore will not participate in the commission of any crimes as an undercover agent for the police or anyone acting under the supervision or control of the police. However, if probationer should obtain knowledge that a crime has been or will be committed in the future, the probationer is under an obligation to report this knowledge to his/her probation officer with the understanding that such information will be turned over the police and that probationer may be questioned by the police concerning any such knowledge.

4. Special Conditions, to-wit:

A. Defendant shall not violate any laws.

B. Defendant shall enter into and comply with all conditions of his/her Agreement of Supervision with the Department of Probation and Parole. Defendant shall also be evaluated for intense supervision and will follow any recommendations deemed appropriate by his/her probation officer.

C. Defendant shall waive his/her Fourth Amendment Rights.

D. Defendant shall waive his/her Fifth Amendment rights to the extent that he/she must answer truthfully all questions of a probation officer reasonably related to compliance or non-compliance with the conditions of probation.

E. Defendant shall waive his/her Sixth Amendment rights of confrontation in so far as that the State may use reliable hearsay evidence at any probation violation hearing.

F. Defendant shall enter into and complete any rehabilitation programs recommended by his/her probation officer.

G. The probationer shall submit to a test of his/her blood, breath, urine or saliva, at

his/her own expense, at the request of the probation officer for the purpose of detection of illegal drugs, controlled substances and/or alcohol. If the use of illegal drugs or controlled substances is detected, the probation office shall have the discretion and authority to immediately deliver the probationer to the sheriff for incarceration in the county jail as follows: for the first instance of use of illegal drugs or controlled substances, two (2) days in jail; for a second, subsequent instance, three (3) days in jail; for a third, subsequent instance, five (5) days in jail. The probationer shall not be eligible for work release or SILD during any period of incarceration imposed under this Special Condition.

H. Defendant may serve an additional one hundred twenty (120) days in the Ada County Jail as discretionary jail time.

I. Defendant shall have no contact with Garden Valley Assisted Living, either directly or indirectly.

J. Defendant shall have no employment or training for employment or licensure that would involve access to controlled substances, whether for human or animal consumption, unless approved by the probation officer.

5. THAT THE PROBATIONER, IF PLACED ON PROBATION TO A DESTINATION OUTSIDE THE STATE OF IDAHO, OR LEAVES THE CONFINES OF THE STATE OF IDAHO, WITH OR WITHOUT PERMISSION OF THE DIRECTOR OF PROBATION AND PAROLE, DOES HEREBY WAIVE EXTRADITION TO THE STATE OF IDAHO, AND ALSO AGREES THAT THE PROBATIONER WILL NOT CONTEST ANY EFFORT BY ANY STATE TO RETURN THE PROBATIONER TO THE STATE OF IDAHO.


AND IT IS FURTHER ORDERED that upon expiration of the period of suspension of the sentence as herein provided, and upon written showing by or on behalf of the defendant that he/she has fully complied with the terms of his/her probation then and in the event, the Court may amend the Judgment of Conviction from a term in custody of the State Board of Corrections to "confinement in a penal facility" for 180 days.

Costs are ordered as previously assessed.

For record purposes only, Defendant is entitled to credit for two hundred thirty-three (233) days served in prejudgment incarceration as provided by § 18-309, Idaho Code, which includes credit for time served in the retained jurisdiction program.

IT IS FURTHER ORDERED that the defendant shall fully comply with the DNA Database Act.

Dated this 27th day of April 2015.



GEORGE D. CAREY
Senior District Judge

This is to certify that I have read or had read to me and fully understand and accept all the conditions, regulations and restrictions under which I am being granted probation. I will abide by and conform to them strictly and fully understand that my failure to do so may result in the revocation of my probation and commitment to the Board of Correction to serve the sentence originally imposed.

Probationer's Signature

Date of acceptance

WITNESSED:

Probation and Parole Officer
State of Idaho

CERTIFICATE OF MAILING

I hereby certify that on this 28th day of April 2015, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA E-MAIL

ADA COUNTY PUBLIC DEFENDER
VIA E-MAIL

DEPARTMENT OF CORRECTIONS
CENTRAL RECORDS
VIA E-MAIL

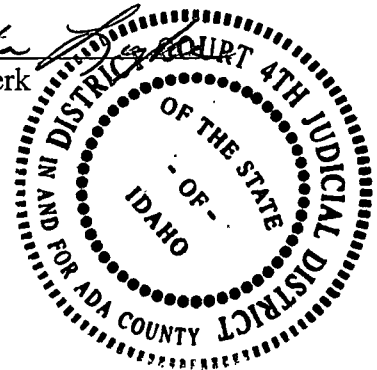
PROBATION AND PAROLE
VIA E-MAIL

CCD SENTENCING TEAM
VIA E-MAIL

ADA COUNTY JAIL
VIA E-MAIL

CHRISTOPHER D. RICH
Clerk of the District Court

By: *Maureen D. Rich*
Deputy Court Clerk



JUN 19 2015

CHRISTOPHER D. RICH, Clerk
By MEG KEENAN
DEPUTY

JAN M. BENNETTS
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
Standards and Practices Division
Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB No. 2798

004
MO
7/7
2:00

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	CASE No. CR FE 2013 0009451
Plaintiff-Respondent,)	
	)	MEMORANDUM IN RESPONSE TO
vs.	)	DISCOVERY ALLEGATIONS
)	
LADONNA MARIE YOUMANS,)	
)	
Defendant-Appellant.)	
)	
_____)	

I. INTRODUCTION

The Ada County Public Defender's Office and the State Appellate Public Defender's Office have appealed the jury conviction of Ladonna Marie Youmans. One of the issues included in the Amended Notice of Appeal (attached hereto as Exhibit A) is an allegation of a discovery violation by the prosecutor.

This Memorandum is filed to establish the baselessness of that discovery violation allegation against the State.

MS

II. SYNOPSIS

A former employee of a subcontractor of Garden Plaza of Valley View Senior Living Community (GPVV), LaDonna Marie Youmans was captured on surveillance video returning to visit the GPVV. Ms. Youmans was observed entering empty rooms. Coincidentally, one of the residents reported a theft from his room after Ms. Youmans visited.

GPVV had surveillance cameras in its hallways and walkways. The cameras were part of a security system and connected to a computer tower which provided hard drive/electronic storage of the video images. Aff. of Charles Faylor (attached hereto as Exhibit B), ¶3. After the theft was reported, the manager of GPVV reviewed hours of the surveillance camera videos and noticed that Ms. Youmans visited primarily during meal times, entering and exiting rooms when residents were not in the room. Aff. of Charles Faylor, ¶¶ 8, 10. Coincidentally, that is when the theft took place. The manager tried to make copies of the surveillance videos, but the surveillance video software was designed to prevent the hard drive contents from being copied. Aff. of Charles Faylor, ¶13.

Because the video recordings of Ms. Youmans surreptitiously entering the residents' rooms was important to show Ms. Youmans' guilt, the manager used his cell phone to make video recordings from the surveillance system's computer screen to show Ms. Youmans' actions. Aff. of Charles Faylor, ¶8. Those cell phone video recordings of the surveillance system's monitor were shared with Ms. Youmans' attorney and admitted as evidence in the trial.

Ms. Youmans' defense team requested a copy of the entire surveillance video, but, as noted above, it was explained to them that the proprietary hard drive software was specifically designed to prevent copying. Nonetheless the defense team insisted on a copy of the video.

Because the manager of GPVV was unable to make a copy of the surveillance video hard drive, he disconnected the entire computer tower containing the hard drive and gave it to the investigating Boise City Police Detective, who secured it as evidence. Aff. of Charles Faylor, ¶12; Aff. of Kip Paporello (attached hereto as Exhibit C), ¶6.

Ms. Youmans continued to request a copy of video from the uncopyable hard drive. The Prosecutor and Detective arranged an appointment for the Public Defender's investigator to inspect and try to copy the hard drive at the Sheriff's Office. Aff. of Kip Paporello, ¶¶ 8-10. The Prosecutor and detective were both present, as was the Public Defender's investigator; Ms. Youmans' attorney was not present. The Public Defender's investigator was unable to copy the uncopyable hard drive. The Prosecutor then arranged for an Ada County Information Technology employee to try to copy the uncopyable hard drive. The IT employee was also unsuccessful.

Ms. Youmans' defense team continued to insist on a copy of the uncopyable hard drive. They hired a private IT professional to attempt to copy it. The Prosecutor arranged for the computer tower (containing the uncopyable hard drive) to be made available to the defense team's IT professional in the Prosecutor's office. Aff. of James Lardieri (attached hereto as Exhibit D), ¶¶ 5-7. The public defender's privately-hired IT expert attempted to copy the hard drive, but was unable to.

III. APPEAL

On April 3, 2015, Ms. Youmans filed her Amended Notice of Appeal, which includes as issue "3.d": "Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?" (A true and correct copy of the Amended Notice of Appeal is attached hereto as Exhibit A.)

IV. AFFIDAVITS

The Public Defender's discovery allegations were never fully litigated before the district court. Because Ms. Youmans has opted to allege a discovery violation at the appellate level, unless a record is made at the trial level the Supreme Court will be deprived of an accurate account of what actually occurred regarding the surveillance video. This memorandum and the accompanying affidavits will provide this court, and eventually the Supreme Court, with an accurate recitation of what transpired.

V. ARGUMENT

A. There Was No Discovery Violation

Nationwide, prosecutors have experienced a marked spike in baseless discovery and *Brady* allegations. The Ada County Prosecutor's Office has seen such a proliferation of these accusations that it has been forced to divert a deputy prosecutor to training and defending its deputy prosecutors from the potential harm that could arise from baseless misconduct accusations.

In the case at bar, Ms. Youmans has accused Ms. Kelly of a discovery violation – suppressing relevant evidence – by not providing her with a complete copy of a proprietary-designed and protected surveillance system's video recording. As noted above, the surveillance system's computer hard drive was specifically engineered to prevent such copying, and this design appears successful. The GPVV manager could not make a copy. The detective could not make a copy. An Ada County IT employee could not make a copy. The IT professional hired by the Ada County Public Defender could not make a copy.

