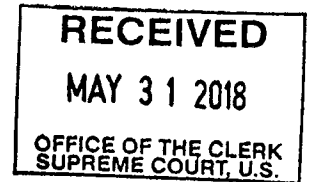


TC4904



IN THE UNITED STATES SUPREME COURT

LACEN MARK SUAK,) USSC-17-825
 PETITIONER,)

VS.) PRO SE PRISONER'S PETITION
 STATE OF IDAHO,) PER RULE 44 FOR
RESPONDENT.) REHEARING / HEARING

COMES NOW, LACEN SUAK, PETITIONER IN
 THE ABOVE-ENTITLED ACTION, FILING THE
 PRO SE PRISONER'S PETITION PER RULE 44
 FOR REHEARING / HEARING,
 PETITIONING AS:

I.

THE MATTER NEEDS TO BE REHEARD / HEARD
 BECAUSE:

THE ISSUES IN QUESTION ARE WHAT
 LACEN ADDRESSED IN THE "ICK RULE 35 (C)
 MOTION TO CORRECT ILLEGAL SENTENCE
 WHICH IS APPENDIX A OF THE PETITION
 FOR A WRIT OF CERTIORARI IN THIS CASE

A. IDAHO CODE 18-2503 REQUIRES LACEN'S
 PRESENCE AT SENTENCING, WHEN AN
 AUDIO AND VIDEO TRANSCRIPT WOULD
 BE BROUGHT IN, IT WOULD SHOW
 THAT A HEARING WAS HAD AFTER
 LACEN WAS RETURNED TO THE PRISON,
 WHICH LACEN WAS DENIED ABILITY
 TO ATTEND, WHERE THE JUDGE

CERTIFICATION

PER USSC RULE 44, I CERTIFY:

1. my "PRO SE PRISONER'S PETITION PER RULE 44 FOR REHEARING / HEARING" A. IS PRESENTED IN GOOD FAITH B. IS NOT PRESENTED TO DELAY THIS CASE
2. my "PRO SE PRISONER'S PETITION PER RULE 44 FOR REHEARING / HEARING" IS LIMITED TO THE SAME ISSUES THAT WERE SENT ON THE INITIAL "PETITION FOR WRIT OF HABEAS CORPUS", BUT, BETTER DEFINE OUT THE MATTERS AND PROVIDE EVIDENCE ON THE ISSUES, THAT WAS NOT PRESENTED BEFORE, TO PROVE THE ISSUES. -
3. THAT I RECEIVED THE COURTS 06 JUNE 2018 LETTER AND MATERIALS ON THIS 11 JUNE AND ANSWERED WITHIN FOUR HOURS, AND, PREPARED IT TO SEND BACK TO THE COURT FOR 12 JUNE, AFTER OBTAINING THE COPIES.
ONE SET IS SENT TO EACH!
* ON FUND WITH DRAWAL 15430 TO
U.S. SUPREME COURT
WASHINGTON, D.C. 20543

52

* ON FUNDWORTH DRAWAL 22160 TO;
L.C. ANDERSON, D.A.G.,
P.O. BOX 83720
BOISE, IDAHO 83720

DATED THIS 11TH DAY OF JUNE 2008,



LA CEN SUAK (8114)

B-BLOCK, ISCC

P.O. BOX 70010

BOISE, IDAHO 83707

IN THE UNITED STATES SUPREME COURT

LACEY MARK SVAK,) WSSC-17-825)

PETITIONER,)

VS.) PRO SE PRISONER'S PETITION
STATE OF IDAHO,) TOWN PER RULE 60 FOR
RESPONDENT.) REHEARING (HEARING)

COMES NOW, LACEY SVAK, PETITIONER IN THE
ABOVE ENTITLED ACTION, FOLLOWING THIS
PRO SE PRISONER'S PETITION PER RULE 60
FOR REHEARING (HEARING,
PETITIONING AS:

IF
THE MATTER NEEDS TO BE REHEARD (HEARD BE-
CAUSE:

(THE ISSUES IN QUESTION ARE WHAT LACEY
ADDRESSED IN TAG "FOR RULE 35(c) MOTION
TO CORRECT JUDICIAL SENTENCE" WHICH IS
APPENDIX A OF THE PETITION FOR A WRIT
OF CERTIORARI IN THIS CASE)

