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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 No. CR29-22-2805

MOTION TO INTERVENE

THE ASSOCIATED PRESS; RADIO
TELEVISION DIGITAL NEWS
ASSOCIATION; SINCLAIR MEDIA OF
BOISE, LLC/KBOI-TV (BOISE); STATES
NEWSROOM DBA IDAHO CAPITAL SUN;
TEGNA INC./KREM (SPOKANE), KTVB
(BOISE) AND KING (SEATTLE);
EASTIDAHONEWS.COM; THE LEWISTON
TRIBUNE; WASHINGTON STATE
ASSOCIATION OF BROADCASTERS;
IDAHO PRESS CLUB; IDAHO EDUCATION
NEWS; KXLY-TV/4 NEWS NOW AND
KAPP/KVEW-TV—MORGAN MURPHY
MEDIA KXLY-TV/4 NEWS NOW; SCRIPPS
MEDIA, INC., DBA KIVI-TV, A DELAWARE
CORPORATION; THE SPOKESMAN-

REVIEW/COWLES COMPANY; THE NEW YORK TIMES COMPANY; LAWNEWZ, INC.; ABC, INC.; WP COMPANY LLC, DBA THE WASHINGTON POST; SOCIETY OF PROFESSIONAL JOURNALISTS; THE MCCLATCHY COMPANY, LLC; THE SEATTLE TIMES; and CNN,

Intervenors.

On June 23, 2023, this Court entered an order allowing 20 media outlets, with the Associated Press as the lead media outlet, to intervene in this case for the limited purpose of challenging the then-in-place Amended Nondissemination Order. Order Granting Motion to Intervene for Limited Purpose, at 1-2. A nearly identical media coalition, at this time consisting of 13 outlets,¹ outlets, again seeks to intervene, this time for the limited purpose of opposing Bryan C. Kohberger’s Motion to Remove Cameras from the Courtroom (“Motion”), filed August 24, 2023, and currently set for hearing on September 1, 2023, and for any other proceedings affecting media access to the proceedings, including whether cameras will be allowed in the courtroom at trial.

The Idaho Supreme Court in *The Associated Press v. Second Judicial District*, 529 P.3d 1259 (Idaho 2023) made clear that even absent a specific rule in Idaho, intervention by the media on a limited basis is appropriate to defend the public’s right to access and free speech. *Id.* at 1267. Here, intervention is particularly appropriate where the Court previously sought input

¹ At this time, the following media outlets and entities are specifically seeking to intervene: The Associated Press; The McClatchy Company; Scripps Media, Inc.; Radio Television Digital News Association; KXLY-TV/4 News Now and KAPP/KVEW-TV—Morgan Murphy Media KXLY-TV/4 News Now; LawNewz, Inc.; Tegna Inc./Krem (Spokane); Washington State Association of Broadcasters; The Spokesman-Review/Cowles Company; ABC, Inc.; Society of Professional Journalists; the Idaho Press Club, CNN, and The Lewiston Tribune. Given the short time frame between the Defendant filing his motion, and the filing of this Motion to Intervene, other media members may join.

from the media coalition regarding cameras in the courtroom, but ultimately reserved ruling “[g]iven the high-profile nature of this case, the public’s interests in watching what is happening in the courtroom, and Kohberger’s fundamental right to a fair trial by an impartial jury.” Order Reserving Ruling on the Issue of Cameras in the Courtroom, at 2.

Mr. Kohberger asks this Court to Remove Cameras in the Courtroom on the grounds that the media have failed to heed the Court’s admonishment “not to focus strictly on Mr. Kohberger and to show a wide shot of the courtroom if they wished to continue filming court proceedings live.” Motion at 2. Mr. Kohberger’s subsequent citations to various media and social media publications do not support his position, however. For example, Mr. Kohberger cites to a Fox News article that describes the Court’s statement to photographers and camera persons that they should not focus exclusively on Mr. Kohberger. That Fox News story does not focus strictly on Mr. Kohberger, however. It includes photos of: (a) Mr. Kohberger and defense counsel Jay Logsdon entering the courtroom; (b) defense counsel Anne Taylor and Elissa Massoth entering the courtroom; (c) Latah County Prosecuting Attorney Bill Thompson in the courtroom; (d) the murder victims; (e) Mr. Kohberger entering the courtroom; and (f) a still photo from video of an Indiana law enforcement stop of the vehicle Mr. Kohberger and his father were in on December 15, 2022. *See* Exhibit A, attached.

In addition, although Mr. Kohberger argues that he is “entitled to defend himself against capital charges without cameras focused on his fly” (Motion at 5), that assertion misstates the role that courtroom camera coverage played in the X (formerly Twitter) social media post that appears at page 3 of his motion. No photographs or camera coverage focused on Mr. Kohberger’s “fly”. Rather, one random X user modified a photo showing Mr. Kohberger and a deputy entering the courtroom by cropping it to a very small size, focused on his belt, and adding

a reference to Mr. Kohberger's fly. Motion at 3. Even the cropped photo itself does not focus on Mr. Kohberger's fly.