In *Klein v. State*, 156 Idaho 792 (2014), our Supreme Court explained:

Due process requires all material exculpatory evidence known to the State or in its possession be disclosed to the defendant. *Brady v. Maryland*, 373 U.S. 83, 87, 83

S. Ct. 1194, 10 L. Ed. 2d 215 (1963); *Dunlap v. State*, 141 Idaho 50, 64, 106 P.3d 376, 390 (2004). This duty also extends to providing material impeachment evidence before trial. *Giglio v. United States*, 405 U.S. 150, 153-54, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972); *Dunlap*, 141 Idaho at 64, 106 P.3d at 390. "There are three essential components of a true *Brady* violation: the evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued." *Dunlap*, 141 Idaho at 64, 106 P.3d at 390 (quoting *Strickler v. Greene*, 527 U.S. 263, 281-82, 119 S. Ct. 1936, 144 L. Ed. 2d 286 (1999)).

Id at 798.

Applying the applicable law to these facts defeats any allegation of a discovery violation. First, there is neither an allegation nor is there proof the surveillance computer hard drive contains any evidence that would exculpate Ms. Youmans, or could be utilized to impeach a state's witness. Second, the hard drive was not willfully or inadvertently suppressed. Ms. Youmans was informed about the hard drive and provided relevant excerpts of the video early in the case. Further, to safeguard the hard drive, the entire computer tower was removed from the surveillance computer and held in the property room where Ms. Youmans's defense team and an IT professional were given access to the hard drive. The computer was also made available to the Ada County Public Defender's office where a privately-hired IT professional worked on making a copy.

The access granted to Ms. Youmans and her defense team is a model of prosecutorial cooperation. The hard drive excerpts created by the GPVV manager (and submitted into evidence) were shared with Ms. Youmans. Her defense team was twice granted access to the computer. There is no conceivable discovery violation in this case. As explained by the Court of Appeals barely four months ago:

The prosecutor does not have a general duty to collect evidence. *State v. Bryant*, 127 Idaho 24, 28, 896 P.2d 350, 354 (Ct. App. 1995). Nor is there a "constitutional requirement that the prosecution make a complete and detailed

accounting to the defense of all police investigatory work on a case." *Moore v. Illinois*, 408 U.S. 786, 795, 92 S. Ct. 2562, 33 L. Ed. 2d 706 (1972); accord *United States v. Bagley*, 473 U.S. 667, 675, 105 S. Ct. 3375, 87 L. Ed. 2d 481 (1985) ("[T]he prosecutor is not required to deliver his entire file to defense counsel."). Due process, though, requires that the prosecutor disclose to the defendant all material exculpatory evidence known to the prosecutor or in his possession. *State v. Lewis*, 144 Idaho 64, 66-67, 156 P.3d 565, 567-68 (2007); see also *State v. Gardner*, 126 Idaho 428, 433, 885 P.2d 1144, 1149 (Ct. App. 1994) (explaining that the duty under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963) is an obligation of not just the individual prosecutor assigned to the case, but of all the government agents having a significant role in investigating and prosecuting the offense). The duty to disclose material exculpatory evidence is also found in I.C.R. 16(a). *Gardner*, 126 Idaho at 432, 885 P.2d at 1148 (noting that I.C.R. 16(a) is in tandem with this constitutional obligation stemming from the Due Process Clause). Idaho Criminal Rule 16 also provides that the defendant may request that the prosecution disclose other items. See I.C.R. 16(b). Relevant to this appeal, the prosecutor may satisfy the requirements of I.C.R. 16(b) with respect to documents, papers, tangible objects, and reports of examinations and tests by "permit[ting] the defendant to inspect and copy or photograph" the items. I.C.R. 16(b)(4) & 16(b)(5).

In this case, Boehm has not alleged that the prosecutor withheld material exculpatory evidence known to the prosecutor, which would violate due process, nor has she alleged that the prosecutor failed to comply with I.C.R. 16. Rather, Boehm argues that the prosecutor's response that referred her to set up an appointment with the prosecutor or referred her to other offices denied her due process. Yet, due process does *not* require that the prosecutor turn all evidence over to the defendant, but only requires the disclosure of evidence that is known to the prosecutor and that is material and exculpatory. It is a court rule, I.C.R. 16(b), which permits the defendant to request access to documents that are not covered by due process, and thus it is a court rule that provides the broader protections and procedure that Boehm complains about. Again, because Boehm does not contend that the prosecutor failed to disclose known material and exculpatory evidence, and because the prosecutor does not have a general duty to collect evidence, Boehm has not asserted a due process violation. Accordingly, neither the district court nor magistrate erred by not finding a due process violation or a violation of Rule 16(b).

State v. Boehm, 346 P.3d 311 at 317, 318, Idaho Court of Appeals, February 25, 2015. As in *Boehm*, the state complied with all applicable rules and decisional law in this matter, and still finds itself accused of a discovery violation.


VI. CONCLUSION

Ms. Youmans' discovery claim is puzzling. The State cooperated with her access requests as well as her attempts to copy the hard drive. Case law does not require police or prosecutors reverse-engineer proprietary software programming. The fact that the hard drive's software prevented copying is not a valid legal foundation for a discovery claim. The State asks this Court to make a finding that there was no discovery violation in this matter.

DATED this 18 day of June, 2015.

JAN M. BENNETTS
Ada County Prosecuting Attorney

By:



James K. Dickinson
Senior Deputy Prosecuting Attorney
Standards and Practices Division

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 19th day of June, 2015, I served a true and correct copy of the foregoing MEMORANDUM IN RESPONSE TO DISCOVERY ALLEGATIONS to the following persons by the following methods:

Kenneth Jorgensen
Russell Spencer
Deputies Attorney General
PO Box 83720
Boise, ID 83720-0010

Hand Delivery
 U.S. Mail
 Certified Mail
 Facsimile

Erik R. Lehtinen
Sara B. Thomas
State Appellate Public Defender's Office
3050 N. Lake Harbor Lane, Ste 100
Boise, ID 83703

Hand Delivery
 U.S. Mail
 Certified Mail
 Facsimile

Teri K. Jones
Charlene Davis
Deputies Ada County Public Defender
200 W. Front Street, Rm 1107
Boise, ID 83702

Hand Delivery
 U.S. Mail
 Certified Mail
 Facsimile



Legal Assistant

RECEIVED

APR 03 2015

OFFICE OF THE ATTORNEY GENERAL
CRIMINAL DIVISION

COPY

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867

ERIK R. LEHTINEN
Chief, Appellate Unit
I.S.B. #6247
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83703
(208) 334-2712

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

LADONNA MARIE YOUMANS,

Defendant-Appellant.

CASE NO. CR 2013-9451

S.C. DOCKET NO. 42795

AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, JAN BENNETTS, ADA COUNTY PROSECUTOR, 200 WEST FRONT STREET 3RD FLOOR, BOISE, ID, 83702, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction and Sentence entered in the above-entitled action on the 10th day of November, 2015, the Honorable Thomas F. Neville, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

a. Did the district court abuse its discretion by imposing an excessive sentence?

b. Did the district court err in denying the defendant's motion to suppress?

c. Did the district court err in allowing the State's witness, Officer Kim Paparello, testify about identifying Hydrocodone?

d. Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

a. Entry of Plea held September 30, 2013 (Court Reporter: Sue Wolf, estimation of 100 pages);

b. Motion to Suppress and Motion to Compel held April 8, 2014 (Court Reporter: Sue Wolf, estimation of 100 pages);

c. Jury Trial held September 9 – 11, 2014, including, but not limited to, the voir dire, opening statements, closing arguments, jury

instruction conferences, reading of the jury instructions, any hearings regarding questions from the jury during deliberations, return of the verdict, and any polling of the jurors (Court Reporter: Sue Wolf, estimation of 800 pages); and

- e. Sentencing Hearing held on November 10, 2014 (Court Reporter: Sue Wolf, estimation of 100 pages).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

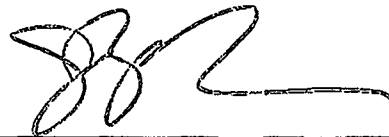
- a. Notice and Memorandum in Support of 404(b) Evidence lodged October 31, 2013;
- b. Defendant's List of Potential Witnesses filed May 5, 2014;
- c. State's Exhibit List filed June 19, 2014;
- d. State's Witness List filed June 19, 2014;
- e. Defendant's List of Potential Trial Exhibits filed August 18, 2014;
- f. All proposed and given jury instructions including, but not limited to, the Jury Instructions filed September 11, 2014;
- c. Any affidavits, objections, responses, briefs or memorandums, filed or lodged, by the state, appellant or the court in support of or in opposition to the Motion to Suppress, motion re: I.R.E 404(b) evidence and Motion to Compel; and

- e. Any exhibits, including but not limited to letters or victim impact statements and other addendums to the PSI or other items offered at the sentencing hearing.

7. I certify:

- a. That a copy of this Amended Notice of Appeal has been served on the Court Reporter, Sue Wolf;
- b. That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- c. That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- d. That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e);
- e. That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 3rd day of April, 2015.



SARA B. THOMAS
State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 3rd day of April, 2015, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

CHARLENE DAVIS
ADA COUNTY PUBLIC DEFENDER
200 W FRONT STREET ROOM 1107
BOISE ID 83702

SUE WOLF
COURT REPORTER
200 WEST FRONT ST
BOISE ID 83702
STATEHOUSE MAIL

GREG BOWER
ADA COUNTY PROSECUTOR
200 WEST FRONT STREET 3RD FLOOR
BOISE ID 83702
STATEHOUSE MAIL

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
PO BOX 83720
BOISE ID 83720-0010
Hand delivered to Attorney General's mailbox at Supreme Court


CYNTHIA R. HERRERA
Administrative Assistant

SBT/tmf/crh

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)

Case No. CR-FE-2013-0009451

AFFIDAVIT OF CHARLES FAYLOR

State of Idaho)
) :ss
County of Ada)

CHARLES FAYLOR, being first duly sworn, deposes and says:

- 1) I am the General Manager for Garden Plaza of Valley View.
- 2) Garden Plaza of Valley View (herein GPVV) is a senior living community located in Boise, Idaho.
- 2) I have been the General Manager of GPVV since September of 2009.
- 3) In 2011, as the General Manager, I had a security system installed in the hallways and walkways of the GPVV facility.
- 4) On May 22, 2013, Clarence Sateren, one of the residents of GPVV reported to me that his pain medication, kept in his room, was missing.
- 5) Based upon the report from Mr. Sateren, I reviewed the surveillance video that was maintained of Mr. Sateren's hallway. During my review, I discovered an unidentified woman entering and exiting Mr. Sateren's room on May 8th and 15th of 2013.

