

Judge blocks seizure of 40 parcels

Lewiston Tribune: Aug. 22

CASCADE, Idaho - A judge Tuesday in Cascade blocked Valley County from seizing 40 parcels of land inside Tamarack Resort for unpaid property taxes. Fourth District Court Judge Jason Scott ruled the Valley County Treasurer's Office did not properly list what the owner of large parts of the Tamarack Resort owes in taxes. That means Valley County commissioners will not be able to take over the properties Monday, when a seizure hearing had been scheduled. The preliminary injunction means the county must redo the notices for New TR Acquisitions Co. LLC, which halts the process indefinitely. Newtrac owes \$4.7 million in property taxes on 40 parcels for 2011 and an additional \$5.8 million in back taxes for 2012, 2013 and 2014. In a related matter, UWW LLC, owner of the unfinished Village Plaza hub at Tamarack, paid its 2011 back taxes of \$912,000 last week, the treasurer's office said. UWW still owes \$1.1 million in property taxes for 2012, 2013 and 2014, according to the county. Ken Howell, Newtrac's Boise attorney, told Scott the notices mailed in May violate state law that requires an item-by-item listing of the tax years, delinquencies, fees and costs that go into the notice. The back taxes in dispute are due to the North Lake Recreational Sewer and Water Improvement District.

- Dan Gallagher, The Star-News (McCall), Thursday

Former Nampa employee files suit for wrongful termination

Idaho Statesman.com: Aug. 23- Associated Press

NAMPA, IDAHO — A former employee for the city of Nampa has filed a lawsuit claiming he was wrongfully terminated as well as deprived of employment. The Idaho Press-Tribune (<http://bit.ly/1JmUVVP>) reports that Robert Duker filed the suit Tuesday. Duker says that he was forced to find employment elsewhere after the city refused to provide health insurance for his wife. Duker later applied for two positions at the city of Nampa, but was not hired. The suit claims that the Duker's position was filled by someone with half his experience and given a higher salary. This is the second wrongful termination the city of Nampa has faced within the past year. Attorneys for Duker and the city of Nampa did not immediately respond to requests for comment from the newspaper on Thursday.

Payette man convicted of sexually abusing juveniles

Idaho Statesman.com: Aug. 24- John Sowell

Jacob Stephen Davis, 31, was found guilty Friday of sexually abusing two boys when they were 15 and 16. The victims, who were members of a high school FFA organization, met Davis when they took part in an FFA workday at a Payette business where Davis had an affiliation, Payette County Prosecutor Anne-Marie Kelso said in a written release. Davis became a father figure for the boys and later moved them into a home in Payette and paid most of their living expenses, she said. The boys, who previously lived with Davis and his family near Anderson Corner in Payette County, performed sex acts with Davis in exchange for money and items such as dirt bikes and cell phones, Kelso wrote. The arrangement lasted for about nine months, she said. Court testimony indicated the boys had few financial resources and Davis took advantage of that, Kelso said. There was also testimony that Davis and one of the boys considered themselves a "couple." The abuse took place at the 7th Avenue home, on camping trips, at a Davis family home in Parma and at the business, Kelso said. Davis was convicted of two counts of lewd conduct with a minor and two counts of sexual battery of a minor. He was also convicted of one count of possession of sexually exploitative material, which involved two separate victims, one boy and one girl. "It's one of those cases where you say 'What is wrong with people?'" Kelso told the Statesman. The jury acquitted Davis of six other counts of lewd conduct, sexual battery and sexual exploitation of a child. Police began looking into Davis' activities when his grandfather reported a burglary and Davis was later named a suspect. During their investigation, officers learned that Davis had been sexually abusing the boys. A sentencing date has not been scheduled. Davis faces up to life in prison on each of the lewd conduct counts and up to 15 years each on each of the sexual battery and possession of sexually exploitative material. Davis returns to court on Tuesday for a hearing before 3rd District Judge Susan Wiebe on whether he qualifies as a habitual offender. That designation could add more prison time to his sentence. He was convicted in 2003 in Payette County of possession of sexually exploitative material. Two years later, Davis pleaded guilty to a probation violation in the case. A Payette County jury found Davis guilty in May of failing to register as a sex offender. He is scheduled to appear before Wiebe for sentencing in that case on Sept. 4. Davis was also convicted of burglary in a 2003 case from Washington County.

UPDATE: 86-year-old Charged with Murder in Death of Twin Falls Woman

MagicValley.com: Aug. 24- Staff

TWIN FALLS • Prosecutors plan to file a murder charge against an 86-year-old man found injured Friday in a house with a dead woman. Paul Robert Welch was arrested Saturday night on a charge of first-degree murder with a weapons enhancement for using a .22 caliber pistol, court documents said. Police were called to 482 Lacasa Loop about 4 p.m. Friday for a report of an elderly woman who died. Police found the homeowner, Barbara Sue Chitwood, 81, dead from gunshot wounds. Welch was also in the house and taken to a hospital. According to an affidavit of probable cause filed Monday in Twin Falls County Court, an autopsy concluded Chitwood died from gunshots to her head. The document has few details but said Welch was the owner of the firearm used, and he was the only other person in the house at the time of the shooting. "Twin Falls police detectives interviewed witnesses, examined the crime scene, and located a weapon and ammunition in the residence," the affidavit said. Court staff said Welch is scheduled to be arraigned Tuesday. According to a December 2012 obituary for Welch's wife, Lillian Welch, the couple fostered a number of children, including nieces, after their mother died. A service for Chitwood is pending and will be announced by Parke's Magic Valley Funeral Home of Twin Falls.

Man Sentenced to Probation for Rock Assault

MagicValley.com: Aug. 25- Benton Smith

TWIN FALLS • A man arrested for throwing a rock at another man's face was sentenced to three years of probation Monday. Brandon A. Ramirez, 20, pleaded guilty to aggravated battery June 29. Romar Garza intervened during an argument April 20 between Ramirez and his girlfriend. He punched Ramirez, court documents said. Prosecutor Stanley Holloway said Ramirez drove by Garza's house three times seeking revenge. The first time he simply drove by. The second time he brought a metal bar with him and the last time he had members of his family with him, Holloway said. During the third trip, Ramirez's family confronted Garza and during a shouting match, Ramirez picked a rock up and threw it at Garza's face, Holloway said. Garza was knocked out and taken to a hospital by paramedics. He still has no feeling in his teeth or gums where the rock hit him, Holloway said. Before the fight, Ramirez had a clean criminal record and Holloway recommended probation. "It appears this is a situation that is an anomaly in terms of violent nature," Holloway said. Defense Attorney Ron Berg requested a withheld judgement, but District Judge Richard Bevan denied the request. "I believe violent conduct is not an appropriate type of conduct to be met with and order withholding judgement," Bevan said. Ramirez was also ordered to pay more than \$7,900 in restitution to Garza and St. Luke's Magic Valley Medical Center. Ramirez's probation can end early if the restitution is paid.

Family of boy hit by school bus files claim against Nampa

Idaho Statesman.com: Aug. 25- Staff and AP

NAMPA, IDAHO — The family of a Nampa grade school student who was hit by a bus in March has filed a claim against the city and others. The Idaho Press-Tribune reports (<http://bit.ly/1NQXTpJ>) that the family of 7-year-old Connor Wright filed a tort claim Aug. 14 seeking more than \$1,190,000 to cover medical bills and noneconomic damages. The city of Nampa, Brown Bus Company, the Nampa School District and the bus driver are named as defendants. On March 17, Connor was hit by the bus as he and his 14-year-old brother were walking to Centennial Elementary School. The bus hit him in an unmarked crosswalk at the intersection of Roosevelt Avenue and Beechwood Drive, police said. He sustained injuries including a broken femur and humerus, skull fractures, a ruptured spleen, and traumatic brain injury. No children were aboard the bus when the crash occurred, police said. A GoFundMe account set up at the time of the crash raised \$2,625 to help Connor's family with medical expenses. The last update on the page, five months ago, celebrated that Connor was awake and "making a valiant effort" toward recovery. Representatives for the city of Nampa, Nampa School District and Brown Bus Company were not immediately available for comment on the tort claim.

