

FEB 19 2025

TRENT TRIPPLE, Clerk
By ANNA MEYER
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

BRYAN C. KOHBERGER,

Defendant.

Ada County Case No. CR01-24-31665

**ORDER ON DEFENDANT’S MOTIONS
TO SUPPRESS RE: ARREST
WARRANTS, PENNSYLVANIA
WARRANTS, APARTMENT WARRANT
AND IDAHO WARRANT TO SEARCH
PERSON**

I. INTRODUCTION

Defendant is charged with one count of Burglary and four counts of Murder in the First Degree in connection with the stabbing deaths of four University of Idaho students in the early morning hours of November 13, 2022. On December 30, 2022, he was arrested pursuant to a warrant at his parent’s home in Pennsylvania. At the time as his arrest, Pennsylvania authorities executed search warrants for Defendant’s person, his vehicle and his parents’ home. Around the same time, a fifth warrant for a search of Defendant’s Pullman, Washington apartment was issued by a Washington magistrate. After Defendant was transported back to Idaho, law enforcement obtained a sixth warrant for a search of Defendant’s person.

Through six different motions,¹ Defendant seeks suppression of evidence gathered by law enforcement through these warrants on several grounds. His arguments for each motion have largely been disposed of through the Court’s contemporaneously-filed orders.² Still remaining,

¹ Motion to Suppress re: Pennsylvania Search Warrant for 119 Lamsden Dr., Abrighsville, PA and Statements Made (Nov. 14, 2024); Motion to Suppress re: Arrest Warrant (Nov. 14, 2024); Motion to Suppress re: Pennsylvania Search Warrant for White Hyundai Elantra Bearing VIN: 5NPDH4AE6FH579860 (Nov. 14, 2024); Motion to Suppress re: Pennsylvania Search Warrant for Mr. Kohberger’s Person (Nov. 14, 2024); Motion to Suppress re: Search Warrant for Mr. Kohberger’s Person (Nov. 14, 2024), and; Motion to Suppress re: Search Warrant for Defendant’s Apartment (Nov. 14, 2024).

² Insofar as Defendant argues the six warrants at issue are invalid under *Franks v. Delaware*, 438 U.S. 154 (1978) due to claims of recklessly or intentionally false or omitted material information and/or because they were based on law enforcement’s allegedly unconstitutional use of Investigative Genetic Genealogy (IGG), these arguments were addressed in the Court’s Order on Defendant’s Motion to Suppress re: Genetic Information and Order on Defendant’s Motion for *Franks* Hearing, entered contemporaneously herewith. Defendant also argues the six warrants must be excised of any information obtained through prior illegal searches, referencing his other contemporaneously-filed suppression motions. However, the Court did not find any prior searches to be illegal. *See*,

however, is: 1) whether suppression is warranted due to law enforcement's failure to knock-and-announce in executing warrants at the Kohberger residence, and; 2) whether Defendant's post-arrest statements are suppressible as fruit of the poisonous tree and/or due to a *Miranda*³ violation.

A suppression hearing on the portion of Defendant's motions at issue in this Order⁴ was held on January 24, 2025, during which the Court received testimony from Detective Corporal Brett Payne and Detective Lawrence Mowery, both from the Moscow Police Department. The Court found both detectives to be credible and reliable. Following argument, the Court took the matter under advisement. The Court finds suppression is not warranted because: 1) exigent circumstances excused the abbreviated knock-and-announce, and; 2) Defendant has not established a *Miranda* violation.

II. STANDARD

The standard of review of a motion to suppress is bifurcated. The power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court. *State v. Valdez-Molina*, 127 Idaho 102, 106, 897 P.2d 993, 997 (1995). A trial court's ruling on a motion to suppress evidence combines the issue of law and fact, and the trial court's factual findings will not be overturned unless they are clearly erroneous. *State v. Conant*, 143 Idaho 797, 799, 153 P.3d 477, 479 (2007). When a decision on a motion to suppress is challenged, the application of constitutional principles to the facts found will be freely reviewed. *State v. Veneroso*, 138 Idaho 925, 928, 71 P.3d 1072, 1075 (2003).

