

## Justice for all

Diversion program benefits Idaho and its troubled youths by balancing protection, rehabilitation and punishment for juvenile offenders

Lewiston Tribune: Mar. 19- Ralph Bartholdt

In the smallest courtroom on the second floor of the Nez Perce County Courthouse, Magistrate Victoria Olds makes the decisions that guide kids when others won't. One of her decisions on this day is that she will not order the mother of a seventh-grader to take an alcohol test every time she brings her son to the juvenile probation office in Lewiston, a drive of almost 30 miles round-trip. The test is recommended by prosecutors. Olds, a former Grangeville defense attorney, was appointed as 2nd District magistrate and assigned as the Lewiston juvenile court judge this year. She replaces Stephen L. Calhoun, who retired from the bench after almost three decades. Olds' latest assignment also specializes in child protective services, and in some cases she holds sway over the parents of the juveniles who the court seeks to protect, rehabilitate or punish. But not in all cases. "I am hesitant to having the mother submit to a UA (urine analysis)," Olds tells participants seated at two tables on the courtroom floor below her bench. Mandating the action may fall outside her purview, she says. It is the mother's 14-year-old who today is the object of the court, not the mother. The case is one of about 190 juvenile offender cases Olds will oversee this year, in addition to her load of child protection cases. The number of juvenile court cases in Nez Perce County has remained relatively stable over the past decade - with a few spikes, including in 2013 when cases popped to 214, and in 2008 when the local court had 217 cases, according to court records. One factor helping to reduce juvenile case numbers is a diversion program that has proven successful on cases such as this one here and across the state. Diversion program aims to help rehabilitate young offenders. The number of juvenile court cases has decreased statewide since 1995, when Idaho adopted its Juvenile Corrections Act, according to state statistics. Prior to 1995, juvenile cases fell under the watchful eye of the Idaho Department of Health and Welfare, but a new approach pushed by attorneys and judges, as well as law enforcement and service providers, resulted in a different focus with the Juvenile Corrections Act. The system made the courts and the community stakeholders in an effort to reduce and prevent crimes committed by young people. It also sought to rehabilitate young offenders, so they may seamlessly re-enter the fold of society. A diversion program was developed in an effort to keep juveniles who are amenable to rehabilitation, or whose misdeeds do not rise to a criminal level, from becoming formally entwined in the judicial system. At the discretion of attorneys and a board of community members, including school district representatives, school resource and probation officers and defense and prosecuting attorneys, the diversion program allows kids a probationary period to shape up. If they comply, they stay out of the system and their juvenile record is quashed. Because diversion requires the input of many, in smaller jurisdictions such as Lewiston the program can sit idle because of turnover, high case-loads or a simple lack of time. Juvenile Prosecutor Jessica Uhrig, who was hired by the Nez Perce County Prosecutor's Office three years ago, has recharged the Lewiston diversion program. It has seen an increase in cases over the past two years. "It's a pretty big push in Idaho to give kids who are first-time offenders a shot at diversion," Uhrig said. "Only if they fail diversion does it come back to a formal court process." If the juvenile has committed a property crime or hurt someone, the diversion process may include a conference in which the offender meets with the victim to learn how the juvenile's actions affected them. Uhrig is also working to establish a truancy program to get habitual truants back on track and into school. Nez Perce County Prosecutor Justin Coleman said one of the ambitions of his office was to secure a permanent juvenile justice prosecutor. The position, in previous years, had a high turnover rate, he said. With the hiring of Uhrig, he said, the office fulfilled that goal. "We put a prosecutor in that position who is a long-term fit, instead of an entry level," Coleman said. "That makes a big difference." In the two years from 2014 through 2015 in Nez Perce County, 75 juveniles took part in the diversion program, according to court records. When a juvenile gets into trouble and authorities are involved, often it is up to Uhrig to make a quick decision on whether to have the offender taken into custody and placed in Lewiston's detention facility, or to earmark them for diversion. "It's my call if we divert or file a petition to bring them into the court process," Uhrig said. The county has one locally operated facility downtown to detain juveniles, while the state also has a facility in Lewiston to house serious offenders. Nez Perce County annually budgets \$1.5 million for its juvenile program. Of that, an allocation of \$853,000 is used to operate its juvenile detention facility and \$683,000 goes to juvenile justice services, which provides probation officers and administers a number of programs to help juveniles get on track. Public defenders represent juvenile clients as part of their county public defender contract, and the same goes for the prosecutor's office, said Patty Weeks, county auditor. "The whole idea is to get these kids on track as young people, so we don't have to deal with them later in adult criminal court," Coleman said. Magistrate: "I've been leaving (most records) open. I don't see a reason for closing them." Most of the juvenile justice system is shielded from public scrutiny, Olds said. But there is a misperception, she said, that all juvenile cases are sealed, and that the public isn't privy to the records of young offenders. Idaho juvenile rules, which guide the court, are clear that in most cases the public is allowed access to juvenile court records for children older than 14, although attorneys can ask that records be sealed. Olds prefers that records stay open and juveniles be accountable for their actions. "I've been leaving (most records) open," Olds said. "I don't see a reason for closing them." Although the records of juveniles who are older than 14 are open, she said, a judge can determine via written order that extraordinary circumstances exist to seal some felony records. Olds requires attorneys to file motions to seal cases, creating a formal process in which counsel argues how the case meets the extraordinary threshold. "We want to make sure the public knows if there are serious offenses committed by older kids." Olds said. All juvenile records are initially closed until the juvenile has an admit-deny hearing, similar to an arraignment for adults, she said. That can take 30 days from the time a case is filed, depending on the circumstances. If the open-record policy appears stringent, the court's main focus is keeping the juvenile's best interest in mind, Olds said. Her court sessions are an easy back-and-forth between the judge and attorneys, the juvenile offenders and the parents or guardians involved. "We want to help that kid," she said. In the latest diversion program case, Olds, her hair cropped short, wearing a black robe, and a pair of glasses perched near the end of her nose, looks down upon the courtroom at the 14-year-old. He is dressed in civilian clothing and seated next to his attorney. The boy has had a series of alcohol issues for which he was brought before the court last year, Olds reaffirms. But his mother moved to another state without the court's consent, returning only recently to Idaho after being off the radar of Lewiston juvenile probation for many months. "We're starting from the middle," Olds tells the attorneys and the boy's mother. Although there is no indication that the boy has been in trouble, an attorney for the child says, there is some concern that the mother is often under the influence. In addition, she has not submitted the family's correct address to juvenile probation. After ironing out the latest details, Olds reiterates the conditions of the boy's probation. "No alcohol, no prescription drugs without a prescription be on your best behavior," she says. It is just one case on this month's docket. There will be many more.

