

2008

# Utah v. Christina Lynn Briggs : Brief of Appellant

Utah Court of Appeals

Follow this and additional works at: [https://digitalcommons.law.byu.edu/byu\\_ca3](https://digitalcommons.law.byu.edu/byu_ca3)



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Randall W. Richards; Public Defender Ass'n of Weber County; Counsel for Appellant.

Mark L. Shurtleff; Utah Attorney General; Counsel for Appellee.

---

## Recommended Citation

Brief of Appellant, *Utah v. Christina Lynn Briggs*, No. 20080567 (Utah Court of Appeals, 2008).  
[https://digitalcommons.law.byu.edu/byu\\_ca3/1019](https://digitalcommons.law.byu.edu/byu_ca3/1019)

This Brief of Appellant is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at [http://digitalcommons.law.byu.edu/utah\\_court\\_briefs/policies.html](http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html). Please contact the Repository Manager at [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu) with questions or feedback.

---

IN THE UTAH COURT OF APPEALS

---

STATE OF UTAH, :  
Plaintiff/Appellee, :  
vs. :  
CHRISTINA LYNN BRIGGS, : Appellate Court No. 20080567  
Defendant/Appellant. :

---

***BRIEF OF APPELLANT***

---

THIS APPEAL IS FROM A CONVICTION AND SUBSEQUENT SENTENCING TO AGGRAVATED ROBBERY, A FIRST DEGREE FELONY, AND AGGRAVATED KIDNAPPING, A FIRST DEGREE FELONY AND WAS SENTENCED TO FIVE YEARS TO LIFE ON THE AGGRAVATED ROBBERY AND FIFTEEN YEARS TO LIFE ON THE AGGRAVATED KIDNAPPING, TO RUN CONCURRENT AT THE UTAH STATE PRISON, IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR WEBER COUNTY, STATE OF UTAH, THE HONORABLE SCOTT M. HADLEY PRESIDING.

THE APPELLANT IS CURRENTLY INCARCERATED AT THE UTAH STATE PRISON.

---

MARK L. SHURTLEFF  
Attorney General  
160 East 300 South, 6<sup>th</sup> Floor  
Salt Lake City, Utah 84114-0854

Telephone: (801) 366-0100

Attorney for Plaintiff/Appellee

RANDALL W. RICHARDS (4503)  
THE PUBLIC DEFENDER  
ASSOCIATION OF WEBER  
COUNTY  
2550 Washington Boulevard, Ste 300  
Ogden, Utah 84401

Telephone: (801) 399-4191

Attorney for Defendant/Appellant

FILED

UTAH APPELLATE COURT

JAN 25 2010

---

**IN THE UTAH COURT OF APPEALS**

---

STATE OF UTAH, :

Plaintiff/Appellee, :

vs. :

CHRISTINA LYNN BRIGGS, : Appellate Court No. 20080567

Defendant/Appellant. :

---

***BRIEF OF APPELLANT***

---

THIS APPEAL IS FROM A CONVICTION AND SUBSEQUENT SENTENCING TO AGGRAVATED ROBBERY, A FIRST DEGREE FELONY, AND AGGRAVATED KIDNAPPING, A FIRST DEGREE FELONY AND WAS SENTENCED TO FIVE YEARS TO LIFE ON THE AGGRAVATED ROBBERY AND FIFTEEN YEARS TO LIFE ON THE AGGRAVATED KIDNAPPING, TO RUN CONCURRENT AT THE UTAH STATE PRISON, IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR WEBER COUNTY, STATE OF UTAH, THE HONORABLE SCOTT M. HADLEY PRESIDING.

THE APPELLANT IS CURRENTLY INCARCERATED AT THE UTAH STATE PRISON.

---

**MARK L. SHURTLEFF**  
**Attorney General**  
**160 East 300 South, 6<sup>th</sup> Floor**  
**Salt Lake City, Utah 84114-0854**

**Telephone: (801) 366-0100**

**Attorney for Plaintiff/Appellee**

**RANDALL W. RICHARDS (4503)**  
**THE PUBLIC DEFENDER**  
**ASSOCIATION OF WEBER**  
**COUNTY**  
**2550 Washington Boulevard, Ste 300**  
**Ogden, Utah 84401**

**Telephone: (801) 399-4191**

**Attorney for Defendant/Appellant**

## TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	i
JURISDICTIONAL STATEMENT .....	1
STATEMENT OF ISSUES AND STANDARD OF REVIEW.....	2
CONSTITUTIONAL OR STATUTORY PROVISIONS .....	3
STATEMENT OF THE CASE .....	10
STATEMENT OF FACTS.....	10
SUMMARY OF ARGUMENT.....	14
ARGUMENT .....	14
I.    THE DEFENDANT WAS DENIED HER RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, AND ARTICLE 1, SECTIONS SEVEN AND TWELVE OF THE UTAH CONSTITUTION BY HER ATTORNEY’S FAILURE TO MOVE THE TRIAL COURT FOR A DIRECTED VERDICT. ....	14
II.   THE TRIAL COURT COMMITTED PLAIN ERROR IN FAILING TO ENTER A DIRECTED VERDICT OF ACQUITTAL AT THE CLOSE OF THE PROSECUTION’S CASE FOR REASONS THAT THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT A CONVICTION .....	24
CONCLUSION .....	28
CERTIFICATE OF MAILING .....	29
ADDENDA:	
Addendum A:        Sentence, Judgment and Commitment	