And a broader review of media coalition stories following this Court's June 27, 2023, statement shows that media coalition participants' and other long-time media outlets' have followed the Court's direction. For example, a KTVB story covering the August 23, 2023, hearing, showed a variety of camera shots, including: (a) a broad shot that showed the entire courtroom, both counsel tables and the bench; (b) a closeup of the judge; (c) a slightly zoomed in shot of Mr. Kohberger and his counsel in which the zoom feed also could be seen; (d) still shots of the victims; and (e) an interview of a legal analyst. *See*

<https://www.ktvb.com/video/news/special-reports/moscow-murders/idaho-murder-suspect-bryan-kohberger-waives-right-to-speedy-trial/277-6d5bd2f3-3be6-44b0-8200-c2dd5770a4e2>.

And ABC News coverage on Good Morning America in August showed a variety of shots of the courtroom and the defendant with still photos and stock footage of earlier developments in the case. The coverage also provided balanced coverage of the state's and Mr. Kohberger's position on the motion before the Court. These stories did not focus exclusively on footage or closeups of Mr. Kohberger. *See* <https://twitter.com/GMA/status/1694677364947456411>;

<https://www.goodmorningamerica.com/News/video/defense-requests-pause-accused-idaho-killer-bryan-kohberger-102391530>.

Finally, many of the outlets who seek to intervene have significant experience broadcasting live courtroom proceedings, including in high profile trials that resulted in both acquittals (*Wisconsin v. Kyle Rittenhouse*, *Ohio v. Skyler Richardson*) and convictions (*South Carolina v. Alex Murdaugh*). Their camera equipment and operators are experienced and not the large, clunky, numerous camera equipment and operators that the Supreme Court expressed

concern about in *Estes v. State of Texas*, 381 U.S. 532 (1965). In *Estes*, there were at least 12 camera operators in the courtroom for a pretrial hearing, and the equipment journalists used was noisy, required cables lying throughout the courtroom, and, at trial, involved some newsreel-style cameras. *Id.* at 536. The Court can take judicial notice that similar equipment is not involved here. Plainly, the Supreme Court’s concerns in *Estes* do not require removal of the more modest, less intrusive camera equipment being used by reporters in this case.

Accordingly, the media coalition seeks to intervene for the limited purpose of opposing Mr. Kohberger’s motion to remove cameras from the courtroom and to make full argument and briefing on this issue.

DATED: August 30, 2023.

STOEL RIVES LLP

/s/ Wendy J. Olson

Wendy J. Olson

Cory M. Carone

Attorneys for Intervenors

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of August 2023, I served a true and correct copy of the within and foregoing **MOTION TO INTERVENE** upon the following named parties by the method indicated below, and addressed to the following:

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/s/ Wendy J. Olson
Wendy J. Olson

EXHIBIT A

Bryan Kohberger judge issues warning to media at start of hearing on Idaho student murders

By Michael Ruiz, Jake Karalexis

Published June 27, 2023

Fox News

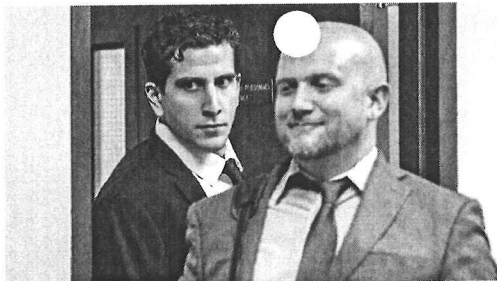
Quadruple stabbing suspect Bryan Kohberger's defense asked a court to compel more disclosure in a hearing on a series of key discovery requests in the University of Idaho student murders.

Kohberger entered the courtroom just after 4:30 p.m., wearing a black suit and tie as he did in his last appearance – in stark contrast with the orange jail jumpsuit he wore to his first several hearings.

The 28-year-old criminologist accused of butchering four undergrads in a 4 a.m. slashing on Nov. 13, 2022, is seeking several pieces of evidence that prosecutors have not yet turned over to the defense.

However, before addressing the motions, District Judge John Judge clarified some questions regarding his revised gag order in the case and warned the media that he could revoke permission to allow cameras into the courtroom.

LAWYER EXPECTS BRYAN KOHBERGER PROSECUTORS TO BE 'VERY AGGRESSIVE' SEEKING DEATH PENALTY FOR IDAHO SUSPECT



Bryan Kohberger enters the courtroom during a hearing Tuesday at the Latah County Courthouse in Moscow. (August Frank/Tribune, Pool)

Judge referenced the recent Chad Daybell trial, when cameras were asked to leave because they focused too much on the defendant.