Charge dropped for one of two men accused of killing Lric Elkins

Idaho State Journal: Aug. 27- Debbie Bryce

POCATELLO – Charges against Tyrell Owen Dixey, the man charged in connection to the June 5 stabbing death of Lric Elkins, were dismissed Wednesday. Dixey was originally charged with principal to murder in the killing of Elkins at an apartment on Pocatello's west side. Jesse Whitewolf Bruce was charged with second-degree murder. A preliminary trial for Bruce is set for Sept. 17. The charge against Dixey was dismissed after the state's primary witness, Crystal Martinez, refused to answer questions and denied statements she gave to police, claiming she was not in her right mind at the time. Martinez is Dixey's girlfriend. Bannock County Deputy Prosecutor Zach Parris refiled a new charge against Dixey for failure to report a death. That case was continued last week when one of the state's witnesses, Pocatello police dispatcher Nicole Berry, was unable to appear. During the preliminary hearing Wednesday, Berry testified about a 911 call she fielded on the day of the murder. However, Pocatello attorney John Souza, who represented Dixey, objected to the dispatcher's testimony and called it hearsay. Sixth District Magistrate Rick Carnaroli allowed the testimony and Barry continued, saying that on June 5, she received a call from a woman who reported that her daughter had been drinking at the North Grant Street apartment where the murder occurred. The caller said there was a body in a bloody bathtub inside the apartment, and the victim's lips were white and he wasn't breathing. Sgt. Brian McClure with the Pocatello Police Department testified that he responded to the report and knocked on the door of apartment number 206, but no one answered. Officers were let in by the property owner. But they had to force their way in because a bed was pushed against the door. Once inside, police located Bruce, Martinez and Jessica CrookedArm in the kitchen of the dwelling. They found Dixey passed out in a back bedroom. Martinez, CrookedArm and Bruce were handcuffed and taken out of the building and an ambulance was summoned to examine a highly intoxicated Dixey. Detective Scott Long said he responded to the scene and located what appeared to be a body stuffed inside a 32-gallon trash can in the bedroom where Dixey was located. Long said he determined that the person in the barrel, later determined to be Elkins, was deceased. Investigators also found a shoe, a glove and a cell phone in the tub, which had coagulated blood on the bottom. Investigators also found smears of blood on a light fixture in the kitchen. Bannock County Coroner Kim Quick said authorities placed the body in a body bag and transported it to Boise for an autopsy. The cause of death was a puncture wound to a Elkins' artery and lung. "(Elkins) bled out," Quick said. "The manner of death was homicide." The coroner said Elkins was in a fetal position and tied tightly before being stuffed in the trash can. Parris said the state is awaiting the results of testing on forensic evidence collected at the scene and he said it could affect the future of the case. "This is still an ongoing investigation and new charges could be filed," he said. "We knew that we had a tough case." Parris said video recorded on one of the witnesses' cell phones shows a conscious and alert Dixey just 30 minutes before police responded to the scene. Carnaroli said he could only consider evidence presented during Wednesday's hearing and he said inference does not prove that Dixey knew there was a body in the barrel. "Only witnesses that were there could know what happened," Carnaroli said before dismissing the charge. Madeline Rivera, a friend of the late Elkins, held hands with other supporters during Wednesday's hearing. "I took (Elkins) in when no one else would," she said. "I knew about his death minutes after it happened." Rivera said Elkins was a popular local rapper and that he recently lost both of his parents. "(Elkins) never got over the death of his parents," Rivera said. She said following Elkins' death, she received threats against speaking out in the case. Rivera and other family members, including the mother of Elkins' young son, wept quietly after Carnaroli handed down his decision.

No decision in Renfro hearing

Coeur d'Alene Press: Aug. 28- David Cole

COEUR d'ALENE - Jonathan Renfro's defense demanded to know why he was ever stopped and questioned by Sgt. Greg Moore the morning the veteran officer was murdered. "You're not giving me the facts," Chief Public Defender John Adams said Thursday to the case's lead investigator. Idaho State Police Det. Michael Van Leuven, the final witness in Renfro's preliminary hearing, was speculating what Moore was thinking or reacting to during the May 5 incident. Sticking to just the facts in evidence, Van Leuven replied that Renfro was likely stopped because he was walking down a sidewalk alone in dark clothing in a residential neighborhood just before 1:30 a.m. that day. Moore had been patrolling the neighborhood in his squad car when the two men crossed paths at West Wilbur Avenue and West Timberlake Loop. It turned out there were three car burglaries in the neighborhood that night, but Adams said Moore wasn't aware of that information. The reports weren't yet written. "I can't tell you what was in Sgt. Moore's mind," Van Leuven said. According to testimony, Renfro, 27, of Rathdrum, was in the neighborhood looking to steal a car. At least that's one story that came out of questioning of Renfro by police. Renfro's story about what he did that morning, and why he was there to begin with, changed multiple times. One explanation for why he was there raised questions about ties Renfro might have to a racist group. Kootenai County Deputy Prosecutor David Robins said during the hearing that Renfro reported being in the area to "collect money on behalf of white supremacists from a Native American." Lawyers, investigators and police are barred by court order from speaking to the media about the case. Documents, including transcripts of police interviews that would clarify Robins' comment about white supremacy, are sealed. Adams also questioned Van Leuven about his sworn affidavit, which was filed with charging documents, that said Renfro admitted to shooting Moore. "Renfro said he shot Sgt. Moore because he had a gun in his pocket and knew Sgt. Moore was going to find it," Van Leuven wrote in the court document. Renfro was on felony parole at the time of the shooting, and was prohibited from possessing guns. Adams questioned the theory. "It absolutely is true," the detective shot back. Adams had Van Leuven read a portion of a transcript from Renfro's interrogation with police shortly after the murder. "No, I had no intention of doing it in the first place," Renfro said of the shooting. In the interview, Renfro continued, saying if shooting Moore was his plan he would have just done it right away, before handing Moore his driver's license to be run through central dispatch. "I was feeling scared, trapped and concerned," Renfro said of being questioned by Moore. He claimed Moore had a hand on his service pistol so Renfro reacted and pulled the one he was concealing. Early in the interview Renfro denied shooting Moore and blamed someone else. But Van Leuven said Renfro changed his story once he found out police had Moore's body camera footage. "He then confessed to shooting Sgt. Moore," Van Leuven said. During the interview, according to testimony, Renfro also said Moore was a really nice guy who was respectful during their interaction. Both prosecutors and Renfro's public defenders finished calling witnesses and presenting evidence on Thursday. The preliminary hearing started Wednesday. Now Magistrate Barry Watson will review video evidence and read some documents produced as evidence. Watson scheduled closing arguments for 9 a.m. Wednesday, Sept. 2. He plans to make a decision that day on whether or not to move Renfro's case up to 1st District Court and what charges he should face there. Prosecutors are seeking first-degree murder, along with charges for allegedly stealing Moore's gun and patrol car to flee the scene. Once in District Court, Renfro would enter a plea to the charges. Prosecutors haven't decided whether or not to seek the death penalty if Renfro is convicted.

Attorney Motions to Move Marshall Trial

MagicValley.com: Aug. 28- Benton Smith

TWIN FALLS • The defense attorney representing one of the men charged in the slaying of Kent Storrer is trying to get the trial moved to another county. Marilyn Paul, Twin Falls County's chief public defender, filed a motion to move the trial of Jacob Lyn Marshall, 20, out of Twin Falls County because, "a fair and impartial trial cannot be held in Twin Falls County due to intense pretrial publicity," court documents said. A seven-day trial is scheduled to begin Jan. 11. The motion was filed Aug. 13, but a hearing has not been scheduled. At least five *Times-News* articles were admitted as evidence for the defense. Marshall and Jerry Burton Kimball, 22, met with Jasper Qualls to test drive a 1991 Mitsubishi 3000 Qualls had listed for sale, on July 25, court documents said. After test-driving Qualls' car, Marshall shot Qualls and Storrer with an AR-15 rifle he stashed in Kimball's car the day before, a grand jury indictment said. Marshall was arrested about 11 p.m. that day after ramming a stolen Mitsubishi into a cop car, police said. Kimball turned himself in July 26. Marshall and Kimball were each charged on counts of first-degree murder, conspiracy to commit first-degree murder, robbery, conspiracy to commit robbery, battery with the intent to commit a serious felony and conspiracy to commit battery with the intent to commit a serious felony. Several of Marshall's charges have weapon enhancements that could lead to a longer prison sentence if he is convicted. Both men are being held without bond at the Twin Falls County Jail. Marshall is scheduled for a pretrial conference Nov. 21. Kimball is scheduled for a pretrial conference Jan. 25.

Woman claims ISP officer coerced her into having sex in his cruiser

Idaho State Journal: Aug. 29- Debbie Bryce

POCATELLO — An eastern Idaho woman who was once listed as a one of Bannock County's 10 most wanted fugitives has filed a federal lawsuit alleging that Idaho State Police detective Ryan Blackhawk coerced her into having sex with him in his ISP vehicle in 2013. ISP officials said Friday that an investigation into the allegation was conducted, and Blackhawk was terminated from his position following that inquiry. The lawsuit names Blackhawk, ISP investigator Paul Olsen and four unknown ISP supervisors as defendants. The plaintiff, 28-year-old Ashlyn Jeanette Moreno, was facing federal drug charges, and Blackhawk and Olsen were investigators in that case. According to the complaint, Moreno was a resident of Bingham County at the time the incident occurred, but she was arrested in October of 2013 by Pocatello police and listed an address in Pocatello. She has also previously listed a Chubbuck address. She was wanted for forgery when she appeared on Bannock County's top 10 most wanted fugitive list. Moreno is being represented by the Pocatello firm of May, Rammell & Thompson, which filed the complaint on her behalf Wednesday.