## Gorsuch seen by many as smart, modest nominee for high court

Idaho Statesman.com: Mar. 20- Nancy Benac & Mark Sherman/ Associated Press

WASHINGTON -It's poker night in a row house on Cranham Street, Oxford, England, and Neil Gorsuch, studying for yet another degree, is feeling down. His housemates decide that what Gorsuch needs is a girlfriend. Accounts differ on whether it was a dare, goading or a gentle prod, but Gorsuch phones a woman he'd clicked with during a school dinner more than a year earlier — and she doesn't remember him. Awkward. That 1994 phone call may be one of the few times that Gorsuch, a federal judge nominated for the Supreme Court by President Donald Trump, didn't immediately stand out from the crowd. Louise Buletson agreed to go out with him anyway, and ultimately married the man Trump now describes as "perfect in almost every way" for the high court. Gorsuch, whose Senate confirmation hearings begin Monday, is roundly described by colleagues and friends as a silver-haired combination of wicked smarts, down-to-earth modesty, disarming warmth and careful deliberation. Critics largely agree. But even so, they don't think he belongs on the court, believing him too quick to side with conservative and business interests at the expense of working Americans and the poor. At age 49, Gorsuch already has marked his 10th anniversary as an appellate judge in Colorado, styling himself in the mold of the late Justice Antonin Scalia, the conservative powerhouse whom he would replace. In his writings and lectures, Gorsuch offers himself as a "workaday judge," one wearing "honest, unadorned black polyester" robes from a uniform supply store. (Those robes perhaps hiding coffee stains on the shirt underneath, Gorsuch admits.) Self-deprecation is not just his shtick. Gorsuch never mentioned to his best friend, Michael Trent, that he'd been added to the list of prospective justices Trump released last fall. Superstitious about his prospects for joining the court, the Denver-based judge put off decisions about where his family would live in Washington and his two teenage girls would attend school, telling Trent, "I'm not there yet."

Who is Neil Gorsuch?—He's the dad whose standing birthday present from his family is an agreement to watch a Western with him. He's the sports nut who jogs with his law clerks, teaches them the Zen of fly fishing and waits at the top of the ski slopes to see which of them he'll need to help up after a fall. He's the friend whose buddies remember his spot-on impressions of Jimmy Stewart and John McLaughlin, the conservative commentator who pioneered TV political talkfests. He's the writerly judge who crafts his opinions with uncommon clarity, going so far as to diagram a sentence in one ruling. "He's someone who knows the names of the security guards at the courthouse and gets to know who their families are," says former law clerk Theresa Wardon. "He's the kind of person who talks about law for fun," says Joshua Goodbaum, another former clerk. "He's a glass-half-full kind of guy," says Luis Reyes, a former colleague at the Justice Department. He's also the judge who wrote that a university's six-month sick leave policy was "more than sufficient" for a cancer patient who sought more time off when a flu epidemic hit and she worried about how an infection might affect her weakened immune system. Says Ilyse Hogue, president of NARAL Pro-Choice America: "I'm hearing he's a really nice guy. That's way too low a bar for a jurist on the highest court in the land."

From his boyhood in Colorado, Gorsuch was a dutiful student, "always on the brainy side," says younger brother J.J. Gorsuch. Theirs was a typical Western childhood, filled with family outings to go hiking, skiing and fishing. Even Gorsuch's childhood mischief tended toward the intellectual — he once read a book about gambling and put it to use by starting a basement casino for neighborhood kids. Flash forward a few years: Gorsuch is in a coat and tie at Georgetown Prep, an all-boys school in suburban Washington. President Ronald Reagan had chosen his mother, Anne Gorsuch, a state legislator, to lead the Environmental Protection Agency, and she brought her three children east. Her husband stayed in Colorado as their marriage dissolved. Gorsuch's friends at the Jesuit school included Bill Hughes, whose father was a Democratic congressman from New Jersey, and Trent, his father the deputy transportation secretary. Each felt pressure to protect his family name. "We were all very cognizant of the responsibility we had to our parents not to screw up," remembers Hughes. With politics in the air, Gorsuch inhaled deeply. He led schoolmates to the Capitol to attend a rally for insurgents opposing the Soviet Army in Afghanistan. His yearbook entry includes a joking reference to founding the "Fascism Forever" club, a dig at left-leaning teachers. Most significant, he watched his mother's stormy 22-month tenure at EPA end with her forced resignation after being cited for contempt of Congress for refusing to turn over subpoenaed documents. Anne Burford, by then remarried, recalled her son telling her: "You only did what the president ordered. Why are you quitting? You raised me not to be a quitter." After high school, Gorsuch embarked on a grueling, decade-long tutorial: In and out of Columbia in three years, still finding time to co-found a conservative newspaper and magazine. On to Harvard Law without a break. Off to Oxford to study legal philosophy, ducking out in the middle for a clerkship with Supreme Court Justices Byron White and Anthony Kennedy. "I kept asking him, 'When are you going to stop doing all this and get a real job?'" recalls Trent.

Finally, in 1995, it was time for that real job. Gorsuch passed up the big firms to go with a start-up, diving into "the muck and mess of real-life litigation," representing both plaintiffs and defendants, recalls former partner Mark Hansen. "He decided to go someplace where he'd get more experience, faster, and he could help build something," says Hansen. He credits Gorsuch with a dogged work ethic — billing an average 2,400-3,000 hours a year as partner — but also an easygoing temperament. Stuck in cramped working quarters during an out-of-town trial, Gorsuch gamely nicknamed the space "Das Boot," after the movie about a German submarine. After a decade in private practice, Gorsuch in 2005 joined the Justice Department, where he was deeply involved in lawsuits and legislative proposals supporting the George W. Bush administration's warrantless wiretapping program and its treatment of detainees at Guantanamo Bay and elsewhere. Justice colleague Reyes saw in Gorsuch "the makings of a great judge" and a "remarkably good human being." When Reyes' father was gravely ill, it was Gorsuch who encouraged him to take time off. From Justice, Gorsuch made a quick leap to the judiciary when Bush nominated him in 2006 for the 10th Circuit, a lifetime appointment and chance to get back to Colorado. Gorsuch struggled with the offer. Trent recalls him saying, "I'm young. This is such a wonderful opportunity, but I don't know that I'm at that point in my life where I should consider this."

He took the job. After a decade of advocacy, the 39-year-old Gorsuch promised to set aside personal political views in favor of the "cold neutrality of an impartial judge," citing the words of political theorist Edmund Burke. "I resist pigeon holes," Gorsuch testified at his confirmation hearing. "Pigeon holes ignore gray areas in the law." Former law clerk Janie Nitze remembers Gorsuch as adamant his chambers be "all about the rule of law" and "not a place for the personal preferences of the judge." Over the next decade, Gorsuch became known for his plainly written opinions and his approach as a "textualist" who sticks within the boundaries of established law and precedent. But some of Gorsuch's rulings and outside writings lead critics to say he tends to favor powerful interests over ordinary Americans. They cite the case of a truck driver fired for leaving his trailer of meat on the side of an Illinois road after breaking down on a frigid night in 2009, fearing he'd freeze to death. Gorsuch dissented from a ruling in favor of Alphonse Maddin's reinstatement, writing:

"It might be fair to ask whether TransAm's decision was a wise or kind one. But it's not our job to answer questions like that." On Election Night 2016, Gorsuch and Trent texted back and forth as Trump's upset victory became increasingly likely. Although he was on Trump's list of potential justices, Gorsuch doubted he had much of a shot since he had no inside connections with the Trump campaign. But Trump's team was drawn to Gorsuch's clear writings and restrained legal approach. It's those same writings that led detractors to conclude Gorsuch would be a certain conservative vote in the high-profile cases where justices tend to divide on ideological grounds. As he was introduced to the nation, Gorsuch said it's not his job to engineer happy endings: "A judge who likes every outcome he reaches is very likely a bad judge, stretching for results he prefers rather than those the law demands."

