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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,	)	
	)	
Plaintiff,	)	Case No. CR22-21-1623
vs.	)	
	)	<b>MOTION FOR A BILL</b>
CHAD GUY DAYBELL,	)	<b>OF PARTICULARS</b>
	)	
	)	
Defendant.	)	
_____	)	

COMES NOW the Defendant, CHAD GUY DAYBELL, by and through his attorney of record, and moves this honorable court for an order requiring that the State of Idaho submit a Bill of Particulars.

Pursuant to State v Neil, 58, Idaho 359, (1937), the Defense recognizes that a Bill of Particulars is not a matter of right but is within the sound discretion of the trial court. We ask that this court order the State of Idaho to produce the bill prayed for in this pleading as it is supported by the Fifth and Sixth Amendments to the United States Constitution and is necessary to prepare a defense and to avoid prejudicial surprise at trial. A bill of particulars serves “to furnish to the

defendant further information respecting the charge stated in the indictment when necessary to the preparation of his defense, and to avoid prejudicial surprise at trial.” United States v Smith, 16 F.R.D 372 (W.D. Mo. 1954). The case at bar has an indictment that is so general and has so many alternative theories, that it does not advise the defendant of the specific acts with which he is charged. A bill of particulars would flesh out and streamline the elements of the crimes.

The defense cannot adequately prepare for trial without a bill of particulars as to the murder charges. Several features of this case stand out with respect to the allegations of murder in this case which warrant the court exercising its discretion to order a bill of particulars.

First, this case was brought by grand jury indictment. That was a secret proceeding which was not subject to judicial review or cross examination by defense counsel. The language of the indictment is confusing as to several counts and is in need of clarification. While the Government is entitled to plead allegations in the alternative, the Defendant has the right to know what he is being charged with. The murder counts in the indictment are all pled in the alternative, which essentially means that the State of Idaho does not know who did what. Maybe this, maybe that.

Second, there are three separate allegations of murder which are alleged to have occurred on three separate dates. The conspiracy to commit those crimes were alleged to have occurred over a two-year period. There are allegations of grand theft and conspiracy to commit grand theft. There are at least two co-conspirators, one of which has been named in the indictment posthumously. There are known unnamed co-conspirators as well as unknown co-conspirators according to the indictment.

Third, the discovery in this case is voluminous to say the least. Discovery is still ongoing and as of the date of this motion the Defense has a significant amount of discovery and as of this date there is still a significant amount of discovery that has not been provided to defense . Much

of the discovery has been gathered over several years and the defense is in the position of sorting through all of the discovery which the prosecution has had, in some instances, for years. A bill of particulars would narrow down the possible alternative theories that Mr. Daybell would be required to defend against.

Fourth, Mr. Daybell has been incarcerated for over a year and a half., under conditions that make it difficult to review technical materials and discovery. Taken together, these factors create a “perfect storm” of difficulties in preparing for trial. Without a bill of particulars identifying and defining the issues laid out below that the government actually intends to assert at trial, the defense will face the impossible task of preparing to defend against dozens of potential scenarios.

It is also needed to avoid unfair surprise at trial, a further purpose of the bill of particulars. Under the current indictment, the government could change the theory under which it is alleging murder or conspiracy at its whim, between now and trial, or during the trial itself, posing a grave danger of unfair surprise.

Finally, the prosecutors are pursuing the highest, most final, and harshest penalty allowed in our country. The defendant should have the right to defend himself and face her accusers armed with the information needed to confront the Government’s allegations. **Count I**

1. As to Count I of the Indictment, the Government’s lawyers claim that there was an alleged conspiracy to take the life of Tylee Ryan and to commit grand theft of her monies by deception, between and among Chad Daybell, Lori Daybell, Alex Cox and “other co-conspirators, both known and unknown”, on or between the dates of “October 26, 2018 and continuing until January 15, 2020”, in the County of Madison, State of Idaho, and “elsewhere”, including Fremont County, Idaho.