## **TABLE OF AUTHORITIES**

### **FEDERAL CASES**

<i>Kimmelman v. Morrison</i> , 477 U.S. 365, 375, 386 (1986).....	16
<i>Strickland v. Washington</i> , 466 U.S. 668, 651, 687, 688, 80 L.Ed.2d 674 (1984) .....	2, 14, 15, 17, 18

### **UTAH STATE CASES**

<i>State v. Bradley</i> , 752 P.2d 874, 876 (Utah 1985).....	3
<i>State v. Dunn</i> , 850 P.2d 1201, 1208 (Utah 1993).....	3
<i>State v. Finlayson</i> , 956 P.2d 283 (Utah Ct.App.1998) .....	17, 18
<i>State v. Finlayson</i> 2000 UT 10, 994 P.2d 1243.....	17, 18
<i>State v. Holgate</i> , 2000 UT 74, ¶11, 10 P.3d 346, 351 .....	24
<i>State v. Mead</i> 2001 UT 58, 27 P.3d 1115.....	24, 25
<i>State v. Petree</i> , 659 P.2d 443 - 446 (Utah 1983).....	25
<i>State v. Rudolph</i> , 2000 UT App. 155, 3 P.3d 192 .....	24
<i>State v. Shumway</i> , 2002 UT 124, 63 P.3d 94 .....	26
<i>State v. Smith</i> , 927 P.2d 649, 651 (Utah Ct. App. 1996).....	3
<i>State v. Templin</i> , 805 P.2d 182 (Utah 1990) .....	2
<i>State v. Workman</i> , 852 P.2d 981, 984, 985 (Utah 1993).....	25

## **STATUTES AND RULES**

### **UNITED STATES CONSTITUTION**

Fourth Amendment.....	8, 16
Sixth Amendment.....	2, 8, 14, 15
Fourteenth Amendment.....	2, 9, 14

### **UTAH CONSTITUTION**

Article I, Section 7.....	2, 7, 14
Article I, Section 12.....	2, 8, 14

### **UTAH RULES OF CIVIL PROCEDURE**

Rule 17(p).....	10, 23
-----------------	--------

### **UTAH CODE ANNOTATED**

§76-5-301.....	4, 5, 22
§76-5-302.....	5, 10, 22
§76-6-301.....	3, 21
§76-6-302.....	4, 10, 20
78A-3-102(4).....	1, 6
78A-4-103.....	1, 6

## IN THE UTAH COURT OF APPEALS

---

STATE OF UTAH,	:	
Plaintiff/Appellee,	:	
vs.	:	
CHRISTINA LYNN BRIGGS,	:	District Court No. 071902062
Defendant/Appellant.	:	Appellate Court No. 20080567

---

### ***BRIEF OF APPELLANT***

---

#### **JURISDICTION AND NATURE OF PROCEEDINGS**

This is an appeal from a finding of guilt by a jury for Aggravated Robbery, a first-degree felony, and Aggravated Kidnapping, a first-degree felony. The Defendant was found guilty on March 21, 2008. She was sentenced on May 27, 2008, to a term of five years to life in the Utah State Prison on the aggravated robbery charge and fifteen (15) years to life in the Utah State Prison on the aggravated kidnapping charge, to run concurrent with one another. The Defendant is currently serving her sentence in the Utah State Prison. This Court has jurisdiction pursuant to U.C.A. §§78A-3-102(4) and 78A-4-103.

## **ISSUE ON APPEAL AND STANDARD OF REVIEW**

### **POINT I**

**WAS THE DEFENDANT DENIED HER RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, AND ARTICLE 1, SECTIONS SEVEN AND TWELVE OF THE UTAH CONSTITUTION BY HER ATTORNEY'S FAILURE TO MOVE THE TRIAL COURT FOR A DIRECTED VERDICT?**

**STANDARD OF REVIEW:** The appellate court must determine as a matter of fact and law whether the Defendant was denied her right to effective assistance of counsel. In *Strickland v. Washington*, 466 U.S 668, 80 L.Ed.2d 674 (1984), the United States Supreme Court articulated a two-part test, which was adopted in *State v. Templin*, 805 P.2d 182 (Utah 1990), to determine whether counsel was ineffective. The Court held that;

First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the counsel guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. *Id.* at 466 U.S. at 687, 80 L.Ed. 2d at 693.

### **POINT II**

**DID THE TRIAL COURT COMMIT PLAIN ERROR IN FAILING TO ENTER A DIRECTED VERDICT OR ACQUITTAL AT THE CLOSE OF THE PROSECUTION'S CASE FOR THE REASONS THAT THERE WAS**



## **INSUFFICIENT EVIDENCE TO SUPPORT A CONVICTION?**

**STANDARD OF REVIEW:** This Court should use a question of law standard of review. “We reverse the jury’s verdict in a criminal case when we conclude as a matter of law that the evidence was insufficient to warrant conviction.” *State v. Smith*, 927 P.2d 649, 651 (Utah Ct. App. 1996). Furthermore, this Court should review the evidence “in a light most favorable to the jury verdict,” *State v. Bradley*, 752 P.2d 874, 876 (Utah 1985). Since Defendant’s attorney didn’t move for a directed verdict, it should be reviewed under a plain error standard of review. “[T]o establish the existence of plain error and to obtain appellate relief from an alleged error that was not properly objected to, the appellant must show the following: (i) an error exists, (ii) the error should have been obvious to the trial court; and (iii) the error is harmful, i.e., absent the error, there is a reasonable likelihood of a more favorable outcome for the appellant . . .” *State v. Dunn*, 850 P.2d 1201, 1208 (Utah 1993).

