

WILLIAM W. THOMPSON, JR., ISB 2613  
PROSECUTING ATTORNEY  
JEFF NYE, ISB No. 9238  
SPECIAL ASSISTANT ATTORNEY GENERAL  
Latah County Courthouse  
P.O. Box 8068  
Moscow, ID 83843  
Phone: (208) 883-2246  
paservice@latah.id.us

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,

Case No. CR29-22-2805

MOTION FOR ORDER  
PROHIBITING CONTACT WITH  
PROSPECTIVE JURORS  
ABSENT LEAVE OF COURT

V.

BRYAN C. KOHBERGER  
Defendant.

COMES NOW the State of Idaho, by and through the Latah County Prosecuting Attorney, and respectfully moves this Court, pursuant to this Court's Revised Amended Nondissemination Order, for an order prohibiting the defense from contacting prospective jurors about this case without first obtaining permission from the Court.

The State recently became aware of a telephone survey being conducted in Latah County related to this matter when some of the recipients of such calls contacted the Prosecuting Attorney's Office to express concern about the survey. The Moscow Police Department has also received calls expressing concern about such calls and questions as to whether the police

department was responsible for the survey (see Exhibit A Moscow Police Department reports). Just this week, the State came into possession of a transcript of one such call. (See Exhibit B) and a summary from another who received such a call (see Exhibit C.)

Based on the transcript, the survey goes beyond soliciting information and provides those being called with specific information about the case. For example, the person conducting the survey asked the following questions:

- Have you read, seen or heard if Bryan Kohberger was arrested at his parent's home in Pennsylvania?
- Have you read, seen or heard if police found a knife sheath on the bed next to one of the victims?
- Have you read, seen or heard that DNA found on the knife sheath was later matched to Bryan Kohberger?
- Have you read, seen or heard if Bryan Kohberger owned the same type of car recorded on video driving in the neighborhood where the killings occurred?

(Exhibit B, p.4 .)

The State raised the issue with defense counsel and then met with defense counsel on March 21, 2024. Defense counsel confirmed that the defense retained a jury research company to assess community knowledge and opinions about the case. The State expressed its concerns and notified defense counsel that it would be raising its concerns with the Court. The State requested that the defense halt further communication with potential jurors until the Court could weigh in. Defense counsel represented that the surveys were already mostly done.

The State's concern with the survey commissioned by the defense is that it may violate this Court's Revised Amended Nondissemination Order ("Order") in a manner that could make selecting a jury in Latah County more difficult. As relevant here, the Order expressly prohibits "any agents of the prosecuting attorneys and defense attorneys" from making any "out-of-court

statement, which a reasonable person would expect to be disseminated by means of public communication, that relates to . . . [t]he identity or nature of evidence expected to be presented at trial or any sentencing phase of the proceedings.” Order, pp.1-2. The Order also prohibits the disclosure of “[a]ny information a lawyer knows or reasonably should know is likely to be inadmissible evidence in trial, and that would, if disclosed, create a substantial risk of prejudicing an impartial trial.” Order, p.2.

Despite these express prohibitions, the defense commissioned a survey that included potential jurors in Latah County and, as part of that survey, conveyed “[t]he identity or nature of evidence expected to be presented at trial.” Order, p.2. [REDACTED]

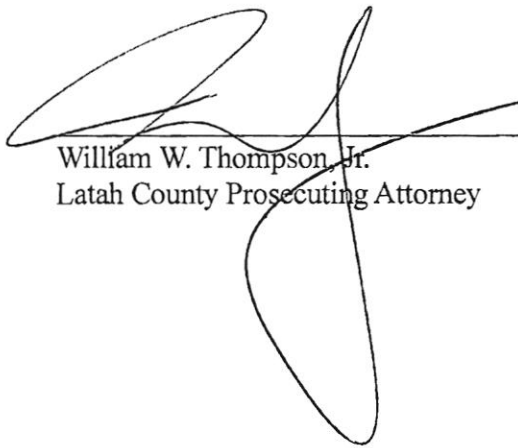
[REDACTED]

More problematic still, the defense’s commissioned survey also included in the survey specific rumors, which the defense should have known are “likely to be inadmissible in trial.” Order, p.2. For example, the question that implies that “Bryan Kohberger had followed one of the victims on social media.” (Exhibit B, p.5.) The survey also pointed respondents to out-of-courtroom coverage of this case that almost certainly contains more rumors and misinformation that would not be admissible at trial. (Exhibit B, p.6 (“[H]ave you listened to any true crime broadcasts or watched any shows on YouTube that covered this case for example, the King Road Killing?”)).

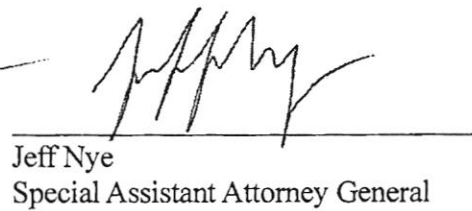
Given that the survey of potential jurors seems to violate the Order, the State respectfully requests this Court enter an order, specifically prohibiting the defense from contacting potential

Given that the survey of potential jurors seems to violate the Order, the State respectfully requests this Court enter an order, specifically prohibiting the defense from contacting potential jurors about this case without first obtaining leave from the Court, which is the course the State believes the Order required the defense to take in the first place. *See* Order, p.3 (stating the Order “shall remain in full force and effect . . . unless otherwise ordered by this court.”).

RESPECTFULLY SUBMITTED this 22 day of March, 2024.



William W. Thompson, Jr.  
Latah County Prosecuting Attorney



Jeff Nye  
Special Assistant Attorney General

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the MOTION FOR ORDER PROHIBITING FURTHER CONTACT WITH PROSPECTIVE JURORS ABSENT LEAVE OF COURT was 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 22<sup>nd</sup> day of March, 2024.

  
\_\_\_\_\_

Under Seal with the Court

Exhibits A, B, and C Attached to State's Motion for Order Prohibiting  
Contact with Prospective Jurors Absent Leave of Court