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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 RESPONSE AND
OBJECTION TO STATE'S MOTION IN
LIMINE**

**RE: IMMEDIATE FAMILY MEMBERS
IN COURTROOM**

COMES NOW, Bryan C. Kohberger, by and through his attorneys of record, and hereby responds to and objects to the State's Motion in Limine Re: Immediate Family Members in Courtroom, filed on February 24, 2025. Specifically, the State asks the Court for guidance on which immediate family members are allowed in the Courtroom for the entirety of the trial. Mr.

Kohberger objects to this request on the basis that it is too narrow in scope and that the Court's guidance should be broadened to address related topics discussed below.

ARGUMENT

First, the individuals identified by the State as family members of the victims include mothers, fathers, a stepmother, a stepfather, brothers, sisters, a stepsister, and grandmothers. (State's Sealed Exhibit S-1). Acknowledging that the term "immediate families" is undefined in I.C. §19-5306(3), the State's motion asks the court for guidance on what "immediate families" means. (State's Motion in Limine Re: Immediate Family Members in Courtroom, p. 2). The term "immediate family" is susceptible to varying interpretations. *State v. McNeil*, 158 Idaho 280, 284, 346 P.3d 297, 301 (Ct. App. 2014). Idaho case law has looked to Idaho Statutes and Black's Law Dictionary¹ to determine what an intermediate family is. As noted in *McNeil*, the Idaho Code defines "immediate family" in at least four places.² *Id.*, 158 Idaho at 285, 346 P.3d at 302. Black's Law Dictionary and relevant definitions in the Idaho Code clearly include parents and siblings as immediate family members. Whether stepfather, stepmother, stepsister, or grandmother are included within the definition of immediate family is less clear. For the purpose of giving victim impact statements, relatives related by marriage, such as in-laws, are immediate family members. *State v. Payne*, 146 Idaho 548, 575, 199 P.3d 123, 150 (2008). Using the logic set out in *Payne*, stepsiblings (siblings related by marriage) of the victim have been recognized

¹ Black's Law Dictionary defines "immediate family member" as "1. A person's parents, spouse, children, and siblings. 2. A person's parents, spouse, children, and siblings, as well as those of the person's spouse". Black's Law Dictionary (8th Ed. 2004). (State's Motion in Limine Re: Immediate Family Members in Courtroom, p. 2). More recently, Black's Law Dictionary noted in its definition of "immediate family members" that "[s]tepchildren and adopted children are usu[ally] immediate family members." Black's Law Dictionary 721 (10th ed.2014) as cited by *State v. Abdulla*, 158 Idaho 386, 465-6, 348 P.3d 1, 80-1 (2014).

² For the purposes of guardian ad litem statutes, I.C. § 15-5-315 states that "immediate family" includes but is not limited to "spouse, parents, siblings, children and next of kin." For prison furlough purposes, I.C. § 20-101C defines "immediate family as a mother or father, brothers, or sisters, of the whole or halfblood, a wife or husband, or lawful issue." For certain insurance fraud regulations, I.C. § 41-1325 establishes that "the term 'immediate family member' means a parent, mother-in-law, father-in-law, husband, wife, sister, brother, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or a son or daughter." For the purpose of farm labor contractor licenses, I.C. § 44-1601 states that "'immediate family member' means the spouse, children, brother, sister, mother, or father."

as immediate family members. *State v. Abdulla*, 158 Idaho 386, 465-6, 348 P.3d 1, 80-1 (2014). Following this logic, it is likely that stepparents are relatives related by marriage that would be included in the immediate family. In the recent Vallow and Daybell trials held in Ada County, grandparents of the victims remained in the Courtroom throughout trial. Statutory definitions, dictionary definitions, caselaw and local practice combined would allow all the family members identified by the State to be considered part of the “immediate family.” Thus, Mr. Kohberger stipulates to the individuals listed on Exhibit S-1 as being considered “immediate family.”

Second, Mr. Kohberger respectfully requests that the Court’s guidance outline proper Courtroom decorum which discourages spectators from wearing T-shirts (*e.g.* T-shirts with a picture of the victim on them and the words “In Memory of” or T-shirts about shooting Mr. Kohberger or about the passage of Idaho’s firing squad legislation), buttons or other apparel with words, photos or artwork that can be observed by the jurors since such conduct poses a coercive threat to the jury’s ability to remain impartial. In court proceedings in Latah County a family member of victim K.G. wore a t-shirt to court related to the passage of Idaho’s firing squad legislation. https://ground.news/article/kaylee-goncalves-relative-wears-pro-firing-squad-shirt-at-bryan-kohbergers-hearing_d08ab8 (Last visited 3/13/25). The t-shirt read “Justice for K [sic] Idaho House Bill 186 Shots Fired.” This must not be allowed in any future courtroom proceedings. “Trials must be free from a coercive or intimidating atmosphere.” *Carey v. Musladin*, 549 U.S. 70,80 (2006) (Kennedy, J ., concurring); *Moore v. Dempsey*, 261 U.S. 86 (1923); *Frank v. Magnum*, 237 U.S. 309 (1915). Caselaw from other states have noted that “it would seem that the wearing of such buttons or t-shirts is not a good idea because of the possibility of prejudice which might result.” *State v. Speed*, 961 P.2d 13, 30 (Kan.1998). In Nebraska, the trial court instructed deputies to exclude persons wearing memorial T-shirts and buttons. *State v. Haynie*, 9 N.W. 3d 915, 920-21 (Nebr. 2024).

Third, Mr. Kohberger requests the Court's guidance to include his family members presence in the courtroom. His immediate family consists of his mother, father and two sisters. Mr. Kohberger's Sixth Amendment right to a public trial would be violated if his family is excluded. The values of a public trial are: "(1) to ensure a fair trial, (2) to remind the prosecutor and judge of their responsibility to the accused and the importance of their functions, (3) to encourage witnesses to come forward, and (4) to discourage perjury." *U.S. v. Rivera*, 682 F.3d 1223, 1228 (9th Cir. 2012) (noting also that the right to a public trial also extends to sentencing).

CONCLUSION

The scope of the Court's guidance as requested by the State's Motion in Limine Re: Immediate Family Members should be broadened to include: (1) those members stipulated to in State's Exhibit S-1 (2) Outlining Courtroom decorum of the spectators in the Courtroom during the entirety of courtroom proceedings including the trial to prevent an intimidating or coercive atmosphere and (3) inclusion of Mr. Kohberger's family.

DATED this 17th day of March 2025.



ELISA G. MASSOTH
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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:

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