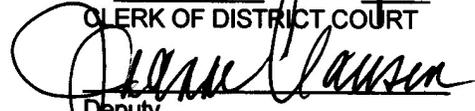


FILED 10/4/2021

AT 5:30 o'Clock P. M
CLERK OF DISTRICT COURT


Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

DARRELL BEEDLES,)
)
) *Plaintiff,*)
 vs.)
)
) **STATE OF IDAHO POST CONVICTION**)
) **RELIEF,**)
)
) *Defendant.*)
 _____)

Case No. **CV28-21-0627**

**MEMORANDUM DECISION
GRANTING RESPONDENT'S
MOTION FOR SUMMARY
DISPOSITION**

I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND OF THIS CASE.

Darrell L. Beedles (Beedles) filed his *pro se* Petition and Affidavit for Post Conviction Relief (Petition) and Motion and Affidavit in Support for Appointment of Counsel on January 28, 2021. On February 1, 2021, this Court entered its Order Granting Motion for Appointment of Counsel appointing the Kootenai County Public Defender to represent Beedles in this case. On February 5, 2021, Anne C. Taylor, Kootenai County Public Defender filed a Substitution of Counsel, substituting conflict public defender Douglas A. Pierce for the public defender. At no time since his appearance in this case has Douglas A. Pierce filed an amended petition.

Respondent State of Idaho (State) filed its Answer on February 22, 2021. On September 1, 2021, the State filed its Motion for Summary Disposition. The State raised the following issues: 1) Beedles' petition is time barred, 2) Beedles' claims of ineffective assistance of counsel must fail, 3) Beedles' claims of bias of the Court are without merit and 4) Beedles' claim of excessive sentence is unavailing. Mot. for Summ. Disposition 4-

10. On September 20, 2021, Douglas A. Pierce filed Petitioner's Response to the State's Motion for Summary Dismissal. On September 23, 2021, the State filed its Reply in Support of Summary Disposition. Oral argument on the State's Motion for Summary Disposition was held on October 4, 2021. At the conclusion of that hearing the Court announced that it was granting the State's Motion for Summary Dismissal and dismissing Beedles' petition for post-conviction relief.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND OF THE UNDERLYING CRIMINAL CASE.

The matters before the Court in the State's Motion for Summary Disposition of Beedles' Petition for Post-Conviction Relief, relates to his felony convictions and sentences in Kootenai County case nos. CR-2012-575, CR-2013-2256, and CR-2014-20595, which were consolidated on appeal.

In Kootenai County case no. CR2012-575, Beedles was charged with failing to register as a sex offender in violation of Idaho Code § 18-8309. Aff. Barbara Nyquist Supp. Summ. Disposition (Nyquist Aff.), Ex. A. Beedles pled guilty to the charge and was sentenced to ten years fixed and zero years indeterminate. *Id.* In Kootenai County case no. CR2013-2256, Beedles was charged with providing false information to the sex offense registry in violation of Idaho Code § 18-8311(2). *Id.* at Ex. B. Beedles pled guilty to the charge and was sentenced to zero years fixed and ten years indeterminate, consecutive to the prior sentence. *Id.* In Kootenai County case no. CR2014-20595, Beedles was again charged with providing false information to the sex offense registry in violation of Idaho Code § 18-8311(2). *Id.* at Ex. D. Beedles pled guilty to the charge and was sentenced to two years fixed and eight years indeterminate, consecutive to the prior sentences. *Id.*

In its February 25, 2020, Probation Violation decision, due to his admissions of

violating probation as alleged in the Special Progress Reports dated December 19, 2019, and January 24, 2020, and after numerous previous probation violations and several prior periods of retained jurisdiction, this Court ordered imposition of Beedles' sentences. *Id.* at Ex. F. This Court also modified the sentences in the same hearing accordingly: case no. CR2012-575 was reduced to seven years fixed, three indeterminate, with credit for 1,231 days served; case no. CR2013-2256 remained at zero years fixed and ten indeterminate, with credit for 1,210 days served; and case no. CR2014-20595 remained two years fixed and eight indeterminate, with credit for 750 days served. *Id.* Ex. F. Beedles then filed a Rule 35 Motion for Reconsideration (I.C.R. 35) for further reduction of his sentences, which this Court denied on May 27, 2020. *Id.* Beedles appealed. *Id.* Ex. A. On November 20, 2020, in an unpublished opinion, the Idaho Court of Appeals consolidated the three cases on appeal and upheld this Court's rulings on the Rule 35 motions. *Id.* It is apparent from the Idaho Court of Appeals decision that the **only** decision of this Court which Beedles appealed was this Court's denial of Beedles' I.C.R. 35 Motion to Reconsider in each of these three cases. *Id.*