## **CONSTITUTIONAL PROVISIONS, STATUTES, AND RULES**

### **UTAH STATUTES**

#### **U.C.A §76-6-301. Robbery.**

- (1) A person commits robbery if:
  - (a) the person unlawfully and intentionally takes or attempts to take personal property in the possession of another from his person, or immediate

presence, against his will, by means of force or fear, and with a purpose or intent to deprive the person permanently or temporarily of the personal property; or

(b) the person intentionally or knowingly uses force or fear of immediate force against another in the course of committing a theft or wrongful appropriation.

(2) An act is considered to be “in the course of committing a theft or wrongful appropriation” if it occurs:

(a) in the course of an attempt to commit theft or wrongful appropriation;

(b) in the commission of theft or wrongful appropriation; or

(c) in the immediate flight after the attempt or commission.

(3) Robbery is a felony of the second degree.

### **U.C.A. §76-6-302. Aggravated Robbery.**

(1) A person commits aggravated robbery if in the course of committing robbery, he:

(a) uses or threatens to use a dangerous weapon as defined in Section 76-1-601;

(b) causes serious bodily injury upon another; or

(c) takes or attempts to take an operable motor vehicle.

(2) Aggravated robbery is a first degree felony.

(3) For the purposes of this part, an act shall be considered to be “in the course of committing a robbery” if it occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.

### **U.C.A. §76-5-301. Kidnapping.**

(1) An actor commits kidnapping if the actor intentionally or knowingly, without authority of law, and against the will of the victim:

(a) detains or restrains the victim for any substantial period of time;

(b) detains or restrains the victim in circumstances exposing the victim to risk of bodily injury;

(c) holds the victim in involuntary servitude;

(d) detains or restrains a minor without the consent of the minor’s parent or legal guardian or the consent of a person acting in loco parentis, if the minor is 14 years of age or older but younger than 18 years of age; or

(e) moves the victim any substantial distance or across a state line.

(2) As used in this section, acting “against the will of the victim” includes acting without the consent of the legal guardian or custodian of a victim who is a mentally incompetent person.

(3) Kidnapping is a second degree felony.

**U.C.A §76-5-302. Aggravated Kidnapping.**

(1) A person commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

(a) possesses, uses, or threatens to use a dangerous weapon as defined in Section 76-1-601; or

(b) acts with intent:

(i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) to hinder or delay the discovery of or reporting of a felony; or

(iv) to inflict bodily injury on or to terrorize the victim or another;

(v) to interfere with the performance of any governmental or political function; or

(vi) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) As used in this section, “in the course of committing unlawful detention or kidnapping” means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(a) Section 76-5-301, kidnapping; or

(b) Section 76-5-304, unlawful detention.

(3) Aggravated kidnapping is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the best interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (3)(a) or (b):

(i) ten years and which may be for life; or

(ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(c).

### **§78A-3-102. Supreme Court jurisdiction.**

(4) The Supreme Court may transfer to the Court of Appeals any of the matters over which the Supreme Court has original appellate jurisdiction, except:

(a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;

(b) election and voting contests;

(c) reapportionment of election districts;

(d) retention or removal of public officers;

(e) matters involving legislative subpoenas; and

(f) those matters described in Subsections (3)(a) through (d).

### **78A-4-103. Court of Appeals jurisdiction.**

(1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) the final orders and decrees resulting from formal adjudicative proceedings of state agencies or appeals from the district court review of informal adjudicative proceedings of the agencies, except the Public Service Commission, State Tax Commission, School and Institutional Trust Lands Board of Trustees, Division of Forestry, Fire and State Lands actions reviewed by the executive director of the

Department of Natural Resources, Board of Oil, Gas, and Mining, and the state engineer;

- (b) Appeals from the district court review of:
    - (i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and
    - (ii) a challenge to agency action under Section **63G-3-602**;
  - (c) appeals from the juvenile courts;
  - (d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;
  - (e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;
  - (f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony.
  - (g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;
  - (h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;
  - (i) appeals from the Utah Military Court; and
  - (j) cases transferred to the Court of Appeals from the Supreme Court.
- (3) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.
  - (4) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings

## **UTAH CONSTITUTION**

### **Article I, Section 7. [Due process of law.]**

No person shall be deprived of life, liberty or property, without due process of law.

## **Article I, Section 12. [Rights of accused persons.]**

In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense.

Where the defendant is otherwise entitled to a preliminary examination, the function of that examination is limited to determining whether probable cause exists unless otherwise provided by statute. Nothing in this constitution shall preclude the use of reliable hearsay evidence as defined by statute or rule in whole or in part at any preliminary examination to determine probable cause or at any pretrial proceeding with respect to release of the defendant if appropriate discovery is allowed as defined by statute or rule.

## **UNITED STATES CONSTITUTION**

### **Fourth Amendment**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### **Sixth Amendment**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him;

to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

#### **Fourteenth Amendment**

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of

any slave; but all such debts, obligations and claims shall be held illegal and void.

Section. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

## **UTAH RULES OF CIVIL PROCEDURE**

### **RULE 17(P)**

At the conclusion of the evidence by the prosecution, or at the conclusion of all the evidence, the court may issue an order dismissing any information or indictment, or any count thereof, upon the ground that the evidence is not legally sufficient to establish the offense charged therein or any lesser included offense.