## Drug court - not for novices anymore

Lewiston program to receive national award this week

Lewiston Tribune: Mar. 21- Ralph Bartholdt

When the drug court program started in Nez Perce County, it was meant for novices. First-time offenders, or people with a limited criminal history involving illegal drugs who were nabbed by law enforcement, were sent to drug court to curtail their involvement in the court system. The program was meant to nip an offender's drug problem in the bud, so to speak, straightening out new offenders. Things have changed since 2002. When the Nez Perce County Drug Court receives a national award this week - it is being recognized as a National Mentor Court for the second time - it is meant not only to laud the local program for its successes, but to recognize its members for their work with hard-core drug addicts. "It is a great honor to recognize the Nez Perce County Drug Court as one of only nine mentor courts in the United States," said Carolyn Hardin, head of the national drug court program. "As a mentor court, this program is helping to transform American criminal justice and lead countless people who might otherwise be incarcerated into lives of long-term recovery." Mentor courts send representatives to provide technical assistance to other rural courts, and take part in further developing the national drug court system. Since 2002, the local, 18-month program has graduated 102 individuals. The stringent program uses four phases and has in place a series of sanctions for rule violations. Its graduation rate is 60 percent, slightly higher than the statewide rate of 54 percent. One of its strengths, according to Hardin, is the board that acts as a panel, vetting and monitoring individuals at each step of their journey through the program. Made up of members of the court, prosecutor's office, police department and additional entities, including probation and parole and the rehabilitation community, panel members decide every step a participant makes while attending county drug court. The panel provides focus, direction and accountability. Second District Court Judge Jay P. Gaskill, a local program panel member, said the people make the difference. "The main difference in drug courts nationwide is the team that devotes their time and energy to a limited number of offenders," Gaskill said. "It takes a lot of extra time and commitment on the part of all the team members to make a drug court rise to the level of a mentor court." Since its inception, the court's focus has swung from targeting minor offenders to being a last stop for addicted criminals, coordinator Shawna Meyers said. It's no longer meant for first-time offenders because there are plenty of community programs that already target that, she said. "Through the years it has changed to high-risk, high-needs individuals," Meyers said. "It's their last chance before being incarcerated." But not every addict with an extensive record is given a shot at drug court. "It's not a place for people dealing drugs, who have a criminal mentality," Deputy Prosecutor April Smith said. Because room in the program is scarce, the prosecutor's office acts as a gatekeeper for potential participants. As a small program with limited funding, just 22 participants at a time take part in the program, which receives about \$4,100 per participant from the Idaho Supreme Court, Meyers said. Helping people overcome their addictions and return to society as productive members - the best-case scenario - is rewarding, Gaskill said. But there are other rewards. "It is extremely rewarding because there is such a high relative rate of success over the standard criminal law system," he said. "You actually get to know the participants as individuals and they in turn get to know you. Their success is more personally rewarding for both because of the combined efforts that have gone into that success."

## Moscow man convicted of child porn could get probation instead of prison

Lewiston Tribune: Mar. 21- Chelsea Embree

MOSCOW - Judge John R. Stegner may consider a sentence even more lenient than one agreed upon in a plea deal for a Moscow man who admitted possessing child pornography. The plea deal recommended a sentence of three to 10 years in prison with jurisdiction retained, but Stegner said he may consider probation for 32-year-old Charles R. Simpson. The Moscow man appeared Monday in Latah County 2nd District Court, but his sentencing was rescheduled for March 31 as the judge awaits results from a polygraph examination. Simpson pleaded guilty in January to two felony counts of possession of child pornography as part of a plea deal that reduced the charges from distribution of the illicit material. He had been charged in December after an investigation by the Moscow Police Department found at least 14 files of interest on an IP address that Simpson used. A search warrant executed on Simpson's cellphone led to discovery of the files, as well as smartphone applications that had been used to download the media. Stegner said the nature of Simpson's offense makes him unlikely to re-offend, especially if he has had no "hands-on" offense as an adult with a child. The judge said a polygraph is needed to ascertain Simpson hasn't committed such an offense. "Given his amenability to treatment and the low likelihood of re-offense, I might be persuaded to place him on probation if I had a polygraph," Stegner said. Senior Deputy Prosecutor Mia M. Vowels argued that the plea agreement suggested a rider program because of the nature of the videos Simpson possessed. "This was a negotiated plea agreement," she said. "It did not allow for the option of probation." Stegner said he was not prepared to accept the plea agreement without the polygraph examination. Vowels asked that the exam also include any other questioning the doctor thinks is relevant, along with determining any prior offenses Simpson may have committed. Simpson's mother, Cynthia Skilton of Priest River, also testified on her son's behalf Monday. She said it wasn't until Simpson reached adulthood that she learned he had been sexually assaulted as a child. "I'm not excusing what he did, but I do also want to say he's a good person," Skilton said. "He's a hard worker. He supported his family. He never showed signs before that he had this problem." Skilton said she doesn't believe he'd commit another offense. She argued that the "best thing" for Simpson is to get "extensive counseling." "I just am asking that whatever happens here, that he get the help he needs," she said.

## Judge warily accepts plea deal for 'serial law-breaker'

Lewiston man convicted of six felonies given rider but with a 14-year sentence still in play

Lewiston Tribune: Mar. 21- Chelsea Embree

MOSCOW - Judge John R. Stegner said he was "somewhat reluctant," but he accepted the sentence suggested in a plea deal for a Lewiston man he called a "serial law-breaker." Karl J. Lutonsky-Hupp, 46, was sentenced Monday to at least two years in prison, with up to 14 years incarceration possible. Stegner retained jurisdiction and placed the Lewiston man on a rider program, though he said it was a "very close" call between accepting the plea agreement and rejecting it. Lutonsky-Hupp pleaded guilty earlier this month to five felony charges of grand theft and one felony charge of principal to grand theft after reportedly stealing more than \$78,000 in goods and cash from Moscow homes and businesses. He was arrested after his former girlfriend, 46-year-old Lisa R. Pera of Moscow, assisted Moscow police in an ongoing investigation of him as part of a plea agreement she accepted after burning down the mobile home the couple had shared. Theft victim Gerald Schutz of Moscow addressed the court Monday. He said he still doesn't know exactly how many items were taken from his mobile home - the most important among them, he said, was a 9 mm German Luger pistol that had never been fired, which he obtained from a fellow Korean War veteran. "That's the most important thing that I can't get the money back (for)," Schutz said. He estimated Lutonsky-Hupp had stolen from him multiple times over the course of at least six months. Lutonsky-Hupp had also taken jewelry and coins from his residence, Schutz said. "It more than irritated me when I found out what was going on," Public defender Catherine Mabbutt, who is representing Lutonsky-Hupp, and Deputy Prosecutor Michael Cavanagh each recommended Lutonsky-Hupp be sentenced in accordance with the plea agreement. Mabbutt said the Lewiston man has a "long history of addiction" that drove him to commit the crimes. He's been in jail for three months, she added, noting he's now committed to staying sober. Cavanagh said the six cases against Lutonsky-Hupp involve "a lot of serious crimes," adding it's "appropriate" that the 14-year maximum penalty hangs over his head. The rider program suggested in the plea deal is probably "his last chance" to get rehabilitation, Cavanagh said. "Hopefully, he will come to terms with his addiction and his overall criminal thinking, and the way he goes about dealing with his addiction," Cavanagh said. Lutonsky-Hupp said he was "ashamed" of what he's done and hopes to "make amends." "I'm not a bad person," he said. "I have an addiction. I would like to seek some help for that addiction and have a chance to lead a normal life." With Lutonsky-Hupp's charges dating back to November 2015, Stegner said he believes the Lewiston man is driven by criminal behavior - possibly more so than he is driven by his addiction. "It's hard to know exactly where each resides and what has caused you to do what you have done," Stegner told Lutonsky-Hupp. The judge added it was "hard" for him to listen to Schutz describe everything that was taken from him before accepting the plea agreement. Stegner noted he has discretion when determining whether to place someone on probation following a rider program. "While I may disagree with this sentence, I have some ability to control it, even if you go and do the rider successfully," Stegner said. "... I want to see a different person when you return. If I don't, I don't think you should have any expectations of being placed on probation following that term of retained jurisdiction." Lutonsky-Hupp's review hearing of his retained jurisdiction is set for Oct. 30.

