



William Nixon, 82

Dear friends, it is with deep sadness the family of W. W. "Bill" Nixon tell of his passing on Thanksgiving Day at the age of 82 years young. Bill was born to William James and Eva Jane (Wilson) Nixon on Feb. 12, 1932, in Payette, Idaho, the middle child of three boys. Proud of his native Idaho, Bill could lay claim to being a third generation Idahoan.

At the age of two, the family moved from southern Idaho to Bonners Ferry where Bill's parents raised and showed Shorthorn cattle, and his father practiced law. Later, his mom would return to teach at Bonners Ferry High School. Bill attended all 12 years of his formal education in Bonners Ferry, graduating from Bonners Ferry High School in 1950.

Encouraged by his parents, and given a "larger than life" personality, Bill was active in 4-H and numerous high school activities including band, debate, sports (lettering in football and basketball), drama, choir and in the First Methodist Church in Bonners Ferry. He was selected to attend Boy's State and held class and student body offices. All classmates

were his friends; in fact, his graduating class held their 64th class reunion this past Labor Day weekend. The continuation of education after high school was always a top priority of the Nixon family. Bill was appointed to West Point, but at the last minute decided to pass that opportunity and headed to his parents' alma mater, the University of Idaho. There, he pledged the Sigma Chi fraternity and filled his college years serving in various organizations, singing with the Vandaleers, playing intramural sports, and participating in the Young Republicans and debate. The fourth year of his undergraduate studies was his first year of law school. He graduated from law school in 1956 and joined his father in the practice of law in Bonners Ferry. During this time he was elected as Boundary County Prosecutor. He moved to Coeur d'Alene in 1972 and remained active in practicing law, although recently mostly retired, until his passing. At one time or another Bill was a member of the Sandpoint Elks, Bonners Ferry Kiwanis, Moyie Springs Shriners, Royal Order of Jesters of Lewiston, Coeur d'Alene Rotary and Hayden Lake County Club. He served on the Kootenai Medical Center Foundation, North Idaho College Foundation, North Idaho College Board of Trustees (and as chairman of the Board), University of Idaho School of Law Advisory Board, University of Idaho Vandal Booster Board, and Bank of Idaho (now Wells Fargo Bank) Board of Directors. His arena in the practice of law was vast. He particularly enjoyed cases with Jim Knutson arguing before the 9th Circuit Court in San Francisco, with Ray Givens on the legality of electoral re-districting, and with Tim Gresback - playing an April Fool's joke on Tim during the trial. If you meet Norm Gissel, ask Norm about the "Attila the Hun" story. Bill assisted the Brown family of Sandpoint in starting Schweitzer Ski area and served as legal counsel for Pack River Lumber Company of Sandpoint. He was honored with the Professionalism Award from the Idaho State Bar. Bill enjoyed his last trial with Dave Frazier and his son, Jed. During his life, Bill was equally at home in the courtroom as he was in the outdoors. He loved to fly fish, raft the rivers of northern Idaho, share with his friends the thrill of duck and goose hunting on his farmland in Boundary County, play golf and ski. There is the story of skiers on Schweitzer Mountain calling out "Run, Nixon Run." With a big grin, Bill would always say the callers were simply notifying other skiers that Bill was on the slope and to watch out because he knew no other way to ski other than fast and straight downhill. He panned for gold with dear friends in Alaska finding nuggets. He journeyed to England with Jack Wigen from Canada and took the trip of a lifetime with Idaho Supreme Court Justice Charles McDevitt and his wife, Ginny, to Ireland. If Bill disappeared in the small towns of Ireland, all the remaining trio had to do was look for the nearest ice cream sign and Bill would be found. Bill never met a stranger. Strangers would get a nod and a big grin, and Bill had made a new friend. He loved people and people loved him. A gentle and kind person, everyone was treated the same and everyone was entitled to legal representation. It was a standing joke in the family, and sometimes bets placed, to see how long it would take for the family to leave an airport. Whether in the Honolulu or Phoenix airport, hearing the words, "Bill Nixon, is that you?" and the family knew they would be introduced to someone Bill had met somewhere in his past travels. Bill was preceded in death by his parents, Mr. and Mrs. W. J. Nixon; and his brother-in-law Rod Keller of Wenatchee, Wash. Above his love for art and gems, Bill loved his family. He is survived by his wife of 40 years, Judy; children Grant (Marla) Nixon of Hayden Lake, Janna (Rik) Willmering of Spokane, Wash., and Jed (Meagan) Nixon of Coeur d'Alene; grandchildren Brandon, Reed, Elsie and Walter; brothers Lee (Pat) Nixon of Billings, Mont., and Bob (Shirley) Nixon of Seattle; and his nieces and nephews. Bill wished for any remembrances to be sent to the University of Idaho, School of Law, 875 Perimeter Drive MS 2321, Moscow, Idaho, 83844-2321, to be used for the Moscow campus law school, North Idaho College Foundation, or your own remembrances of your personal selection. We welcome you to join the family in the celebration of Bill's life at 11 a.m. on Friday, Dec. 12, at the First Presbyterian Church in Coeur d'Alene. Should you wish to share any memories ("stories") of Bill, please send any tribute to the church. Yates Funeral Home is in care of arrangements, and you may visit Bill's online memorial and sign his guestbook at www.yatesfuneralhomes.com.

Moscow prosecutor wants bail for witness

Lewiston Tribune: Dec. 6

MOSCOW - A witness in the 16-count felony drug case against the owner of Moscow's Hi-Tek Nails may be required to pay bail to ensure his presence at the trial. Latah County Senior Deputy Prosecutor Mia M. Vowels filed a motion this week seeking bail for one of the state's confidential informants after he failed to appear on subpoena at the preliminary hearing for 42-year-old Lee J. Thang. Latah County 2nd District Judge John R. Stegner agreed Friday to set a hearing on the matter for 2 p.m. Dec. 15. Vowels told the judge the informant is a material witness in the state's case, and the prosecutor's office has had difficulty contacting him. She said after the hearing it is rare to seek bail for a witness, but his testimony is required to prove some of the allegations against Thang. Thang is accused of conspiring with his girlfriend, Jeanie K. Lee, to traffic and deliver black tar heroin and crystal methamphetamine. He has pleaded innocent to all 16 felonies. Lee, 30, entered a plea deal with prosecutors, agreeing to testify against Thang in his trial set for 9 a.m. Jan. 12. She and Thang were initially charged jointly with identical crimes. Lee pleaded guilty to conspiracy to deliver heroin and conspiracy to deliver methamphetamine as part of the agreement.