### **STATEMENT OF THE CASE**

The Defendant was charged by Information with two separate offenses. A jury found her guilty of counts one and two, aggravated robbery in violation of U.C.A. §76-6-302 and aggravated kidnapping in violation of §76-5-302. (R. 135/ P. 208).

### **STATEMENT OF THE FACTS**

On September 8, 2007, the Defendant, Christina Lynn Briggs, accompanied Brandon Morris to the Timbermine restaurant where she was scheduled to meet up with John Barlow. (R.134/P. 146-47, 171, 209). When they met John Barlow, Defendant said that “her cousin” needed a ride up the canyon. (R. 134/P. 147, 172). Mr. Barlow suggested taking his work van rather than Defendant’s car. (R.134/P. 147, 174). When Mr. Barlow started



climbing into his van, Mr. Morris grabbed his left shoulder, and Mr. Barlow felt a sharp object in his back. (R. 134/P. 147, 174). Mr. Morris made Mr. Barlow sit in a steel chair between the two bucket seats, climbed into the driver's seat and leaned over Mr. Barlow to unlock the passenger door for Defendant. (R. 134/P. 147-48, 175-76, 205-06). Mr. Morris took Mr. Barlow's keys and wallet, and Defendant took his cell phone. (R.134/P. 148, 176).

Mr. Morris drove the van up Ogden Canyon and around the dam while holding the knife to Mr. Barlow's left side. (R.134/P. 148, 178, 210). Defendant bound Mr. Barlow's hands with a hoodie string. (R.134/P. 185). When they reach 9500 East and SR-39, Defendant threw Mr. Barlow's cell phone out the window. (R.134/P.149, 181, 210). Mr. Morris continued driving past the Red Rock Café until he turned up a dirt road at approximately mile marker 33.2 on SR-39. (R.134/P. 149, 183). Mr. Morris and Defendant drove up that road about 100 yards, parked, and told Mr. Barlow to get out of the car, then made him walk out into the woods about 20 yards. (R.134/P.149, 183, 211). Mr. Morris and Defendant then tied Mr. Barlow to a tree using a hoodie string and soldering wire. (R.134/P. 149-50, 185, 211). Mr. Morris and Defendant then left Mr. Barlow tied to a tree. (R. 134/P. 187).

Defendant and Mr. Morris got back in the van and left. (R. 134/P. 187-88). Mr. Morris drove off fast and hit a big boulder that was partially buried in the path. The boulder was ripped from the ground by the force and dragged about 40 feet. (R. 134/P. 213). The undercarriage of the van was severely damaged by the collision with the rock. (R. 134/P. 150, 189, 191). Mr. Morris and Defendant then turned back onto the main road but only made it about 200 yards before the driveline snapped and the van broke down. (R. 134/P.150, 189, 191). The van left a trail of transmission fluid beginning at the dislodged boulder continuing to where the van became disabled on the road. (R. 134/P. 213). Mr. Barlow got himself untied and ran out to the road just in time to see Mr. Morris and Defendant get into a white truck. (R. 134/P. 151, 188-190).

Defendant and Mr. Morris went to the Red Rock Café where they were picked up by Steve Stefaniak and Jeanine Walton. (R. 134/P. 152-53; R. 135/P. 21). They then accompanied Steve and Jeanine to a campsite where they partied and drank. (R. 135/P. 23; R. 135/P. 33-34, 49). They planned to stay overnight at the campsite with Steven and Jeanine until Mr. Morris realized he needed his insulin. (R. 134/P. 153; R. 135/P. 42-43). Jeanine drove them to the Timbermine in an orange pickup where she intended to drop them off at Defendant's car until Defendant spotted an undercover cop and told Jeanine not to stop. (R. 134/P. 153; R. 135/P. 25). Jeanine dropped them off

somewhere on Monroe, then went back up to the campsite and made arrangements to meet them the next day. (R. 134/P. 153-54; P. 135/P. 26-27).

After Mr. Barlow became unbound, he ran to the disabled van. (R. 134/P. 190). Mr. Barlow managed to flag someone down and had them contact the Weber County Sheriff. (R. 134/P. 191-92). When the police arrived, they investigated the scene and found an empty spool of solder near the van. (R. 134/P. 192; R. 135/P. 13). They recovered the discarded cell phone (R. 134/P. 193), observed approximately 20 large scratch and puncture marks on Mr. Barlow's left side, (R. 134/P. 212) and red lines around his wrists where it appeared he had been bound. (R. 134/P. 213). The police found several items near the campfire area where the van was parked while Mr. Barlow was being tied to the tree as well as the string that was still tied to the tree to which Mr. Barlow had been bound. (R. 134/P. 229; R. 135/P. 53). They did not locate the soldering wire that had bound him to the tree. (R. 135/P. 13).

Mr. Barlow informed officers about the car in the Timbermine parking lot. The police verified that the vehicle was registered to Defendant, and they watched the car and waited for her to return for it. (R. 134/P. 215). When Defendant failed to return for her car, the detectives executed a search warrant on the vehicle and found the names of the Defendant and Mr. Morris in the vehicle. (R.134/P. 117). They also obtained the license plate number of the

orange truck when they observed it driving through the parking lot. (R. 134/P. 154). The police then discovered Defendant and Mr. Morris were staying at Mr. Morris's father's house and went and arrested them. (R.134/155)

After taking the Defendant and Mr. Morris to the sheriff's office, they interviewed Defendant. Her testimony was that she and Mr. Barlow had consensually decided to hang out and Mr. Barlow sexually assaulted her, then Defendant called for help. (R. 134/159-60).

