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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: ADMISSIBILITY OF  
DEMONSTRATIVE EXHIBITS AND  
MEMORANDUM IN SUPPORT**

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and hereby objects to the State's Motion in Limine RE: Admissibility of Demonstrative Exhibits and Memorandum in Support to allow a 3-D demonstrative aid.

**DEFENDANT'S OBJECTION TO STATE'S MOTION IN LIMINE RE:  
ADMISSIBILITY OF DEMONSTRATIVE EXHIBITS AND  
MEMORANDUM IN SUPPORT**

The demonstrative aid the State seeks permission to use is a “not to scale” replica of the house where the killings took place. This is not a demonstrative aid like a graph or chart or enlarged photograph – this is a model built from examination and analysis of the house.

Upon learning that the State intended to have a model of the crime scene built for demonstrative purposes in October 2023, the defense requested specific discovery. (Objection to State’s MIL: Demonstrative Exhibit 1 and 1a, 11<sup>th</sup> Supplemental Discovery Request, attached exhibit J, #241; and State’s Response, attached exhibit 1 #241.) None had ever been produced other than a single police report discussing the intent to build a model, until over 226 GB of discovery was delivered to Mr. Kohberger on March 14, 2025.

After the discovery deadline, the State sought a stipulation to this exhibit. Mr. Kohberger declined. (Objection to State’s MIL: Demonstrative Exhibit 2, email chain.) The State disclosed a drawing, alleging it is a drawing of a model that will be built. It was only three days ago that the disclosed who is building the model, the credentials of those who are building the model, and the data underlying the model. The State’s expert disclosures did not discuss the use of a model.

In order to ensure this is a fair and accurate model, the defense would need to hire its own expert to evaluate the model once it is done, conduct independent investigation into the underlying data, potentially develop more or different evidence, and then litigate the admissibility and specifics of the model based on that investigation. The State has delayed this for so long, despite specific requests for discovery and knowledge of the upcoming trial date, that it prejudices Mr. Kohberger’s ability to investigate and challenge the model and it should therefore be excluded.

On Friday March 14, 2025, the State produced a discovery file regarding this “demonstrative aid”. (Objection to State’s MIL: Demonstrative Aid, Exhibit 3.) The discovery file is massive and contains materials that require an expert to open and read them; these are the 3-D scans Mr. Kohberger asked for over a year ago. The new discovery contains documents that

indicate the State has been working on this since late 2023<sup>1</sup>. The State's extremely late disclosure, of what Mr. Kohberger requested at the time of learning about the State's plan, violates Mr. Kohberger's Right to a fair trial, effective assistance of counsel and due process. This discovery is more than 6 months past the State's discovery deadline, 3 months past expert disclosures and a little over 4 months until trial. The State must not be allowed to violate Mr. Kohberger's rights, ignore Idaho Criminal Rule 16 and disregard this Court's scheduling order.

The State cites the Court to *State v. Weigle* 165 Idaho 482, 447 P.3d 930 (2019) in support of its request to allow the demonstrative aid. *Weigle* is about whether the jury should have a demonstrative aid during deliberations. It is noteworthy that the demonstrative aid in that case was a PowerPoint presentation to illustrate expert testimony and used by that expert during testimony and further subject to cross-examination and the adversarial process.

The State cites the Court to *Masters v. Dewey*, 109 Idaho 576, 709 P.2d 149 (1985) in support of its request to allow the demonstrative aid to be used with witnesses to illustrate testimony. That case was a civil damages case. The demonstrative aid was a similar vehicle seat (same model vehicle, different year) and the purpose was for the jury to understand a material issue in the case – how the injury was sustained. The Court of Appeals stated that “Exhibits are inadmissible for demonstrative purposes ‘when they do not illustrate or make clearer some issues in the case – that is where they are irrelevant or immaterial – or where they are of such a character as to prejudice the jury.’” *Id.* (citing *Workman v. McIntyre construction Co.* 617 P.2d 1281, 1291 (Mont. 1980).

The State properly acknowledges the requested demonstrative evidence must be subject to Idaho Rule of Evidence 403. First, relevance must be established.

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<sup>1</sup> The extent of the disclosure has not been fully investigated by Mr. Kohberger due to the late disclosure.

Idaho Rule of Evidence 401 states that relevant evidence is evidence that has a tendency to make the existence of a fact of consequence to the determination of the action more probable or less probable than it would be without the evidence. The State outlines its purpose of depicting where people and objects were located. The description is general and the variety of potential witnesses that this aid is sought for is not defined. Relevance is further complicated by the State's claim that this is not a to scale model; however, it is built from measurements taken by special agents. Idaho Rule of Evidence 403 requires a balancing test of the probative versus prejudicial value of the requested evidence. The State does not grapple with that issue.

The demonstrative aid – a model house constructed in an undisclosed way is not relevant and even if it was relevant, it is unfairly prejudicial, cumulative, confusing and is misleading to the jury. The State has thousands of photographs of the house, 3-D imagery, and multiple witnesses that have been inside the house. Evidence produced in that manner allow a jury to evaluate it using their own common sense and experience. They are seeing something they are familiar with, or in the case of 3-D modeling – the jury can view the depiction and hear testimony and cross examination of that depiction. That is not the case if the State utilizes a model that is not to scale. Placement of walls, doors and other structural objects may or may not be accurate. Lines of sight may or may not be accurate. There is real danger of the jury relying on a depiction that is not factually true.

Nothing in the law the State relies on supports disregarding Mr. Kohberger's rights, discovery rules and the Court's Order. Nothing in the March 14, 2025 discovery disclosure provides good cause for delay, for example, the photo log from the pictures taken is dated in November, 2023. They State had a duty to disclose discovery and did not. Mr. Kohberger will not have an opportunity to examine the model and its supporting data. Instead, the State produced

no 3-D imaging, no measurements, no photographs, no information until well after deadlines passed.

Mr. Kohberger does not have the opportunity to confront this evidence through prepared counsel and informed experts. Allowing such evidence violates Mr. Kohberger's rights guaranteed under the United States Constitution, 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendments and the Idaho Constitution Article 1 Section 13. As such, he respectfully requests the Court deny the State's motion.

DATED this 17 day of March, 2025.



BY:

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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 17 day of March, 2025 addressed to:

Latah County Prosecuting Attorney – via Email: [paservice@latahcountyid.gov](mailto:paservice@latahcountyid.gov)

Elisa Massoth – via Email: [legalassistant@kmrs.net](mailto:legalassistant@kmrs.net)

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