According to the complaint, Blackhawk told Moreno that he had "a lot of ties" that could help her with her case. The ISP detective was involved in the ongoing investigation against Moreno and was even set to testify before a federal grand jury regarding Moreno's case when the alleged sexual contact took place. Moreno also claims to have witnessed the detective plant evidence, and the complaint contends that Olsen illegally placed a GPS tracking device on a vehicle. Blackhawk has not been charged in connection to the allegation, a stark difference of policy compared with the Pocatello Police Department's decision to place one of its detectives on administrative leave after an allegation of misconduct surfaced. Detective Steven Westfall, who resigned from the Pocatello Police Department earlier this month, was charged with unnecessary assault by a police officer stemming from an incident July 10. Pocatello Police Chief Scott Marchand and Bannock County Prosecutor Steve Herzog held a press conference and announced that Westfall had been charged and placed on administrative leave in July. In contrast, the Idaho State Police issued no statement regarding the detective's termination or the complaint against him. Public Information Officer Teresa Baker said the ISP is limited on what information can be released or discussed when there is litigation pending. "Allegations can be made and filed in a complaint, but the truth to actual facts in a case must be decided in a court of law," Baker said in an email Saturday. Idaho State Police became aware of the litigation filed by Moreno on Friday morning, but no ISP officer has been formally served in this matter, Baker said. Baker said the Idaho State Police take allegations of this nature against an employee very seriously. "The allegations made by Moreno against ISP employees were investigated by the FBI and reviewed by the U.S. Attorney's Office, and no criminal charges were filed," Baker said. Baker said ISP conducted an internal investigation, and Blackhawk's employment was terminated for violating ISP procedures. No other ISP employees were found to have violated ISP procedure in this matter. According to the complaint, on Aug. 21, 2013, ISP officer Paul Olsen began surveillance at the Deleta Skating rink anticipating that Ryan Dalley would visit his children there. Dalley did show up driving a gold Chevrolet Blazer, but the car did not belong to him. He left Deleta and made a number of stops in Pocatello, and while he was inside Fred Meyer on Yellowstone Avenue and the vehicle was unattended, Olsen placed a GPS device on the vehicle. Olsen asked for and was granted a warrant to place the device on the car the day after it had been installed, according to the complaint. That same day, Olsen and Blackhawk planned to arrest Dalley even though they did not have an arrest warrant. Using the illegally installed GPS device, they located the vehicle and attempted to stop Dalley, who, the complaint claims, had violated no traffic laws. Dalley refused to stop. Moreno was a passenger in the Blazer driven by Dalley. The complaint goes on to state that because the officers had the GPS, they did not pursue Dalley but waited about 10 minutes and located the vehicle again on Maryzelle Lane in Pocatello. Blackhawk was the first officer on the scene, and he found Moreno standing outside the car when he arrived. Dalley had fled. According to the complaint, the ISP detective pulled his weapon, pointed it at Moreno and ordered her to raise her hands and she complied. Olsen and other ISP officers arrived on the scene, and Moreno was handcuffed with her hands behind her and ordered to her knees. The ISP detectives kept Moreno handcuffed and on her knees for about one hour interrogating her about Dalley's location, according to the complaint. She told them that she was a passenger in the vehicle, and she did not know where he had gone. Eventually, Olsen and the other officers left to look for Dalley and Blackhawk stayed behind with Moreno. The complaint alleges that the only reason to keep Moreno handcuffed and on her knees was to cause pain and to exert power and control over her. The complaint alleges that Blackhawk asked Moreno if there was a contraband in the car, and he reached through the window and removed her purse. Inside the bag, Blackhawk found items of contraband including psychedelic mushrooms. According to the complaint, Blackhawk told Moreno not to worry about the contraband and that he could help her. Moreno alleges that Blackhawk then removed the items and planted them on the driver's side of the vehicle. Dalley was charged in connection to the planted contraband, but Moreno was not. After planting the items, Blackhawk gave Moreno a business card with his contact information. It was obvious to Moreno, according to the complaint, that Blackhawk had "power and means" over her and was capable of manipulating the justice system. When Moreno was booked later for state drug charges, she was told that she was facing federal charges stemming from the incident and the state charges were "the least of her worries," according to the 18-page court document. Court records show that Moreno and Dalley were charged with drug trafficking of methamphetamine in the week following Moreno's first meeting with Blackhawk. According to the complaint, the charges were dismissed on Nov. 13, 2013, when the state was made aware of the detectives' conduct during the investigation when the illegally planted GPS device came to light. Regardless, Moreno was indicted on federal charges shortly after the charges in the Sixth District were dismissed. Moreno was also charged with drug possession and paraphernalia in Canyon County in 2013. The lawsuit claims that Moreno was afraid and concerned about what would happen to her, and she contacted Blackhawk on Oct. 15, 2013, to ask him for help. That same day, Blackhawk picked up Moreno in his ISP vehicle and drove her around Pocatello discussing the case. Moreno stated that Blackhawk implied he "had a lot of ties" and he could help her. Blackhawk told the plaintiff that he had been investigating her for some time and even told her personal details about her life that the detective said he discovered through close surveillance of Moreno. The complaint alleges that the ISP detective suggested that Moreno "show the judge a little nipple," and he told her a story about another case involving himself and a young woman facing similar charges. Blackhawk also asked Moreno to text him on another cellphone so they could "talk crazy." Later that day, Blackhawk texted Moreno sexually explicit and suggestive messages, and he arranged to meet her again to discuss her federal charges, according to the complaint. In the text exchange, Blackhawk requested oral sex from Moreno and, according to the complaint, said, "If you're not going to give it to me, I'm just going to have to take it." The next evening he picked up Moreno at her house. He allegedly was wearing the same clothes and driving the same ISP vehicle he had driven the previous day. Blackhawk drove to the ISP office on South Fifth Avenue and parked in the lot. When Moreno exited the vehicle to smoke, Blackhawk removed the center console from the vehicle and invited her back into the car, the complaint states. When she got

back into the car, Blackhawk grabbed her by the back of the head and pulled her on top of him. Moreno claims that she was helpless, confused and manipulated by Moreno and "felt compelled to engage in sexual intercourse with him and understood that that's what he wanted in exchange for helping her." The two engaged in sexual activity in the driver's seat of the ISP cruiser, and according to the complaint, he threatened Moreno, telling her that if she told anyone what happened he would "ruin her life, she would be arrested, and she would not get out of jail." Around this time, Moreno's suit claims, Blackhawk was testifying before a federal grand jury regarding Moreno's case. She was indicted on methamphetamine charges a week after she met with Blackhawk. The complaint states that after the U.S. Attorney's Office learned of Blackhawk's conduct, it dismissed the federal drug charges against her and four other defendants. The complaint states that the U.S. Attorney's Office dismissed its indictment against Moreno and the other defendants because it was in the interest of justice to do so. "Basically that means we determined we cannot go forward with the prosecution. Typically we do not provide an explanation beyond that when we dismiss for those reasons," U.S. Attorney Wendy Olson told the Idaho Statesman on Friday. The lawsuit is asking for recovery of all damages related to the incident exceeding \$10,000, attorney fees and punitive damages.

Attorney Motions to Move Marshall Trial

MagicValley.com: Aug. 29- Benton Smith

TWIN FALLS • The defense attorney representing one of the men charged in the slaying of Kent Storrer is trying to get the trial moved to another county. Marilyn Paul, Twin Falls County's chief public defender, filed a motion to move the trial of Jacob Lyn Marshall, 20, out of Twin Falls County because, "a fair and impartial trial cannot be held in Twin Falls County due to intense pretrial publicity," court documents said. A seven-day trial is scheduled to begin Jan. 11. The motion was filed Aug. 13, but a hearing has not been scheduled. At least five *Times-News* articles were admitted as evidence for the defense. Marshall and Jerry Burton Kimball, 22, met with Jasper Qualls to test drive a 1991 Mitsubishi 3000 Qualls had listed for sale, on July 25, court documents said. After test-driving Qualls' car, Marshall shot Qualls and Storrer with an AR-15 rifle he stashed in Kimball's car the day before, a grand jury indictment said. Marshall was arrested about 11 p.m. that day after ramming a stolen Mitsubishi into a cop car, police said. Kimball turned himself in July 26. Marshall and Kimball were each charged on counts of first-degree murder, conspiracy to commit first-degree murder, robbery, conspiracy to commit robbery, battery with the intent to commit a serious felony and conspiracy to commit battery with the intent to commit a serious felony. Several of Marshall's charges have weapon enhancements that could lead to a longer prison sentence if he is convicted. Both men are being held without bond at the Twin Falls County Jail. Marshall is scheduled for a pretrial conference Nov. 21. Kimball is scheduled for a pretrial conference Jan. 25.

Idaho man sentenced to life in prison for killing family

Lewiston Tribune: Aug. 29- Associated Press

BOISE - A 22-year-old Idaho man will spend the rest of his life in prison for killing a former Arizona power company executive, his wife and their adult son at a Boise home. Adam Dees of Nampa was handed three life sentences Friday with no chance for parole after striking a plea deal. Prosecutors decided to keep the death penalty off the table in exchange for Dees pleading guilty while also agreeing not to appeal the conviction. "The murders were cold-blooded and especially brutal," said 4th District Judge Sam Hoagland before issuing three life sentences, one for each victim. Dees pleaded guilty in June to killing 80-year-old Theodore M. Welp, 77-year-old Delores Elaine Welp and 52-year-old Thomas P. Welp on March 8 or 9. The bodies were found March 10. They were each shot in the head and struck repeatedly with a baseball bat. Thomas Welp was also stabbed in the neck down to his spine. All three bodies were found on a bed. The Welps formerly lived in Arizona, where Theodore Welp was the chief of Tucson Electric Power Co. in the 1980s. "You took my mother's life. You took my father's life. You took my brother's life. Now we take yours. One minute at a time," said Katherine Nesci, the Welps' daughter, while addressing Dees during the hearing in 4th District Court in Boise. Dees is said to have acted alone and did not know the victims ahead of time. He was later found with the family's credit cards and a 9 mm handgun. He also tried to sell Elaine Welp's engagement ring, which was later recovered at a local jeweler. "I think it turned out the best way for the community and the best way for the Welp family," Deputy Ada County Prosecutor Brian Naugle said after the hearing. During Friday's hearing, a teary-eyed Dees told the court that he was sorry, while also mentioning that he had decided to live crazy right before killing the Welps. "If I could take it back, I would," he said.

