

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

<p>STATE OF IDAHO,</p> <p style="text-align: center;"><i>Plaintiff,</i></p> <p>vs.</p> <p>GERALD MICHAEL ANDERSON,</p> <p style="text-align: center;"><i>Defendant.</i></p> <hr style="width: 40%; margin-left: 0;"/>	<p>)</p>	<p>Case No. CRF 2001 768</p> <p style="text-align: center;">ORDER ON DEFENDANT’S MOTION TO GRANT CREDIT FOR FEES</p>
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This matter came before the Court on Defendant’s Motion On Credit for Fees under Idaho Code §20-624, dated August 18, 2005 and filed the same date. According to defendant’s motion, William Douglas, the Kootenai County Prosecutor has no objection to defendant’s motion. The Court has jurisdiction to review defendant’s motion.

On June 26, 2001, Judge James F. Judd sentenced defendant to five years determinate followed by two years indeterminate for a unified sentence of seven years plus the statutorily mandated fine of Twenty Five Thousand Dollars. Idaho Code § 37-2732B(a)(3). Defendant requests “...an Order granting credit in the amount of thirty-five (\$35.00) dollars a day for every day of incarceration served against the twenty-five thousand (\$25,000) dollar fine imposed.” Motion to Grant Credit for Fees, p. 1.

Idaho Code § 20-624 indicates this is a matter of discretion for the Court, as the statute reads:

Imprisonment for fine. – Whenever any defendant is confined solely for willful non-payment of any fine, the court, may, in lieu of payment, confine such person at the rate of thirty-five (\$35.00) per day until the fine imposed is satisfied.

(emphasis added). This Court concludes that it should exercise its discretion and deny defendant's motion. Idaho Code § 20-625 does not apply to Gerald Michael Anderson's situation, as he was incarcerated for Trafficking in Methamphetamine by Manufacture, not "solely for willful non-payment of any fine."

Defendant has attached certificates of completion to his motion. The Court is pleased that Mr. Anderson appears to be making the most out of the fixed portion of his sentence. However, those accomplishments do not change the fact that he has not been confined "solely for willful non-payment of any fine." Defendant has also attached a letter to the Court to his Motion. This Court appreciates the financial hardship this fine creates, however, the fine is mandated by the Idaho Legislature (I.C. § 37-2732B(a)(3)), and financial hardship is not a condition for relief under I.C. § 20-625, the statute upon which defendant bases his motion.

IT IS ORDERED that Defendant Paul Edward Brown's Motion to Grant Credit for Fees be and the same hereby is **DENIED**.

DATED this 6th day of September, 2005

John T. Mitchell, District Judge

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of September, 2005, copies of the foregoing Order were mailed, postage prepaid, or sent by facsimile or interoffice mail to:

Prosecuting Attorney
Defendant's Attorney – R. D. Watson

**CLERK OF THE DISTRICT COURT
KOOTENAI COUNTY**

BY: _____
Deputy