Order on Defendant's Motions to Suppress re: AT&T, Google, USB, Apple and Amazon. The Court incorporates herein its rulings in the three referenced orders, which effectively disposes of all of Defendant's suppression motions at issue except for the a portion of the motion regarding "Pennsylvania Search Warrant for 119 Lamsden Dr., Abrightsville, PA and Statements Made."

³*Miranda v. Arizona*, 384 U.S. 436 (1966).

⁴ Evidence and argument on the *Franks* motion and IGG motion were heard on January 23, 2025. The balance of motions to suppress was taken up the following day.

III. FINDINGS OF FACT⁵

On November 13, 2022, an officer from the Moscow Police Department responded to a residence located at 1122 King Road in Moscow, Idaho where he discovered the bodies of Madison Mogen, Kaylee Goncalves, Ethan Chapin, and Xana Kernodle. Each appeared to have been stabbed to death. The investigation that ensued was a multi-agency affair involving members of the Moscow Police Department, the Idaho State Police and the FBI, among others. Defendant, who was a Ph.D. student at Washington State University in Pullman, Washington, emerged as a suspect in the investigation.

On or around December 16, 2022, Defendant left his Pullman apartment and drove to his parents' home located at 119 Lamsden Drive in Albrightsville, Pennsylvania, where he remained. On or about December 28, 2022, the FBI and Moscow Police Department requested assistance from the Pennsylvania State Police ("PSP") in their investigation; specifically, in obtaining and executing warrants.⁶ As part of this assistance, PSP reviewed reports and affidavits prepared by the Moscow Police Department, including a probable cause statement prepared by Detective Brett Payne outlining the circumstances of the crime and the investigation to date.

On December 29, 2022, a criminal complaint and probable cause order were filed in this action and the Latah County magistrate issued a warrant for Defendant's arrest. *See*, Def's Exh. B to Lamsden Motion. The same day, PSP applied for and obtained three search warrants from a Pennsylvania magistrate: 1) for 119 Lamsden Drive; 2) for Defendant's person, and; 3) for Defendant's vehicle, which was believed to be parked in the garage of 119 Lamsden Drive. These search warrants were supported by the Affidavit of Probable Cause of Trooper Justin Leri, to which was attached Detective Payne's probable cause statement. *See*, Def's Exh. A to Lamsden Motion. Later that day, PSP received the signed arrest warrant issued by the Latah County magistrate.

Late in the evening of December 29, 2022, PSP and its Special Emergency Response Team ("SERT") prepared for the execution of the warrants. Detective Payne was present briefly

⁵ The Court's findings are based on suppression hearing testimony provided by Detectives Payne and Mowery as well as the following documentary evidence: Defendant's Exhibits A and B in support of his Motion to Suppress re: Pennsylvania Search Warrant for 119 Lamsden Dr., Albrightsville, PA and Statements Made (Nov. 14, 2024) ("Lamsden Motion"); State's Exhibits S-1 through S-6 to Objection to Motion to Suppress re: Pennsylvania Search Warrant for 119 Lamsden Dr., Albrightsville, PA and Statements Made (Dec. 6, 2024) ("Lamsden Objection").

⁶ Prior to this point, investigators had been surveilling 119 Lamsden and had observed Defendant walking near the residence in the early morning hours of December 27, 2024.

to observe the final preparations, but then departed to prepare for Defendant's arrival at the PSP police station. It was Detective Payne's understanding that PSP and SERT were preparing for a knock-and-announce entry.

During their final preparations, SERT snipers set an umbrella around the residence to monitor any activity therein while a helicopter monitored from overhead in the event Defendant exited the residence. *See*, State's Exh. S-5 to Lamsden Objection. At 12:33 a.m., snipers observed a kitchen light turn on and saw a taller, young, white male wearing a black hoodie standing near the glass sliding door leading out to the deck. At 12:40 a.m., the same person was seen again. This time, officers were able to positively identify the person as Defendant. *Id*; *see also*, State's Exh. S-4 to Lamsden Objection. At 12:55 a.m., the light turned on in the garage where Defendant's vehicle was believed to be parked. At 1:03 a.m., lights flashed in the garage as if the vehicle was being locked or unlocked by a key fob. At 1:09 a.m., Defendant was seen in the kitchen of the home, this time wearing rubber gloves and handling a plastic baggie. *Id*.

