

must first present a sworn statement of facts that if true would constitute a substantial failure to comply with the procedures for selecting a grand jury. From there, the party is entitled to present evidence to support its claim. Only after the presentation of evidence and a finding that there was a substantial failure to comply with the procedures for selecting a grand jury can a court “stay the proceedings pending the selection of the jury in conformity with this chapter, quash an indictment, or grant other appropriate relief.” *Id.*

At this juncture, Kohberger’s Motion to Stay Proceedings is premature. Kohberger has not yet had the opportunity to review the grand jury records, transcript, and recordings. Once those materials are reviewed, Kohberger may renew his Motion to Stay Proceedings pursuant to Idaho Code Section 2-213 if he finds facts that support a claim that there was a substantial failure to comply with the procedures for selecting a grand jury. Thus, Kohberger’s Motion to Stay Proceedings pursuant to Idaho Code Section 2-213 is denied, without prejudice.

Nevertheless, the Court recognizes that Kohberger has the right to review the grand jury materials to determine if there are grounds for challenging the grand jury selection process. This is a complicated, unusual case and it has taken some time, by no fault of either party, to prepare the grand jury materials Kohberger is entitled to. While the clerk’s record and recordings were provided to Kohberger on June 6, 2023, the transcript of the proceedings will not be completed until July 21, 2023. It will then take the defense time to review all the material and determine if they wish to renew their Motion to Stay Proceedings pursuant to Idaho Code Section 2-213.

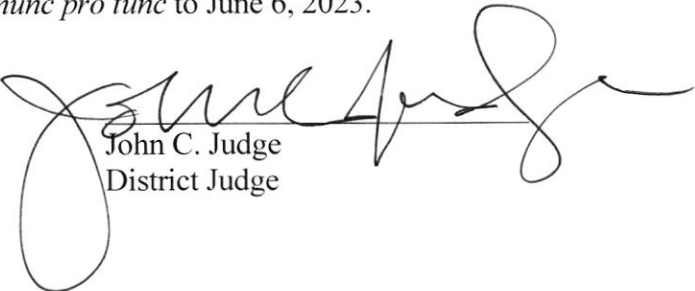
This Court also recognizes Kohberger’s statutory and constitutional right to a speedy trial. Pursuant to Idaho Code Section 19-3501, “[t]he Court, unless good cause to the contrary is shown, must order the . . . indictment to be dismissed . . . [i]f a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant was

arraigned before the court in which the indictment is found.” The decision whether to waive speedy trial is an important decision that should not be rushed and warrants strong consideration by both counsel and client. At this juncture, Kohberger has not waived his right to a speedy trial, and a jury trial is scheduled to commence October 2, 2023. Thus, precious time is ticking.

Given these two important rights, the right to review and potentially challenge the grand jury and the right to a speedy trial, this Court finds, and Kohberger has agreed, that there is good cause to stay the running of the speedy trial clock for a set period of time. The stay will run from July 6, 2023, until August 11, 2023. This 37-day stay is limited only to the running of speedy trial and does not stay any other portion of the case or the parties abilities to continue discovery, motion practice, or Kohberger’s obligation to provide the State with an alibi by July 24, 2023, as previously agreed to by the parties. This time will allow the defense to obtain all the grand jury materials it is entitled to, review said materials without waiving speedy trial, and then decide if they wish to pursue a stay pursuant to Idaho Code Section 2-213. The stay means that the State must bring Kohberger to trial within 6 months and 37 days from the date of Kohberger’s arraignment, which was May 22, 2023.

Kohberger and his counsel agreed on the record on July 6, 2023, to the terms of this stay and have agreed that Kohberger cannot later argue that his right to a speedy trial was violated if he is brought to trial within 6 months and 37 days of May 22, 2023. At the same time, the Court is specifically recognizing that Kohberger has not waived his right to a speedy trial by agreeing to this stay. At this time, the trial set to begin October 2, 2023, will not be moved out, but may be in the future if either party decides the extra 37 days are necessary to prepare for trial.

DATED this 7th day of June 2023, *nunc pro tunc* to June 6, 2023.


John C. Judge
District Judge

CERTIFICATE OF SERVICE

I certify that copies of the ORDER STAYING TIME FOR SPEEDY TRIAL were delivered by email to:

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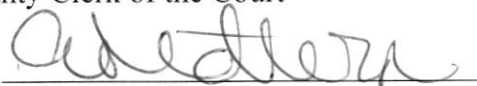
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on this 10 day of July 2023.

County Clerk of the Court

By: 
Deputy Clerk