## Lawmakers scold AG by barely passing budget

Some anti-abortion Republicans don't approve of Wasden's settlement with Planned Parenthood

Lewiston Tribune: Mar. 21- Kimberlee Kruesi/ Associated Press

BOISE - Idaho House lawmakers on Monday used Attorney General Lawrence Wasden's budget plan to show their displeasure with the chief legal officer's recent settlement in an abortion lawsuit. House members voted 40-30 to approve the attorney general's budget, a strikingly narrow vote for a Legislature that typically gives overwhelming support to budget proposals once they are set by committee. Some Idaho GOP lawmakers have expressed growing disapproval with Wasden's office this year, particularly after he announced reaching a settlement with Planned Parenthood over two laws that sought to ban women from receiving abortion-inducing medication through telemedicine. "If he's not going to defend us 100 percent, then I don't think his budget should be funded 100 percent," said Rep. Greg Chaney, R-Caldwell, who helped lead the budget opposition effort. However, U.S. District Judge B. Lynn Winmill has already warned the state that the laws banning abortion-related telemedicine appeared to be illegal, and said that if the state failed to repeal them he would issue a ruling officially declaring them unconstitutional. That could create precedent-setting case law. Wasden's settlement with Planned Parenthood gave the state until the end of the 2017 legislative session to make the repeals. Lawmakers have since passed legislation repealing the laws, which now requires the governor's signature. The governor has not commented if he is in favor of the proposal. "My office aggressively defended the state to find a medical justification for the statute, contacted numerous experts, and turned over every possible alternative to identify a plausible constitutional defense," Wasden said in a prepared statement. "Based upon the legal reality of these efforts, my office negotiated a resolution that provided the Legislature the ability to resolve this case and avoid a court decision." Monday's House vote was the narrowest funding support Wasden has received since taking office in 2003. Yet lawmakers have been showing their discontent for the past couple of years. Senate Majority Leader Bart Davis held Wasden's budget hostage last year after expressing desire to conduct a systematic change to the office. As a constitutional officer, Wasden answers to voters and not the governor or Legislature. Lawmakers can limit Wasden's job by either drastically reducing state funding or going to private attorneys for legal counsel. Stripping Wasden's powers requires a constitutional amendment. The attorney general's office represents the state in legal disputes and issues legal advice to state agencies and the Legislature. If lawmakers ignore that advice, which happens regularly, the attorney general is still required to defend and enforce those laws.

## Idaho Innocence Project says Chris Tapp will be released from prison; he was convicted in murder of Angie Dodge in 1996

Idaho State Journal: Mar. 21- Idaho Innocence Project Press Release

Idaho Innocence Project Client Chris Tapp will be freed on Wednesday, March 22, 2017 after more than 20 years in prison. Tapp was convicted in the rape and murder of 18 year-old Angie Dodge on June 13, 1996. The Idaho Innocence Project has worked on Tapp's case for more than 10 years, and over those years secured DNA testing of evidence in the crime, including a pubic hair recovered from the victim's body, stains on her clothing, and foreign DNA from her fingers. All of it pointed to only one person--the mysterious man who left semen on her body. New DNA results performed this month affirmed that Tapp is excluded from ALL the DNA evidence. The Idaho Innocence Project and Judges for Justice also gathered evidence that shows Tapp falsely confessed after more than 40 hours of questioning and polygraphs--in exchange for an immunity deal. He was told that by admitting a small part in the crime and identifying the police's major suspect, he would serve no prison time. However, when DNA from the semen that was recovered from the victim's body did not match either the police suspect or Tapp, the police then accused Tapp of both rape and murder. He recanted his confession, but was tried anyway and convicted. The Idaho Innocence Project stands behind Chris Tapp's innocence, and hopes to help police find the man whose DNA matches the evidence. While we celebrate Chris's freedom, we know that a true killer and rapist is still on the loose. Our hearts go out to all those who have been hurt in this tragedy, to the victim's family, especially Carol Dodge who has worked with us to free Chris, and to Chris's family--especially his mom Vera who has stood by her son through years of anguish. Bonneville County Public defender, John Thomas — Chris's main lawyer through this latest phase of his struggle — has done a heroic job. Over the last decade several Idaho Innocence Project (IIP) lawyers have also worked hard to free Chris, including Richard Visser, Jared Hoskins, Greg Silvey, and currently Jennifer Cummins. IIP volunteer detective Mike Stilton also put in countless hours, along with volunteer legal assistant Priscilla "Polly" Glynn and Boise State University student intern Lauren Radding. We also wish to thank the Innocence Project for some of the DNA testing and consulting on the case (Peter Neufeld, Vanessa Potkin). Charles Honts reviewed the polygraphs (calling them a virtual rubber hose), and Steve Drizin, legal director of the Center on Wrongful Convictions, analyzed the confession tapes, saying it was the "most contaminated and least corroborated" confession he had ever seen.

## Concordia University School of Law presents Law Leaders in Action awards

Idaho Business Review: Mar. 21- Staff

his year's Concordia University School of Law Leaders in Action Awards were presented to retired Idaho Supreme Court Chief Justice Jim Jones (left) and Capital High School teacher Cindy Wilson (right). More than 140 people gathered in downtown Boise on March 1 to honor two community leaders at Concordia University School of Law's 5th Annual Leaders in Action Awards. Each year, the Leaders in Action Awards recognizes a law and education leader who have made significant contributions to making Idaho a better state.

## Man jailed in connection to a prior charge of rape

Idaho State Journal: Mar. 22- Debbie Bryce

POCATELLO — A 26-year-old disabled man was back in court Tuesday in connection to a previous rape charge. Randall Austin, 26, was charged with rape in 2011 and that charge was amended to battery with the intent to commit a serious felony. He was sentenced to a prison term of two years fixed and five years indeterminate. But that sentence was suspended and Austin was placed on probation for seven years. Austin, who is cognitively impaired, resides at a local group home owned and operated by Aspire Human Services in Pocatello. He was taken into custody on an agent's warrant after staff members discovered that he was viewing pornography on his PlayStation gaming console. He also allegedly struck a staff member at the group home last week. Sixth District Magistrate David Kress warned Austin that his behavior would lead to severe consequences. "There are only so many of these violations this court is going to tolerate before you are sent to prison," Kress said. Probation Officer Jimmie Gentry said he was not charging Austin with probation violation, but he asked the judge to impose discretionary jail time in the case. Kress ordered Austin to remain incarcerated at the Bannock County jail until April 14. Then a staff member from Aspire Human Services will transport him back to the group home. "I'm willing to do that, but there is only so much discretionary time I'm willing to agree with," Kress said. "I've done all I can do, but you can only push this so far."

