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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

**DEFENDANT'S OBJECTION TO
STATE'S MOTION IN LIMINE**

**RE: ALTERNATIVE PERPETRATOR
EVIDENCE**

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and hereby objects to the State's Motion in Limine Re: Alternative Perpetrator Evidence, filed on February 21, 2025. More specifically, the State seeks an order prohibiting Mr. Kohberger from "offering 'alternative perpetrator' evidence or argument without first satisfying the Court that any such

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evidence is relevant and admissible pursuant to I.R.E. 401,402, or 403.” For the reasons set forth below, Mr. Kohberger objects to this motion.

ARGUMENT

Mr. Kohberger has a right to present a full and complete defense for the crimes of which he is accused. *State v. Meister*, 148 Idaho 236, 239-40, 220 P.3d 1055, 1058-59 (2009). This right is protected by the Sixth Amendment of the United States Constitution and made applicable to the states through the due process clause of the Fourteenth Amendment. *Id.*, 148 Idaho at 239, 220 P.3d at 1058 (citations omitted). When presenting a full and complete defense of the crimes charged, Mr. Kohberger should be given an opportunity to proffer evidence of an alternative perpetrator so that such evidence can be properly evaluated for relevancy and admissibility under Idaho Rules of Evidence. *Id.*, 148 Idaho at 239, 220 P.3d at 1058 (citations omitted). The timing of when an offer of proof is made is not clear. In *Meister*, the Court of Appeals explained that the offer of proof was made during trial. See *State v. Meister*, 2007 WL 2821981, *4 (Ct. App. 2007). Two unpublished opinions provide guidance that the typical timing of an offer of proof is during trial. See *State v. Meister*, 2007 WL 2821981, *4 (Ct. App. 2007)(offer of proof during trial); *State v. Buck*, 2023 WL 6133215, *22 (Ct. App. 2023). In *Buck*, the State filed a motion in limine to exclude alternative perpetrator evidence but the court ultimately reserved ruling on the motion and ordered the defense to provide an offer of proof before it engaged in questioning on the issue.

The State argues that literally thousands of tips regarding possible perpetrators were received by law enforcement during the course of the investigation and that none of these tips were substantiated with exception of information regarding the Defendant. The State is correct that over 45,000 tips have been disclosed and tips continue to come in daily. This case is full of

alternative perpetrators.¹ The State has chosen to focus on Mr. Kohberger, at its own peril. Mr. Kohberger will produce offers of proof related to many alternate perpetrators in this case that will meet Idaho Rules of Evidence 401, 402, and 403. Many alternate perpetrators can be connected to the crime.

CONCLUSION

The Court should deny the State's Motion in Limine Re: Alternative Perpetrator Evidence. Alternatively, the Court should reserve ruling on this motion until Mr. Kohberger provides an offer of proof that can be evaluated under the standard for admissibility set out in *State v. Meister*, 148 Idaho 236, 220 P.3d 1055 (2009).

DATED this 17th day of March, 2025.



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 17 day of March, 2025, addressed to:

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

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¹ See Sealed Memorandum in Support of Motion to Suppress Re: Genetic Information, p. 3 (11/18/2024).