

Appeals Court Overturns Jerome Man's Sex Abuse Conviction

MagicValley.com: Sep. 6- Alison Gene Smith

JEROME • A Hazelton man's 2012 conviction on charges he sexually abused two girls were thrown out this week by the Idaho Appeals Court. On Tuesday, the court vacated four charges of sexual abuse of a minor against Marvin G. Orellana-Castro and sent the case back to Jerome County District Court. Orellana-Castro argued District Judge John Butler made an error denying his motion to have a separate trial for each alleged victim. He also argued the court excluded evidence to show an alternate cause for one of the girl's psychiatric symptoms that prosecutors said were caused by sexual abuse. In 2011, Orellana-Castro was charged with two counts of lewd conduct and two counts of sexual abuse of a minor girl, and two counts of sexual abuse of another minor girl. The jury found him guilty of sexually abusing each girl, but was hung on the lewd conduct charges. At the trial, prosecutors presented evidence that one of the girls had psychological symptoms that were caused by the trauma of sexual abuse. Orellana-Castro testified that he did not sexually assault either girl, who were both relatives. He called a number of witnesses who testified about his good character and others who said one of the girls was lying. He also showed evidence that the girl's psychological symptoms could have been caused by sexual molestation by another person. Orellana-Castro argued that he should get two trials, one for each alleged victim, because they were alleged to have occurred at different times and did not "show a common scheme or plan." He also said using evidence of allegations by one victim to prove he abused the other victim was against Idaho evidence rules. Judge Butler disagreed and said the two victims could be part of the same trial because they were part of one "scheme or plan." The appeals court decided that joining the two cases together was improper. "The state's allegations offer no reason to believe that Orellana-Castro consciously planned his conduct or that his molestation of one victim was part of a criminal design to molest the other. One could infer that Orellana-Castro simply intended to opportunistically molest the female children he had access to," the court wrote in its opinion. "While repugnant, such intent does not justify joinder." The court also wrote that the prosecutor's evidence in the case was not "overwhelming." One girl testified Orellana-Castro raped and sodomized her and the other said he inappropriately touched her, but there was no physical evidence to back up the testimony. Because the cases were heard at the same time, the jury heard potentially inadmissible evidence, the court wrote. The court decided it could not say beyond a reasonable doubt that the jury would have found Orellana-Castro guilty of abusing one girl if they didn't hear the other girl's testimony against him. The court also said evidence of another possible source of one of the girl's psychological symptoms was relevant. "The state is in no position to contend that Orellana-Castro's evidence of a different sexual assault, as an alternative cause of the symptoms, is irrelevant," the court wrote. The case will be sent back to Jerome County District Court, and Orellana-Castro could get a new trial.

Attorney Edgar Steele has died

Coeur d'Alene Press: Sep. 6- David Cole

COEUR d'ALENE - Outspoken and in the end imprisoned, North Idaho trial lawyer, author and speaker Edgar J. Steele died Thursday, his family confirmed. He was 69. His wife, Cyndi Steele, said Friday that her husband died of pneumonia, a lung infection he had for a year. She accused the federal prison in Victorville, Calif., of failing to provide Steele with adequate care. "His death is just a continuation of the unjust treatment my husband has faced since the day of his arrest" in June 2010, Cyndi Steele said. She had not talked with him in three weeks, but she said their relationship remained strong. "Things between us have always been great," she said. Edgar Steele went to prison after a federal court jury in Boise convicted him of hiring a hitman to kill Cyndi Steele. He was sentenced to 50 years. A recording made with a small, secret listening device carried by Steele's handyman, Larry Fairfax, captured Steele ordering the hit against his wife. He and his family maintained it was a fake. "My husband died alone, (and) mistreated," she said. "I never got to see him." She said she had not seen him face to face in roughly three years. "I know my husband is innocent," she said. "I know he passed away loving me as much as he did when we got married. I love him then, I love him today, and I always will." She said while she was considered the victim in the U.S. government's case against her husband, she said it was actually the federal government and the judicial system that "victimized" her. She shared a message with The Press which she said she had posted to her Facebook account: "Where ever you are, I can only pray that you know all this and can rest in peace." Edgar and Cyndi Steele have a son and two daughters, all adults. Edgar Steele graduated with a bachelor's degree from the University of Washington, then served four years in the U.S. Coast Guard. He went on to graduate from the University of California at Berkeley, with a master's degree in business administration, then from the UCLA School of Law, before working for a law firm in the San Francisco Bay Area. He left to work on his own and came to North Idaho, living in Sagle until his arrest. As a lawyer, he worked on behalf of politically-incorrect clients, such as former Aryan Nations leader Richard Butler. He wrote the nonfiction book "Defensive Racism: An Unapologetic Examination of Racial Differences," which promised to "blow the cover off the conspiracy for the New World Order, which is turning America into a police state and rendering (the American) electoral process meaningless." "Steele conjures the vision of a New America, rising Phoenix-like from the ashes and resurrecting the principles of liberty and personal freedom upon which (America) originally was founded, all the while charting a clear, easy-to-follow path for the individual through the coming chaos," according to the book's website. "Bold, powerful and persuasive, 'Defensive Racism' weaves a compelling argument to deal with racial differences we all recognize, yet pretend not to notice."

Court tells tribe to fold

Coeur d'Alene Press: Sep. 6- David Cole

COEUR d'ALENE - A federal judge's decision Friday requires the Coeur d'Alene Tribe to stop offering poker at its casino near Worley. U.S. District Court Judge B. Lynn Winmill issued the preliminary decision relating to a lawsuit between the Coeur d'Alene Tribe and the state of Idaho regarding the Tribe's Texas hold 'em poker games at the Coeur d'Alene Casino. Winmill granted the state's motion for a preliminary injunction to stop poker at the Casino. Coeur d'Alene Tribal Chairman Chief Allan said the tribe is disappointed. "Poker is so widely played across the state by so many different people and organizations that it sounds ridiculous to say that everyone playing poker in the state of Idaho is breaking the law, but that is what this decision says," Allan said. "Although the state has claimed to widely prohibit poker across the state, its enforcement was basically nonexistent until we began to offer it on our reservation." "We still believe that we have valid legal arguments under federal law for offering poker at our casino and the court's decision did not fully consider some of those arguments," said tribal attorney Eric Van Orden. Van Orden said the tribe plans to immediately file a motion to stay the court's decision and also an emergency appeal to the 9th U.S. Circuit Court of Appeals. "I appreciate the initial determination that the Coeur d'Alenes' decision to conduct Texas hold 'em games violates state law and the Idaho Constitution," Idaho Gov. Butch Otter said Friday in a statement. The gaming began in May. "The Legislature and the people of Idaho have made it clear what kind of gambling they will accept. That does not include poker," Otter said. "And no matter how much the tribe insists otherwise, Texas hold 'em is poker." Winmill also said in his 24-page decision that as the case proceeds, "the state has shown that it will almost certainly succeed on the merits of its claims." The Coeur d'Alene Tribe has argued that Texas hold 'em is a "bona fide contest of skill" and therefore exempt from terms of the Tribe's compact with the state under the federal Indian Gaming Regulatory Act. Winmill concluded that Texas hold 'em clearly contains an element of chance. "After all," he wrote, "when a poker player is dealt a hand, chance determines how good or bad that hand will be. There is no skill involved in that part of the game - ever."

Court hears arguments on gay marriage effect

Lewiston Tribune: Sep. 9- Paul Elias

SAN FRANCISCO - A debate over whether children would be harmed or helped by legalizing gay marriage was the main focus when a federal appeals court in San Francisco waded again into the issue of the constitutionality of gay marriage. The three judges on the 9th U.S. Circuit Court of Appeals - two of whom have ruled in previous cases in favor of gay rights - reserved many of their most pointed questions Monday at the defenders of state bans in Idaho, Nevada and Hawaii. Regardless of how the court ultimately rules, many legal observers - including one of the judges on the panel - believe the issue of gay marriage is heading for the U.S. Supreme Court to decide. Many are speculating the Justice Anthony Kennedy may cast the deciding vote for a Supreme Court often split 5-4. "We all know this is going to be decided one step up," attorney Monte Stewart told the panel after arguing in favor of gay marriage bans in Idaho and Nevada. "And we all know by whom," Judge Stephen Reinhardt said to laughter in the court, referring to Kennedy. Judge Marsha Berzon appeared critical of Stewart, saying he was sending a message that families headed by same-sex couples were "second-rate." "You're sending a message that these are less desirable families" she said. "That is what you're doing. That is what you say you're doing." Stewart said he strongly disagreed. The hearing is the first time since it declared California's gay marriage ban unconstitutional that the 9th Circuit is listening to arguments over same-sex weddings in a political and legal climate that's vastly different than when it overturned Proposition 8 in 2012. State and federal court judges have been striking down bans in more than a dozen states at a rapid rate since a landmark U.S. Supreme Court ruling last year. In defending Idaho's ban, Stewart told the panel that same-sex marriage would undermine children's right to be raised by a father and mother. Same-sex marriage would undercut the message that a man who fathers a child should get in a relationship with the female mother, he said. "This is a contest between two different messages," Stewart said. "The message of man-woman marriage is: 'Men, you're valuable and important in the upbringing of the children you bring into this world. Women, you are valuable and important in the upbringing of children you bring into this world.' Genderless marriage does not send that message. Indeed, it undermines it." Deborah Ferguson, an attorney representing gay marriage supporters opposed to Idaho's ban, said children of same-sex couples don't have the same protections as children of heterosexual couples. "(They) don't have two legal parents to protect them," she said. "That is sending a powerful message. That tells those children that their parents' marriages aren't worthy of respect. That's a very harsh message." The 9th Circuit heard arguments about Nevada and Hawaii's gay marriage ban as well. Attorney Tara Borelli said Nevada's gay marriage ban sends a message to same-sex couples that they and their families are inferior. The ban is particularly damaging to children and humiliates them, Borelli said. Stewart argued in favor of the Nevada ban partly on the basis that states had the right to make choices about gay marriage. Advocates of gay marriage in Hawaii have urged a federal appeals court to dismiss a case filed by same-sex couples, saying it was now moot because the state legislature had approved gay marriages. Clyde Wadsworth, who represents gay couples, told the judges that the original parties to the case now agree they no longer have any disputes. But Kenneth Connelly, of the Hawaii Family Forum, said the issues in the case could still resurface if the Hawaii Supreme Court strikes down the state's same-sex marriage law. University of California, Irvine law professor Douglas NeJaime said "this (9th Circuit) panel seemed very skeptical of the arguments in favor of the bans." Outside court, gay couples who filed lawsuits in Nevada and Hawaii expressed optimism that the court would strike down their states' marriage bans. "We have been waiting a long time to marry," said Beverly Seveck, who attended the hearing with Mary Baranovich, her partner of 43 years. Two of the couple's three children attended the hearing as well and rejected arguments that same-sex parents couldn't provide stable parenting. "We were a stable home," said Susan Crain, the couple's 51-year-old daughter. "We got grounded like everyone else." The 9th Circuit in 2012 invalidated Proposition 8 because it singled out a minority group for disparate treatment for no compelling reason. The U.S. Supreme Court dismissed the case last year without ruling on the legal merits of gay marriage. The case for gay marriage was bolstered when the court earlier this week unveiled the names of the three judges assigned to decide the issue in those three states. Judges Berzon and Ronald Gould were appointed by President Bill Clinton. And Judge Reinhardt, appointed by President Jimmy Carter, is considered one of the most politically liberal jurists on the 29-judge court. Reinhardt wrote the 2012 opinion striking down California's gay marriage ban. The 9th Circuit panel is under no deadline to rule.

Lawsuit says Revolution Concert House and Event Center is a 'nuisance'

Idaho Statesman.com: Sep 9- Katy Moeller

The Garden City concert house is named for 'chronic' issues, including police duty and noise. In March and April, there were 27 calls for police service and 11 noise complaints involving the Revolution Concert House and Event Center. That's according to a civil suit filed in August against Revolution owner Creston Thornton and building owner Ron Bien. Garden City is seeking compensation of \$68,661 for police costs and asks that the facility be closed for up to six months to ensure changes to prevent future problems and "correct the culture that exists presently." Garden City has an ordinance that defines a property as a "chronic nuisance" if there are three or more so-called nuisance activities - such as fighting, battery or disturbing the peace - in a 60-day period. "There's a concerted effort to deal with these issues before we get to the point where we file an action," Garden City Mayor John Evans said. "That's not the preferred way to interact with our business community." Thornton has also been charged with misdemeanor disorderly premises, another city ordinance that means he's accused of holding two or more events in a three-month period that were disruptive to public peace, health, safety or welfare. The criminal complaint specifically lists a Feb. 26 performance by electronic DJ 12th Planet and a Feb. 28 event called "Uprising Boise: The Paint Fight" that involved attendees spraying each other with fluorescent paint, according to the Revolution's website. Thornton told the Statesman via email that he's hoping for an "amicable" resolution - but declined to say little else on the advice of his attorneys. "We expect a mutually acceptable resolution with the city," Thornton said. The lawsuit noted that the Revolution Concert House was sanctioned this year for an alcoholic beverage violation. A \$10,000 fine was imposed and alcohol service was suspended for 15 days. The violation occurred during "Thunder from Down Under," an all-male revue on Oct. 16, 2013, according to an Idaho State Police Alcohol Beverage Control Bureau report obtained through a public records request. "The Revolution did permit and encourage the employment or use of a person to show the cleft buttocks, and did allow the touching, caressing and fondling of genitals, and the female breasts of another person," the report says. Also found to be in violation of Idaho Code 23-614 were people employed to perform simulated acts of sexual intercourse, masturbation and oral copulation. No alcohol was served at the Revolution from June 9 to June 24, according to an ISP spokeswoman. Though records are incomplete, it does not appear from Statesman archives or from listings online that the venue hosted any large public events during those days.

OFF TO A ROCKY START The Revolution Concert House, which has a capacity of about 2,200, opened in August 2012. City officials complained last August that 154 calls for police service (resulting in about 60 police reports) in one year was too much for the small department. They also found the level of intoxication of some event-goers alarming. The lawsuit filed by the city says there have been a total of 146 police reports filed on incidents at the Revolution since it opened, resulting in one felony, one domestic battery, 17 batteries, one violation of a no-contact order, 26 disturbing the peace complaints, two cases of drug-related activity and seven incidents of resisting and obstructing officers. "There have been numerous instances of underage drinking, over-service and crimes upon persons committed," the suit says. Noise also has been an ongoing issue. The city received more than two dozen complaints about the Bassnectar concert Oct. 25. "If an event such as the one held this past Oct. 25th occurs again, the city will seek the revocation of your conditional use permit and close your operation," Garden City Development Services Director Jenah Thornborrow wrote in a letter to Thornton. The city's "disorderly premises" ordinance prohibits any gathering or event "disruptive to public peace, health, safety or welfare" due to crowds, loud music or other noise between 10 p.m. and 6 a.m. on two or more occasions in a three-month period. Music or noise audible 150 feet from the premises is "prima facie evidence" of being disruptive, the ordinance says. Those found guilty of hosting or promoting a disorderly premise might be guilty of a misdemeanor.

HAMMERING OUT AN ACTION PLAN Garden City officials say they remain committed to helping the Revolution succeed, and Thornton has indicated that he wants to continue operating in the city. Last year, Thornton said he'd invested about \$1 million into the old grocery building. "We want him to succeed. All the calls for service are burying us," Garden City Attorney Charles Wadams said. "We've met with his attorneys, and we're trying to negotiate a mutually acceptable abatement plan." Councilman William Mitchell said Thornton has been "fairly admonished" in the past, and the problems were not remedied. Wadams said the city is not determined to shut the Revolution down for any specific period of time, though the civil suit asks the court to consider a closure of up to six months. Building owner Ron Bien was named in the suit because he owns the building and could be held liable for activities there, Wadams said. Bien, whose attorney said he was unaware of the lawsuit, did not respond to a request for comment.

Judge wants more info from landlord about collecting past-due rent at Moscow trailer park

Lewiston Tribune: Sep 9- William L Spence

MOSCOW - Efforts to collect past-due rent from a handful of tenants at the Syringa Mobile Home Park were put on hold Monday, pending further information. The owner of the park, Magar E. Magar of Vancouver, Wash., is seeking relief from a preliminary injunction and temporary restraining order issued earlier this year, which prevents him from taking any adverse action or having contact with certain tenants of the Moscow park. The tenants sued Magar in February, seeking damages for expenses incurred after they'd gone several months without potable water, because of problems with the park's water system. Moscow attorney Brian Thie, representing Magar, said the lawsuit shouldn't prevent a landlord from trying to collect past-due rent from tenants or from evicting those who refuse to pay. He said Magar wants to send past-due notices to four or five individuals. The focus would be on setting up a payment schedule; only if that's unsuccessful would things proceed to an eviction hearing. However, legal interns with the University of Idaho's Legal Aid Clinic, representing the plaintiffs, questioned whether the move was retaliation against a handful of tenants involved in the lawsuit. They noted more than 60 tenants have been past-due on rents at some point in the past eight months. Most, though, are specifically protected by the terms of the temporary injunction. There are four tenants who aren't protected - because they rent their mobile homes from Magar, as well as the mobile home lots - but it's unclear if they're the same four or five that Magar wants to go after. Latah County 2nd District Judge John Stegner said that needs to be clarified before he could rule on Magar's request. "I'm sympathetic to a landlord who has tenants who aren't paying their rent," he said. However, "I don't know who the four or five are who would be subject to eviction or whether that coincides with these four (who rent their mobile homes)." Stegner asked Thie to provide a list of the tenants from whom Magar is seeking to collect past-due rent. The plaintiffs' attorneys can then argue whether the effort is retaliatory or not.

Change of attorney could delay trial of suspect in manslaughter case

Lewiston Tribune: Sep 9- Tribune

The changing of defense attorneys in a Lewiston vehicular manslaughter case could postpone a jury trial scheduled for November. Lewiston attorney Paul Thomas Clark filed a motion Monday in Lewiston's 2nd District Court to take over as defense counsel for Kyle Rios, 24, who is charged with vehicular manslaughter and leaving the scene of a fatal crash. William Fitzgerald, who had represented Rios, withdrew as his counsel, according to the motion. Rios is accused of driving drunk when his car collided in December in Lewiston with another vehicle that resulted in the death of Paul W. Stuk of Peck. Rios has pleaded innocent to the charges. According to court documents, Rios' blood-alcohol concentration measured 0.263 after the crash - more than three times the legal limit for driving. The case, initially set for trial in June, is on the calendar for Nov. 17, but the latest motion could further postpone the trial. As part of his motion, Clark asked the court to delay any hearings in the case and to set a new trial date, which could be determined at a Sept. 17 scheduling conference. Rios has been in the Nez Perce County Jail on \$100,000 bond since his arrest last year.

Gay marriage heading for high court?

Lewiston Tribune: Sep. 10- Mark Sherman

WASHINGTON - Both sides in the gay marriage debate agree on one thing: It's time for the Supreme Court to settle the matter. Even a justice recently said she thinks so, too. The emerging consensus makes it likely that the justices will soon agree to take up the question of whether the Constitution forbids states from defining marriage as the union of a man and a woman. A final ruling isn't likely before June 2015, but a decision to get involved could come as soon as the end of this month. "I don't see a lot of reasons for them to wait," said Dale Carpenter, a gay rights expert at the University of Minnesota law school. "You have almost no one at this point opposed to certiorari," the legal term for high court review. Officials in five states in which marriage bans were struck down by federal courts have rushed their appeals to the Supreme Court, in time for consideration by the justices when they meet in private on Sept. 29. Moving at breakneck speed, at least for the legal system, Indiana and Wisconsin filed appeals on Tuesday, just five days after the federal appeals court in Chicago struck down their state bans. The Chicago decision itself came just nine days after judges heard arguments, extremely fast for a process that usually is measured in months. Officials in Oklahoma, Utah and Virginia also have appealed to the Supreme Court. Adding to the momentum, the winners in all those cases - who typically want to preserve their lower court victories and would normally oppose Supreme Court review - want the justices to weigh in. As expected, so do the losers. In all, 36 states, encompassing both those that allow same-sex marriage and those that don't, want the justices to join the fray. Thirty businesses, including Alcoa, Amazon, eBay, General Electric, Intel, NIKE, Pfizer and Target, say the Supreme Court should extend same-sex marriage nationwide because the "current patchwork of state laws causes employees justifiable uncertainty about how their employers and governments will treat their familial relationships." The range of cases seems to meet the standard set by Justice Ruth Bader Ginsburg when she predicted in an interview with The Associated Press in July that the court would not look for ways to avoid ruling on same-sex marriage, as it did for many years on interracial marriage bans. "I think the court will not do what they did in the old days when they continually ducked the issue of miscegenation," Ginsburg said. "If a case is properly before the court, they will take it." The speed at which gay marriage has moved through the courts stems from the Supreme Court's decision less than 15 months ago in U.S. v. Windsor to strike down a provision of the federal Defense of Marriage Act that denied a range of tax, health and veterans benefits to legally married gay couples. Since that decision, nearly two dozen judges have relied on Justice Anthony Kennedy's opinion for the court to extend the Windsor decision to strike down state same-sex marriage bans in every region of the country. Only one federal trial judge, Martin Feldman in Louisiana, has upheld a state anti-gay marriage law. Elsewhere, two appellate judges have dissented from rulings in favor of same-sex marriage. "We all know this is going to be decided one step up," attorney Monte Stewart said Monday in his court presentation in support of gay marriage bans in Idaho and Nevada. "And we all know by whom," said appellate Judge Stephen Reinhardt. Reinhardt was referring to Kennedy, the deciding vote in the Windsor case and the author of all three major gay rights decisions at the Supreme Court stretching back to 1996. "Justice Kennedy has built himself quite a legacy on gay rights issues," said the University of Minnesota's Carpenter, doubting that Kennedy would repudiate that legacy by casting a likely decisive vote against the right to marry. The Windsor decision expressly left open the question of whether states could limit marriage to a man and a woman, yet "courts are all looking to the Supreme Court's Windsor precedent as the rule of decision for challenges to state marriage laws," Colorado and 16 other states that do not allow same-sex marriage told the court in support of the state appeals. Gay and lesbian couples can now get married in 19 states and the District of Columbia. Judges in an additional 14 states have struck down prohibitions but put the rulings on hold pending appeals. The federal appeals court in Cincinnati could issue a decision at any time affecting Kentucky, Michigan, Ohio and Tennessee. Appellate judges in San Francisco heard arguments Monday over bans in Idaho and Nevada. The situation is strikingly different from the last time a state's same-sex marriage ban came to the Supreme Court - and that was only two years ago. Same-sex marriage then was legal in just six states. "Talk about a journey. It's a movement that took a long time to get going, but it has really snowballed in the last two years," said James Esseks of the American Civil Liberties Union, which represents gay couples seeking to marry in Indiana, Virginia and Wisconsin. Then, supporters and opponents of gay marriage squared off over whether the justices should even hear the case. Opponents urged Supreme Court review, while supporters pleaded with the justices to stay out of it. After all, they had won what they wanted in the lower courts, the invalidation of California's Proposition 8. The court eventually agreed to hear the California case as well as the federal Defense of Marriage Act case. The justices issued a technical ruling in the California case that eliminated Prop 8 but left for another day whether same-sex couples elsewhere have a constitutional right to marry. The prevailing view is that day will soon arrive.