# Retirement looms for lawyers as baby boomers age

Idaho Business Review: Mar. 22- Anne Wallace Allen

After a long career in the law, lawyers of the Baby Boomer generation are now facing the prospect of retirement. And for many, it's not an easy transition. "The point at which attorneys consider retirement is based on more issues than I can name, not unlike any other profession," said Dennis Cain, a lawyer who retired three years ago after 40 years of practice in Boise, and who recently served on the Idaho State Bar Association's Senior Lawyer Transition Task Force. Cain said he sees attorneys continuing to practice beyond age 70 because they love their work, and because many haven't developed other interests to occupy their time. The task force created a manual to help attorneys and their clients determine when retirement is a good idea. "Unfortunately, some attorneys are continuing to practice when their age and mental abilities raise the question of whether or not their clients are receiving competent advice and representation," Cain said. Not all lawyers plan ahead for retirement. Some just flat out avoid the issue, according to Altman Weil Inc., a management consulting firm for lawyers and law firms. "Despite the generally high recognition of the need for succession planning, many law firms have been reluctant, or lax, in developing adequate succession plans," Altman Weil said in a study on retirement planning for lawyers. "Many – if not most – law firms have been dealing with succession planning case-by-case (which might be appropriate), and ad hoc (which is not). Moreover, lawyer succession issues are often addressed belatedly, if not grudgingly. Many firms persist in avoiding the issue, hoping that, given time, transitions will spontaneously take shape and work out." There are also firms that mandate retirement, according to a study by Altman Weil. Fifty percent of participants in a 2007 survey reported that their firms have mandatory retirement provisions. According to the survey, in firms with 50-99 lawyers, only 32 percent had such a policy. In all firms where retirement was mandatory, 38 percent mandated retirement at age 65, 36 percent at age 70, 6 percent at age 67 and 5 percent at age 68. In smaller firms (in the 50-99 lawyer category) that had mandatory policies, the most common retirement age was 70, while in all other size categories, firms were most likely to mandate retirement at 65. Some lawyers are unable to retire because they still need to generate an income, said Courtney Kennaday, director of the South Carolina Bar's practice management assistance program. The recession hit many attorneys hard, causing a loss of savings that means more years in the workforce. But others "just are not retiring – ever," she said. "Lawyers are practicing into their 80s and even their 90s." Nampa lawyer Bud Yost, who has been a general practitioner of the law for 47 years, chose 80 as a retirement age for himself. He's 77 now. But that doesn't mean Yost is going to leave the law. Yost served as chairman of the ISB task force, which among other things reduced the ISB fees for retired lawyers to enable them to stay active and provide pro bono work after leaving their paid practices. Yost plans to do that. "I don't play golf, I really don't have any hobbies, and so long as I am able, and I am not going to hurt anybody, I would like to continue to work some after 80. But not be in an office," Yost said. The Idaho State Bar surveyed its lawyer members in November 2016 and found that nearly a third of respondents were age 59 and up – an increase of 7.6 percent from the last survey, in 2011. "It's all a matter of how much money people think they need," said Patricia Olsson, 62, a partner at Moffatt Thomas in Boise who plans to stay "of counsel" at her firm until the end of July and then retire. Olsson said a relatively lean lifestyle had helped her retire young to spend time with her husband, who is 7 years older. "We are lucky enough to live in the first house we ever bought (1984), and we drive Fords, and don't go out to eat a lot, and aren't living the high life so many lawyers (particularly those married to non-working spouses with time on their hands when the kids are gone, do Parade of Homes and downsize into a more expensive house). Those lawyers get stuck," Olsson said. Many Baby Boomers, not just lawyers, are increasingly working past the traditional retirement age of 65, helped by a longer life expectancy. Dennis Voorhees, 66, a lawyer in Twin Falls, said he doesn't even have an anticipated retirement age. "I'm going to revisit that issue when I am 85 if I'm not forced to revisit it earlier," he said. "I am one of the lawyers who intend to become long in the tooth, because I love what I am doing, and I have built up an expertise and a niche and I just can't imagine at this point in my life walking away from it." But lawyers need to plan ahead for the years to come. Solos and smaller firms may consider selling a practice, either to a third party or a younger associate, while big firms face the challenge of respecting an aging partner who keeps coming to the office in his 70s to read the paper every day. Selling a law practice used to be a viable option for solo practitioners and small- to medium-sized firms. While it can still happen, it's the exception to the rule. It's more likely to happen with a small firm, and in a small town, said Cain, who spent most of his career in a two-man firm. "My partner and I did not consider selling our firm as I thought our clients would be better served by offering referrals to other local attorneys who would be a good fit in terms of expertise and personality," he said. "We sold our office building, but we did not believe our clients (many of whom had been with us for decades) would necessarily stay with the successor firm." Finding the right match between an older lawyer's firm and a younger lawyer to buy it can be difficult, but factor in the burden of significant law school loans for a younger generation and the reality that many of the assets that go into such a sale – office space, equipment, a law library – are now available on the cheap, the only value in a practice are the clients and pending matters. Selling a practice "is no easy task," Kennaday said, and lawyers often don't feel they get a fair price. Instead, another option to consider is "bringing in a younger attorney when they are considering retiring and bring them along in the practice, finish out their cases and help the young lawyer get started," she explained. Given the burden of student loan debt for many law school graduates, she said the parties to such an arrangement may need to "get creative" about different compensation plans. Yost said he was still hoping to find a young lawyer who would like to take over his practice. He doesn't expect to sell it. "I would be happy to just bring them in and have them transition with the clients, much as firms do," he said. "When you're in a firm you have backup attorneys and clients get used to working with more than one attorney in a firm, so it's easy to move out of a firm in my opinion. If I found the right person I would just be happy to bring them in and let them run with it." The ISB has guidelines on its website for lawyers to follow when winding down their own practice, or when an accident or disability requires them to take over at a colleague's practice. The most important thing they can do is put a succession plan in place, said Voorhees. "We tend to focus on the here and now, and despite the planning we urge our clients to undertake, we are sometimes like the shoemaker's children who have no shoes," he said. "We tend to not see the planning we don't do, myself included." Yost said he's now preparing to send out letters to families he has represented for years, letting them know that he is going to retire in two years, and they might want to start looking for someone else to represent them. "I represent grandchildren now of clients I worked with in 1969," he said.

**In its "Guide to Protecting Your Clients' Interests," the Idaho State Bar includes a set of "steps that pay off" for lawyers to carry out in case someone else has to step in because of death or disability.**

You can take a number of steps while you are still practicing to make the process of closing your office smooth and inexpensive. These steps include:

- (1) making sure that your office procedures manual explains how to produce a list of client names and addresses for open files,
- (2) keeping all deadlines and follow-up dates on your calendaring system,
- (3) thoroughly documenting client files,

- (4) keeping your time and billing records up-to-date,
- (5) familiarizing your Assisting Attorney and/or Authorized Signer with your office systems,
- (6) renewing your written agreement with the Assisting Attorney and/or Authorized Signer each year, and
- (7) making sure you do not keep clients' original documents, such as wills or other estate plans.