### **SUMMARY OF ARGUMENTS**

The Defendant raises two points on appeal. First, her trial counsel was ineffective when he failed to move the trial court for a directed verdict at the conclusion of the State's case. Second, the trial court committed plain error when it did not dismiss the case due to insufficiency of the evidence.

### **ARGUMENT**

#### **POINT 1**

**THE DEFENDANT WAS DENIED HER RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, AND ARTICLE 1, SECTIONS SEVEN AND TWELVE OF THE UTAH CONSTITUTION BY HER ATTORNEY'S FAILURE TO MOVE THE TRIAL COURT FOR A DIRECTED VERDICT.**

The United States Supreme Court has recognized that "the right to counsel is the right to the effective assistance of counsel." *Strickland v.*

*Washington*, 466 U.S. 668, 686, 80 L. Ed. 2d 674, 692 (1984). In *Strickland*, the Supreme Court established a two-part test to determine whether counsel's assistance was ineffective. "First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Strickland v. Washington*, 466 U.S. at 687, 80 L.Ed.2d at 693.

In making that assessment, the Court in *Strickland v. Washington* gave some guidance in noting, "[t]he proper measure of attorney performance remains simply reasonableness under prevailing professional norms." *Id.* at 688. Although the Court in *Strickland* did not "exhaustively define the obligations of counsel nor form a checklist for judicial evaluation of attorney performance," *Id.* at 688, it did mention certain minimal requirements. These duties include, "a duty of loyalty, a duty to avoid conflicts of interest" as well as a duty "to consult with the defendant on important decisions and to keep the defendant informed of important developments in the course of the prosecution" *Id.* at 688. Additionally, the overreaching requirement by the Supreme Court in ineffective assistance of counsel cases is that the "performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances." *Id.* at 688.

Several other cases more specifically define when a defense counsel's performance has slipped below the threshold cited above.

In the case of *Kimmelman v. Morrison*, 477 U.S. 365 (1986), the Court was presented with a case where defense counsel, due to a failure to conduct proper discovery, did not timely file a motion to suppress evidence under the Fourth Amendment. The Supreme Court found the attorney's performance to be deficient. The Court stated:

Where defense counsel's failure to litigate a Fourth Amendment claim competently is the principal allegation of ineffectiveness, the defendant must also prove that his Fourth Amendment claim is meritorious and that there is a reasonable probability that the verdict would have been different absent the excludable evidence in order to demonstrate actual prejudice. *Kimmelman v. Morrison*, 477 U.S. 365, 375 (1986).

In making the determination that trial counsel's conduct failed to comport with constitutional requirements, the Court held:

In this case, however, we deal with a total failure to conduct pretrial discovery, and one as to which counsel offered only implausible explanations. Counsel's performance at trial, while generally creditable enough, suggests no better explanation for this apparent and pervasive failure to "make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." [citation omitted] Under these circumstances, although the failure of the District Court and the Court of Appeals to examine counsel's overall performance was inadvisable, we think this omission did not affect the soundness of the conclusion both courts reached — that counsel's performance fell below the level of reasonable professional assistance in the respects alleged. *Kimmelman v. Morrison*, 477 U.S. 365, 386 (1986).

The Utah Appellate Courts have adopted the *Strickland* test and have likewise rendered decisions in ineffective assistance of counsel cases that can guide a determination of when a defense attorney fails in his appointed duties.

In *State v. Finlayson* 2000 UT 10, ¶24, 994 P.2d 1243, the Supreme Court of Utah affirmed this Courts reversal of the defendant's conviction where the issue of ineffective assistance of counsel was key to the reversal.(See *State v. Finlayson*, 956 P.2d 283 (Utah Ct.App.1998)). In that case, the Court held:

That the facts in this case do not support a conviction for aggravated kidnaping is clear from *Couch* and *Jolivet*. Yet defendant's counsel made no objection to this charge, and failed to raise this at any time, either during trial, or following the conviction in a motion to vacate. As this is an issue that would have been raised outside the presence of the jury, no possible prejudice would have inured to defendant. When no possible explanation or tactical reason exists for such a decision, we have held that the first part of the *Strickland* test, is satisfied. (*State v. Finlayson* 2000 UT 10, ¶ 24, 994 P.2d 1243 citations omitted, emphasis added.)

In the present case, defense counsel failed to move for a directed verdict after the State rested. Assuming arguendo that defense counsel failed to make a motion to the trial court that the trial court would have granted, this failure, and this failure alone would constitute ineffective assistance of counsel under the definition of *Strickland* and its Federal and State progeny. The general practice of defense counsel in criminal trials is to move for a directed verdict or

motion to dismiss after the state has rested. This is especially true when the state has failed to strongly establish one or more of the elements of the charge.

In the present case like in *Finlayson*, there is simply no reason for trial counsel not to move the court for a directed verdict when the evidence against the Defendant was that Mr. Barlow claimed she assisted Mr. Morris in the actions, when defense counsel knew that Defendant was a former paramour of Mr. Barlow and that he was likely developing a story and changing facts to explain away damage to his truck, and to get back at Defendant for not agreeing to be intimate with him. This failure clearly fulfills the first prong of the *Strickland* test.

The second prong of the test is whether “counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.” *Strickland*, at 466 U.S. at 687, 80 L.Ed. 2d at 693. Again, in the case of *State v. Finlayson* 2000 UT 10, ¶ 26, 994 P.2d this Court ruled that, “Accordingly, we hold that defendant’s counsel’s failure to object to the aggravated kidnapping charge rendered his performance constitutionally deficient and prejudiced defendant”.