Stone says he saw killing

Lewiston Tribune: Sep 10- Kerri Sandaine

David C. Stone recounts what happened April 16, 2010, at Charles A. Capone's auto shop, the last time Rachael Anderson was seen in Moscow. Stone testified Tuesday at Capone's trial on murder charges. MOSCOW - Charles A. Capone had a Satan-like look on his face when he was strangling his estranged wife to death, according to the state's key witness at a Latah County murder trial. David C. Stone said he saw Capone kill Rachael Anderson on April 16, 2010, in Moscow, and then helped his former friend dump the woman's tarp-wrapped body over the Red Wolf Crossing Bridge near Clarkston. Anderson's family and friends sat in silence, some wiping away tears, as they listened to Stone's vivid version of the missing Clarkston woman's last moments. Stone was on the stand most of Tuesday in Latah County 2nd District Court, where Capone is facing three felony charges, including first-degree murder. Stone said he had just walked around the corner of the defendant's automotive repair business on the 2200 block of South Main Street when he saw Capone straddling Anderson, with his hands around her throat. She was on her back, not making any sounds, and there was very little movement, Stone told the jury. "What the (expletive) are you doing?" Stone said, startling Capone. Capone turned around with a look on his face that Stone said he'd never seen before. "Satan" is how he would describe the look, Stone told the jury. That's when Capone told Stone to shut up and get a hold of himself, before threatening the Moscow man's family. "You're in this with me now," Capone said, according to Stone. When asked why he didn't intervene, Stone, a 51-year-old former city of Moscow employee, said he was terrified and worried about the well-being of his then-wife and stepdaughter. "I just watched somebody kill his wife; I didn't know what he'd do to me," Stone said. Stone was emotional several times during his time on the stand. Capone paid attention, but showed little reaction to the testimony. Stone will continue answering questions on cross-examination when court resumes at 9 a.m. today. On the night of the alleged murder, Capone reportedly told Stone to go inside Palouse Multiple Services and get a tarp. The witness said at that point, he tried to gather himself and was still in disbelief from what he'd just seen. He couldn't reach a tarp, so Stone said he went back outside where Capone had Anderson on the ground. By then, Anderson was not moving but Capone was still choking her, according to testimony. Capone started giving Stone more orders, and together the men carried Anderson into the repair shop. Stone's Dodge Durango was parked inside, and he said Capone instructed him to open the door and put the seats down. After putting cardboard in the back of the vehicle, they placed Anderson's lifeless body inside and covered her with garbage bags. Capone and Stone then cleaned out the GMC Yukon Anderson had been driving, and Stone said he later dumped the garbage in a Dumpster at a trailer park on Palouse River Drive. They took the Yukon to the Dyna Mart in North Lewiston and returned to Capone's shop in the mechanic's white pickup truck. Stone said minimal conversation took place between the once-close friends as they disposed of her body. "We need to package her up," Capone reportedly told Stone, before the pair wrapped the body in a tarp. Stone said they weighed it down with heavy snow chains he got from a scrap pile at the Moscow city shop. Anderson was then taken to the bridge in Stone's Durango and tossed into the Snake River, the witness said. Capone kept reminding Stone to keep his mouth shut, saying everything would be OK because authorities would never find the body, Stone testified. During Tuesday's proceedings, the jury was shown a video of Stone talking to investigators in the fall of 2013 on the Red Wolf Crossing Bridge. Stone was pointing out the exact spot where he and Capone reportedly threw the "package" into the water. "What was in the package?" Asotin County Detective Jackie Nichols asked Stone on the video. "The body of Rachael Anderson," he answered. On cross-examination, defense attorney D. Ray Barker pointed out numerous inconsistencies in Stone's earlier statements to police. "I've lied about a lot of things, Mr. Barker," Stone responded. Barker asked Stone why he and his family went to dinner with Capone a few days after the alleged murder. He also wanted to know why Stone allowed his teenage stepdaughter to catch a ride with Capone after that dinner, if he was so terrified of the man. Stone said he was "living the lie" at that time and focused on other events that evening, including being tailed by a Moscow police officer. After Stone admitted to lying at various times during the investigation into Anderson's disappearance, Latah County Prosecutor William Thompson Jr. asked the witness why the jury should believe him now. Stone said he is a born-again Christian and decided to come clean about his involvement, before any plea agreement was offered. Stone said he finally began telling the truth last year. He has pleaded guilty to charges of failing to tell authorities about Anderson's death and faces a maximum of seven years in prison as part of a plea agreement. "I'm doing this for one reason," Stone said. "It's the right thing."

Bonner clerk, deputy face charges

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

SANDPOINT - Criminal charges are pending against two Bonner County officials, according to the Idaho Statewide Trial Court Record System. The charges against Clerk Ann Dutson-Sater and Deputy Clerk Charles Konrad Wurm remain filed under seal until they make an initial appearance in court. A search of the Idaho Supreme Court Supreme Court Data Repository on Tuesday yielded no pending hearing dates in the cases against Dutson-Sater and Wurm. Dutson-Sater said the case's sealing prevented her from accessing it on Tuesday, but believes the charges relate to the attempted recall election of Steve Youngdahl, who chairs the Lake Pend Oreille School District's board of trustees. Dutson-Sater said in an email that she allowed a recall backer to sign off on the petitions "without realizing that he wasn't the one who gathered all the signatures," indicating that the oversight was an error rather than an attempt to subvert the law. Dutson-Sater believes the investigation began when Youngdahl's supporters pushed for charges against one of the recall's architects. The clerk's office certified last year that recall backers had obtained the necessary amount of signatures to trigger the election. But the Idaho Secretary of State's Office later ruled that the signatures had to be submitted all at once rather than in stages, which derailed the recall. Voters in the district's Zone 5 moved to recall Youngdahl last year after he proposed arming school staff to protect students in the event of a school shooting. The proposal caused a deep divide in the community. Some supported the proposal, while others saw it as recipe for disaster. A poll conducted by the Lake Pend Oreille Education Association found that district staff overwhelmingly objected to the proposal. Youngdahl, meanwhile, came under fire by district patrons who objected to the data he used to backstop the proposal. The data touted the effectiveness of armed civilians in school shootings, but recall backers said the data was gathered through unscientific means by a biased blogger. Dutson-Sater, a Democrat, faces Republican Michael Rosedale in the Nov. 4 general election.

Stroke hasn't stopped Spickler

Lewiston Tribune: Sep. 10- Joel Mills

Even though Dan Spickler's doctors would prefer he get more rest, the Nez Perce County prosecutor said he is able to handle a full workload in the wake of a stroke he suffered four months ago. With his office short-handed on several fronts, Spickler said he didn't have much choice other than to go back to work less than a week after the Tuesday, May 13 stroke. "I was released from ICU on Thursday, and I was released from the hospital on Friday," Spickler said during a visit to the Lewiston Tribune. "I came to work on Monday, about six hours, and I came to work every day that week. For two days, I covered six or eight hours." Because of the personnel-related stress on the office, Spickler said he worked 10- to 12-hour days for the following two weeks. Doctors didn't approve of his decision, nor did office manager Shelly Damato, who felt like her boss needed to rest and get better. But with the county budget in the works, and conflicts simmering with the city of Lewiston over urban renewal, Damato said she understood why Spickler returned to work so soon. "It was hectic," she said. Spickler said his doctors advised that he needed time to heal away from the mental rigors of running the prosecutor's office. "Your brain is supposed to take some rest just to regenerate, and I couldn't just get the time to do it because we had a lot of personnel matters," he said, noting that he had to pore over more than 75 resumes to fill the vacant positions, in addition to covering his regular duties. Spickler continues to struggle with his speech and writing abilities, although he made great improvements in the first three months after the stroke, and more modest improvements in the past month. He's been diagnosed with aphasia, a common after-effect of strokes that makes it difficult to find the right words. Spickler said he especially has trouble with pronouns, sometimes mixing up words like "he" and "she." He paused frequently during Tuesday's interview at the Tribune, turning to Damato and Deputy Prosecutor Nance Ceccarelli for help completing sentences. But most of the time, he was able to express himself clearly. He hopes to eventually recover fully as he works toward the end of his public career. "In January 2017, I'm out of here," he said of the end of his fourth term. With that in mind, Spickler said he is focusing much of his time on training his staff so it can function effectively during the eventual transition to a new prosecutor. He has delegated some work to his deputies, with Ceccarelli handling most of the civil work and Sandra Dickerson running criminal prosecutions. "We are running the office exactly fine," he said. "I am going to work every single day. I am able to do everything that needs to be done." For instance, Ceccarelli makes sure he's on track, and he takes the reins from her on major issues. "If she has a problem or a decision to make, she works with me and I make the decisions on these things," he said. The criminal side of the office pretty much runs on its own, Spickler added. But he is available - and able - to assist in a support role on major prosecutions. And he said his health had nothing to do with the county's recent decision to hire outside counsel to pursue its lawsuit against the city of Lewiston and the Lewiston Urban Renewal Agency. County Commission Chairman Bob Tippet confirmed that hiring outside counsel had nothing to do with Spickler's health. "We got together and discussed if we wanted to go any further (with legal action on the urban renewal agency)," Tippet said. "Dan and Nance said they just didn't have the time to do it, so we chose to go with outside counsel." Ceccarelli said it is common for government agencies to hire private attorneys who have the expertise to work on highly technical cases like urban renewal. That allows staff to stay focused on the run-of-the-mill legal work it needs to do for the county. She also commended Spickler for his open-door policy. "If there are specific issues that are not being addressed, such as there are people not happy with how cases are moving through or something, Dan is always receptive to meeting with them, speaking with them," Ceccarelli said. "As a county, our goal is to serve our citizenry."

N. Idaho teen's attorney wants confessions tossed

Idaho Statesman.com: Sep. 10- Associated Press

COEUR D'ALENE, IDAHO — The attorney defending a 15-year-old northern Idaho boy accused of killing his father and younger brother wants a possible confession and other statements made to police thrown out. The Spokesman-Review reports (<http://bit.ly/1nLk9ng>) in a story on Wednesday that Kootenai County Public Defender John Adams is also asking for a jury pool from outside the county because of media coverage that could prevent a fair trial. Eldon Gale Samuel III is charged as an adult with shooting 46-year-old Eldon Samuel Jr. and shooting and stabbing 13-year-old Jonathan Samuel in March in Coeur d'Alene. He faces a second-degree murder charge in the death of his father and a first-degree murder charge in the death of his brother. A judge entered pleas of not guilty for Samuel at a court hearing in July.

Lawsuit aims to block Intermountain merger

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

SANDPOINT - An Intermountain Community Bancorp stockholder is bringing a class action lawsuit to derail the company's merger with Columbia Banking System. Counsel for Alan Kahn contends Intermountain, the parent company of Panhandle State Bank, is being undervalued in the proposed merger and inadequately compensates shareholders. Kahn is seeking class action certification due to the volume of Intermountain shareholders and an injunction to stop the merger with Columbia. The suit was filed in 1st District Court on Aug. 26. Named as a defendants are Intermountain, its board of directors, Columbia, Stadium Capital Partners and Castle Creek Capital Partners IV. The latter two defendants are Intermountain's largest stockholders, according to the suit. The proposed merger was announced in July. It was billed as way for both companies to extend their reach in Idaho, Washington and Oregon. But Kahn alleges that the merger will do more to benefit Intermountain CEO Curt Hecker, Stadium and Castle Creek than shareholders. Kahn contends that the proposed merger would constitute a small, 7-percent premium to Intermountain's stock price, which is less than the average premiums in other takeovers of similarly-sized commercial banks. Kahn further alleges that the defendants also agreed to various deal-protection devices, including a \$4.5 million penalty if Intermountain tries to terminate the deal should a higher bidder emerge. "These defendants have failed to take adequate measures to ensure that the interests of Intermountain's stockholders are properly protected and have embarked on a process that avoids little competitive bidding and provides Columbia with an unfair advantage by effectively excluding alternative proposals," Boise attorney Eric Rossman said in the 24-page complaint. First District Judge Barbara Buchanan voluntarily disqualified herself from presiding in the case. The nature of the disqualification does not require Buchanan to state why. The suit accuses the defendants of breaching their fiduciary duties and aiding and abetting the breach of those duties. An answer to the complaint is pending. A message seeking comment from Hecker on Friday was routed to an Intermountain spokeswoman who said Hecker was not at liberty to comment on the matter due to the pending merger.

N. Idaho teen's attorney wants confessions tossed

Idaho Statesman.com: Sep. 10- Associated Press

COEUR D'ALENE, IDAHO — The attorney defending a 15-year-old northern Idaho boy accused of killing his father and younger brother wants a possible confession and other statements made to police thrown out. Kootenai County Public Defender John Adams also is asking for a jury pool from outside the county because of media coverage that could prevent a fair trial. The Spokesman-Review reported in a story Wednesday (<http://bit.ly/1nLk9ng>). Eldon Gale Samuel III is charged as an adult with shooting 46-year-old Eldon Samuel Jr. and shooting and stabbing 13-year-old Jonathan Samuel in March in Coeur d'Alene. He faces a second-degree murder charge in his father's death and first-degree murder in his brother's death. A judge entered pleas of not guilty for Eldon Samuel at a July court hearing. The killings took place at St. Vincent de Paul emergency housing in Coeur d'Alene, where the family was living. Court records say that after the killings, Eldon Samuel called 911 and told a police dispatcher he had shot and killed his father and brother. Adams is asking that all evidence gathered against his client after he was placed in custody be suppressed because the interrogation was unlawful and produced involuntary statements. At a June hearing, according to court testimony, Eldon Samuel waived his right to talk to an attorney before confessing. Authorities say he told investigators he feared his father would kill him after his father fired a single shot from a .45 caliber outside the house, talked about zombies, and acted crazy from painkillers. Eldon Samuel told investigators he used the gun to shoot his father in the stomach. Autopsy results found the father also was shot in the face and head after he was dead. Jonathan Samuel, who was hiding under a bed, died of multiple gunshots and was stabbed with a knife and hacked with a machete, the autopsy said. Eldon Samuel told investigators the stress of his brother's autism caused his father to become addicted to painkillers and his mother to leave the family. Adams also is challenging Idaho's ban on the insanity defense and a state law that requires defendants 14 and older charged with murder to be tried as adults and face adult sentences. Eldon Samuel faces life in prison if convicted in adult court. In juvenile court, he would be committed to a youth detention center until he turns 21. Eldon Samuel initially was charged with first-degree murder for both deaths, but the charge for his father's death was changed after the boy said the man beat and threatened to kill him.

Candidate Bujak battling good old boys

Coeur d'Alene Press: Sep. 11- David Cole

COEUR D'ALENE - John Bujak is tired of the good old boys of the Idaho Republican Party fouling up the political process. The former Canyon County prosecutor parted ways with the state's dominant political party and is now running for governor as a Libertarian. He wants to be the alternative to Republican Gov. Butch Otter and Democratic Party candidate A.J. Balukoff. "The good old boys get in the way," Bujak said Monday in an interview with The Press. The good old boys serve those with money and influence, while the average Idahoan doesn't have representation. "They get their legislation easily and quickly, even if it's not a good idea" for the state, said Bujak, 45, of Eagle. He pointed to Idaho's so-called "ag-gag" law, which turns those who secretly film animal abuse within the state's agricultural facilities into criminals. It was a law passed to satisfy the state's powerful dairy industry. "It's not something the people were demanding," Bujak said. "It got pushed through because of their power." His fight against the good old boys is three years old, he said. While serving as Canyon County prosecutor, Bujak was contracted to prosecute misdemeanor cases for the city of Nampa. The Nampa contract was his private contract, allowing him to earn a profit. A special prosecutor tried to convict him of wrongdoing, charging him with misuse of public funds. After those allegations were made, he had to resign as prosecutor in the fall of 2010, and lost his license to practice law. He also had to file for bankruptcy protection. Along with the misuse of public funds charge, Bujak was charged with falsifying evidence. He also was charged with grand theft, and hiding assets in the bankruptcy. The private firm that lost the Nampa prosecution contract brought outside political pressure to bear on the Canyon County commissioners, he said. After multiple trials in three years, he was cleared of any wrongdoing, and the special prosecutor's work cost the taxpayers more than \$700,000. "The juries could see what was going on," Bujak said. He regained his law license. Through that process, he said, he experienced first-hand how politicians and insiders with deep pockets work together. He wants to rid the state of those influences, and put the power back in the hands of the people. "I'm a 'no B.S.' kind of guy," Bujak said. "I'm a fighter." He said tea party and liberty caucus Republicans will appreciate his style. He predicts that many of the Republicans who supported state Sen. Russ Fulcher in the party's primary in May will now back him. Bujak believes Idaho needs to "reclaim" its lands from the federal government, the state health insurance exchange has to go, Common Core education standards are bad for students, and any expansion of Medicaid would be wrong. He said Otter is no longer the classic Idaho Republican he once was, the one who was in Congress opposing President George W. Bush's Patriot Act. "Now he's in office accepting federal money, which comes with strings attached," Bujak said. Idaho has become too dependent on federal dollars, he said. Otter is part of the state's leadership that has gotten out of touch with the needs of the average Idahoan, he said. Cronyism and corruption in state government must end, he said. "That has been the overriding issue" of his campaign, he said. Bujak began practicing law in Idaho in 1997, working as a trial attorney. He did some civil work, but practiced more criminal law. He served as a deputy prosecuting attorney, deputy attorney general and was general counsel to the Idaho Human Rights Commission. He graduated from Gonzaga University's law school in December 1996. He has lived in Idaho most of his life. He grew up in McCall, but went to Coeur d'Alene High School, where he graduated in 1986. His father was a doctor in Coeur d'Alene. After graduating with a bachelor's degree from the College of Idaho in 1990, Bujak served in the U.S. Navy for two years. Bujak is scheduled to appear for a meet and greet at the Coeur d'Alene Eagles Lodge at 5 p.m. on Oct. 2. He also plans to participate in a gubernatorial debate on Oct. 3.

Capone murder trial: Stone says he spun web of lies for 3 years

Lewiston Tribune: Sep. 11- Kerri Sandaine

David C. Stone asks for clarification on a question from defense attorney D. Ray Barker during Stone's second day of testimony Wednesday at Moscow. Stone took the stand during the trial of Charles A. Capone on charges related to the murder of Rachael Anderson. MOSCOW - David C. Stone admits he spun an intricate web of deception before divulging the details of Rachael Anderson's death to authorities, including lying under oath at a federal proceeding. "Other than me saying my name was David Stone, there wasn't a lot of truth in that testimony," Stone said Wednesday during the seventh day of the murder trial in Latah County 2nd District Court. The 51-year-old Moscow man said he lied for more than three years after seeing Charles A. Capone strangle Anderson, because he was afraid of his former friend. "I'll be afraid the rest of my life," Stone said during cross-examination by Capone's defense attorney, D. Ray Barker. Capone, a 53-year-old mechanic, is accused of killing Anderson in April 2010 in Moscow and disposing of her body, which has never been found. According to earlier testimony, Anderson and Capone had been married only a few months when an altercation turned physical, and the 40-year-old woman asked Capone to move out of her house in Clarkston. He didn't want a divorce, witnesses said. Stone and the defendant met at church and became friends several years before Anderson came into the picture. Stone was a frequent visitor to Capone's business, Palouse Multiple Services, where the alleged murder took place. Stone, the state's key witness, spent two days on the stand describing what happened to Anderson on April 16, 2010. Capone's defense attorney tediously went over transcripts with the witness Wednesday, repeatedly pointing out how Stone's story has changed over the years. As the day wore on, the number of courtroom observers dwindled. At one point, Latah County Prosecutor William Thompson Jr. objected, saying Barker was wasting the jury's time with the repetitive line of questioning. Barker said he wants the jury to be able to compare Stone's use of details when he claims to be lying and telling the truth. The witness was descriptive in both instances, Barker said. Stone said he's trying to make his testimony as clear as possible and the version he's offering now is the truth. The defense attorney established how Stone fabricated a tale about strangers randomly appearing and reminding him to stay mum about the crime. The statements about mysterious visitors showing up were intended to bolster Stone's story about being afraid of Capone, Barker said. Stone said he made up a lot of things before he started telling the truth late last year. When asked whether he hoped for leniency by talking, Stone said he still does. A plea agreement has been offered to him in exchange for his guilty plea to charges of covering up Anderson's death and his testimony. Stone is facing a maximum sentence of seven years in prison. Prior to seeing him strangle Anderson, Stone said he considered Capone a "genuinely good-hearted guy." Capone and Anderson were both frustrated throughout the evening of the slaying, Stone said. Anderson was upset because her car wasn't fixed when she arrived to pick it up. Capone was angry because she purchased beer using his credit card. She sat outside in a borrowed GMC Yukon while Capone worked on her vehicle. Stone said he was inside chewing tobacco and occasionally stepped out the "man door" to spit. It was dusk, and each time he'd see the silhouette of Anderson in the Yukon. At one point, Stone heard a loud thud outside and needed to spit, so he exited the shop. Anderson was no longer in the Yukon, he said. When he rounded a corner, he saw Capone straddling Anderson with his hands around her throat. Capone reportedly told him, "This needed to happen," and made several threatening remarks to Stone, telling him to keep his mouth shut. Later that night, Stone said the men threw Anderson's tarp-wrapped body off Red Wolf Crossing Bridge near Clarkston. Capone told Stone it would all work out because her body would never be found. Barker asked Stone why he kept in contact with Capone after the alleged murder, if he was so afraid. Stone said he wanted to keep an eye on Capone. "I kind of like to know where someone's at if I'm concerned about my safety," Stone said. After a brief re-direct by the prosecutor, Stone was dismissed from the stand Wednesday. The state is expected to call a few more witnesses when the trial resumes at 9 a.m. today. Senior Judge Carl B. Kerrick is presiding over the trial, which typically runs until 2 p.m. each day. Senior Deputy Prosecutor Mia Vowels is handling the state's case with assistance from Thompson. The defense has not called any witnesses yet. Capone, who is typically dressed in a suit and tie at the defense table, is represented by Barker and Mark Monson.