- 6) I continued to review the surveillance video and discovered the unidentified woman entering GPVV on six total occasions: April 15, April 18, May 6, May 8, May 14, and May 15, 2013.
- 7) Around that time, I also contacted police. I was later interviewed by Detective Kip Paporello of the Boise Police Department.
- 8) I was unable to copy the surveillance video to a disk. Since I was unable to copy the surveillance video through the surveillance software, I made recordings of the unidentified woman's visits to GPVV with my iPhone. I recorded her entrance, exit, and traveling through the building on six (6) different dates: April 15, April 18, May 6, May 8, May 14, and May 15, 2013. I gave a copy of these recordings to Detective Kip Paporello.
- 9) After I made the discovery of the unidentified woman inside GPVV, I decided to upgrade the surveillance video system. I purchased a new system and had it installed in June 2013. Because I made the previous report to police, I kept the old computer tower containing the hard drive that included the video surveillance that recorded GPVV in April and May of 2013.
- 10) During the criminal investigation done by Detective Kip Paporello, I learned from Eric Wallentine, a contractor of GPVV, that the unidentified woman was identified as Ladonna Youmans.
- 11) After Ms. Youmans was charged criminally, and sometime after the preliminary hearing held in the case, I was contacted by someone associated with the Public Defender's office about the computer tower containing the hard drive.
- 12) After that conversation, I made arrangements with Detective Kip Paporello to come to GPVV and take the computer tower containing the hard drive. It was my understanding

since Detective Kip Paporello came to pick up the computer tower containing the hard drive that it remained in police custody. It was also my understanding that Detective Paporello would make the video surveillance available for viewing to the defense of Ladonna Youmans.

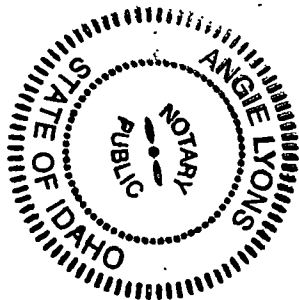
13) I have never been able to make a copy of the video surveillance that recorded GPVV in April and May of 2013. I was only able to make a copy of that video surveillance by using my iPhone.

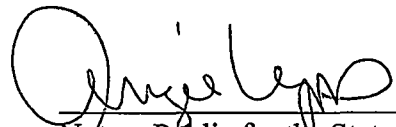
FURTHER, your affiant sayeth naught.



Charles Faylor

SUBSCRIBED AND SWORN to before me this 1 day of June, 2015.





Notary Public for the State of Idaho
Residing at: Boise, Idaho Ada
My Commission Expires: 7/20/19

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)

Case No. CR-FE-2013-0009451

AFFIDAVIT OF KIP PAPORELLO


State of Idaho)
) :ss
County of Ada)

KIP PAPORELLO, being first duly sworn, deposes and says:

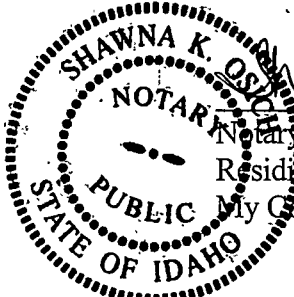
- 1) I am a detective for the Boise Police Department.
- 2) I am a graduate of the Idaho Police Officer Standards and Training (POST) Academy.
- 3) I have been employed as a police officer by the City of Boise for approximately sixteen years.
- 4) I was the assigned detective to State v. Youmans in CR-FE-2013-9451. This case involved a theft investigation at the Garden Plaza of Valley View (GPVV) retirement home.
- 5) During the course of my investigation, I learned that GPVV had video surveillance recordings made by the General Manager, Charles Faylor. I collected the video recordings made by Charles Faylor and booked the recordings as evidence in this case.

- 6) On February 7, 2014, I collected a black computer hard drive tower from Charles Faylor at Garden Plaza of Valley View and delivered it to the Ada County Sheriff's Office where I secured it in the corresponding property room.
- 7) On April 10, 2014, I responded to the property room at the Ada County Sheriff's Office and I checked out the computer tower containing the hard drive given to me by Charles Faylor for viewing.
- 8) On April 22, 2014, I responded to the property room at the Ada County Sheriff's Office again and I checked out the same computer tower containing the hard drive for viewing and for the purpose of the State attempting to make a copy of the surveillance video.
- 9) On May 22, 2014, I responded to the property room at the Ada County Sheriff's Office again. I checked out the same computer tower containing the hard drive for viewing by the defense. On this date, a defense investigator was present. His first name was Darby. The defense investigator also brought another person who attempted to make a copy of surveillance video. It was my understanding that the defense was unable to make a copy of the surveillance video at this time.
- 10) On May 27, 2014, I responded to the property room at the Ada County Sheriff's Office again. I checked out the same computer tower containing the hard drive and I delivered it to the Ada County Prosecuting Attorney's Office. I gave the same computer tower containing the hard drive to Doug Traubel, an investigator with the Ada County Prosecuting Attorney's Office. I delivered the computer tower containing the hard drive to the Prosecutor's Office because it was my understanding that the Prosecutor's Office investigators would later accommodate another viewing for the defense investigators. I was not able to coordinate that viewing because of the estimated amount of time it was supposed to take.

FURTHER, your affiant sayeth naught.


Kip Paporello

SUBSCRIBED AND SWORN to before me this 26 day of May, 2015.


Shawna K Cochran
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 6/23/17

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
 Plaintiff,)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant.)

Case No. CR-FE-2013-0009451
AFFIDAVIT OF JAMES LARDIERI

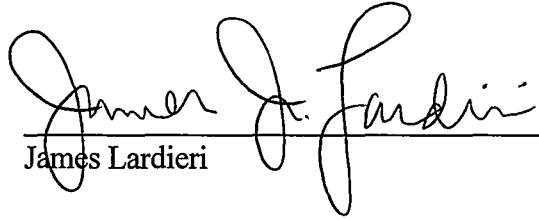
State of Idaho)
) :ss
County of Ada)

JAMES LARDIERI, being first duly sworn, deposes and says:

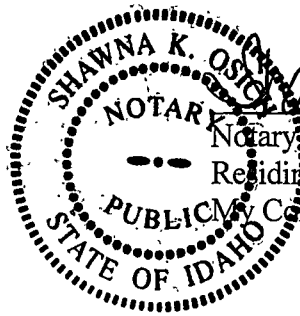
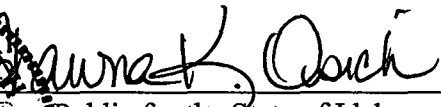
- 1) I am an investigator for the Ada County Prosecuting Attorney. I have been employed in such capacity for approximately two and half years.
- 2) Prior to becoming an investigator with the Ada County Prosecuting Attorney's Office, I have been employed as a Misdemeanor Probation Officer for Ada County Misdemeanor Probation Services from November 2010 to August 2012. I have also been employed as a police officer for Concord, California Police Department from September of 1988 through October 2010, where I retired as the rank of lieutenant. Prior to that, I was a deputy sheriff for Riverside County from April 1983 through September 1988.
- 3) Around June of 2014, I was assigned to work on the State v. Youmans case, CRFE-2013-9451. In regard to my assignment on this case, I had various duties.

- 4) One of my duties included meeting with an investigator, Darby Lewis, from the Public Defender's office and the Public Defender's designated computer expert. It was my understanding the purpose of this meeting was to allow the Public Defender's representative to examine a computer held in evidence by the State.
- 5) On June 2, 2014, I retrieved a computer tower containing a hard drive from the secured evidence room at the Ada County Prosecutor's Office. I brought the computer hard drive to a conference space located in the Ada County Prosecuting Attorney's Office. On that same day, Darby Lewis and the Public Defender's computer expert were brought to the same conference room. I remained in the room while the computer expert worked on the computer. I cannot explain the type of work, the Public Defender's computer expert was doing, but I was under the assumption that he was there to copy the hard drive.
- 6) In estimation, I observed the Public Defender's investigator and computer expert work on the computer for at least a couple of hours. Also during this time, another investigator with the Ada County Prosecuting Attorney's Office, Sean O'Connor shared the duty of observing the Public Defender's investigator and computer expert work on the computer.
- 7) After the Public Defender's investigator and computer expert were finished with the computer tower containing a hard drive, I put the computer tower containing the hard drive back into the secured evidence room at the Ada County Prosecuting Attorney's Office.

FURTHER, your affiant sayeth naught.


James Lardieri

SUBSCRIBED AND SWORN to before me this ___ day of June, 2015.



Notary Public for the State of Idaho
Residing at: Boise, Idaho
Commission Expires: 6/23/17

JUL 02 2015

CHRISTOPHER D. RICH, Clerk
By MEG KEENAN
DEPUTY

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F.A.

JAN M. BENNETTS
Ada County Prosecuting Attorney

Tamer Kelly
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
LADONNA MARIE YOUMANS,)
)
Defendant.)
)
_____)

Case No. CR-FE-2013-0009451

NOTICE OF HEARING

TO: Teri K. Jones, her Attorney of Record, you will please take notice that on the 7th day of July 2015, at the hour of 9:00 o'clock of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Tamera Kelly, will move this Honorable Court regarding the State's Motion to Supplement the Record in the above-entitled action.

DATED this 2 day of July 2015

JAN M. BENNETTS
Ada County Prosecuting Attorney



By: Tamera Kelly
Deputy Prosecuting Attorney

507

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of July 2015, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual(s) named below in the manner noted:

Name and address: Teri K. Jones, Ada County Public Defender's Office

Charlene W. Davis, Ada County Public Defender's Office

Idaho State Appellate Public Defender's Office

By depositing copies of the same in the United States mail, postage prepaid, first class.