On January 28, 2021, Beedles filed a Petition and Affidavit for Post-Conviction Relief (Petition). Beedles alleges he had ineffective assistance of counsel because his defense attorney allegedly did not defend him or provide him with "adequate justice." Pet. and Aff. for Post-Conviction Relief 1. Beedles further alleges that his attorney erred in advising him not to ask the judge in the underlying case to recuse himself from the case due to a conflict of interest, namely, that the judge allegedly has spent time with his son and his family. *Id.* Additionally, Beedles argues that the judge intimidated Beedles's defense attorney because the attorney allegedly told Beedles, "Judge Mitchell does what he wants." *Id.* Finally, Beedles alleges that "the crime does not fit

the punishment do to the age of the crime” because he has not failed to register since 2015 and believes it is unjust that “[f]ive years later Judge Mitchell sentence[d him] to seven fixed and twenty one tail.” *Id.* Beedles states, “The relief I seek is that I get a fair trial and to get adequate council. The punishment does not fit the crime in my case.” *Id.* at 4.

Simultaneous to filing his Petition, Beedles moved for appointment of counsel. After reviewing additional evidence, the Court issued an order granting Beedles’s request for appointment of counsel on February 1, 2021. The Court ordered the Kootenai County Public Defender to represent Beedles. On February 5, 2021, a conflict public defender was substituted in as counsel for Beedles. Neither the Kootenai County Public Defender nor the conflict public defender filed an amended petition or notice that it was adopting Beedles’s *pro se* Petition and Affidavit.

On March 22, 2021, Douglas A. Pierce, counsel for Beedles, filed a Motion to Disqualify Judge under Idaho R. Civ. Proc. 40(b). *Id.* at Ex. G. Counsel for Beedles failed to notice such motion for hearing, even though I.R.C.P. 40(b) requires such a hearing. *Id.* The Court set the matter for hearing on July 12, 2021. *Id.* At the conclusion of that hearing, this Court denied Beedles’ motion to disqualify, setting forth its reasons on the record. *Id.*

On September 1, 2021, the State filed a Motion for Summary Disposition. In support of its Motion, the State filed the Affidavit of Barbara Nyquist. The State argues that it is entitled to summary disposition of Beedles’s Petition because: 1) it is time-barred by the statute of limitations under the Uniform Post-Conviction Procedure Act; 2) Beedles has failed to meet his burden of proof on his ineffective assistance of counsel claim, 3) Beedles has failed to meet his burden of proof on his court bias claim;

and 4) Beedles' claim of excessive sentence does not entitle him to relief. Mot. Summ. Disposition 4-9. Beedles responded to the State's Motion on September 20, 2021, and the State replied on September 23, 2021.

III. STANDARD OF REVIEW.

An application for post-conviction relief initiates a civil proceeding and, thus, the Idaho Rules of Civil Procedure apply. *Saykhamchone v. State*, 127 Idaho 319, 321, 900 P.2d 795, 797 (1995).

Idaho Code Section 19-4906 authorizes summary dismissal of a petition for post-conviction relief, either pursuant to a motion by a party or upon the court's own initiative, if it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. When considering summary dismissal, the district court must construe disputed facts in the petitioner's favor, but the court is not required to accept either the petitioner's mere conclusory allegations, unsupported by admissible evidence, or the petitioner's conclusions of law. Moreover, the district court, as the trier of fact, is not constrained to draw inferences in favor of the party opposing the motion for summary disposition; rather, the district court is free to arrive at the most probable inferences to be drawn from uncontroverted evidence. Such inferences will not be disturbed on appeal if the uncontroverted evidence is sufficient to justify them.