Strapped for cash and lacking facilities, Boise County forced to adapt for murder trial

Idaho Statesman.com: Sep. 12- Katy Moeller

For a host of reasons, the Dauber case is being taken on the road. Boise County prosecutors are gearing up for a big trial early next year, but it won't be held in their county. The case of Michael Dauber - arrested last fall and accused of killing Idaho City resident Steven Kalogerakos in December of 2007 - is set to go to trial in February at the Ada County Courthouse in Boise. The jury will be composed of Boise County residents, Boise County Prosecutor Ian Gee said. The first-degree murder trial was previously scheduled for September, but Dauber waived his right to a speedy trial. The change of venue is due largely to size and security issues associated with the Boise County Courthouse, a small brick building in Idaho City that dates back to 1871 and is on the National Register of Historic Buildings. The configuration of the courtroom, which can seat up to 50, also isn't ideal. The juror seats are very close to the witness stand, and at such an angle that it can be difficult for some to see the faces of those testifying, Gee said. Also, there is no jail in Boise County to house the defendant. The Dauber trial is expected to take about three weeks, and county commissioners have set aside up to \$250,000 for trial costs, Gee said. Dauber and Kalogerakos were longtime friends, and they moved to Idaho together in 1994. Kalogerakos, 42, was last seen alive on Christmas Day in 2007. His dismembered body was found last fall in a shallow grave a few miles outside Idaho City. Dauber, 46, admitted to killing Kalogerakos - and others, Gee told Judge Patrick Owen during a hearing in March. Dauber's father was Chicago mobster William Dauber, who was gunned down outside a Joliet, Ill., courthouse in 1980. Gee declined to discuss why prosecutors aren't seeking the death penalty.

BIG COST FOR SMALL COUNTY The Dauber trial puts more financial strain on Boise County, still reeling from the \$5.4 million Alamar Ranch judgment in 2010. A federal jury said the county violated the Fair Housing Act in its handling of an application for the proposed Alamar Ranch teen treatment center. The county issued bonds in 2012 to pay off the judgment, and it will be making bond payments through fiscal 2019. "Budgeting is not easy in a county where there is no money," Boise County Commissioner Barbara Balding said. The tentative fiscal 2015 budget is about \$9.2 million, including the \$450,000 Alamar bond payment. Commissioners have been looking for other ways to create revenue sources for the county. They put an advisory vote on the Nov. 4 ballot to determine whether county residents want to allow gambling in Boise County. Balding, who finishes her two-year term as a commissioner this year and isn't seeking re-election, said the money for the murder trial will be pulled from the general fund's department of extraordinary legal expenses. The Boise County Prosecutor's Office handles about 2,500 cases a year and has two attorneys - Gee and Chief Deputy Prosecutor Jay Rosenthal - plus two support staff. As part of preparations for the murder trial, Gee has hired a part-time attorney, Jolene Maloney, to help with trial prep and day-to-day cases. Boise County also will cover the costs for Dauber's public defender, David Smethers, and court bailiffs and juror stipends, including mileage for travel, County Clerk Mary Prisco said.

HELP FOR COUNTIES In some circumstances, financially strapped counties can get help when facing costs associated with complex trials. The Capital Crimes Defense Fund was established through Idaho statute in 1998. All of the state's 44 counties contribute to the fund, which is managed by the Idaho Association of Counties, said Dan Chadwick, executive director of the association. But the reserve fund - now about \$5.5 million - may be tapped only for death penalty cases. "Those cases are high-cost cases," Chadwick said. "You have to have two attorneys, one of which has to be qualified to represent defendants in death penalty cases." The Idaho Attorney General's Office regularly offers prosecutorial assistance to counties, and not just for capital cases, said spokeswoman Kriss Bivens-Cloyd. One example is when the prosecutor has a conflict. Assistance comes in the form of staff, not cash. Boise County has received assistance on felony cases in the past, when the office had only one attorney, but help wasn't sought for the Dauber case, Gee said. "We get a lot of requests. It depends on our resources," Bivens-Cloyd said. "It's probably more than once or twice a month."

State rests case in Charles Capone murder trial

Lewiston Tribune: Sep. 12- Kerri Sandaine

MOSCOW - After eight days of testimony - including the prosecution's key eyewitness - the state rested its case against accused killer Charles A. Capone Thursday in Latah County 2nd District Court. Now it's time for the defense to take over when Capone's trial resumes at 9 a.m. today. The case is expected to go to the jury late next week. Capone, who maintains his innocence, is charged with first-degree murder for allegedly strangling his estranged wife, Rachael Anderson, on April 16, 2010, in Moscow. Anderson's body has never been found. Latah County Prosecutors William Thompson Jr. and Mia Vowels called several witnesses to the stand Thursday - including Moscow city employees, investigators and a jailer - to provide evidence and establish timelines in the case. A few answered only one or two questions before being excused. The state's key witness is David C. Stone, 51, a former friend of the defendant. Earlier this week, Stone provided an eyewitness account of the alleged 2010 murder on the 2200 block of South Main Street. He was on the stand almost two full days. On Thursday, Stone's ex-wife, Alisa Anderson (who is not related to Rachael Anderson), verified the time frame of her former husband's whereabouts on the day Rachael Anderson disappeared. She said Stone had taken the couple's Dodge Durango to Palouse Multiple Services for repairs. At one point, he returned to their Britton Lane home for about 45 minutes. But he didn't tell his wife anything about a murder. Instead, Stone told her he'd just dropped Capone off at Mingles for a drink and he was going back to give his friend a ride. Stone has since said that was one of the lies he told before coming clean with authorities late last year. The owner of Mingles Bar and Grill said surveillance footage indicates neither Stone nor Capone were at his downtown Moscow bar on the night in question. Stone has told the court he actually went home to look for a chain, at the request of Capone, who stayed at his repair shop to clean and get rid of evidence. When Stone couldn't find what he was looking for in his garage, he went to the Moscow city shop - where he was employed in 2010 - and grabbed snow chains out of a scrap-iron pile. According to Stone, the chains were used to weigh down Anderson's tarp-wrapped body, which was thrown off the Red Wolf Crossing Bridge into the Snake River west of Clarkston. Stone and Capone transported "the package" to the bridge in Stone's Durango. Sgt. Earl Aston of the Latah County Sheriff's Office testified video footage from the Dyna Mart in North Lewiston shows two vehicles, both resembling the Durango, heading west on State Highway 128 late on the night of April 16, 2010. On cross-examination, Stone's former wife said he didn't appear agitated or upset when he came home that night. He and Capone went to breakfast the next morning at Shari's restaurant, and Stone called Capone and invited him to his church in Pullman that weekend, she said. On April 18, 2010, Capone went to the Crossing church instead. The pastor has said he wore sunglasses that day and left abruptly during the sermon. Alisa Anderson said she attended the same church as Capone for several years, and she never saw him wear sunglasses or leave a service early. In fact, Capone has told her he thinks it's rude for people to walk out in the middle of a message. Several days after Rachael Anderson disappeared, the Stones had dinner with Capone at the Sandpiper restaurant in Moscow. Alisa Anderson said she had no idea he was a suspect at that time. She eventually blocked Capone's phone calls and told his sister to stop calling Stone. Detective Mike Mooney of the Idaho State Police was questioned about photos taken at Palouse Multiple Services. The courtroom went silent during a 10-minute video shot by Mooney after Rachael Anderson's disappearance, and Capone watched intently as images of his former business were shown to the jury. During the afternoon session, officer Brian Birdsell with the Lewiston Police Department went over phone records of Rachael Anderson, Capone and Stone. He explained to the jury how the cellphones hit certain nearby towers in the area and when they were all out of service on the night of the alleged murder. Birdsell said the last call Rachael Anderson made was at 8:09 p.m. to her former husband, Dennis Plunkett of Clarkston. Plunkett has testified he received a voicemail from her on the night she disappeared. Defense attorney Mark Monson questioned Birdsell about several phone calls that have been mentioned during testimony. Some of the calls do not appear on any phone records produced by prosecutors. Latah County Coroner Cathy Mabbutt testified she has never been notified about the death of Rachael Anderson. And the state's final witness, a Latah County jailer, said he overheard Capone say something to Stone when the two were briefly standing by each other at the Latah County Jail last summer. After the preliminary hearing, the two inmates were waiting to have their handcuffs and shackles removed on the "search wall," said corrections officer Ethan Ogden. "I don't even know why you're here," Capone reportedly said to Stone. Capone is charged with first-degree murder, failure to notify a coroner or law enforcement officer about a death and conspiracy to commit failure to notify a coroner or law enforcement officer about a death. Stone faced identical charges before entering into a plea agreement and pleading guilty to covering up Anderson's death. He faces a maximum sentence of seven years in prison.



Merle Jay Meyers

May 17, 1949 - August 29, 2014

Merle Jay Meyers of Bannock Creek, Pocatello, Idaho unexpectedly passed away on Friday, August 29, 2014 while enjoying one of his most treasured pastimes - showing reined cow horses at the Magic Valley Futurity of the Idaho Reined Cow Horse Association. Jay was 65 at the time of his passing.

Jay was the second child born to Merle and Dorothy Meyers who lived on the family ranch on Midnight Creek in Arbon Valley. During his early years, the family lived in the old farm station near the one room schoolhouse at Rooster Rock on the Arbon Highway. In 1958, the family moved to their current ranch which they broke out of sagebrush. Jay often said that "every post hole, every strand of barbed wire fence, and every piece of junk farm equipment on the place" was a result of their efforts to carve their dream to have their own ranch out of the dry sagebrush flats. Jay inherited his love for cows and the cowboy lifestyle from his father Merle. His deep-rooted passion for it never ceased, and he eventually bought the ranch from Dorothy after Merle's passing in 1984.

Jay attended school in American Falls and participated in wrestling and rodeo. After high school he attended Ricks College and Idaho State University before law school at the University of Idaho. He was a winning member of their college rodeo teams, occasionally making it to class and teaching speed reading on the side. His dream of becoming an attorney stemmed from an experience he had as a young man goose hunting with his father and Lou Racine, a prominent Pocatello attorney. Jay said that Mr. Racine had spare change bouncing around on the floor boards of his truck, something that his own family certainly did not have.

He married Paula Liese in 1971 shortly before moving to Moscow for law school. While there he continued to rodeo as much as possible and braided bull ropes for gas money to go to rodeos. He failed his torts class because he had been too busy going to rodeos, and the professor told him he would never make it as a lawyer. Jay certainly proved him wrong! Jay went on to have an incredibly successful career that he loved, arguing over 20 Idaho Supreme Court cases and serving on the Idaho State Bar Character and Fitness and Professional Responsibility Committees. He was also a past president of the Idaho Trial Lawyers Association and was recently awarded the Distinguished Lawyer Award by the Idaho State Bar. He has been known the past 35 years as one of Idaho's top personal injury related attorneys. His goal was to practice law for 50 years, and he made it to 40. He was especially thankful for his partners and legal assistants whom he worked with over the years.

In 1985 Jay's son John was born. Jay taught him a strong work ethic and integrity through his example. Jay and John sent each other weekly emails titled "Weekend Reports" detailing their pursuits and activities which are a treasured store of wisdom and guidance from father to son. Last week, Jay flew to Nashville to visit John, Courtney, and Porter, and they all deeply enjoyed a fortuitous weekend together just four days prior to his unexpected passing.

Jay married Ranae Pumphrey in 1992 and together they worked to build a successful horse and cow operation and raise their family. Each springtime was filled with mud and new baby calves and branding, summertime brought 4-H horse shows while John and Jamie were young, the cows were rounded up and calves weaned each fall, and winter brought feeding hay and ensuring stock water tanks weren't iced over.

Jay and Ranae welcomed the birth of their daughter Jamie in 1994. Jamie was the light of their home and filled each day with precious laughter and joy. She loved her horses, longhorn cow, kittens, and helping her parents around the ranch. Her tragic passing in 2003 left a huge scar on the hearts of everyone that loved her.

After Jamie's passing and with John at college, Jay and Ranae became heavily involved with training and showing their horses in regional reined cow horse competitions. Jay's goal was to win the National Reined Cow Horse Association's Futurity at Reno on a horse he had bred, trained, and shown himself, and he won multiple year-end championships. In 2010 Jay was inducted into the Eastern Idaho Horseman's Hall of Fame for his tireless efforts to promote equine pursuits in Idaho. Jay and Ranae have been greatly assisted in their ranching and showing pursuits and express much appreciation to Andy and Bailey Lusk.

Jay is preceded in death by his daughter Jamie, his father Merle, beloved mentors Sherm Swim, Mr. Elwell, and Herman McDevitt. He is survived by his wife Ranae, mother Dorothy, son John, daughter in law Courtney, grandson Porter, brother Jerry and sister Judy, and a multitude of loving nieces and nephews.

The family would like to invite family and friends to the viewing on Thursday, September 4, 2014 from 6-8 pm at Colonial Funeral Home, 2005 S. 4th Ave. Pocatello, ID 208-233-1500, as well as the visitation and funeral from 4-5 pm and then 5-6 pm respectively on Friday, September 5, 2014 at Grace Lutheran Church, 1350 Baldy Ave. Pocatello, ID 83201, in Pocatello. Interment will follow at Falls View Cemetery in American Falls.

In lieu of flowers, the family requests that donations may be made to the Jamie Meyers Memorial Fund at Grace Lutheran School, 1350 Baldy Ave. Pocatello, ID. 83201

Court declines appraisal injunction

Coeur d'Alene Press: Aug. 30- Keith Kinnaird/ Hagadone News

SANDPOINT - A 1st District judge again declined on Friday to grant a preliminary injunction to Priest Lake cottage site lessees. More than 70 cottage site lessees moved stop the Idaho Department of Lands from using recent appraisals to set lease payments, minimum bids or establish the value of improvements to the cottage sites. The lessees argued that they have a constitutionally protected right to renew their cottage site leases - in essence a property right in the next lease. Judge Barbara Buchanan held in June that the due-process clause in the Constitution does not create substantive rights in property. The lessees moved for reconsideration and asked the court for an injunction that would preserve the status quo, according to court documents. The state opposed the move, emphasizing that the lessees still have the right to renew their leases and have therefore been deprived of nothing. Deputy Attorney General Steve Strack argued that the lessees are angling for long-term leases instead of year-long ones. He further argued that a disagreement over lease terms did not amount to deprivation, court records indicate. After taking in the respective arguments, Buchanan stood by her earlier ruling, finding that the lessees have not sufficiently established that they hold any state law property right to renew their leases. She also noted that the lessees were asking for extraordinary relief by seeking to enjoin the Land Board from carrying out its duties to manage endowment lands in manner that secures the maximum long-term financial benefit to the state. Although the preliminary injunction was denied, the case remains pending. Buchanan's ruling came a day after nearly 60 state-owned lease lots at Priest Lake were auctioned off in Coeur d'Alene. Almost all of the lots wound up in the hands of the people who had leased them for years. The auction raised more than \$26 million for Idaho's public school endowment.

Judge: Jail plan unconstitutional

Coeur d'Alene Press: Aug. 30- Keith Cousins

COEUR D'ALENE - Plans for a new jail are on hold after a district court judge ruled Friday that the language of a proposed lease agreement between Kootenai County and Rocky Mountain Corrections is unconstitutional. Judge John Stegner was tasked with determining if the language in a specific portion of the lease, which would bring a privately owned prison capable of housing more than 900 inmates to the county, was a true non-appropriation clause. The county hopes to lease the new facility from the private corrections company. Since Idaho law prohibits taxing entities from entering into long-term debt without a public vote, a non-appropriation clause is necessary because it would allow the county to terminate the lease at the end of a budgeting period without any further obligations or penalties. In a filled Kootenai County District courtroom, Stegner questioned Stephanie Bonney, a bond council attorney hired by Rocky Mountain Corrections. "The question is whether they (the county) are obligated to pay if they don't want to," Stegner said. "The way I read it is that they are required to pay whether they want to or not." Bonney replied that the language used in the non-appropriation clause of the lease agreement was commonly used in agreements made throughout the state. Commissioner Jai Nelson, the only commissioner opposed to the proposed lease, filed court documents earlier this week challenging the legality of the agreement. In a statement to The Press, Nelson's lawyer, John Magnuson, pointed out Article 8, Section 3 of the Idaho Constitution - which in part states, "No county ... shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such a year, without the assent of two-thirds of the qualified electors (of the county) voting at an election to be held for that purpose" - as a primary reason for his client's opposition. "Mr. Magnuson, do you want to try to snatch defeat from the jaws of victory?" Stegner asked after his questioning of Bonney was concluded. Magnuson declined to make a statement and Stegner then denied the petition. "I just don't perceive this as a true non-appropriation agreement," Stegner said. After the decision, Magnuson told The Press he was pleased with the outcome. "Commissioner Nelson ought to be commended for representing the taxpayers of the county in this," Magnuson said. "Without her, who knows what would have happened." Nelson told The Press that while the hearing was "supposed to protect the interests of New York investors" rather than the taxpayers, she was glad that changed. "We got a victory for the taxpayers," Nelson said. She said she had previously proposed conducting a feasibility study to look at all the options. "Once all those options are explored, the appropriate ones should come out and we can present those to the citizens and let them decide," Nelson said. Magnuson added it was "almost surreal" that when he and his client requested information such as where the proposed jail would be located and how much in taxpayer money would be needed to pay property taxes for the facility, they were refused an answer. "The lunacy of this whole thing is that the county commissioners were asking the court to approve a lease without assessing the nature of the agreement itself," Magnuson said. "Financiers from Fifth Avenue in New York don't come to Kootenai County to build a \$30 million jail so they can leave it one year later." Commissioner Dan Green, who voted in support of the lease along with Commissioner Todd Tondee, said in light of Stegner's ruling, the question now becomes whether or not there is language to satisfy a judge that it is a true non-appropriation clause. "The intent of today's hearing was to make sure that we are operating within the guidelines of state statutes," Green said. "This was all about protecting taxpayer dollars and it is better to find this out now rather than later." Green pointed out that Stegner never mentioned Nelson's complaint to the court and simply didn't like the language of the clause. With that in mind, Green said since Stegner declined to give Bonney advice on appropriate language for the clause, the commissioners and Rocky Mountain Corrections would have to go back to the drawing board. "Based on this jurisdictional review, if we don't get a legitimate non-appropriation clause then I won't support this going forward in the future," Green said. Kootenai County Sheriff Ben Wolfinger said even though it's his belief that Friday's decision does not mean the end of the potential lease, it's his job to run the jail "not make decisions on where it is or how big it is." "It's their (the commissioners) call on where we go from here and we are happy to work with them on this," Wolfinger said. "This ruling didn't make the problem go away. We still have more inmates than beds at the jail."