Prosecutor's use of 'Dixie' lyrics spurs appeal

Lewiston Tribune: Dec. 6- Associated Press

BOISE - Defense attorneys have filed an appeal claiming a man convicted of lewd conduct in Idaho should get a new trial because they say a prosecutor introduced racism into the case by quoting lyrics from the song "Dixie" in her closing argument. The song, originally penned in 1859 for a minstrel show and later popularized as the Confederate anthem during the Civil War, longingly recalls the antebellum South. Defense attorneys for James D. Kirk said the use of the song during the trial of the black man accused of assaulting white teenagers turned the trial into a racial matter, whether or not that was the intention of the prosecutor. The defense lawyers made the arguments last week during a hearing before the Idaho Court of Appeals, the Idaho Statesman reported Friday. Attorneys for the state countered that while the song's association with Southern plantation life is fairly clear, the prosecutor's use of the lyrics wasn't a racial ploy. Kirk was sentenced to up to 20 years in prison in April 2013 after the jury found him guilty of committing lewd conduct against a 17-year-old girl and sexually battering a 13-year-old girl. During her closing arguments, Canyon County Deputy Prosecutor Erica Kallin paraphrased the song. "Some people know it. It's the 'Dixie' song, right? 'Oh, I wish I was in the land of cotton. Good times not forgotten. Look away. Look away. Look away,' " Kallin said. "And isn't that really what you've kind of been asked to do? Look away from the two eyewitnesses. Look away from the two victims. Look away from the nurse and her medical opinion. Look away. Look away." Canyon County spokesman Joe Decker said Kallin declined to comment, but added that she wasn't trying to stir up racism against Kirk. "In fact, she's absolutely mortified by the allegation that she did," Decker said. Decker said Kallin originally planned to use more common metaphors such as "smoke and mirrors" and "red herring" during her closing argument but changed her mind after Kirk's defense attorney used the same metaphors. Kallin had recently heard another prosecutor use the "Dixie" lyrics during a closing argument in a different county, Decker said. Kenneth Jorgensen from the Idaho attorney general's office argued on behalf of Kallin during the appellate hearing. He said it's incorrect to assume anyone who quotes the song has racial motivations. "It's pretty common knowledge that this song is associated with the South," Jorgensen said. "To then interpret that as a call to racism, a call to consider the defendant's race in relation to the case, I think, is where this ultimately breaks down." The appellate judges didn't say when they would issue a ruling in the case.

Manslaughter case heads to jury trial

Coeur d'Alene Press: Dec. 6- Keith Kinnaird/ Hagadone

SANDPOINT - A Washington state man is rejecting a plea offer to resolve a vehicular manslaughter case against him. Christopher Dale Jewsbury is scheduled to be tried by a jury of six in Bonner County Magistrate Court on Jan. 8, 2015. Jewsbury is charged with accidentally killing Pend Oreille County, Wash., resident Amy Lynn Brady in a collision on U.S. Highway 2 near Oldtown on March 14. Idaho State Police said Jewsbury was driving westbound when he veered into the eastbound lane. His GMC Sierra pickup sideswiped an oncoming sport utility vehicle before crashing head-on into Brady's Chrysler 300 sedan. Brady, 39, was killed in the collision. Jewsbury, a 50-year-old Spokane resident, broke both legs and his ankle in the crash. Jewsbury was in a wheelchair when he appeared during a pretrial hearing, although he was able to stand when a bailiff ordered courtroom occupants to rise for the incoming judge. Brady's mother, Lesley Miller, was also present for the hearing. Judge Debra Heise noted there was no resolution in the case, meaning Jewsbury declined Deputy Prosecutor Roger Hanlon's offer to recommend a 360-day sentence with 180 days suspended in exchange for a plea of guilty. Miller has been unrelenting in her opposition to Hanlon's decision to prosecute at the misdemeanor level instead of the felony level. Jewsbury tested positive for cocaine and marijuana, according to state police reports in the case. Jewsbury told state police he fell asleep behind the wheel. Hanlon does not comment to the media, but has told Brady's family in emails that the case is a "tragedy," but there is insufficient evidence to demonstrate that Jewsbury was impaired at the time of the collision. Miller contends that the state has ample evidence to prosecute a felony. Brady was a single mother with two children, one of whom is a minor and another who is a young adult. Brady served in the U.S. Army in Afghanistan prior to her death. Miller relocated from Arizona to assume guardianship of her grandson and aid her granddaughter, who is starting her post-secondary education. "Our family still has hope for justice for Amy. She is not a plea bargain. She is priceless in our hearts and souls. We miss her," Miller said in a letter to the court. Hanlon had a strong track record in prosecuting vehicular manslaughter cases from 2003 to 2010. Ten cases were prosecuted in that time frame, resulting in nine convictions and one acquittal. The two cases preceding Jewsbury's, however, did not end well. A Louisiana man has still not been held accountable for a motorcyclist's death he allegedly caused on U.S. Highway 95 in 2011. The defendant in that case, Taj LeCompte, simply skipped the proceedings and a warrant was issued for his arrest. Hanlon ceased prosecution of a Texas man accused of causing a deadly pileup on U.S. 95 in January 2012. Hanlon moved to dismiss the case after a defense-commissioned crash reconstruction expert cast doubt on the thoroughness of the ISP investigation and the quality of winter highway maintenance, court records show. Lawrence "Red" Barber, a 60-year-old from Twin Falls, was killed in the 2011 crash. James Mady, 49, of Creswell, Ore., was killed in the 2012 crash.

Moscow attorney to discuss long-term care

Lewiston Tribune: Dec. 8

MOSCOW - Moscow attorney William C. Kirsch will discuss "Paying for long-term care with Medicaid: A quick look for beginners" Wednesday during a meeting of the Moscow League of Women Voters. The discussion will be from noon to 1 p.m. Wednesday in the Fiske Room of the 1912 Center, 412 E. Third St. The public is welcome to attend. Kirsch will discuss Medicaid and covering the costs of long-term care.

Man sentenced in Canyon County for lewd conduct with 5-year-old

IdahoStatesman.com: Dec. 8- Staff

Gerardo Contreras, a 28-year-old man from Mexico, has been sentenced by Judge Thomas J. Ryan to at least 10 years in prison for felony lewd conduct with a child under 16. Ryan ordered Contreras to pay a \$5,000 civil penalty and court costs, to have no contact with the victim, to register as a sex offender and to submit a DNA sample to the Idaho database. Contreras must serve at least 10 years in prison before he can be considered for early release on parole. He could serve up to 35 years total in prison. Police arrested Contreras on a felony warrant after a joint investigation by the Nampa and Caldwell police departments. The investigation found that Contreras had sexual intercourse with the 5-year-old child of his girlfriend in 2011. Contreras was deported to Mexico on a separate charge in 2011 before illegally re-entering the country and being arrested on the felony warrant in January 2013. "The act of sexual intercourse with a 5- to 6-year-old child is unconscionable and needs punishment," the judge said during sentencing. "I don't think I need to say anything more than that. It is as evil of behavior as the court sees." Canyon County Prosecutor Bryan Taylor said Contreras "used his position of trust with the family to take advantage of this young victim for his own sexual gratification." It was not immediately clear whether Contreras will be deported again or serve his sentence in Idaho.

Defendant in Juliaetta pedestrian fatality case gets different attorney

Lewiston Tribune: Dec. 9

MOSCOW - The Juliaetta driver charged with felony vehicular manslaughter related to a vehicle vs. pedestrian collision was appointed a new attorney Monday. Latah County 2nd District Judge John R. Stegner appointed Deborah McCormick to represent Drifter B. Nibler, 31, after his attorney, Brandie Rouse, learned another client of hers is the son of the Juliaetta man who died in the collision. Nibler allegedly struck Stanley O. Solberg, 58, with his pickup truck at about 9 p.m. May 3 as Solberg crossed Main Street in Juliaetta, according to court documents. Solberg died in the collision. Nibler was arrested on charges of driving under the influence of alcohol, drugs or any other intoxicating substances following the wreck, according to court documents. He was charged with felony vehicular manslaughter and misdemeanor driving without privileges. He has pleaded innocent to both charges. A status hearing in the case is set for 10 a.m. Dec. 22. Nibler was not present during Monday's hearing.