Heyburn Joins Coalition to Hire Federal Prosecutor

MagicValley.com: Aug. 31- Eric Quitugua

HEYBURN • Heyburn has joined an eastern Idaho partnership that will hire an assistant attorney general on retainer for federal crimes. The federal attorney will prosecute cases involving drugs, firearms, gangs and Internet crimes against children. Criminals will be placed in federal prisons instead of local jails. The City Council voted in favor of the program last week, noting the benefits of having a federal prosecutor as a resource at a low cost. The city will have to spend only \$270.14 for a one-year contract bringing the prosecutor to eastern Idaho, part of the Special Assistant United States Attorney (SAUSA) program to prosecute drug, firearm and gang related crimes. "I think the \$270.14 is well spent for us to be able to have that (resource) in the event that we have that kind of (crime)," Heyburn City Superintendent Greg Richins said at the meeting. Richins said the state is funding \$70,000 for the program while a coalition of Eastern Idaho cities will put together a total of \$30,000. Other cities in Mini-Cassia have already signed up to implement SAUSA including Rupert, Burley and Acequia. Heyburn, the city superintendent said, is the last city to get on board. Minidoka County Prosecutor Lance Stevenson said the SAUSA program is a big tool for the area because federal prosecutors have the financial means to investigate cases across state lines. When witnesses are brought in from out of state, Stevenson said, they have to be housed and fed. The county prosecutor also said murder cases can be costly and that the county's last murder case was about \$80,000. This total comes from expenses such as public defender costs, investigations, gun residue kits and DNA kits. Implementing SAUSA means Heyburn won't have to worry about the costs for those resources on federal crimes. The city will only be out of pocket \$270.14. "It'll be an interesting run with how it goes," Stevenson said. "It will be interesting to see at the end of the year how it benefits the area."

Man Convicted of Sexually Abusing Boy in Third Trial

MagicValley.com: Aug. 29- Aubrey Wieber

Jonathon Folk on tearfully pleaded with the jury to see him as the victim of a vicious judicial system. He was standing trial Wednesday for the third time for the same crime and he fought hard for sympathy. "I don't even get to pick the charges," said the 48-year-old Idaho man. "It is a horror to be charged with a crime and be innocent," he said. "If I protest too much, I will be seen as guilty. If I get angry, I will be seen as guilty. If I forget a fact under the head of interrogation, I will be seen as guilty." But when a jury handed down a unanimous verdict of guilty three hours later, Folk turned to his sister, Robin Cox. Facing a 25-year sentence, he flashed a smile and gave her a wink. A sentencing is set for Oct. 19. Minutes after the verdict, Folk was already talking to his standby council about the inevitable third appeal. Wednesday's drama represented the latest twist in a courtroom battle unlike any seen in recent memory in eastern Idaho. The case has captivated eastern Idaho's legal community. Reaching trial for a third time, the judge and lawyers walked gingerly to ensure Folk wouldn't get a fourth shot at appeal. The victim's mother called it a travesty, a cruel man just trying to continue hurting her boy. "I feel that my son is being harassed," she said. "Having him on the stand for that long, where he is his own attorney, that's what gets me. He's been doing this the whole time."

A dark Christmas night: In 2007, Folk was living in Boise at his friend Blaine Blair's house. The two are related through marriage. Both came to Idaho Falls about five days before Christmas — Folk to see his sister and Blair to see his aunt. On the evening of Christmas Day, Folk came to pick Blair up at a relative's house. Blair hadn't eaten his turkey dinner, so Folk stuck around. At one point, Folk followed a 5-year-old boy into his bedroom. What happened next would leave wounds on all involved persisting to this day. Folk claimed under oath that he took the boy to get dry socks after he came in from playing in the snow. Somewhere between five and 20 minutes after the two entered the room, the boy's mother noticed he was missing. As she walked into the room, she heard her son say, "Ew, that's gross." She walked in to see Folk kneeling between her son's legs with his hands on the boy's hips. She ask what was going on, and both said, "We're just playing." Eight years later, Folk recalled the evening fondly. "That was the first time I met (the victim)..." Folk told the jury in his opening statement Monday. "(The victim) instantly liked me. You could tell he just idolized me." Blair, also a convicted sex offender, testified in court Wednesday — as he has previously — that Folk had told him he did not intend to stop abusing children.

A twisted legal battle: Folk was arrested 15 days after the Christmas incident. His first guilty verdict came in 2009. On Feb. 26, 2009, he was sentenced to life in prison. On March 6, he filed an appeal. Upon appeal in 2009, lawyers argued the defense should have been able to cross-examine the witness in person, rather than through a live video feed. They won, setting up the second trial. On July 26, 2011, Folk filed a motion to represent himself in his retrial. He also filed six other motions that day. Since then, he has filed 104 more motions. In 2012, Folk was again found guilty and again sentenced to life in prison. On Jan. 27, he filed an appeal. This time, appellate lawyers argued Folk's two felony sex crime convictions in Illinois were too prejudicial for the jury to reach a fair verdict. Again, they won. Going into the 2015 trial, the prosecution was somewhat handcuffed by the appeals. Bringing in prior bad acts to show a propensity of molesting children was off the table, and any slip up could become the focus of a third appeal or a not guilty verdict. District Judge Gregory Moeller often reminded the state that appellate lawyers would be looking at the case meticulously. The trial lasted 32 hours and often stopped so the judge and attorneys could discuss various curve balls. At the end, Moeller called it "gut wrenching." Folk's legal understanding was apparent in hearings leading up to the 2015 trial. However, jurors said, he often struggled to remain coherent. "I thought (his arguments) were circular, and he would go off on tangents," jury forewoman Cindy Logan said. "I thought it took longer because he was not an attorney." During pretrial hearings, Folk often complained that in the 2012 trial the state did things he felt were unfair. The state let Folk introduce the past trial, which they weren't allowed to do themselves. But Folk often brought up self-incriminating evidence that the state used against him. "Sauce for the goose is sauce for the gander," Moeller said. At one point, he graphically detailed all the various ways the victim had described the abuse in former testimony. "There are things that Mr. Folk just told the jury that I wouldn't let the state tell the jury," Moeller said in court of Folk's opening statement. He sometimes uttered incoherent statements, and badgered the victim's mother on cross-examination to the point she twice broke into tears.

A tortured history: Folk's introduction to sexual abuse started tragically early. Court records show he and his siblings were abused by their stepfather. Cox, his sister, said the abuse started when Folk was six months old and continued until he was seven. "Our stepdad did a lot of things during the six-and-a-half years my mom was married to him," she said. "Some of us straightened up. Johnny, he just kept having a rougher life." Cox recalled multiple times where she caught Folk "messing around" with kids around the neighborhood when the two were growing up. When he was 14, Folk moved on his own to Portland. Cox said he moved into a house with some older guys where sexual relationships developed. When she looks back at Folk's life, sexual abuse has cast a dark shadow over his entire 48 years, she said. He has admitted to her it's an addiction he doesn't have control over. "He says it's like somebody being on meth," she said. "You put somebody in a room that's completely full of meth or heroin — if they are addicted — eventually they will end up crashing. He says that's what it's like."

A disturbance behind bars: Despite being locked up since 2009, Folk has remained a presence in his latest victim's life. The boy he abused in 2007 has now testified under oath five times, as has his mother. On Tuesday, Folk cross-examined the victim for four hours, often asking the same question over and over, and occasionally badgering the victim. "I bit off all my fingernails," jury forewoman Logan said. While Logan and the other jurors endured the scene for four hours, the mother of the victim has been living it for eight years. The mother said the night after the cross-examination, her son had nightmares similar to soon after the abuse. He is now days away from his 13th birthday. He has had counseling since the abuse and every time he seems to get better, Folk wins an appeal and her son has to face the man in court, she said. "The only reason why he is appealing this case is to watch my child grow up," she said. "Seriously, that's how I feel."