BLOG: Bujak Using Web Ads, Anti-Otter Website to Tout Conservative Creds

MagicValley.com: Sep. 1- Nathan Brown

Libertarian gubernatorial candidate John Bujak and his supporters have been stepping up their campaigning online over the past week, with web ads and a new website going after incumbent Republican C.L. "Butch" Otter and painting Bujak as the best choice for disaffected Idaho conservatives. The [first web ad, "Pledge,"](#) casts Bujak as the candidate who will take on lobbyists and the establishment, and [the second, "No More,"](#) highlights Bujak's conservative views – his opposition to Common Core education standards, to wolves, to the state's health-insurance exchange and to federal control of Idaho lands. Both ads have Bujak speaking at the end, saying he will "return traditional, conservative, Idaho values to the statehouse." Bujak's campaign also recently came out with a website, www.liberalotter.com, accusing incumbent Republican C.L. "Butch" Otter of being "too liberal for Idaho," based on positions such as his support for Common Core and his establishment of a health-insurance exchange. (The exchange was [also an issue for Otter in the primary.](#)) The website's name would seem to be a reference to www.liberalaj.com, which is funded by the Otter-supporting Idaho Association of Commerce and Industry and [accuses his Democratic challenger A.J. Balukoff](#) of being too liberal for the state. Bujak [told me when I talked to him](#) about a month ago that he had been hearing from a number of conservatives who have said they won't vote for Otter but don't want to vote for a Democrat, either. The Associated Press came out with a story over the weekend, [quoting northern Idaho Rep. Vito Barbieri](#) as saying that he expects many disaffected conservatives won't cast a vote for governor. The establishment and more conservative wings of Idaho's Republican Party went through a particularly bruising fight this year. Many of the establishment incumbents – including Otter – faced primary challenges from the right. The convention in June broke down as the two factions fought it out, adjourning without a specific vote on new leadership. This was followed by about a month of back-and-forth over whether Barry Peterson, who was backed by the tea party side, was still the party's chairman or not. A judge ended up [ruling against Peterson](#), and after that, the party [elected Steve Yates](#) as chairman. Also, Justin Goodman, a Bujak supporter who runs the ["Bujak for Idaho" Facebook page](#), is trying to get the Balukoff, Bujak and Otter campaigns to agree to a Twitter debate. He is proposing a format where each candidate would get three tweets (520 characters) to answer a question, then each would get three rebuttal tweets. Voters could follow using the hashtag #onlinedebate. Goodman [told me via Twitter](#) that he would want to get a moderator from a media outlet – as an avowed Bujak supporter, he said he doesn't think he should moderate it. So far, only Bujak's camp has accepted Goodman's challenge. The Times-News and other media outlets are trying to arrange in-person debates, but none of them are nailed down yet. The Times-News is trying to hold one on Sept. 24. As of now, that one would include only Otter and Balukoff, provided Otter accepts. Here's a [link to the story](#) announcing it; Bujak posted a comment on the story that you might want to read. (I should probably state here that I am not a member of the editorial board and play no role in arranging debates or setting the format.)

Arsonist to spend up to 30 years in prison

Idaho Statesman.com: Sep. 2- John Sowell

Steven Eugene Roberts III will serve at least 10 years for the Sept. 1, 2012, break-in and arson at the home of murder victim Phyllis Ward. The fire took place a month after Ward was killed in her home on the Boise Bench and her house set on fire. Autopsy reports indicate she was beaten to death before the fire was set. Police say Roberts had nothing to do with the retired teacher's death or the first fire. [That case remains unsolved.](#) Prosecutors were never able to determine a motive for the actions of Roberts, now 43. He broke a plate-glass window to get inside the house. Despite having several cans of gasoline, Roberts was only able to start a small fire, Deputy Ada County Prosecuting Attorney Kai Wittmer said. "You clearly entered the house to burn it down," 4th District Judge Steve Hippler said during sentencing on Tuesday. "Why you wanted to do that, I don't know." The fire was especially troubling because it led Ward's family to wonder whether they were being targeted even after Ward's murder, Hippler said. "It revictimized the family," he said. Roberts was tied to the fire through blood found where the window was broken. He was arrested a month later in Louisiana, where he fled after the fire. Hippler found Roberts guilty of first-degree arson and burglary following a bench trial in June. Roberts showed no remorse and refused to take responsibility for his crimes, Wittmer said. Wittmer said Roberts had been convicted previously of seven felonies and several misdemeanors, spent time in prison and had participated in prison assistance programs and was placed on parole in attempts to have him become a productive member of society, Wittmer said. "He has failed miserably on all of them," Wittmer said. "It has not had the intended effect to correct Mr. Roberts' behavior." Roberts had faced 25 years in prison but Hippler added another five years to the maximum sentence after finding the defendant was a persistent violator. He was credited for the 654 days he has been held in custody since his arrest. The sentence will run concurrently with a sentence imposed in Bannock County following convictions for aggravated battery, grand theft by possession and burglary. He was scheduled to be released from prison on those convictions in January 2019, according to records from the Idaho Department of Correction. Defense attorney Robert Chastain told Hippler his client was bitterly disappointed in the guilty verdict. He said Roberts continues to maintain his innocence and hopes the real arsonist will be caught. Roberts told Hippler he still plans to make a positive contribution to society. "I'm not a throwaway," Roberts said.

Man Sentenced to Life in Filer Stabbing, Shooting Murder

MagicValley.com: Sep. 2- Alison Gene Smith

TWIN FALLS • Larry Miller's family members nodded in unison as District Judge Randy Stoker spoke. "You're probably still asking why this happened," he said. Miller's killer, Bradly Frank James, 23, was sentenced Tuesday in Twin Falls County District Court to 15 years to life in prison for second-degree murder. James pleaded guilty in July, just before his trial was to begin. Prosecutors say James shot Miller in the face with a rifle and stabbed him 25 times Dec. 12. Officers tried to save Miller, but he died at the scene. Miller's house, on the 600 block of Main Street, had a bloodied porch, mudroom and front lawn, as well as a bullet hole through the front-door window. Miller was found in front of Knutson's Kustom Kutting, 375 Main St. in Filer, three blocks from his home. His family members declined to speak to a reporter Tuesday. Second-degree murder means a person kills another with "malice aforethought" but without premeditation. It carries a minimum 10-year sentence. James' grandfather is Brent Reinke, director of the Idaho Department of Correction. Reinke took a two-week leave of absence in mid-March to address his grandson's prosecution. Tuesday, special prosecutor Mark Hiedeman explained it was not the gunshot that killed Miller, but rather a deep stab wound in the left side of his chest. He rejected the idea that post-traumatic stress disorder from James' military service fueled his likelihood to kill. "I think that was probably going to be an excuse for the murder or a defense to the murder," he said. Hiedeman said James built a potato gun when he was 18 and had threatened to kill people with it. "It's obvious he has issues," the prosecutor said. Despite the plea deal in the case, Hiedeman said, it was important to him that James be sentenced to life in prison. "I don't know if he's a psychotic killer or an alcohol-abusing drug user," he said. But the parole board must have a long time to evaluate James and decide whether to release him or keep him imprisoned for life. James' defense attorney, Doug Nelson, told the court it was his plan not to give James' side of the story during the sentencing. If James had answered detailed questions in a presentence report, it could have done damage had the judge rejected the plea deal, he said. James declined to speak at the hearing. Stoker told James he had to come to terms with the murder, or he would most likely never be paroled. In his years as a judge, Stoker said, he's never understood why one person takes the life of another. "I can't provide any more closure to you folks," he told Miller's family. Stoker said it's difficult to measure when justice is done in any murder case. "All we can do is try." As part of the plea, James gives up his right to appeal the sentence.

Capone trial: Daughter tells court her mother was living in fear

Lewiston Tribune: Sep. 3- Kerri Sandaine

Charles A. Capone talks to his attorney Tuesday just before testimony begins in his trial on first-degree murder charges related to the disappearance of his estranged wife, Rachael Anderson of Clarkston. MOSCOW - The family of Rachael Anderson said the missing Clarkston woman feared for her life as she moved forward with divorcing Charles A. Capone in the spring of 2010. Creepy phone calls and harassing texts kept the 40-year-old woman awake at night, along with unexplained vandalism to her car and stalking, according to testimony during the first day of Capone's trial in Latah County 2nd District Court. The 53-year-old Moscow man is accused of killing Anderson and disposing of her body, which has never been found. He is charged with three felonies, including first-degree murder, in connection with Anderson's disappearance and presumed death. Anderson's oldest daughter, Amber Griswold, said her mother became more and more terrified and distressed as the harassment escalated in the weeks before she vanished. Anderson was upset, confused and suffering, Griswold told the jury. The once-vibrant woman went from dressing nice and styling her hair to showing up at a grandchild's birthday party in jeans with no makeup and her hair in pigtails. Her demeanor had changed from outgoing to sad and helpless, Griswold said, and it was like watching a parent going through cancer. All four of Anderson's children testified Tuesday, along with two of her former husbands, a sister and a co-worker. Capone, who has maintained his innocence for more than four years, sat at the defense table with his attorneys, D. Ray Barker and Mark Monson. Senior Judge Carl B. Kerrick is presiding over the jury trial, which is expected to last about three weeks. Latah County Deputy Prosecutor Mia Vowels is handling the state's case, with assistance from Prosecutor William Thompson Jr. Angela Cabrera, who worked with Anderson at a pathology lab in Lewiston, said Anderson was visibly shaken when she learned a man identifying himself as Charles Capone had called the lab, asking for her work schedule. According to Cabrera's video testimony, Anderson left work early that day, saying she needed to get a restraining order and feared Capone would kill her rather than let her leave him. When Anderson didn't show up for work on April 19, Griswold contacted police and the family began a search that continued for years. Capone didn't help with any of the searches or appear concerned when he was informed his estranged wife was missing, Griswold said. Family members said Anderson was a devoted mother who would not have left without notifying her kids. She was in constant contact with her two grown daughters, and her two young sons lived with her. "She monitored how many grams of sugar they had," said Kristina Bonefield of South Dakota. Bonefield is Anderson's younger sister, and she'll be back on the stand at 9 a.m. today when court resumes. During opening remarks, Vowels said Capone and Anderson were married at the Hitching Post in Coeur d'Alene following a brief courtship. They separated after a few months. Anderson had decided to go through with the divorce, but feared it could end in her death, Vowels said. She drove to Moscow on April 16 to retrieve a vehicle Capone was repairing at his shop. Capone has said she left his shop at 7 p.m. and never came back, Vowels said. But one of Capone's friends, David C. Stone, told police a different version of events. Stone, who is expected to testify sometime next week, has said he saw Capone strangling Anderson at his shop, Vowels said. The men allegedly wrapped her body in a tarp and weighed it down with tire chains before throwing her over the Red Wolf Crossing Bridge into the Snake River near Clarkston, she said. At the time, the defendant reportedly told Stone to keep his mouth shut, saying, "This will all go away because they will never find her body," Vowels told the jury. Barker said Stone has made several statements and came up with the latest story last November. Stone agreed to testify against Capone in exchange for a plea deal that calls for dismissal of a murder charge and a maximum sentence of seven years in prison, Barker said, and his statements are full of inconsistencies and don't make sense. The defense attorney asked the jury to listen carefully and keep an open mind. In the end, they will have to decide whether the state has proved its case beyond a reasonable doubt, Barker said. Vowels said Stone wanted to come clean and there was no deal on the table when he explained his involvement in the case. She asked the jury to be patient as they hear the evidence. The state is convinced Capone will be found guilty, Vowels said.

Idaho County public defender suspended

Lewiston Tribune: Sep. 3- Kathy Hedberg

GRANGEVILLE - Orofino attorney Christopher S. Lamont, who has been serving as Idaho County's public defender for the past two years, has been suspended by the Idaho Supreme Court from practicing law for nine months. In an order issued last month, the Supreme Court said Lamont violated terms of a previous disciplinary probation related to his failure to communicate with clients. Lamont declined comment on the matter when reached by phone Tuesday night. According to Idaho State Bar documents, Lamont was issued a disciplinary order Nov. 14 that imposed a nine-month suspension and one-year probation. The Idaho Supreme Court found Lamont failed to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information, according to the order. Lamont admitted he violated Idaho rules of professional conduct and failed to respond to client inquiries, communicate with clients about their pending cases and respond to a former client's request for documents, according to the order. The nine-month suspension was withheld at the time and Lamont was allowed to continue practicing law. But the Supreme Court action in August found Lamont failed to comply with the terms of probation. "Mr. Lamont admitted that he violated his disciplinary probation by failing to consult with clients about the means by which their cases would be pursued and failed to communicate with those clients as required" under Idaho's rules of professional conduct, according to the order. Grangeville attorneys Scott and Vicki Olds have been hired as felony public defenders for Idaho County until the end of September, County Clerk Kathy Ackerman said Tuesday. The Oldses have also taken over the misdemeanor public defender contract through September that was vacated after former public defender Gregory Dickson of Moscow resigned to take another job. The commissioners, who have budgeted \$90,000 for the two public defender positions for the year, said they are not sure what will happen after the contracts expire at the end of the month.

Prosecutors drop stolen firearms case

Lewiston Tribune: Sept. 4- Ralph Bartholdt

Nez Perce County prosecutors dismissed a firearms case Wednesday after a judge refused to allow a state police report to be submitted as evidence. The state police report identified a .38-caliber Smith and Wesson revolver as stolen after it was found by a county deputy under the seat of a car impounded after a July traffic stop in North Lewiston. The pistol allegedly belonged to a passenger, Brock R. Silflow, 29, of Kendrick, according to court records, who was arrested and charged with grand theft by possessing or receiving stolen property, a felony. He was released following his arrest on a \$5,000 bond. At Silflow's preliminary hearing, Nez Perce County Deputy Prosecutor April Smith asked that the report, which was printed by a county dispatcher, be submitted as evidence to show the firearm had been reported stolen in a Grangeville burglary earlier this year. But the defense objected. Defense attorney Richard M. Cuddihy argued the report didn't show that the firearm found in the car was the same one alluded to in the report. Nez Perce County Magistrate Michelle Evans said prosecutors should have taken a picture of the serial number on the revolver instead of submitting a report generated from police records. "The simple answer would be to take a picture of the serial number," Evans said. Smith said she did not request the pistol be brought to court, and she didn't subpoena the dispatcher who printed the records report because she felt the police record was proof enough the firearm was stolen. Local law enforcement use both state and federal data to generate stolen firearms reports. Smith asked the case be dismissed, and said she would re-file it. The .38-caliber revolver was among 14 firearms - including several handguns, .22-caliber rifles and boxes of ammunition - reported stolen in an April burglary at a Grangeville storage unit, according to court documents.

Federal judge refuses to dismiss Idaho ag-gag lawsuit

Idaho Statesman.com: Sep. 4- Cynthia Sewell

BOISE — Chief U.S. District Judge B. Lynn Winmill on Thursday ordered that a lawsuit challenging Idaho's new ag-gag law can move forward. A coalition of animal activists, civil rights groups and media organizations filed the lawsuit against the state in March, shortly after the Idaho Legislature enacted a new law making it illegal to secretly film animal abuse at agricultural facilities. The coalition contends that the law, called an "ag gag" law, criminalizes whistleblowing and violates freedom of speech. In his 33-page order denying the state's motion to dismiss the case, Winmill states some claims raised by the coalition are "ripe for review." Winmill did dismiss Gov. Butch Otter as a defendant in the case because Otter does not have enforcement authority over the law. The Legislature passed the law earlier this year after Idaho's dairy industry complained that videos showing cows being abused at a south Idaho dairy unfairly hurt business. The Los Angeles-based animal rights group Mercy For Animals released the videos, which showed workers at Bettencourt Dairy beating cows in 2012. The coalition notes that under the new law, gathering proof of animal abuse is a crime with a harsher punishment than the penalty for animal cruelty itself. The law says people caught surreptitiously filming agricultural operations face up to a year in jail and a \$5,000 fine. By comparison, a first animal cruelty offense is punishable by up to six months in jail and a fine of up to \$5,000. A second offense within 10 years of the first conviction carries a penalty of up to nine months in jail and a fine up to \$7,000.

American Falls felony child abuse trial continues

Idaho State Journal: Sep. 4- Debbie Bryce

AMERICAN FALLS — The trial for a man accused of four counts of injury to a child with an enhancement of infliction of great bodily injury, all felonies charges, started Thursday in Power County. Cody Sellers, 30, of Kemmerer, Wyo., was arrested in Wyoming last November and charged for injuries sustained on 2-year-old Natalie Torres in 2012. Sellers and his then-girlfriend, Amanda Baret, took Natalie to Portneuf Medical Center on May 4, 2012, after she suffered life-threatening brain injuries. She was flown to Primary Children's Hospital in Salt Lake City. The toddler was Baret's daughter, and she and Sellers have since married. Power County Prosecutor Ryan Petersen said the charges were filed based on what investigators believed to be separate injuries to the little girl. Natalie sustained permanent brain damage from her injuries. She now resides with her father, Allen Torres of Pocatello. A no-contact order is in place against Sellers, but Baret has visitation with Natalie. In February, Judge Stephen Dunn banned Sellers from being in Bannock County, but that order has since been lifted. Allen said in spite of having unrestricted visitation with her daughter, Baret has only visited Natalie three times since she was injured in 2012. On Thursday, the jury, composed of eight women and four men, which includes two alternate jurors, heard testimony from Kristine Campbell, a pediatrician with the University of Utah, who examined Natalie in 2012. Dunn said the alternate jurors would be selected by lottery at the close of the trial. "Everyone is totally invested in the trial," Dunn said. Canyon County Prosecutor Erica Kallin was appointed to assist with the case, and she asked Campbell to explain how the medical staff made the determination of abusive head trauma. Campbell said the diagnosis is made after accidental and natural causes are eliminated and by examining external bruising and bleeding in the brain and eyes. Prior CT scans were compared with scans taken when Natalie arrived in Utah. Because structures in the brains of infants have not sealed, it takes significant force to cause sub-dermal and retinol bleeding, according to the expert. Typically, bleeding in the eyes and brain are seen in falls from one to two stories, being ejected from a car or a crushing injury such as something heavy falling on the child, Campbell said. "A child's brain sort of floats in spinal and cerebral fluid," Campbell said. "Impact can occur without the child striking anything." Baret and Sellers told doctors in Utah that Natalie suffered from seizures, and Sellers even recorded some of the episodes on his phone at the request of doctors. Sellers showed no emotion during the opening testimony, while Baret was momentarily shaken up when the jury viewed one of the videos showing a tiny Natalie crying and contorted on the floor, and it appeared that the child stopped breathing until Sellers nudged her. The doctor said Natalie appeared pale, and the shallow breathing reflected swelling around her brain. Campbell noted that while the episodes seemed to occur with some frequency at Baret's home, Allen said they never occurred when Natalie was with him. Doctors who viewed the videos did not believe the episodes were seizures. Natalie was born at 26 weeks of gestation and Campbell said babies born so prematurely typically have bleeding the brain caused by under-developed veins deep inside the brain. Prior to the Natalie being transferred to Primary Children's Hospital in Utah on May 5, 2012, a CT scan in March showed markers for premature bleeding, but did not show subdermal bleeding apparent when she was examined on May 4. Campbell said tests determined that there were two separate ages of blood in Natalie's brain. Prior to the hospital visit in March, Campbell said Sellers and Baret reported that Natalie woke up several times with tiny, ball point pen-sized bruises on her neck, hands and feet. She said the possibility of abuse was discussed then and the next month Sellers and Baret started video recording the episodes. When Natalie was transported to the Utah hospital, they told doctors that she woke on May 4 at about 5 a.m. Baret said she changed her diaper and put Natalie back in bed. Natalie allegedly woke up hours later, ate a banana and a Pop Tart and was playing with her toys. The child was reportedly fussy before collapsing on the floor and showing irregular breathing. Sellers recorded video of Natalie before taking her to the hospital. "Something happened between the time Natalie woke up and was playing and eating and the time the video was shot," Campbell said. In cross examination, Brad Willis, legal counsel for Sellers, confirmed that skeletal X-rays of Natalie showed no fractures, and Campbell said that was correct. Willis then asked if the child sustained any type of neck injury and Campbell said that is rare for children diagnosed with abusive brain trauma to sustain neck injuries. She also noted that the rate of death for children who suffer a short fall, such as the one from the sofa, is about one in a million. "The child woke up on May 4, vomiting and fussy. Is that indicative of a previous trauma?" Willis asked. Campbell said the child showed symptoms of brain injury between March and May, but something had changed on May 4, 2012. The trial is expected to continue through next week. Natalie just turned 4, and Allen said she's doing better than doctors expected. Allen said Natalie didn't wake up for two days after being transferred to Utah and that his daughter endured a great deal of pain and suffering during the weeks following the injury. "She cried a lot," Allen said. "I want to see (Sellers) convicted." When she was released from the hospital two years ago, Allen said Natalie, his only child, was blind. Today she does have limited vision, but still has impaired mobility. At 4 years old, Natalie doesn't talk, but Allen said she is starting to babble. "She is like a 6-month-old baby," Allen said. Because she was born so prematurely, Natalie had just started walking five months before the incident in 2012, but Allen said she was very healthy and even starting to talk. Allen, a single father, said a CNA helps care for Natalie while he works, and his family helps out, too. He said the trial has stirred up a lot of emotion. "Up until now, I've just been focused on taking care of Natalie and living our life as it is now," Allen said. "I want to see Sellers convicted." Allen said he confronted Baret about Natalie's injuries, and she denied that Sellers had hurt the child. "She claims that some medical mystery is to blame for what happened," Allen said.

