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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 #8**

**RE: UNNOTICED 404b EVIDENCE**

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and pursuant to the Idaho Rules of Evidence, moves this Honorable Court for an *Order in Limine* excluding any 404(b) evidence. As of the date of this filing, the state has only noticed a prior traffic stop as 404(b) evidence. Mr. Kohberger moves that any other 404(b) evidence be precluded from presentation at trial. Because deadlines for filing motions in *limine* are not staggered, Mr. Kohberger is forced to guess what the state may seek to introduce. Rather than guess, he seeks to

exclude all unnoticed 404(b) evidence. Upon the state's timely filing of 404(b) evidence, Mr. Kohberger will object as appropriate. Additional support for this motion includes the United States Constitution Amendments V, VI, and XIV and the Idaho Constitution Article I Sections 8 and 13.

### ARGUMENT

Idaho Rule of Evidence 404(b) states: “[e]vidence of a crime, wrong, or other act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with character.” I.R.E. 404(b)(1). “Permitted uses” of “other crimes, wrongs, or acts” is when the evidence is being used for “another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” I.R.E. 404(b)(2). “The prejudicial effect of [ a crime, wrong, or act] is that it induces the jury to believe the accused is more likely to have committed the crime on trial because he is a man of criminal character.” *State v. Grist*, 147 Idaho 49, 52, 205 P.3d 1185, 1188 (2009) (citing *State v. Wrenn*, 99 Idaho 506, 510, 584 P.2d 1231, 1235 (1978)). “Character evidence, therefore, takes the jury away from their primary consideration of the guilt or innocence of the particular crime on trial.” *Id.* “The drafters of I.R.E. 404(b) were careful to guard against the admission of evidence that would unduly prejudice the defendant, while still allowing the prosecution to present probative evidence.” *Id.*

### CONCLUSION

For the reasons addressed above, Mr. Kohberger respectfully requests this Court grant his Motion in *Limine* to exclude any reference to 404(b) evidence that is unnoticed.

DATED this 24 day of February, 2025.

BY:



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ELISA G. MASSOTH  
ELISA G. MASSOTH, PLLC ATTORNEY

## 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](mailto:paservice@latahcountyid.gov)

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