A IDAHO CODE IS-2503 REQUIRES LACEY'S
PRESENCE AT SENTENCING, WHEN AN AUDIO
AND VIDEO TRANSCRIPT WOULD BE BROADCAST
AND IT WOULD SHOW THAT A HEARING
WAS HAD AFTER LACEY WAS RETURNED
TO THE PRISON, WHICH LACEY WAS
DENIED ABILITY TO ATTEND, WHERE
THE JUDGE

#2

CHANGED THE DATA AND IS FALSIFYING THE COURT RECORDS- (AND SEE ATTACHED 08-26-2013 ENTRY REGISTER OF ACTION PAGE)

BY THE STATE AND U.S. SUPREME COURT DENYING LACEY LIBERTY WITHOUT THE PROCESS OF LAW, AND, DENYING LACEY THE EQUAL PROTECTIONS OF THE LAW, THE U.S. SUPREME COURT IS VIOLATING U.S. CONSTITUTION, AMENDMENT 14, SECTION 1. - THE COURT IS SANCTIONING THE STATES TO DENY THE RIGHTS OF THE CITIZENS,

B. BY THE DISTRICT COURT BEING ALLOWED TO "PIECE TOGETHER" PARTS OF HEARINGS AND CREATING FALSE DOCUMENTS AND RECORDS, IT LESSENS THE HONESTY OF THE PEOPLE IN POWER AND WILL ENCOURAGE VIGILANTISM.

C. ON THE ISSUE OF THE "UNITED SENTENCING ACT OF 1986", IT CLEARLY TELLS IN SECTION 6 OF S.L. 1986 CH. 232 "THIS ACT SHALL BE IN FULL FORCE AND EFFECT ON AND AFTER FEBRUARY 1, 1987, AND THE AMENDMENTS TO THIS ACT SHALL APPLY ONLY TO THOSE PERSONS WHO SHALL COMMIT AN OFFENSE ON OR AFTER FEBRUARY 1, 1987, AND ARE NOT INTENDED TO REPEAL OR

AMEND THOSE PROVISIONS OF THE CODE WHICH APPLY TO PERSONS COMMITTING AN OFFENSE PRIOR TO FEBRUARY 1, 1987,

SO, FOR THE IDAHO COURTS TO SENTENCE LACEN FOR A 1981 CRIME, USING A LAW THAT CLEARLY PROHIBITS ITS USE VIOLATES U.S. CONSTITUTION, ARTICLE I, SECTION 9, CLAUSE 3, AND, CLEARLY SHOWS THAT THE IDAHO COURTS ARE ACTING WITHOUT AUTHORITY.

THE JUDGMENT OF CONVICTION APPEARS AS AN ATTACHMENT

AND THE COURTS ALSO VIOLATE U.S. CONSTITUTION, AMENDMENT 14, SECTION 1, BY VIOLATING

"NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES" AND "THEY DENY ME THE EQUAL PROTECTIONS OF THE LAWS".

- 1) ON THE ISSUE OF "LIFE" BEING 30 YEARS, THE ONLY THING THAT DEFINES "LIFE" IS 18-306 IDAHO CODE, ATTACHED, WHICH TELLS THE ATTEMPT IS HALF AND IF A LIFE OR DEATH, IS 15 YEARS. - (THE "WHOLE" MUST BE 30)

#4

AND, THE PUNISHMENT FOR MURDER IN A DEATH PENALTY IS DEATH OR FIXED LIFE, AS LISTED IN 18-4004 IDAHO CODE, ATTACHED. - BUT, WHERE THE DEATH PENALTY IS NOT A FACTOR, IT IS LIFE WITH A TEN YEAR MINIMUM, WHICH THE SENTENCE IS "THE COURT SHALL IMPOSE" MEANING THEY ARE COMMANDED. - SO, THE SENTENCE GIVEN BY THE COURT IN THE JUDGMENT OF CONVICTION IS ILLEGAL. (THAT JUDGE WALPER, ON 28 FEB 12 WAS ACTING IN BEHALF OF THE IDAHO SUPREME COURT ON 19-2818, AND SAID IN THE ATTACHED TRANSCRIPT "CALCULATING THE NUMBER OF YEARS, WE SAY THAT LIFE IS 30 YEARS,") LIFE HAS BEEN DETERMINED TO BE 30 YEARS. -

G. ON THE FACTS THAT THE COURT HAS NEVER ARRAIGNED LACEY OR GIVEN LACEY A PRELIMINARY HEARING, LACEY INCOMPETENT TRIAL COUNSEL WHO WAS FOUND INCOMPETENT SEVERAL WEEKS BEFORE TRIAL AND LEFT ON THE CASE, IT PREVENTED LACEY FROM BEING ABLE TO ADDRESS ISSUES WHILE THE COURT HAD ATTORNEYS ON THE CASE, SO, LACEY

COULD NOT ADDRESS IT CORRECTLY.