Don't fear swimming with the sharks

Idaho Business Review: Sep. 5- Paul Luvera

For better or worse (duh-dum), the non-human creature most often associated with attorneys (duh-dum ... duh-dum) is that decidedly menacing, vicious aquatic predator known as (duh-dum, duh-dum, duh-dum, DUH-DUM, DUH-DUM) — well, you know. Voltaire Cousteau, apparently an ancestor of the better-known Jacques, wrote an article called “How to Swim with the Sharks: A Primer.” The author died in Paris in 1812. The piece was translated from French to English for publication and reprinted in a medical journal in 1973, and in 1981 it was re-published in the *American Journal of Nursing*. I've kept Cousteau's article in mind for many years, because it has always seemed to make for a wonderful set of instructions for plaintiffs' lawyers dealing with the typical defense counsel. The author begins by saying: “swimming with sharks is like any other skill: it cannot be learned from books alone; but novices must practice in order to develop the skill. The following rules simply set forth the fundamental principles which, if followed, will make it possible to survive while becoming expert through practice.” Here's is a summary of the rules. 1) Assume unidentified fish are sharks. Not all sharks look like sharks. The wily predator will reveal his ferocity only when necessary. Be prepared. 2) Do not bleed. If you are injured either by accident or by intent, you must not bleed. Experience shows that bleeding prompts an even more aggressive attack. Diligent practice will permit the experienced swimmer to sustain a serious laceration without bleeding or even exhibiting any loss of composure. The shark will be confused as to whether or not his attack has injured you, and confusion is to the swimmer's advantage. 3) Counter any aggression promptly. Sharks rarely attack a swimmer without warning; usually there is some tentative exploratory action. The appropriate counter-move is a sharp rap on the nose: almost invariably, the blow will prevent a full-scale attack, for it makes it clear that you understand the shark's intentions and are prepared to use whatever force is necessary to repel his aggressive actions. Some swimmers mistakenly believe that an ingratiating attitude will dispel an attack under those circumstances. Not so. Such a response will likely provoke an attack, and those who react in such a manner can usually be identified by their missing limb. I particularly like this rule. The perils of trying to defend against an attack through ingratiating behavior should be required reading for all plaintiff's lawyers, in my view. 4) Get out if someone else is bleeding. If another swimmer has been injured and is bleeding, get out of the water promptly. No useful purpose is served in attempting to rescue the injured swimmer. He either will or will not survive the attack — your intervention cannot protect him. 5) Use anticipatory retaliation. A constant danger to the skilled swimmer is that the sharks will forget that he is skilled and may attack again. Some sharks have notoriously poor memories in this regard. That memory loss can be prevented by a program of anticipatory retaliation. The procedure may need to be repeated frequently with forgetful sharks and may be needed to be done only once for other sharks. The procedure is essentially the same as described for countering aggression — a sharp blow to the nose. Here, however, the blow is unexpected and serves to remind the shark that you are both alert and unafraid. 6) Disorganized and organized attacks. Usually sharks are sufficiently self-centered that they do not act in concert against a swimmer. However, upon occasion, sharks make a coordinated attack. The proper response is diversion. Sharks can be diverted from their organized attack in one of two ways. First, sharks are usually prone to internal dissension. The experienced swimmer can divert an organized attack by introducing something, often something minor or trivial, that sets the sharks fighting among themselves. A second mechanism is to introduce something that so enrages the members of the group that they begin to lash out in all directions, even attacking inanimate objects in their fury. Now, I ask you, when reflecting on trials against defense attorneys, doesn't each of these rules apply to situations we have all encountered? We can't stop swimming, so we must be aware of the wily ways of the predators in our midst. They can be intimidating, even scary, but remember: You can outfox even the most vicious Great White through patience and preparation. You may just need a bigger boat.

Paul N. Luvera is the founder of Luvera Law Firm in Seattle. The author of five books and numerous articles, Luvera has obtained record verdicts in Washington, Idaho and Oregon, and has given hundreds of lectures around the country. He was elected to the American Trial Lawyers Association Hall of Fame in 2010.

32 States Ask Supreme Court to Settle Gay Marriage

MagicValley.com: Sep. 5

BOSTON (AP) — Thirty-two states that either allow gay marriage or have banned it asked the U.S. Supreme Court on Thursday to settle the issue once and for all. Fifteen states that allow gay marriage, led by Massachusetts, filed a brief asking the justices to take up three cases from Virginia, Utah and Oklahoma and overturn bans. And 17 other states, led by Colorado, that have banned the practice asked the court to hear cases from Utah and Oklahoma to clear up a “morass” of lawsuits, but didn't urge the court to rule one way or another. The filing came as a three-judge panel of the 7th U.S. Circuit Court of Appeals in Chicago ruled that same-sex marriage bans in Wisconsin and Indiana are unconstitutional. The unanimous decision Thursday criticized the justifications both states gave, several times singling out the argument that marriage between a man and a woman is tradition. There are, the court noted, good and bad traditions. The experience of Massachusetts — the first state to legalize gay marriage — shows that allowing same-sex couples to wed has only benefited families and strengthened the institution of marriage, said Attorney General Martha Coakley. “Laws that bar same-sex couples from marrying are discriminatory and unconstitutional,” she said. “The time has come for this critical issue to be resolved.” Massachusetts was joined by California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, New Mexico, New York, Oregon, Pennsylvania, Vermont, and Washington. Colorado's brief argued that the definition of marriage faces legal challenges only the Supreme Court can resolve, and that without a Supreme Court decision, states defending bans could be liable for huge legal bills from future lawsuits if they are overturned. It was written by Daniel D. Domenico, the state's solicitor general, and Michael Lee Francisco, assistant solicitor general. Colorado was joined by Alabama, Alaska, Arizona, Georgia, Idaho, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, West Virginia and Wisconsin. These are the cases addressed in the briefs: — In Virginia, the 4th U.S. Circuit Court of Appeals ruled in July that the state's voter-approved ban is unconstitutional. The state has appealed to the U.S. Supreme Court, which hasn't said whether it will accept the case. But the high court granted a request on Aug. 20 from a county clerk to delay implementation of the ruling, which would have allowed same-sex couples to marry beginning the next day. — In Oklahoma, an appeals court tossed the state's ban in July but put its ruling on hold pending an appeal, meaning same-sex couples can't marry in Oklahoma for now. Attorneys representing the Tulsa County court clerk — who refused to issue a marriage license for a lesbian couple there — asked the Supreme Court this month to hear the case. — In Utah, the 10th U.S. Circuit Court of Appeals in Denver ruled this summer that Utah must allow gay couples to marry, though it put the ruling on hold pending an appeal. The state has asked the U.S. Supreme Court to uphold the state's ban.

Hearing postponed for Kenneth O'Brien Investigators believe the Nampa man tried to order a 'hit' on his ex-girlfriend

By JOHN FUNK August 5, 2014 Idaho Press-Tribune

CANYON COUNTY — Kenneth Andrew O'Brien, a 20-year-old Nampa man suspected of plotting to have his ex-girlfriend killed, didn't quite manage to hold back his tears when he appeared before Magistrate Judge Gregory F. Frates Thursday morning. His attorney, Isaiah Govia of Mimura Law Office, acting under contract as a public defender, asked Frates to postpone the hearing because O'Brien's family plans to hire a private lawyer to represent him. O'Brien will appear again before Frates for a status conference at 8:30 a.m. Sept. 11, then again for a preliminary hearing Sept. 18. O'Brien was arrested and charged after a witness alerted police, reporting that he'd offered her an unknown amount of money and the use of his 9mm handgun to commit the act, the document states. She could pick up and dispose of the shell casings, he told her, and he would modify something inside the gun after the fact so that it couldn't be traced. The witness told O'Brien she didn't think he was joking and would contact police, the affidavit states, but he responded that he'd claim he wasn't serious. During his own interview with police, court documents state, O'Brien told investigators that he'd talked to the witness and others about putting a "hit" on his ex-girlfriend. More than once, he told detectives, he was told that he shouldn't joke about that, at which point he'd pull out his wallet, offer cash and say, "See, I'll pay you right now." O'Brien would offer to lend out his handgun, he told police, and explain that he'd change the barrel afterward so the rifling would be different and wouldn't match forensic tests, but claimed he was only joking. He's being held at the Canyon County Jail on a \$50,000 bond.

Hearing postponed for Kenneth O'Brien Investigators believe the Nampa man tried to order a 'hit' on his ex-girlfriend

By JOHN FUNK September 5, 2014 Idaho Press-Tribune

CANYON COUNTY — Kenneth Andrew O'Brien, a 20-year-old Nampa man suspected of plotting to have his ex-girlfriend killed, didn't quite manage to hold back his tears when he appeared before Magistrate Judge Gregory F. Frates Thursday morning. His attorney, Isaiah Govia of Mimura Law Office, acting under contract as a public defender, asked Frates to postpone the hearing because O'Brien's family plans to hire a private lawyer to represent him. O'Brien will appear again before Frates for a status conference at 8:30 a.m. Sept. 11, then again for a preliminary hearing Sept. 18. O'Brien was arrested and charged after a witness alerted police, reporting that he'd offered her an unknown amount of money and the use of his 9mm handgun to commit the act, the document states. She could pick up and dispose of the shell casings, he told her, and he would modify something inside the gun after the fact so that it couldn't be traced. The witness told O'Brien she didn't think he was joking and would contact police, the affidavit states, but he responded that he'd claim he wasn't serious. During his own interview with police, court documents state, O'Brien told investigators that he'd talked to the witness and others about putting a "hit" on his ex-girlfriend. More than once, he told detectives, he was told that he shouldn't joke about that, at which point he'd pull out his wallet, offer cash and say, "See, I'll pay you right now." O'Brien would offer to lend out his handgun, he told police, and explain that he'd change the barrel afterward so the rifling would be different and wouldn't match forensic tests, but claimed he was only joking. He's being held at the Canyon County Jail on a \$50,000 bond.

Middleton councilman charged with sex crime Bradley Spencer's bond set at \$100,000, official ordered not to have contact with alleged victim

By BOBBY ATKINSON and TORRIE COPE September 6, 2014 Idaho Press-Tribune

MIDDLETON — Residents in the small but vibrant Canyon County city of Middleton reeled Friday morning when they learned a city councilman, who is also a local business man, was arrested in his music shop on Main Street for sexual battery of a minor age 16 to 17. "Holy Toledo," Tilly Rhodenizer, a resident of 20 years, said after she learned of Bradley Spencer's arrest. "... Everyone thinks it's safe, but you never know in a small town what's really happening." Rhodenizer said the Canyon County prosecutor should "throw the book" at Spencer if found guilty. Zackary Cornelius, Rhodenizer's coworker at King's, said he was in disbelief. He knew Spencer and said he has friends who work at the councilman's business, Spencer's Music. Spencer was arraigned Friday for the felony charge. Third District Judge James A. Schiller set Spencer's bond at \$100,000 and ordered Spencer to have no contact with the alleged victim and other minors. Spencer, 56, was arrested Thursday, according to Idaho State Police. He was booked into the Canyon County Jail just before 10 p.m. Thursday. The alleged contact with the victim happened between June 1 and Sept. 2, according to court documents. According to the probable cause affidavit obtained by KBOI-TV, Spencer admitted to ISP investigators that he was in a sexual relationship with the 17-year-old victim starting in June and aware of her age. The victim told investigators she had sex with Spencer in the backroom of his business and in his pickup truck, according to the affidavit. The victim and her father contacted the police Sept. 3 to report Spencer, who the affidavit said is a friend of the victim's family. The victim's father told police his daughter and Spencer were using a Google Hangout to chat and "sext." The investigators recovered a chat transcript from Aug. 17 that inferred Spencer and the 17-year-old girl were involved in a sexual relationship. Law enforcement is looking into the possibility of other victims, and anyone with information on the case is asked to call ISP at 846-7550. Middleton Mayor Darin Taylor said Friday that the city is aware of Spencer's arrest. He added they do not know any of the facts in the case, and that there are always two sides to every story. "He is an active participant in City Council and has provided tremendous service to Middleton residents," Taylor said. "We're sorry to hear about this." Taylor said he trusts the Canyon County sheriff's and prosecuting attorney's offices and that the city is confident this will work its way through the court process. "The city considers an individual innocent until proven guilty and this arrest, at this time, does not affect council member Spencer's participation in City Council duties," he said. Spencer has six children and three grandchildren, according to information on the Middleton city website. He has played the French horn in the Meridian Symphony and other Treasure Valley music groups, according to the website. Spencer told Schiller at the arraignment that he plans to hire his own attorney. He thanked the judge for the opportunity to have bond. The \$100,000 bond was recommended by the state, due in part to Spencer's position of trust and authority with the minor involved. A preliminary hearing is scheduled for 10 a.m. Sept. 16 before Judge Howard Smyser. If found guilty, Spencer faces up to 25 years in prison.

Cellmates: Capone never directly admitted killing wife

By Elizabeth Rudd, Lewiston Tribune September 6, 2014

Cellmates testify against Capone Cellmates of Charles A. Capone say he never directly admitted to killing Rachael Anderson. But he did make comments while in jail that caused them to question his involvement in his estranged wife's disappearance. Joshua Voss began questioning Capone's knowledge of where Anderson was located when the 53-year-old man was booked into the Bonner County Jail in 2010 on a firearms offense. The two were cellmates in a pod for about 30 days that held 16 to 20 people, and were bunkmates at one point. Voss testified during Capone's trial Friday in Latah County 2nd District Court, saying a report of the missing Clarkston woman came on the TV at the same time Capone walked into the jail. He described Capone as "very calm, cool," and said he wouldn't look at the TV. When Voss asked Capone about Anderson and the investigation, he told jurors Capone didn't say much, "just beat around the bush" before telling him "it didn't matter because she wasn't coming back." "He didn't blatantly say, 'Yes, I murdered her,'" Voss testified, "but he did say she wasn't coming back." Anderson planned to divorce Capone when she went missing and had already signed the paperwork, according to testimony from her attorney, Scott Gallina. Gallina, who is now a Superior Court judge in Asotin County, said Anderson signed the papers Jan. 6 and filed them the next day. Capone was served the divorce papers Jan. 11, 2010, Gallina said, and a default can be taken to finalize the divorce after 90 days if there is no response. Anderson went missing about five days prior to that date. Family and friends of Anderson testified earlier this week, saying they have not seen, heard from or spoken to the then-40-year-old woman since the days prior to her disappearance on April 16, 2010. Capone is facing three felonies, including first-degree murder, related to her presumed death. Evidence found in the white GMC Yukon that Anderson was driving the day she went missing also tested positive for her blood, as well as her and Capone's DNA, according to testimony from two Idaho State Police forensic scientists Friday. Investigators collected two pieces of paper with small bloodstains on them and the tip of a black glove from the vehicle found April 19, 2010, near the Dyna Mart in North Lewiston. The glove contained a mixture of DNA with a majority found on the outside belonging to Capone. In 2012, Capone was booked into the Asotin County Jail on a second-degree assault charge for allegedly attempting to strangle Anderson at her home in 2009. That's where he and Brent Glass met and were cellmates for about two months. Glass told jurors Friday that during that time, he and Capone bonded over a common dislike of Asotin County Sheriff's Detective Jackie Nichols and enjoyment of reading. But after one conversation, Glass said he learned information from Capone about the alleged attempted strangulation case that he thought needed to be shared with law enforcement. Glass had three recorded interviews with Nichols during which he relayed conversations with Capone about the alleged incident. He spoke to Nichols after Capone allegedly made a comment about burying Anderson "so deep they'll never find her" and that prosecutors "don't have a case without a body." At one point, Capone told Glass, "She ain't doing nothing, but pushing up daisies," in response to a comment about Anderson returning to testify against him in the assault case. The two inmates would exchange books while in custody, passing along good reads to one another. Glass said Capone specifically handed him "TailSpin" by Catherine Coulter and wanted him to read it immediately. The book is about a woman who is drugged with her wine, bound with chains and wakes up just in time to take a breath before being plunged into water. Glass told jurors when he read that portion of the book, he looked up to see Capone watching him "like a dog waiting for a treat." "He had a grin on his face and said, 'That hits pretty close to home,'" Glass said. "... And her name was Rachael." Capone attorneys D. Ray Barker and Mark Monson repeatedly questioned both Voss and Glass about what they said Capone told them while incarcerated. Inquiries came from testimony Friday, as well as what the men testified to more than a year ago when called as witnesses during the preliminary hearing in the case. Capone sat attentively at the defense table, actively conferring with his attorneys regarding each person's testimony during the fourth day of his anticipated three-week trial. Court will resume at 9 a.m. Monday with Latah County Senior Deputy Prosecutor Mia M. Vowels as the lead attorney for the state. Prosecutor William Thompson Jr. is assisting her in the case.

Middleton councilman posts bond

Idaho Press Tribune September 7, 2014

CALDWELL — Middleton City Councilman Bradley Spencer is no longer in the Canyon County Jail after he posted his \$100,000 bond. Spencer, who owns a Spencer's Music in Middleton, was arrested Thursday for sexual abuse of a minor age 16 to 17. According a probable cause affidavit, Spencer was in a sexual relationship with a 17-year-old female starting in June. The victim and her father reported the relationship Sept. 3 to the Idaho State Police. Spencer admitted to investigators that he had sexual contact with the victim and he knew her age, according to the affidavit. Police are investigating to see if there were any other victims. If anyone has information, they are asked to call ISP at 846-7550. Judge James Schiller ordered Spencer not to have contact with the victim or any other minor. Spencer's preliminary hearing is scheduled for 10 a.m. Sept. 16 with Judge Howard Smyser. Spencer faces up to 25 years in prison if found guilty.

Criminal court proceedings: Movies get it right — mostly

Idaho Press Tribune September 7, 2014

NAMPA — In the course of doing my job, I spend a lot of time in courtrooms. I'm more or less used to it by now. I wouldn't go so far as to say nothing surprising ever happens, but the process itself no longer surprises me. I have no plans to attend law school or become a lawyer, but I sometimes wonder if I'd have an easier time than my classmates if I did. I suspect I already have a pretty solid structural knowledge of how court proceedings work. The rest may be a matter of filling in details. Sometimes I go a week or two without visiting the Canyon County (or, less frequently, Ada County) Courthouse. Other times, I find myself there almost every day. Right now, with two ongoing homicide cases and a criminal solicitation to commit murder, I'm in one of the latter periods. The guys who guard the front door at the Canyon County Courthouse know me. They smile, wave and ask me what's in the news today almost every time I walk in. The first few times I covered criminal trials, I was somewhat shocked to learn that movies and TV shows actually get it right, for the most part, surprisingly often. The other thing that surprised me — despite how realistically it's often otherwise portrayed — is how much slower the real thing is. It can take a criminal defendant dozens of hours spread out over the course of several months to go through the whole process from arraignment to either sentencing or acquittal. The entertainment media version has maybe an hour or two to tell the same story. The first one I ever covered from beginning to end was the case of Kelly Singh, a Nampa woman convicted in 2012 of beating her mother to death with a hammer. It was a bizarre crime that probably could be a movie. I've gotten the ball rolling on a book about it, but it's a long, slow, meticulous project that I can't find as much free time to devote to as I'd like. But what we do see in courtrooms on the silver screen really does look like what happens in real-world courtrooms. It's not always perfect, and I'm sure an attorney could point out errors and inconsistencies that I don't see, but it's pretty close. The biggest difference? It's just plain more interesting than what you see on TV. Much of what doesn't make it into the screenplay is long and tedious — stuff no one would pay \$10 plus the cost of a bucket of popcorn to see — but some of the most fascinating details happen in that tedium. On TV, you rarely see a judge crack a joke from the bench, for example, after something unexpected and kind of silly happens in the courtroom. Nor do you ever see a judge, prosecutor and public defender try to coordinate a rescheduled hearing because a defendant's family is working on hiring a private attorney — and nobody yet knows who that will be. Those moments can tell you something about the criminal justice system that movies and TV shows don't always successfully convey: These are real people who are really going through one of the most difficult times in their lives. All too often, it's easy for a crime reporter to forget that a very good day at work is, by definition, the worst day of someone else's life. But all it takes is one mother sobbing in a courtroom to remind me.

Court of appeals to hear gay marriage arguments for Idaho, Nevada and Hawaii

Associated Press Lewiston Tribune September 8, 2014

SAN FRANCISCO - The 9th U.S. Circuit Court of Appeals is set to hear arguments Monday on gay marriage cases from Hawaii, Idaho and Nevada. Gay couples in Nevada seek to overturn a lower court ruling upholding the state's same-sex marriage ban. Idaho's governor is appealing a lower court decision striking down that state's marriage ban. Meanwhile, gay marriage foes in Hawaii are arguing to keep the legal case in that state alive in hopes that the U.S. Supreme Court someday will rule against gay marriage. The state legalized gay marriage last year. Here's a look at some of the couples who are plaintiffs in the lawsuits: Idaho In Idaho, four same-sex couples sued to overturn the state's ban and to compel Idaho to recognize marriages performed in other states. The couples, all women, argue they are denied rights and subject to different tax rules than are applied to families of married couples. Two couples in the lawsuit were legally married in other states: Sue Latta and Traci Ehlers, married in 2008 in California, and Lori and Sharene Watsen, married in 2011 in New York. Both couples have children but Idaho does not recognize either marriage, which compelled Lori Watsen to obtain power of attorney to legally consent to medical treatment for her son. The two other couples named in the lawsuit are seeking to wed in Idaho. Shelia Robertson and Andrea Altmayer were denied marriage licenses in Boise. So were Amber Beirle and Rachael Robertson. The couples were planning on marrying when Idaho's gay marriage ban was originally lifted by a federal district court in May. But before they could tie the knot, the court's ruling was put on hold pending a 9th Circuit ruling. Nevada Eight couples have sued in Nevada seeking similar outcomes as those sought in Idaho. Beverly Sevcik, 76, and Mary Baranovich, 78, of Carson City, have been together almost 43 years, and raised three children in Seattle before moving to Nevada in 2003. The retired bookkeepers have four grandchildren. Antioco Carrillo, 47, and Theodore "Theo" Small, 46, live in Las Vegas. They've been a couple since 2006. Carrillo heads a nonprofit HIV/AIDS advocacy group. Small is a teacher. Karen Goody, 53, and Karen Vibe, 40, live in Reno and have been engaged since December 2005. Goody is a medical supply sales agent. Vibe teaches music and is a Reno Philharmonic Orchestra percussionist. Fletcher Whitwell, 39, and Greg Flamer, 42, live in Las Vegas with their 3-year-old daughter and 7-month-old son. Whitwell and Flamer have been together for more than 16 years. Mikyla Miller, 32, and Katrina "Katie" Miller, 29, live in Reno and are raising 2-year-old and 3-month-old girls. They've been together for 10 years, and married in California in 2008. Mikyla Miller is a lawyer. Katie Miller is a Ph.D. candidate at the University of Nevada, Reno. Adele Terranova, 33, and Tara Newberry, 39, of Las Vegas, married in California in 2008 and want their marriage recognized in Nevada. Terranova is a lawyer. Newberry home-schools their children, ages 2 and 4. Caren Cafferata-Jenkins, 56, and Farrell Cafferata-Jenkins, 51, live in Carson City with their boys, ages 10 and 9, and are seeking recognition of their California marriage. Caren Cafferata-Jenkins is executive director of the Nevada Ethics Commission. Farrell Cafferata-Jenkins is president and founder of the Nevada Academy of Sign Language. Megan Lanz, 33, and Sara Geiger, 29, live in Las Vegas with their daughter. They are seeking recognition of their 2006 marriage in Canada. Both are musicians. Hawaii Gay couples can wed in Hawaii since lawmakers legalized same-sex marriages in December. The question before the 9th Circuit is whether the case is moot now that those couples named in the lawsuit can marry, or have married. One couple says they are frustrated legal wrangling continues even after the law was passed. "It's done, it's over, move on," said Gary Bradley of Honolulu. "I seriously can't believe they want to rehash something that is already done." Bradley joined the lawsuit because he wanted to marry Paul Perry, an Australian citizen who wanted to live in the U.S. legally. Bradley and Perry were among the first couples to marry in a midnight ceremony after Hawaii's law went into effect. Bradley joined in as a plaintiff when Natasha Jackson and Janin Kleid filed their lawsuit in 2011. They wanted to marry but could not when the suit was filed. The women changed their last name to Jackson-Kleid after they were married when gay marriage was legalized in Hawaii almost three years later. Now Natasha, 33, is a stay-at-home mom for their daughter, and Janin, 32, is a carpenter's apprentice.

