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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,

Case No. CR01-24-31665

STATE'S REPLY TO  
DEFENDANT'S OBJECTION TO  
STATE'S NOTICE OF INTENT  
TO USE I.R.E. 404(b) EVIDENCE

V.

BRYAN C. KOHBERGER,  
Defendant.

COMES NOW the State of Idaho, by and through the Latah County Prosecuting Attorney, and submits the following reply to the March 17, 2025 "Defendant's Objection to State's Notice of Intent to Use I.R.E. 404(b) Evidence."

The State has given notice of its intent to present evidence of an August 21, 2022, contact between Latah County Sheriff's Deputy Darren Duke and the Defendant. This contact occurred as the result of Deputy Duke conducting a traffic stop on a vehicle that was exceeding the posted

speed limit. The driver of the vehicle was the Defendant, Bryan Kohberger. During the course of this contact, Mr. Kohberger provided the following information to Deputy Duke: his name, date of birth, address (1630 NE Valley Rd., Apt. G201, Pullman, Washington 99163) and his telephone number. Deputy Duke also identified the Defendant's Hyundai Elantra and license and registration. Although Mr. Kohberger was stopped for exceeding the posted speed limit, Deputy Duke elected to only issue an infraction citation for failing to use his seat belt.

The purpose of the State offering this evidence is to prove Mr. Kohberger's admissions and acknowledgments as to his identity, address, phone number and vehicle. The State is not asserting that the reason for the stop (exceeding the posted speed limit) nor the Defendant's failure to use his seat belt are "crimes" or "wrongs" that prove his identity. Rather, the State is only offering the Defendant's admissions and acknowledgments of his identity, address, phone number and vehicle ownership.

In his objection to this evidence, the Defendant conflates the use of 404(b) evidence to infer identity based on prior conduct similar to the charged offense with direct evidence of Defendant's identity. A traffic stop for speeding and a citation for failing to use his seat belt have no connection to the offenses charged in this case. (Burglary and Murder). The cases cited by the Defendant all deal with efforts by the prosecution to offer evidence of prior criminal acts for the purpose of proving the Defendant committed the act(s) charged in the instant case. As such, those cases are inapplicable to the purpose of the State's offer of this evidence.

The evidence the State wishes to offer related to the contact between Deputy Duke and the Defendant may actually fall outside the scope of Rule 404 because, as stated above, the State is not offering evidence of the Defendant's acts (exceeding the speed limit and driving without a seat belt) to prove some component of the pending murder charges. Rather, the State is merely

offering evidence of the Defendant's admissions as to his identity, contact information and vehicle ownership.

The Defendant, in his objection, also conflates "character evidence" with evidence of the Defendant's identity. Again, the State does not intend to offer evidence that that Defendant may have been exceeding the speed limit and/or driving without a seat belt to show some sort of "character" trait of the Defendant.

As to the balancing of probative versus prejudicial effect under I.R.E. 401, 402 and 403:

1. The evidence of the Defendant's identity, residence and telephone number and vehicle ownership are directly relevant to connecting the Defendant to the crimes in this case.

2. The probative value of the Defendant's identity, location of his residence, telephone number (upon which substantial cell phone and other digital evidence connects the Defendant at least circumstantially to the crimes in this case), and vehicle (matching the description of the vehicle seen at and near the scene of the homicides and fleeing at a high rate of speed immediately following the time of the homicides) is substantial.

3. By contrast, even if the jury hears of the reason for the stop (speeding) and the infraction citation (failing to use a seat belt), there is minimal prejudice at best and certainly nothing rising to the I.R.E. 403 standard of "substantially" outweighing the probative value of the evidence of the Defendant's identity, residence, telephone number and vehicle. The Defendant's assertion beginning at page 4 of his objection that "if the video and corresponding citation for the traffic violation on August 21, 2022, is presented to the jury, the jury might well believe that Mr. Kohberger is guilty of the crimes charged (homicide murder and burglary) because he is a person prone to wrongful behavior" is simply preposterous.

Based on the above, the State submits that the Defendant's admissions of his identity, address, telephone number and vehicle, are admissible at trial with a clarifying instruction such as that provided by the State when this evidence was presented to the Grand Jury. (see, also, I.C.J.I 303 regarding not considering evidence of other acts to prove the Defendant's character or propensity to commit crimes.)

If the Court determines that the reason for the traffic stop and/or the issuance of the infraction seat belt citation are improperly prejudicial, then the Defendant's admissions to Deputy Duke should still be admitted without reference specifically to the reason for the stop or the issuance of an infraction citation. This would, however, likely create more confusion for the jury than to simply give them the entire picture with an appropriate instruction that the evidence is not offered for the purpose of showing that the Defendant was not complying with traffic laws; rather, the evidence should only be considered regarding the Defendant's identity, residence address, telephone number and ownership of a 2015 Hyundai Elantra sedan.

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of March 2025.

A handwritten signature in black ink, appearing to read 'W. W. Thompson, Jr.', written over a horizontal line.

William W. Thompson, Jr.  
Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the STATE'S REPLY TO DEFENDANT'S OBJECTION TO STATE'S NOTICE OF INTENT TO USE I.R.E. 404(b) EVIDENCE were served on the following in the manner indicated below:

Anne Taylor  
Attorney at Law  
PO Box 2347  
Coeur D Alene, ID 83816

- Mailed
- E-filed & Served / E-mailed
- Faxed
- Hand Delivered

Dated this 21<sup>st</sup> day of March 2025.

  
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