

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.

Ada County Case No. CR01-24-31665

**ORDER ON DEFENDANT’S MOTION IN
LIMINE RE: MAKE AND MODEL OF
SUSPECT VEHICLE**

I. INTRODUCTION

In the early morning hours of November 13, 2022, surveillance videos from various locations near the crime scene picked up footage of what law enforcement believed to be the same vehicle as “Suspect Vehicle 1”—the white sedan that was seen arrive at and then depart from the area of 1122 King Road at the time of the homicides. From one such video, law enforcement determined the vehicle was a 2011-2016 Hyundai Elantra.

Defendant seeks an order precluding the State from referring to the vehicles depicted on the various surveillance videos as the same vehicle, i.e., Suspect Vehicle 1, and from asserting that Suspect Vehicle 1 is a 2014-2016 Hyundai Elantra. He argues that these are speculative conclusions that invade the province of the jury. The State responds that it intends to elicit expert testimony establishing the vehicles are the same, and such testimony will be neither speculative nor otherwise improper.

Oral argument on the motion was held on April 9, 2025, after which the Court took the matter under advisement. The Court finds that the State may present expert opinion that the vehicles depicted in the videos are the same vehicle as Suspect Vehicle 1, as well as the make and model thereof.

II. STANDARD

The admissibility of expert opinion testimony is discretionary. *State v. Almaraz*, 154 Idaho 584, 590, 301 P.3d 242, 248 (2013). The trial court must: 1) correctly perceive the issue as one of discretion; 2) act within the boundaries of such discretion; 3) act consistently with any

legal standards applicable to the specific choices before it, and; 4) reach its decision by an exercise of reason. *Id.*

II. FACTS

Following the homicides, law enforcement gathered video surveillance from various locations surrounding the crime scene, including from 1112 King Rd., a residence immediately to the northwest of the crime scene. That video footage showed a white sedan—Suspect Vehicle 1—enter the King Road neighborhood at 4:04 a.m. and then depart from the area at a high rate of speed at 4:20 a.m. The same footage showed what law enforcement believed to be the same vehicle make three initial passes by the crime scene in the thirty minutes before its 4:04 a.m. entry.

Surveillance videos from five other locations within .6 miles of the crime scene also captured what law enforcement believed to be Suspect Vehicle 1 in the hour preceding the crime.¹ Based on the direction of travel and time stamps from these videos, investigators mapped what they believed to be Suspect Vehicle 1's route of travel.² One of the surveillance videos relied upon by law enforcement was from a camera located at 1125 Ridge Road. Video footage captured at 4:01 a.m. from this camera provided a clear view of the white sedan depicted therein, which law enforcement believed shared similar class characteristics to a 2014-2016 Hyundai Elantra.³ While there is no continuous footage showing the vehicle identified in the Ridge Road footage traveling to the crime scene, the Ridge Road camera was located .3 miles down the road from the crime scene. From this collective evidence, investigators believed the vehicle seen on the Ridge Road footage at 4:01 a.m. was Suspect Vehicle 1 captured on the 1112 King Road footage at 4:04 a.m.

IV. ANALYSIS

Based on the lack of continuous footage showing the vehicles captured in the various surveillance videos travelling to the crime scene at 4:04 a.m., Defendant argues it would be improper for the State to identify those vehicles as Suspect Vehicle 1 or otherwise identify Suspect Vehicle 1 as a 2014-2016 Hyundai Elantra. He argues any such testimony is speculative

¹ Exh. S-2 (Agent Rob Hille's Surveillance Review Report)

² Exh. S-3 (Maps)

³ Exh. S-4, pp. 2-3 (Agent Anthony Imel's Report); Exh. S-5 (Make-Model Chart 3)

and, therefore, not relevant, unfairly prejudicial and invades the province of the jury. The State responds that the testimony is based on logical, educated inferences drawn by law enforcement from the surveillance videos. It adds that the testimony does not invade the province of the jury and is highly relevant to determine whether the vehicle captured at 4:04 a.m. on the 1112 King Road camera was Defendant's vehicle.

To the extent Defendant is attempting to prohibit the State from arguing or asserting as fact that the vehicles are the same or that Suspect Vehicle 1 is a 2014-2016 Hyundai Elantra, he is correct that it would be speculative and improper without expert testimony to provide a basis to make this contention. However, this proscription does not prevent the State from eliciting such opinions from law enforcement and asserting this as an allegation during the trial, based on that testimony.

An opinion is speculative when it "theorizes about a matter as to which evidence is not sufficient for certain knowledge" and "suggests only possibilities[.]" *State v. Caliz-Bautista*, 162 Idaho 833, 836, 405 P.3d 618, 621 (Ct. App. 2017) (citations omitted). Here, law enforcement's opinion that the vehicle captured on the Ridge Road camera at 4:01 a.m. is Suspect Vehicle 1 captured at 4:04 a.m. on the 1112 King Road footage is not based on unsupported theories or possibilities. Rather, the opinion is based on the investigators' training and experience and educated inferences drawn from their review of surveillance footage from six locations within a mile of the crime scene during the hour preceding the crime. From this evidence, the investigators were able to map what they believed was the suspect vehicle's route of travel preceding the crime, as well as identify its make and model.

Defendant ignores this collection of evidence and focuses instead on solely two points of reference. However, the investigators had multiple data points from which they could reasonably infer that the vehicle seen on Ridge Road at 4:01 a.m. was the same that had been seen driving throughout the area in the preceding hour, including the three passes by the crime scene. Further, based on the direction of travel of the Ridge Road vehicle and its distance from and location respective to 1112 King Road, it is likewise reasonable to infer, notwithstanding the lack of continuous footage, that it continued traveling along Ridge Road until it reached King Road.

Such opinion testimony would not usurp the jury's role as fact finder. The jury is tasked with determining whether Defendant committed the alleged crimes. The State asserts that the perpetrator drove Suspect Vehicle 1 and, based on the totality of evidence, that it was

Defendant's Hyundai Elantra. The investigators' observations and inferences about the route of travel of the vehicle, its make and model, whether the Ridge Road footage from 4:01 a.m. and the King Road footage from 4:04 a.m. depict the same vehicle, and whether the depictions were all the perpetrator's vehicle are relevant to this determination. The jury is free to weigh this evidence and the investigators' testimony against that offered by Defendant and decide for itself what the surveillance videos depict and whether it supports its ultimate conclusion bearing on Defendant's guilt.

Finally, Defendant's only articulated basis for excluding the testimony IRE 403 is that it would be prejudicial due to its speculative nature. Because the Court has found otherwise, there is no basis for its exclusion under IRE 403, as its relevance is substantially outweighed by the factors with which Rule 403 is concerned.

V. ORDER

Based on the foregoing, Defendant's Motion *in Limine* re: Make and Model of Suspect Vehicle is DENIED.

IT IS SO ORDERED.

DATED this 17th day of April, 2025.


Steven Hippler
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on 4/18/2025, I served a true and correct copy of the
ORDER ON DEFENDANT'S MOTION IN LIMINE RE: MAKE AND MODEL OF SUSPECT VEHICLE

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Clerk of the Court

By: 
Deputy Clerk

4/18/2025 10:16:39 AM

CERTIFICATE OF SERVICE