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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

**MOTION FOR THE COURT TO
ALLOW ADDITIONAL EVIDENCE &
FOLLOW IDAHO CODE §19-1816 BY
TRANSPORTING A JURY**

The State of Idaho, by and through the Fremont County Prosecutor's Office in the matter pending against Chad Daybell and Lori Vallow Daybell, requests that this Court allow additional evidence and argument regarding transporting a jury into Fremont County. Such request is made pursuant to Idaho Code §19-1816. The State further requests the Court reconsider its decision regarding transporting a jury into Fremont County based on the following:

At a status conference held on September 30, 2021, the Thursday before the hearing on change of venue, this Court indicated an interest in receiving information relating to the costs of conducting a trial in another county versus the costs involved in transporting a jury to Fremont County. This Court also indicated that rather than continue the hearing on the change of venue, given the short time frame, the Parties could supplement evidence and arguments at a later date.

However, this Court issued its decision reading the change of venue prior to either Party being

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given the opportunity to supplement the arguments and/or evidence.¹

The State was able to present only limited testimony through Sheriff Humphries and Chief Turman regarding the costs and hardships of transporting a jury from another county versus transferring the trial as a whole. This was due, both, to the short notice of the request for this testimony before the hearing on the change of venue and lack of parameters about a change of venue which was necessary in order to provide actual estimated costs.

Based on this Court now having ordered the case be transferred to Ada County, and this Court's previous provision that the Parties would be allowed to supplement the evidence and argument presented at the change of venue hearing, the State is respectfully requesting to be allowed to present additional information, testimony and evidence regarding the costs and logistics of transporting a jury from Ada County versus transferring the case as a whole to Ada County. This includes the costs and additional hardships to Fremont County, hereinafter "Fremont" and Madison County, hereinafter "Madison" regarding manpower, financial expenses, and the impact on the community, taxpayers and victims. The State requests a hearing to present this additional evidence, including testimony and exhibits documenting more detailed information related to the costs and hardships of transferring the case in its entirety versus transporting a jury into Fremont. The State also intends to supplement this motion with a brief/memorandum.

This Court has discretion to reconsider a decision, especially when new evidence or information is presented. In *State v. Montague*, the defendant challenged the state's request that the court reconsider a decision granting a suppression motion. The Idaho Appellate Court held

¹ While the decision regarding the change of venue issues by this Court was only issued in the above-captioned matter, this Court has consistently held that the above-captioned matter and Lori Vallow Daybell's case number CR22-21-1624 are to be tried together.

that although such a request was not specifically recognized in the civil or criminal rules, this did not render a trial court “powerless to entertain such a request when made.” 2 114 Idaho 319, 320 (Ct.App.1988). The State seeks to ensure a fair trial for all parties and a just and impartial jury; however, the State also seeks to limit any undue burden to Fremont and Madison in transferring the trial in its entirety – especially when there is a mechanism under the Idaho Code to avoid these unnecessary costs and hardships while still maintaining the integrity of this Court’s decision.

For Fremont and Madison, local law enforcement, and witnesses, it would be more economical to transport the jury than to transfer the entire pending action. The cost to Fremont and Madison to fund a full trial in another part of the State of Idaho would be extensive based on the following:

- a. Because of the jurisdiction and criminal behavior in Madison, Madison is sharing the costs of the prosecution; thus, both Fremont and Madison would be impacted as well as municipalities within their boundaries.
- b. A significant number of witnesses for both the State and the Defendants live in both Fremont and Madison and therefore travel for trial would pose a hardship to the witnesses and be economically burdensome to them and both Counties.
- c. Court personnel, including the Judge, potentially a court reporter, potentially a court clerk, and any other necessary personnel that live in or near the Seventh Judicial District would be required to be housed in Ada County for the duration of the trial.

2 Although *State v. Flores*, 162 Idaho 298 (2017) contained a footnote that no Idaho criminal rule of procedure “provides a basis for a request to reconsider a decision of this kind,” it was in the context of relinquishing jurisdiction and the analysis noted that the trial court could not reinstate jurisdiction of the case to consider the Defendant’s request.

Therefore, it would pose a hardship to those personnel, their respective offices and be economically burdensome to one or both Counties.

- d. Many necessary witnesses are law enforcement and agency personnel who live and work in Fremont and Madison. Requiring them to travel for an extended trial will necessitate expenses to be paid by Fremont, Madison and the City of Rexburg. In addition, requiring the witnesses to travel for the duration of this trial will leave their respective employers without a full workforce. Such loss of employees can potentially leave their law enforcement agency with manpower shortages, potentially creating a less secure environment in both counties, as well as extreme expenses.

The State intends to call multiple law enforcement officers multiple times throughout the trial so requiring them to be away from their respective jurisdictions is both costly and an unneeded risk to Madison, Fremont and the City of Rexburg.

- e. In previous change of venue cases, the courts have found that the sheriff of the original jurisdiction is responsible for the transportation of the defendants and staff to and from the courthouse where the trial is held. It is anticipated that will be the same in this case.
- f. Jail costs to Fremont would be increased as Fremont would be billed jail costs from the host county and for the travel to and from the jail.
- g. Costs for the Prosecutor's office, in addition to a creating a manpower shortage, would be greatly increased should the trial be outside Fremont.

Courtroom resources in Fremont County are available for the duration of the trial while Ada County will have to move and continue multiple cases which will likely result in a backlog of cases for Ada County – potentially impacting the work of both Ada and Fremont - rather than just Fremont.

III. CONCLUSION

Therefore, for the reasons outlined herein, the State requests this Court set a hearing to allow supplemental evidence regarding costs to Fremont and Madison in transferring the case in its entirety compared to transporting in a jury, and reconsider this Court's decision to allow a jury to be impaneled from another county and transported to Fremont County for trial pursuant to I.C. §19-1816.

RESPECTFULLY DATED this 2nd day of November, 2021

/s/ Lindsey A. Blake

Lindsey A. Blake
Fremont County Prosecuting Attorney

/s/ Rob H. Wood

Rob H. Wood
Madison County Prosecuting Attorney

CERTIFICATE

I HEREBY CERTIFY that on this 2nd day of November, 2021, that a copy of the foregoing Motion was served as follows:

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