THE U.S. CONSTITUTION, ARTICLE

VI, CLAUSE 2, REQUIRES THAT

THE CONSTITUTION THAT

WAS RATIFIED BE GIVEN, INCLUDING

U.S. CONSTITUTION, AMENDMENT 14,

SECTION 1, "NO STATE SHALL MAKE

OR ENFORCE ANY LAW WHICH SHALL

ABRIDGE THE PRIVILEGES OR IM-

MUNITIES OF CITIZENS OF THE

UNITED STATES; NOR SHALL ANY STATE

DEPRIVE ANY PERSON OF LIFE, LIBERTY

OR PROPERTY WITHOUT DUE PROCESS

OF LAW; NOR DENY TO ANY PERSON

WITHIN ITS JURISDICTION THE

EQUAL PROTECTION OF THE LAWS."

WHEN THE RECORD WOULD BE CHECKED

IT WOULD SHOW THAT SUCH SET-

TING, THE FOLLOWING WOULD BE ADDED, AND

THE FINAL STATEMENT, WITH NO

ALTERNATIVE OR PRELIMINARY HEARING

ON THE ISSUE OF THE JURY SENTENCES

THE 18-4004 IS ATTACHED - AND, THAT

OF THE RECORD OF ACT 300 AND THE

CASE. THE JURY SENTENCES COURT

AND THE DISTRICT COURT RECEIVED A

DEMAND THAT LACEY DEMANDED A

GRAND JURY. - THE JURY SENTENCES

COURT ASSIGNED BY LACEY THAT

#6

THE SENTENCING HEARING HAD NOT YET HAPPENED, SO, THE ISSUE WAS "PREMATURE", - THE REMITTITUR IN THAT CASE IS ON THE ATTACHED REGISTER OF ACTION, SHOWING "09/06/2013 REMITTITUR DISMISSED SUPREME COURT DOCKET NO. 41141", WHICH VIOLATES THE CONSTITUTION AND THE U.S. SUPREME COURT RULING IN RING V. ARIZONA, BY THE COURT NOT GIVING A JURY SENTENCE.

II,

FOR THE REASONS STATED IN THIS DOCUMENT, THE CASE NEEDS TO BE HEARD AND THE COURT NEEDS TO GRANT RELIEF TO LACEY, - TO ORDER AN ARRAIGNMENT, PRELIMINARY HEARING, AND JURY TRIAL WOULD BE RIGHT TO DO.

AND, A JURY SENTENCE,

AND, IT NEEDS TO BE HELD THAT "LIFE" IS 30 YEARS. LACEY IS HELD BEYOND STATUTE OF LIMITATIONS, IT CAN AFFECT EVERY CITIZEN,

III

LACEY STATES SERVICE OF THIS DOCUMENT WAS MADE BY SENDING

AUG 28 2013

CHRISTOPHER D. RICH, Clerk
By BHAWY ABBOTT
DEPUTY

T B 4465

redj
055 SEP 2013
C. J. Thomas

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

THE STATE OF IDAHO,

Plaintiff,

vs.

LACEY MARK SIVAK,

Defendant.

DOB: 04/03/59
SSN.: XXX-XX-2075

Case No. CRFE-1981-10183

JUDGMENT OF CONVICTION

This being the time fixed by the Court for pronouncing sentence upon the defendant, the Court noted the presence of the Prosecuting Attorney, or his deputy, the defendant, and Deborah Kristal, Robert Chastain and Elisa Massoth, counsel for the defendant in court.

The defendant was duly informed of the Information filed against him, and the defendant was found guilty by a jury on September 29, 1981 of the crimes of FELONY FIRST DEGREE MURDER, I.C. §§ 18-4001, 18-4003 and POSSESSION OF A FIREARM DURING THE COMMISSION OF FELONY MURDER, I.C. § 19-2520, committed on or about April 6, 1981.