Based on these observations, law enforcement believed Defendant was potentially destroying evidence from the vehicle that was related to the homicides.⁷ Law enforcement was also aware that Defendant possessed a Glock handgun, prompting a concern over officer safety due to "[Defendant's] heightened mental state of awareness or threat level of police possibly tracking him." *See*, State's Exh. S-5 to Lamsden Objection. Thus, law enforcement made the decision to shorten the knock and announce when executing the warrants.

At approximately 1:14 a.m., SERT made announcements from a bearcat⁸ parked in the driveway of the residence. Immediately following announcements, SERT effectuated a forced entry into the residence. Defendant was arrested without incident in a bedroom. His vehicle was located and secured in the garage.

Once apprehended, Defendant was handcuffed and placed in a police vehicle. *See*, State's Exh. S-6 to Lamsden Objection. He was notified that he was in a police vehicle and being audio

⁷ As set forth in Detective Payne's probable cause statement accompanying the search warrant affidavit for the three Pennsylvania warrants, it was believed Defendant drove his vehicle to 1112 King Road, committed the homicides and then fled in his vehicle. *See*, Def's Exh. A to Lamsden Motion. Thus, when law enforcement was preparing to execute the Pennsylvania warrants, they were aware there was potentially evidence of the crime still inside the vehicle.

⁸ A bearcat is an armored vehicle used in SWAT operations.

and video recorded, which he acknowledged. While awaiting transport, Defendant informed law enforcement that he had an unloaded Glock 22 handgun in the residence by his bed.

During transport, Defendant engaged in small talk with the accompanying officers. When Defendant expressed at one point that he wanted to know what was going on with his arrest, law enforcement told him investigators were going to speak to him at the station about the situation. The details of the investigation were not discussed with Defendant. Once they arrived at the station, Defendant was escorted into the processing room to await interview with Detective Payne, which occurred ten minutes later. Defendant was then informed of his *Miranda* rights and an interview subsequently began.

IV. CONCLUSIONS OF LAW

There are two issues before the Court: 1) whether law enforcement failed to comply with the knock-and-announce rule in executing the warrants at 119 Lamsden, and; 2) whether Defendant's post-arrest statements are suppressible as fruit of the poisonous tree and/or due to a *Miranda* violation. The State contends law enforcement's abbreviated knock-and-announce was justified by exigent circumstances and, further, Defendant's statements are not suppressible since there is no poisonous tree and because he has not demonstrated any incriminating statements were made while under interrogation. The State is correct.

A. Law Enforcement Did Not Violate Defendant's Rights in Executing the Pennsylvania Warrants.

1. Applicable law

Defendant contends that law enforcement's failure to fully comply with the knock-and-announce rule in executing the Pennsylvania warrants violated his rights under the Pennsylvania and/or Idaho Constitutions.⁹ While he contends Idaho law should be applied to law enforcement's actions under a conflicts of law analysis, he recognizes at the same time that "there is very little daylight" between Idaho and Pennsylvania law on the issue. Likewise, the State notes there are little substantive difference between the two on knock-and-announce and, therefore, does not take a position on what law should apply. The Court finds it unnecessary to choose what law should apply given their virtual identity.

⁹ Defendant is not asserting his Fourth Amendment rights were violated. Though not cited by either party, this is likely because the United States Supreme Court has held that a violation of the Fourth Amendment's knock-and-announce requirement does not require suppression of evidence. *Hudson v. Michigan*, 547 U.S. 586 (2006).

