

STATE OF IDAHO )  
County of KOOTENAI )<sup>ss</sup>

FILED \_\_\_\_\_

AT \_\_\_\_\_ O'clock \_\_\_\_\_ M  
CLERK, DISTRICT COURT

\_\_\_\_\_  
Deputy

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

<b>STATE OF IDAHO,</b>	)	
	)	Case No. <b>CRF 2008 17503</b>
<i>Plaintiff,</i>	)	
vs.	)	
	)	<b>ORDER DENYING DEFENDANT'S</b>
<b>JAMES NEIL MOEN,</b>	)	<b>"PETITION FOR STATE TO PRESENT</b>
	)	<b>TRUE BILL OF INDICTMENT"</b>
<i>Defendant.</i>	)	
_____	)	

This matter came before the Court on the "Petition to Present a True Bill of Indictment" which was filed *pro se* by defendant JAMES NEIL MOEN on February 11, 2013.

On February 9, 2009, this Court relinquished jurisdiction and sent Moen to prison on his felony DUI sentence. Since that time, Moen has appealed this Court's sentencing decision (which was affirmed on October 15, 2010, by the State of Idaho Court of Appeals) and has filed a variety of motions. On July 12, 2012, Moen *pro se* filed his "Motion to Dismiss for Lack of Subject Matter Jurisdiction" and "Memorandum and Motion to Dismiss for Lack of Subject Matter Jurisdiction in the Best Interests of Justice". This Court denied such on July 16, 2012, filed July 12, 2012, by James Neil Moen, *pro se*. Service of such motion and memorandum were not shown to have been made by Moen upon the plaintiff, the State of Idaho, through the office of the Kootenai County Prosecuting Attorney. Order Denying Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction", p. 1.

Once again, Moen, in his "Petition to Present a True Bill of Indictment" has failed to show he has mailed a copy to the plaintiff, the State of Idaho. Due to Moen's failure to

comply with Idaho Criminal Rule 49(a), Moen's "Petition to Present a True Bill of Indictment" must also be dismissed.

There are additional reasons Moen's "Petition to Present a True Bill of Indictment" must be denied. First, this Court, having relinquished jurisdiction, lacks jurisdiction to hear any other matters save for I.C.R. 35 Motions. Second, from a procedural standpoint, Moen has failed to state any rule or statutory basis for his "Petition to Present a True Bill of Indictment", and accordingly, has failed to comply with I.C.R. 47. Third, from a substantive standpoint, in Moen's case, the State of Idaho chose to proceed by filing a Complaint on August 18, 2008, having a preliminary hearing before a Magistrate Judge (which was waived by Moen with his attorney present on August 27, 2008), and proceeding by filing an Information on September 11, 2008. The State of Idaho has complete discretion to proceed by Complaint, Preliminary Hearing and Information as opposed to a Grand Jury Indictment. Idaho Constitution, Article I, Section 8; Idaho Criminal Rule 7. Fourth, from a practical standpoint, after waiving his Preliminary Hearing, Moen entered into an I.C.R. 11 plea agreement under which the Court complied. Thus, Moen bargained for and got *exactly* what he wanted.

IT IS HERBY ORDERED THAT JAMES NEIL MOEN's "Petition to Present a True Bill of Indictment" is **DENIED**.

DATED this 20<sup>TH</sup> day of February, 2013

\_\_\_\_\_  
JOHN T. MITCHELL District Judge

**CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_\_ day of February, 2013 copies of the foregoing Order were mailed, postage prepaid, or sent by facsimile or interoffice mail to:

Kootenai County Prosecuting Attorney

James Neil Moen  
ISCI 11 A3A  
P. O. Box 14  
Boise, ID 83707

CLERK OF THE DISTRICT COURT  
KOOTENAI COUNTY

BY: \_\_\_\_\_  
Deputy