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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.

Case No. CR01-24-31665

STATE'S MOTION IN LIMINE
RE: ALTERNATIVE
PERPETRATOR EVIDENCE

COMES NOW the State of Idaho, by and through the Latah County Prosecuting Attorney, and respectfully moves the Court in limine for an order prohibiting the defendant from offering "alternative perpetrator" evidence or argument without first satisfying the Court that any such evidence is relevant and admissible pursuant to I.R.E. 401, 402, or 403. In support of this motion, the State refers the Court and Counsel to *State v. Meister*, where the Idaho Supreme Court addressed the standard for assessing the admissibility of "alternative perpetrator" evidence. 148 Idaho 236 (2009). In *Meister*, the Idaho Supreme Court held the Idaho Rules of Evidence (adopted in 1985) "implicitly overruled" *State v. Larsen*, 91 Idaho 42 (1966). *Id.* at 240. The

proper analysis is under I.R.E. 401, 402 and 403. *Id.* at 241.

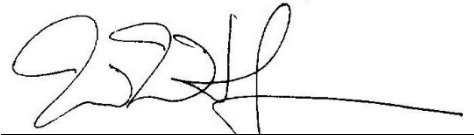
Citing to *State v. Self*, 139 Idaho 718 (Ct. App. 2003), the Idaho Supreme Court noted the trial court must first consider and determine whether the proffered evidence is relevant under I.R.E. 401. *Id.* at 241. The second step is to determine whether the probative value of the proffered evidence is “substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” I.R.E. 403, *Id.* Noting the “*Larsen* Court was concerned that a defendant will attempt to admit evidence where the sole purpose is to infer that an individual other than the accused committed the crime,” the Idaho Supreme Court stated:

If the defendant proffers evidence which merely tends to mislead the jury that another person committed the crime, or the evidence is not relevant because it does not tend to make the defendant’s involvement more probable or less probable, then it is within the trial court’s discretion to find the evidence inadmissible. Mere inferences that another person *could* have committed the crime will most likely not be relevant, and if relevant will still be subject to the limitation provisions of I.R.E. 403. [*Id.*]

In this case, during the course of the investigation, literally thousands of tips regarding possible perpetrators were received by law enforcement. With the exception of information regarding the Defendant, none of these tips were substantiated. The State submits that any attempt by the Defendant to offer or argue an alternative perpetrator theory without evidence specifically connecting person(s) other than the Defendant to the homicides would do nothing more than mislead and confuse the jury and would also result in undue delay, waste of time, would be a needless presentation of cumulative evidence, and unfairly prejudice the State. Under the Idaho Supreme Court’s ruling in *Meister*, this should be prohibited.

The State respectfully submits that the Defendant should be precluded from offering or arguing alternative perpetrator evidence without first meeting the relevance and admissibility thresholds of I.R.E. 401, 402 and 403, as analyzed by the *Meister* court.

RESPECTFULLY SUBMITTED this 21st day of February 2025.

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

William W. Thompson, Jr.
Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the STATE'S MOTION IN LIMINE RE:
ALTERNATIVE PERPETRATOR EVIDENCE were served on the following in the manner
indicated below:

Anne Taylor
Attorney at Law
PO Box 2347
Coeur D Alene, ID 83816

- Mailed
- E-filed & Served / E-mailed
- Faxed
- Hand Delivered

Dated this 21st day of February 2025.