

JUN 12 2014

CANYON COUNTY CLERK
P. SALAS, DEPUTY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

GREGORY L. COLLETT,)
)
PLAINTIFF,)
)
V.)
)
PATTI ANNE LODGE)
)
DEFENDANT.)
)
_____)

CASE NO. CV-2014-0005506-C
MEMORANDUM TO PLAINTIFF

This proceeding involves a primary election contest. Plaintiff Gregory L. Collett, representing himself, has attempted to serve Defendant Patti Anne Lodge with his affidavit and notice of contest by certified mail. He also has asked the clerk's office when the matter will be set for hearing. As of today's date Ms. Lodge has not appeared in the case.

I.C. Section 34-2124 requires that the initiating affidavit in a primary election contest "shall be served in the same manner as a complaint and summons are served pursuant to the Idaho Rules of Civil Procedure." See, IRCP 4(c)(1), 4(d)(1)(2). Service of process by mail does not meet the service requirements of the Rules of Civil Procedure. *Campbell v. Reagan*, 144 Idaho 254, 159 P.3d 891 (2007); *Elliott v. Verska*, 152 Idaho 280, 271 P.3d 678 (2012). Consequently the purported service by mail is a nullity, and the matter has not been set for hearing.

Ordinarily the court should not advise a party acting with or without an attorney on how to proceed. The court, nevertheless, has issued this memorandum in

the interest of having the matter properly handled in a timely manner.

DATED June 11, 2014

George D. Carey, Senior District Judge

CERTIFICATE OF SERVICE

STATE OF IDAHO,)
) ss
COUNTY OF CANYON)

I HEREBY CERTIFY that a true and correct copy of the foregoing MEMORANDUM was forwarded to the following:

Gregory L. Collett
21255 Lonkey Ln.
Caldwell, ID 83607

Patti A. Lodge
18500 Symms Rd.
Caldwell, ID 83607

Either by depositing the same in the U.S. mail, first class postage prepaid, or by personal service.

DATED this 12 day of June, 2014.

Chris Yamamoto
Clerk of the District Court

P. SALAS
by Deputy Clerk of the Court