The defendant, and his counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the defendant, and if the defendant, or his counsel, wished to make a statement on behalf of the defendant, or to present any information to the Court in mitigation of punishment; and the Court, having accepted such statements, and having found no legal cause or reason why judgment and sentence should not be pronounced against the defendant at this time; does render its judgment of conviction as follows,

1 to-wit:

2 That, whereas, the defendant having been found guilty by a jury of the crimes of FELONY
3 FIRST DEGREE MURDER, I.C. §§ 18-4001, 18-4003 and POSSESSION OF A FIREARM
4 DURING THE COMMISSION OF FELONY MURDER, I.C. § 19-2520;

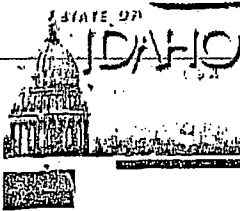
5 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the defendant,
6 LACEY MARK SIVAK, is guilty of the crimes of FELONY FIRST DEGREE MURDER, I.C. §§
7 18-4001, 18-4003 and POSSESSION OF A FIREARM DURING THE COMMISSION OF
8 FELONY MURDER, I.C. § 19-2520 and that he be sentenced to the Idaho State Board of
9 Correction, under the Unified Sentence Law of the State of Idaho, for a term of imprisonment of
10 LIFE without the possibility of parole, said term to commence immediately. Defendant is to
11 receive eleven thousand eight hundred and eleven (11,811) days credit for time served prior to the
12 entry of this Judgment.

13 IT IS FURTHER ORDERED that the defendant shall fully comply with the DNA Database
14 Act.

15 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment and
16 Commitment to the said Sheriff, which shall serve as the commitment of the defendant.

17 Sentenced and dated this 28th day of August 2013.

18
19
20
21 Ronald J. Wiper
District Judge
22
23
24
25
26



LEGISLATURE

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ATTACHMENT
Printer Friendly Version



Idaho Statutes

TITLE 18 CRIMES AND PUNISHMENTS

CHAPTER 3 NATURE AND EXTENT OF PUNISHMENT IN GENERAL

18-306. PUNISHMENT FOR ATTEMPTS. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts, as follows:

(1) If the offense so attempted is punishable by imprisonment in the state prison for life, or by death, the person guilty of such attempt is punishable by imprisonment in the state prison for a term not exceeding fifteen (15) years.

(2) If the offense so attempted is punishable by imprisonment in the state prison for five (5) years or more but for less than life imprisonment, or by imprisonment in the county jail, the person guilty of such attempt is punishable by imprisonment in the state prison, or in the county jail, as the case may be, for a term not exceeding one-half (1/2) the longest term of imprisonment prescribed upon a conviction of the offense so attempted.

(3) If the offense so attempted is punishable by imprisonment in the state prison for any term less than five (5) years, the person guilty of such attempt is punishable by imprisonment in the county jail for not more than one (1) year.

(4) If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half (1/2) the largest fine which may be imposed upon a conviction of the offense so attempted.

(5) If the offense so attempted is punishable by imprisonment and by a fine, the offender convicted of such attempt may be punished by both imprisonment and fine, not exceeding one-half (1/2) the longest term of imprisonment and one-half (1/2) the largest fine which may be imposed upon a conviction for the offense so attempted.

History:

[18-306, added 1972, ch. 336, sec. 1, p. 857; am. 1994, ch. 131, sec. 6, p. 298.]

How current is this law?

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1 BOISE, IDAHO
2 February 28, 2012, 1:40 p.m.
3
4 FOR THE STATE
5 Roger A. Bourne
6 and Jan M. Bennetts
7 ADA COUNTY PROSECUTOR'S OFFICE
8 200 W Front St, Rm 3191
9 Boise, ID 83702

10 FOR DEFENSE
11 Robert R. Chastain
12 Attorney at Law
13 300 Main, Ste 158
14 Boise, ID 83702-7728
15 -and-
16 Deborah N. Kristal
17 ATTORNEY AT LAW
18 3140 N Bogus Basin Rd
19 Boise, ID 83702

20 *****
21 THE COURT: This is the case of the State of
22 Idaho versus Lacy Sivak, CRFE-1981-0010183.
23 Present in the courtroom are Mr. Sivak,
24 in custody; Ms. Kristal, one of his two attorneys;
25 Mr. Chastain, his other attorney; Mr. Bourne from
the Ada County Prosecuting Attorney's Office; and
Ms. Bennetts from the Ada County Prosecuting
Attorney's Office.
And I mentioned you, Ms. Kristal.
Correct?
MS. KRISTAL: Yes.
THE COURT: All right. The court has

1 aggravating factors and the jury then were to find
2 that the mitigating factors outweighed the
3 aggravating factor or factors, that the sentence
4 could be up to fixed life. So do you understand?
5 THE DEFENDANT: I understand on that. I
6 have one question on there.
7 I've always wanted to know this. Is
8 there a number for a fixed life?