2. It is necessary that defense counsel be certain that the requirements of the statutes, court rules and rules of evidence governing said conspiracy or conspiracies, be satisfied in that the Government must identify with plain, concise and definite written statements of the essential facts constituting the offense charged. (Idaho Criminal Rule 7(b)(1)). While the Government is permitted to speculate as to the means of how the crime was committed, they are not permitted to speculate as to the specific actors or be so vague in their description of the event as to make the defense prepare for every scenario in every portion of the state of Idaho. (Idaho Criminal Rule 7(b)(4)).
3. The Government has failed to identify indispensable parties, those being co-conspirators, as well as defining with particularity using plain, concise, and definite statements of the facts, dates, and events this alleged conspiracy occurred on or between. The language in the indictment describes sometime between October 2018 and January 2020. The Government has further failed to identify where, within the 1,369 square mile area of Madison and Fremont Counties this alleged conspiracy occurred, not to mention the “elsewhere” language, which is alleged to have occurred, the defense assumes, somewhere within the State of Idaho.
4. The Defense requests that the Government be required to outline with particularity any facts that support the conspiracy with regard to the overt acts.
5. The indictment states that the Chad Daybell endorsed and espoused religious beliefs for the purpose of encouraging and/ or justifying the homicide of Tylee Ryan.
6. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support this allegation. The

Defense has seen nothing in the discovery thus far which would support Chad Daybell's religious beliefs either encouraging or justifying the homicide of Tylee Ryan.

## **Count II**

7. As to Count two of the Indictment, the Government alleges that on or between the 8<sup>th</sup> and 9<sup>th</sup> of September, 2019 in the County of Madison, State of Idaho both Chad Daybell and Lori Daybell were "concerned" in the commission of a first-degree murder, and did aid and abet in its commission, or, not being present, advised and encouraged its commission, or by command compelled another to commit the crime and did so with malice aforethought.
8. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support the allegation that Chad Daybell aided and abetted in the commission of the alleged crime.
9. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support the allegation that Chad Daybell advised and encouraged some unnamed person or persons to commit the crime of first-degree murder. Also, the Defense would like to know the identity of the unnamed person or persons as well as their address so the Defense can investigate the allegation.
10. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support the allegation that Chad Daybell commanded an unnamed person or persons, compelling them to commit the crime of first-degree murder. Also, the Defense would like to know the identity of the

unnamed person or persons as well as their address so the Defense can investigate the allegation.

11. Further the Defense would request clarification of the word “concerned” contained within the indictment. This seems, to the Defense, to be cumulative language intended to disguise the language of a conspiracy into a separate charge. The Government states in the indictment that both Chad Daybell and Lori Daybell were “concerned” in the commission of the aforementioned crime. While willful, deliberate, and premeditated are all mentioned in the elements of the crime of first-degree murder, the word “concerned” is noticeably absent in the statute. The Defense requests clarification on that.

### **Count III**

12. As to Count III of the Indictment, the Government’s lawyers claim that there was an alleged conspiracy to take the life of Joshua Jaxon Vallow, hereinafter referred to as JJ Vallow, and to commit grand theft of his monies by deception, between and among Chad Daybell, Lori Daybell, Alex Cox and “other co-conspirators, both known and unknown”, on or between the dates of “October 26, 2018 and continuing until January 15, 2020”, in the County of Madison, State of Idaho, and “elsewhere”, including Fremont County, Idaho.
13. It is necessary that defense counsel be certain that the requirements of the statutes, court rules and rules of evidence governing said conspiracy or conspiracies, be satisfied in that the Government must identify with plain, concise, and definite written statements of the essential facts constituting the offense charged. (Idaho Criminal Rule 7(b)(1)). While the Government is permitted to speculate as to the means of how the crime was

committed, they are not permitted to speculate as to the specific actors or be so vague in their description of the event as to make the defense prepare for every possible scenario in every portion of the state of Idaho. (Idaho Criminal Rule 7(b)(4).

