

CASE NO. CR 29-22-2805  
2023 September 14 3:21  
CLERK OF DISTRICT COURT P.M.  
LATAH COUNTY  
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LATAH COUNTY PROSECUTOR'S OFFICE  
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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 TAKE JUDICIAL NOTICE OF THE GRAND JURY RECORD
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Pursuant to Idaho Rule of Evidence 201, the State requests that the Court take judicial notice of the transcripts, exhibits, and jury instructions from the grand jury proceeding in Case No. . . . "When a party requests judicial notice of records, exhibits, or transcripts from the court file in the same or a separate case, the party must identify the specific items for which judicial notice is requested or offer to the court and serve on all parties copies of those items." I.R.E. 201(c). "The court . . . must take judicial notice if a party requests it and the court is supplied with the necessary information." I.R.E. 201(c)(2).

MOTION TO TAKE JUDICIAL NOTICE OF THE GRAND JURY RECORD

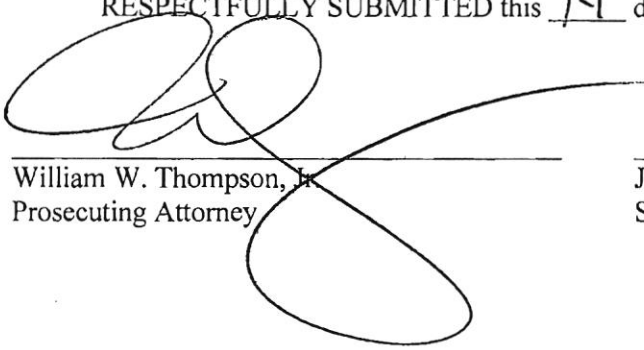
**REDACTED**

The State identifies the following specific items for which judicial notice is requested:

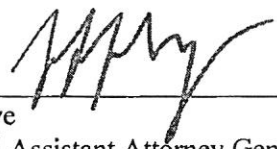
- Grand Jury Transcript, Case No. \_\_\_\_\_, Day 1, Grand Jury Proceeding, Had on the 12th Day of May, 2023, at 9:03 A.M.
- Grand Jury Transcript, Case No. \_\_\_\_\_, Day 2, Grand Jury Proceeding, Had on the 15th Day of May, 2023, at 9:11 A.M.
- Grand Jury Transcript, Case No. \_\_\_\_\_, Day 3, Grand Jury Proceeding, Had on the 16th Day of May, 2023, at 9:05 A.M.
- The electronic juror questionnaires provided to the presiding judge and the State prior to the grand jury proceeding in Case No. \_\_\_\_\_.
- The exhibits admitted in the grand jury proceeding in Case No. \_\_\_\_\_, as described in the court minutes included as Attachment A.
- The jury instructions used in the grand jury proceeding in Case No. \_\_\_\_\_ and included as Attachment B.

Each of these items has been provided to both the State and the defense, and the Court has access to these items in the clerk's office. The Court needs these items to properly evaluate Defendant's second motion to dismiss the indictment that resulted from the grand jury proceeding and the State's objection, which has been filed contemporaneously with this request, because Defendant has alleged the State improperly presented hearsay evidence, *see State v. Edmonson*, 113 Idaho 230, 236, 743 P.2d 459, 465 (1987) ("The indictment will be sustained if, after excluding the inadmissible evidence, there remains sufficient admissible evidence to indict."), and committed prosecutorial misconduct, *see id.* at 237, 743 P.2d at 466 ("[T]he court must examine the totality of the circumstances to determine whether the indictment should be dismissed.").

RESPECTFULLY SUBMITTED this 14 day of Sept, 2023.



William W. Thompson, Jr.  
Prosecuting Attorney



Jeff Nye  
Special Assistant Attorney General

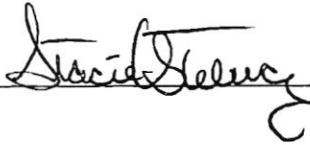
CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the MOTION TO TAKE JUDICIAL NOTICE OF THE GRAND JURY RECORD were served on the following in the manner indicated below:

Anne Taylor  
Attorney at Law  
PO Box 9000  
Coeur D Alene, ID 83816-9000

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

Dated this 14 day of September, 2023.

  
\_\_\_\_\_

Under Seal with the Court

Exhibits A and B attached to State's Motion to Take Judicial  
Notice of Grand Jury Record Pending Hearing