In the case at bar, police officers were called to SR-39 because Mr. Barlow claimed he had been assaulted by a knife. (R. 134/P. 207). The police first responded to the Red Rock Café where the call had come from Dave



Moss. Mr. Moss directed the officer to approximately mile marker 33.2 on SR-39. (R. 134/P. 207). When the police arrived, Mr. Barlow was sitting in his disabled Chevy work van. Deputy Oge spoke with Mr. Barlow who was pale and visibly shaking. (R. 134/P. 208). Mr. Barlow claimed he had been kidnapped by somebody with a knife after arranging by text message to meet up with Defendant for dinner at the Timbermine restaurant. (R. 134/P. 208-09). Mr. Barlow told Deputy Oge that an unknown white male was with Defendant and that he was forced into his van at knifepoint and driven up Ogden Canyon. Defendant took Mr. Barlow's cell phone and threw it out the window after going through it. (R. 134/P. 210). When they reached approximately mile-marker 33.2, they turned the van up a dirt road where they parked the van. Mr. Barlow claimed the unknown white male made him get out of the van, took his wallet, and made Mr. Barlow walk to the woods where he tied Mr. Barlow to a tree using a hoodie string and solder wire from the work van. (R. 134/P. 211). Deputy Oge observed a trail of transmission fluid from the disabled van up to where Mr. Barlow said they had pulled off the road and up into the dirt area. He also observed a string attached to a tree, evidence on the ground around where the van was parked, multiple scratch marks, a couple of puncture marks on Mr. Barlow's left side, and red lines around Mr. Barlow's wrists. (R. 134/P. 212-13).

After a short period, more detectives arrived to investigate the crime scenes. The officers recovered Mr. Barlow's cell phone from where Defendant had thrown it out the van window, an empty roll of solder outside the van where it was disabled, and multiple items from the campsite near where Mr. Barlow had been tied. The detectives did not recover any soldering wire from where Mr. Barlow has been tied (R. 135/P. 13), they did not recover a knife (R. 135/P. 104), and no fingerprints were found on any of the recovered evidence (R. 135/ P. 93) or in the van (R. 135/ 95-96). The officers did not find any footprints leaving the van other than Mr. Barlow's. (R. 135/P. 13).

There are even discrepancies in Mr. Barlow's story. During his testimony, he stated that Mr. Morris asked him for his keys, wallet and phone after climbing into the van at the Timbermine. (R. 134/P. 176). However, Deputy Oge's testimony was that Mr. Barlow told him that he was forced to give up his wallet after they parked up on the dirt road and Mr. Morris forced him out of the van. (R. 134/P. 211). Mr. Barlow describes how his hands were tied during his testimony (R. 134/P 186, 200), yet there is a question of how his hands were tied and how he described it to the officers (R. 135/P. 12, 18-19).

Utah Code Annotated §76-6-302 lists the elements of aggravated robbery. A person commits aggravated robbery if in the course of committing robbery, she:

- (a) uses or threatens to use a dangerous weapon as defined in Section **76-1-601**;
- (b) causes serious bodily injury upon another; or
- (c) takes or attempts to take an operable motor vehicle.

Utah Code Annotated §76-6-301 lists the elements of robbery. A person commits robbery if:

- (a) the person unlawfully and intentionally takes or attempts to take personal property in the possession of another from his person, or immediate presence, against his will, by means of force or fear, and with a purpose or intent to deprive the person permanently or temporarily of the personal property; or
- (b) the person intentionally or knowingly uses force or fear of immediate force against another in the course of committing a theft or wrongful appropriation.

In the case at hand, the State did not prove all the elements of the offenses charged. The State did not prove that the Defendant took or attempted to take Mr. Barlow's personal property at all, much less against his will, by means of force or fear. The wallet that was taken from Mr. Barlow was not found in the Defendant's possession. Additionally, the State failed to prove that there was a dangerous weapon involved. The investigators did not recover a knife nor did they offer evidence that the scratches on Mr. Barlow's left side were caused by a knife. The scratches suffered by Mr. Barlow did not constitute serious bodily injury. Finally, the State failed to prove beyond a reasonable doubt that Defendant took or attempted to take an operable vehicle.

Mr. Barlow testified that he volunteered his vehicle for the drive up the canyon. (R. 134/P. 174).

Utah Code Annotated §76-5-302 lists the elements of aggravated kidnapping. A person commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

- (a) possesses, uses, or threatens to use a dangerous weapon as defined in Section 76-1-601; or
- (b) acts with intent:
  - (i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;
  - (ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;
  - (iii) to hinder or delay the discovery of or reporting of a felony; or
  - (iv) to inflict bodily injury on or to terrorize the victim or another;
  - (v) to interfere with the performance of any governmental or political function; or

Utah Code Annotated §76-5-301 lists the elements of kidnapping. An actor commits kidnapping if the actor intentionally or knowingly, without authority of law, and against the will of the victim:

- (a) detains or restrains the victim for any substantial period of time;
- (b) detains or restrains the victim in circumstances exposing the victim to risk of bodily injury;
- (c) holds the victim in involuntary servitude;
- (d) detains or restrains a minor without the consent of the minor's parent or legal guardian or the consent of a person

- acting in loco parentis, if the minor is 14 years of age or older but younger than 18 years of age; or
- (e) moves the victim any substantial distance or across a state line.