Idaho's knock-and-announce statutes require police to announce their presence, purpose and authority before entering someone's house. I.C. §§ 19-4409¹⁰ and 19-611.¹¹ These requirements are also imposed by Article I, § 17 of the Idaho Constitution. *State v. Rauch*, 99 Idaho 586, 593, 586 P.2d 671, 678 (1978). In *Rauch*, however, the Idaho Supreme Court adopted an exception to the rule for exigent circumstances. *Id.* at 590, 586 P.2d at 675. While the Court cautioned that such exigencies are to be determined on a "case by case" bases, it did set forth "general circumstances" under which exigent circumstances may be found, including: "(1) a reasonable belief that compliance with a 'knock and announce' statute would result in the destruction of evidence, or (2) a reasonable belief that compliance would place the officer in peril." *Id.* In addition, the Court set forth six factors to consider when determining whether exigent circumstances exist:

- (1) the gravity or violent nature of the offense with which the suspect is to be charged;
- (2) whether the suspect is reasonably believed to be armed;
- (3) a clear showing of probable cause;
- (4) a strong reason to believe the suspect is in the premises to be entered;
- (5) the likelihood that the suspect will escape if not swiftly apprehended;
- (6) the peaceful circumstances of the entry.

Id. at 591, 586 P.2d at 676 (citing *Dorman v. United States*, 435 F.2d 385, 392 (D.C. Cir. 1970)).

The Court further explained that "exigent circumstances" could include "those immediate circumstances where a defendant may be armed, where evidence may be easily and immediately destroyed, where a defendant may escape or where a defendant has engaged in furtive conduct." *Id.* Once it is determined a defendant's rights have been violated by police entry into a residence, suppression of evidence resulting from the entry is required under Idaho's exclusionary rule. *Id.* at 594, 586 P.2d at 679.

Pennsylvania's knock-and-announce rule is set forth in its criminal rules¹² and is imposed under Article I, § 8 of Pennsylvania's Constitution prohibiting unreasonable searches

¹⁰I.C. § 19-4409: "The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance."

¹¹I.C. § 19-611: "To make an arrest, if the offense is a felony, a private person, if any public offense, a peace officer, may break open the door or window of the house in which the person to be arrested is, or in which there is reasonable ground for believing him to be, after having demanded admittance and explained the purpose for which admittance is desired."

¹²Rule 207, Pa.R.Crim.P.: "(A) A law enforcement officer executing a search warrant shall, before entry, give, or make reasonable effort to give, notice of the officer's identity, authority, and purpose to any occupant of the premises specified in the warrant, unless exigent circumstances require the officer's immediate forcible entry. (B)

and seizures. *Commonwealth v. Carlton*, 701 A.2d 143, 148 (Pa. 1997). Pennsylvania courts recognize four exigent circumstances justifying dispensing with the rule: “1. the occupants remain silent after repeated knocking and announcing; 2. the police are virtually certain that the occupants of the premises already know their purpose; 3. the police have reason to believe that an announcement prior to entry would imperil their safety; [or] 4. the police have reason to believe that evidence is about to be destroyed.” *Commonwealth v. Frederick*, 124 A.3d 748, 755 (Pa. Super. Ct. 2015). These circumstances are viewed under an objective standard, looking only to the facts and circumstances with which the officers are faced at the time they act on their decision to dispense with knock and announce. *Commonwealth v. Walker*, 874 A.2d 667, 673 (Pa. Super. Ct. 2005). As in Idaho, violation of Pennsylvania’s knock-and-announce requirements results in suppression. *Id.*

As applied to the facts here, there are no substantive differences between the knock-and-announce standards under Idaho law and Pennsylvania law. Consequently, the Court need not determine what choice of law applies.

2. Exigencies excused law enforcement’s full compliance with knock and announce.

It is undisputed that law enforcement executed an abbreviated knock-and-announce prior to entry into 119 Lamsden. According to the State, however, compliance was excused by exigent circumstances; namely, law enforcement’s belief Defendant was destroying evidence of the crime and that compliance with knock and announce would have placed the officers’ safety in jeopardy. Defendant argues these are not true exigencies. He notes that he was surveilled by law enforcement prior to the execution of the warrant¹³ and there is no evidence he was seen with weapons.

Such officer shall await a response for a reasonable period of time after this announcement of identity, authority, and purpose, unless exigent circumstances require the officer's immediate forcible entry. (C) If the officer is not admitted after such reasonable period, the officer may forcibly enter the premises and may use as much physical force to effect entry therein as is necessary to execute the search.”