Judge asks for eviction list from Syringa Mobile Home Park owner

By Terri Harber Daily News staff writer September 9, 2014

Second District Judge John Stegner on Monday told the attorney representing Syringa Mobile Home Park owner Magar E. Magar to submit names of the four tenants he is attempting to evict. Magar's attorney, Greg Rauch, asked Stegner previously whether the existing protective order that keeps Magar from influencing tenants excludes evictions. Attorney Brian Thie was filling in for Rauch in court Monday. Stegner said it may not even reach a point where the evictions are necessary, but he thought it would be best for the court to handle such actions instead of leaving the responsibility to the plaintiff's or defendant's counsel if the matter needed to be resolved. The judge also said he was "sympathetic to a landlord with tenants not paying rent." "I want to know who you're talking about," Stegner said to Thie. Knowing which tenants are being considered for eviction might be important for a class action suit filed against Magar, according to the plaintiffs' attorneys from the Idaho Legal Aid Clinic at the University of Idaho, which is handling the case for the tenants. Attorney Maureen Laffin is overseeing the class action suit, which was brought to provide Syringa tenants compensation from Magar after living at the trailer park with nonfunctional water and sewer service for more than 90 days this past winter. She is concerned the evictions simply are in retaliation for actions that have forced Magar to be accountable for long-term water and sewer problems at the property. Eric Pah, a building inspector with Latah County, was called as a witness and testified that water quality was still an issue at Syringa. The water is potable but there have been deadlines Magar has missed for system repairs, she said. Officials with the Idaho Department of Environmental Quality created a timeline to ensure compliance with state and federal regulations. How these renters are going to be compensated is based on different types of state laws. For example, how to handle people who rent land and dwellings fall under state tenant-landlord rules but those who own their mobile homes - and rent the ground underneath - comes under the Mobile Home Park Landlord-Tenant Act of 1980, said Michaela Adams, one of the UI law interns. Virtually every tenant has missed a payment or more during the past eight months. Evictions "would jeopardize this lawsuit we're on the cusp of finally finishing," Laffin said. And, at this point, would "cause havoc at the trailer park." "Why has he picked those four people?" she asked after the court hearing. More discussion about the case is set for this morning. Terri Harber can be reached at (208) 883-4631, or by email to tharber@dnews.com.

Middleton City Council member accused of sexual abuse resigns Bradley Spencer steps down from his seat on the Middleton City Council

By CHRISTINA MARFICE September 9, 2014 Idaho Press-Tribune

MIDDLETON — Middleton City Council member Bradley Spencer, recently accused of sexual abuse of a minor, has resigned from his seat on the council effective immediately. "It has been an honor serving and counseling (with the council and mayor)," Spencer wrote in his resignation letter, dated Sept. 8. "I feel assured that you will continue on and that the City of Middleton will still prosper under your leadership." Mayor Darin Taylor said he hopes to choose a replacement on the City Council within the next month or so. "The next step is that I will spend some time thinking through city residents and identify those who share my philosophy about local government and finance, and I'll make an appointment to fill council member Spencer's position for the rest of his term," Taylor said. "That appointment will have to be confirmed by City Council." Taylor added that he plans to take some time to choose a new council member for the seat Spencer is vacating. "Until I was holding the letter of resignation, everything was speculation," Taylor said. "The other reason is we just don't have anything majorly pressing as far as city business now, so I think the residents are best served by not rushing into that decision." Spencer, who owns Spencer's Music in Middleton, was arrested Thursday and accused of sexual abuse of a minor age 16 to 17. A probable cause affidavit said Spencer admitted to having a sexual relationship with a 17-year-old girl. According to the affidavit, the victim and her father contacted the police Sept. 3 to report Spencer, a family friend. The victim's father told police his daughter and Spencer were using a Google Hangout to chat and "sext," and the victim told police she had sex with Spencer at his business and in his pickup truck. Spencer posted his \$100,000 bond and was released from the Canyon County Jail late last week. His preliminary hearing is scheduled for 10 a.m. Sept. 16 with Judge Howard Smyser. Spencer faces up to 25 years in prison if found guilty.

Rodeo queen's preliminary hearing postponed

By JOHN FUNK September 9, 2014 Idaho Press-Tribune

ADA COUNTY — A preliminary hearing for Miss Caldwell Night Rodeo 2014 Chelsi Horton, 22, was postponed until Oct. 16, 4th District Judge Michael Oths ruled at the scheduled court date Monday morning. The postponement was granted at the request of Horton's attorney, Dennis J. Sallaz, who told Oths he was still waiting for materials he needed to make his case. Horton, also a former Boise State University Bronco girl who rode a horse out in front of the football team on game days, is charged with grand theft on suspicion that she embezzled about \$22,000 from a former employer between November 2012 and October 2013. She was charged and arrested in late July and released after posting a \$10,000 bond. Sallaz said he believed Horton's former employer cast blame on her in order to cover up their own monetary shortfalls and delinquent back taxes. "We are confident that by the time this case has been fully investigated and adjudicated, Miss Horton will be found innocent of all charges," Sallaz stated. If convicted, Horton faces up to 14 years in an Idaho state prison.

Former friend says he saw Capone strangle estranged wife

By Kerri Sandaine, Lewiston Tribune September 10, 2014

Reliving a night of terror Latah County Prosecuting Attorney Bill Thompson, left, holds an aerial photograph while witness David Stone points out locations to the jury during Charles Capone's murder trial Tuesday in Latah County 2nd District Court in Moscow. Charles A. Capone had a "Satan"-like look on his face when he was strangling his estranged wife to death, according to the state's key witness at a Latah County murder trial. David C. Stone said he saw Capone kill Rachael Anderson on April 16, 2010, in Moscow, and then helped his former friend dump the woman's tarp-wrapped body over the Red Wolf Crossing Bridge near Clarkston. Anderson's family and friends sat in silence, some wiping away tears, as they listened to Stone's vivid version of the missing Clarkston woman's last moments. Stone was on the stand most of Tuesday in Latah County 2nd District Court, where Capone is facing three felony charges, including first-degree murder. Stone said he had just walked around the corner of the defendant's automotive repair business on the 2200 block of South Main Street when he saw Capone straddling Anderson, with his hands around her throat. She was on her back, not making any sounds, and there was very little movement, Stone told the jury. "What the (expletive) are you doing?" Stone said, startling Capone. Capone turned around with a look on his face that Stone said he'd never seen before, and described it to the jury as like that of Satan. That's when Capone told Stone to shut up and get a hold of himself, before threatening the Moscow man's family. "You're in this with me now," Capone said, according to Stone. When asked why he didn't intervene, Stone, a 51-year-old former city of Moscow employee, said he was terrified and worried about the well-being of his wife and stepdaughter. "I just watched somebody kill his wife; I didn't know what he'd do to me," Stone said. Stone was emotional several times during his time on the stand. Capone paid attention, but showed little reaction to the testimony. Stone will continue answering questions on cross-examination when court resumes at 9 a.m. today. On the night of the alleged murder, Capone reportedly told Stone to go inside Palouse Multiple Services and get a tarp. The witness said at that point, he tried to gather himself and was still in disbelief from what he'd just seen. He couldn't reach a tarp, so Stone said he went back outside where Capone had Anderson on the ground. By then, Anderson was not moving but Capone was still choking her, according to testimony. Capone started giving Stone more orders, and together the men carried Anderson into the repair shop. Stone's Dodge Durango was parked inside, and he said Capone instructed him to open the door and put the seats down. After putting cardboard in the back of the vehicle, they placed Anderson's lifeless body inside and covered her with garbage bags. Capone and Stone then cleaned out the GMC Yukon Anderson had been driving, and Stone said he later dumped the garbage in a Dumpster at a trailer park on Palouse River Drive. They took the Yukon to the Dyna Mart in North Lewiston and returned to Capone's shop in the mechanic's white pickup truck. Stone said minimal conversation took place between the once-close friends as they disposed of her body. "We need to package her up," Capone reportedly told Stone, before the pair wrapped the body in a tarp. Stone said they weighed it down with heavy snow chains he got from a scrap pile at the Moscow city shop. Anderson was then taken to the bridge in Stone's Durango and tossed into the Snake River, the witness said. Capone kept reminding Stone to keep his mouth shut, saying everything would be OK because authorities would never find the body, Stone testified. During Tuesday's proceedings, the jury was shown a video of Stone talking to investigators in the fall of 2013 on the Red Wolf Crossing Bridge. Stone was pointing out the exact spot where he and Capone reportedly threw the "package" into the water. "What was in the package?" Asotin County Detective Jackie Nichols asked Stone on the video. "The body of Rachael Anderson," he answered. Stone said he then began telling a series of lies to his former wife, Alisa, and law enforcement. On cross-examination, defense attorney D. Ray Barker pointed out numerous inconsistencies in Stone's earlier statements to police. "I've lied about a lot of things, Mr. Barker," Stone responded. Barker asked Stone why he and his family went to dinner with Capone a few days after the alleged murder. He also wanted to know why Stone allowed his teenage stepdaughter to catch a ride with Capone after that dinner, if he was so terrified of the man. Stone said he was "living the lie" at that time and focused on other events that evening, including being tailed by a Moscow police officer. After Stone admitted to lying at various times during the investigation into Anderson's disappearance, Latah County Prosecutor William Thompson Jr. asked the witness why the jury should believe him now. Stone said he is a born-again Christian and decided to come clean about his involvement, before any plea agreement was offered. Stone said he finally began telling the truth last year. He has pleaded guilty to charges of failing to tell authorities about Anderson's death and faces a maximum of seven years in prison as part of a plea agreement. "I'm doing this for one reason," Stone said. "It's the right thing."

Syringa owner Magar accused of being in contempt of court

By Terri Harber, Daily News September 10, 2014

Attorneys representing residents of Syringa Mobile Home Park filed a contempt of court motion Monday against Magar E. Magar, owner of the park located on Robinson Park Road outside of Moscow. Magar is facing a class action suit brought by residents of the mobile home park who say they weren't provided with adequate water and sewer service for more than 90 days this past winter. Residents are seeking compensation for expenses incurred as well as the resulting indignities. Latah County 2nd District Judge John Stegner issued an order approving a mediation agreement in August. Maureen Laffin, the attorney overseeing the class action against Magar on behalf of Syringa tenants, said Magar hasn't complied with the terms of the agreement to complete maintenance and repairs on the water and sewer systems. Eric Pah, a building inspector with Latah County, testified Monday that water quality was still an issue at Syringa. The water is potable but Magar has missed deadlines for system repairs, he said. Magar is seeking to evict four Syringa residents for not paying rent, but Laffin said virtually everyone living there has missed at least one month's rent, and speculates that Magar may be retaliating against those specific tenants. Stegner on Monday asked for a list of tenants Magar is seeking to evict, and told the landlord's defense attorney, Greg Rauch, to turn the list over to Laffin and others representing the plaintiffs in the action, a project of the University of Idaho Legal Aid Clinic and law students. The judge anticipates hearing the evictions, but allowing Magar to serve the tenants with eviction notices would require lifting an order protecting all Syringa residents from potential contact that could influence the case in Magar's favor. Officials with the Idaho Department of Environmental Quality created a timeline to ensure Magar complies with state and federal regulations, and the mediation agreement includes these same deadlines, Laffin said. Stegner scheduled a hearing Oct. 1 for Magar to be informed of his legal rights. If necessary, Stegner could decide to schedule a contempt proceeding after that, he said Tuesday. Magar already has admitted liability for infrastructure failures at Syringa, but reaching resolution of the matter is ongoing. Laffin said the plaintiffs could be ready for trial in four to six weeks. Stegner has set a trial date for damages and indignities for Feb. 18. Property loss for those who own the units they occupy would be determined next. Special damages would follow.

Jury selected for Capone murder trial

By Elizabeth Rudd, Lewiston Tribune August 30, 2014

Capone trial postponed Capone Fourteen Latah County residents took an oath Friday swearing to spend the next three weeks objectively listening to evidence in the murder trial for Charles A. Capone. The 53-year-old Moscow man is facing murder and conspiracy charges related to the disappearance of his estranged wife, Rachael Anderson, more than four years ago. His trial is set to begin at 9 a.m. Tuesday at the Latah County Courthouse. The residents were selected from a pool of about 120 people called in last week as prospective jurors for Capone's case. The pool was narrowed down to about 80 people after three days of individual questioning that eliminated people who may have had prior knowledge of the case or other conflicts. Anderson was a 40-year-old Clarkston mother of four when she went missing April 16, 2010. She was last seen in Moscow and is presumed dead. Anderson was in the process of divorcing Capone when she disappeared. Capone and his friend, David C. Stone, 51, of Moscow, were arrested in May 2013 and charged with identical crimes for their alleged roles in Anderson's death. Stone entered a plea agreement in December with prosecutors to testify against Capone at the trial. Both men are in the Latah County Jail. Senior Judge Carl B. Kerrick, who is presiding over the case, thanked the prospective jurors for their time and attention throughout the selection during a hearing Friday. The judge then explained the final panel would be decided behind closed doors because attorneys for Capone and prosecutors have the ability to dismiss a certain number of jurors without explanation. Capone and his attorneys, Mark Monson and D. Ray Barker of Moscow, along with Latah County Prosecutor William Thompson Jr. and Senior Deputy Prosecutor Mia M. Vowels, spent about 30 minutes with the judge before returning to the courtroom Friday. The remaining prospective jurors were dismissed after the final 14 names were called. "We've tried to carry this out as efficiently as we could," Kerrick said. Only 12 of the 14 selected jurors will deliberate once the case is turned over for a verdict, Kerrick said. The names of those people will be drawn from a hat right before deliberations begin. "So nobody is a designated alternate juror," Kerrick said. Kerrick read the charges against Capone to the panel, noting the jury must come to a verdict for each of the alleged crimes independently of the others. Capone has pleaded innocent to charges of first-degree murder, failure to notify a coroner or law enforcement officer of a death and conspiracy to commit failure to notify a coroner or law enforcement officer of a death. "The law requires that your decision be made solely on the evidence presented to you," Kerrick said. The trial is expected to last about three weeks.

Public nuisance case dealing with excess 'junk' moves to court

By JUSTIN DALME August 30, 2014 Idaho Press-Tribune

CALDWELL — Near KCID Road in Caldwell, surplus scrap sits on the property of Canyon Highway District Commissioner John McEvoy. So much so, the scrap has caught the attention of McEvoy's neighbors. And 25 years after the first complaint against the property was filed with the Canyon County Sheriff's Office, the property has caught the attention of county officials. McEvoy was cited in January 2013 for public nuisance and failing to obtain building permits. The citations came after an inspection of his property in December 2012 by the county's Development Services Department. The county found "partially dismantled vehicles, unpermitted structures, structures partially demolished ... a partially collapsed barn, camp trailers with open or missing windows exposing interiors to insects, animals and weather ... a vehicle that appears to have burned," among others. After five pre-trial continuances since 2013, 3rd District Magistrate Judge Tyler Smith scheduled on Friday a court trial for Oct. 17. McEvoy moved the scrap from one piece of property to another, but is still in noncompliance with county codes since the last time the court met, said Josh Van Swearingen, a deputy attorney for the Prosecuting Attorney's Office. McEvoy said he was trying to get his property annexed into the city of Middleton, with a heavy industrial zoning designation, which would put his property outside of county jurisdiction. His property is zoned agricultural for the county. Smith asked McEvoy if he had an attorney to represent him in the trial. "Most of them tell me they have to work and live in this county, and they are reluctant to represent me," McEvoy said. Smith responded there are plenty of attorneys in Ada County. According to a public records request, the Idaho Department of Environmental Quality spoke with Eric Arthur from Canyon County Code Enforcement about the McEvoy property in March 2014. In a summary of the conversation, Arthur said he contacted the Environmental Protection Agency and the agency told Arthur that if the county didn't do something about the situation, EPA would pull the county's subsidies. Arthur also said the county was talking about getting a warrant to dig on the property to determine if the property contained hazardous materials, but the county was concerned if it took responsibility for the property, it could cost \$1 million to clean up. He said McEvoy has no regard for the environment. The county has aerial photos from 1989, showing increasing waste on the property, Arthur said. That was also the same year a complaint against McEvoy was filed with the sheriff's office. Southwest District Health's Brian Crawford did a walk-through inspection on McEvoy's property in June 2013 after complaints surfaced of McEvoy burying tires, dumping garbage and illegally installing wells and a septic system. The report states there may be violations of rules on the site, but none he felt were a health issue or disposal issue per solid waste rules. The report says McEvoy denied burying tires. It also said he sunk about five tires in one of his ponds so bass could hide in them. Crawford also found two pick-up sized loads of household waste on the property, which McEvoy said were dumped illegally. In June, McEvoy held a neighborhood meeting as part of trying to obtain a conditional use permit for two 40-acre sites on his property to be used as a shop and paintball area. One neighbor expressed concern that the permit was a "shell game" for McEvoy to keep the scrap. McEvoy stated the items he stores have evolved from his businesses over the years and estimated 80 percent of the equipment is still operational. A public hearing on the permit was scheduled for Aug. 7, but McEvoy withdrew his application for the conditional use permit. McEvoy had two other violations of public nuisance in 2005 that were dismissed. In August 2013, the McEvoy property caught fire. An unoccupied trailer and miscellaneous equipment were destroyed. Caldwell Fire Capt. Richard Carrico said at the time the fire was so intense because of the amount of fuel on the lot, including old tires, wood combustibles, appliances and other junk.

Suspects in Pedro Martin slaying plead not guilty All five to proceed to trial

By JOHN FUNK August 30, 2014 Idaho Press-Tribune

CANYON COUNTY — All five suspects charged in connection with the shooting death of Pedro Martin Jr. in a Nampa parking lot pleaded not guilty at their district court arraignments Friday morning. James Whitewater, Natalie Whitewater, Wayne Canaday, Alison Yancey and Joshua Wasserburger all appeared before 3rd District Judge Gregory M. Culet, who advised them of their rights as they proceed to jury trial. In the early morning hours of July 13, police responded to reports of shots fired in the parking lot of a downtown Nampa Walgreens store. There, they found a man — later identified as Martin — still alive, but with a gunshot wound to the torso and two spent 9mm shell casings on the ground. Martin died from his injuries a short time later. According to testimony given in preliminary hearings earlier this month, investigators suspect the incident began when Wasserburger contacted James Whitewater to help him deal with someone he referred to as “Pete” or “Pokie,” believed to be Martin, whom they believed had earlier broken the jaw of a female acquaintance and was threatening her once again. James and Natalie Whitewater, Canaday and Yancey went to the woman’s home, investigators believe, where they found both their acquaintance and Martin. James asked the woman if she wanted Martin to leave, according to Natalie Whitewater’s courtroom testimony, and when James Whitewater relayed her request to Martin, the confrontation turned violent. Martin fled after James Whitewater and Canaday beat him for about 10 seconds, Natalie Whitewater testified. Accounts of what happened next vary. Wasserburger originally told detectives that men whom he didn’t know had demanded he give them the handgun he carried. James Whitewater, however, told police he’d simply asked for Wasserburger’s weapon, and Wasserburger handed it over, requesting that James Whitewater tell him if anything happened, so he knew to get rid of it. James Whitewater is charged with first-degree murder with a firearm enhancement and aggravated battery in the incident.