The State failed to prove the elements of the crime charged. The State did not show that Defendant detained or restrained the victim for any substantial period of time or in circumstances exposing the victim to risk of bodily injury. The police found a hoodie string tied to a tree, but they did not recover the soldering wire that Mr. Barlow claims was used to tie him to that tree. In addition, no one saw Mr. Barlow tied to that tree. The State did not show that Defendant moved Mr. Barlow any substantial distance. Mr. Barlow volunteered the use of his vehicle for the drive up the canyon and voluntarily entered the vehicle for the drive. Defendant did not hold Mr. Barlow for ransom. Nor did the State prove that Defendant acted with the intent to facilitate the commission or flight after commission of a felony or to hinder or delay the discovery of or reporting of a felony as the State failed to prove that any felony was committed. Finally, the State failed to prove that Defendant possessed, used, or threatened to use a dangerous weapon.

Based on the insufficient evidence outlined above, Defendant's counsel should have moved the court to dismiss the case. Under Rule 17(p) of the Utah Rules of Criminal Procedure, the trial court "may issue an order dismissing any information ... upon the ground that the evidence is not legally sufficient to

establish the offense charged therein or any lesser included offense.” Defense counsel did not raise that possibility for the trial court to decide.

## POINT II

### **THE TRIAL COURT COMMITTED PLAIN ERROR IN FAILING TO ENTER A DIRECTED VERDICT OF ACQUITTAL AT THE CLOSE OF THE PROSECUTION’S CASE FOR REASONS THAT THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT A CONVICTION.**

In *State v. Holgate*, 2000 UT 74, ¶11, 10 P.3d 346, the Utah Supreme Court held “as a general rule, claims not raised before the trial court may not be raised on appeal.” However, this general rule is tempered when trial counsel’s performance falls below a reasonable standard. This Court further stated “[i]t necessarily follows that the trial court plainly errs if it submits the case to the jury and thus fails to discharge a defendant when the insufficiency of the evidence is apparent to the court.” *Id.* at 351 (emphasis added).

Defendant recognizes the difficult burden she must overcome in challenging a trial court’s failure to dismiss for lack of evidence. The Court’s power “to review a jury verdict challenged on grounds of insufficient evidence is limited.” *State v. Rudolph*, 2000 UT App. 155, ¶22, 3 P.3d 192. The Utah Supreme Court has said, “[s]o long as there is some evidence, including reasonable inferences, from which findings of all the requisite elements of the crime can reasonably be made, our inquiry stops.” *State v. Mead* 2001 UT 58,

¶67, 27 P.3d 1115, (citations omitted). Additionally, in *State v. Workman*, 852 P.2d 981, 984 (Utah 1993) the Court stated, “[o]rdinarily, a reviewing court may not reassess credibility or reweigh the evidence, but must resolve conflicts in the evidence in favor of the jury verdict.”

The Utah Appellate Courts have, however, ruled that absent sufficient evidence establishing each element of the offense charged, an appellate court may overturn a conviction. In *State v. Workman, infra at 985*, the Utah Supreme Court affirmed the trial court’s arrest of judgment from a conviction of sexual exploitation of a minor holding: “A guilty verdict is not legally valid if it is based solely on inferences that give rise to only remote or speculative possibilities of guilt.” In that case, the prosecution presented no evidence, expert or otherwise, that the photograph in question could have been taken for purposes of sexual arousal. Given that lack of evidence the Court vacated the defendant’s guilty verdict. Similarly, in the case of *State v. Petree*, 659 P.2d 443 (Utah 1983), the Court reversed the conviction of a defendant in a second-degree murder case where the evidence as to intent was deficient. In that case, there was undisputed evidence that the victim had been murdered. The sole evidence against the defendant consisted of the fact that the defendant was the last person seen with the victim, and the fact that he had related a dream to three individuals in which he recalled slapping the girl and that he “thought he

hurt her. He thought he might have killed her.” *Id.* at 446. In that case, the Court also stated:

The fabric of evidence against the defendant must cover the gap between the presumption of innocence and the proof of guilt. In fulfillment of its duty to review the evidence and all inferences which may reasonably be drawn from it in the light most favorable to the verdict, the reviewing court will stretch the evidentiary fabric as far as it will go. But this does not mean that the court can take a speculative leap across a remaining gap in order to sustain a verdict. The evidence, stretched to its utmost limits, must be sufficient to prove the defendant guilty beyond a reasonable doubt. *Id.* at 444-445.

Furthermore, in the recent case of *State v. Shumway*, 2002 UT 124, ¶18, 63 P.3d 94, the Utah Supreme Court reversed the trial court’s conviction of evidence tampering. In that case, there was some expert testimony that opined that a second, smaller knife had also been used in the murder of an individual. No other evidence as to a second weapon (the first weapon was recovered) was found; but rather, the prosecution relied on an inference that the defendant had the motive and opportunity to dispose of a second weapon. In reversing that conviction, the Court held:

After giving full weight to all of the evidence supporting [the defendant’s] conviction of evidence tampering, we conclude that the evidence is insufficient to sustain his conviction. At most, the evidence supports only the proposition that [the defendant] had the opportunity to destroy or conceal the second implement, if indeed it ever existed. *Id.* at ¶18.