## Solo practitioners: handling the fear of delegating

Idaho Business Review: Mar. 22- Shawn Healy

In order for any law practice to expand, additional personnel and delegation of tasks are required. On the surface it makes logical sense that, in order to expand a legal practice, you need more and more people to do the tasks associated with the increased workload. In reality, the logical need for delegation can be overshadowed by the emotional component of fear. Specifically, the fear of something going wrong if someone else does the work ("If you want something done right, do it yourself.") This is a common hurdle that solo practitioners who start to hire associates, paralegals or office staff face in a growing practice. One of the advantages of being a solo is that you have control over the work that is done. Good, bad or indifferent the buck stops with the solo. Once the idea of expansion enters the realm of possibility, the solo must trade off the security of control for the growth potential of delegation. That's easier said than done. In my work with various attorneys, I have seen this handled in a number of ways. While my appraisal will be obvious, I leave it up to the reader to evaluate which one is best for him or her. If you are faced with the option of expanding and need to rely on others, you have a few options. Option 1: Don't delegate, don't expand, stay small. This is not necessarily a bad option. The idea of expanding a practice has both pros and cons. If the idea of growing your practice would negatively alter your work/life balance, would not get you closer to your ultimate goal, and you are not struggling with the amount of work you currently have, then consider keeping things as they are. Don't expand your practice for bad reasons (to impress others, just to make more money, etc.). Option 2: Hire people, but don't delegate and continue to do everything yourself — only there's more of it. This scenario involves going through half the steps of expanding a practice (hiring people to do the work) but not delegating work to them (not benefiting from having more personnel). It's easy to see that this is not ideal. Option 3: Delegate liberally and don't look back. This option is the opposite end of the continuum from Option 2. This is often seen in a rapidly expanding practice in which little thought is dedicated to how to expand and what a size difference means for the operations of the practice. The potential result of this option is a lack of supervision for those taking on new tasks, a lack of confidence among the new staff (they question whether they are doing their work correctly), and wasted time seeking feedback and supervision, since it is not built into the organizational structure. Option 4: Delegate, but then micromanage. Perhaps the most time-consuming option, delegating tasks only to micromanage your staff increases your workload dramatically. The promise of micromanagement is that it provides the illusion of protection from making mistakes. The reality of micromanagement is that it reinforces the fear that you, and only you, can prevent mistakes; your staff learns that they cannot trust their abilities, and it removes the teaching dynamic between associate and manager that would eventually produce a talented and capable associate/paralegal/office administrator. Option 5: Delegate systematically, start small, provide supervision and feedback, evaluate progress, delegate more, and repeat. This approach to delegating recognizes the need for supervision (as does Option 4), the need for feedback (which is at the heart of teaching), and the need to make changes when necessary, all in a systematic way. This approach goes against what anxiety or fear tells you to do. Fear tells you to avoid the potential risk (i.e., making mistakes). Systematically approaching the risk, however, takes away some of the intensity of that fear, helps you feel more prepared to handle the feared outcome (which is always more productive than trying to avoid the feared outcome because you usually cannot avoid it forever), and increases resilience. So let's assume that, for whatever reason, expanding your law practice is the option that interests you most. If you find yourself struggling with the discomfort of delegating work, here are a few tips. Tip 1: Expect an increased investment in time and energy at the beginning that will eventually produce the outcome you desire. You did not earn your J.D. overnight, so don't expect the process of expanding your law practice to be quick. Any venture that is worthwhile will require time and energy. Tip 2: Plan ahead. Talk to other solo practitioners who have successfully made the transition from a one-person operation to a multiple-person practice. Ask about what helped and what didn't, and be sure to ask about areas that you fear the most. Tip 3: Expect bumps in the road. With any change to the status quo there are bound to be mistakes or "growing edges." This is normal and should be interpreted as part of the process, not the confirmation of your worst fears (that you should never have done this to begin with). Tip 4: Develop a structure of regular supervision and feedback both to catch potential mistakes early and to use mistakes as valuable learning opportunities. Tip 5: Have a plan to respond to mistakes. Imagine the most common mistakes that you fear might occur due to delegation. Then plan out concrete steps for how you would actually respond to those situations. The very act of planning how to respond to a feared situation reduces the intensity of the fear. Anxiety needs ambiguity to thrive. You cannot control whether mistakes happen. You can control how you plan for and respond to mistakes. That is a much better use of your time and energy.

*Shawn Healy is a licensed clinical psychologist on staff with Lawyers Concerned for Lawyers of Massachusetts. He also writes and presents on a variety of topics germane to the practice of law. He can be contacted at [shawn@lclma.org](mailto:shawn@lclma.org).*

## Courthouse deemed unsafe

Morning News March 17, 2017

COUNCIL, Idaho (AP) — A courthouse in western Idaho has been deemed unsafe and closed to the public. Adams County building inspector Don Horton said the old county courthouse was condemned a few weeks ago, KTVB-TV reported Thursday. The courthouse has been closed off to the public for safety reasons. “We don’t allow people in it, we don’t allow cars going by it, and we don’t want the children going to school walking by it,” Horton said. The old Adams County Courthouse overlooks the city of Council and has done so for more than 100 years. The building has been deteriorating for years despite nearly half a million dollars from the Adams County Historic Preservation Commission. It hasn’t been in use for nearly two decades. Horton said this winter’s harsh weather sped up the building’s deterioration. He said it’s unclear what will happen to the old courthouse. The County will decide whether it should knock it down or repair it after consulting its insurance company and a structural engineer. “We could leave it here, but I think the first earthquake we have it’s coming down,” Horton said. “These bricks are now apart basically in spots, you can see where it’s cracked on the top.”

## Driver in fatal crash gets to 120 days in jail

By TOM HOLM Post Register March 17, 2017

Magistrate Judge Steven Gardner on Friday sentenced a California man to 120 days in jail and four years of probation for the death of two women following a two-vehicle crash on 17th Street. Nicholas Perea, 21, of Canyon Lake, pleaded guilty Friday to two counts of misdemeanor vehicular manslaughter. Perea was originally charged with felony counts of vehicular manslaughter, but the charges were reduced pursuant to a plea agreement. Perea was speeding in a car Sept. 17 on 17th Street when he hit a Buick entering from a stop sign ultimately killing 86-year-old Jeanne Skinner and 79-year-old Karen Musselman. Gardner suspended 610 days of a 730-day jail sentence, giving Perea credit for the two days he has served in jail. If Perea violates the terms of his probation, Gardner could impose any amount of the suspended jail term. Gardner also ordered that Perea perform 100 hours of community service and advised him that making a video public service announcement for driver’s education classes about the crash would count toward his community service. Gardner entered a withheld judgment, meaning if Perea successfully completes his probation the charges would be dismissed. Gardner also suspended Perea’s driving privileges for two years. Chris Skinner, Jeanne Skinner’s son, said after the sentencing hearing that the judge passed down a fair punishment. “Nothing is going to bring anyone back ... but I think the message was sent to the community that no one can ignore how serious this is,” he said. The victims’ family members expressed that they didn’t want to see Perea serve a prison term and knew the crash was an accident, but that it was preventable. Perea was driving west on 17th Street at anywhere between 46 mph to 54 mph according to further investigation reported in an accident reconstruction. Perea’s 1990 Mazda Miata hit the side of a 2013 Buick LaCrosse when it entered the roadway at Curtis Avenue. Video surveillance of the intersection showed the Buick “tap” its brakes at a stop sign prior to entering 17th. Perea at first told investigators he estimated he was going 60 mph, but further investigation determined he was traveling at a slower speed. Jeanne Skinner and Karen Musselman were taken to Eastern Idaho Regional Medical Center where they later died. One of Perea’s passengers, Ashtyn Larsen, is reported to be permanently disabled after her back was injured in the crash. The driver of the Buick, Dean Musselman, and his passenger Robert Skinner also were taken to the hospital. Robert Skinner said during his victim impact statement that Dean Musselman suffered long-term injuries from the accident and needed to be equipped full-time with an oxygen-delivery device. Robert Skinner told Gardner he is haunted by images of cars coming at him and the images of his mother and aunt Karen Musselman at the crash. “My mother and aunt were wonderful women. It breaks my heart my brother didn’t get the chance to say goodbye to them,” Robert Skinner said. He then turned to look at Perea, who was visibly trying to hold back tears, and said: “I know you’re a good person.” Prosecution and defense attorneys jointly recommended four years of probation. Perea’s attorney, Curtis Smith, asked for no additional jail time. Smith said Perea has felt the full weight of the women’s deaths since the crash and that was punishment enough. “Nick has often asked for the opportunity to meet with the families and apologize, though he recognizes that’s not always best,” Smith said. “He will forever be scarred by this.” John Dewey, Bonneville County chief deputy prosecutor, recommended a 60-day jail term. Dewey said the sentence needed to communicate to the community at large that there are consequences for the loss of life. “I think it’s wholly appropriate that we are here on misdemeanor charges,” Dewey said. “I’ll concede that it’s not so out of character for a lot of (Idaho Falls) drivers to speed on our roads. But when peoples’ lives are destroyed or hurt there needs to be real consequences.” Perea, trembling as he leaned on the defendant’s table, turned to the victim’s family prior to being sentenced and apologized. “I deeply regret this whole situation, I am so sorry for your loss. Your family will forever be in my prayers,” Perea said.