Court documents: 'Concerned parent' email to Boise State's Kustra in 2013 about alleged rape, harassment of track athletes led to investigation

Idaho Statesman.com: Aug. 31- Katy Moeller

An internal investigation that cost a Boise State track coach his job was sparked by an anonymous email to university President Bob Kustra in March 2013, court documents show. The email indicated that a track athlete had "raped multiple former and current students at Boise State." "It is my understanding that he has also threatened, harassed and inappropriately touched other females right on your campus," said the email, which was signed "Concerned Parent." "Your athletic staff knows about these events, if not in detail, they do know and have done nothing based on his talent and benefit to your NCAA standings. This is a disgrace to your university and this student is a threat to every female he encounters." An investigation headed by the Office of the Dean of Students determined that track coach J.W. Hardy was aware of allegations of sexual assault of a female track athlete at an off-campus house party by "current or former members of the men's track team," but he did not report the incident to university authorities, according to an affidavit by then-Athletic Director Mark Coyle. The university's anti-harassment policy states that Hardy was supposed to report the incident to the Equal Employment Opportunity/Affirmative Action Office or the Office of Students Rights and Responsibilities. Hardy was put on administrative leave and soon after notified that his contract would not be renewed, court documents show. The athlete accused of rape and harassment in the email was kicked off the track team and indefinitely suspended from school. It's unclear whether the university determined that other students were involved in the alleged sexual assault or whether the woman ever reported it to police. The athlete who was kicked off the team has not been charged with any sex crimes in Idaho, according to online court records, which show that he has three misdemeanor convictions: underage drinking, inattentive driving and carrying a concealed weapon without a permit. Details of alleged sexual harassment within the track program have come to light since two former student-athletes filed suit last year. The plaintiffs, who were both freshmen in 2011, accuse the same male athlete named in the other case of sexual assault and harassment. The plaintiffs are suing Boise State. Neither Hardy nor the athlete was named as a defendant. The suit claims that the university failed in its duty to [prevent sexual harassment and to stop it when it occurs](#). Fourth District Judge Steven Hippler has scheduled a jury trial for 9 a.m. Jan. 5. One of the women filed a report with the Scottsdale, Ariz., Police Department in October 2013, according to a Boise Police Department report obtained by the Statesman. The BPD report says she told Scottsdale police that she was at a friend's home when she "consumed a small amount of wine but began feeling as though she had drunk much more. (She) passed out and awoke to (perpetrator) on top of her having sexual intercourse with her." In the lawsuit, the woman says she reported the assault to Hardy. "Mr. Hardy refused to take any action and told her that he 'could not help her,'" the suit says. In an affidavit filed with the court in May of this year, Hardy denies that. "This allegation is false. (She) never made any statements to myself suggesting she was assaulted or raped," said Hardy, who was hired at BSU in August 2009 and was the Western Athletic Conference men's cross country coach of the year in 2010. But when university officials were investigating reports of harassment after the "concerned parent" email, another coach on staff identified the young woman as someone who might have been sexually harassed, according to an affidavit by Senior Associate Athletic Director Christina Van Tol. The other plaintiff in the lawsuit said the male athlete had sexually harassed female athletes by commenting on their bodies during practice, licking or biting his lips and slapping them on the butt. She said in September 2012 that he slid his hands into her shorts and groped her while she was sitting in study hall, her affidavit says. "She was shocked and felt extremely violated," her attorneys said in a letter to the university. "(She) kept the sexual assault to herself because she saw how coaches favored him and she did not want to cause any trouble. She did her best to avoid (him) during practice." She was not interviewed by university officials when they were investigating that male athlete for misconduct, the letter says. She said she was never provided with any guidance from the university on how to report sexual assaults.

Triple murderer Dees tells Ada County detectives how he randomly picked victims

Idaho Statesman.com: Aug. 31-Staff

Adam Dees, 22, sat down with Ada County Sheriff's Office detectives Monday, three days after he was sentenced to life in prison for killing three members of a Boise family in March. Dees said he picked the house on Cartwright Road to rob in March because it wasn't close to any roads or neighbors and it looked as though people who had money lived there, sheriff's officials posted in a blog Monday evening. He wasn't familiar with the residents, he said. Dees told detectives that it wasn't that difficult for him to kill three members of the Welp family because he had done so much killing in "first-person shooter" video games. Ted Welp, 80; his wife, Elaine, 77; and their son Thomas, 52, were shot in the head and struck repeatedly with a wooden baseball bat late March 8 or early March 9 in their home atop a secluded hill off North Cartwright Road. Dees tied them up. He also stabbed Thomas Welp. On Monday, Dees explained in detail that he committed the robbery and murders by himself. He also said it was his first and only home-invasion robbery, but he might have tried more in the future if he hadn't been caught, the Sheriff's Office reported. He told detectives that he was depressed, suicidal and didn't see his life going anywhere at the time, so he decided to "just go rob a house ... that'll give me money to play with for a while." Dees said he used Google Maps to search for remote areas around Boise and Mountain Home for high-end homes to rob. He settled on the area near Cartwright Road and used satellite maps to pick some possible targets. He said he drove along Cartwright Road on March 8 and began looking around, dismissing some Foothills houses because they were too close to roads or other homes. Once he settled on the Welps' residence, he said, he parked his car on a nearby street, hiked down a hillside and staked the home out while working on a plan. He then drove to his Nampa residence, waited until it got darker and drove back to Cartwright Road, he told detectives. Dees said he wore black clothes and armed himself with guns and knives. He parked his car far away and hiked down the hillside again. Dees said he first broke into a second house being built on the property and stole some power tools. He then moved over to the main house, where he found that a door to the garage was open, so he went inside and hid. He said he found a set of house keys inside a truck in the garage, which he used to get in the house. He saw a security system for the home was not armed when he went inside, he said. Dees told detectives that if the security system had been turned on, he would have left immediately. He also said he probably would have given up on his plan if the family had a bigger dog, the Sheriff's Office reported. The killer's debriefing with detectives Monday was one of the conditions of his plea agreement with Ada County prosecutors, which took the death penalty off the table. Dees will serve three consecutive life sentences without the possibility of parole.

Idaho Supreme Court allows Boy Scout lawsuit to move forward

Idaho Statesman.com: Aug. 31- Kimberlee Kruesi

BOISE, IDAHO — Idaho's highest court has ruled that the 16 men who say they were sexually abused as youngsters by scout leaders in Idaho filed their lawsuit on time against the Boy Scouts of America and the Church of Jesus Christ of Latter-day Saints. The lawsuit — originally filed in 2013 — is still pending in federal district court. All but one of the plaintiffs identified as John Does allege they were sexually abused while attending scouting functions during the 1970s and 1980s. The men are suing for constructive fraud, meaning a type of fraud that doesn't require proving malicious intent but does involve a breach of the relation of trust and confidence. In their suit, the plaintiffs argue that scout and church officials knew scout volunteers were dangerous, but chose not to disclose that information. Instead, each scout leader was described as a "great guy" and a "friend to whom you can always turn for advice," according to court documents. After attorneys for the church and Boy Scouts challenged the statute of limitations on the fraud claim, U.S. District Court Judge B. Lynn Winmill requested Idaho's Supreme Court justices to determine if the plaintiffs filed the lawsuit within the appropriate timeframe under Idaho law. "We note again that is left for the trial courts to determine whether a plaintiff's cause of action is, in substance, a true constructive fraud claim, or a breach of fiduciary duty claim or something else, wrote Justice Roger Burdick, in a unanimous ruling. Plaintiff attorney Gilion Dumas says the lawsuit would have been over if Idaho's highest court had ruled differently last week. "This is a big victory for child abuse victims, in this case and others," Dumas said. In a statement provided via email to The Associated Press, the Boy Scouts said it was thankful for the Idaho court's decision to consider the issue. "The Boy Scouts of America extends our deepest sympathies to victims of any kind of abuse. In the more than three decades since these incidents took place we have continued to develop and enhance our efforts to protect youth," the statement read. In an emailed statement, LDS Church spokesman Dale Jones said the church "has zero tolerance for abuse of any kind, and works diligently to prevent abuse and provide support and assistance to victims of abuse." He also said it's difficult to provide information in this particular case since the cases are about three or four decades old, many of those involved are now dead and nearly half of the claims do not include the church or church-sponsored troops.

Judge gives drug suspect a pass

Lewiston Tribune: Sep. 1- Ralph Bartholdt

A 27-year-old Nezperce man was released from jail after a 2nd District judge ruled his arrest by a county deputy on drug charges was illegal because the road where the arrest occurred was private. Charges of possession of a controlled substance and trafficking marijuana against Robert C. Kay were dismissed by 2nd District Judge Jay P. Gaskill, who wrote in his opinion the arresting deputy's inexperience with road ownership in the county led to the illegal arrest. "While it is clear that (the officer) was operating in good faith," Gaskill wrote, "It is also evident that the mistaken belief about the roadway was most likely due to (the officer's) short time with the department." Kay, who was in jail on \$50,000 bond, pleaded innocent to both felonies at an earlier hearing. A charge of trafficking heroin against him was dismissed by prosecutors. In his report, Nez Perce County deputy Nick Woods said he was watching traffic at 4 a.m. May 12 on Nez Perce Road, which is owned by the Nez Perce Tribe and loops behind the Clearwater River Casino. Woods stopped a 1987 Honda with a malfunctioning headlight that was driven by Kay. Deputies allegedly found more than 4 pounds of marijuana in a duffle bag in the Honda's trunk and 4 grams of black-tar heroin in an eyeglass case in the glove box, according to court records. Defense attorneys argued Woods had no jurisdiction on a tribally owned road and asked the court to suppress the evidence and dismiss the case, but prosecutors argued the deputy was acting on the belief he was on a county road. At a hearing last month, Woods - who was hired last year by the county - told the court that because it was well-maintained and its green road signs were similar to those used on county roads, he believed Nez Perce Road was county-owned and maintained. Following Kay's arrest, Woods told the court a senior officer informed him the road was privately owned. "The (court) finds that the officer's belief that the roadway was a highway is not objectively reasonable based on the facts of this case," Gaskill wrote. The prosecutor's office is considering appealing the ruling, Senior Deputy Prosecutor Justin Coleman said.