By depositing copies of the same in the Interdepartmental Mail.

By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.

By faxing copies of the same to said attorney(s) at the facsimile number: _____


Legal Assistant

Time	Speaker	Note
10:09:13 AM	Court	called <u>Ldonna Marie Youmans, CRFE13-09451</u> , (Defendant not present) for this proceeding.
10:09:42 AM	Jim Dickinson	counsel for State with Tamera Kelly
10:09:59 AM	Eric Leitenen	counsel for defendant from SAPD on appeal.
10:10:19 AM	Court	time set for State's Motion to Supplement record. Court has the State's memorandum and notice of hearing. Court inquired if any motion ever filed
10:11:27 AM	Jim Dickinson	did not intend on filing motion, was orally made at prior court proceeding
10:11:58 AM	Sara Thomas	do object to this hearing, do not feel the right counsel, do not think the Court has jurisdiction for this motion. Does not fall under the exceptions under appellate rule 13.
10:14:38 AM	Court	worked hard at this motion last night and did not know there would be this issue.
10:17:18 AM	Jim Dickinson	response
10:17:29 AM	Court	could construe the memorandum easily as a motion.
10:18:44 AM	Jim Dickinson	stated this issue was addressed at time of rider review, memorandum had already been filed. Motion made orally
10:19:28 AM	Court	inquired if State ready to address the jurisdictional issue. Court does know back on May 27th the judge was not sure they had jurisdiction
10:21:57 AM	Jim Dickinson	was trying to work on that issue
10:23:39 AM	Sara Thomas	can work on briefing have that in 7 days
10:23:53 AM	Court	if could have that by July 14th and then State's response by July 16th. Court reluctant to go forward - Court inquired of Ms. Thomas, if she will be prepared to go forward if Court decides to go forward with the other issue.
10:25:26 AM	Sara Thomas	stated don't believe the SAPD would be the handling attorney.
10:26:07 AM	Court	will set for 1:30 p.m. If the Court has jurisdiction, Court has plenty with its notes regarding this issue to handle this. Court had reset this trial 5 times. Court can make findings of fact based on its handling of this case and what is in its notes.
10:27:54 AM	Sara Thomas	response
10:29:00 AM	Court	will set over to July 21, 2015 @ 1:30 p.m. Request that Ms. Thomas send her brief electronically to the clerk and she will get it to the Court.
10:30:11 AM	End Case	

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NO. _____
A.M. _____ FILED P.M. 3:50

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867
P.O. Box 2816
Boise, ID 83701
(208) 334-2985 (fax)

JUL 14 2015
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

ORIGINAL

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
LDONNA MARIE YOUMANS,)
)
Defendant-Appellant.)

CASE NO. CR 2013-9451
SUPREME. COURT NO. 42795

OBJECTION TO STATE'S
MEMORANDUM IN RESPONSE
TO DISCOVERY ALLEGATIONS

TO: THE ABOVE-NAMED RESPONDENT, THE STATE OF IDAHO, AND JAN M. BENNETTS, ADA COUNTY PROSECUTOR'S OFFICE, 200 WEST FRONT STREET, BOISE, ID 83702

NOTICE IS HEREBY GIVEN that appellant in the above entitled proceeding hereby objects to the State's Memorandum In Response To Discovery Allegations (*hereinafter*, Memorandum) in which the Ada County Prosecutor's Office has asked this Court "to make a finding that there was no discovery violation in this matter." (See Memorandum, p.7.) This Court entered the Judgment of Conviction and Sentence in this case on November 10, 2014. (See Judgment of Conviction and Sentence.) Ms. Youmans filed a Notice of Appeal timely from that judgment. (See Notice of Appeal, filed December 15, 2014.) An appeal having been perfected from the judgment,

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proceedings in this Court are stayed and this Court does not have jurisdiction to enter an order determining whether a discovery violation occurred.¹

Traditionally, once an appeal was perfected the trial court lost *all* jurisdiction of the cause and could not allow amendments or enter a substituted or supplemental order. See *Dolbeer v. Harten*, 91 Idaho 141, 147-48 (1966) (relying upon I.C. § 13-208 which stated that all further proceedings in a lower court are stayed during the pendency of an appeal (statute repealed in 1977)); see also *Syth v. Parke*, 121 Idaho 156 (1990) (“For nearly a century, this Court has followed the general rule that once an appeal is perfected the trial court is divested of jurisdiction of the cause.” *Id.* at 157-58). However, the adoption of the Idaho Appellate Rules in 1977 altered that tradition. Appellate Rule 13 maintained that proceedings in the lower court were stayed during the pendency of an appeal, but granted the trial courts limited jurisdiction to address specific motions and issues. See I.A.R. 13; see also *Syth*, 121 Idaho at 158 (recognizing that I.A.R. 13 replaced I.C. § 13-208, retained general rule of stay, but granted limited jurisdiction); *Hells Canyon Excursions, Inc. v. Oakes*, 111 Idaho 123 (Ct. App. 1986) (recognizing that the adoption of the court rules granted limited jurisdiction). Once a notice of appeal is timely filed from a judgment of conviction, a “district court then lacks authority to enter orders in the case, except as to certain matters enumerated in [Idaho Appellate] Rule 13(c).” *State v. Wade*, 125 Idaho 522, 524 (Ct. App. 1994).

¹ The SAPD is responding in this limited manner to the State’s memorandum because of its limited authority in this case. The SAPD has been appointed to represent Ms. Youmans “in all matters pertaining to direct appeal.” (Order Appointing State Appellate Public Defender On Direct Appeal.) The statutory authority of the SAPD is likewise limited to representation, as relevant in this case, in “Appeals from convictions in district court...” I.C. § 19-870. The SAPD does not have authority to, and is not funded to, conduct factual investigations or conduct evidentiary hearings in non-capital cases. That authority and obligation is instead placed upon the county. As a result, the SAPD is raising this limited claim that is based upon the record that currently exists and is directly related to preserving Ms. Youman’s rights in appellate procedures and is based upon the fact that a Notice of Appeal has been filed.

The State's memorandum asks "this Court to make a finding that there was no discovery violation in this matter." (Memorandum, p.7.) In addition, the State has offered supplemental evidence to support that finding in the form of affidavits. (See Memorandum, Exhibits B-D.) Presumably, the State is seeking both a finding that the facts alleged in the affidavits are true and that the resulting legal conclusion is no discovery violation has occurred.

The State's request for a finding is premised upon its assertion that Ms. Youmans has "opted to allege a discovery violation at the appellate level," and "unless a record is made at the trial level the Supreme Court will be deprived of an accurate account of what actually occurred regarding the surveillance video." (Memorandum, p.4.)

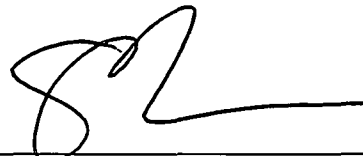
As an initial point of clarification, Ms. Youmans has not yet filed a brief in her appeal and has, thus, not actually raised *any* issues on appeal. Although the State has focused upon its obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), neither Ms. Youmans' Notice of Appeal nor her Amended Notice of Appeal allege prosecutorial misconduct, or a denial of due process as a result of prosecutorial misconduct. Rather, each preliminarily asks, "Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?" (Notice of Appeal, p.2; Amended Notice of Appeal, p.3.) As the Prosecuting Attorney herself asserts, any claim of a denial of due process in the form of a violation of *Brady v. Maryland*, 373 U.S. 83 (1963), requires proof of more than the withholding of information. (See Memorandum, pp.6-8.) Thus, the question – not assertion – raised by Ms. Youmans does not itself allege a discovery violation, even if answered in the affirmative. Whether Ms. Youmans ultimately does allege a discovery violation in her appeal will depend upon this Court's rulings, counsel's arguments, and the record created at the trial court level before the Notice of Appeal was filed. The Idaho Supreme Court will have ready

access to that record such that it can determine whether any such issue raised on appeal has merit.

Instead of relying upon the record created prior to the filing of the Notice of Appeal, the State seeks to supplement the record and court rulings in order to address what it now believes will be an issue raised on appeal. However, “[a] trial court may not reconsider or make post hoc rationalizations of previous rulings once a notice of appeal is filed.” *Wade*, 125 Idaho at 524. This is, perhaps, why there is no rule or statute which authorizes the State to supplement the evidence or seek additional findings after a notice of appeal has been filed. *Cf. State v. Wilson*, 138 Idaho 771 (Ct. App. 2001) (finding that I.A.R. 13(c)(10) allows a trial court to rule on motions “authorized by law,” such as a motion authorized to be filed by court rule).

It appears that the State’s request is exactly that prohibited by the general stay of proceedings in the trial court. The State seeks to have this court make post hoc determinations regarding an issue that, depending upon the record already created, may be raised on appeal. There is no exception in I.A.R. 13(c) granting this Court power to entertain a request to supplement the record, make findings of fact, and make a post hoc determination of whether a discovery violation occurred. Thus, the general rule that proceedings in this Court are stayed applies, and this Court lacks jurisdiction to grant the State’s request.

DATED this 14th day of July, 2015.