## **I.F. man sentenced to rider for vehicle theft**

By TOM HOLM Post Register March 20, 2017

District Judge Joel Tingey on Monday sentenced an Idaho Falls man to a rider for stealing a car and eluding police. Scotty Larson, 37, pleaded guilty Feb. 6 to felony grand theft and eluding. A separate case stemming from a Dec. 28 vehicle theft in which Larson was also charged with felony theft was dismissed, pursuant to a plea agreement. Tingey sentenced Larson to an underlying three- to 12-year prison term and placed Larson on a rider program. A rider is a six-month to yearlong intensive rehabilitation program held at a minimum security prison. If Larson is unsuccessful during his rider Tingey could impose the underlying prison term. Idaho Falls Police responded Jan. 5 to a report of a stolen 1994 GMC Suburban. Officers found Larson driving the Suburban west at 17th Street and South Boulevard and tried to stop him, but he eluded officers. The Suburban later was found abandoned at Hartert Drive and Higbee Avenue. Police followed shoeprints in the snow and located Larson, who was hiding outside a residence on the 300 block of Hartert Drive. Larson had called dispatch while fleeing on foot giving the 911 operator a false name and trying to get police to respond to a different location. Police connected Larson to a Dec. 28 theft of a 2001 Ford truck taken from a lot on First Street. Larson abandoned that truck as well after police were notified it had been stolen. The vehicles were each valued at around \$5,000.

## **Man gets up to 25 years for injury crash**

By TOM HOLM Post Register March 20, 2017

District Judge Dane Watkins Jr. on Monday sentenced an Idaho Falls man to two to 25 years in prison for fleeing police in a high-speed chase that ended in a crash which seriously injured his passenger. William Stebelton, 35, pleaded guilty Jan. 31 to felony eluding, unlawful possession of a firearm by a convicted felon and an enhancement charge of inflicting great bodily injury. Charges of possession of a controlled substance, resisting arrest and failing to purchase a driver's license were dismissed, pursuant to a plea agreement. Stebelton is on parole for an October 2012 Ada County conviction for delivery of a controlled substance in which he was sentenced to four to 25 years in prison. Watkins ran Stebelton's Bonneville County sentence concurrent to his previous conviction. Stebelton served four years in prison on his Ada County conviction, so he will have to serve a portion of his indeterminate period of at least 20 years and will be eligible for parole at the parole board's discretion. Watkins credited the approximately six months Stebelton has spent in jail. Idaho Falls Police on Oct. 13 tried to stop Stebelton near Woodruff Avenue and Kearney Street for a traffic violation. Stebelton sped away from police, then hit two parked vehicles after turning onto Ruth Avenue. Stebelton and his 29-year-old wife, the passenger in the car, were taken to Eastern Idaho Regional Medical Center. The woman had to have her arm amputated below the shoulder due to injuries caused by the crash. Officers found a 9 mm firearm and methamphetamine in Stebelton's vehicle. He told investigators he had used methamphetamine and marijuana prior to the crash. Stebelton's attorney, Trent Grant, recommended a two- to 10-year prison term concurrent to his previous conviction. Grant said the victim and Stebelton were engaged to be married prior to the crash and were wed while Stebelton was incarcerated. He said his client regretted the crash and wanted to serve his time and be paroled to take care of his wife. Tanner Crowther, Bonneville County deputy prosecutor, recommended a two- to 25-year concurrent prison term. Crowther said there were numerous aggravating factors to the crime including the severe injury to the victim. Crowther said Stebelton has eight prior felony convictions. Stebelton told Watkins prior to being sentenced that he expected to serve at least five years in prison before being eligible for parole. "Nothing I say can change what I did," Stebelton said. "I do take responsibility for this. I truly wish I hadn't done this." Watkins said he was "nearly speechless" about the crime and the long prison term held over Stebelton's head. He said he hoped Stebelton would serve more than five years before being paroled. "If anyone thinks substance abuse is a victimless crime I wish they were in court to see you. This is a horrible, horrible outcome and (the victim) did not deserve this," Watkins said. "You are a dangerous individual when you are using."

## **Lawyers: Tapp gets deal, will go free**

By BRYAN CLARK Post Register March 20, 2017

Judges for Justice reports

Read expert reports on the Judges for Justice website: [http://judgesforjustice.org/J4J\\_Christapp.htm](http://judgesforjustice.org/J4J_Christapp.htm). A deal has been reached in the Christopher Tapp case, officials on both sides of the deal said. Tapp was convicted of the 1996 rape and murder of 18-year-old Angie Dodge in 1997. He maintains his innocence. Judge Alan Stephens has yet to sign off on the deal, officials said Monday evening. Both sides are expected to meet with Stephens on Tuesday, and a court hearing has been scheduled for Wednesday. Public Defender John Thomas, Tapp's attorney in several post-conviction relief actions, said Tapp won't admit guilt as a part of the deal. He said he couldn't disclose the full terms of the deal. Thomas said if Stephens signs off, Tapp will be released from prison Wednesday. A hearing will be held at 11 a.m. Wednesday. Tapp has spent 20 years in prison for the 1996 murder of 18-year-old Angie Dodge. He was sentenced to life in prison, and he wasn't due for his first parole hearing for 10 more years. There are numerous DNA samples that were found at the crime scene, including semen which belongs to the killer. That DNA does not match Tapp and has never been matched to any known person. Tapp's deal comes just weeks before two scheduled evidentiary hearings where his defense was expected to call experts who would testify that his confession to the 1996

murder was contaminated by police and that the confession was the result of coercion. A host of experts, including geneticists, false confession experts, former supervisory special agents and a polygraph experts have in recent years produced reports indicating that Tapp is innocent. Read Tuesday's Post Register for reaction from both Tapp's mother, Vera, and Angie Dodge's mother, Carol. For more information on the Angie Dodge murder case go to [postregister.com/angie-dodge-murder-case](http://postregister.com/angie-dodge-murder-case).