Court upholds drug conviction

Coeur d'Alene Press: Dec. 9- Keith Kinnaird/ Hagadone

BONNERS FERRY - The Idaho Court of Appeals is affirming a felony drug conviction in Boundary County even though inadequate foundation was laid for testimony on the weight of the marijuana. John M. Barber was arrested for felony possession of 4.2 ounces of pot during a 2012 traffic stop. The Libby, Mont., man was convicted during a two-day jury trial in 1st District Court and was given a one- to four-year sentence with retained jurisdiction. Barber appealed his conviction, contending Judge Barbara Buchanan erred by overruling an objection that the arresting officer's testimony on the weight of the marijuana on a digital scale lacked foundation. Foundation consists of preliminary questions to a witness that are meant to establish the admissibility of evidence. Barber contended there was no required foundation to show the accuracy of the scale before evidence of weight was admitted into evidence. The officer testified that scale was accurate because the digital scale calibrates itself. The appeals court ruled that the officer's bare testimony that the digital scale's internal calibration was insufficient to establish its accuracy. "We hold that a mere conclusory statement that a scale is self-calibrating, standing alone, is not enough to establish accuracy and thereby lay a foundation for the results shown by the scale," Judge Karen Lansing wrote in a Dec. 4 opinion. However, that deficiency was cured with follow-up testimony that a mechanical triple-beam scale registered precisely the same weight for the marijuana, Lansing wrote. Chief Judge Sergio Gutierrez and Judge David Gratton concurred.

Judge Dismisses 1 Charge in Daniel Case

MagicValley.com: Dec. 9- Laurie Welch

RUPERT • Fifth District Judge John Butler has dismissed one charge against Alice (Alicia) Daniel but she will still face a jury on two other counts filed by the state's Attorney General's Office, a state official said Monday. Todd Dvorak, spokesman for the Attorney General's office, which filed the charges, said in a voicemail that the judge dismissed the charge on Thursday after a Nov. 26 motion hearing held in Jerome. Dvorak was traveling Monday and unavailable for further comment. Daniel was an employee at the driver's license bureau when she was charged for allegedly falsifying her time cards and inappropriately using sick time while she rendezvoused with her paramour, former Minidoka County Sheriff Kevin Halverson. Daniel has pleaded not guilty to the charges. According to court records, the court dismissed the charge of an officer stealing, mutilating or falsifying public records because the state statute does not "criminalize" conduct occurring before a document becomes a public record. The court ruled the time cards would only become a public record after they were submitted to the undersheriff or auditor. Stealing, mutilating or falsifying the cards would have to occur after they were submitted to warrant the charge. Butler denied the defense's request to dismiss the other two felony charges, grand theft and presentation of a fraudulent account or claim by any person with the intent to defraud. The grand theft charge could carry up to 20 years in prison and a \$50,000 fine, if Daniel is convicted. The trial is set at 9 a.m., Feb. 11 in Minidoka County 5th District Court in front of Butler. Daniel was charged after the state Attorney General's Office investigated Halverson, who was caught on videotape using a county gas card to put fuel in Daniel's car. Halverson resigned and spent 90 days in the county jail. Daniel originally was charged with felony forgery. But a judge dismissed the case in January, saying alteration of time cards didn't warrant the charge.

Idaho woman's NSA surveillance suit heard

Idaho State Journal: Dec. 9- Gene Johnson/ Associated Press

SEATTLE — A federal appeals court heard arguments Monday in an Idaho woman's challenge to the National Security Agency's bulk collection of phone records — the third time in recent months that appeals courts around the country have considered the controversial counterterrorism program. Calling herself an ordinary American upset about the program, nurse Anna J. Smith sued the government last year, arguing the agency's collection of call records violates the Fourth Amendment's prohibition on unreasonable searches and seizures. In June, U.S. District Court Judge Lynn Winmill in Boise, Idaho, disagreed — but nevertheless noted that the case raised privacy questions that could wind up before the Supreme Court. "We're dealing with a dragnet of call records," Smith's attorney and husband, Peter Smith, told a three-judge panel of the 9th U.S. Circuit Court of Appeals on Monday. "Anna's not a criminal defendant. She's not a suspect in any crime. And yet her records are being swept up." The government has acknowledged that under a USA Patriot Act provision, and with authorization from the Foreign Intelligence Surveillance Court, it collects data from telecommunications companies showing the time and length of calls, along with numbers dialed. With a further showing to the Foreign Intelligence Surveillance Court, investigators can then run queries of that data in an effort to uncover links involving suspected terrorists. The Justice Department called it an "important government anti-terrorism program" in its briefing to the 9th Circuit. "It is true that, under the program, the government acquires a large volume of business records containing telephony metadata," department lawyers wrote. "But consistent with the governing Foreign Intelligence Surveillance Court orders authorizing the program, that information is used and analyzed only under highly restricted circumstances." President Barack Obama has called for an end to the bulk collection of phone records of millions of Americans not suspected of crimes. Earlier this year, he suggested instead that Congress make changes that would have telecommunications companies — not the government — maintain the records, which could then be queried by investigators with appropriate court orders. Peter Smith told the judges that the NSA's bulk collection of phone records concerning millions of Americans bears little resemblance to the 1979 case. The scope of data collected here could allow the government to piece together an intimate picture of someone's life: whether a person has a medical problem or has been calling a suicide hotline or getting counseling for alcoholism, he said. Judge Richard C. Tallman questioned whether Anna Smith had standing to challenge the program. While the government has acknowledged that records of Verizon business clients are among those collected, it has not confirmed that Verizon's personal phone customers, including Smith, are among them. However, Smith also is represented by the American Civil Liberties Union and the Electronic Frontier Foundation. The ACLU is a Verizon business client, and her communications with the organization could be swept up, Jameel Jaffer, the ACLU's deputy legal director, noted after the hearing. Appeals judges M. Margaret McKeown and Richard C. Tallman questioned Justice Department lawyer H. Thomas Byron III about whether people would have constitutional privacy rights in other records turned over to a third party, such as medical records. Byron said it would depend on the context. "I agree it's a very difficult inquiry," he said.

Idaho high court will decide if convicted killer should get a new trial

Lewiston Tribune: Dec. 10- Ralph Bartholdt

The state's highest court will decide if a Nez Perce County murder case should be retried using evidence that was not allowed in the original trial in Lewiston's 2nd District Court. After hearing arguments this week, the Idaho Supreme Court took under advisement a petition to review the murder conviction of former Nez Perce County sheriff's deputy Joseph A. Thomas Jr., who was convicted in December 2011 of strangling his ex-wife, Beth Irby-Thomas, with a belt. Thomas argued three years ago that his ex-wife engaged in the solitary practice of autoerotic asphyxia and that her death was a result of self-strangulation. Irby-Thomas was found dead with a belt around her neck at her Normal Hill home in the early hours of May 1, 2011. The defendant testified he had sex with her that night, and that she was alive when he left her. Second District Judge Michael Griffin excluded evidence of autoerotic asphyxia at trial because there was no clear evidence to show that the victim engaged in the practice with others or by herself. Thomas was sentenced to 25 years to life in prison. He appealed the jury's verdict in March 2012. At Monday's hearing in Boise, Ken Jorgensen, lead deputy attorney general, argued that the District Court was correct in prohibiting the evidence based on relevance. He said Thomas asked the jury to take "a leap of faith" and accept that his ex-wife engaged in asphyxiation, and that she used props such as a belt despite telling a friend that she did not. "It would require certain assumptions that simply are not supported by the evidence," Jorgensen said. The evidence was properly excluded because it was not relevant, Jorgensen told the court, and it could also have been excluded based on hearsay. State appellate public defender Sara B. Thomas, however, asked the court to send the case back to District Court so it could be retried using all the evidence. She argued prosecutors misled the jury during the trial, and the court denied the defendant his right to display evidence critical to his defense. "Despite knowing otherwise, the state hinted to jurors that only the defense team claimed (the victim) engaged in this practice," she said. "The court prevented Mr. Thomas from putting on critical evidence to support his defense and to lend credibility to his version of the facts." Justice could not fully be served by excluding Thomas' evidence, she said. "Finding that this is fair and this is harmless does not promote justice," she said. "And it does not promote the public's perception of justice." Supreme Court Justices Joel D. Horton and Warren E. Jones recused themselves from Monday's hearing.