Attorneys file arguments over scope of water rule injunction

Idaho Statesman.com: Sept. 1- Dave Kolpack/ AP

FARGO, N.D. — Attorneys who have been debating state and federal powers regarding small waterways filed written arguments Tuesday over whether a judge's decision to block a new Obama administration water rule applies nationwide. U.S. District Judge Ralph Erickson last week issued a temporary injunction requested by North Dakota and 12 other states to stop the U.S. Environmental Protection Agency and the Army Corps of Engineers from regulating some small streams, tributaries and wetlands under the Clean Water Act. The EPA maintains that injunction applied only to the 13 states and said it began enforcing the rule in all other states on Friday. The 13 states said in court documents filed Tuesday that it wouldn't make sense to have a different set of rules apply to some states that may share drainages in the same watershed. "The court's injunction order properly contained no geographical limitations," the state's document says, "and its scope should not now be restricted." The EPA said its interpretation is correct because many states are not challenging the rule and two states have ruled that the argument belongs in the 6th U.S. Circuit Court of Appeals, not in federal district court. Expanding the injunction goes beyond on the complaints alleged by the 13 states, the EPA said. "An injunction of nationwide scope is particularly unwarranted because the court has determined only that the plaintiffs here are entitled to preliminary relief" and Erickson made no conclusions "regarding any other party," the government said in its brief. The 13 states exempted for now are Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota and Wyoming. They say the regulation is unnecessary and infringes on their sovereignty. The federal government said the new rule clarifies ambiguity in the law and actually makes it easier for the states to manage some waterways Erickson said in his ruling last week that the EPA had exceeded its authority in issuing the regulation. He then issued an order giving the parties until the end of the day Tuesday to file arguments on the "breadth of the court's order."

Woman convicted after falcon's death denied new trial

Idaho Statesman.com: Sept. 2- Associated Press

COEUR D'ALENE, IDAHO — A Kootenai County District Court judge has ruled that a woman who was found guilty in connection to the death of a hunter's falcon will not have her misdemeanor conviction dismissed, nor will she have to pay restitution. The Coeur d'Alene Press reports (<http://bit.ly/1KGgnu8>) that Judge James Stow ruled Monday that Patti MacDonald's conviction for pursuing a protected bird would remain. Prosecutors argued that MacDonald fractured the skull of the 8-year-old falcon named Hornet on Jan. 7 trying to save a mallard. Both birds died that day. Stow did rule in favor of MacDonald when prosecutors asked for restitution. He denied the prosecution's request for restitution because there was not data supporting injuries to the hunter. MacDonald is scheduled to be sentenced on Sept. 28.

Man Sentenced Up to 30 Years in Prison for Threatening Officers

MagicValley.com: Sept. 2- Benton Smith

TWIN FALLS • A man who threatened police with a hammer could spend up to 30 years in prison, a judge ruled Tuesday. Randy Scott Hill, 45, was sentenced by District Judge Richard Bevan to five to 30 years. A jury found him guilty July 1 of two counts of aggravated assault or battery. Officers tried to serve a misdemeanor warrant to Hill for missing a court appearance. When police entered the house March 17 they reported seeing Hill standing with a hammer in one hand and a pocket knife in the other. Officers used a stun gun on Hill to remove the weapons. "Both officers that testified said they were fearful for their lives and the lives of the other officers," prosecuting attorney Stanley Holloway said. Because of a criminal record that stretched back more than 25 years — including at least seven incidents of Hill assaulting officers and once trying to wipe HIV positive material on one — Holloway requested a sentence of five to 10 years. Hill's attorney George Essma argued Hill was an appropriate candidate for probation. Essma's argument centered on the city's method of serving a misdemeanor warrant. "Yet the city of Twin Falls needed four fully armed officers for this simple misdemeanor matter," Essma said. Before making his decision, Bevan took a 20 minute recess to consider the comments of both attorneys and to weigh Hill's past encounters with police. On Dec. 8, Hill was in a 25-hour standoff with police during which he waived a hammer, knife, pool cue and fork from his back window, police said. "Frankly, sir, they knew your history," Bevan said. "To argue that they shouldn't have been there for a silly misdemeanor matter misses the point." During the sentencing Hill addressed the court. "I had a very bad day and obviously everything went awry," Hill said. Like his attorney, Hill asked the judge to consider a lesser punishment. "I was hoping and praying that the court and you, Your Honor, will be lenient with this sentencing," Hill said. The judge was not. The sentence comes just short of the maximum 35 years possible. Hill also is ordered to pay \$1,500 in court costs. "We live in a time where there is a viewpoint, not necessarily in the Magic Valley, that police lives don't matter," Bevan said. "But they do matter."

In Stunning Reversal, Idaho Prison Officials Ban Use of 'Barbaric' Dry Cells

Boise Weekly: Sept. 2- George Prentice

News first broke in July that a long simmering scandal at the Idaho State Correctional Institution would result in a federal court hearing, and, in August, the case culminated in a blistering slap-down from a federal judge. Less than a month later, on Monday night, the Idaho Department of Correction announced it would ban the future use of so-called "dry cells," labeled "barbaric" by a court-ordered investigator. The dry cells—so named because they have no running water or bed and only a hole in the floor for use as a toilet—were routinely employed by IDOC at the Behavioral Health Unit of the Idaho State Correctional Institution. Prisoners who threatened suicide were often sent to the dry cells, but it was also alleged they had been used as punishment for some inmates in the mental health ward. Additionally, it was learned during the federal hearing that the dry cells were emptied at the time of two separate visits from a so-called "special master" auditor sent to the prison to ensure stipulations from a previous court ruling were being met. "I wouldn't put an animal in there," former IDOC clinician and key witness Diana Canfield told *Boise Weekly* following a July federal court hearing. "Do you honestly think that a dry cell would make anyone any better if he was suicidal? To strip them of all of their clothes and throw them onto a concrete floor with a hole in it? The best practice in mental health care is to put someone like that in the least restrictive environment possible." Ultimately, U.S. District Court Judge David Carter ruled IDOC officials were in the wrong, writing, "Attempts to mislead the Court strike at the heart of the judicial process." In its announcement Sept. 1, IDOC wrote, "As part of an effort to reform the Idaho Department of Correction's restrictive housing policies, the department has discontinued its use of dry cells." "To some degree there will always be a need to temporarily isolate some inmates so they don't hurt themselves or others, but we must not go overboard," wrote IDOC Director Kevin Kempf, overturning the longstanding policy of using dry cells. "We need to make sure we're isolating the right inmate for the right period of time and under the right conditions." Kempf added, "Research is showing us that in many cases segregation doesn't work and is causing more harm than good."

Lewiston, Nez Perce County's dispute over urban renewal going back to court

Lewiston Tribune: Sep. 3- Joel Mills

Nez Perce County will likely find out Sept. 17 if a judge will allow the expansion of its lawsuit against Lewiston and the city's urban renewal agency. That's when 1st District Senior Judge Steve Verby has scheduled a 3 p.m. hearing for attorneys on both sides to present their arguments. Tod Geidl - one of the private attorneys hired by the county to press its case - filed an amended complaint in July, nearly a year after the county took the city to court to invalidate its urban renewal plan. That delay alone is reason enough for Verby to deny the county motion to amend its complaint, Lewiston City Attorney Jana Gomez argued in the response she filed last week. "The county's motion is not based on newly discovered evidence, but rather on facts known to the county even before the original complaint was filed," Gomez wrote, citing legal precedent for denying similar motions that came long after the original filing. On Wednesday, Gomez pointed out the county has even had a representative on the urban renewal agency, Nez Perce County Commission Chairman Douglas Havens, throughout the process to update the agency's plan. "I don't know why they're bringing it a year later," she said. Gomez also responded to the county's new complaint that the Lewiston Planning and Zoning Commission didn't review changes the city council made over three different readings of the plan before it was officially approved. She said the county is trying to allege legal obligations that don't actually exist in state code. "There's no requirement in the statute, after the council makes a change, for it to go back to P&Z or for it to go back to the URA," Gomez said. "They aren't the elected officials. It's the city council who makes the changes and adopts the plan." Another complaint is that the city council changed the plan after it was adopted. But Gomez said all that change entailed was adding the minutes from the city council meeting where the plan was adopted in an effort to make the process more transparent. The lawsuit is the county's second attempt to use the courts to force the closure of urban renewal areas in Lewiston. Its first lawsuit targeted at areas in North Lewiston and the Nez Perce Terrace failed, but the current legal action aims to invalidate the entire plan passed by the city council last year. Several possible projects are in the plan, but the agency has pared those down to the rebuilding of 18th Street North and the extension of Nez Perce Drive to Gun Club Road. The county contends that so many changes were made to the original 2005 plan that the city essentially created a new plan. But the agency and city argue that they simply amended the old plan, and followed the proper procedure to do so. If the county prevails, it would start collecting its share of the hundreds of thousands of dollars in property taxes that flow into urban renewal each year. County commissioners have stated they are not opposed to urban renewal in concept, just the process the city and agency followed in changing the 2005 plan. Verby could rule on the county's motion to amend its complaint at the Sept. 17 hearing, or take arguments under advisement and rule at a later date. The urban renewal agency board meets Tuesday. If it approves the latest invoice from Boise law firm Elam and Burke to defend it against the lawsuit, it will have amassed \$55,516 in legal bills to date. The county has so far spent \$62,449 for its outside legal counsel in the case, according to the Nez Perce County Auditor's Office.