14. The Government has failed to identify indispensable parties, those being co-conspirators, in violation of *Brady v Maryland* 373 US 83 (1963), *Napue v Illinois* 360 US 264 (1959), and the Due Process Clause of the 14<sup>th</sup> Amendment to the US Constitution. Pursuant to Rule 7 of the Idaho Criminal Rules, the Government is required to define with particularity using plain, concise, and definite statements of the facts, dates, and events this alleged conspiracy occurred on or between. The language in the indictment describes sometime between October 2018 and January 2020. The Government has further failed to identify where, within the 1,369 square mile area of Madison and Fremont Counties this alleged conspiracy occurred, not to mention the “elsewhere” language, which is alleged to have occurred, the defense assumes, somewhere within the State of Idaho.
15. The Defense requests that the Government be required to outline with particularity any facts that support the conspiracy with regard to the overt acts.
16. The indictment states that the Chad Daybell endorsed and espoused religious beliefs for the purpose of encouraging and/ or justifying the homicide of JJ Vallow.
17. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support this allegation. The Defense has seen nothing in the discovery thus far which would support Chad Daybell’s religious beliefs either encouraging or justifying the homicide of JJ Vallow.

## **Count IV**

18. As to Count four of the Indictment, the Government alleges that on or between the 22<sup>nd</sup> and 23<sup>rd</sup> of September, 2019 in the County of Madison, State of Idaho both Chad Daybell and Lori Daybell were “concerned” in the commission of a first-degree murder, and did aid and abet in its commission, or, not being present, advised and encouraged its commission, or by command compelled another to commit the crime and did so with malice aforethought.
19. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support the allegation that Chad Daybell aided and abetted in the commission of the alleged crime.
20. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support the allegation that Chad Daybell advised and encouraged some unnamed person or persons to commit the crime of first-degree murder. Also, the Defense would like to know the identity of the unnamed person or persons as well as their address so the Defense can investigate the allegation.
21. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support the allegation that Chad Daybell commanded an unnamed person or persons, compelling them to commit the crime of first-degree murder. Also, the Defense would like to know the identity of the unnamed person or persons as well as their address so the Defense can investigate the allegation.
22. Further the Defense would request clarification of the word “concerned” contained within the indictment. This seems, to the Defense, to be cumulative language intended



to disguise the language of a conspiracy into a separate charge. The Government states in the indictment that both Chad Daybell Lori Daybell were “concerned” in the commission of the aforementioned crime. While willful, deliberate, and premeditated are all mentioned in the elements of the crime of first-degree murder, the word “concerned” is noticeably absent in the statute. The Defense requests clarification on that.

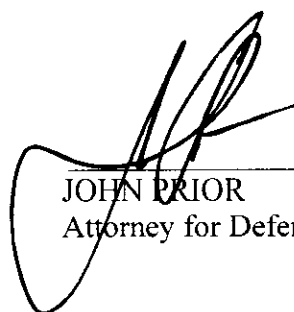
### **Count V**

23. As to Count five of the Indictment, the Government claims that Chad Daybell, Lori Daybell and Alex Cox sometime between October 1, 2018 and January 15, 2020 conspired to murder Tamara, hereinafter Tammy, Daybell.
24. The Defense is requesting that the Government clarify this conspiracy as to the time of the conspiracy as well as give a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support the allegation that Chad Daybell was involved in a conspiracy to commit murder in the first degree of Tammy Daybell, including specific dates and events which might support such conspiracy.
25. The Defense requests a plain, concise, and definite written statement outlining the specific facts that the Government is relying upon to support which would support Chad Daybell’s religious beliefs either encouraging or justifying the homicide of Tammy Daybell.

For the reasons stated above, Defendant, Chad Daybell, requests this Honorable Court issue an Order for Bill of Particulars consistent with the motion set forth above.

**NOTICE IS HEREBY GIVEN** that on 13<sup>h</sup> day of October 2022 at the hour of 9:00 am., or as soon thereafter as counsel may be heard, John Prior, attorney for Defendant above named will call up for hearing a hearing for Defendant's Motion for Bill of Particulars before the Honorable Judge Steven W. Boyce District Judge at the Fremont County Courthouse in St Anthony, ID.

DATED this 28<sup>th</sup> day of September 2022.

  
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JOHN PRIOR  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 28 day of September 2022, I served a true and correct copy of the document described below on the party listed below, by email.

Lindsey A. Blake

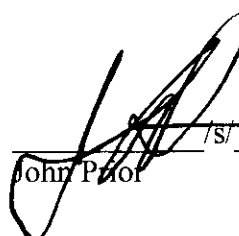
Efile and serve

Robert H. Wood

Efile and serve

James Archibauld

Efile and serve

  
\_\_\_\_\_  
John Prior