Murder charge dismissed

Idaho State Journal: Dec. 10- Debbie Bryce

POCATELLO — Charges were dismissed Tuesday in the first-degree murder case in connection to the death of a Tyhee man in May. Josephine Bobbie Theboy, 22, was arrested May 3, and charged with first-degree murder, burglary and robbery in the death of Martin Anderton. Anderton was found badly injured and unconscious the morning of May 3 when firefighters were called to his Tyhee residence because of smoke. He was transported to the University of Utah Hospital, where he died four days later. Anderton died from smoke inhalation, but the cause of death was ruled undetermined. Following a two-day preliminary hearing that started Monday, Magistrate Scott Axline dismissed the charges against Theboy. "I can't judge the case on the evidence presented," Axline said. Bannock County Prosecutor Steve Herzog said he plans to refile charges against Theboy. But he will do follow-up interviews and take a more measured approach in the case. "We're disappointed. We believed that we had sufficient evidence, but ultimately, the judge weighs that evidence and makes a decision," Herzog said. "In this case, the judge disagreed with us." Theboy remains in custody at the Bannock County Jail on a warrant from Fort Hall. Herzog said she will be transported to Fort Hall to face that charge. During the hearing Tuesday, Bannock County deputy Lt. Toni Vollmer testified that she had secured warrants and traveled to Fort Hall to claim evidence collected when Theboy was arrested, including identification belonging to Anderton. Vollmer said she also met with Theboy, who asked if Anderton was still alive. Public Defenders Dave Martinez and Tawnya Haines represented Theboy in the murder case. Martinez pointed out that another detective had informed his client of Anderton's condition prior to the meeting with Vollmer. Following the dismissal, Martinez said the court did its job in the murder case. "The prosecutor can refile if they choose," Martinez said. "I guess we just have to wait and see what happens." Fort Hall Detective Brandon Tuia testified Tuesday that he was called in when officers found Anderton's personal identification, after arresting Theboy for intoxication. Tuia said he notified Bannock County and learned of the assault and fire on Cherry Lane in Tyhee. Herzog said investigators at the scene of the fire at Anderton's Tyhee residence said the blaze started on a loveseat in the living room. The source of the fire was determined to be an open flame, most likely a candle. Witnesses testified that a candelabra was known to sit on a coffee table in Anderton's living room. The state argued that after meeting Theboy and her boyfriend, Delson Wahtomy, at the Tyhee Store, Anderton invited them back to his home to drink. The couple stayed for a short time, then reportedly went to a trailer home in Fort Hall. The state's case alleged that at some point, Theboy and Wahtomy returned to Tyhee, became involved in an altercation with Anderton and stole a flat screen television from Anderton's home. The TV was located at the Fort Hall residence after Theboy's arrest, and a receipt verified that the television belonged to Anderton. A black T-shirt worn by Theboy at the time of her arrest tested positive for Anderton's blood, but Martinez was quick to note that video surveillance at the Tyhee Store shows that Wahtomy was wearing the shirt the night the couple came into contact with the victim. Haines noted that Theboy was wearing the shirt 18 hours after the video was shot. During the hearing Tuesday, Wahtomy's nephew, Thurston Redwoman, said he was drinking on the day and night the incident occurred, and he remembered very little. He did remember drinking with Theboy and Wahtomy at the Fort Hall trailer. Redwoman's girlfriend, Olivia Jay, said Wahtomy, Theboy and Redwoman picked her up in a white truck and she was also drinking at the party at the trailer house. However, Jay did confirm that at some point, Theboy and Wahtomy left the trailer, and at some point she noticed a flat screen TV and a bottle of vodka that she had not seen before. Jay said people at the house party were trying to hook up the television. Martinez argued that there was no direct evidence tying the television to Theboy and that Jay couldn't be sure that Theboy and Wahtomy left and were not just out of her view. During closing, Deputy Prosecutor Jeff Cronin said the state did not have to prove that Theboy intended to kill Anderton, only that the scheme to steal his television lead to his death. Cronin said that another inmate testified Monday that she overheard Theboy state that she was in jail for a burglary that was interrupted by an altercation. The medical examiner reported that Anderton sustained numerous blunt force injuries to his head, torso and extremities and blood stains at the scene were in the area of the TV. Anderton's ex-wife, Elli Anderton, and their daughter, Kristina Anderton, cried softly as evidence was presented Tuesday. "We were divorced but we stayed best friends, right to the end," Elli said. Kristina said her dad was a friendly, happy guy who often brought home strangers for a drink. Elli and Kristina were visibly shaken following the dismissal Tuesday. "It's just horrible, justice was not served," Elli said. "I don't feel like the judge even listened to the evidence. I'm glad to hear that they plan to refile and I'm confident that next time, justice will be served." Herzog said he also anticipates charges being filed against Wahtomy in connection to Anderton's death. Wahtomy remains in custody in the Bannock County Jail. He is set to appear in District Court Monday for assaulting another inmate. Wahtomy is charged with aggravated battery and a \$100,000 bond was set in the case.

Sentence stands in Jacobson killing

Coeur d'Alene Press: Dec. 10- Keith Kinnaird/ Hagadone

SANDPOINT - The Idaho Court of Appeals is rejecting yet another effort by a Sandpoint man to have his life sentence reduced for his role in the killing a U.S. Forest Service law officer in 1989. Joseph Earl Pratt is serving the sentence for his involvement in the murder of Brent "Jake" Jacobson, who tracked Pratt and his brother, James, to the Smith Creek drainage following a failed home-invasion robbery in Sagle. Jacobson and Bonner County Sheriff's Deputy Steven Barbieri trudged through waist-deep snow in the rugged drainage and found the brothers sleeping under a tree after a lengthy search. James Pratt opened fire with a 12-gauge shotgun, which left Jacobson mortally wounded. The Pratts later surrendered to police and were ultimately convicted of first-degree murder, kidnapping, robbery and other charges. James Pratt was sentenced to death by lethal injection, but the Idaho Supreme Court later converted the sentence to life without parole. Joseph Pratt was also sentenced to life. Joseph Pratt appealed his conviction and in 1994 the supreme court held that Jacobson was not acting in lawful discharge of an official duty because his authority did not extend outside of the national forest system. However, the high court affirmed the conviction because there were alternative first-degree predicates, namely robbery and kidnapping. Joseph Pratt has since filed repeated motions in 1st District Court for a reduction in sentence on grounds the life term was illegally imposed. Those motions were denied, rulings which were later upheld by the appeals court. In his eighth and latest effort filed last year, Joseph Pratt argued that the district court impermissibly considered the fact that Jacobson was acting in the line of duty because Jacobson was outside his jurisdiction. First District Judge Barbara Buchanan denied the motion. Buchanan ruled that the motion was barred by a legal doctrine which bars the re-litigation of claims that have already been finally decided. The appeals court affirmed Buchanan's ruling, according to an unpublished opinion released on Tuesday. "The fact remains that Pratt and his brother were convicted of engaging in a series of criminal acts, including a shoot-out with officers, which led to the death of a peace officer," Chief Judge Sergio Gutierrez and judges Karen Lansing and John Melanson said in the four-page opinion. Joseph Pratt, 53, is serving his sentence at the Idaho State Correctional Institution in Kuna, according to the Idaho Department of Correction. James Pratt, 55, is serving his term at the Kit Carson Correctional Center in Burlington, Colo. Jacobson was posthumously awarded Idaho's Medal of Honor in 2011.