Judge Roos retires Monday

By BOB HUDSON Morning News August 28, 2015

BLACKFOOT — Friends and associates of Judge Charles Roos sent him into retirement with warm wishes and some gifts on Thursday. Roos' last day as a magistrate judge in the Seventh Judicial District will be Monday. He has served in that capacity for the past 29 years. "I have appreciated watching him," said Bingham County commissioner Whitney Manwaring. "He works with people. "We appreciate the work you've done with Bingham County," Manwaring told Roos. Pam Eckhardt, the county clerk, praised Roos for his willingness to train his clerks as they worked for him "He was the first judge I was able to clerk for," she said. She told a story of a time when she made a mistake during a court proceeding. Rather than upbraid her for it, he used it as a teaching moment. "We always knew he would protect us," Eckhardt said of the clerks. Judge Darren Simpson said, "he has been a great benefit for us." Simpson presented Roos with a gift card to Cabela's and some golf balls. Roos has been assigned to the bench in Challis but has made weekly trips to Blackfoot to fulfill his duties. His replacement will likewise do so. Roos said he plans to enjoy hunting, fishing, playing golf and other activities. He will also work as a senior judge on occasion.

Idaho man found guilty for the third time

By AUBREY WIEBER Post Register August 28, 2015

Jonathon Folk was found guilty of sexual abuse of a child under 16 on Wednesday, but on Thursday, he was acquitted on a second charge that could have brought life in prison. Folk successfully appealed jury verdicts from 2009 and 2012 for charges stemming from the same act, setting the stage for this week's trial. In 2007, Folk sexually abused a young boy on Christmas Day. Folk represented himself in court this week, as he did in the 2012 trial. He has never represented himself on appeal. After three full days of trial, the verdict came down at 7:20 p.m. Wednesday. The jury deliberated for two hours and two minutes. On the sexual abuse charge, Folk is facing up to 25 years in prison. After the guilty verdict, District Judge Gregory Moeller informed the jury phase two of the trial would begin, deciding whether he is a persistent violator. Folk has two previous felony convictions for sex crimes in Illinois, making Wednesday's verdict his third strike. If he had been found guilty of being a persistent violator, his maximum sentence would go from 25 years to life. In the second portion of the trial, Folk opted to have his stand-by attorney, Jim Archibald, take over. In the defense's closing statements, Archibald challenged the state's exhibits of Folk's previous felonies. Archibald argued the charges — one charge for aggravated criminal sexual assault and the other for aggravated criminal sexual abuse — weren't identified as felonies, therefore they shouldn't be entered and Moeller should acquit Folk of the persistent violator status. "If we proceed, we are guaranteeing that Jonathon Folk is going to win appeal number three," Archibald warned Moeller. "We are guaranteeing it. So let's just put a stop to this now and proceed to the sentencing on the sex abuse." After lengthy deliberation, Moeller agreed. Folk is scheduled for sentencing Oct. 19.

Ammon man gets probation for choking wife

By TOM HOLM Post Register August 28, 2015

District Judge Bruce Pickett on Thursday withheld judgment and put an Ammon man on four years of probation for trying to choke his wife. Christopher Miller, 30, pleaded guilty July 8 to aggravated assault. Miller was originally charged with attempted strangulation but the charge was amended to aggravated assault pursuant to a plea agreement. Pickett also ordered that Miller serve 30 days in local jail and undergo anger management or domestic violence classes. James Murdock, Bonneville County chief deputy prosecutor, said the state argued for an underlying sentence of one to five years in prison with a suspended sentence. Court records show Miller and his wife got into an argument that escalated and Miller tried to choke his wife. Deputies responded to disturbance call at a residence on the 3700 block of John Adams Parkway. The victim appeared to have redness along her cheek and neck as well as blood coming from an ear, court records show.

Man gets three life sentences, no parole in triple murder Three Boise residents were fatally shot, beaten in their Foothills home

By IDAHO PRESS-TRIBUNE STAFF August 29, 2015

BOISE — A Nampa man who admitted to murdering three Boise residents was ordered Friday to serve three life sentences and will not be eligible for parole, according to KBOI-TV, the Idaho-Press Tribune's media partner. Adam Dees, 22, admitted to the murders of 80-year-old Theodore Welp; his 77-year-old wife, Elaine Welp; and their 52-year-old son, Thomas Welp. The family was found dead March 10 in their home in the Boise foothills. Dees pleaded guilty in June to three counts of first-degree murder and one count of robbery. In exchange for his plea, prosecutors agreed not to pursue the death penalty. Dees waived his right to appeal. On top of the murder charges, District Judge Samuel Hoagland sentenced Dees to an additional 25 years for the robbery and ordered the sentences be served consecutively. All three victims were found shot in the head in their home in the Boise foothills. Thomas Welp had been stabbed in the neck and bludgeoned with a wooden baseball bat. Theodore Welp had extensive beating to the head, damaging his skull, and Elaine Welp had been struck multiple times in the head and

face. Theodore and Elaine Welp were also bound with scarves that were taken from their home. Prosecution has said the key motive for the murders was robbery. Dees' robbery charge stems from multiple thefts from the Welps' home, including Elaine Welp's wedding ring and Theodore Welp's credit card. Dees reportedly used the cards at several Boise businesses and signed the victim's name on the receipts.

Idaho Supreme Court ruling on statute of limitations clears way for lawsuit against Boy Scouts, church

Eye on Boise August 31, 2015

A unanimous Idaho Supreme Court has cleared the way for a lawsuit to proceed against the Boy Scouts of America and the LDS Church by a group of men who are suing for fraud, saying they were sexually abused by scout leaders as children, and the Boy Scouts and the church knew the children were in danger from the leaders, and not only failed to disclose that, but assured the boys the leader in question was a "great guy," a "wonderful man," or a "friend to whom you can always turn for advice." The lawsuit, charging "constructive fraud," is pending in federal court. But after the Boy Scouts and the church argued that it should be barred by an Idaho statute of limitations, U.S. District Judge B. Lynn Winmill referred that question to the Idaho Supreme Court for a ruling on which civil statute of limitations should apply. Idaho has for three: One for personal injury claims, at two years; one for fraud, at three years from the time of discovering the fraud; and a "catch-all" provision, at four years. The Boy Scouts and church argued the case should be treated as a personal injury claim, but Winmill rejected that argument. "Plaintiffs are not complaining that the Boy Scouts and the LDS Church sexually abused them; they are complaining that these institutions deceived them by telling them to trust their Scoutmasters and, at the same time, not telling them about the dangers of pedophilic Scoutmasters. So in that sense, plaintiffs are not pursuing personal-injury claims; they are pursuing fraud claims," he ruled. Idaho Supreme Court Justice Roger Burdick, in a unanimous ruling, wrote that the question of whether the case involved a personal-injury claim was not before the state court; just the question of which was the appropriate statute of limitations for a constructive fraud case. And he found that previous Idaho case law dictates that it's the fraud one, three years from discovery of the fraud. "Constructive fraud" is a type of fraud that doesn't require proving malicious intent – just that the fraud involved a breach of duty where a "relation of trust and confidence" exists. An attorney for the former scouts told the Associated Press the lawsuit would have been over if the Supreme Court had chosen one of the other statutes of limitations; you can read the [full Idaho Supreme Court ruling here](#), and AP reporter Kimberlee Kruesi has a [full report here](#).

Man gets prison for sexually abusing young girl

By TOM HOLM Post Register August 31, 2015

District Judge Dane Watkins Jr. on Monday sentenced an Idaho Falls man to two to 18 years in prison for sexually abusing a 15-year-old girl. Simon A. Rapp, 33, was charged with rape of a female younger than 16 and sexual abuse of a child by causing or having sexual contact with a minor younger than 16. The charges stem from an incident that occurred in September 2013. Rapp was credited for the 670 days he has spent in jail adding up to about one year and 10 months of incarceration. Rapp will register as a sex offender. Rapp has been diagnosed with schizoaffective disorder, court records show. Schizoaffective disorder is marked by a combination of symptoms such as hallucinations and delusions as well as mania or depression, said the Mayo Clinic [website](#). Rapp has been committed to a mental hospital twice prior to this crime. Most recently he was evaluated at State Hospital South in Blackfoot so he could be put on medication and deemed fit to stand trial, court records show. Daniel Clark, Bonneville County prosecutor, argued the state would be willing to recommend probation for Rapp if treatment was readily available for Rapp's mental illness. If that was not available then Clark recommended a five- to 15-year underlying prison term. Rapp's attorney, Jordan Crane, said the Rigby Country Living Center is an option for treatment, but it is currently full. Watkins ultimately decided to impose the sentence on Rapp and let the parole board decide what kind of treatment should be available to him. Crane argued for probation and said it was unfair to lock Rapp up for longer than he already had been. "I hope that's not how the court treats someone with a mental health issue and not how the state treats someone with a mental health issue," Crane said. Rapp, prior to his sentencing, said he felt guilt for the crime and asked for probation. "I don't think there's anyway I can screw this up," Rapp said. "I know I will not re-offend." The case dragged on for almost two years because there was a wealth of mental health evaluation that had to be conducted so that Rapp could be deemed competent to stand trial. Rapp told investigators he and the victim had sex multiple times in late September and early October 2013, court records show. The then 15-year-old victim told investigators she told Rapp "no" numerous times and attempted to shove him off of her. The victim's mother previously reported her as a runaway and Idaho Falls Police located her Oct. 10, 2013. She was taken to the Eastern Idaho Regional Medical Center for a sexual assault examination. A witness told investigators he knocked on Rapp's door the day of the incident and saw Rapp's bare leg and then the victim ran out of Rapp's residence. The girl later told the witness she had been raped, court records show. It later was determined through a polygraph test of Rapp that no force was used during the intercourse, court records show. The victim initially told Rapp she was 18-years-old at the time. When Rapp was arrested, Idaho Falls Police detective Rome Stiffler wrote in his report that Rapp "appeared to be highly intoxicated." The report said the victim appeared to be intoxicated as well.

