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11 Attorney for LORI NORENE (DAYBELL) VALLOW

12 **IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF**
13 **THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**
14 **MAGISTRATE DIVISION**

15 STATE OF IDAHO,
16 PLAINTIFF

Case No: CR22-20-838

17 Vs.

**RESPONSE TO MOTION FOR
RECONSIDERATION**

18 LORI NORENE VALLOW AKA LORI NORENE
19 DAYBELL,
20 DEFENDANT

21 DOB: 1973

22 COMES NOW DEFENDANT, Mrs. Lori Vallow (Daybell), by and through her counsel of
23 record, Mr. Mark Means of Means Law Office, PLLC and in response/opposition to Plaintiff's
24 Motion to Reconsider state the following:

25 The Court, in its discretion, has ruled on this issued and in doing such took the time and
26 effort to issue its Order, taking into consideration the rights of Defendant as well as the Public
with the specific consideration of media coverage for this case.

Venue is an issue that will be addressed, properly, at a later hearing.

1 It is well documented that the State and or local law enforcement including but not
2 limited to: (1) Rexburg Police Department, (2) Madison County Sheriff's Department; (3) Fremont
3 Sheriff's Department have all appeared on camera and made public statements regarding the
4 above case. In appearing, they express and implied their position, opinions, and analysis of this
5 case to the public through the use of the media. As result of these public statements, the local
6 public have reacted with the use of signs, pictures, social media postings, etc., throughout
7 Fremont and Madison County, State of Idaho. The *cat appears to be out of the bag* when it comes
8 to this motion for reconsideration.
9

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11 There is no debate that the Court owes Mrs. Vallow (Daybell) a fair and unbiased
12 hearing(s)/trial without drawing increasingly amounts of attention to the case. The Court must
13 balance the public right with the needs/obligations owed to Mrs. Vallow (Daybell).
14

15 My review of the case law presents two options for the court: (1) Court's current
16 decision or (2) Open the Court house/Court room to the public in determining how to handle
17 the preliminary hearings for Mr. Daybell and Mrs. Vallow (Daybell). In issuing its previous
18 order, I am confident to say the Court consider these options and issued its order.

19 In addition, this motion by the State is brought by way of reconsideration just prior to a
20 preliminary hearing. The State has had *weeks* to file this reconsideration motion but chose to
21 do so on the eve of Mr. Daybell's preliminary hearing. A matter such as this, should most likely
22 have been briefed and argued sometime ago. Its *midnight hour* filing could suggest its less of
23 importance to the State.

24 Regarding this Reconsideration Motion the State has a heightened burden of
25 proof/review by the Court to grant such a motion. Regarding a Motion for Reconsideration its
26

1 “burden to grant” such is “extraordinary, and strict.”¹ The Supreme Court stated in regards to
2 Motions for Reconsideration: “When reconsidering an interlocutory order...” the law
3 “...provides (the) courts with authority adequate to enable them to vacate judgments whenever
4 such action is appropriate to accomplish justice, *while also cautioning that it should only be*
5 *applied in extraordinary circumstances.*”² Federal Rule of Civil Procedure 59(e), though not a
6 criminal rule, has application pertinent to this Motion. *Rule 59(e)*, states that a Court “...allows
7 a party to seek reconsideration where: (1) there has been an *intervening change in the controlling*
8 *law*; (2) *new evidence* has become available; or (3) there is a need *to prevent manifest injustice* or
9 to correct a *clear error of fact or law.*”³

10 Here, in summary, the State has not presented any argument to satisfy any of the above
11 criteria since the Court issued the relevant Order. Thus, the Motion for Reconsideration should
12 be denied as failure to meet its burden in addition to the previous analysis provided by the Court
13 prior to issuing said relevant order.

14
15 DATED this 23 day of July 2020.

16 *M.L. Means*

17 _____
18 Mr. Mark L. Means, Attorney for Defendant

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24 _____
25 ¹ *Successful Motions for Reconsideration Require Extraordinary Circumstances*, 10 ST. JOHN’S BANKR. RESEARCH
LIBR. NO. 12 (2018)

26 ² *Liljeberg v. Health Serv. Acquisition Corp.*, 486 U.S. 847, 863 (1988).

³ Fed. R. Civ. P. 59(e); Fed. R. Bankr. P. 9023; *In re Conex Holdings, LLC*, 524 B.R. 55, 58 (Bankr. D. Del. 2015).

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 23 day of July 2020, I caused a true and correct copy of the FOREGOING document to be forwarded by the method(s) indicated below, to the following:

MADISON COUNTY PROSECUTING ATTORNEY x_____ Efile
159 E. Main St.
P.O. Box 350
Rexburg, ID 83440
Email: mcpo@madison.id.us

DATED this 23 day of July 2020.

By *Mr. Mark L. Means*
Mr. Mark L. Means