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IN THE DISTRICT COURT OF THE FOURTH 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 TRIAL BRIEF

TO: THE DEFENDANT, BRYAN CHRISTOPHER KOHBERGER,
AND COUNSEL

PLEASE TAKE NOTICE that the undersigned, pursuant to the Court's Scheduling Order in this case, submits this Trial Brief in anticipation of trial, which begins July 21, 2025, with jury selection.

INTRODUCTION

In the early morning hours on November 13, 2022, Defendant, Bryan C. Kohberger, a Ph.D. student in Criminology at Washington State University (WSU), drove his car approximately ten miles from his apartment complex in Pullman, Washington, to the campus of the University of Idaho (UI) in Moscow, Idaho. Defendant circled a house near the UI campus at 1122 King Road several times before he parked his car, entered that house, and used a military style knife to stab to death the following UI students: Ethan Chapin, Kaylee Goncalves, Xana Kernodle, and Madison Mogen. For this, Defendant is charged with burglary and four counts of first-degree murder. The State is seeking the death penalty if Defendant is convicted of any of the first-degree murder counts.

The trial in this case will tell the story of Defendant's crimes and the investigation that led to his arrest. The evidence will prove to the jury not only that Defendant is guilty beyond a reasonable doubt of all crimes charged in the Indictment, but also that, given all relevant facts and circumstances, Defendant's crimes warrant the death penalty.

THE CHARGES AND DEATH PENALTY

The Grand Jury returned an Indictment that charges Defendant with the following crimes:

- Count I: burglary in violation of Idaho Code § 18-1401 and 1403 for entering 1122 King Road with the intent to commit murder;
- Count II: first degree murder in violation of Idaho Code § 18-4001–4004 for the killing of Madison Mogen;
- Count III: first degree murder in violation of Idaho Code § 18-4001–4004 for the killing of Kaylee Goncalves;
- Count IV: first degree murder in violation of Idaho Code § 18-4001–4004 for the killing of Xana Kernodle; and

- Count V: first degree murder in violation of Idaho Code § 18-4001–4004 for the killing of Ethan Chapin.

The elements of these crimes are well-established under Idaho law and are presented in the State’s Requested Jury Instructions.

The State has provided notice of intent to seek the death penalty based on four aggravating circumstances under Idaho Code § 19-2515(9):

- at the time the murder was committed Defendant also committed another murder (§ 19-2515(9)(b)); and/or
- the murder was especially heinous, atrocious or cruel, manifesting exceptional depravity (§ 19-2515(9)(e)); and/or
- by the murder, or circumstances surrounding its commission, Defendant exhibited utter disregard for human life (§ 19-2515(9)(f)); and/or
- Defendant, by his conduct, whether such conduct was before, during or after the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society (§ 19-2515(9)(i)).

The State’s Requested Jury Instructions also cover the penalty phase.

THE STATE’S CASE-IN-CHIEF

I. Opening Statement

As detailed below, the State’s case-in-chief will involve presenting significant amounts of evidence over the course of many weeks, if not months. During opening statements, the State intends to show the jury certain selected exhibits and certain jury instructions to facilitate the State’s overview of the evidence.

Pursuant to the Court’s Redacted Order Governing Further Criminal Proceedings and Notice of Trial Setting dated October 9, 2024 (hereinafter, the “Scheduling Order”), the parties are required to file a log of objections to exhibits by May 14, 2025. Accordingly, the State should

know whether Defendant objects to the exhibits it intends to show during its opening statement and will alert the Court—through motions *in limine* or other mechanism preferred by the Court—of potential disputes so that the Court can have the opportunity to resolve them prior to trial.

II. Witness Testimony

The State is currently finalizing its Witness List and will be as inclusive as possible to ensure that it is prepared to establish proper foundation for all testimony and exhibits. The State may not need to call all of the witnesses on the forthcoming Witness List as it learns of Defendant’s evidentiary objections and the Court has the opportunity to resolve any disputes.

A. Categories of Witnesses

The State’s witnesses generally can be organized into the following categories:

1. Roommates, Friends, Acquaintances, and Contacts of Murder Victims

The State intends to call members of the UI and Moscow community who knew or had contact with the murder victims at relevant times, including on the night of the murders. Such witnesses will include the victims’ surviving roommates—who are victims of Defendant’s burglary offense—and friends who responded to the house around noon on November 13, 2022. The State will also call other individuals who had contact with the victims on the preceding days up to the night of the murders to establish the timeline of events.

2. Law Enforcement Officers and Investigators

The State will call law enforcement officers who first responded to 1122 King Road. The State will also call investigators who were responsible for and participated in the extensive investigation that led to the charges in this case. These witnesses will include (i) officers and detectives with the Moscow Police Department (MPD), (ii) investigators with the Idaho State

Police (ISP), (iii) agents with the Federal Bureau of Investigation (FBI), and (iv) law enforcement officers who had contact with Defendant at relevant times, including upon his arrest in Pennsylvania.