Idaho state prisons drop all use of 'dry cells' to isolate inmates

Eye on Boise September 1, 2015

The Idaho Department of Correction announced today that it has discontinued all use of so-called “dry cells” for inmate isolation, which lack all furnishings including a mattress, sink or toilet and have only a flushable floor drain for human waste. Use of the cells has drawn attention in a long-running lawsuit over prison conditions; IDOC said it used the cells to isolate inmates who were at risk of hurting themselves or others. Critics of the practice say it can exacerbate inmates’ mental health problems and even cause long-term psychological damage to inmates who previously didn’t suffer from mental health issues. “Research is showing us that in many cases segregation doesn’t work and is causing more harm than good,” said state prisons Director Kevin Kempf. “Knowing that 97 percent of all inmates will one day walk out of prisons and into our neighborhoods tells me we shouldn’t be adding to their risk of committing more crimes but rather doing everything we can to reduce this risk.” “To some degree there will always be a need to temporarily isolate some inmates so they don’t hurt themselves or others, but we must not go overboard,” Kempf said. “We need to make sure we’re isolating the right inmate for the right period of time and under the right conditions.” Kempf announced the ban on dry cells as part of a wide-ranging review of all of the department’s restrictive-housing practices. He said the goal of the review is to establish practices that keep the public and correctional staff safe while creating an environment that helps offenders turn around their lives. Kempf also announced that later this month, senior leaders from the department will attend a 40-hour training program at the National Institute of Corrections on management of restrictive-housing inmates and how to reintegrate them back into a prison’s general population. UPDATE: AP reporter Rebecca Boone has a [full report here](#), and reports that Idaho has a total of 11 dry cells at the Idaho State Correctional Institution and the Idaho Maximum Security Institution near Boise. St. Anthony work camp has a dry cell with a bed that was mainly used for holding inmates for short periods of time while they waited to be taken to another facility, and there may be a few more at other prisons in the state. Kempf said none of the cells would be used until they are retrofitted with beds, sinks, toilets and water.

Pendleton trial set for January

By LESLIE MIELKE Morning News September 3, 2015

BLACKFOOT — Appearing for his arraignment before Seventh Judicial District Judge Bruce Pickett on Tuesday, Wallace Steven Pendleton pleaded not guilty to three counts of lewd and lascivious behavior with a minor under 16 years of age. If convicted on all three counts, Pendleton could face life in prison and/or a \$50,000 fine and restitution. If convicted, Pendleton would also be required to register as a sex offender. “If convicted, the sentences could be consecutive,” said Judge Pickett. Pendleton’s pre-trial has been set for 1:45 p.m. on Tuesday, Dec. 8. The date for a jury trial is scheduled to begin at 9 a.m. on Tuesday, Jan. 12, 2016. A three-day trial is anticipated. Before these charges, Pendleton faced three counts of lewd conduct with a minor. The charges were dropped with prejudice. The charges have now been refiled. Pendleton was released on his own recognizance. Since Pendleton lives in Montana, Judge Pickett required the defendant maintain telephonic check-in with pre-trial services.

I.F. man sentenced to a rider for punching cop

By TOM HOLM Post Register September 2, 2015

District Judge Jon Shindurling on Wednesday sentenced an Idaho Falls man to a rider program for punching a police officer in the face. Curtis Evans pleaded guilty May 27 to assault or battery on certain personnel. Shindurling ordered an underlying sentence of three to five years in prison and suspended it before putting Evans on a rider. A rider is a 90-day to yearlong intensive treatment program at a minimum security prison. If Evans is unsuccessful in his rider, Shindurling could choose to impose the underlying prison term. James Murdock, Bonneville County chief deputy prosecutor, said the state argued for a two- to five-year prison term. Murdock said the court awarded \$4,537 to Idaho Falls Police officer Garren Kelly for medical bills. Murdock said the state is free to argue for more restitution. Kelly responded to a disturbance call Dec. 8 on the 1300 block of Benton Street. Kelly learned Evans had a warrant for his arrest. Evans then punched Kelly in the face causing him to lose consciousness, according to a Police Department news release. Evans fled but was later located on Woodruff Avenue. Kelly was treated and released at the Eastern Idaho Regional Medical Center.

I.F. man found with 4 pounds of pot gets prison

By TOM HOLM Post Register September 2, 2015

District Judge Bruce Pickett on Wednesday sentenced an Idaho Falls man to one to five years in prison for possession of 4 pounds of marijuana. Steven Aiken, 44, pleaded guilty June 11 to possession of a controlled substance with intent to manufacture or deliver. Stemming from an April 10 incident, Aiken was originally charged with trafficking marijuana in 1 pound or more but less than 5 pounds, but the charge was amended pursuant to a plea agreement. Aiken apologized to Pickett and said he was ready to serve his sentence. “I want to get this done and get on with my life,” Aiken said. “This won’t happen again.” Aiken was credited for the 62 days he served in local jail. Pickett said he admired Aiken’s honesty from the time he was arrested through his court hearings. “The defendant’s version was that you were selling this to get by and make money,” Pickett said. “I acknowledge the honesty and I

think that speaks well of you.” Aiken was arrested following a traffic stop on the 1300 block of North Hitt Road, authorities said. The arresting officer smelled an odor of marijuana coming from Aiken’s vehicle before searching it and finding the pot.

Nampa woman sentenced in connection to murder investigation Elizabeth Wood pleaded guilty to misdemeanor disturbing the peace last month

By RUTH BROWN September 3, 2015 Idaho Press-Tribune

CALDWELL — District Judge Juneal Kerrick sentenced a Nampa woman Wednesday to one year of unsupervised probation after she reportedly yelled at police during a murder investigation. Police initially accused her of attempting to destroy evidence. Elizabeth Wood, 45, was ordered to serve probation after pleading guilty in August to misdemeanor disturbing the peace. Wood’s charge was amended down from felony attempted destruction, alteration or concealment of evidence in a plea agreement. Police originally claimed Wood attempted to conceal or destroy cellphone records that linked another person to the murder of Nampa resident Selena Thomas. The accusation was dropped and instead her disturbing the peace charge stems from yelling at police during the investigation. Wood told Kerrick in court that she was not attempting to destroy evidence and felt the initial charge was unfair. Kerrick granted Wood a withheld judgment in the case. A withheld judgment means the court does not accept a guilty plea and if the defendant successfully completes her probation, she could later request the charge be dismissed. The felony accusation against Wood came when she took her son, Jose Cruz Flores, to the Caldwell Police Department. Cruz Flores, 25, reportedly came to Wood crying and Wood told him to tell police what he knew about Thomas. Cruz Flores pleaded guilty in July to felony destruction of evidence and failure to report a death for his connection to Thomas’ death. Thomas, 36, was beaten to death by her boyfriend, Alfredo Martin Martinez, in August 2014. Martinez then buried her body in a cornfield. Wood played no role in the actual murder of Thomas. She told the judge she was trying to do “the right thing” by taking her son to police. When police were questioning Cruz Flores at the station, they reportedly took his cellphone as evidence. Wood said she felt police did not have the right to take the phone because she did not believe they had a warrant. At one point she admitted to raising her voice to law enforcement. After she left the station, Wood reportedly contacted the person who controlled Cruz Flores’ phone and told that person to cancel the phone’s service. Defense attorney Gerald Bublitz said Wood was not attempting to destroy evidence when she made the call, and prosecutors had no factual evidence of the allegation. “No crime was committed,” Bublitz said in court. He said Wood agreed to plead to the misdemeanor only because she did not want to risk going to trial on the felony charge. Bublitz argued that in his experience as an attorney, prosecutors do not usually amend a felony charge down to disturbing the peace unless they “have no case.” He went on to call the system “broken.” Wood explained that she believed police treated her poorly and were unprofessional. “If you could have seen how (police) smirked, how they laughed – you would have been disgusted,” Wood told the judge. Kerrick said prior to sentencing that the nature of the initial felony charge would have been legally “impossible” to have committed under the circumstances. When Wood yelled at police, Kerrick said she believed Wood lost her temper under emotional circumstances. “I think you did do the right thing in taking your son to the police station,” Kerrick said. Kerrick also imposed a \$500 fine but suspended it, noting Wood had already spent thousands of dollars on legal fees and had the expense of posting bond from jail. Martinez, 40, was sentenced in July to 20 years to life in prison after he pleaded guilty to the killing of Thomas. Daniel Francisco Sena, 22, and Jorge Luis Garcia, 21, both of Nampa, have also been charged for their suspected connection to the woman’s death and await adjudication.