

**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,)
)
 vs.)
)
 BRYAN C. KOHBERGER,)
)
 Defendant.)
 _____)

Case No. CR29-22-2805

**ORDER DENYING DEFENDANT’S
MOTION TO STAY PROCEEDINGS
AND WITHDRAWING ORDER STAYING
TIME FOR SPEEDY TRIAL**

On June 13, 2023, Defendant Bryan C. Kohberger filed a Motion to Stay Proceedings pursuant to Idaho Code Section 2-213. On July 7, 2023, this Court issued an Order Staying Time for Speedy Trial. In that Order, the Court denied Kohberger’s Motion to Stay Proceedings, finding that it was premature. However, the Court, with the agreement of Kohberger and his counsel, stayed the running of the speedy trial clock for a period of 37 days to allow the defense team time to obtain and review the grand jury records to determine if they wanted to renew the Motion to Stay Proceedings.

On July 17, 2023, the State filed a Motion to Reconsider Order Staying Time for Speedy Trial. Kohberger filed a Second Motion to Stay Proceedings pursuant to Idaho Code Section 2-213(1) on July 25, 2023. The basis for Kohberger’s Motion to Stay was that “[t]he court issued an order; that Order required forty-five (45) potential jurors be brought in. The Grand Jury panel appearing for service numbered only thirty-two (32).” Kohberger also alleged inconsistencies in the juror

questionnaire forms and issues with how two potential jurors answered questions on the form. On August 11, 2023, the State filed an objection to Defendant's request.

Oral argument on both the State's Motion to Reconsider and Kohberger's Second Motion to Stay Proceedings was heard on August 18, 2023. Kohberger was present and represented by his attorneys Anne C. Taylor, Jay Logsdon, and Elisa Massoth. The State was represented by William W. Thompson, Jr., Ashley S. Jennings, Jeff Nye, and Ingrid Batey.

For the reasons articulated on the record, the Court denied Kohberger's Second Motion to Stay Proceedings and granted the State's Motion to Reconsider Order Staying Time for Speedy Trial and rescinded the Order Staying Time for Speedy Trial. This Order follows the Court's decision on the record.

Kohberger's Motion is based on the language in Idaho Code Section 2-213 that reads:

Within seven (7) days after the moving party discovered 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.

I.C. §2-213(1) (emphasis added).

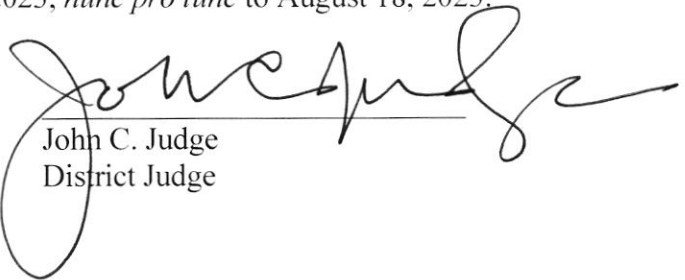
The statute goes on to state that “[i]f the court determines that in selecting either a grand jury or a trial jury there has been a substantial failure to comply with this chapter, the court shall stay the proceedings pending the selection of the jury in conformity with this chapter, quash an indictment, or grant other appropriate relief.” I.C. § 2-213(2). Before a court can reach its decision, the moving party 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.*

As articulated on the record, the issues raised in Kohberger’s Second Motion to Stay Proceedings do not constitute a substantial failure to comply with the procedures for selecting a grand jury. The issues raised either fall outside the purview of Idaho Code Title 2, Chapter 2, jury selection and service, or are typical problems seen routinely in selecting juries (i.e., individuals called for jury duty failing to appear thereby reducing the number of potential jurors in the jury pool).

Additionally, because Kohberger had the opportunity to review the grand jury materials and renew his Motion to Stay Proceedings, and the Court having denied that Motion, and there being no request to extend the time for speedy trial under the 37-day stay previously ordered, it is ordered that the Order Staying Time for Speedy Trial entered on July 7, 2023, is withdrawn.¹

SO ORDERED this 5th day of October 2023, *nunc pro tunc* to August 18, 2023.



John C. Judge
District Judge

¹ On August 23, 2023, Kohberger waived his right to a speedy trial. Thus, the previous Order Staying Time for Speedy Trial entered on July 7, 2023, is also now moot.

CERTIFICATE OF SERVICE

I certify that copies of the ORDER DENYING DEFENDANT'S MOTION TO STAY PROCEEDINGS AND WITHDRAWING ORDER STAYING TIME FOR SPEEDY TRIAL were delivered by email to:

William W. Thompson, Jr., and Ashley S. Jennings
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on this 5 day of October 2023.

County Clerk of the Court

By: 
Deputy Clerk