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**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**

STATE OF IDAHO,)	
)	CASE NO. CR20-22-0755
Plaintiff,)	CR22-20-0838
)	
vs.)	MEMORANDUM IN SUPPORT OF
)	MOTION TO CHANGE VENUE
CHAD GUY DAYBELL)	
LORI NORENE VALLOW)	
Defendant.)	
_____)	

COMES NOW the above name Defendant, CHAD GUY DAYBELL by and through his attorney of record, JOHN PRIOR, and hereby submits this Memorandum in support of his Motion to Change Venue.

GROUND OF MOTION:

Venue Should be Changed Because a Fair and Impartial Trial Cannot be had in Fremont, Madison, or Bonneville Counties.

The right to a fair trial and to an impartial jury is guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, section 7 of the Idaho Constitution. A court should grant a change of venue whenever the totality of existing circumstances demonstrates that juror exposure to pretrial publicity will likely result in an unfair trial. However, a defendant's inability to make a detailed and conclusive showing of prejudice is not a proper ground for refusing to change venue as prejudice seldom can be established or disproved with certainty. *State v. Hall*, 111 Idaho 827, 829, 727 P.2d 1255, 1257 (Ct. App. 1986). Rather, it is sufficient for the accused to show there is a reasonable likelihood prejudicial news coverage will prevent a fair trial. When reviewing the nature and content of the pretrial publicity, this Court should consider the accuracy of the pretrial publicity, the extent to which the articles are inflammatory, inaccurate, or beyond the scope of admissible evidence, the number of articles, and whether the [potential] jurors were so incessantly exposed to such articles that they had subtly become conditioned to accept a particular version of the facts at trial. @ *State v. Hadden*, 152 Idaho 371, 376-377, 271 P.3d 1227, 1232-1233 (Ct. App. 2012).

In the present case, the comments, articles, survey, news media that I have previously submitted to the prosecution and the court as exhibits in this case illustrate that the small rural communities of the Seventh Judicial District have been exposed to inflammatory and inadmissible evidence and an overwhelming amount of media coverage. The small population of residents within the Seventh Judicial District makes it impossible to obtain a fair and impartial jury within the Seventh District because the local media, religious organizations and government agencies allowing depiction of pictures, ribbons on state property contribute to the unfair bias.

To support this assertion regarding inadmissible and inflammatory evidence, there has been an overwhelming amount of local reporting related to Ms. Vallow's activities in Arizona prior to any relationship with Mr. Daybell. Articles and audio recordings of Ms. Vallow insinuating her right to cause harm to her third husband, a video recording of a material witness expressing her view on the case. Additional, inflammatory, and untruthful information that has been reported by the local media insinuates that Mr. Daybell had some role in his wife Tammy Daybell's death. The prosecutor continues to allow this inaccurate information to continue by not providing the autopsy results performed on Tammy Daybell despite it having been performed a significant time ago. The advancement of this narrative in a small population area only continues to taint the potential jury pool

That counsel for the Defendant Chad Daybell has not granted any public interviews, has not given any statement to the press for publication. Rather, counsel for Mr. Daybell has purposely and intentionally kept quiet even when the media continues to report facts that defense takes issue with. The prosecution through the county has employed a public relations firm to handle all media requests and comments directed to them. Information to defense counsel suggests they are trying to advance their own narrative of the case. The special prosecution, Fremont and Madison County officials allowed ribbons to be placed and pictures posted upon the courthouse and government property until I brought it to the magistrate court's attention at which time they were suddenly removed and the public relations firm for the county was retained. The communities in Fremont, Madison and Bonneville Counties are predominantly LDS communities. Although religion in no way disqualifies anyone to serve in any case. At the

direction of the stake president in Henry's Fork, Mr. Daybell's sister sent a mass email to all the ladies within the Henry's Fork stake only causing greater concern that any potential jury pool would be tainted. There was a request of the Henry's stake president to Mr. Daybell's sister to communicate to all of the ladies within that stake regarding the facts as she sees them. It should be noted that in the discovery provided to me at this point, it does not show that Mr. Daybell's sister had any personal information or involvement in this case. Rather it has been suggested to defense counsel through investigation that she is related through marriage to law enforcement who may be and may have investigated this case. That causes defense counsel great concern as it would seem on the face of her assertions in her email to all the ladies of the Henry's Fork stake that she has personal knowledge of the facts. Although defense counsel has no evidence provided by the prosecution that Mr. Daybell's sister has information or evidence in this case. There is information regarding her connections through marriage to law enforcement. Although I have no direct information that anyone in law enforcement spoke to Mr. Daybell's sister. I have great concern that local law enforcement in this case are speaking or have spoken to people in the community about the facts of this case. The continued untruths that somehow Mr. Daybell is involved in some type of cult activity continues to be presented to the local community. Although there is significant reference to LDS scriptures and religion, the suggestion of cult activities is continually being advanced without any merit. The survey presented to the court performed by defense counsel and provided as an exhibit supports the assertion that a fair trial cannot be had in the seventh judicial district. It shows that not only was the person conducting the survey presented with threats from Bonneville, Madison and Fremont counties that the vast

majority of people interviewed stated that they have already made up their mind regarding the guilt of the Defendants. Further that the vast majority would not change their mind.

East Idaho News who has a dominant and expansive readership within all of the Seventh Judicial District has on almost a daily basis reported on information regarding this case. It has published interviews with material witnesses to the case, published numerous pictures of the location of where the bodies of the children were discovered. Photos of courthouses laced with ribbons and pictures. I have also submitted numerous photos of businesses and places within the Seventh Judicial District community expressing opinion on this case.

Considering the pretrial publicity and the strong feelings in the community about the case, the Court should take appropriate steps to protect Mr. Daybell's right to an impartial jury. In addition to moving venue to a larger population base within the state. We would request the court juror questionnaire should ask if the panel member have been exposed to any pre-trial publicity. After the nature of the case is explained to the panel in person, it should follow up on its written question to see if any other panel members now realize their exposure to pretrial publicity. All the panel members who have been so exposed should then be questioned. The local news agency whose readership encompasses all of Eastern Idaho has made the ability to panel a jury in Eastern Idaho impossible. The largest population in the state is in the Boise, Nampa Caldwell area in western Idaho. The hope of finding an impartial jury from a larger population is far more likely than in a very small number of eastern Idaho rural communities whose local media agency has an incredible following.

Conclusion

Defendant Chad Daybell requests that all information in regards to a survey, articles, media coverage previously submitted to the court and the prosecution well in advance of submission of this memorandum be admitted in its entirety to support this Motion to Change Venue. Further, the Defendant through his legal counsel requests oral argument on this Motion that venue should be changed. Further that the court direct that the venue be changed to an area of the state in western Idaho where the largest population of our citizens reside.

Respectfully submitted this 3rd day of December 2020.

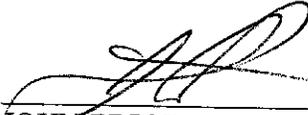


JOHN PRIOR
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the Fremont County Special Prosecuting Attorney by efile and serve to mcpo.madison.id.us and to Mark Means counsel for Lori Norene Vallow at mlm@means-law.com

DATED December 3 2020



JOHN PRIOR
Attorney for Defendant