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CASE NO. CR 29-22-2805
2023 June 15 2:46
CLERK OF DISTRICT COURT P.M.
LATAH COUNTY
BY AM DEPUTY

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH**

STATE OF IDAHO

Plaintiff,

V.

BRYAN C. KOHBERGER,

Defendant.

CASE NUMBER CR29-22-0002805

AMENDED MOTION TO STAY

PROCEEDINGS

COMES NOW, Bryan C. Kohberger, by and through his attorney, Anne C. Taylor, Public Defender, and hereby moves this court to stay all proceedings in this case pursuant to Idaho Code §2-213.

PROCEDURAL BACKGROUND

Mr. Kohberger was indicted by a grand jury on May 16, 2023. He filed a “Motion to Make Available the Record of all Proceedings of the Grand Jury Pursuant to I.C.R. 6.2” and a

“Motion Requesting Release of Grand Jury Materials under Qualified Protective Order” on May 19, 2023. The State then filed their “State’s Response to Defendant’s Motions Regarding Grand Jury Record and Transcript” and a proposed order on May 30, 2023. The parties are not able to reach agreement regarding the release of grand jury materials. In further opposition of Mr. Kohberger’s motion for the preparation of grand jury records, on June 6, 2023, the State filed their “State’s Supplemental Response to Defendant’s Motions Regarding Grand Jury Record and Transcript”. A hearing is scheduled for June 27, 2023, to argue this contested matter.

Mr. Kohberger stood silent at his initial arraignment to preserve his right to contest the indictment. He also asserted his right to a speedy trial pursuant to the United States and Idaho Constitutions. Jury trial is scheduled to begin October 2, 2023. Time is of the essence.

ARGUMENT

By the time this Court hears argument on the preparation of the grand jury proceedings, almost six weeks will have passed from the time of the indictment. Preparation of the grand jury record will then take additional time. Mr. Kohberger has the right and intends to contest the indictment. Idaho Code § 2-213 (1) allows the defense to seek a stay of proceedings:

[w]ithin seven (7) days after the moving party discovers or by the exercise of diligence could have discovered the grounds therefor, and in any event before the trial jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to quash the indictment, or for other appropriate relief, on the ground of substantial failure to comply with this chapter in selecting the grand or trial jury.

Mr. Kohberger seeks to stay the proceedings as appropriate relief while the matter of the grand jury record is argued and prepared. He is exercising due diligence to

discover the grounds upon which to file a motion to dismiss related to how the grand jury was selected.¹ He is being delayed through no fault of his own.

CONCLUSION

Mr. Kohberger's request to stay proceedings until the grand jury record is prepared and he has adequate time to contest the indictment should be granted. The remedies allowed in Idaho Code § 2-213(3) are "the exclusive means by which a person accused of a crime...may challenge a [grand] jury on the ground that the jury was not selected in conformity with this chapter". A stay of proceedings is appropriate.

DATED this 15 day of June, 2023.

ANNE C. TAYLOR, PUBLIC DEFENDER
KOOTENAI COUNTY PUBLIC DEFENDER



BY: _____

ANNE C. TAYLOR
PUBLIC DEFENDER
ASSIGNED ATTORNEY

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 15 day of June, 2023 addressed to:

Latah County Prosecuting Attorney – via Email: paservice@latahcountyid.gov
Elisa Massoth – via Email: legalassistant@kmrs.net
Ingrid Batey – via Email: ingrid.batey@ag.idaho.gov
Jeff Nye – via Email: jeff.nye@ag.idaho.gov



¹ Mr. Kohberger will comply with filing a sworn statement of facts in accordance with I.C. §2-213(2) as soon as he has the grand jury record.