Claims may be summarily dismissed if the petitioner's allegations are clearly disproven by the record of the criminal proceedings, if the petitioner has not presented evidence making a prima facie case as to each essential element of the claims, or if the petitioner's allegations do not justify relief as a matter of law. Thus, summary dismissal of a claim for post-conviction relief is appropriate when the court can conclude, as a matter of law, that the petitioner is not entitled to relief even with all disputed facts construed in the petitioner's favor. For this reason, summary dismissal of a post-conviction petition may be appropriate even when the state does not controvert the petitioner's evidence.

Conversely, if the petition, affidavits, and other evidence supporting the petition allege facts that, if true, would entitle the petitioner to relief, the post-conviction claim may not be summarily dismissed. If a genuine issue of material fact is presented, an evidentiary hearing must be conducted to resolve the factual issues.

Leytham v. State, 160 Idaho 764, 768-69, 379 P.3d 354, 358-59 (Ct. App. 2016)

(citations omitted).

The petitioner must be given notice and an opportunity to respond before dismissal of his post-conviction relief petition. The State of Idaho must state with particularity the grounds upon which its motion for summary dismissal is sought. If the State of Idaho fails to state its grounds with particularity, then the petitioner is forced to respond to an "invisible target" when he or she responds to the State's motion for summary dismissal. It is well established that a petitioner is entitled to notice and an opportunity to respond before his petition for post-conviction relief is dismissed. I.C. § 19-4906(b); *Saykhamchone v. State*, 127 Idaho 319, 321, 900 P.2d 795, 797 (1995); *State v. Christensen*, 102 Idaho 487, 488-89, 632 P.2d 676, 677-78 (1981); *Martinez v. State*, 126 Idaho 813, 892 P.2d 488 (Ct. App.1995). If the dismissal is based upon the state's motion for summary dismissal, this requirement is met only if the motion states with particularity the ground on which summary dismissal is sought. *Saykhamchone*, 127 Idaho at 322, 900 P.2d at 798; *Christensen*; 102 Idaho at 488-89, 632 P.2d at 677-78. Broad and generic contentions of deficiencies in a petition for post-conviction relief do not suffice. *Franck-Teel v. State*, 143 Idaho 664, 668-69, 152 P.3d 25, 29-30 (Ct. App. 2006). Proper notice must refer to specific allegations in the petition on a claim-by-claim basis, and specifically refer to deficiencies in the evidence or additional legal analysis necessary to avoid summary dismissal of the claim. *Id.* 143 Idaho at 668, 152 P.3d at 29. See also *Crabtree v. State*, 144 Idaho 489, 494, 163 P.3d 1201, 1206 (Ct. App. 2006).

IV. ANALYSIS.

First, this Court finds the State has met the requirement of stating with particularity the grounds upon which it brings in its motion for summary dismissal. The State has satisfied the requirements set forth immediately above.

The State makes four arguments in support of its Motion for Summary Disposition. The State argues that Beedles is not entitled to post-conviction relief because the statute of limitations has run on all claims except those related to the February 25, 2020, probation revocation and related Rule 35 motion. Mot. for Summ. Disp. 4-5. The State also argues that Beedles failed to meet the elements required to show ineffective assistance of counsel. *Id.* at 5-8. The State argues there was no Due Process violation warranting a review of the Court's alleged bias towards Beedles. *Id.* at 8-9. Finally, the State argues Beedles may not use the post-conviction claim to challenge the original sentences because they were within the Court's discretion and within the legal limits. *Id.* at 9-10. Because the Court finds the statute of limitations has run, as discussed below, the lack of merit of those remaining three arguments will only be discussed very briefly at the end of this decision.

The Uniform Post-Conviction Procedure Act sets forth the statute of limitations for the filing of a Post-Conviction Relief Petition: "An application may be filed at any time within one (1) year from the expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later." Idaho C. § 19-4902(a). The Court of Appeals of Idaho has interpreted the word "appeal" to refer to an appeal of the underlying case and not of any subsequent probation revocation. *Gonzalez v. State*, 139 Idaho 384, 385, 79 P.3d 743, 744 (Ct. App. 2003).