¹³ Defendant contends that in the days prior to the execution of the warrants, law enforcement had seen Defendant go for runs around his parents’ neighborhood. Given these observations, Defendant posits that there was “no reason” to arrest him inside the house. Lamsden Motion, p. 10. However, Defendant cited to no evidence of law enforcement’s observations in this regard. The only evidence this Court could locate is from the search warrant application for the Pennsylvania warrants, where PSP Trooper Leri states that “Investigators began physical surveillance of the property and area of 119 Lamsden Drive, Chestnuthill Township, and in the early morning hours of Tuesday, December 27, 2022, observed Bryan KOHBERGER walking near his residence.” Exh. A, p. 9 to Lamsden Motion.

In furtherance of his argument, Defendant cites to *State v. Ramos*, where the Idaho Court of Appeals held that the executing officers' belief that the home contained large amounts of marijuana was not alone sufficient to justify the officers' breaking down the door five seconds after knocking and announcing. 142 Idaho 628, 632-33, 130 P.3d 116, 1170-71 (Ct. App. 2005). Such a rule, the Court observed, would impermissibly create a blanket exception to the knock-and-announce rule, which *Rausch* sought to avoid. The Court further found that the officers' exposure in approaching the home did not justify the violation, observing that nearly all residential homes have exposed front aspects. *Id.*

Defendant also relies on *Commonwealth v. Kitchener*, where a Pennsylvania court found exigent circumstances where officers were executing an arrest warrant upon a fugitive with a history for violence, a propensity for fleeing from police and who was reputed to "like guns, machine guns, in particular." 506 A.2d 941, 944 (Pa. Super. Ct. 1986). The officers knocked and announced, heard running footsteps within the residence and, believing the man was trying to escape or arm himself, forcibly entered the home. *Id.* The court found that, given everything the officers knew prior to executing the warrant, the forcible entry was justified. *Id.*

Defendant points out that, unlike in *Kitchener*, law enforcement had no knowledge that Defendant had a prior criminal history, a reputation for violence or was a gun aficionado. They did not see him with a weapon and, therefore, there was no reasonable basis to fear for their safety. At most, he argues, law enforcement had non-descript fears such as those presented in *Ramos*.

There are two infirmities in Defendant's argument, however. First, he entirely ignores the destruction of evidence exigency, which is what law enforcement relied upon greatly in dispensing with the knock-and-announce requirement here. The evidence demonstrates that while preparing to execute the warrants, law enforcement identified Defendant in the early morning hours as he turned on a light in the kitchen and then proceeded into the garage where his vehicle was believed to be parked. Law enforcement was aware that Defendant was suspected of having driven that vehicle during the commission of the homicides and knew it could contain evidence. Law enforcement then saw vehicle lights flash in the garage, as if a vehicle was being unlocked or locked. Immediately afterwards, they saw Defendant again in the kitchen wearing rubber gloves and handling a plastic baggie. Further, it was 1:09 a.m. in the morning, a time when most people would not be removing items from their car with rubber gloves. These

observations gave rise to the reasonable belief that, perhaps aware of law enforcement's surveillance, Defendant was destroying or secreting evidence of the crimes.

Second, compounding the concern of the potential destruction of evidence, there was an equally compelling concern that a knock-and-announce could pose a serious danger to law enforcement. Law enforcement had reviewed the investigation reports and probable cause statements provided by Idaho detectives. The executing officers knew Defendant—based on compelling evidence—was believed to have orchestrated an unprovoked and exceptionally brutal quadruple homicide with a knife. They had information he was in possession of a Glock handgun. They knew he was in the residence, awake, potentially aware of law enforcement's presence and potentially destroying evidence or perhaps retrieving his gun or a weapon from the vehicle. His vehicle was in the garage nearby, thus giving him a means of quick escape. While—prior to allegedly killing four people—Defendant may not have had an extensive criminal history or general reputation for violence as did the defendant in *Kitchener*, it does not mean law enforcement's safety concerns were unreasonable given what they knew. When these circumstances are collectively considered, the Court finds law enforcement was well-justified in making an abbreviated announcement and forced entry. Thus, suppression is not warranted.