Alfredo Martin Martinez arraigned on murder charge Suspect in Selena Thomas slaying held on \$5M bond

By JOHN FUNK August 30, 2014 Idaho Press-Tribune

CANYON COUNTY — Alfredo Martin Martinez cast his eyes downward as Magistrate Judge A. Lynne Krogh read the list of charges against him at an arraignment hearing Friday afternoon. He responded to nearly all of Krogh’s questions with a quick, quiet “Yes, ma’am.” Martinez is charged with second-degree murder, destruction of evidence and failure to report a death to the authorities in connection with the death of Selena Thomas, 36, of Nampa, earlier this month. Krogh ordered Martinez held in Canyon County Jail on a \$5 million bond. He’ll next appear for a preliminary hearing at 8:30 a.m. Sept. 12. When questioned about his financial situation, Martinez told Krogh he hasn’t had a job in about a month and doesn’t own assets such as cars or real estate. “I have some pretty nice shoes at home,” he said when Krogh asked him if he owned anything else of value, but that wasn’t sufficient to disqualify him from the services of a court-appointed public defender. According to an affidavit filed in Canyon County court, when Nampa police officers responded to reports that Thomas was missing, her mother, Lori Moon, told investigators she might be in McCall with Martinez. When detectives searched Thomas’ home, they found her purse and several personal belongings she’d normally carry with her. Her car keys were still in the vehicle, the trunk upholstery was missing, and a small amount of blood was spotted near the trunk lid hinge. Martinez turned himself in Aug. 19 after investigators announced they were looking for him. During an interview with Nampa and Caldwell police officers, court documents state, Martinez told them he’d hit Thomas in the head with a metal hammer. When he realized she was injured and bleeding, he told police, he moved closer, she stepped toward him, and he shoved her head-first into a dresser. She fell to the floor, the affidavit states, and died. He panicked and stashed Thomas’ body in a closet, he told police. Two days later, the document states, he returned with a friend during the early morning hours and took Thomas’ body in her own car to a corn field south of Melba, where they buried her. On their return trip, they discarded the trunk’s contents and its upholstery.

How to guard against violent offenders Violent offender registry not necessary to learn about someone’s criminal past

Our View Idaho Press Tribune August 31, 2014

The tragic, horrific death of Nampa resident Selena Thomas has once again brought the uncomfortable topic of domestic violence to the forefront. It has also inspired the city’s former police chief and city councilman to call for the Idaho Legislature to create a new criminal registry for violent offenders, similar to the state’s sex offender registry. Curtis Homer’s motivation goes beyond his own experiences as a law enforcement officer. He is also motivated by his experiences as a father. One of his daughters was abused by the same man who has been formally charged with murder in Thomas’ death, Alfredo Martinez. Obviously this is an emotional issue, and when dealing with possible changes to the law based on emotional issues, it’s important to thoroughly vet the pros and cons before rushing to pass legislation that may or may not achieve the desired effect. The comparison between the Idaho sex offender registry and a proposed violent offender registry isn’t exactly a linear one. The sex offender registry was created so that people — parents, especially — would know if a convicted offender was living in their neighborhood. This would allow them to take precautions to lower the risk of putting residents in potentially dangerous situations. Simply put, you could tell your kids to stay clear of that house and its occupant. The online registry does have a special category for violent sexual predators, and those are the people the public really needs to know about. But what about creating a violent offender registry with the intention of warning women (and men, too) that a person they might be considering a relationship with has a violent past? For starters, if you know the person’s name and want to know if they have a criminal background, there already is an excellent resource for that. It’s the Idaho Repository, and you can find it online at www.idcourts.us/repository/start.do. Just type in the person’s name and you’ll see a complete list of any interactions they’ve had with the legal system — all the way down to traffic tickets. It’s free, it’s instant and it’s public record. One of the big problems with domestic abuse is that many victims know their partners are abusive, and yet many of them remain with these people anyway — often for years. They believe the abuser will eventually change and stop the abuse, they may have low self-esteem and don’t believe they are worthy of a gentle, loving partner, they may be afraid to leave for financial reasons — many possibilities. Those who work with the victims of domestic abuse will tell you that changing this self-destructive way of thinking is the lion’s share of the battle in stopping domestic violence. In the case of Homer’s daughter, she finally fled

Martinez two years after the physical abuse. Fortunately she did, but that was two years where she was at very serious risk. OK, so what's wrong with having a violent offender registry list anyway? What harm could it do? If one is established, it would need to be crafted so that only people with convictions of serious offenses would be listed. There's a big difference between a man who punches his wife and one who gets upset and punches the wall during a heated argument and scares the kids. Would both of them wind up on the same violent offender registry? They shouldn't. Should a 22-year-old man who has consensual sex with his 17-year-old girlfriend, which is technically statutory rape, be lumped into the same category as someone who commits forceable rape? Granted, both of them are clear violations of the law, but would we want that 22-year-old and the criminal rapist to be considered one and the same on the sex offender registry? The same question should apply to a violent offender registry. Homer's heart is in the right place, and we admire and respect anyone who is trying to take substantive action to fight domestic violence in any way. He might help inspire the Idaho Legislature to follow in the path of Indiana, Oklahoma, Illinois, Montana and Kansas and add databases that include violent offenders other than those guilty of sex crimes. Whatever happens on that front, the best way to check on someone you're not sure about is to conduct a background check that includes a search on the Idaho Repository, and if the person starts to exhibit troubling behavior, deal with it firmly right away — by reporting it to police, ending your relationship immediately and consulting someone who can help domestic violence victims get back on their feet and live happy, peaceful lives. Our view is based on the majority opinions of the Idaho Press-Tribune editorial board. Members of the board are Publisher Matt Davison, Editor Scott McIntosh, Opinion Editor Phil Bridges and community members Marie Baker, Autumn Short, Bruce Krosch, Richard Ma'ei and Scott Hogan.

Judge rules jail lease contract unconstitutional

Morning News September 1, 2014

COEUR D'ALENE (AP) — A judge has ruled that an agreement between Kootenai County and Rocky Mountain Corrections is unconstitutional, stalling plans for the county to lease a private jail to relieve prisoner overcrowding. Under the lease agreement, Rocky Mountain Corrections would build a jail that would let the county house more than 900 inmates. The agreement needed a clause that would allow the county to terminate the lease at the end of the yearly budgeting period. The Idaho Constitution prohibits counties from entering into debt for longer than a year without a public vote. Kootenai County voters had rejected jail bonds three times previously. District Judge John Stegner ruled Friday that the proposed agreement did not meet constitutional muster, the Coeur d'Alene Press reported. "The question is whether they (the county) are obligated to pay if they don't want to," Stegner said. "The way I read it is that they are required to pay whether they want to or not." Stephanie Bonney, a bond council attorney hired by Rocky Mountain Corrections, told the judge the language used in the so-called non-appropriation clause of the lease agreement was commonly used in contracts made throughout the state. Stegner told her he did not see it as a true nonappropriation agreement. Jai Nelson, the only county commissioner opposed to the proposed lease, filed a legal challenge to the agreement earlier this week. Nelson's attorney, John Magnuson, did not make a statement in court. Afterward, he said Nelson should be commended for bringing the challenge. "Without her, who knows what would have happened," he said.

Probation fees show the high cost of being poor Magistrate judge: Judicial system might favor affluent offenders

By LAURIE WELCH, The Times-News Idaho Press Tribune September 1, 2014

BURLEY (AP) — Staying out of jail on probation is expensive, with costs hitting hard for those who are less affluent. In Idaho, people who can readily pay misdemeanor fines and court costs often get waived through the system if they don't have prior criminal history or drug and alcohol issues. But if their wallet doesn't allow immediate payment, they are sometimes put on probation, though some judges grant extended time to get fees paid. The cost difference can run nearly \$1,000 a year. The judicial system might favor an affluent offender, who can more easily pay fines and fees and might not have to go to court or on probation, agreed Rick Bollar, Minidoka County magistrate judge. "There has always been a concern in the judicial system about how much justice can be bought," Bollar said. "But if creating structure for an individual through probation by means of compliance in maintaining insurance and employment creates disparity, hopefully probation also does some good for that person." If the crime was violent, such as domestic violence, or the person has drug or alcohol issues, he goes on supervised probation. In those cases, a judge also can order random drug and alcohol testing twice monthly, which can be adjusted by the probation officer. A person is placed on unsupervised probation if the court simply wants to ensure they stay trouble-free for a set time. Blaine Cannon, Cassia County's magistrate judge, disagreed that the system favors the affluent. Other options to probation, he said, are jail time and fines. And while a \$1,000 fine will be more of a sacrifice or challenge to someone with less money, everyone must be held accountable for a crime they commit. "In the old days, if you couldn't pay the fine, you just went to jail," Cannon said. A person sentenced to supervised probation in Mini-Cassia has to pay \$60 a month, plus the costs for any drug tests. "I don't like having to drug test," said Francisco Tarin, 22, of Rupert. "I think it's pretty ridiculous to be put on supervised probation for such a small charge." Tarin violated his probation on misdemeanor charges of failure to present identification to officers for liquor and obstruction. He was placed on supervised probation for a year in March for resisting to identify himself to police when they responded to a family dispute. Tarin said probation costs him about \$80 a month, plus the cost of gas to drive to Burley each time he checks in at the probation office. "It is a hardship. That \$80 could go towards a fridge," he said. Tarin said he changed his work shift from days to swing shift to accommodate the probation requirements. The probation office's random testing uses a color-coded system, and probationers are required to call the office each morning between 5 and 7 a.m. to see if they have to drug test that day. "After 7 a.m., they take the recording off, so I have to drive to Burley to see if it's my day to test," Tarin said. He said he's grateful he has a good job, and he feels bad for families struggling on minimum wage who must pay the extra fees. "I'll be staying out of trouble after this," Tarin said. **BREAKING THE RULES CAN BE COSTLY** Probation is a set of terms used in lieu of incarceration, an agreement between the court and the defendant. A judge orders the terms. Bollar said defendants who don't have a great deal to lose occasionally opt out of probation. "Under certain circumstances, the realities of life may be that they don't have a car, a driver's license or a job, and incarceration seems like a good alternative to them," he said. The costs of the supervision and drug fees are set by the Minidoka County and Cassia County joint-powers board, said George Warrell, Cassia County undersheriff. The

Fifth Judicial District allows counties to charge up to \$75 per month for supervised probation. In Mini-Cassia, it runs \$60 a month. Linda Wright, trial court administrator for the 5th Judicial District, said drug tests in the district cost \$10 to \$11. In Mini-Cassia, they range from \$12 to \$15. The Mini-Cassia office has 550 people on misdemeanor probation, and 1,000 drug tests are performed at the office each month, including tests for felony probation, Drug Court and Health and Welfare, Warrell said. When a urinalysis shows a positive result, the sample is sent to another lab for confirmation testing, said Amber Prewitt, director at the Mini-Cassia Misdemeanor Probation Office. A judge determines if the person will be drug tested, but a person's behavior determines how often they'll be tested, Bollar said. Multiple tests mean shelling out a lot more money, and drug tests have to be paid when taken. If someone doesn't have the money, the office will allow them to wait until payday but then asks them to pay for one test in advance to prevent recurrence, Prewitt said.

MULTIPLE FACTORS PLAY INTO SENTENCING Cannon said the type of crime determines what level of probation a judge will order, but other factors are considered. "We also look at their criminal history, the circumstances of the crime and if drug or alcohol abuse may have been a factor leading to the crime," Cannon said. "You'd be surprised how many misdemeanor crimes are committed by someone with a meth problem." The judge said a person sometimes will bring up a drug problem in court because they want help. Other times, the defense attorney mentions it or the prosecutor may have dealt with the person in the past and knows their history of substance abuse. Someone with a criminal history or drug or alcohol issues won't likely be put on unsupervised probation even if they can pay their fines and fees immediately, Cannon said. "Someone who has no driver's license, because they simply forgot to renew it, is going to be dealt with differently than someone who has a history of driving without a license," he said. Bollar said probation is used to ensure court compliance but also helps set up structure in the person's life. "They are required to get a job and meet certain requirements," said Bollar.

GETTING CREATIVE IN THE COURTROOM Probationers have to fulfill their obligations, including paying fines and fees before they go on unsupervised probation, Prewitt said. She sees many given several weeks by the courts to pay their fines before they have to sign up for probation, meaning the courts are granting them time to pay. Cannon sometimes gives people 45 days to pay court costs before they have to sign up for probation, and if it is paid on time, they sometimes get no probation at all. "We try to get creative," he said. Bollar and Cannon also use structure review hearings, in which an offender can return to court to report on their status rather than going on probation. "I have the luxury of doing that because I have a calendar that allows it," Bollar said. Smaller jurisdictions can accommodate more court hearings, he said. Bollar said if an offender pays outstanding costs, they may not even have to attend the structure review hearing. Prewitt said the probation office works with people who are "truly" indigent to get them back to court so the judge can waive fees. Cannon said he'll waive fees and costs for someone who has a disability and cannot work or to make sure a victim receives restitution. "I'd rather see the victim receive that restitution," he said. Bollar also allows offenders who can't pay costs to perform community service, which is applied to their outstanding costs at a rate of \$10 per hour, minus a deduction for worker's compensation insurance. The community service cannot be applied toward restitution costs or drug testing fees, however. "Judges have a lot of discretion in what they do in their courtroom," Bollar said.

Information from: The Times-News, magicvalley.com

Capone murder trial begins today in Moscow

By Kerri Sandaine, Lewiston Tribune staff writer September 2, 2014

Capone trial postponed Capone The murder trial that begins today in Latah County 2nd District Court is the culmination of years of investigations, intrigue and claims of innocence by the defendant. Charles A. Capone, a 53-year-old Moscow mechanic, is accused of killing his wife, Rachael L. Anderson, and disposing of her body. Her heartbroken family and friends have been seeking closure and answers in the case since the day Anderson drove up the Lewiston Hill to retrieve her car from Capone's shop and never returned. Anderson was 40 when she vanished on April 16, 2010, leaving behind four children and four grandchildren at the time. Her face has been plastered across the region for years, but she's never been found and is presumed dead by law enforcement. Capone has spent most of the past four years behind bars. Shortly after Anderson disappeared, he was arrested in Moscow on a federal firearms charge and convicted. He served his sentence and was on the verge of being released when Asotin County Prosecutor Ben Nichols filed domestic violence assault charges against Capone and had him transported to the Asotin County Jail. After several months and a grand jury investigation, Asotin County officials believed federal authorities were on the cusp of filing murder charges, and the domestic violence charges were dropped. At the time, Asotin County Superior Court Judge Bill Acey had granted a change of venue, and Capone's assault trial was about to begin in Columbia County. Local authorities were caught off guard when the feds didn't follow through as expected, and Capone was about to be set free. That's when Latah County Prosecutor William Thompson Jr. stepped in. Because the alleged crime occurred in Latah County, murder charges against Capone and his friend, David C. Stone, were filed in Idaho, and Capone was moved to the Latah County Jail. The men were charged with first-degree murder, conspiracy to commit first-degree murder, failure to notify a coroner or law enforcement officer about a death and conspiracy to commit failure to notify a coroner or law enforcement officer about a death. Stone, 51, a former city of Moscow employee, pleaded not guilty to the four felony charges. He changed his tune last fall and started talking to investigators about his alleged role in Anderson's disappearance. Stone has a plea deal in the works and will testify against Capone at the trial. Capone has maintained his innocence throughout the entire investigation. He was Anderson's fourth husband and they had only been married a few months when the relationship soured. She had started divorce proceedings when she disappeared. Capone's court proceedings have had some twists and turns in the past. His trial was minutes away from starting in June when Judge Michael J. Griffin shocked everyone by stepping down. The judicial departure was unrelated to Capone's case, but it caused a delay nonetheless. A new judge had to be assigned, along with a new jury pool. Senior Judge Carl B. Kerrick will be on the bench today. Capone is represented by attorneys D. Ray Barker and Mark Monson. Thompson and Mia M. Vowels, senior deputy prosecutor, are handling the case on behalf of the state. Asotin County Detective Jackie Nichols has been on the Rachael Anderson Missing Person Task Force from the beginning, along with law enforcement officials from multiple agencies in the area. For years, they have been searching for the Clarkston woman and compiling evidence that will be presented at Capone's trial. "I feel hopeful that there will be a final resolution in the case," Nichols said, "and we can hold the people responsible for the loss of Rachael Anderson. This has been a monumental effort from every agency involved, working together to keep this case moving forward. I would hope if my mother or child disappeared, people would work just as hard to find my loved one." *The Tribune* will provide live blogging of opening arguments today online at http://lmtribune.com/blogs/from_the_newsroom/

Proceedings postponed for suspects in Thomas murder Sena's hearing rescheduled, charges dropped and refiled against Garcia and Flores

By JOHN FUNK September 3, 2014 Idaho Press-Tribune

NAMPA — Daniel Francisco Sena, Jorge Garcia and Jose Cruz Flores, all suspected of helping cover up the murder of Selena Thomas last month, will have to wait a little longer for their preliminary hearings. All three were scheduled to appear before Magistrate Judge Charles Hay Tuesday morning. However, Hay ruled Sena's hearing postponed until 8:30 a.m. Sept. 17. Sena faces a felony charge of destruction of evidence. A similar charge against Garcia was dropped, but Deputy Prosecuting Attorney Monica Morrison said charges of destruction of evidence and failure to notify authorities of a death would be immediately refiled. He's scheduled to be arraigned Wednesday on new charges of destruction of evidence and failure to notify authorities of a death. Prosecutors also dropped and refiled charges against Flores. He now faces felony charges of accessory to second-degree murder, destruction of evidence, failure to notify authorities of a death and burglary.

Sexual battery suspect to proceed to 3rd District Court Investigators believe transient slept with 16-year-old girl

By JOHN FUNK September 3, 2014 Idaho Press-Tribune

CANYON COUNTY — A 32-year-old homeless man found sharing a sleeping bag with a 16-year-old girl behind a mobile phone store last month will proceed to 3rd District Court for felony arraignment, Magistrate Judge Charles Hay ruled Tuesday morning. Kenneth Paul Tate was confronted by police after an employee at the Treasure Valley Marketplace store reported a suspicious transient near the store on the morning of Aug. 19. Under questioning from Deputy Prosecuting Attorney Justin Paskett, Nampa Police Officer Curtis Carper testified at Tuesday's preliminary hearing that he observed a sleeping bag near a dumpster in the rear parking lot and found Tate and a female subject later identified as a 16-year-old girl, who initially lied to Carper about her name and age. Carper separated the individuals, he told the court, seized the sleeping bag as evidence and contacted the department's Persons Crimes Division. Detective Becky Doney of the Nampa Police Department testified that she had interviewed Tate at the police station for a little over an hour, and for most of that time, he denied having sex with the girl. But Doney told the court that once she told Tate another detective had already talked to the teenager, he changed his tune. Doney said Tate told her he'd met the girl in October 2013 in Eugene, Oregon, but they'd lost contact with each other and reconnected in May 2014 when he arrived in Nampa by bus. Tate confessed to Doney that he'd had sex with her twice that month, Doney told the court. "He was denying, and I told him she had been interviewed, and then he said he had had sex with her," Doney said. Under crossexamination by Scott James, Tate's attorney, Doney said she'd asked Tate why he was homeless. He told her he held multiple bachelor's degrees, she told the court, and denied having any mental health or substance abuse issues. Tate is scheduled to appear for felony arraignment Sept. 12 before 3rd District Judge Brady S. Ford. He's being held at the Canyon County jail on a \$200,000 bond.

Violent offender registry would help break cycle

September 4, 2014 Idaho Press Tribune

While I was reading Sunday's editorial about a proposed violent offender registry, I appreciated the editorial board addressing this terrible constant issue in our community. Your advice to check the court records and do some work on learning about the individual before he or she has a relationship with you or your family is a good idea. However, one thing that concerned me was the "emotional issue" you mentioned that affected retired Police Chief Curtis Homer and his wife Rene because of the relationship their daughter had with the man accused of killing Selena Thomas. I had to respond. I thought about stating all kinds of data regarding domestic battery and what the effects are to each victim and their families. But that information doesn't really set in until you or your family are a victim of domestic battery. So I'll write about this topic from a parent's perspective: Do you as a parent know that your daughter or son is in a violent relationship and whatever you try to do to stop the abuse, nothing works? You realize there's no other place to go for help? When you see your daughter or son, there's bruises on the face and he or she won't tell you what happened? Have you as a parent had many sleepless nights wondering if your daughter or son is OK? Or while watching TV you get that nervous twitch in your gut that says something isn't right and the first thing you think of is your daughter or son? You wonder what went wrong with your sons or daughters to be in a violent relationship, because they surely weren't raised like this? Then your daughter or son and the batterer come over for a visit (after the bruises go away). The abuser is cordial, friendly, and you wonder why? The abuser appears to be a good person, and as a father you confront him or her about the domestic issues and the person apologizes and is sorry for what he or she put your daughter or son through. The batterer says he or she needs help and will go see a counselor. You are hesitantly relieved because maybe you have helped stop the abuse, but after several days you don't hear from your daughter or son and all those ugly feelings return. As terrible as this situation is, now put in additional factors the batterer has — for example, substance and alcohol abuse or mental issues such as bipolar behavior. The batterer was raised in a violent environment and believes that this behavior is the norm. Even worse, now put in another factor into the abusive violent lifestyle — your grandchildren. Through out my career I have investigated many homicides and aggravated battery cases which were the result of domestic battery. In talking with the parents and family members of the victims, they all said they tried everything they could think of to help their daughter or son, and sadly there wasn't any one else to turn to. So is this an "emotional issue"? It sure is, with a never-ending cycle. Should we not be proactive because we are emotional and just sit back and let someone else worry about it? Ladies and gentleman, please support former Nampa Police Chief and former Nampa City Councilman Curtis Homer to continue to push for the violent offender registry. And while you're at it, support Rene Homer, wife, mother and grandmother who endured this terrible issue. I applaud Curtis and Rene for standing up and doing something about it instead of keeping quiet! Victor Rodriguez is a retired detective with the Nampa Police Department and a former Nampa City Council candidate.

