

STATE OF IDAHO
COUNTY OF KOOTENAI } SS
FILED

2005 JUL 22 PM 5:55

CLERK DISTRICT COURT

DEPUTY

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

JOSEPH E. DUNCAN, III,

Petitioner,

vs.

ROCKY WATSON, KOOTENAI
COUNTY SHERIFF,

Respondent.

CASE NUMBER SP-05-5517

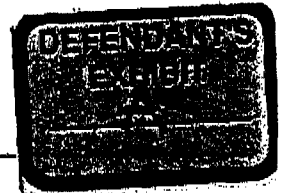
TEMPORARY WRIT OF MANDATE AND
ORDER TO SHOW CAUSE

The Court having before it Petitioner's Petition for Writ of Mandate, and being duly informed in the premises and good cause appearing, the Court does find as follows:

Petitioner is in the custody of Respondent on criminal charges as alleged in the Criminal Complaint in Kootenai County Case No. CRF-05-13674.

Petitioner has unequivocally asserted his Federal and State Constitutional rights to remain silent and to counsel.

ORIGINAL



The Court further finds that Respondent was properly presented with Petitioner's invocation of his right to remain silent and to counsel and that Respondent is not honoring Petitioner's constitutional rights to remain silent.

The Court finds that such as a matter of law Respondent must honor Petitioner's invocation of his rights and that this is not a discretionary act. The Petitioner herein has no plain, speedy and adequate remedy in the ordinary course of law.

WHEREFORE, the Petition for Writ of Mandate is temporarily GRANTED, and Respondent Sheriff Rocky Watson is hereby ORDERED to immediately cease and desist from all contact with Petitioner that in any way seeks to facilitate questioning of Petitioner by law enforcement agents.


This Writ may be served upon Respondent by the Clerk of the Court, with proof of service returned herein.

Respondent is further directed to appear at 1:30 o'clock, p.m., on the 25th day of July, 2005 to show cause why a permanent Writ of Mandate should not issue during the pendency of Kootenai County Case No. CRF-05-13674.

SO ORDERED this 22nd day of July, 2005.

STATE OF IDAHO }
COUNTY OF KOOTENAI } ss

THIS IS TO CERTIFY THAT THE
FOREGOING IS A TRUE COPY OF THE
ORIGINAL NOW ON FILE ON RECORD IN
THIS OFFICE.
SEAL OF THE DISTRICT COURT
CLERK OF THE DISTRICT COURT


John P. Luster
DISTRICT JUDGE

CLERK'S CERTIFICATE OF SERVICE

Hereby certify that a true and correct copy of the foregoing was served on the ___ day of July, to:

Sheriff Rocky Watson