Idaho court to review strangling conviction

Idaho Statesman.com: Dec. 10- Associated Press/ Lewiston Tribune

LEWISTON, IDAHO — The Idaho Supreme Court will decide if a new trial is needed for a former Nez Perce County Sheriff's deputy convicted of strangling his ex-wife. The court after hearing arguments on Monday decided to consider a petition to review the first-degree murder conviction of Joseph Thomas Jr., the Lewiston Tribune reported. Thomas was convicted in December 2011 of strangling Beth Irby-Thomas and sentenced to 25 years to life in prison. Irby-Thomas was found dead with a belt around her neck on May 1, 2011. Thomas testified he had sex with her that night and that she was alive when he left. The key issue at trial was whether Thomas murdered his wife by strangulation, or whether she accidentally strangled herself. Thomas' appeal is based on the district court not allowing defense attorneys to put forward a theory that Irby-Thomas inadvertently strangled herself while engaged in the solitary practice of autoerotic asphyxiation, an act in which individuals seek a thrill by choking themselves into unconsciousness. State appellate public defender Sara B. Thomas argued Monday that prosecutors misled the jury and that the court denied the defendant his right to display evidence needed for his defense. "Despite knowing otherwise, the state hinted to jurors that only the defense team claimed (the victim) engaged in this practice," she said. "The court prevented Mr. Thomas from putting on critical evidence to support his defense and to lend credibility to his version of the facts." Evidence of autoerotic asphyxiation was excluded from the trial, 2nd District Judge Michael Griffin ruled, because there was no clear evidence to show that Irby-Thomas engaged in the practice. "Finding that this is fair and this is harmless does not promote justice," attorney Thomas said.

Former Teacher Files Federal Lawsuit

MagicValley.com: Dec. 11

IDAHO FALLS (AP) | A southeastern Idaho science teacher who lost her job has filed a federal lawsuit against the Snake River School District. The Post Register reports that the Idaho Education Foundation filed the lawsuit on Elaine Asmus' behalf on Wednesday in U.S. District Court in Boise. The lawsuit names Superintendent Mark Gabrylczyk and the school board as defendants. Asmus taught for 28 years at Snake River High School. Laura Gabrylczyk, a science teacher at Snake River Junior High School and wife of the district superintendent, filed a complaint against Asmus following a disagreement. A subsequent decision not to renew Asmus' contract caused an outcry from hundreds of former students. The board then offered a contract but with a one-year probation. Asmus' attorney says the board gave her the "runaround" until a contract signing deadline passed.

Pullman man gets 3 years in drug case

Lewiston Tribune: Dec. 12- Ralph Bartholdt

Donald J. Enyeart asked for a chance at drug rehabilitation, but a 2nd District Judge Thursday wondered why he hadn't already taken the opportunity to seek it. Judge Jay P. Gaskill sentenced the 43-year-old Pullman man to a minimum of three years in prison for one felony count of possession of a controlled substance with intent to deliver and a second count of possession of a controlled substance. Enyeart was arrested by the Idaho State Police almost two years ago while driving north on U.S. Highway 95 near Lewiston. A police drug dog alerted on the car, and Enyeart was found to have more than \$1,500 - part of it in his billfold, and part in his underwear. Police also found a quarter-ounce of cocaine in a waistband pouch and a small quantity of methamphetamine in a coat pocket, according to court records. In September, Enyeart opted for a plea agreement that relied on the discretion of the judge, who could sentence Enyeart to prison or send him to a rehabilitation program that could result in the defendant's release on probation. Gaskill opted to send Enyeart to prison. "I have to look at what goes on in real life," Gaskill said at Thursday's sentencing. He commented on Enyeart's criminal history, which comprises more than a dozen pages in the court record. The record shows, Gaskill said, a failure "to comply with the law and be obedient to authority." If the defendant wanted rehabilitation, Gaskill said, he would have liked to see a record of treatment in the past two years as the case ground slowly to conclusion. "I believe if you were serious, that would have happened," Gaskill said. "I've seen none of that."

Keeping up with federal labor laws

Idaho Business Review: Dec. 11- Jeremy Vermilyea

As the public has come to understand in the post-election flurry of political maneuvering, the president of the United States has (arguably) broad power to act via executive order so long as it does not violate the Constitution or statutory or common law. Since 1900, sitting presidents have issued an average of 44 executive orders per year. Some are very high-profile, such as President Obama's recent one addressing immigration; most, however, do not garner nearly the same level of attention. Nevertheless, they still ultimately have the force of law and can have sweeping impacts. That is certainly the case with the Fair Pay and Safe Workplaces executive order, which President Obama issued on July 31. The order applies to all federal contracts for the procurement of goods and services, including construction, where the value of the contract exceeds \$500,000. Federal contractors will now have significant new reporting obligations, and prime contractors will also have significant new policing and record-collection obligations, to ensure that their subcontractors are complying with the order's new requirements. The consequences of failure to properly report the information sought could be significant and devastating for contractors. All federal contracting agencies must now require, as part of any solicitation, that offerers represent whether they have had any adverse determinations, awards, decisions or judgments within the prior three-year period arising from a host of federal labor laws or their state equivalents. This information is then used as part of the agency's determination, prior to award of any contract, whether the contractor is a "responsible" bidder or offerer. The laws that are part of this new reporting requirement include the Occupational Safety and Health Act, the Davis-Bacon (prevailing wage) Act, the National Labor Relations Act, the equal employment opportunity executive order of 1965, the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act and others. Additionally, any violation of any equivalent state law must also be reported, even though the requirement to report applies only to federal contracts. In addition, all contractors must require their subcontractors with over \$500,000 in value to provide the same information to the contractor, looking back three years prior to the contract award. Also, the contractor must, in consultation with the agency, make a determination whether the subcontractor "is a responsible source that has a satisfactory record of integrity and business ethics." The subcontractor must update the information every six months. After the contract is awarded, every contractor must provide the contracting agency with an update of all of the contractor's and its subcontractors' information. If the contractor or a subcontractor is found to have violated one of the applicable laws in the prior six months, the agency must consider taking corrective action. That corrective action could be an agreement that the contractor or subcontractor take remedial actions, or that the contractor or subcontractor avail itself of "compliance assistance" depending on the nature of the violation, or it could be a decision by the agency not to exercise an option on a contract, termination of the contract, or in some cases a referral to the agency's suspending and debarment official. The order also requires that each agency create a new position of "labor compliance advisor" to "consult" with contractors as to whether corrective action should be taken with respect to a subcontractor. The order requires that the Federal Acquisition Regulations (FAR) be amended to reflect the intent of the order, and requires the Department of Labor to issue guidance to help agencies determine what violations of the various labor laws constitute "serious, willful or pervasive" violations of the labor laws. The order also directs the creation of a database within the Office of Management and Budget to track the adverse determinations contemplated in the order, to be used by contracting officers in evaluating the information given them by contractors and subcontractors, and by contractors in submitting information to contracting agencies. The order also bars the use of most mandatory pre-dispute arbitration agreements in disputes with employees exceeding \$1 million that arise from claims of sexual assault or harassment or claims arising from Title VII of the Civil Rights Act, which governs equal employment opportunities. The order will take effect in 2016, after rules have been written to implement it. The reporting requirements look back three years, meaning that we are already within the window for compiling and reporting the required information. Any contractor that does business with the federal government should first ensure that it is acting in compliance with the various labor laws that are listed in the executive order. In the event that a contractor finds itself in a dispute involving one of these laws, or a state equivalent, that contractor should now account for the reporting requirements imposed by this executive order, and the potential for an adverse responsibility determination, when evaluating how to approach the dispute. And finally, contractors should keep careful records and prepare to report the applicable information once final rules are written and the order is implemented in 2016. *Jeremy Vermilyea is a shareholder with the law firm of Schwabe, Williamson & Wyatt, and a co-chairman of its construction and design practice group. He has nearly 20 years of experience advising construction businesses throughout the Northwest. Contact him at jvermilyea@schwabe.com, or follow him on Twitter – @NWConstLaw.*

