

**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 VALLOW aka LORI  
NORENE VALLOW DAYBELL,

Defendant.

Case No. CR22-21-1624

**MEMORANDUM DECISION and  
ORDER**

On March 30, 2023, the Court entered an ORDER EXCLUDING WITNESSES, as is customary under Idaho Rule of Evidence 615. The order, in conformity with the rule, prohibits witnesses from hearing other witnesses' testimony. The issue of determining who may be exempt from the order was raised, and pursuant to the Court's request briefing from the parties was submitted to clarify certain familial relationships to the victims in this case. Upon receipt of the briefs from the State of Idaho (hereinafter "State") and Defendant Lori Norene Vallow Daybell (hereinafter "Vallow Daybell"), and after consideration of the proffered arguments, a review of the record, and controlling legal authority, the Court renders the following decision and order.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

On May 25, 2021, a Grand Jury assembled in Fremont County, State of Idaho, returned an INDICTMENT against Defendant Vallow Daybell charging her with several crimes—two counts of Conspiracy to Commit First Degree Murder and Grand Theft by Deception, two counts of First Degree Murder, a single count of Conspiracy to Commit First Degree Murder, and a single count of Grand Theft. In the INDICTMENT, three homicide victims are named: (1) Joshua Jaxon Vallow, a minor child at the time of death; (2) Tylee Ryan, a minor child at the time of death; and (3) Tamara Daybell. A jury trial, beginning with the selection of jurors through *voir dire* examination,

has been underway since April 3, 2023. On March 30, 2023, the Court, as a result of administrative planning for courtroom security, entered an order *sua sponte* to exclude witnesses from observing trial testimony pursuant to Idaho Rule of Evidence 615(a). In the Order, the Court specifically noted that any witness exclusion was not applicable to victims “as defined by Idaho Law and Article I, Section 22 of the Idaho Constitution.”<sup>1</sup>

In response, the State raised a concern about certain witnesses being excluded from observing trial testimony. Specifically, the State raised concerns about excluding Kay Woodcock, Larry Woodcock, and Summer Shiflet from hearing witness testimony at trial before they offer their own testimony. The State insisted that these individuals qualify as victims; or alternatively, as the immediate family members of some of the victims. Defendant Vallow Daybell argues that they do not meet the definition of “victim” under Idaho law. The Court has now reviewed the briefing submitted and considered the record. The following facts are relevant to the decision herein:

1. Defendant Vallow Daybell legally adopted the victim Joshua Jaxon Vallow. Joshua Jaxon Vallow’s adoptive father, Leland Charles Anthony Vallow (“Charles Vallow”), is deceased.
2. Ethel Kay Vallow Woodcock (“Kay Woodcock”) is the biological sister to Charles Vallow, the adoptive father to the victim Joshua Jaxon Vallow.
3. Defendant Vallow Daybell, is the biological mother to the victim Tylee Ryan.
4. Summer Shiflet is the biological sister to Defendant Vallow Daybell.
5. Colby Ryan is the biological half-brother to Tylee Ryan and the adoptive half-brother to Joshua Jaxon Vallow.
6. Defendant Vallow Daybell has no relationship to the victim Tamara Daybell.

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<sup>1</sup> ORDER EXCLUDING WITNESSES. Mar. 30, 2023.

## II. LEGAL AUTHORITY

Idaho Rule of Evidence 615, in relevant part, states:

### **Rule 615. Excluding witnesses.**

- (a) At a party's request, the court may order witnesses excluded so that they cannot hear other witnesses' testimony. Or the court may do so on its own. But this rule does not authorize excluding:
  - [...]
  - (4) a crime victim whose exclusion is prohibited under Article 1, Section 22 of the Idaho Constitution.

I.R.E. 615 (2023).

Article 1, Section 22 of the Idaho Constitution states in part:

Section 22. RIGHTS OF CRIME VICTIMS. A crime victim, *as defined by statute*, has the following rights:

- (1) To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.
  - [...]
- (4) To be present at all criminal justice proceedings.

Art. 1. § 22 of the Idaho Constitution. (2023) (emphasis added).

Idaho Code Section 19-5306 enumerates the rights afforded victims of crime. I.C. §19-5306. (2023). Under the statute, “victim” means “an individual who suffers direct or threatened physical, financial, or emotional harm as the result of the commission of a crime[.]” I.C. §19-5306(5)(a). Idaho Code Section 19-5306(3) clarifies:

The provisions of this section shall apply equally to the immediate families of homicide victims... . The court may designate a representative from the immediate family to exercise these rights on behalf of a deceased, incapacitated, or minor victim.