Teen court starts in Post Falls

Coeur d'Alene Press: Aug. 23- Brian Walker

POST FALLS - The new Post Falls Teen Court is about to be in session. The school district and police department have been awarded a \$17,000 grant from the Idaho Juvenile Justice Commission to launch a one-year pilot teen court program starting in September. The court will feature teen peers that will serve on a six-member jury and hear cases involving minor in possession of tobacco or alcohol, curfew violations and runaways. The program focuses on first-time offenders, and families will have the option of going through the court as opposed to the traditional juvenile justice system. "This is a chance for teens to work with school resource officers through the process, so we can mentor them as we go along," said Neil Uhrig, an SRO at Post Falls High. "One of the hardest parts of our job is that we only bust kids (under the traditional system) and don't get to see how they're doing after that. We send them on to other people and that doesn't foster good relationships with the students." Uhrig said the "diversionary" program, which is the first of its kind locally, has been successful in other parts of the country. Uhrig is collaborating with Bridget Eismann of the police department and Mark Jones, the school district's alternative-to-suspension coordinator, on the effort. "A strong feature to this program is the community connections that will be made," Jones said. The juries will consist of 14- to 17-year-olds selected by school resource officers. They will be trained before serving on a jury. "The jury will not decide if the teen is guilty," said Uhrig, adding that the teens must have already admitted the offense. "The jury will pick the sentence such as community service or writing an essay." Teens 14 to 17 years old who are interested in serving on a jury can email Uhrig at nuhrig@postfallspolice.com for an application. School resource officers will serve as the presiding hearing officer. Accountability and education are benefits of the program, Uhrig said. "It's an educational process," he said. "We want teachable moments, not just punishment." Hearings will be held at the Post Falls police station and the first will likely be held in mid-September. "We'll hold one hearing a month to start out," Uhrig said. Uhrig said it can take as long as two months for cases in the traditional juvenile justice system to be settled due to a limited number of case workers. "Teen court wasn't necessarily meant to relieve that strain, but it can be an added benefit," he said. Uhrig said it's possible the number of hearings and offenses the program applies to will increase in the future. Post Falls Police Chief Scot Haug said he's proud of the collaboration between the police department and school district. "It can be easy to go with the status quo, but those involved in this program understand the importance of building relationships with young people and see the big picture," Haug said.

Justice Scalia to Speak at Idaho Water Conference

MagicValley.com: Aug. 25- Kimberlee Kruesi/ Associated Press

BOISE (AP) — U.S. Supreme Court Justice Antonin Scalia is the keynote speaker at a conference celebrating Idaho's completion of a 30-year process negotiating water rights. Monday's event in Boise also features nationally known water law experts who will talk about the largest ever adjudication project that covers all water in the Snake River Basin, starting from the Yellowstone National Park to the Oregon border and goes high as north-central Idaho's Clearwater County. The Idaho Supreme Court, the Kempthorne Institute and the University of Idaho College of Law organized the event. Scalia is scheduled to speak at 7 p.m. Since 1987, water law attorneys have completed more than 100,000 water rights claims. This has allowed thousands of farmers, dairies and fish processors to have a comprehensive record of state, federal and tribal water rights.

Judge releases robbery, beating suspect

Lewiston Tribune: Aug. 26- Ralph Bartholdt

A Lewiston man charged in connection with the alleged robbery and beating of a 61-year-old man was ordered released Monday from the Nez Perce County Jail. Nicholas W. Ling, 34, was discharged after Nez Perce County Magistrate Gregory K. Kalbfleisch ruled there was not enough evidence to further incarcerate him. Kalbfleisch said conflicting reports raised doubt as to whether Ling or an accomplice - described by the victim as a "bald man" - was the alleged perpetrator. Rupert J. Soriano, 61, of Lewiston, was treated for two gashes on his head and an injured finger following the incident Friday night and released from St. Joseph Regional Medical Center. Nez Perce County Deputy Prosecutor Justin Coleman said he will continue to pursue charges against Ling, whose preliminary hearing on felony counts of robbery and aggravated battery is scheduled for Sept. 3. Police responded Friday evening to the report of a robbery on the 800 block of Warner Avenue. When officers arrived, they found a bloody Soriano sitting in his living room screaming for help, according to court records. Candles and a coffee mug were lying on a blood-stained floor. Soriano told police that he let two men into his apartment after answering a knock on his door at approximately 11:30 p.m. He knew one of the men as "Nick," according to court records. When he turned to go to the bathroom, he told police, he was beaten to the floor. The men allegedly escaped with a laptop bag containing a debit card and a prescription drug card. Police found cellphones scattered inside the residence and in Soriano's driveway, according to court documents. Witnesses reported seeing a white car accelerating and spinning its tires as it left Soriano's residence around the time of the alleged incident. Ling had blood on his clothing, according to court records, when he was arrested two hours later at a trailer park on the 600 block of Burrell Avenue. His alleged accomplice has not been arrested, police said, but investigators think they know his identity. Police located the car allegedly involved in the incident, Coleman said. Officers were waiting Monday for a warrant to search the vehicle. "The investigation is still continuing and the preliminary hearing is still going forward," he said.

More troubles for Boise school trustees election as attorney calls for poll watchers

Idaho Statesman.com: Aug. 26- Bill Roberts

Boise attorney David Leroy wants the Boise School District to allow "poll watchers" at its voting places during the district trustee race Sept. 2. Leroy said he represents clients who are [concerned about how the district is conducting the election](#). Leroy would not identify the people he is representing, except to say that none of them are among the seven candidates in the trustees race. In a letter to trustees, Superintendent Don Coberly and the district clerk of the board, Leroy raised several concerns. Leroy shared the letter with the Idaho Statesman. He asked that ballots be reprinted to eliminate the incumbent designation. He said the [decision to include the designation](#) was done outside a public meeting. Leroy also asked the district to explain the process it will undertake to ensure that individual voters trying to cast more than one vote will be detected. District voters can go to any of the 23 polling places to cast their ballots. He also said non-incumbent candidates were not advised of the early voting that began in August when they received their campaign packets. Coberly said he did not receive the letter until Monday evening and had not reviewed it thoroughly. But he said the district's charter specifies that parts of the election process are the responsibility of the clerk of the board and not the trustees. The superintendent also said he would advise against changing the ballots. Many of them are already in the hands of those who vote absentee.

Justice Scalia talks at water rights event in Boise: Celebration marks completion of most Snake River Basin court cases

Idaho State Journal: Aug. 27- Dave Goins

U.S. Supreme Court Justice Antonin Scalia gives a keynote speech Monday night in Boise at a gathering celebrating the pending conclusion of the water rights cases at the Twin Falls-based Snake River Basin Adjudication Court. The court has completed nearly 160,000 water rights cases since it began processing such legal matters on Nov. 19, 1987. BOISE — While a two-day conference in Boise this week was billed as a celebration "marking the conclusion" of water rights claims before the Twin Falls-based Snake River Basin Adjudication Court, 90 cases on an historic docket of nearly 160,000 remain to be finalized, SRBA presiding Judge Eric Wildman said Monday. "Everything'll be completed," Wildman said in an interview following a Monday night celebratory event at the Boise Centre. The event included a keynote speech by U.S. Supreme Court Justice Antonin Scalia. He praised Idaho's efforts to make water rights ownership clearer since the SRBA began its work on Nov. 19, 1987. "Completion of the Snake River Basin Adjudication is a state accomplishment worth celebrating," Scalia said. Monday night's event — near the end of the conference's first day — included Wildman's ceremonial signing of the SRBA's "final unified decree." Amid 11 other men on stage were Idaho Republican Gov. C.L. "Butch" Otter, U.S. Sen. Jim Risch, R-Idaho, and former Idaho GOP Gov. Dirk Kempthorne. Wildman said that approximately 158,700 water rights claims have been finished in the SRBA Court's history. "That works out to around one claim every 90 minutes — an astonishing pace by anyone's standard," Scalia said. Idaho officials earlier had reportedly set a September goal for finishing the historic docket of cases at the SRBA. But if claims within two groups of water rights claims including "the Wild and Scenic claims from the Owyhee Initiative of 2009," are litigated, the SRBA's legal processes could take up to two more years to complete, Wildman said. "Everything's being implemented that came about from the SRBA," Wildman said. "We just have these few outstanding claims." Per a separate legal order by Wildman, he said, the remaining 90 cases will ultimately be tied into the final unified (water rights) decree he signed Monday night. "I had to get the decree signed so I could draw the line in the sand and keep new stuff from being filed," Wildman said. "So, essentially what it is, is we've stopped ... cut off new claims, late claims coming in, and we're just finishing up the other cases." Scalia noted that an earlier historic adjudication was administered when England's William the Conqueror used it for the collection of taxes. "Idaho's adjudication serves a nobler purpose — letting the people of the state know just what they own," Scalia said. He said that "just about every human economic activity, not to mention human life itself, requires the use of water." And he noted that water-use areas in Idaho include, farming, fishing, mining, and manufacturing. "Each of these activities will go more smoothly now that the people and businesses of the state know their ration of water," Scalia said. In Idaho, where water is relatively scarce compared with some other states in America, the SRBA has put the process into the state's hands, where they belong, in Scalia's view. "It was the state of Idaho, not the federal government, that parceled out the Snake River's waters," Scalia noted. "The state Legislature wanted to adjudicate, the state executive facilitated it, and the state courts ran it. And that is as it should be. A federal coast-to-coast system for allotting water would struggle to account for the diversity of the problems facing various states." Legal controversies in the past in Idaho include a water rights disagreement between Idaho Power Co. and agricultural water users. Scalia said that an earlier negotiated water-rights agreement between Idaho and Indian tribes within Idaho's borders has been one especially positive feature of the adjudication, when compared with what has happened in some other states. "Water rights and disputes between Indian tribes and states have often produced long and bitter lawsuits," Scalia said. "Some of these cases have been left before the Supreme Court of the United States. Idaho, however, blunted the problem by negotiating settlements with the tribes."

Boise School District rejects attorney's election requests

Idaho Statesman.com: Aug. 27- Bill Roberts

But Boise trustees will discuss the addition of voting sites Thursday. The Boise School District has rejected requests to reprint trustee ballots to eliminate the incumbency designation for the Sept. 2 election and to allow poll watchers to monitor the seven-candidate election. The [requests for new ballots and poll watchers](#) came from David Leroy, a Boise attorney representing clients who have raised concerns about the coming election. He has declined to identify the clients but says they are not among the [seven candidates for trustee](#). Requests for poll watchers must be made at least 12 days before the election, Boise School District attorney Dan Skinner wrote in a letter to Leroy. The letter said the responses came from Karen Fox, the district's clerk of the board. The district's letter also said changing the ballot would be a violation of Idaho code, which says there can be only a single ballot for nonpartisan elections. More than 700 ballots have already been received through early voting, the letter said. Leroy said Tuesday that he has not seen the district's letter and couldn't comment on it. Part of Leroy's letter complained that the Boise School District [added polling places without a public vote](#) by the board. The district announced additional polling places at Fairmont and East junior high schools after trustee candidate Grant Walden requested more polling locations in West Boise, where he lives, and Southeast Boise. The board has set a special meeting at 5:30 p.m. Thursday to affirm those polling places. The polls were added "quite frankly to afford voters the greatest opportunities to exercise their right to vote," District Superintendent Don Coberly told the Idaho Statesman. The letter calls the lack of a board vote a "procedural oversight." "I think it is great we are getting an open discussion," said Walden. Board member Joan Boren criticized the lack of public discussion in a letter to trustees Tuesday. "The decision to change the polling locations was made inappropriately outside of a public meeting," she wrote in a letter to the board that was obtained Tuesday from the district by the Idaho Statesman. "This is an open meeting law violation."

Panel: Parched West can learn from Idaho

Idaho Statesman.com: Aug. 27- Brian Smith/ Times News

California, in particular, is facing water issues that are overwhelming. After the nation's largest-ever review of water rights was signed Monday night, Idaho attorneys, lawmakers and others reflected Tuesday about what the achievement means. More important is what other arid states, particularly drought-stricken California, could glean from Idaho's historic marshaling of water rights. The 300,000-page final decree of the Snake River Basin Adjudication resolved a "staggering" 158,000 Idaho water rights and is the envy of Western states, U.S. Supreme Court Justice Antonin Scalia said Monday night in Boise. Scalia noted that the 27-year process covered an area larger than England at an "astonishing pace" of one water right every 90 minutes. It is up to the states to manage their water, Scalia said. "A federal, coast-to-coast system for allotting water would struggle to account for the diversity of the problems" that states face, he said. With California water brass in the room, a panel of eight officials familiar with water issues and the process gave their advice to other states in the middle of, or only starting, their adjudications. Some states started more than 40 years ago and still have not linked management of surface and groundwater as Idaho has done. Those states' officials praised Idaho for setting up a special court, funding the \$93 million endeavor and not making the process a political football. What happens in California is important because that state commonly looks north to the Snake and Columbia rivers for help, said Ted Kulongoski, a former Oregon Supreme Court justice and governor. Though technology will be key in resolving such issues, Kulongoski said he wasn't convinced the state had the resources to go it alone. The federal government might need to step in, he said, echoing fears that in part caused Idaho to create the adjudication process. So it is critical, said former U.S. Sen. Larry Craig, that California's largest water users - agriculture and municipalities - build an alliance, the kind that "you never dreamed you'd build before," Craig said. "They wanted me to talk about their water crisis," Craig said of his invitation to speak in California. "The first thing I told them was: 'You have lost the war.' ... Fifty years prior to that, agriculture consumed 80 percent of the water, and today they consume less than 20 percent. ... Go be friends with (Los Angeles)." But that conflict, as the West's population boom steps on the toes of its agricultural roots, is the essence of the water debate and its greatest challenge, speakers said. Increasing demand for a limited resource makes rights more valuable, especially as a new generation might not agree with the "first in time, first in right" doctrine, said one speaker. Idaho's Magic Valley has faced the harsh consequences of that doctrine through the state's most notable management case. In 2011, Rangen, a Hagerman fish farm with senior water rights, made a call on its diminished spring water supply, which threatened to shut down the Magic Valley economy. State regulators said they might have to curtail 2,300 junior groundwater rights across more than 157,000 acres to give Rangen its water. The case is still being litigated. It appears to be nearing a settlement, and curtailment has been avoided so far. But such cases create an inherent opportunity, said Arturo Sarukhan, former Mexican ambassador to the U.S. "Take advantage of a crisis to change the paradigms," he said. The solution to the West's water woes is an "all of the above" strategy, said Michael Connor, deputy secretary of the U.S. Department of Interior. "You've got to have more conservation, more water recycling, new technologies, and we need more infrastructure, additional surface storage to make up for the change in snowpack, which is no longer the natural storage that it used to be, and we need to recharge the aquifers," he said. "All of that is going to take a lot of money and investments."

Judge denies GBAD bond request

Idaho Statesman.com: Aug. 28- Sven Berg

BOISE — A proposed 24-year lease wasn't the reason state Judge Melissa Moody denied Greater Boise Auditorium District's request for a bond to expand its convention center. Instead, a host of associated "unlimited and open-ended" costs could keep the district from walking away from the lease scot-free, Moody wrote in her decision, released Thursday. Insurance, litigation, taxes, fees and other costs constitute a long-term liability, Moody wrote. She said the district's bond request is not an exception to the Idaho Constitution's requirement that government bodies get supermajority voter approval before taking on long-term debt or other liabilities. Boise watchdog David Frazier, who fought the district's request for Moody's approval of the bond, claimed victory. "It was gratifying to have Judge Moody see through the attempt to circumvent the Constitution," Frazier wrote on his blog, Boise Guardian. "Too many public works projects have denied voters their constitutionally mandated voice on public debt." Boise's urban renewal agency, a private organization that can borrow money long-term without voter approval, agreed this spring to issue bonds to pay for a new ballroom, industrial kitchen and other facilities in City Center Plaza, which developer Gardner Co. is building on the south and west sides of the U.S. Bank tower in Downtown Boise. The auditorium district would lease those facilities for up to 24 years and would own them at the end of the term. At the same time, the district wants to renovate Boise Centre, its existing convention center, and build a concourse connecting it across the Grove Plaza to the new ballroom building. Pat Rice, the auditorium district's executive director, said he didn't know if the district will appeal Moody's ruling. With or without the bond, district officials say, they'll do the expansion. It would take longer without the bond, since the district would have to pay cash for each component in phases as money — from a 5-percent tax on hotel room rentals inside its boundaries — accumulates in its accounts. That's the point, Moody wrote in her decision's conclusion. "Pay cash; otherwise, go to the people," she said

Judge residency debate resurfaces

Lewiston Tribune: Aug. 29- Kathy Hedberg

GRANGEVILLE - The application process to begin filling the 2nd District judicial position being vacated by Judge Michael J. Griffin of Grangeville has not yet begun. There has been talk in legal circles, however, that the Idaho Supreme Court might propose eliminating the position, which would reduce the number of judges in the 2nd District to three; or change residency requirements to allow a judge to reside in any of the district's five north central Idaho counties. The judge now must reside in Idaho County. The Idaho County commissioners have directed County Clerk Kathy Ackerman to draft a letter to John Stegner of Moscow, the administrative judge for the 2nd District, expressing their concern about leaving the position vacant and urging him to support filling it as soon as possible. Griffin has said he will retire Jan. 4. Senior Judge Barry Wood, formerly of the 5th District and now working at the Idaho Supreme Court in Boise, said the residency discussion has been going on in every district around the state for as long as he can remember. "This isn't some new event. This has been the topic of conversation for a long, long time and keeps coming back up," Wood said. "It's not a 2nd District-Grangeville thing." Lifting the restrictions of where judges may live within their districts, Wood said, would encourage a bigger applicant pool. That's what he said the issue is really about. "It's all about recruiting for the highest and best you can get for a position," Wood said. The decision about eliminating a judgeship or changing residency requirements, however, is the purview of the Idaho Legislature. The Idaho Supreme Court could make a recommendation, which would require a constitutional amendment. Wood said the issue is expected to be on the agenda when the state's administrative judges meet for an annual conference in October. In any case, Wood said he is confident the Supreme Court will rely on senior judges or other resources to keep business moving if there is a delay in filling Griffin's position. "Citizens in Idaho County would clearly have access to a judge and that would not be impaired," Wood said. Ironically, the requirement that the judge serving Idaho, Lewis and Clearwater counties must live in Grangeville is the issue that drove former Judge John H. Bradbury - who preceded Griffin - to battle with the state Supreme Court. Bradbury, who owned homes in Grangeville, Lewiston and Clearwater County, was ordered by the court to move to Grangeville and drive to the other counties for work. Bradbury resisted, saying his heaviest caseload was in Orofino and it was closer to drive there from Lewiston than from Grangeville. The dispute prompted Bradbury to mount unsuccessful election challenges of two justices on the high court and eventually retire from the bench in 2010. Bradbury said Thursday he still thinks the residency requirement is a bad idea. "Idaho is one of only three state legislatures that can amend the constitution by adding requirements," Bradbury said. "Idaho has done that with the residency of judges. Politics has to get out of the residency thing and let the judges be where they can best serve the people." Bradbury added that he would not be surprised if the Supreme Court opted not to fill the Grangeville position.

Long reach of Warren Jeffs: Prosecutor calls FLDS case 'alien territory'

Idaho State Journal: Aug. 29- Michael H. O'Donnell

Teresa Steed, Nathan C. Jessop, and FDLS President Warren Jeffs pose in this undated photo seized as evidence by Texas law enforcement. POCATELLO — When Bannock County Prosecuting Attorney Steve Herzog received the call from the sheriff's office that it was investigating a possible child abuse case involving multiple boys and the Fundamentalist Church of Jesus Christ of Latter-Day Saints, he knew it was going to be challenging. "It is alien territory," Herzog said. The Bannock County Sheriff's office had received a call from the FBI July 8 after it interviewed a boy who had escaped from a home on Clifford Drive near Pocatello Creek Road and made his way to the Holding Out HELP group in Salt Lake City. The escaped teen had shared stories about food deprivation, corporal punishment and confinement. Bannock County Lt. Toni Vollmer and child welfare investigators visited the home with a warrant on July 10 and found no adult supervision, but nine boys between 11 and 17 in the Pocatello home. The youngsters were taken into protective custody based on the information provided by the escaped teen. Herzog said the case then became focused on child protective custody. He said the criminal charges against the adult in charge of the children, Nathan Jessop, were secondary. One of the boys living with Jessop was his son, now 16, and the defendant said three of the boys were his stepsons and three others were his nephews. Jessop was charged with three misdemeanor counts of injury to a child and pleaded guilty to those offenses at a Thursday pre-trial conference. He was sentenced to 10 days in jail and placed on two years of probation. Herzog said misdemeanor charges were filed because none of Jessop's conduct met the threshold of felony child abuse. But the main focus of the prosecutor early on was the protection of the children and how to navigate the religious freedom issues. "The bigger picture is how do you address the concerns that the FLDS culture raises," Herzog said. Chief deputy prosecutor Ian Service was put in charge and Herzog said Service had the most knowledge about the FLDS sect in Southern Utah and Texas. Texas authorities placed hundreds of FLDS women and children into protective custody after raiding the sect's YFZ Ranch in 2008 only to release them all later after protracted legal maneuvering. "Child protection is a job that's a tough one," Herzog said. An Aug. 11 protective custody hearing was held at the Bannock County Courthouse and there were 12 attorneys representing Bannock County, the children and their mothers present. Herzog said it was strange to see the mothers in the courthouse dressed in traditional FLDS attire and hairstyles. Ultimately Magistrate Judge Bryan Murray decided to release seven of the boys back to the custody of their mothers and drop the protective custody action. Two remain in the protective custody of the state of Idaho under the supervision of the Department of Health and Welfare. "I think this case really highlights some of the limitations in our child protective laws," Herzog said. He also said he didn't appreciate some of the pressure his office received by the state Attorney General's office and Health and Welfare to drop all the protective custody proceedings. "They were adamantly opposed," Herzog said about the state's reaction to the county pursuing the child protective custody cases. Herzog admitted his office tried to keep the FLDS cases low profile. "It was much easier to sort out if it was kept low profile," he said.