## **Contreras pleads not guilty**

By LESLIE MIELKE Morning News March 21, 2017

BLACKFOOT — Defendant Jerad Rene Contreras, 27, of Pingree, pleaded not guilty to the seven charges against him as he listened to the maximum sentences he could face if convicted of those charges. Seventh Judicial District Judge Darren Simpson is presiding over this case. A jury trial is set for 9 a.m. on Tuesday, June 20. The pre-trial is set for 9 a.m. on Friday, June 2, in a Bingham County Courtroom. He was arrested on Friday, Feb. 3. His bail is set at \$1 million. A convicted felon, he is accused of holding a pregnant woman hostage in a vehicle while beating and raping her as they drove around for hours. Court documents detail the terrifying series of events deputies say led to the arrest of 27-year-old Jerad Rene Contreras on Feb. 2. He is charged with kidnapping, rape, aggravated battery, aggravated assault, burglary, violating a no contact order, violating a civil protection order and intentional destruction of a telecommunication line. Investigative reports show Bingham County Sheriff deputies were called to a home on the 300 block of 1300 West in Pingree, responding to a report that Contreras had violated a no-contact order and a civil protective order issued in Idaho Falls. In addition to Kidnapping in the First Degree, he is charged with Rape, Aggravated Assault, Aggravated Battery and two misdemeanors. If convicted, Contreras could face a maximum sentence of life in prison or a death sentence. In part two of the complaint, as a persistent violator, time could be added to his sentence. If convicted, this sentencing enhancement could add a minimum of five years and/or up to life imprisonment. A felony charge of Burglary was dismissed on the motion of the prosecutor on Thursday, March 9. Contreras, who was arrested on a parole violation, has been sentenced to complete his sentences on two previous felonies. In 2007, Contreras was sentenced to two years fixed and three years indeterminate for burglary. In 2009, he was sentenced to two years fixed with three years indeterminate for aggravated assault. The sentences were to run concurrently. He received credit for 633 days served in jail for his 2007 offense and 585 days on his 2009 offense. "Once you are in prison, I advise you to apply for the therapeutic community as soon as possible," the judge said. Before sentencing, Contreras had applied to specialty courts but was not accepted into any of them. "He does not have a very good past," said Bingham County deputy prosecuting attorney Jared Ricks. "When he was arrested in February 2012, it was his third probation violation. He has problems with substances, chiefly alcohol or marijuana, and he has some criminal thinking." The state recommended that Contreras' probation be revoked. He was first arrested in 2003 as a runaway and has had 20 charges against him since that time. Speaking to the judge in one of the previous cases, Contreras said. "I'm a better candidate [for probation] now. I don't have the urge to go out. "I have four kids and I have to take care of them," he said. "Their mother is struggling, trying to take care of them. I know I could help. "I'm asking you not to give up on me." "I have a good heart. I can only make changes from here on out," he said. "I'm sick of coming in front of you. I'm sorry for wasting you guys' time." Simpson reviewed Contreras' crime history with him. "What you've done has limited my choices for what I have to do," the magistrate said. "You need to get help to be rehabilitated and become productive. "Part of it is addiction, part criminal thinking," Simpson said. "You have had three chances at probation and two retained jurisdictions." Simpson then imposed Contreras' original sentences.

## **I.F. man gets probation for breaking boy's thumb**

By TOM HOLM Post Register March 22, 2017

Magistrate Judge L. Mark Riddoch on Wednesday sentenced an Idaho Falls man to two years of probation for attacking a 15-year-old boy and breaking the boy's thumb. Enoch Holverson, 32, pleaded guilty Wednesday to two misdemeanor counts of injury to a child. Holverson originally was charged with felony injury to a child, but court records show the charge was reduced pursuant to a plea agreement. Riddoch suspended 178 days of a 180-day jail sentence and gave Holverson credit for the two days he served, meaning he will not have to serve additional jail time. Riddoch placed Holverson on two years of supervised probation and entered a withheld judgment. If Holverson successfully completes his probation, the charges could be dismissed. Riddoch ordered Holverson complete 52 sessions of domestic violence treatment during probation. The victim's mother asked the court to dismiss no-contact orders between Holverson, the mother and her two children. The court did not dismiss the no-contact orders but modified them to allow phone calls. Court records show Idaho Falls Police responded to a child abuse call Feb. 21 at a residence on the 1600 block of Riviera Drive. Holverson became angry after the boy opened a door to a bedroom where several dogs were kept. Holverson attacked the boy and the victim put his hands up to block the blows. Holverson grabbed the boy's left thumb and pulled on it until it broke. The boy was treated medically and required a cast for his hand. The victim's mother told police Holverson had attacked her 13-year-old daughter in a previous incident and cut off chunks of her hair.

## **Tapp goes free after 20 years in prison**

Post Register March 22, 2017

Chris Tapp talks to media and supporters on the steps of the Bonneville County Courthouse on Wednesday. Tapp has been released from prison after serving 20 years for the murder of Angie Dodge. Monte LaOrange / mlaorange@postregister.com Chris Tapp greets friends and well-wishers on the steps of the Bonneville County Courthouse on Wednesday. Tapp has been released from prison after serving 20 years for the murder of Angie Dodge. Monte LaOrange / mlaorange@postregister.com After 20 years in prison Chris Tapp took his first breath of air Wednesday as a free man. Tapp, convicted of the 1996 murder of 18-year-old Angie Dodge, reached a deal with prosecutors where he is released on time served, though the first-degree murder conviction stands. Tapp was sentenced to life in prison and wasn't eligible for parole for another 10 years. Tapp didn't admit guilt at the Wednesday morning hearing that saw Dodge's mother Carol and her brother speak on Tapp's behalf. A charge of rape was dismissed. But the deal means Tapp gives up his right to post-conviction relief. A crowd of more than 60 people packed into the courtroom to watch Tapp go free. Tapp was convicted of the crime because he confessed. But in recent years, multiple reports from false confession experts, geneticists, polygraph experts and others concluded Tapp's confession was false and the details were fed to him by Idaho Falls Police detectives. None of the DNA evidence taken at the scene has been shown to match Tapp. The identity of the man matching the DNA samples is unknown. Tapp stood on the Bonneville County Courthouse steps and took in the applause from the crowd, and for the first time in decades not behind bars, he hugged his mother.

## **Lewiston man sentenced to rider for six felony theft charges in Latah County Staff report**

Daily News March 22, 2017

Latah County 2nd Judicial District Judge John Stegner reluctantly accepted a Rule 11 plea agreement Monday for a 46-year-old Lewiston man who reportedly stole more than \$78,000 in goods and cash from Moscow businesses and residences. Stegner sentenced Karl Joe Lutonsky-Hupp to a rider program with retained jurisdiction. After the rider program, Stegner reserves the right to sentence Lutonsky-Hupp to a concurrent sentence of two to 14 years in prison for each of the six felonies - five grand theft and one principal to grand theft - he pleaded guilty to earlier this month. Each charge carries a maximum of 14 years in prison, \$5,000 fine and restitution, which will be determined at a later date. The guilty pleas are part of the plea agreement that dismisses five felony burglary charges and one felony malicious injury to property charge, according to The Lewiston Tribune. Lutonsky-Hupp's attorney, Latah County public defender Catherine Mabbutt, said her client has a long history of addiction, which is what likely drove him to commit the crimes. Stegner said while he thinks Lutonsky-Hupp has an addiction, he also thinks he is a "serial law breaker." The six cases against Lutonsky-Hupp go back to November 2015, when he reportedly stole from Howard Hughes Appliance, Norm's Glass, two mobile homes and one storage unit, according to The Lewiston Tribune.