While Defendant is cognizant of the requirement to marshal evidence in support of the jury's verdict, Defendant submits that even with an extensive marshaling of evidence the jury's verdict cannot be supported. It is undisputed that there is no physical evidence connecting the Defendant to the crimes charged. There was no knife or soldering wire recovered, and what little evidence was recovered had no connection to Defendant, and no fingerprints were found. The only evidence connecting Defendant to the crime was the testimony of Mr. Barlow, a former and possibly jealous paramour of Defendant. Mr. Barlow's testimony was inconsistent on some very important elements of the crimes he alleges were committed against him. He claimed that Defendant took his cell phone, yet he changes his story of when it was taken from him. Mr. Barlow's story of how he was tied to the tree was inconsistent. In his testimony, he claimed his hands were bound in one way, but when he spoke to police, he indicated his hands had been bound differently.

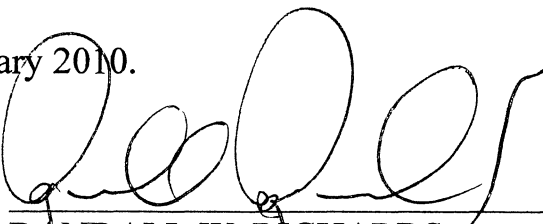
All of this notwithstanding, the State failed to prove all of the elements of aggravated robbery and aggravated assault, which were outlined under Point I. For this reason, the trial court should have dismissed the case when Defendant's trial counsel failed to make a motion to dismiss. The evidence was insufficient to convict Defendant of the crimes she was charged with. Furthermore, all three elements of a plain error claim are present. The error

exists. The error being that the State failed to prove all of the elements of the offenses. Number two, this error should have been obvious to the trial court. The final element is that the error was harmful. Based on the insufficiency of the evidence Defendant should not have been convicted. Therefore, she was prejudiced by the Court's failure to dismiss the case, and her convictions should be reversed.

### **CONCLUSION**

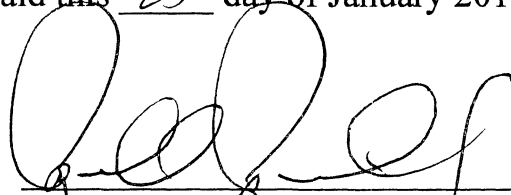
The State failed to prove all of the elements beyond a reasonable doubt. Based on the lack of evidence, reasonable minds should have entertained a reasonable doubt that Defendant committed the crimes she was convicted of. For these reasons, Defendant respectfully requests this Court to reverse her convictions.

DATED this 25 day of January 2010.

  
\_\_\_\_\_  
RANDALL W. RICHARDS  
Attorney for Appellant

**CERTIFICATE OF MAILING**

I certify that I mailed two copies of the foregoing Brief of Appellant, together with a CD of the same, to Mark Shurtleff, Attorney General, Attorney for the Plaintiff, 160 East 300 South, 6<sup>th</sup> Floor, P.O. Box 140854, Salt Lake City, Utah 84114-0180, postage prepaid this 25 day of January 2010.

A handwritten signature in black ink, appearing to read 'Randall W. Richards', written over a horizontal line.

RANDALL W. RICHARDS

Attorney at Law

## **ADDENDUM A**

SECOND DISTRICT COURT

2008 MAY 28 P 2:01

SECOND DISTRICT COURT - OGDEN  
WEBER COUNTY, STATE OF UTAH

MAY 28 2008

STATE OF UTAH, : MINUTES  
Plaintiff, : SENTENCE, JUDGMENT, COMMITMENT  
 :  
 :  
vs. : Case No: 071902062 FS  
 :  
CHRISTINA LYNN BRIGGS, : Judge: SCOTT M HADLEY  
Defendant. : Date: May 27, 2008

PRESENT

Clerk: marykd  
Reporter: COVINGTON, TRACY  
Prosecutor: NATHAN D LYON  
Defendant  
Defendant's Attorney(s): STUWERT B JOHNSON

DEFENDANT INFORMATION

Date of birth: May 10, 1973  
Video

SENTENCE, JUDGMENT, COMMITMENT



CD24328100

pages:

CHARGES

071902062 BRIGGS, CHRISTINA LYNN

1. AGGRAVATED ROBBERY - 1st Degree Felony  
Plea: Not Guilty - Disposition: 03/21/08 Guilty
2. AGGRAVATED KIDNAPPING - 1st Degree Felony  
Plea: Not Guilty - Disposition: 03/21/08 Guilty

SENTENCE PRISON

Based on the defendant's conviction of AGGRAVATED ROBBERY a 1st Degree Felony, the defendant is sentenced to an indeterminate term of not less than five years and which may be life in the Utah State Prison.

Based on the defendant's conviction of AGGRAVATED KIDNAPPING a 1st Degree Felony, the defendant is sentenced to an indeterminate term of not less than fifteen years and which may be life in the Utah State Prison.

To the WEBER County Sheriff: The defendant is remanded to your custody for transportation to the Utah State Prison where the

Case No: 071902062  
Date: May 27, 2008

---

defendant will be confined.

SENTENCE PRISON CONCURRENT/CONSECUTIVE NOTE

The prison sentence imposed on each count in this case may run concurrently to each other.

SENTENCE RECOMMENDATION NOTE


The Court recommends credit time served.

ALSO KNOWN AS (AKA) NOTE

CHRISTINA MEEHAN  
CHRISTINA GARDNER

The defendant shall pay restitution in the amount of \$1,250 to John Barlow and \$3,500 to Utah Mechanical Contractors. Restitution shall be paid as a condition of parole and is to be paid joint and severally with the co-defendant, Brandon Lee Morris.

Dated this 28 day of May, 2008.

  
\_\_\_\_\_  
SCOTT M HADLEY  
District Court Judge