If, at the time of judgment, the district court retains jurisdiction pursuant to Idaho Code § 19-2601(4), the length of time to file an appeal from the sentence contained in the criminal judgment shall be enlarged by the length of time between entry of the judgment of conviction and entry of the order relinquishing jurisdiction or placing the defendant on probation; provided, however, that all other appeals challenging the judgment must be brought within 42 days of that judgment.

Idaho App. R. 14(a). However, a probationary period does not extend the time a

defendant may appeal from the underlying conviction and sentence. *State v. Krambule*, 163 Idaho 264, 409 P.3d 844 (2017).

In all three cases, Beedles was placed on a period of retained jurisdiction pursuant to Idaho C. § 19-2601.¹ Following that last and most recent period of retained jurisdiction, on June 26, 2019, this Court placed Beedles on a four-year period of probation. However, that is not the period to which Beedles' appeal time in even the most recent case attaches.

On March 31, 2021, this Court revoked Beedles probation in case no. CR2012 575 and CR2013 2256, and sentenced Beedles in case no. CR2014 20595, and in all three cases sent Beedles on a period of retained jurisdiction. On July 27, 2015, this Court, at Beedles' retained jurisdiction hearing, placed Beedles on probation for three years. At that time, Beedles' appeal time in the newest case only, CR2014 20595, would have expired on September 7, 2015. Beedles' time for filing a post-conviction relief case in that case only, would have expired on September 7, 2016. In the other two older cases, Beedles time to appeal and his time to file a post-conviction case had expired years before. This Court finds the latest Beedles could have appealed the underlying judgment and sentencing of **only** his most recent case (CR2014 20595) was forty-two days after this Court's July 27, 2015, order, or September 7, 2015, and thus,

¹ Although neither party submitted documentation related to retained jurisdiction, the Court takes judicial notice of the underlying criminal records in case no. CR-2014-20595, specifically of the Retained Jurisdiction Disposition and Notice of Right to Appeal, dated July 27, 2015. Idaho Rule of Evidence 201 permits a court to take judicial notice, whether requested or not, of records, exhibits, or transcripts from the court file, so long as the judicially noticed fact is either "(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Idaho R.E. 201(b), (c). Moreover, Idaho appellate courts have held that a district court may take judicial notice of the underlying criminal record that gives rise to a post-conviction proceeding. See *Hays v. State*, 113 Idaho 736, 739, 747 P.2d 758, 761 (Ct. App. 1987), *aff'd* 115 Idaho 315, 766 P.2d 785, *overruled on other grounds* in *State v. Guzman*, 122 Idaho 981, 985–87, 842 P.2d 660, 664–666 (1991); *State v. Matthews*, 122 Idaho 801, 807–08,

the statute of limitations to file his post-conviction relief conviction in CR2014 20595 expired on September 7, 2016.

In *State v. Dryden*, the plaintiff argued that his sentences imposed after his probation was revoked were unduly harsh. 105 Idaho 848, 852, 673 P.2d 809, 813 (Ct. App. 1983). The Court of Appeals noted that because he was appealing more than forty-two days after the conviction, the plaintiff was only able to appeal the order revoking his probation and not the underlying conviction or sentence. *Id.* at 852, 673 P.2d at 813. The Court found that it was “limited to a determination of whether the sentences were unduly harsh under the circumstances existing when they were executed upon revocation of probation.” *Id.* This Court finds this case is similar to *Dryden* and that *Dryden* is controlling.

Beedles’ attorney makes the following incredulous and nonsensical argument:

The State argues that the claims regarding the cases [Beedles’ three criminal cases], other than the issues in the Rule 35, are time barred. This is a misstatement of the procedural posture of the case. This post-conviction matter is of the sentences in the three cases and the denial of the Rule 35. As the sentences are consecutive and consolidated in the appeal, there are no time barred issues.

Resp. to Mot. for Summ. Dismissal 4-5. There is no “misstatement of the procedural posture of the case” by the State. Rather, counsel for Beedles fundamentally misstates the Idaho law on post-conviction relief and consolidation of case. Counsel for Beedles also misleads to the Court about the basis of the case before this Court. Each of these fundamental errors by Beedles’ attorney will be discussed.