SARA B. THOMAS
State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 14th day of July, 2015, served a true and correct copy of the attached OBJECTION TO STATE'S MEMORANDUM IN RESPONSE TO DISCOVERY ALLEGATIONS by the method indicated below:

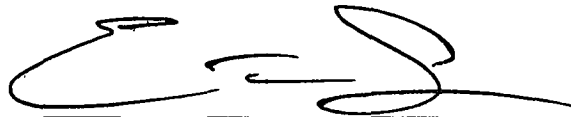
JAN M BENNETTS
ADA COUNTY PROSECUTOR'S OFFICE
200 WEST FRONT STREET
BOISE ID 83702

STATEHOUSE MAIL

CHARLENE DAVIS
ADA COUNTY PUBLIC DEFENDER'S OFFICE
200 W FRONT STREET
BOISE ID 83702

STATEHOUSE MAIL

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010
Hand delivered to Attorney General's mailbox at Supreme Court



EVAN A. SMITH
Administrative Assistant

SBT/eas

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NO. _____ FILED _____
A.M. _____ P.M. _____

JUL 16 2015

CHRISTOPHER D. RICH, Clerk
By **SARA MARKLE**
DEPUTY

JAN M. BENNETTS
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
Standards and Practices Division
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(208) 287-7700
ISB No. 2798

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	CASE No. CR FE 2013 0009451
Plaintiff-Respondent,)	
	)	STATE'S RESPONSE
vs.	)	MEMORANDUM TO YOUMANS'
	)	JURISDICTION ARGUMENT
LADONNA MARIE YOUMANS,)	
)	
Defendant-Appellant.)	
)	
)	

I. INTRODUCTION

Allegations of prosecutorial impropriety are increasing nationally and Idaho prosecutors are witnessing the same trend. While the rare finding that a prosecutor intentionally withheld material exculpatory evidence may be grounds for appellate reversal, a simple allegation that a prosecutor may have erred has expanded beyond a legal argument forwarded by a defendant. In today's climate this type of accusation carries a potential for personal and professional implications. When an allegation is made, unless disproved, a prosecutor may become the target for sanctions from a trial court, an appellate court and/or the State Bar, and may also suffer

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employment consequences – personal ramifications rarely (if ever) faced by non-prosecutor attorneys who are accused of error. Unlike criminal charges, where there is a gatekeeper to bar groundless allegations, no neutral and detached intermediary reviews whether there is sound basis for these accusations. Because of these potential punitive consequences the accused prosecutor must be allowed a fair opportunity to disprove the allegations, given that the prosecutor's reputation, licensing and livelihood may be threatened.

II. CURRENT CASE POSTURE

A recitation of the facts and procedure of this case is contained in earlier briefing. Rather than repeat the same, it is adopted here as though fully set forth.

This matter was set for trial, continued several times, then tried to a jury. Ms. Youmans filed a motion regarding the surveillance video early in the proceedings, but did not later Notice it for hearing or pursue a ruling from the Court. Instead Ms. Youmans waited until *after* the trial and *after* sentencing (in her Notice of Appeal) to make an evidence-withholding allegation.¹ By waiting to raise this allegation, Ms. Youmans prevented the prosecutor from making a record before or during the trial as to the baselessness of the allegation. This failure also prevented this Court from making a finding on the same before or during the trial.

Once Ms. Kelly learned of Ms. Youmans' allegation she recontacted witnesses, investigators and the detective involved in the case so she could submit a post-trial memorandum and affidavits to show the groundlessness of the allegation. In furtherance of Ms. Kelly's undertaking, an in-court oral motion was made to this court on April 27, 2015, before Ms.

¹ In this case, the two notices of appeal, one filed in December of 2014 by the Ada County Public Defender, the other reprised and adopted by the State Appellate Public Defender in April of 2015, include as an appellate issue: "Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?"

Youmans' Rider review was concluded, asking this Court to make findings regarding the alleged discovery misconduct. The July 7, 2015 hearing was set for this purpose.

At the July 7, 2015 hearing, Ms. Youmans' appellate counsel² appeared on her behalf and objected to this Court's jurisdiction to consider the issue. As a consequence of Ms. Youmans' jurisdictional objection, the Court reset the hearing for July 21, and invited the parties to brief the jurisdictional issue. Ms. Youmans filed her "Objection to State's Memorandum in Response to Discovery Allegations" ("Objection") at noon on July 14, 2015.³ In her Objection, Ms. Youmans explains that "Traditionally, once an appeal was perfected the trial court lost *all* jurisdiction of the case." Objection at 2 (emphasis in original). After a recitation of case history, Ms. Youmans' Objection recognizes that Idaho Appellate Rule 13 now governs a district court's jurisdiction after a notice of appeal is filed.

Contrary to the arguments presented in Ms. Youmans' Objection, I.A.R. 13 provides this Court with jurisdiction to make a determination on this matter. Further, this Court is the very forum before which this matter should be determined. This Court presided over the entirety of the case. From arraignment through sentencing, the Court was involved in all of the motions, decisions, rulings, procedural and discovery concerns. This Court knows the attorneys who tried the case, observed witnesses and can weigh the evidence presented and put all of the competing issues into context. This unique background allows a perspective on the merits of the allegation that no other judge or court has.

² The Ada County Public Defender's office, while present at earlier hearings on the calendar, did not appear on Ms. Youmans' behalf at the July 7, 2015 hearing.

³ Because of the shortened time frame, Ms. Youmans' early filing is appreciated by the State.

Ms. Youmans should not be rewarded for waiting until her Notice of Appeal to raise this issue. By failing to raise this specific issue with the trial court earlier, the prosecutor was precluded from explaining and disproving the allegation.

Ms. Youmans' Objection forwards that any action by the prosecutor at this point is premature⁴ as Ms. Youmans has not made a final decision on which issues she will argue on appeal. But, were the prosecutor to heed Ms. Youmans' advice, and abstain from defending herself before this Court and not intervene in the appeal until Ms. Youmans decides what issues she will brief before the appellate court, the prosecutor would effectively forego her opportunity to disprove this baseless claim.

Were it not for the prosecutor's quick actions to gather evidence to set this motion for a hearing before this Court, Ms. Youmans could have deprived the prosecutor of her due process right to disprove the allegation. Now Ms. Youmans compounds her procrastination by arguing that Ms. Kelly failed to timely raise this issue before the trial court, and thereby allegedly divested the Court of jurisdiction over the matter. Ms. Youmans should not profit by her dilatory conduct, and further, the appellate court deserves a record where all parties have had an opportunity to argue the merits of the allegation before it undertakes to review the same. Fairness dictates that this Court issue findings on this matter.

⁴ Ms. Youmans' argument is that the prosecutor's request for a more complete record and findings by this Court is jurisdictionally *too late*, and at the same time she argues that raising this matter before she files her appellate brief is *premature*. However, it is Ms. Youmans who has put the prosecutor in this position.

III. THE COURT HAS JURISDICTION TO HEAR THE MATTER

A. Due Process

As noted above, allegations of discovery improprieties, when made against attorneys who are prosecutors, carry a very real threat to that attorney's license and continued employment. Given the potential and severe repercussions that may be visited upon a prosecutor charged with such violations, Ms. Kelly is entitled to an opportunity to present the actual facts and have a court make a finding as to whether there is merit to the allegation leveled against her. As explained by the Supreme Court:

An essential principle of due process is that a deprivation of life, liberty, or property "be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950). We have described "the root requirement" of the Due Process Clause as being "that an individual be given an opportunity for a hearing *before* he is deprived of any significant property interest."

Cleveland Board of Education v. Loudermill, 470 U.S. 532, 542, 105 S.Ct. 1487, 84 L.Ed. 2d 494 (1985). In addition, allegations of this nature can be damaging to one's good name, reputation, honor and integrity, which also invokes a constitutional right to be heard.⁵

By waiting until after the trial to raise this issue, Ms. Youmans has potentially precluded Ms. Kelly from that due process right to defend herself and her reputation at the trial level, the very forum designed to determine facts. Now, Ms. Youmans' most recent objection is an attempt to prevent the judge who is most familiar with this litigation from making any findings in the case over which he presided.

⁵ "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." *Wisconsin v. Constantineau*, 400 U.S. 433, 437; 91 S.Ct. 507, 27 L.Ed. 2d 515 (1971); cited in *Smith v. State*, 146 Idaho 822, 827, 203 P.3d 1221 (2009).

Due process and fundamental fairness require that this Court be allowed to consider the history of the litigation and make findings regarding Ms. Kelly's actual conduct concerning the computer hard drive. This court is uniquely qualified to make this determination and based upon the constitutional rights set out above, as well as the applicable Idaho law set out below, has jurisdiction to make findings.

B. The Motion for the July 7, 2015 Hearing was Timely Made

Ms. Youmans incorrectly forwards that this Court has relinquished jurisdiction in this matter, but the applicable statutes and rules provide otherwise. Ms. Youmans was sentenced to the Idaho Department of Corrections with the Court *retaining jurisdiction* while she served a Rider. On Monday, April 27, 2015, at the Rider Review hearing where Ms. Youmans was placed on probation, Deputy Ada County Prosecuting Attorney Scott Bandy made an oral motion for the Court to set a hearing regarding the discovery allegations raised in Ms. Youmans' Notice of Appeal.

Mr. Bandy explained:

I did want to put the Court and Counsel on notice. We received a Notice of Appeal on Ms. Youmans' case, in which one of the factual allegations i[n] the Notice is that the State withheld evidence, access to computer surveillance monitoring data. We are going to follow – or we're going to file and ask the Court allow us to have a hearing to supplement the record.

We had multiple hearings before Judge Neville addressing this evidentiary issue. We made the video evidence accessible to the defense – it was not Mr. Loschi, he doesn't have anything to do with this – but we think it's important to clarify the underlying record all the efforts we did make to make that information available, to – to show that that was a – it's a baseless claim in the Notice of Appeal.

So, if you would grant us a hearing date in the near future, we would like to do that. If not, we will request a hearing date and – ...

So, I'm not sure what your preference is; if you would like to set us a date while the defendant's here, so we can have her here and – or get her notice to be here. It doesn't need to be any time soon; it can be after you get back from surgery in June. I'll leave that to your discretion.

THE COURT: I'll tell – it's an unusual request, and I'm not sure that I even have jurisdiction to consider it.

MR. BANDY: I – I think you will, since we’re requesting now. You – you have jurisdiction 365, and then probably 120 after that.

THE COURT: Okay. Well, I’ll tell you what, why don’t – we’ll set it on the calendar, and if the – I’m guessing that the State Appellate Public Defender will want to get involved –

MR. BANDY: We’ll –

THE COURT: - in that hearing. They’ll –

MR. BANDY: - serve notice on her as well.

THE COURT: - they’ll be notified of that. And then, they can take up any – if they have a jurisdictional issue with consideration of the – that particular point, we can take it up at that time. But I – I think we need to put this off for a while.

Transcript of April 27, 2015 Proceedings, P. 106, L. 21 – P. 108, L. 16.

