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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 NUMBER CR01-24-31665

MOTION IN LIMINE #3

RE: USE OF THE TERM MURDER

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and hereby moves the Court for an Order prohibiting use of the words “murder,” “murderer,” “murdered,” “murder weapon,” and similar forms of the word “murder” applied to Bryan Kohberger during the trial of this matter. This motion is not seeking a prohibition on the use of the word “murder” or its varying forms in the charging document or jury instructions.

This motion is made pursuant to I.C.R. 47, I.R.E. 403, 701, 702, the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 13 of the Idaho Constitution.

Whether the killings at issue are murder as allegedly committed by Bryan Kohberger, or by an alternate suspect or someone still unknown is the ultimate issue. Each side will present this very argument to the jury. It is a matter of fact to be found by the jury after the Court instructs the jury with the applicable instructions. To label Mr. Kohberger as a “murderer,” the alleged weapon consistent with an empty sheath as a “murder weapon”, or to assert that any of the four decedents was “murdered” by Mr. Kohberger denies his right to a fair trial and the right to be presumed innocent.

I.R.E. 403 allows exclusion of evidence that is unfairly prejudicial to a party. By analogy the same principle should apply to terminology that is unfairly prejudicial. The use of the word “murder” during the course of the trial is unfairly prejudicial in that it asserts a factual and legal conclusion of the evidence – a determination which is left to the jury.

The prosecutor, law enforcement, and medical examiner are viewed with authority and respect by most jurors. When persons with authority speak, lay people tend to believe their statements and conclusions. If the prosecution and/or its witnesses use these words in its case-in-chief, it would improperly imply to the jury that it is the prosecutor or witnesses’ belief or opinion that the defendant is guilty of “murder.” This is improper opinion testimony under I.R.E. 701-704. It is improper for the prosecution to express a personal belief unless the comment is based solely on inference “[E]xpert testimony that concerns conclusions or opinions that the average juror is qualified to draw from the facts utilizing the juror’s common sense and normal experience is inadmissible.” *State v. Ellington*, 151 Idaho 53, 66, 253 P.3d 727, 740 (2011).

Mr. Kohberger requests an order prohibiting the lawyers and witnesses from using the words “murder,” “murderer,” “murdered,” “murder weapon” as well as derivative forms of the word “murder”.

DATED this 24 day of February, 2025.



BY:

ANNE C. TAYLOR
ANNE TAYLOR LAW, PLLC

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 24 day of February, 2025 addressed to:

Latah County Prosecuting Attorney –via Email: paservice@latahcountyid.gov

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