3. Forensic Analysts/Experts

The State will call law enforcement specialists who, collectively, conducted the forensic investigations in this case. These include those who possess specialized knowledge, skills, experience, training, and education in the following fields: (i) electronic device review and data extraction, (ii) cellular data analytics, (iii) DNA testing and analysis, and (iv) financial records forensics. These witnesses are primarily employed by MPD, ISP, or the FBI. To the extent necessary, the State previously disclosed these witnesses through its expert witness disclosures.

4. Family Members of Defendant

The State intends to call family members of Defendant for the purpose of establishing certain facts before Defendant moved to Pullman in late summer 2022, as well as facts about Defendant's conduct when he returned home to Pennsylvania in December 2022. The nature of this testimony has been disclosed through reports of interviews.

5. Foundational Witnesses

The State will be prepared to call all witnesses necessary to authenticate the exhibits it will introduce at trial. This will include calling witnesses who can attest to the chain of custody for physical exhibits and those who can establish that certain documents are business records (and therefore not subject to exclusion as hearsay). Depending on any objections that Defendant makes to the State's exhibits, the State may raise authentication and/or foundation disputes with the Court in an attempt to streamline the number of necessary foundational witnesses.

B. Considerations and Requests Regarding Individual Witnesses

1. Privacy for Testifying Victim-Witnesses

The State will call two roommates of the murder victims who were present in the 1122 King Road house during the murders. These witnesses were nineteen years old at the time of the murders. They have been understandably traumatized by what transpired and are victims of the burglary offense. They have received death threats, have been the subject of conspiracy theories, and have been harassed online in ways that continue to affect their privacy interests and well-being. The State is concerned that, if video of these witnesses' testimony is broadcast on the livestream, individuals outside of court could screen capture images of them and circulate them on the internet in harmful ways. Accordingly, the State requests that the Court pause the video livestream (but not the audio, if possible) during the testimony of these victim-witnesses to protect their privacy to the extent possible.

The Court should grant the State's request pursuant to Idaho Court Administrative Rule 32 and Rule 611(a) of the Idaho Rules of Evidence. The former grants courts the discretion to adopt trial procedures that provide public access to court proceedings while "minimiz[ing] the risk of injury to individuals" and "protect[ing] individual privacy rights and interests." I.C.A.R. 32(a)(5)-(6); *see State v. Gurney*, 272 P.3d 474, 476 (Idaho 2012). Rule 611(a) provides:

The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

- (1) make those procedures effective for determining the truth;
- (2) avoid wasting time; and
- (3) ***protect witnesses from harassment or undue embarrassment.***

I.R.E. 611(a) (emphasis added).

As an initial matter, the State’s request does not prevent public access to the witnesses’ testimony. The public will be able to hear their testimony, and members of the public who are present in the courtroom will be able to see the witnesses as they testify. This is consistent with the vast majority of trials in the State of Idaho, which are not livestreamed.

Effectively, the State’s request simply prevents the images of the witnesses from being re-recorded and disseminated in potentially harmful ways. The witnesses’ voices and the content of their testimony will still be available on the livestream. As such, the State’s request presents “the least restrictive exception from disclosure” and is consistent with the policies underlying Rule 32.¹ *See* I.C.A.R. 32(i)(3).

2. Support for Victim-Witnesses, Victims, and Young Witnesses

Several witnesses—namely, the surviving roommates and other friends of the victims—are young people whose lives have been upended by the trauma of the murders and the aftermath caused by the intense media attention on this case. Some are represented by counsel and most have family members who intend to attend the trial to support them when they testify. Anticipating that courtroom seating may be scarce, the State asks that the Court allow for counsel and family members of these witnesses to be seated in the courtroom when the witnesses testify. The State will provide advance notice to the Court and its staff.

3. Lead Case Investigators at Counsel Table

The State is designating Moscow Police Department (MPD) Corporal Brett Payne and ISP Sergeant Darren Gilbertson as its advisory witnesses. *See* Idaho R. Evid. 615(a)(2)-(3). Pursuant

¹ As applied to sealing or redacting of “court records,” Rule 32 contemplates a motion and a finding by a court. The State stands ready to make a formal motion if the Court prefers.

to a stipulation, the parties agree that these investigators may be present in the courtroom during all witness testimony. Accordingly, the State intends for these investigators to be present at counsel table to advise the prosecutors and assist in trial logistics.