B. Defendant Has Not Established He Was Interrogated When He Made Unidentified Statements.

Defendant next argues any statements he made to law enforcement prior to being *Mirandized* must be suppressed, either as fruits of the poisonous tree or as a *Miranda* violation. Having determined the execution of the warrants at 119 Lamsden was valid, the question is whether there was a *Miranda* violation. The Court finds there was not.

Pursuant to *Miranda* and its progeny, to protect the Fifth Amendment privilege against compulsory self-incrimination, “police must inform individuals of their right to remain silent and their right to counsel, either retained or appointed, before undertaking a custodial interrogation.” *State v. Silver*, 155 Idaho 29, 31, 304 P.3d 304, 306 (Ct. App. 2013) (citing *Miranda*, 384 U.S. at 444). The term “interrogation” includes “not only express questioning but also its ‘functional equivalent.’” *State v. Salato*, 137 Idaho 260, 267, 47 P.3d 763, 770 (Ct. App. 2001) (citing *Rhode Island v. Innis*, 446 U.S. 291, 300–01 (1980)). “The functional equivalent of interrogation includes ‘any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating

response.” *Id.* (quoting *Innis*, 446 U.S. at 301). Custody is determined by “whether there is a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.” *State v. Huffaker*, 160 Idaho 400, 374 P.3d 563, 567–68 (2016) (quoting *California v. Beheler*, 463 U.S. 1121, 1125 (1983)).

The State does not dispute Defendant was in custody when first detained. However, there is no evidence before the Court that Defendant was interrogated at any point from his arrest to the time he was formally interviewed by Detective Payne, at which point he was *Mirandized*. The sole evidence is that Defendant engaged in small talk with officers, with the only exception being when he briefly asked about his arrest and was told that investigators were going to speak to him at the station about the situation. Voluntary or spontaneous statements (or questions) unprompted by interrogation fall outside the scope of *Miranda*. *State v. Huffaker*, 160 Idaho 400, 407, 374 P.3d 563, 570 (2016). Consequently, there is no basis for suppression.


V. CONCLUSION

Based on the foregoing, the Court DENIES the following:

- Defendant’s Motion to Suppress re: Pennsylvania Search Warrant for 119 Lamsden Dr., Abrightsville, PA and Statements Made (Nov. 14, 2024);
- Defendant’s Motion to Suppress re: Arrest Warrant (Nov. 14, 2024); Motion to Suppress re: Pennsylvania Search Warrant for White Hyundai Elantra Bearing VIN: 5NPDH4AE6FH579860 (Nov. 14, 2024);
- Defendant’s Motion to Suppress re: Pennsylvania Search Warrant for Mr. Kohberger’s Person (Nov. 14, 2024);
- Defendant’s Motion to Suppress re: Search Warrant for Mr. Kohberger’s Person (Nov. 14, 2024), and;
- Defendant’s Motion to Suppress re: Search Warrant for Defendant’s Apartment (Nov. 14, 2024).

IT IS SO ORDERED.

DATED this 19th day of February, 2025.



Steven Hippler
District Judge

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 19th day of February, 2025, I caused a true and correct copy of the above and foregoing instrument to be mailed, postage prepaid, or hand-delivered, to:

William W. Thompson, Jr.
Ashley Jennings
LATAH COUNTY PROSECUTING ATTORNEY
paservice@latahcountyid.gov

Jeffery Nye
DEPUTY ATTORNEY GENERAL
Jeff.nye@ag.idaho.gov

Anne Taylor
ATTORNEY FOR DEFENDANT
info@annetaylorlaw.com

Elisa C. Massoth
ATTORNEY FOR DEFENDANT
emassoth@kmrs.net

Jay Logsdon
KOOTENAI COUNTY PUBLIC DEFENDER
jay.logsdon@spd.idaho.gov

TRENT TRIPPLE
Clerk of the District Court

By: 
Deputy Court Clerk