Drug, theft convictions follow man facing domestic battery charge

By Samantha Malott, Daily News December 5, 2014

A Moscow man facing domestic battery charges Thursday had a hearing on them delayed. But a theft conviction finally caused a sentence for drug fraud that had been withheld earlier to be imposed. And he learned he and his wife could lose custody of their children. Ory Stephenson, 25, of Moscow, is facing felony charges of domestic battery in the presence of a child, stemming from an alleged Oct. 10 incident with his wife. Mia Vowels, senior deputy prosecuting attorney, submitted an affidavit to Judge John Judge, showing evidence Stephenson and his wife had acted against the agreed upon case plan, including that he missed voluntary treatment sessions. Vowels requested a no contact order be issued as a condition of Stephenson's bond. "Mr. Stephenson admitted to substance abuse and domestic violence in front of his children," Judge said. "I went out on a limb to allow these parties contact and they didn't follow it and that is particularly alarming to me." "I'm going to enter the new no contact order," Judge told Stephenson. "No contact with Mrs. Stephenson, or your children for that matter." Judge said both Stephenson and his wife have substance abuse and mental health issues that make it difficult to properly care for their children, and the issue must now be heard as a child protection case. Vowels said a petition for protective custody had also been filed Thursday afternoon for the children. "This is certainly unsettling," Judge said. The preliminary hearing to determine if there is sufficient evidence to bind Stephenson over to the district court on the domestic battery charge, originally scheduled for Thursday, will now be held 2 p.m. Dec. 18 at the Latah County Courthouse. Stephenson also appeared for a probation violation hearing involving theft and drugs. Erin Tomlin, representing the state, said Stephenson pleaded guilty to committing petit theft Aug. 27. That violated his probation from a previous withheld judgment for the charge of obtaining or attempting to obtain legend drugs by fraud. So, she said, he should be considered convicted and have a sentence imposed. "Supervised probation, with everything that is going on, is a great idea," Tomlin said. Judge sentenced Stephenson to 180 days in jail, with 180 suspended, ordered him to pay \$355 in fines by March 31, 2015, and put him on supervised probation until July 2, 2016. He must attend abuse treatment programs to be determined by his probation officer, Judge said. "You have some work to do," Judge told Stephenson.

I.F. man charged with embezzling \$1.6 million

By ALI TADAYON Post Register December 5, 2014

BLACKFOOT — The former general manager of Idaho Select Inc. was booked into the Bingham County Jail on Friday on felony charges that he embezzled nearly \$1.6 million from the Aberdeen potato packer and its subsidiary. Russell Leonardson, 49, of Idaho Falls, turned himself in to Bingham County authorities after a warrant was issued for his arrest, charging him with two counts of grand theft and 70 counts of forgery, Chief Deputy Prosecutor Cody Brower said. In a separate civil complaint, Idaho Select seeks \$1,781,445 from Leonardson that company officials believe he embezzled since 2007. Idaho Select also is requesting that Leonardson pay attorney fees and damages to be determined at trial. The civil complaint was filed Thursday in Bingham County. It names Leonardson, his wife, Melissa, and Leonardson's company, Mobile Controller Inc. as defendants. The differing amounts of money stem from an Idaho criminal statute that only allows grand theft to be charged for the past five years. In the criminal case, Leonardson is charged with embezzling \$817,779 from Idaho Select and another \$779,130 from the company's subsidiary, Select Express LLC. According to the civil complaint, Leonardson, who worked for Idaho Select from 1997 until August, used company funds to pay for "personal expenditures." Leonardson was authorized to write checks and use the Idaho Select credit card, the document said. When Idaho Select started Select Express LLC, a "manager-managed" agricultural transportation company in 1998, Leonardson assumed responsibility for maintaining its financial documents as well. "At times," the complaint said, "the financial statements were late or incomplete." As a result, the company hired a full-time accountant in July. Leonardson resigned in August, the complaint said, after giving the company two weeks' notice. In September, Idaho Select hired the accounting firm of Cooper Norman to conduct an investigation into Leonardson's conduct as manager and controller, the complaint said. Cooper Norman investigators found that from 2007 to 2014, Leonardson used company funds to pay himself, his wife and other family members, as well as his company, Mobile Controller Inc. He concealed the transactions by using the names of regular company vendors on Idaho Select's QuickBooks account to hide the payments he made to himself and the others, the complaint said. Each count of forgery pertains to an instance where Leonardson altered the name of a beneficiary, Brower said. Leonardson also had a company credit card that he used for a variety of personal expenditures and "actively concealed the credit card statements from Idaho Select, Inc.," the complaint said. Those personal expenditures included the purchase of cars, computers, food, plane tickets, fitness equipment and a hot tub, among other items. Leonardson remained in custody Friday with bond set at \$100,000. Forgery and grand theft are punishable by up to 14 years in prison per count.

I.F. man gets probation for hoops outburst

By ALI TADAYON Post Register December 5, 2014

An Idaho Falls man was sentenced to probation for unruly behavior at a Skyline vs. Bonneville high school basketball game. In the Feb. 14 incident, Christopher Baker, 42, pushed a school resource officer and challenged officials to fight. Baker pleaded guilty Nov. 14 to disturbing the peace, an infraction, and refusing or obstructing officers during an arrest, a misdemeanor. Pursuant to a plea agreement, Idaho Falls city prosecutors dismissed an additional charge of misdemeanor battery on an officer and reduced the disturbing the peace charge from a misdemeanor to an infraction. The plea agreement was reached Oct. 23 near the end of the first day of Baker's two-day trial, court records show. Magistrate Judge Keith Walker sentenced Baker to two years of unsupervised probation and a discretionary jail sentence of 90 days, which he can impose if Baker violates the terms of his probation. Although Baker wasn't booked into jail, he was given credit for two days. Baker is required to pay a total of \$1,282.50 in fines to the court for the two charges. In the February incident, Baker challenged officials James Boland, Tyson Wallis and Brad Hadley to a fight after Wallis called a foul on Baker's son, a starting guard for Skyline. Wallis also called a double-technical on Skyline coach Clint Cornish, which resulted in Cornish being ejected from the game. Baker walked the length of the upper level of the Skyline gym, high-fiving cheering Skyline fans on his way to confront the officials, but student resource officer John Cowley stopped him. Cowley handcuffed Baker and escorted him out of the building, where he was cited. Skyline lost the game 84-61.

