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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.

LORI NORENE DAYBELL,

Defendant.

Case No.: CR-22-21-1624

MOTION TO COMPEL

The State of Idaho, through the Fremont County Prosecuting Attorney's Office, asks the Court for an order compelling the Defendant to answer the State's Request for Discovery dated June 15, 2021.

When the State received no response to its request, the State sent a letter to counsel requesting discovery be provided on December 30, 2022. Counsel for Defendant Lori Norene Daybell provided the State with an incomplete notice of alibi and a limited witness list in response to the State's letter for discovery. Noticeably missing from disclosure were the time of the alleged alibi, the names of any expert witnesses and any evidence connected to the penalty phase of the case.

Idaho Code 19-2515 (6) specifically outlines that discovery for the penalty phase of a capital trial is controlled by ICR 16:

At the special sentencing proceeding, the state and the defendant shall

be entitled to present all relevant evidence in aggravation and mitigation.

Disclosure of evidence to be relied on in the sentencing proceeding shall be made in accordance with Idaho criminal rule 16. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing.

Discovery the Defense must provide pursuant to I.C.R. 16 (c) and applicable for its use in the entire trial includes:

(c) Disclosure of Evidence by the Defendant on Written Request. Except as otherwise provided in this rule, the defendant must, at any time following the filing of charges against the defendant, on written request by the prosecuting attorney, disclose the following information, evidence and material to the prosecuting attorney:

(1) Documents and Tangible Objects. On written request of the prosecuting attorney, the defendant must permit the prosecuting attorney to inspect and copy or photograph:

- (A) books,
- (B) papers,
- (C) documents,
- (D) photographs, and
- (E) tangible objects,

or copies or portions of them, that are in the possession, custody or control of the defendant, and that the defendant intends to introduce in evidence at the trial.

(2) Reports of Examinations and Tests. On written request of the prosecuting attorney, the defendant must permit the prosecuting attorney to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case if they are within the possession or control of the defendant, that the defendant intends to introduce in evidence at the trial, or that were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witness. On written request of the prosecuting attorney, the defendant must furnish the prosecuting attorney a list of names and addresses of witnesses the defendant intends to call at trial.

CERTIFICATE


I HEREBY CERTIFY that on this 25th day of January, 2023, that a copy of the foregoing MOTION TO COMPEL was served as follows:

John Prior
john@jpriorlaw.com

- U.S. Mail
- Hand Delivered
- Courthouse Box
- Facsimile:
- File & Serve
- Email

Jim Archibald

- U.S. Mail
- Hand Delivered
- Courthouse Box
- Facsimile:
- File & Serve
- Email

By: 

Tiffany Mecham