4. Segmented Testimony by Investigators and Witnesses

The State intends to present the testimony of investigators and other witnesses in segments to assist the State in presenting its chosen narrative of the evidence. This will also assist the jury in understanding the progression of the investigation at issue. Pursuant to Idaho Rule of Evidence 611(a), the Court should allow this procedure to “make the interrogation and presentation [of witnesses] effective for the ascertainment of the truth.” There will be no prejudice to Defendant because each time one of these witnesses testifies, they will be subject to cross examination at that time on the subjects covered in the portion of their testimony just presented. Certain witnesses may also be called out of order to accommodate travel schedules or to allow them to subsequently be present in the courtroom after their testimony.

5. Exchange of Witness Schedule

The parties are discussing a procedure by which the State would notify Defendant as to the anticipated timing and the order of witnesses it intends to call as the State presents its case-in-chief. The State is willing to work with Defendant in this way but will request that the same procedure apply during Defendant’s case.

III. Exhibits to be Introduced

The State is currently finalizing its Exhibit List and will be as inclusive as possible to ensure that it meets its burden of proof as to each element of each charged offense. The State may not need to introduce all exhibits on the forthcoming Exhibit List as it learns of Defendant’s

evidentiary objections and the Court has the opportunity to resolve any disputes.

A. Categories of Exhibits

The State's exhibits generally can be organized into the following categories:

1. Physical Items

The State will introduce physical items obtained throughout the investigation, including (but not limited to) items taken from 1122 King Road, Defendant's apartment in Washington, Defendant's parents' residence in Pennsylvania, and evidence gathered from Defendant upon his arrest. The State also will be prepared to introduce, as necessary, physical samples that were tested by the law enforcement forensic laboratories.

2. Photographs, Maps, and Diagrams

The State will introduce photographs of (1) the initial crime scene and related searches of the crime scene; (2) the victims' autopsies; (3) the search of Defendant's residence in Pullman; (4) the search of Defendant's parents' residence in Pennsylvania; and (5) the search of Defendant's vehicle and person. The State will also introduce maps generated from satellite images to show relevant locations and Defendant's path of travel at relevant times. The State will also introduce diagrams of the 1122 King Road house and the crime scene.

3. Audio and Video Files

The State will introduce the audio of the 911 telephone call that alerted authorities to the crime scene. In addition, the State will introduce (1) body camera footage for law enforcement officers responding to the scene; (2) body camera footage of a traffic stop of Defendant several months prior to night of the murders; (3) surveillance of a white sedan around the area of the crime scene and path of travel following the murders. The State may elect to introduce only

portions of the video files for purposes of efficiency.

4. Background Records

The State will introduce various records to establish evidentiary facts such as identity, residency, education, and other background characteristics for Defendant and victims.

5. Forensic Data

The State will introduce data generated by law enforcement forensic analysts who processed evidence in the case. Such exhibits will be used as foundation for these witnesses' testimony as to their findings.

6. Summary Exhibits

The State will introduce summaries of voluminous evidence, *e.g.*, financial records, phone records, etc. which are admissible under Rule 1006 of the Idaho Rules of Evidence.

B. Considerations and Request Regarding Specific Exhibits

1. In Life Photos of Victims

The State intends to introduce one photograph of each of the deceased victims in this case while they were still living (“in life” photos) to prove the obvious but necessary fact that they were human beings. *See* Idaho Criminal Jury Instructions 701 (Murder Defined). In *State v. Garcia*, 462 P.3d 1125 (Idaho 2019), the Idaho Supreme Court ruled that the trial court did not abuse its discretion by permitting the State to introduce “in life” photographs of a murder victim because the photographs were relevant to prove that the victim was a human being and to establish identity. *Id.* at 1135. It did not matter that the evidence was not disputed—it was still material and relevant. *Id.*

The State is cognizant, however, of the *Garcia* Court’s finding that the prosecution in its

case-in-chief presented testimony that went beyond relevant background information and called for a witness to describe the positive attributes of the victim. *Id.* at 1136-37. During the guilt phase, the State will endeavor to quickly introduce background facts about the deceased victims, including the in life photos without eliciting opinions about them.

2. Physical Items

The State will present various physical items as exhibits, including items from the crime scene, items seized from Defendant, and items that were the basis of forensic examinations (*e.g.*, electronic devices and swabs and samples of biological materials that were tested). To expedite the trial, the State intends to use photographs of these physical items as much as possible, subject to the Court's rulings on any objections from Defendant as to authenticity, chain of custody, or foundation. The State will endeavor to raise such issues with the Court in advance of trial after it receives Defendant's objections to the Exhibit List.

2. Graphic Photographs

The State necessarily will have to show graphic and disturbing images of the crime scene and of the deceased victims' bodies. The State will be selective in doing so and will not present unduly cumulative exhibits. Prior to calling a witness through which graphic photographs will be introduced, the State will provide advance warning to the Court and to the families of the deceased victims so that family members can decide whether to leave the courtroom.

