

WILLIAM W. THOMPSON, JR., ISB No. 2613
LATAH COUNTY PROSECUTING ATTORNEY
PROSECUTING ATTORNEY
ASHLEY S. JENNINGS, ISB No. 8491
SENIOR DEPUTY PROSECUTING ATTORNEY
KEITH P. SCHOLL, ISB No. 10062
DEPUTY PROSECUTING ATTORNEY
Latah County Courthouse
522 S. Adams, #211
Moscow, Idaho 83843-0568
Phone (208) 883-2246
paservice@latahcountyid.gov

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

BRYAN K. KOHBERGER,
Petitioner,

V.

STATE OF IDAHO,
Respondent.

Case No. CV01-26-15094

RESPONDENT'S MOTION FOR ORDER
DISMISSING PETITION FOR POST
CONVICTION RELIEF

COMES NOW the State of Idaho, by and through Keith P. Scholl, Latah County Deputy Prosecuting Attorney, and hereby moves this Court pursuant to Idaho Code § 19-4906(b) for an Order Dismissing the *Petition for Post-Conviction Relief* on the grounds that Petitioner is not entitled to post conviction relief. In the alternative, the State of Idaho hereby moves this Court pursuant to Idaho Code § 19-4906(c) for an Order Dismissing the *Petition and Affidavit for Post-Conviction Relief* because the Petition fails to raise a genuine issue of material fact and Respondent is entitled to judgment as a matter of law. In support of this motion, Respondent alleges as follows:

1. Petitioner has failed to raise a genuine issue of material fact in his claims in the *Petition and Affidavit for Post Conviction Relief* (hereinafter Petition) which alleges constitutional violations. Petitioner has failed, by a substantial factual showing by affidavit, deposition, or

RESPONDENT'S MOTION FOR ORDER
DISMISSING PETITION
FOR POST-CONVICTION RELIEF

otherwise, to show that the asserted bases for relief raise a substantial doubt about the reliability of the finding of guilt and could not, in the exercise of due diligence, have been presented earlier. *Bias v. State*, 159 Idaho 696, 703 (Ct. App. 2015).

2. Independent of the fact that the Petitioner's claims of constitutional violations could have been raised on appeal, the Petitioner has failed to raise a genuine issue of material fact regarding each alleged violation of his constitutional rights. Such allegations are bare, conclusory, and unsupported by admissible evidence. *Medrano v. State*, 127 Idaho 639, 644 (Ct. App. 1995).

3. Petitioner has failed to raise a genuine issue of material fact in his claim that trial counsel provided constitutionally ineffective assistance in their chosen strategy to accept a written plea offer. Petitioner has failed to show that trial counsel was ineffective or that Petitioner was legally prejudiced. *Drapeau v. State*, 103 Idaho 612, 615 (Ct. App. 1982).

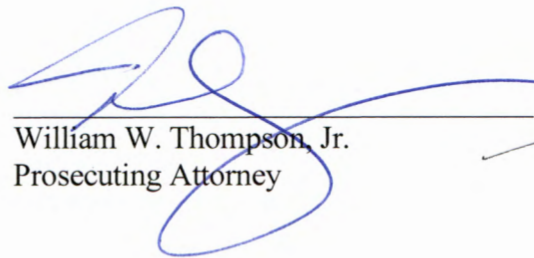
4. Petitioner has raised a freestanding claim of actual innocence in his Petition, which is an unrecognized claim under the Uniform Post Conviction Act. *Baker v. State*, 169 Idaho 284, 307 (Ct. App. 2021).

5. Petitioner has failed to show any constitutional, advisory, or due process obligation of his counsel to advise him of the conditions of prison life or what incarceration would practically entail as collateral consequences of a guilty plea. *Jakoski v. State*, 136 Idaho 280, 285 (Ct. App. 2001).

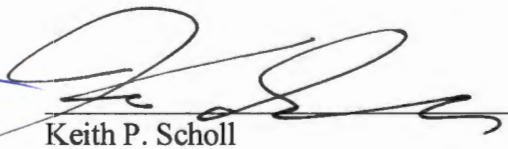
Based upon the above, the Respondent requests that the Court enter an Order of Intent to Dismiss the *Petition and Affidavit for Post Conviction Relief* pursuant to Idaho Code § 19-4906(b) because the Petitioner is not entitled to post conviction relief and no purpose would be served by any further proceedings.

In the alternative, Respondent requests summary disposition of the *Petition and Affidavit for Post Conviction Relief* pursuant to Idaho Code § 19-4906(c) because there is no genuine issue of material fact, and Respondent is entitled to judgment as a matter of law. Should the Court elect to proceed under Idaho Code 19-4906(c) on some or all of the Petitioner's claims, the Respondent requests that a briefing and oral argument schedule be set.

Dated: August 25, 2026



William W. Thompson, Jr.
Prosecuting Attorney



Keith P. Scholl
Deputy Prosecuting Attorney

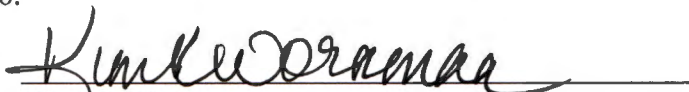
CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the Respondent's Motion for Order Dismissing Petition for Post-Conviction Relief was served on the following in the manner indicated below:

Gregory R. Rauch
Attorney at Law
326 E. Sixth Street
Moscow, ID 83843

- ☐ U.S. Mail
- ☐ email
- ☐ Fax
- ☐ Hand Delivery
- ☒ iCourt Service

Dated this 25th day of August, 2026.


Kim K. Workman