9 THE COURT: Fixed life means a sentence which
10 carries a possibility of fixed life, but they've
11 only convicted of attempt, then for purposes of
12 calculating the number of years, we say that life
13 is 30 years, and the attempt, the punishment for
14 the attempt, is half of that, 15.

15 Is that what you're thinking of?
16 THE DEFENDANT: Yeah. Because I mean,
17 Judge Newhouse went with the 999.
18 THE CLERK: There was no way for us to enter
19 the word "life" in the computer, and you just had
20 to enter 999.

21 THE COURT: All be darned.
22 MR. CHASTAIN: That had been the clerk's
23 function back then?

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06/19/2013 NOTICE OF APPEAL
06/19/2013 Request to Proceed on Limited Appeal Without Cost
06/21/2013 Notice Of Hearing 7-10-13 4P
06/21/2013 Hearing Scheduled (Hearing Scheduled 07/10/2013 04:00 PM)
06/24/2013 Request to Proceed on limited Appeal, without Cost to Lacey, to expedite Case
07/08/2013 Objection to State's Motion to Release 1981 Presentence Report
Hearing result for Hearing Scheduled scheduled on 07/10/2013 04:00 PM: District
07/10/2013 Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this
hearing estimated:50
07/19/2013 Order Re: Use of Contents of 1981 PSI
07/24/2013 Order Sealing Redacted Portions of PSI
07/31/2013 Order Waiving Mental/Substance Abuse Evaluations
08/01/2013 Pro se Appellant/Defendant Notice of Appearance for all Issues that may relate to
Appeal Issues
08/07/2013 Motion for Proposed Order for Sentencing Hearing
08/07/2013 Lacey's Challenge of Robert Chastain and Deborah Kristal as Counsel on the Case
08/08/2013 Hearing Scheduled (Motion 08/12/2013 01:00 PM) Re: Counsel
08/08/2013 Order to Transport
08/12/2013 State/City Response to Discovery / Seventh Addendum
08/12/2013 Submission of Social History in Support of Mitigation
Hearing result for Motion scheduled on 08/12/2013 01:00 PM: District Court Hearing
08/12/2013 Held Court Reporter: cromwell Number of Transcript Pages for this hearing
estimated: Re: Counsel-50
08/19/2013 Submission of Materials for Inclusion in Presentence Report and Motion to Reconsider
in Part Order RE: Use of Contents of 1981 Presentence Report
08/19/2013 State's Sentencing Memorandum
08/21/2013 Request and Order Granting Media Coverage
08/22/2013 Order on Motion to Reconsider
08/22/2013 Notice of Intent to Introduce Vicim Impact Evidence
08/23/2013 Order to Transport
08/23/2013 Defendant's Response to State's Notice of Intent to Introduce Vicim Impact Evidence
08/23/2013 Defendant's Response to State's Notice of Intent to Introduce Vicim Impact Evidence
[duplicate entry]
08/26/2013 (3) Orders to Transport
Hearing result for Sentencing scheduled on 08/26/2013 09:00 AM: District Court
08/26/2013 Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing
estimated:400
08/26/2013 Hearing Scheduled (Sentencing 08/27/2013 09:00 AM) Day 2
Hearing result for Sentencing scheduled on 08/27/2013 09:00 AM: District Court
08/27/2013 Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing
estimated: Day 2-400
08/27/2013 Hearing Scheduled (Sentencing 08/28/2013 09:00 AM) Day 3
Hearing result for Sentencing scheduled on 08/28/2013 09:00 AM: District Court
08/28/2013 Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing
estimated: Day 3-400
08/28/2013 Judgment of Conviction
08/28/2013 Amended Judgment Sentence modified on 8/28/2013. (I18-4001-I Murder I)
09/03/2013 NOTICE OF APPEAL
09/03/2013 Appealed To The Supreme Court
09/03/2013 Motion for Appointment of the State Appellate Public Defender for Direct Appeal
09/05/2013 ICR Rule 35 (c and b) Request by Lacey to Correct Illegal Sentence
09/05/2013 Order Denying Rule 35 Motion
09/06/2013 Remittitur-Dismissed Supreme Court Docket No. 41141
09/09/2013 Order Appointing SAPD
09/09/2013 Lacey's Notice of Intent to Appeal or Challenge Multiple Matters on the Case
09/11/2013 Motion to Reconsider Request for New Trial