St. Anthony man gets rider for sex abuse

By ALI TADAYON Post Register December 5, 2014

District Judge Gregory Moeller sentenced a St. Anthony man to a rider for sexually abusing a 13-year-old girl. Trevor Barney, 20, entered an Alford plea of sexual abuse of a minor younger than 16. By entering an Alford plea, Barney didn't admit guilt, but acknowledged there was enough evidence for a jury to convict him. In exchange for Barney's plea, prosecutors reduced the charge from rape where the female is younger than 16 and the perpetrator is 18 or older. Moeller sentenced Barney to an underlying prison term of two-and-a-half to 15 years in prison. But instead of ordering Barney to immediately serve that time, Moeller retained jurisdiction and sent Barney to a rider program. A rider is an intensive treatment program at a minimum security prison. A rider runs 90 days to a year. If Barney successfully completes the program, Moeller can allow him to serve the remainder of his sentence on probation. Fremont County Sheriff's deputies arrested Barney on Jan. 11, court records show. Sheriff Len Humphries said Barney's arrest came after detectives conducted an investigation into the reported abuse. Barney sexually abused the girl on Aug. 1, 2013. Moeller said Thursday that the abuse was a "one-time incident" and "all of the parties involved were very intoxicated." Barney will be credited for the 224 days he spent in Fremont County Jail following his arrest. Barney also is required to register as a sex offender.

Prosecutor: Man killed for \$700 and 'being disrespectful' Suspects make first appearance in court in Jeffrey Dyer case

By JOHN FUNK December 5, 2014 Idaho Press-Tribune

CANYON COUNTY —A Nampa man was murdered last month "for \$700 and being disrespectful," according to a Canyon County prosecutor. Angelo Cervantes and Raul Edgar Herrera, both 21-year-old Nampa residents, made their first court appearance Thursday afternoon on multiple charges in connection with the death of Jeffrey Dyer last month. Deputy Prosecuting Attorney Francis Zebari argued for the defendants to be held without bond until their preliminary hearings. Cervantes and Herrera face charges of first-degree murder, robbery, kidnapping, aggravated battery, burglary and grand theft. If convicted, they could face life in prison or the death penalty. Prosecutors have not yet indicated they plan to seek the death penalty, Magistrate Judge Gregory Frates said at Thursday afternoon's arraignment, but they still have time to make that decision. Dyer disappeared from his home on the 1100 block of West Dakota Avenue Nov. 8 and was later found dead in his car in Ontario, Oregon. On Wednesday, investigators interviewed Cervantes and Herrera and executed search warrants on the 900 block of Aspen Grove, the 500 block of Almond Street and the 100 block of 19th Avenue North, where they found property they believe was taken from Dyer's home. Witnesses reported Dyer, 46, was apparently taken by force from his home. According to affidavits filed in 3rd District Court, a patient at a local hospital told Nampa police detectives that he had been struck in the head by two men wearing black hoods, tied up and ordered to lie face down and not get up. The witness reported he then heard the suspects struggling with Dyer in another room. They untied him before they left, the document states, but stole prescription medication and demanded the PIN number for his credit card. The witness told police he assumed the two men had taken Dyer from the home. Police later found Dyer's body in the trunk of his own vehicle in Ontario. An autopsy revealed he died from blunt force trauma to the head. An unidentified source told police that Herrera and Cervantes said a few days earlier that they planned to kill Dyer, the affidavit states. Dyer had taken \$700 in payment from Herrera for prescription pills, the informant told police, but never delivered the drugs. Herrera also claimed that Dyer acted disrespectfully while driving past his house, the source told police. Cervantes, in an interview with Nampa detectives, said that he had gone to Dyer's house with Herrera, who had brought a collapsible baton with him. Herrera went into Dyer's room before Cervantes, the document states, and when Cervantes followed, he saw Dyer was unresponsive and had numerous injuries. He and Herrera loaded Dyer into the trunk of Dyer's Cadillac and fled, Cervantes told police. They burned their clothing and disposed of the baton, Cervantes told investigators. Cervantes drove the Cadillac to Ontario, the document states, while Herrera followed in his own vehicle, then they both returned to Nampa in Herrera's car. Both men are scheduled to appear for preliminary hearings Dec. 18 and will be held without bond until then. If convicted of the charges, they could face up to life in prison or the death penalty.

Former politician's pre-trial conference postponed

By JOHN FUNK December 6, 2014 Idaho Press-Tribune

CANYON COUNTY — Former Middleton City Council member Bradley Spencer appeared in court Friday just long enough for 3rd District Judge George Southworth to reschedule his pre-trial conference for Wednesday. In the meantime, Southworth will review audio and video evidence before a suppression of evidence hearing scheduled for the same date. Spencer faces a charge of sexual battery of a minor. According to documents filed in Canyon County court, he's suspected of having an inappropriate relationship with a 17-year-old female. He pleaded not guilty to the charge in October.

Celtic rocker gets jail time for mandolin attack

By ALI TADAYON Post Register December 8, 2014

District Judge Dane Watkins Jr. sentenced a Bountiful, Utah, man Monday to probation and 14 days in Bonneville County Jail for striking a 38-year-old in the face with a mandolin case. Samuel Cottrell, 39, pleaded guilty to aggravated assault. Pursuant to a plea agreement, the charge was amended down from aggravated battery. After Cottrell serves his jail time, he will be placed on probation for two-and-a-half years. Watkins granted Cottrell a withheld judgment, meaning if he successfully completes his probation, the conviction will be virtually wiped from his record. Cottrell's attorney, Trent Grant, said Watkins also ordered Cottrell to "comply with any treatment recommendation or anything required by (Bonneville County) probation and parole." Cottrell played mandolin for the Celtic-rock band "Swagger" until March 15, the night of the incident, Swagger frontman Rick Butler said Monday. According to an Idaho Falls Police Department news release, Cottrell and a band mate were loading musical equipment into their vehicle after playing a show at The Celt Pub & Grill in downtown Idaho Falls when they began to argue. Cottrell then used his mandolin case to strike the victim in the face. After the incident, the victim was taken by private vehicle to Eastern Idaho Regional Medical Center, where he got stitches in his face. Cottrell returned to the hotel where the band was staying, Police spokeswoman Joelyn Hansen said. The victim reported the incident to police March 16. Court records indicate an arrest warrant for Cottrell was issued April 14. Bonneville County chief deputy prosecutor Danny Clark said via email that Cottrell will be ordered to pay restitution to the victim, but the amount hasn't been determined.

Judge denies co-counsel in neglectful death case

Daily News December 9, 2014

The defense attorney for Charles Wright was denied co-counsel at a status hearing Monday morning. Wright, a 25-year-old Moscow man, is accused of abuse or neglect of a vulnerable adult, exploitation of a vulnerable adult and fraudulently obtaining welfare or public assistance, following the death of Lee Pohrman. Latah County public defender Deb McCormick requested attorney Mark Monson be appointed by the court to assist with defense in the case, stating that with the estimated two-week-long trial and preparation, she will not be able to handle the load and still cover her other cases. Monson would have had to be hired by the court at the conflict counsel rate, as all the contracted public defenders have conflicts of interest in the case, she said. Judge John Stegner denied her request.

