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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 No. CR01-24-31665

STATE'S REPLY TO
DEFENDANT'S RESPONSE TO
MOTION IN LIMINE

RE: IMPROPER DEATH
PENALTY COMMENTS

COMES NOW the State of Idaho, by and through the Latah County Prosecuting Attorney, and respectfully replies to the "Defendant's Response to the State's Motion in Limine Re: Improper Death Penalty Comments" filed on March 17, 2025.

The State brought this motion based on defense counsels' repeated references to the "State attempting to kill" their client which only serve to improperly incite the emotions of the jury. The State has a statutory right (I.C. 18-4004A), which it has chosen to invoke, to seek the death penalty

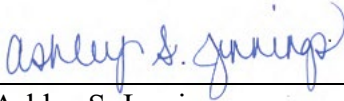
STATE'S REPLY TO DEFENDANT'S RESPONSE TO MOTION IN LIMINE
RE: IMPROPER DEATH PENALTY COMMENTS

in this case. Invoking this right does not open the door to the use of inflammatory language in front of a jury. The State seeks an Order prohibiting defense counsel from stating “The State has decided to attempt to kill [client/Mr. Kohberger]” or “[The State is] trying to kill one of us” (phrases that have been used in previous hearings as cited in the State’s Motion), or similar phrases.

The State relied on Idaho Criminal Jury Instruction (I.C.J.I.) 700C in its motion to illustrate that such language is inappropriate during the guilt phase when a juror is instructed not to “concern yourself with the subject of penalty or punishment.” I.C.J.I. 700C. I.C.J.I. 700B instructs the jurors that this is a capital case and describes the process for sentencing if the Defendant is convicted of murder. The State understands the jurors will be advised this is a capital case (and it is in no way suggesting that this fact be withheld from the jurors); but this fact should not permit defense counsel to characterize this statutory right in any manner they want (i.e. using inflammatory language with the purpose of inciting an emotional reaction from the jurors).

For the above reasons, the State request the Court prohibit defense counsel from making any reference to the State “attempting to kill” the Defendant (or similar phrases).

RESPECTFULLY SUBMITTED this 21st day of March 2025.



Ashley S. Jennings
Senior Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the STATE'S REPLY TO DEFENDANT'S RESPONSE TO MOTION IN LIMINE RE: IMPROPER DEATH PENALTY COMMENTS 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 21st day of March 2025.