This Court has jurisdiction to hear this motion pursuant to Idaho Appellate Rule 13(c), a section that provides for the power and authority of the district court during the pendency of an appeal, including subsection 13(c)(4), which allows a court to “Conduct any hearing, and make any order, decision or judgment allowed or permitted by § 19-2601, Idaho Code.” Idaho Code § 19-2601 explains that the district court may “suspend the execution of the judgment at any time during the first three hundred sixty-five (365) days of a sentence” and that the court “retains jurisdiction over the prisoner” for that period.

As explained above, this Court retained jurisdiction on Ms. Youmans’ case. The Rule and Statute above allow continued jurisdiction to this Court, and the jurisdiction continues for purposes of this hearing based on the motion made by Mr. Bandy, when this Court set the July 7, 2015 hearing for further proceedings.

C. Idaho Appellate Rule 13(c)(10)

In addition to Ms. Kelly’s constitutional right to a hearing on this matter, as well as the fact the hearing was set by the Court during Ms. Youmans’ Rider review, Idaho Appellate Rule

13(c)(10) supplants the historic preclusion of district court jurisdiction during an appeal and provides jurisdiction to the district court to hear this matter.

I.A.R. 13(c)(10) specifically provides the district court with authority to “[e]nter any other order after judgment affecting the substantial rights of the defendant as authorized by law.” I.A.R. 13(c)(10) is described by the Idaho Court of Appeals as a “catch-all” provision couched in “broad language”:

It appears that subsection 10 was intended by the drafters to be a catch-all exception for those orders that are necessarily part of the criminal process and ought not be delayed until the conclusion of an appeal. A trial court may not reconsider or make post hoc rationalizations of previous rulings once a notice of appeal is filed. *See generally Hells Canyon Excursions, Inc. v. Oakes*, 111 Idaho 123, 721 P.2d 223 (Ct. App. 1986); *Syth v. Parke*, 121 Idaho 156, 158, 823 P.2d 760, 762 (1991); *H & V Engineering v. Board of Professional Engineers*, 113 Idaho 646, 747 P.2d 55 (1987) interpreting the general stay in civil cases and holding that a court cannot reconsider a prior ruling once a notice of appeal is filed. However, it appears that the broad language of I.A.R. 13(c)(10) was intended to give the district court jurisdiction to rule upon a motion that has been inadvertently overlooked or that was pending, but not yet decided, when the notice of appeal was filed. The drafters of Rule 13 apparently concluded that such allowance of post-appeal jurisdiction in the trial court would benefit the parties by enabling them to obtain disposition of pending motions without being delayed until the disposition of an appeal. Accordingly, in keeping with the broad language of Rule 13(c)(10), we conclude that, after an appeal is filed, a district court in a criminal proceeding may enter an order on a motion filed prior to the appeal where such ruling merely completes the record and does not in any way alter an order or judgment from which the appeal has been taken.

State v. Wade, 125 Idaho 522, 524, 873 P.2d 167, ___ (Ct. App, 1994).

Seven years later, in *State v. Wilson*, 136 Idaho 771, 40 P.3d 129 (Ct. App. 2001), the court broadened the Rule’s interpretation:

The State argues that another comment from our decision in *Wade* indicates that Rule 13(c)(10) does not apply in the present circumstances. The State asserts that our statement in that opinion that "it appears that the broad language of I.A.R. 13(c)(10) was intended to give the district court jurisdiction to rule upon a motion that has been inadvertently overlooked or that was pending, but not yet decided, when the notice of appeal was filed," was an interpretation limiting the scope of the

rule to the circumstances there described. We disagree. That comment in *Wade* merely addresses application of the rule to the particular type of neglected motion that was there at issue. In *Wade*, the district court had overlooked a motion for appointment of counsel to represent the defendant on a Rule 35 motion for reduction of the sentence until after the Rule 35 motion had been denied and an appeal from that denial had been taken. When the district court discovered the oversight, it issued an order denying the motion for appointment of counsel while the appeal was pending. *The statement in the Wade opinion upon which the State relies was merely an expression of our holding that I.A.R. 13(c)(10) applied to the type of order that was then before the court; it was not an expression of the limits of subsection (10).*

Wilson at 773 (emphasis added).⁶

Given the Court of Appeals' broad interpretation of its Rule, the determination Ms. Kelly has requested falls clearly within its broad, catch-all ambit. When the *Wade* factors are applied, it is clear that this issue "should be not be delayed until the conclusion of the appeal." Further, this is not an attempt to "reconsider or make post hoc rationalizations of previous rulings once a notice of appeal is filed."⁷ *Id.* It "does not in any way alter an order or judgment from which the appeal has been taken," but is, rather, an issue that requires this Court's input.

Accordingly, I.A.R. 13(c)(10) allows this Court to consider Ms. Kelly's motion, and based on the Rule, and on Ms. Kelly's due process right to be heard, the Court may and should enter findings regarding the discovery allegation.

VI. CONCLUSION

Due process, fundamental fairness and the applicable rules and case law all allow for this Court to make findings regarding the unsupported discovery allegation against Ms. Kelly. Ms.

⁶ While Ms. Youmans cites both *Wade* and *Wilson*, she omits *Wade*'s reference to I.A.R. 13(c)(10) as a "catch-all" with "broad language," and fails to note that *Wilson* admonishes reading *Wade* in a manner that that "limits" the Rule's scope.

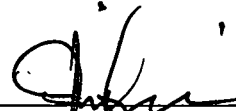
⁷ Ms. Youmans argues that this is an attempt to "reconsider or make post hoc rationalizations of previous rulings once a notice of appeal is filed" (Objection at 4). It is neither a reconsideration nor a post hoc rationalization since there was no earlier ruling on this issue; in fact, Ms. Youmans chose to first raise the issue in her Notice of Appeal, *supra*.

Kelly has been placed at a considerable disadvantage by Ms. Youmans' failure to timely raise this issue, and now Ms. Youmans objects to this Court making a determination about the validity of the allegations. Ms. Youmans' attempts to suppress Ms. Kelly's defense to this allegation should not be allowed.

DATED this 16 day of July, 2015.

JAN M. BENNETTS
Ada County Prosecuting Attorney

By:



James K. Dickinson
Senior Deputy Prosecuting Attorney
Standards and Practices Division

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 16th day of July, 2015, I served a true and correct copy of the foregoing STATE'S RESPONSE MEMORANDUM TO YOUMANS' JURISDICTION ARGUMENT to the following persons by the following methods:

Kenneth Jorgensen
Russell Spencer
Deputies Attorney General
PO Box 83720
Boise, ID 83720-0010

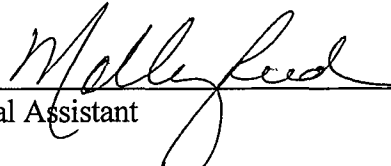
- Hand Delivery
- U.S. Mail
- Certified Mail
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Teri K. Jones
Charlene Davis
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Legal Assistant

Time	Speaker	Note
<u>1:39:33 PM</u>	Court	called <u>State vs Ldonna Youmans CRFE13-09451</u> - Defendant not present for this hearing
<u>1:39:54 PM</u>	Scott Bandy	& Tamera Kelly counsel for the State
<u>1:40:10 PM</u>	SAPD	Sara Thomas and Eric Letinen present
<u>1:40:52 PM</u>	Jon Loschi	counsel as representative from public defender
<u>1:41:12 PM</u>	Court	notes this is time set regarding issue of jurisdiction. Court has received briefing from counsel received SAPD on July 14th and response on July 16th. Court has had opportunity to review those documents.
<u>1:42:56 PM</u>	Sara Thomas	argued in opposition to this Court having jurisdiction. Argues Appellate Rule 13. What State is asking not covered by that rule. Due Process claim being argued. Represent Ms. Youmans, not the State. The State is not making this argument, don't believe this is the forum to ask for due process for something that hasn't happened yet. There was claim regarding the hard drive being held, received transcript this last week. Ms. Youmans is bound by the record. Prosecution focusing on a brady claim, not typically raised on appeal. Requires something outside the record. Can't raise it for he first time on appeal. State is trying to supplement the record, and this is not time to raise this during the appeal. 19-2601 gives limited jurisdiction, but nothing in the statute to add to the record or get further findings from the court. Grants jurisdiction over the prisoner not the case. Idaho Court of appeals is clear, has to affect sub rights of the defendant and II authorized by the law. Do not have the clerks record yet so do not know what may have come up during trial regarding the video surveillance. Don't believe this is an issue to protect the prosecutor but more of an attempt to imitate her office and drop this issue
<u>1:53:32 PM</u>	Scott Bandy	Re: Rule 33, Rule 13 c-10 is what this is for, representation of what truly happened, not trying to remedy but trying to get the correct record before the Appellate Court. Ms. Davis's Motion to Compel, didn't notice it for hearing, Agree not to raise first time on appeal, but need correct record, or this issue withdrawn. Not being identified as a Brady Claim, Claim is prosecutor is withholding evidence. Were multiple conferences and hearings as well as continuances of trial to allow Ms. Davis to be prepared for trial. Was demanding a copy and the State was not physically or legally able to do. Needs to be cleared at District Court level. Believe the Court does still have the jurisdiction to clarify or supplement the record.

