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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

OBJECTION TO DEFENDANT'S
MOTION TO CHANGE VENUE
AND REQUEST FOR
SCHEDULING ORDER

COMES NOW the State of Idaho, by and through the Latah County Prosecuting Attorney, and objects to Defendant's Motion to Change Venue as it is premature. The State requests that this Court set a trial date; a briefing schedule for Defendant's motion; a hearing date for the motion to be heard; and a deadline for supporting memoranda, affidavits, and witness disclosures sufficiently in advance of hearing so that the parties can adequately prepare.

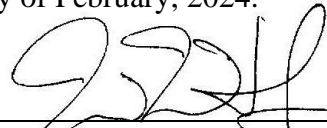
Defendant's Motion to Change Venue is premature and without sufficient basis. Defendant has not provided the Court with adequate information to conclude that a Latah County jury could not fairly and impartially decide Defendant's case. In Idaho, a motion for change of venue is within

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the discretion of the trial court. *State v. Winn*, 121 Idaho 850, 856, 828 P.2d 879, 885 (1992). Idaho’s appellate courts look to several factors while determining whether a trial court exercised its discretion in deciding a motion to change venue, including “affidavits indicating prejudice or an absence of prejudice in the community” and “testimony of the jurors at voir dire as to whether they had formed an opinion of the defendant’s guilt or innocence based upon adverse pretrial publicity.” *Id.*, citing *State v. Needs*, 99 Idaho 833, 890, 591 P.2d 130, 137 (1979). Other factors for consideration are whether a defendant challenged for cause any individual jurors, the nature of pretrial publicity about the case, and the duration of time between the publicity and the trial itself. *Id.* The Idaho Supreme Court has also explained that “publicity by itself does not require a change of venue.” *Id.*

Because publicity is not a stand-alone reason for a court to change venue, this Court should decline to decide Defendant’s motion until a trial date is set and the Court has heard adequate facts to enable the Court to make a determination. The State respectfully requests that this Court set a trial date; set a hearing date for Defendant’s “Motion to Change Venue”; issue deadlines for supporting memoranda and affidavits; and set a deadline for witness disclosures reasonably in advance of hearing.

RESPECTFULLY SUBMITTED this 8th day of February, 2024.



William W. Thompson, Jr.
Latah County Prosecuting Attorney



Ingrid Batey
Special Assistant Deputy Attorney General

CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the OBJECTION TO DEFENDANT'S MOTION TO CHANGE VENUE AND REQUEST FOR SCHEDULING ORDER 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 8th day of February, 2024.