First, the Court will discuss Beedles’ argument that the statute of limitations has not run because the Idaho Court of Appeals consolidated these three cases into one appeal, and the statute began running on the date of remittitur. In support of that claim,

Beedles's relies on *Doe v. Doe* (128 Idaho 144, 911 P.2d 140 (Ct. App. 1996). Resp. to Mot. for Summ. Dismissal 4. That reliance is horribly misplaced by Beedles. The Court in *Doe* was determining whether interim judgments in a consolidated case could be appealed as such pertains to certification under I.R.C.P. 54(b). That is not at all the issue here in Beedles' case. In Beedles' post-conviction case, the underlying sentences in the two older underlying criminal cases were long since no longer appealable, and even in the most recent criminal case the time period for appeal on that sentence expired on September 7, 2015, making that case a final judgment, and thus, the time period for bringing a post-conviction relief claim in that case expired on September 7, 2016. Although the Idaho Court of Appeals indicated in its unpublished opinion that it consolidated Beedles' three criminal cases on appeal, the Court of Appeals was referring to the specific matter before it, **the only issue before it**, the denial of the Rule 35 motion, rather than an appeal of any of the actual underlying criminal sentences in those cases. See *Nyquist Aff. Ex. A*. Thus, *Doe* is wholly inapplicable. The only claims within the statute of limitations for an appeal were the Rule 35 Motions, and thus, any ineffective assistance of counsel claims arising from the Rule 35 Motions would be the only timely claims for a post-conviction relief case. The problem is, Beedles in his post-conviction case does not make any claims for ineffective assistance of counsel at the Rule 35 stage. The bold portion of Beedles' counsel's claim, set forth above in context, is a lie: **"This post-conviction matter is of the sentences in the three cases** and the denial of the Rule 35." Resp. to Mot. for Summ. Dismissal 4. A review of the Idaho Court of Appeals decision shows that it did not address the underlying sentences in any of the cases, nor was it asked to by Beedles.

However, Beedles' post conviction claims do not involve issues that occurred at the Rule 35 Motion stage. This Court will reiterate Beedles' claims in his petition, as set

forth above, for the convenience of the reader. In Beedles, Petition and Affidavit filed on January 28, 2021, Beedles alleges he had ineffective assistance of counsel because his defense attorney allegedly did not defend him or provide him with “adequate justice.” Pet. and Aff. for Post-Conviction Relief 1. Beedles further alleges that his attorney erred in advising him not to ask the judge in the underlying case to recuse himself from the case due to a conflict of interest, namely, that the judge allegedly has spent time with his son and his family. *Id.* Additionally, Beedles argues that the judge intimidated Beedles’s defense attorney because the attorney allegedly told Beedles, “Judge Mitchell does what he wants.” *Id.* Finally, Beedles alleges that “the crime does not fit the punishment do to the age of the crime” because he has not failed to register since 2015 and believes it is unjust that “[f]ive years later Judge Mitchell sentence[d him] to seven fixed and twenty one tail.” *Id.* Beedles states, “The relief I seek is that I get a fair trial and to get adequate council. The punishment does not fit the crime in my case.” *Id.* at 4. None of these actions took place at the Rule 35 stage of the proceedings in these three underlying criminal cases. All of these actions took place much earlier at sentencing in these three cases. As set forth above, those actions are all time barred in each of those three cases. Because Beedles has not made any claims for ineffective assistance of counsel which allegedly occurred at the Rule 35 stage (the only stage of his criminal proceedings not barred by the statute of limitations), Beedles’ petition must be dismissed, as there are no factual allegations which are still alive. Beedles’ counsel could have amended Beedles’ *pro se* Petition and Affidavit for Post-Conviction Relief, but has chosen not to do so. Thus, there are no viable claims before this Court.