California man pleads guilty to attempted murder

By ALI TADAYON Post Register December 9, 2014

A California man pleaded guilty Tuesday to a charge of attempted first-degree murder in the shooting of a 49-year-old Island Park man. Jermaine Wiley, 21, entered the plea in a Fremont County courtroom before District Judge Gregory Moeller. Wiley made the plea after a plea agreement was reached between prosecutor Karl Lewies and Wiley's defense attorney, James Archibald. In exchange for Wiley's plea, Lewies dropped additional charges of conspiracy to commit first-degree murder and unlawful possession of a firearm by a convicted felon. Lewies also agreed not to argue for a "persistent violator" enhancement for Wiley. In Idaho, any person convicted of a third felony could be sentenced to no less than five years in prison and up to life in prison. Wiley was convicted of participating in a street gang, as well as grand theft in Kern County, Calif., in 2012. He spent 94 days in prison between 2012 and 2013 and was on parole at the time of the Island Park incident. Wiley's co-defendant, 24-year-old Jessica Brown, the victim's stepdaughter, pleaded guilty to aiding and abetting first-degree murder. Brown also entered into a plea agreement, in which an additional charge of conspiracy to commit first-degree murder was dismissed. The charges stem from an April 6 incident in which Wiley shot Eric Norlen twice, hitting him in the back of the head and right shoulder. According to charging documents, Norlen and his wife have custody of Brown's 2-year-old child. Brown, wanting the child back, brought Wiley from Bakersfield, Calif., to confront Norlen. Brown said she bought ammunition for Wiley for "self-defense" because she knew Norlen owned firearms. Brown led Wiley to Norlen's residence at 3322 Lariat Road, then waited at a house next door. Wiley entered the home, shot Norlen and fled in Brown's car, leaving her behind. Norlen called 911 for help at 2:30 p.m. Fremont County Sheriff Len Humphries said Norlen was flown by air ambulance to Eastern Idaho Regional Medical Center for treatment of his wounds. A short time later, Brown was arrested at the next-door residence. Wiley was arrested following a traffic stop south of Ashton, Humphries said. Wiley reportedly was speeding when a Fremont County Sheriff's deputy followed him. Brown was pregnant at her May 13 arraignment and gave birth to a child later that month. Humphries said Idaho Department of Health and Welfare placed the child with Brown's mother. Brown and Wiley both are scheduled for sentencing at 2 p.m. Jan. 27. Attempted first-degree murder and aiding and abetting an attempted first-degree murder are both punishable by up to 15 years in prison.

January pileup costs man \$96 Careless driving charges reduced to driving too fast for conditions

By JOHN FUNK December 9, 2014 Idaho Press-Tribune

ADA COUNTY — An Emmett man suspected of causing a multiple-vehicle crash on Interstate 84 in January pleaded guilty Monday morning to a reduced charge of driving too fast for conditions — an infraction — in connection with the pile-up. Cory Dean Ford, 39, was previously charged with a misdemeanor charge of inattentive or careless driving. Ada County Magistrate Judge Michael Oths sentenced Ford to pay a \$96 fine. According to a report filed by the Idaho State Police shortly after the January crash, Ford was hauling logs westbound on I-84 through Meridian in a 1996 Kenworth truck for Brian Wilson Trucking Co. when he turned onto the left shoulder to avoid stopped traffic. He struck a concrete barrier, then sideswiped another trailer truck — a 2005 Kenworth — as it changed lanes, the report states. Ford's vehicle then rear-ended a Subaru Forester driven by Jose Silva-Cuellar, the report states. Silva-Cuellar was transported to Saint Alphonsus Regional Medical Center with serious but not life-threatening injuries. He was released a few days later. Ford's truck then pushed Silva-Cuellar's car into another vehicle, which in turn struck yet another car, the report states. The Subaru then became wedged between Ford's vehicle and another trailer truck, a 2014 Kenworth owned by J.R. Simplot Co. and driven by Kerry Platt of Greenleaf. The logging truck then continued down the interstate, dragging the Subaru along the side of the Simplot truck as it went. Once past the Simplot truck, the logging truck and Subaru both struck a 2013 Freightliner driven by Michael Self of Rainier, Washington. The incident is one of 12 that happened within minutes of each other just before 9 a.m. Jan. 9 on I-84 in Meridian, after a chain reaction in dense fog. A blood test found that Ford had no alcohol in his system at the time of the crash, the report states.

Trials separated, extended in neglectful death case

By Samantha Malott, Daily News December 11, 2014

The two Moscow locals charged with the neglectful death of Lee Pohrman will now continue separately to trial. Until this point, Lindsey Winter, 21, and Charles Wright, 24, have sat as co-defendants in the case, both accused of abuse or neglect of a vulnerable adult, exploitation of a vulnerable adult and fraudulently obtaining welfare or public assistance. At a hearing Wednesday afternoon, Judge John Stegner approved the state's request to have the cases separated. "It would be appropriate to have each defendant tried separately," said Michael Cavanagh, representing the Latah County Prosecutor's office. After both pleaded not guilty to all charges earlier in November, trial was set to begin Feb. 23, 2015, but with the cases now separated, both defense attorneys and the prosecutors believe they need more time to prepare. "Everybody could use more time," Cavanagh said. Mia Vowels, also representing the Latah County Prosecutor's office, said with the trials now separate it may not take the full two weeks she had originally anticipated, but the office did request Charles Wright's trial be held first, as it may take longer. Pohrman died Nov. 3, 2013, at the age of 67. Autopsy reports show he died of starvation while allegedly under the care of Winter and Wright in their Moscow home, weighing only 97 pounds at the time of his death. They are also accused of lying to state departments to receive public assistance, along with exploiting money from Pohrman. David Hathaway, lead Moscow Police detective on the case, said at a preliminary hearing earlier in the year, that over the 33 months Pohrman was allegedly under their care, \$40,450 in checks were written to Winter and Wright by Pohrman. Only \$13,200 should have been written to Wright at the rate he claims he was being paid for his 24-hour care of Pohrman. Charles Wright's trial will begin on May 4 followed by Winter's on May 18. Both will have a pretrial conference held March 9. Also at the Wednesday hearing, Wright appeared for a probation violation on a past burglary charge he was found guilty of in 2008. Deb McCormick, defense attorney for Wright, requested to push the next hearing for the violation off until after the trial. "It makes more sense to hold it until after trial," she said. If the hearings are pushed back, and he is found guilty for the neglect and exploitation, the probation violation ultimately wouldn't be as severe as any punishment from the other case. If he is found not guilty, then a hearing can be held on the probation violation, she said. McCormick is representing Wright both in the probation violation case and in the neglect, exploitation and fraud case. Mark Monson, Moscow attorney, is assisting McCormick pro bono, after the judge refused McCormick's request for the court to hire him at the conflict counsel rate as her co-counsel in the case. Stegner denied McCormick's request and scheduled Wright to appear Jan. 7 in the probation violation case. Wright was granted approval, though, to leave the state with his new employer for a two-week job in Salt Lake City, Utah. "He is not a flight risk," McCormick said, referring to Wright's long standing connection with the area and his family.

Notus man sentenced for gas station robbery

By IDAHO PRESS-TRIBUNE STAFF December 11, 2014

CALDWELL — Roel Garcia was sentenced to nine years in prison Tuesday for the robbery of a Stinker Station on Cleveland Boulevard in July. Judge George Southworth sentenced Garcia, 27, of Notus, to three years fixed, six years indeterminate and ordered him to pay restitution, a \$500 fine and reimburse the public defender, according to a press release from Canyon County Prosecuting Attorney Bryan Taylor. Caldwell Police investigators determined Garcia entered the gas station with what looked like a handgun under his shirt and demanded money before he reached over the counter and grabbed money out of the register. He then fled the scene, according to the press release. A witness at the gas station during the robbery gave a description of the vehicle, which was found at a Caldwell restaurant. Garcia admitted to the robbery after he was taken into custody and said the object under his shirt was not a gun but was meant to look like one. Southworth said Garcia is an extreme danger to the public and cited a previous robbery conviction in Texas. Garcia also faces pending extradition to Texas for an alleged murder and aggravated robbery.