<u>1:59:57 PM</u>	Sara Thomas	State's argument does not conform with their motion, if they are limiting argument to the record as it exists, but if asking to clarify with add'l affidavits. Have not made the determination that this will be a viable issue. Once have the transcript will be able to review the court record to see if it is a viable issue. Issue raised by trial counsel in the Notice of Appeal. Defense counsel specifically said she will withdraw the Motion to Compel. Court had not ruled on that. Do not know if it was ever raised at pretrial or during trial when don't have the court record yet.
<u>2:04:47 PM</u>	Scott Bandy	Despite Ms. Davis withdrawing the Motion to compel, she did not ever follow through on the issue each time she asked to continue the trial because she would raise the issue stating she needed the computer hard drives.
<u>2:06:31 PM</u>	Court	In reviewing Ms. Thomas objection filed July 14th. Ms. Youmans has not filed its appellants brief yet. Issue was clearly raised. Court accustomed to seeing A Notice of Appeal following Judgment of Conviction then an amended notice of appeal following the rider review. In this case both the Notice of Appeal and Amended Notice of Appeal were filed before the rider review. This Motion to Supplement or Clarify the Record was made before Judge Carey on April 27th, made timely. Court does see a fundamental fairness issue. Court stated Ms. Kelly raised this issue timely before the trial court. This is not a due process argument at his point. The Motion made during the rider review hearing was timely made on April 27, 2015. §10, was intended to be a catch all exception for orders not to be delayed pending an appeal. Court believes it does have jurisdiction to proceed in this matter, to act to have a complete and accurate record to benefit both sides. It's in everyone's benefit to have a complete and accurate record.
<u>2:27:18 PM</u>	Sara Thomas	thought long and hard about filing a notice of appeal to take that issue out, but State filed a Motion to Intervene and Appellate Court granted that.
<u>2:28:53 PM</u>	Jon Loschi	believes that Ms. Davis will finish this case out.
<u>2:31:14 PM</u>	Court	can set for July 27th @ 9:00 a.m. for Ms. Davis to be here.
<u>2:33:11 PM</u>	Scott Bandy	will request audio and prepare an order based on Court's ruling today.
<u>2:33:37 PM</u>	End Case	

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>9:16:26 AM</u>	Court	called <u>ST vs LDONNA YOUMANS CRFE13-09451</u>
<u>9:16:49 AM</u>	Jim Dickinson	counsel for State with Tamera Kelly
<u>9:17:00 AM</u>	Charlene Davis	counsel for defendant
<u>9:17:06 AM</u>	Court	notes on July 7th heard for the first time from the SAPD that the Court did not have jurisdiction. Court set over to July 21st Court had hearing on that issue and at that hearing Court did conclude it did have jurisdiction. Court set to today's date to allow Ms. Davis to be present. Court construed the State's memorandum as the motion to supplement the record.
<u>9:19:59 AM</u>	Charlene Davis	do objects to supplementing the record, though defense does not have much to stand on.
<u>9:21:38 AM</u>	Jim Dickinson	argued the motion - Request Court make findings. Stand on the affidavit
<u>9:25:56 AM</u>	Charlene Davis	appellate record is clerk for the Appellate Court to make decision. Don't need further records for them to consider
<u>9:26:38 AM</u>	Jim Dickinson	earlier motion to Compel on Nov. 4, 2013 to compel the hard drive surveillance. No further hearing held. Nothing to show what efforts Ms. Davis made. Ms. Kelly made the video available to investigator for Ms. Davis. Ms. Davis hired a I.T. specialist to review. Ms. Kelly made every attempt to give access to the hard drive. Do not want the record to show somehow that Ms. Kelly failed in some way.
<u>9:29:41 AM</u>	Court	review of the record. Court did not have to rule on the Motion to Compel as counsel had reached an agreement on that issue so did not need Court to make ruling. Court makes its rulings based on its observations during this case and what is in the record now before this Court in the form of a memorandum in response filed in June. Court notes this case was very slow moving. Trial had been set 5 times. Jim Borton withdrew from this case in which the Court was not happy about, as counsel is supposed to be financially secured when trial is set. Court reluctantly allowed withdrawal. Court set over one week to allow new counsel to be appointed so that trial could be reset. Case was set for jury trial #2, Ms. Davis filed Motion to Continue, trial was then set a third time, a fourth time and then a 5th time. Case went to trial. Court had made suggestion prior to trial, counsel had some issues with their witnesses, to do trial video deposition of some of the elderly. Trial proceeded in September 2014. Focus at the end was the video depositions and both put into evidence before the jury.
<u>9:38:21 AM</u>	Tamera Kelly	Ms. Davis requested continuance to set over the May 2014 trial that was based solely on the video.

9:39:47 AM	Court	<p>stated that is consistent with the Court's recollection. The Court does find that Mr. Faylor had gone over hours of watching surveillance putting it on an I-phone so that it could be copied. Cell phone video was shared with defense and used at trial. Defense wanted entire copy, but the design of the surveillance would not allow you to copy, no one could get around that, not even counsel's experts. Mr. Faylor even disconnected the entire tower and gave to Det. Papparillo and the public defender's investigators office viewed it in Det. Papparillo's office, and he could not even make a copy. The I.T. employee could not make copy, defense insisted on copy and hired private professional to see if he could make copy and he was unable to copy either. Question, by Ms. Davis on appeal was "Did the prosecutor Withhold evidence" by not allowing them entire hard drive. Court does not think there is any plausible view, that there was a discovery violation by the State. This surveillance system is specifically engineered to prevent copying. The State could not do it, and neither could the defense's own expert. Court re: due process, Brady vs Maryland, 3 essential elements under Brady. Entire Computer tower was removed from Garden Plaza Valley view and placed with Det. Papparillo and Ms. Youman's defense team was allowed access. Court agrees there is no discovery violation in this case and finds no plausible good faith basis. Boehm, case decided in recent months, filed Feb, 2015. State vs Bryant, Prosecutor not required to turn over entire file, but is required to turn over any exculpatory information. Duty under Brady, not just individual prosecutor, but entire office that is investigating the case and are only required to turn over exculpatory. Court is accustomed to grant Motions to add records to the appeal, and has done so quite often for the appellant. Court will Grant State's Motion to Supplement the record, and well largely adopt the Findings and Facts and Conclusions of law, Court will find there is no evidence to find the State Withheld Discovery and did not make a Good Faith assignment to turn over the Hard Drive, based on complete record and what happened before this Court. Request the State provide an order incorporating the Court's Findings of Fact and Conclusions of Law. Request Ms. Davis view for form</p>
9:55:48 AM	End Case	

NO. _____ FILED
A.M. _____ P.M. 3:55

AUG - 3 2015

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

JAN M. BENNETTS
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
Standards and Practices Division
Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB No. 2798

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 vs.)
)
 LADONNA MARIE YOUMANS,)
)
 Defendant-Appellant.)
 _____)

CASE No. CR FE 2013 0009451

**ORDER REGARDING
JURISDICTION AND INCORPORATING
BY REFERENCE**

JM

Having heard the arguments presented on July 27, 2015, the Court hereby finds that the Court has jurisdiction to hear the State's Motion to Supplement the Record.

This Order is based upon the Court's findings of fact and conclusions of law, which were set forth on the record on the date of the hearing, July 7 and 21, 2015. Those findings of fact and conclusions of law are hereby incorporated in this Order by reference as if set forth fully herein.

JM

J

Summarily, those findings of fact and conclusions of law include, but are not limited to, the following:

JM

I. Findings of Fact


1. The Court finds that the State made an oral Motion to Supplement the Record in this case on April 27, 2015.
2. The Motion was made before Ms. Youmans was placed on probation.

II. Conclusions of Law

1. Because the oral Motion to Supplement the Record was made during the time period in which this Court retained jurisdiction, the Court has jurisdiction to consider the Motion.
2. Idaho Rule of Appellate Procedure 13 also allows this Court to consider the State's Motion to supplement the Record.

Accordingly, this Court has jurisdiction to consider the Motion to Supplement the Record.

IT IS SO ORDERED this 3rd day of August, 2015.



Hon. Thomas F. Neville
4th Judicial District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3 day of August, 2015, I served a true and correct copy of the foregoing ORDER REGARDING JURISDICTION to the following person(s) by the following method(s):

James K. Dickinson
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Standards and Practices Division
Civil Division
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Boise, ID 83702

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Sara B. Thomas
State Appellate Public Defender's Office
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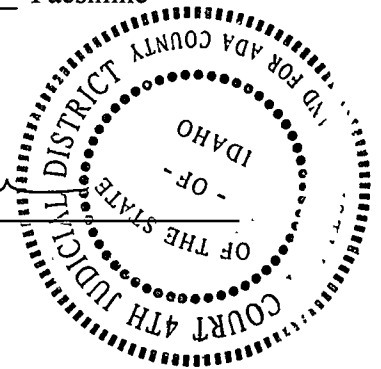
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 Interdept. Mail *(e-mail)*
 Facsimile

CHRISTOPHER D. RICH
Clerk of the Court

By: *Christopher D. Rich*
Deputy Clerk



NO. _____
A.M. _____ FILED P.M. 3:58

AUG - 3 2015

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

JAN M. BENNETTS
ADA COUNTY PROSECUTING ATTORNEY

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ISB No. 2798

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	CASE No. CR FE 2013 0009451
Plaintiff-Respondent,)	
	)	ORDER GRANTING MOTION TO
vs.	)	SUPPLEMENT THE RECORD
)	
LADONNA MARIE YOUMANS,)	
)	
Defendant-Appellant.)	
_____)	

Having heard the arguments presented on July 27, 2015, the Court hereby finds that there is no evidence to support the allegation that the State withheld computer hard drive evidence and did not allow Ms. Youmans' defense team full access to it.

This Order is based upon the Court's findings of fact and conclusions of law, which were set forth on the record on the date of the hearing, July 27, 2015. Those findings of fact and conclusions of law are hereby incorporated in this Order by reference as if set forth fully herein.

Summarily, those findings of fact and conclusions of law include, but are not limited to, the following:

JM

I. Findings of Fact

1. Garden Plaza of Valley View Senior Living Community (GPVV) had a surveillance system, the proprietary nature of which prevented its recorded surveillance video from being copied.
2. That system captured Ms. Youmans' visits to the GPVV, largely during the lunch hour when residents were away from their rooms.
3. The GPVV manager spent hours, if not days, watching a computer monitor reviewing the captured surveillance video. Because the surveillance video could not be copied, he used his cellular telephone's video camera to capture video of the surveillance video each time it showed Ms. Youmans' appearance at the GPVV.
4. The GPVV manager's cellular telephone video recording was given to the police. The police detective shared the manager's cellular telephone video recording of Ms. Youmans' appearances with the prosecutor, who forwarded a copy to Ms. Youmans' defense team in the ordinary course of discovery.
5. Ms. Youmans' defense team requested a copy of the entire surveillance video included on the computer hard drive of the surveillance system.
6. Boise City Police Detective Paporello took custody of the entire surveillance system computer hard drive tower to preserve it as evidence.
7. At the April 8, 2014 hearing on the Ada County Public Defender's Motion to Compel the production of the entire surveillance video, it was explained that the GPVV manager was unable to copy the video, but that the surveillance video computer hard drive had always

been available to the defense team. The Public Defender did not pursue the Motion to Compel further.