The failure to timely file is grounds for dismissal of the case unless the plaintiff

shows that the statute of limitations should be tolled. *Kriebel v. State*, 148 Idaho 188, 190, 219 P.3d 1204, 1206 (Ct. App. 2009). Reasons a court may allow for the tolling of the statute of limitations include issues not known to the plaintiff within the time limit (*Rhoades v. State*, 148 Idaho 247, 251, 220 P.3d 1066, 1070 (2009)), as well as out-of-state incarceration (*Sayas v. State*, 139 Idaho 957, 960, 88 P.3d 776, 779 (Ct. App. 2003)), incompetence (*State v. Ochieng*, 147 Idaho 621, 626, 213 P.3d 406, 409 (Ct. App. 2009); *Chico-Rodriguez v. State*, 141 Idaho 579, 582, 114 P.3d 137, 140 (Ct. App. 2005)), denial of access to the courts accompanied with an actual injury (*Martinez v. State*, 130 Idaho 530, 535-36, 944 P.2d 132-33 (Ct. App. 1997); *Lewis v. Casey*, 518 U.S. 343, 351-53 (1996)), or prosecutorial misconduct (*Brady v. Maryland*, 373 U.S. 83 (1963)). Ineffective assistance of counsel should be known after trial and does not support tolling. *Rhoades v. State*, 148 Idaho 247, 253, 220 P.3d 1066, 1072 (2009). Absent a showing of tolling, a criminal defendant has forty-two days from the entry of an appealable judgment to file an appeal. Idaho App. R. 11(c), 14(a). Thus, where no appeal is taken, the petitioner has one year and forty-two days from the appealable judgment within which to file a petition for post-conviction relief.

Beedles has not appealed the underlying conviction and sentences within the appropriate time limit and has not shown appropriate grounds for tolling. The statute of limitations for this case expired several years ago. Those are the only claims listed by Beedles in his *pro se* post-conviction petition, and counsel for Beedles has not amended that petition. Thus, Beedles' post-conviction relief case must be dismissed.

Finally, Beedles' remaining arguments are manifestly without any merit. Beedles has failed to meet the elements required to show ineffective assistance of counsel. There is no admissible evidence of Beedles' allegations other than his self-serving and

conclusory affidavit. There is no claim and absolutely no showing by any admissible evidence of how his attorney's conduct fell below the objective standards of a reasonable attorney. There is no claim and absolutely no showing of how any objective deficiency prejudiced Beedles. None of the elements of *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064 (1984) have even been alleged by Beedles, let alone any admissible evidence support those elements being supplied to this Court. There has been no allegation and no admissible evidence showing any Due Process violation warranting a review of the Court's alleged bias towards Beedles. The standard of proof of such is high, as is set forth in *Caperton v. A. T. Massey Coal Co.*, In. 556 U.S. 868, 887, 129 S.Ct. 2252, 2265 (2009), and Beedles has come forward with no admissible evidence of such. And finally, the State is correct in its argument that Beedles may not use the post-conviction claim to challenge the original sentences because they were within the Court's discretion and within the legal limits. Mot. for Summ. Disposition 9-10. The State is correct in citing *Olds v. State*, 122 Idaho 976, 979, 842 P.2d 312, 315 (Ct. App. 1992) for the proposition that a judge's exercise in sentencing a defendant within lawful limits is not subject to attack via a post-conviction claim. Again, the Court is mindful that at no time did counsel for Beedles ever amend his client's *pro se* petition. This Court finds that even if Beedles' claims were not barred by the statute of limitations, his petition must be dismissed due to an abject lack of proof by Beedles or his attorney.

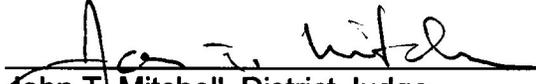
V. CONCLUSION.

For the reasons set forth above, the Court must grant the State's Motion for Summary Disposition.

IT IS ORDERED that the Respondent's Motion for Summary Disposition is **GRANTED.**

IT IS FURTHER ORDERED that Beedles' Petition for Post Conviction Relief be and the same hereby is **DISMISSED**.

Dated this 4th day of October, 2021.


John T. Mitchell, District Judge

Certificate of Service

I certify that on the 5th day of October, 2021, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

Lawyer
Douglas Pierce

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Jeanne Clausen, Deputy Clerk