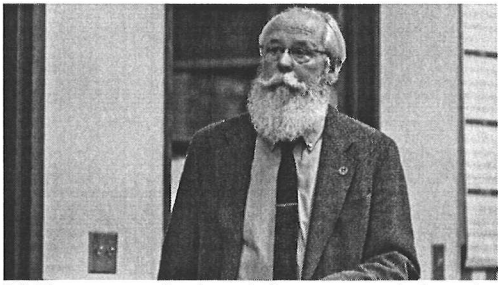
He said cameras in Moscow needed to show a wide shot of the courtroom and not focus strictly on Kohberger if they are to remain throughout the rest of the proceedings.



Anne Taylor enters the courtroom for a hearing Tuesday at the Latah County Courthouse in Moscow. (August Frank/Tribune, Pool)

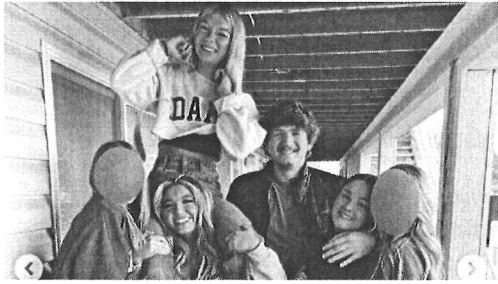
The materials Kohberger's defense is seeking include training records for three investigators, phone records, and information on why the FBI expanded the range of model years of a white Hyundai Elantra they were looking for in connection with the case. Kohberger's car initially fell outside the range police were publicly trying to track down – but his shares a similar appearance.

CREWS ENTER UNIVERSITY OF STUDENTS' HOME SLATED FOR DEMOLITION AFTER QUADRUPLE STABBING MURDER



Bill Thompson walks through the courtroom before a hearing Tuesday at the Latah County Courthouse in Moscow. (August Frank/Tribune, Pool)

Latah County Prosecuting Attorney Bill Thompson countered that records for the officers are only required to be turned over if his office plans to rely on them to testify at trial – which he said he wouldn't.



Madison Mogen, top left, smiles on the shoulders of her best friend, Kaylee Goncalves, as they pose with Ethan Chapin, Xana Kernodle, and two other housemates in Goncalves' final Instagram post, shared the day before the four students were stabbed to death. (@kayleegoncalves/Instagram)

Kohberger's defense is also asking for the court to compel prosecutors to turn over additional discovery materials and information on the genetic genealogy techniques investigators used before labeling Kohberger their suspect.

The hearing lasted just over a half an hour, with Judge John Judge saying he would take the arguments under advisement and issue a written decision later.

Kohberger allegedly stabbed 21-year-olds Kaylee Goncalves and Madison Mogen and 20-year-olds Xana Kernodle and Ethan Chapin in a now-shuttered house on King Road, just steps away from the University of Idaho campus.



Defendant Bryan Kohberger enters the courtroom for a motion hearing regarding a gag order in Latah County District Court on June 9, 2023, in Moscow, Idaho. Kohberger is accused of killing four University of Idaho students in November 2022. (Zach Wilkinson-Pool/Getty Images)

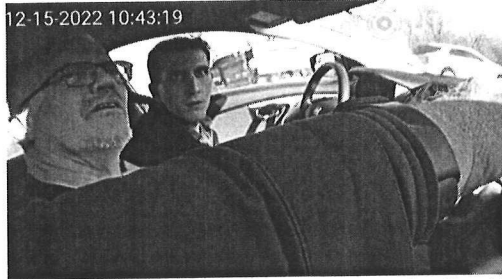
Two housemates were spared in the attack, including one who told police she saw a masked man escape out the back door.

BRYAN KOHBERGER CASE: STATE TO SEEK DEATH PENALTY AGAINST IDAHO MURDERS SUSPECT

In court filings, prosecutors have alleged they recovered Kohberger's DNA from a Ka-Bar knife sheath found next to Mogen's body, but the defense countered that "there is no connection between Mr. Kohberger and the victims."

Prosecutors on Monday told the court and the defense they intended to seek the death penalty in the case.

Kohberger faces four charges of first-degree murder and a felony burglary charge. The trial has been scheduled to begin on Oct. 2 and could take up to six weeks.





Bryan Kohberger was stopped by Indiana police Dec 15, 2022 before he was identified as a suspect in the murder of 4 University of Idaho students. (Hancock County Police Department)

[CLICK HERE TO GET THE FOX NEWS APP](#)

Kohberger was studying for a Ph.D. in criminology at the neighboring Washington State University, less than 10 miles from the crime scene. The school cut ties with him after his arrest.

He has a master's degree in criminal justice from DeSales University in Pennsylvania.

Michael Ruiz is a reporter for Fox News Digital. Story tips can be sent to michael.ruiz@fox.com and on Twitter: [@mikerreports](https://twitter.com/mikerreports)

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