

**FILED**  
Fourth Judicial District Court  
of Utah County, State of Utah  
*July 31, 2006* <sup>CS</sup> Deputy

~~KAY~~ BRYSON #0437  
DAVID H.T. WAYMENT #5159  
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**IN THE FOURTH JUDICIAL DISTRICT COURT  
UTAH COUNTY, STATE OF UTAH**

**STATE OF UTAH,**

**Plaintiff,**

vs.

**MICHAEL J. FITZGERALD  
235 North Meadowbrook Drive  
Alpine, Utah 84004**

**DOB: 05/07/1957  
SS# 528-04-0324**

**Defendant.**

**STIPULATION TO ENTER  
CONVICTION AND SCHEDULE  
SENTENCING**

**Case No.**

*041404309*

**Judge:**

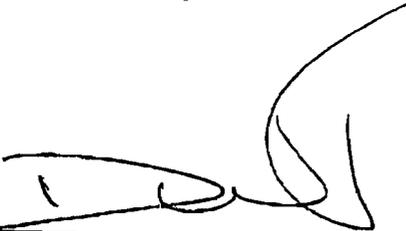
On November 23, 2005, the parties entered into a Plea in Abeyance which provided, *inter alia*, that defendant would pay restitution which was eventually stipulated to total \$23,320,020.80. A payment schedule was made part of the Statement in Advance of Plea. Specifically, defendant agreed to pay 25% of the restitution within eighteen months of his plea, 50% within twenty-four months of his plea, and 100% of restitution with thirty-six months. Giving defendant credit for cash paid and other credits, it appears that defendant has paid a substantial percentage of his first payment, although somewhat less than all of it. Accordingly, defendant has violated the terms of

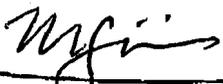
his Plea in Abeyance Agreement. Further, defendant is unlikely to pay a substantial portion of his payment due at the twenty-four month mark.

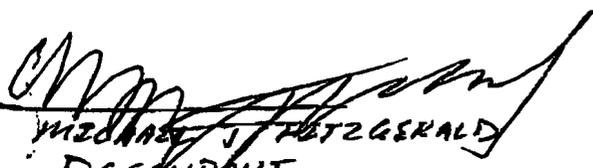
Accordingly, the parties stipulate as follows:

1. The court may enter defendant's convictions, as reflected in his Statement in Advance of Plea, forthwith.
2. Sentencing may be delayed until on or immediately after May 23, 2008.
3. Defendant shall report to Adult Probation and Parole, within sixty days, to have a presentence report done.
4. If defendant pays full restitution by the date of sentencing, the state moves that the court sentence each count as a Class A misdemeanor and the state will recommend that defendant serve no jail time.

DATED: ~~etc.~~ 6/31/06

  
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 David W. Wayment  
 for the State

  
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 MARK GRIFFIN  
 FOR THE DEFENDANT

  
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 NICHOLAS J. FITZGERALD  
 DEFENDANT