



Sentencing has not occurred in the present case. LaFountain cited *State v. Middleton*, 114 Idaho 377, 757 P.2d 240 (Ct.App. 1988). Memorandum in Support of Notice of Appeal, p. 2. *Middleton* cuts against LaFountain's argument. In *Middleton*, "...Middleton tendered his conditional plea. Judgment was entered upon that plea." 114 Idaho at 379, 757 P.2d at 242. "Judgment" has not been entered in the present case. Contrary to LaFountain's argument, there is no jurisdiction under I.C.R. 54.1(f), for this Court to hear the appeal on Judge Marano's order on LaFountain's Motion to Disqualify.

**IT IS THEREFORE ORDERED** that LaFountain's appeal is **DISMISSED** for LaFountain's failure to comply with this Court's April 10, 2007 Notice of Intent to Dismiss Appeal, and alternatively, the same hereby is **DISMISSED** for lack of jurisdiction.

Dated this 27th day of April, 2007.

---

John T. Mitchell, District Judge

**CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_\_ day of April, 2007 a true and correct copy of the foregoing was faxed to:

Henry D. Madsen, Appellant's Attorney  
via fax 208 664-6258  
Linsey Mattison, Respondent's Attorney  
via fax

Honorable Eugene A. Marano, via fax

**Clerk of the District Court  
KOOTENAI COUNTY**

By \_\_\_\_\_  
Deputy