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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,

v.

CHAD GUY DAYBELL,
Defendant.

Case No.: CR22-21-1623

**STATE'S MOTION TO SEQUESTER
THE JURY**

The State of Idaho, by the Fremont County Prosecutor's Office in the matter pending against Chad Daybell and Lori Vallow Daybell ("Defendants" hereinafter), makes a request pursuant to Idaho Code §19-2126. The State asks that any jury be sequestered from the time they are sworn in as jurors until they are discharged from duty. In support the State explains as follows:

- 1) The parties do not dispute that the above-referenced action against the Defendants has garnered extensive pretrial publicity. (*See State's Response and Brief on Defendants' Motions for Change of Venue.*)
- 2) The State asserts that venue is proper in Fremont County, and its residents are capable of providing all parties a fair and impartial trial.
- 3) Such pretrial publicity requires the Parties and the Court to take steps to ensure that both Parties receive a fair trial unfettered by outside undue influence.

- 4) Any juror impaneled after voir dire may be subjected to public scrutiny and will be at risk of improper outside influence by third parties occasioned by publicity during trial.
- 5) Indeed, at previous hearings and proceedings in these matters' various media outlets, social media personalities, citizen journalists and other individuals were present, in or around the Courthouse, and found to be photographing and publicizing witnesses and law enforcement entering and exiting the Fremont County Courthouse. (*See* attached images in Motion Exhibit A – of journalist, social media individuals and citizen journalist who came to Idaho to observe Courthouse while the Grand Jury was in session).
- 6) The Defendants face multiple counts including charges for Murder in the First-Degree and Conspiracy to Commit Murder in the First-Degree, for which the death penalty may be sought.
- 7) Idaho Code §19-2126 provides the Court broad discretion in establishing the conditions of a jury's service. The Court may allow them to separate or require them kept together for either some, part or the duration of the trial:

The jury sworn to try any felony may, at any time during the trial, and after the submission of the cause, in the discretion of the court, be permitted to separate, or they may be kept together, in the charge of a proper officer. Provided however, that in causes where the defendant has been charged with first-degree murder, and the prosecuting attorney has filed a notice of intent to seek the death penalty pursuant to section 18-4004A, Idaho Code, and such notice has not been withdrawn, the jury may not be permitted to separate after submission of the cause and completion of the special sentencing proceeding held pursuant to §19-2515 or §19-2515A, Idaho Code. Before permitting the jury to separate after the cause has been submitted, the court shall permit counsel to place objections, if any, on the record outside the presence of the jury. IC §19-2126.

- 8) In the trial against the Defendants, the jury must be sequestered at a minimum after the case is submitted to them through the completion of the penalty phase of the trial.
Id.
- 9) The State asserts that in order to protect the rights of both the State and the Defendants to fair trial, the Court should sequester the jury after they are sworn in, post voir dire but just prior to opening statement by the State and keep them sequestered through the completion of the trial and penalty phase.
- 10) The process of sequestration under IC §19-2126 requires that the jury be kept together and housed in a hotel or location near the trial. Should the Court sequester

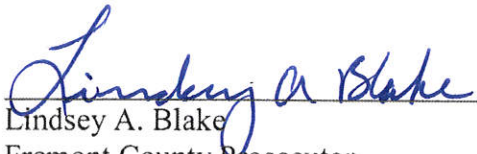
the jury, the jury will be in a location of the Court's choosing but not their own homes. Thus, the location of the trial itself is immaterial to a sequestered jury panel.


- 11) The process of sequestration also affords jurors added protection against COVID, as they will be distanced from outside influences and kept together.
- 12) Both Defendants have requested a change of venue due to pretrial publicity. Publicity of this case will likely continue during the trial as well. Defendant Lori Vallow Daybell requested a Transfer of Trial on June 28, 2021, and she is entitled to be heard on said motion since the cases are joined for trial. (Notwithstanding the Court's denial of the State's Motion to Correct Heading and to Clarify the Court's Order, the State respectfully maintains its objection to any proceedings in either Defendants' case which could affect the trial of Lori Vallow/Daybell pending the stay in her case as one could argue she is being deprived of her right to be heard in Court regarding matters affecting her trial.)

III. CONCLUSION

Therefore, for the reasons outlined herein, the State requests that the jury be sequestered from the time they are sworn to the conclusion of the case.

DATED this 29th day of September, 2021


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