8. The State invited Ms. Youmans' defense team to inspect and try to copy the surveillance system computer hard drive themselves.
9. The State arranged for the defense team to inspect and try to copy the surveillance system computer tower hard drive at the law enforcement building. The defense team undertook to examine the surveillance system computer hard drive and unsuccessfully attempted to copy the same.
10. The State arranged for a County IT person to try to copy the surveillance video for the defense team. He could not.
11. Ms. Youmans' defense team continued to insist on a copy of the uncopiable hard drive, and on May 5, 2014 asked the Court to continue the May 13, 2014 trial date because Ms. Davis had not yet viewed the video and because the defense team wished for a privately-hired IT professional to make a copy of the hard drive. The Court reluctantly granted the continuance, the fourth trial reset in this case.
12. The state had the surveillance system computer tower delivered to the Ada County Courthouse for the defense team's privately-hired computer expert to attempt to make a copy of the hard drive. He could not.
13. The prosecution and defense indicated they were ready to try the case, and it proceeded to trial in September of 2014.
14. The GPVV manager's cellular telephone video recording was admitted into evidence and considered by the jury in the criminal trial.
15. At the conclusion of the jury trial Ms. Youmans was found guilty of Burglary.

16. Ms. Youmans appealed her conviction and included as issue “3.d” in her Notice of Appeal: “Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?”
17. The State Appellate Public Defender’s Office filed an Amended Notice of Appeal, also adopting and including as their issue “3.d”: “Did the State withhold the computer hard drive evidence and not allow defense counsel full access to it after multiple attempts?”

II. Conclusions of Law


1. This Court has jurisdiction to make findings regarding the discovery issues before it.
2. The Court largely agrees with the State’s Memorandum in Response to Discovery Allegations filed on June 19, 2015.
3. The Affidavit of Charles Faylor, Manager of GPVV is credible and consistent with the Court’s observations and memory of the case.
4. The Affidavit of Boise City Detective Kip Paporello is credible and consistent with the Court’s observations and memory of the case.
5. The Affidavit of Ada County Investigator James Lardieri is credible and consistent with the Court’s observations and memory of the case.
6. There is no evidence to support a finding that any of the video evidence is exculpatory.
7. The only evidence before the Court is that the video evidence is inculpatory.
8. There is no basis to support a finding that the State “withheld” any evidence; rather, the surveillance software prohibited it from being copied.
9. There is no evidence to support any claim of prosecutorial misconduct.
10. There is no good faith basis to support any allegation that the conduct of the State in regard to the video evidence (either the GPVV manager’s cellular telephone video

recording or the entire surveillance system computer hard drive tower video) constituted any type of discovery violation.

11. The Court is unable to even suspect there was any violation of discovery, and finds there is no good faith argument to include this issue on appeal.

Therefore, the Motion to Supplement the Record is GRANTED.

IT IS SO ORDERED this 3rd day of August, 2015.



Hon. Thomas F. Neville
4th Judicial District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of August, 2015, I served a true and correct copy of the foregoing ORDER GRANTING MOTION TO SUPPLEMENT THE RECORD to the following person(s) by the following method(s):

James K. Dickinson
Senior Deputy Prosecuting Attorney
Standards and Practices Division
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Kenneth Jorgensen
Russell Spencer
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PO Box 83720
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Boise, ID 83701

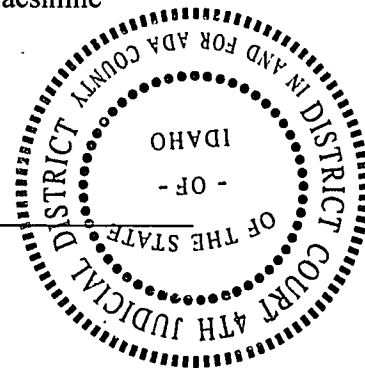
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Charlene Davis
Deputies Ada County Public Defender
200 W. Front Street, Rm 1107
Boise, ID 83702

Hand Delivery
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 Interdept. Mail
 Facsimile

CHRISTOPHER D. RICH
Clerk of the Court

By: 
Deputy Clerk



NO. _____
A.M. 10:50 FILED P.M.

JUL 30 2015

CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

1 TO: CLERK OF THE COURT, IDAHO SUPREME COURT
2 451 WEST STATE STREET, BOISE, IDAHO
3 FAX (208) 334-2616

4 STATE OF IDAHO,) Docket No. 42795-2014
5)
6 Plaintiff-Respondent,) Case No. CRFE-2013-0009451
7)
8 vs.) NOTICE OF LODGING
9)
10 LDONNA MARIE YOUMANS,)
11)
12 Defendant-Appellant.)
13 _____)

14 NOTICE OF TRANSCRIPT(S) LODGED

15 Notice is hereby given that on July 30, 2015,
16 I lodged five (5) transcripts, totaling 787 pages, for
17 the following dates/proceedings:

- 18 09-30-13 Entry of Plea
- 19 04-08-14 Motion to Suppress
- 20 09-09-14 Jury Trial, Day 1
- 21 09-10-14 Jury Trial, Day 2
- 22 09-11-14 Jury Trial, Day 3
- 23 11-10-14 Sentencing Hearing

24 for the above-referenced appeal with the District Court
25 Clerk for Ada County, in the Fourth Judicial District.

26 Susan M. Wolf
27 Susan M. Wolf,
28 RPR, CSR No. 728

KW

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,
vs.

LDONNA MARIE YOUMANS,

Defendant-Appellant.

Supreme Court Case No. 42795

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal. It should be noted, however, that the following exhibits will be retained at the District Court clerk's office and will be made available for viewing upon request.

1. State's Exhibit 7 – Map of Garden Plaza of Valley View.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

2. Presentence Investigation Report.

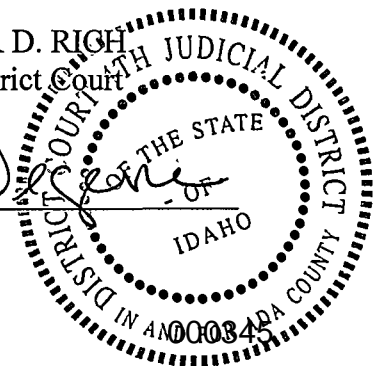
I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Transcript of Preliminary Hearing held August 20, 2013, Boise, Idaho, filed November 13, 2013
2. Transcript of proceedings held April 8, 2014; May 5, 2014; June 19, 2014; April 27, 2015, Boise, Idaho, filed July 13, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 4th day of August, 2015.

CHRISTOPHER D. RICH
Clerk of the District Court

By KW [Signature]
Deputy Clerk



CERTIFICATE OF EXHIBITS

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THOMAS F. NEVILLE/JANET ELLIS
 DISTRICT JUDGE DEPUTY CLERK

September 9-11

STATE OF IDAHO,

Plaintiff,

vs.

LDONNA MARIE YOUMANS,

Defendant.

Case No. CRFE-13-0009451

**EXHIBIT LIST
 JURY TRIAL**

APPEARANCES:

TAMERA KELLY
 ADA COUNTY PROSECUTING ATTORNEY

COUNSEL FOR STATE OF IDAHO

CHARLENE DAVIS
 ADA COUNTY PUBLIC DEFENDER

COUNSEL FOR DEFENDANT

BY	NO.	DESCRIPTION	STATUS
ST	1	Surveillance video - April 15	<u>ADMITTED</u>
ST	2	Surveillance video - April 18	<u>ADMITTED</u>
ST	3	Surveillance video - May 6	<u>ADMITTED</u>
ST	4	Surveillance video - May 8	<u>ADMITTED</u>
ST	5	Surveillance video - May 14	<u>ADMITTED</u>
ST	6	Surveillance video - May 15	<u>ADMITTED</u>
ST	7	Map of Garden Plaza of Valley View (illustrative)	<u>ADMITTED</u>
ST	8	Photo of Hydrocodone pill	<u>ADMITTED</u>
ST	9	VIDEO DEPOSITION CLARENCE SATERAN	<u>ADMITTED</u>
DEF	J	VIDEO DEPOSITION RUTH B. HIGBY	<u>ADMITTED</u>
DEF	I	PRIMARY HEALTH DOCUMENT	<u>NOT ADMITTED</u>

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,
vs.

LDONNA MARIE YOUMANS,

Defendant-Appellant.

Supreme Court Case No. 42795

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WARDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

JAMES K. DICKINSON

ATTORNEY FOR INTERVENOR

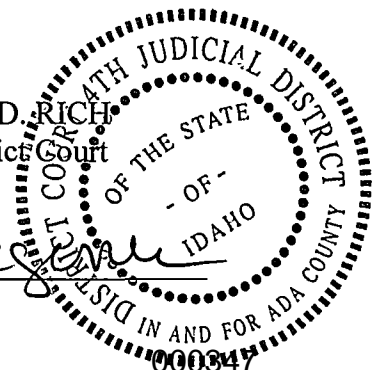
BOISE, IDAHO

CHRISTOPHER D. RICH
Clerk of the District Court

By KWeseman
Deputy Clerk

Date of Service: AUG 04 2015

CERTIFICATE OF SERVICE



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,
vs.

LDONNA MARIE YOUMANS,

Defendant-Appellant.

Supreme Court Case No. 42795

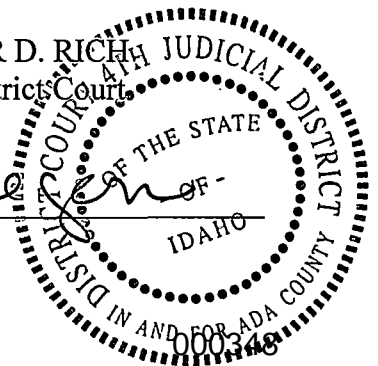
CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 15th day of December, 2014.

CHRISTOPHER D. RICH
Clerk of the District Court

By *KW*
Deputy Clerk



CERTIFICATE TO RECORD