

January 5, 2012

**THIS IS NOT AN OFFICIAL STATEMENT
OF THE COURT, BUT IS INTENDED
SOLELY FOR THE CONVENIENCE OF
THE PRESS**

FOR IMMEDIATE RELEASE

IN THE SUPREME COURT OF THE STATE OF IDAHO

2012 Opinion No. 4

BOB HENRY,)	
)	
Plaintiff-Appellant,)	
)	
v.)	
)	
BRYAN F. TAYLOR, a public official,)	Docket No. 38016
CANYON COUNTY PROSECUTING)	
ATTORNEY’S OFFICE, a public agency,)	
and CANYON COUNTY, a public agency.)	
)	
Defendants-Respondents.)	
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Kathryn A. Sticklen, District Judge.

Holland & Hart LLP, Boise, for Appellant.

Canyon County Prosecuting Attorney, Caldwell, for Respondents.

The judgment of the district court is affirmed.

The Idaho Supreme Court, in a unanimous decision, held that records relating to a contract executed by former Canyon County Prosecuting Attorney John Bujak, the City of Nampa, and Canyon County are public records, but the Public Records Act does not obligate Respondents to produce the records.

In 2009, the City of Nampa, Canyon County, and the Canyon County Prosecuting Attorney’s Office entered into an agreement requiring the Canyon County Prosecutor’s Office to provide prosecutorial services to Nampa for \$598,357.88 per year. Although the original contract provided that payment would be made to the Canyon County Auditor, the contract was subsequently amended allowing payment directly to then-

elected Canyon County Prosecutor, John Bujak, who was to refund all unused money to the County. All later payments were deposited by Bujak in his separate account.

Mr. Henry submitted three public records requests seeking ledgers, bank statements, checks, and all other records showing movement of this money from the City, to Mr. Bujak's account, and back to the general County fund. Respondents maintained throughout the proceedings that they did not have access to these documents because the money was deposited into Mr. Bujak's separate account. The district court denied Mr. Henry's petition, holding that the requested documents are not public records. Mr. Henry appealed, insisting the records were public documents that must be turned over.

On appeal, the Supreme Court held that performance of the contract was a statutory duty of the prosecuting attorney, making the contract itself and all records regarding payments under the contract public records. However, the Court also held that a public agency, pursuant to the Public Records Act, cannot be required to turn over records that it had not prepared, owned, used, or retained.¹

¹ All of Mr. Bujak's financial records relating to the contract have since been received by Respondents through Mr. Bujak's bankruptcy proceedings and turned over to Mr. Henry.