The State also requests that the Court pause the video of the livestream and turn off the public courtroom monitors when graphic exhibits are published to the jury. Again, as with the testimony of the surviving housemates, the State is concerned that individuals could capture these images and distribute them in harmful ways. The Court has the discretion to grant this

request under Idaho Court Administrative Rule 32(a)(5)-(6). The State understands at least one court has adopted a similar procedure in another capital murder case that was livestreamed.

3. Self-Authenticating Records

Many of the State's exhibits are self-authenticating records. Where applicable, the State is gathering records certifications to support the admission of these exhibits pursuant to Rule 902 of the Idaho Rules of Evidence and will disclose these certifications to Defendant. To the extent that Defendant still lodges objections to these exhibits based on authentication or foundation, the State will seek to raise them with the Court prior to trial to avoid using trial time to resolve such disputes.

4. Demonstrative Exhibits

The State anticipates some of its witnesses will use demonstrative exhibits to assist the jury in understanding their testimony and the evidence. The State understands that demonstrative exhibits do not need to be disclosed as part of the Exhibit List but, at the Court's discretion, will be prepared to disclose demonstrative aids before they are used by a witness. Accordingly, the State asks that Defendant also disclose any demonstrative aids prior to their use in cross-examination or by a defense witness.

IV. Foundation for Cross-Examination

At the motions hearing on April 9, 2025, the Court alluded to the need for counsel to have a proper foundation for questions asked on cross-examination. The State will be prepared to object on this basis if Defendant's attorneys ask improper questions and provides the following case law as support:

- *State v. Cofer*, 249 P.2d 197, 202 (Idaho 1952): ruling that the district court did not abuse its discretion in precluding cross-examination questions where "a witness is so

questioned without any basis for the inferences” in counsel’s questions.

- *State v. Buck*, 2023 WL 6133215, at *23-25 (Idaho Ct. App. Sep. 20, 2023) (unpublished) (review granted Oct. 23, 2024): finding, in a murder case, that the trial court did not err in precluding defense counsel from cross-examining witnesses about unsubstantiated theories of an alternative perpetrator (citing *State v. Meister*, 220 P.3d 1055, 1058-59 (2009));
- *State v. Harvey*, 129 P.3d 1276, 1279-80 (Idaho Ct. App. 2006): upholding district court’s decision to preclude cross-examination on a topic without an adequate offer of proof by defendant’s counsel.
- *State v. Nab*, 742 P.2d 423, 429 (Idaho Ct. App. 1987): finding no error where district court sustained objection to question on cross-examination where “[n]othing was offered to show a good faith basis” for the question or “that the inquiry was more than a fishing expedition.”

V. Penalty Phase

Defendant disclosed six penalty phase experts on March 31, 2025, with over 200 pages of reports and exhibits. On April 2, 2025, the State filed a request for Defendant to supplement this disclosure. Defense counsel is in the process of doing so. Additionally, on April 8, 2025, Defendant made additional mitigation disclosures that may be relevant to anticipated expert testimony regarding Defendant’s mental condition.

The State is still digesting these disclosures, determining what experts it needs to consult with, and is in the process of deciding what type of rebuttal expert testimony it will seek to present. The State does intend to proceed with its own mental examination of Defendant and will file a motion for a mental condition examination pursuant to Idaho Code 18-207. The State may also need to seek from the Court an extension to provide expert disclosures so that its expert(s) can review Defendant’s disclosures and conduct needed evaluation(s) of Defendant.

CONCLUSION

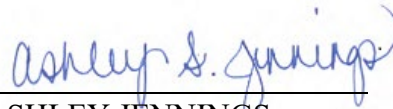
The State appreciates the opportunity to raise the foregoing considerations with the

Court. It stands ready to address any questions that the Court may have and to assist with any procedures the Court would like to implement to ensure an efficient and fair trial that protects Defendant's rights, the rights of the victim-witnesses and the families of the deceased victims, the rights of the public and press, and the interests of the people of Latah County and the State of Idaho in achieving justice in this case.

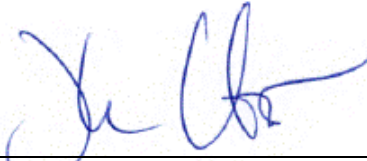
DATED this 14th day of April 2025.



WILLIAM W. THOMPSON, JR.
Latah County Prosecuting Attorney



ASHLEY JENNINGS
Senior Deputy Prosecuting Attorney



JOSHUA D. HURWIT
Special Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the STATE'S TRIAL BRIEF were served on the following in the manner indicated below:

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

Dated this 14th day of April 2025.