I.C. §19-5306 (2023).

The Supreme Court of Idaho has clarified who qualifies as the “immediate family” of

homicide victims. In *Shackelford*, the Court considered who was an “immediate family” member for purposes of receiving victim impact statements in preparation for sentencing a defendant convicted of homicide. *State v. Shackelford*, 155 Idaho 454, 314 P.3d 136 (2013). *Shackelford* sets forth:

Under I.C. § 19–5306 each victim of a criminal case shall be “[c]onsulted by the presentence investigator during the preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct had upon the victim.” I.C. § 19–5306(1)(h). The provisions of I.C. § 19–5306 “apply equally to the immediate families of homicide victims.” I.C. § 19–5306(3). In *State v. Payne*, this Court held that “I.C. § 19–5306 limits victim impact statements to immediate family members.” 146 Idaho at 575, 199 P.3d at 150. **Further, the Court defined “immediate family members” as “parent, mother-in-law, father-in-law, husband, wife, sister, brother, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or a son or daughter.”** *Id.* Thus, the Court held that, in a homicide case, victim impact statements by those who are not “immediate family members” of the victim are inadmissible. *Id.* at 575–76, 199 P.3d at 150–51.

*State v. Shackelford*, 155 Idaho 454, 463, 314 P.3d 136, 145 (2013).

### III. DISCUSSION

As a threshold issue, the Court notes that there is a procedure within the statute designed to aid the Court in being notified of who the State contends is a victim. To date, and after an express request, the Clerk of the Court has still not received the form in this case, required by Idaho Code Section 19-5306(2), that indicates to the Court an individual is asserting their rights as a crime victim, thus invoking the rights afforded to crime victims under Idaho law as set forth in Idaho Code Section 19-5306 and the Idaho Constitution. Despite this omission, the Court is not, nor ever has been, immune to the considerations of crime victims—and their family members—in this case.

The Court here must determine who is a “victim” under Idaho law in order to ensure compliance with the exclusionary rule. To be clear, family members of crime victims are always

permitted to *attend* criminal proceedings, including the trial in this case. The exclusionary rule is limited to prohibiting a testifying witness from hearing another witness testify, and thus the exclusion only occurs when testimony is elicited at trial. The Court in no way minimizes the significant impact of losing family members to homicide, no matter the nature or closeness of any kinship. Further, the Court has never attempted to preclude any family member of the victims—J.J. Vallow, Tylee Ryan, and Tamara Daybell—from attending criminal proceedings, as evidenced by their frequent appearances in court during the pre-trial litigation in this case. However, previous attendance does not justify future inclusion for the purpose of determining whether or not a person meets the legal definition of “victim” in Idaho. That is strictly a legal determination the Court must make. Simply put, only legally qualified “victims” may observe trial testimony before offering their own testimony. If a witness is not a legally qualified “victim,” their testimony will likely be prohibited if they first observe other testimony.

Thus, it is incumbent upon this Court to ascertain who meets the legal definition of “victim” and “immediate families of homicide victims” in Idaho to fall within the purview of the exception from the exclusionary rule in I.R.E. 615.

The State has argued that Kay Woodcock, Larry Woodcock, Colby Ryan and Summer Shiftlet are all qualified victims for purposes of excepting them from the exclusionary rule. The defense disagrees, arguing the State is mistaken in assigning the status as “victim” to these individuals. Certainly, the Court does not question the emotional impact of the alleged crimes on any of the people the State puts forth as “victims”. Neither is the Court insensitive to the hardship presented to any of them. However, the Court is constrained by law.

For purposes of applying an exception to the exclusionary rule in I.R.E. 615, the Court cannot find that Kay Woodcock initially qualifies as a “victim.” However, because a homicide

“victim” cannot assert rights for themselves, the Idaho legislature codified Idaho Code § 19-5306(3) to extend the rights of “victims” to the “immediate families of homicide victims.”

In Idaho, Kay Woodcock does not meet the legal definition of “immediate family member” of any of the victims—but, Charles Vallow does. As the parent of Joshua Jaxon Vallow, Charles Vallow is an immediate family member who is afforded the same rights conferred upon crime victims. The record reflects that Charles Vallow is deceased. Kay Woodcock is the biological sister to Charles Vallow. Accordingly, the Court has authority to “designate a representative from the immediate family to exercise these rights on behalf of a deceased, incapacitated, or minor victim” when a member of the immediate family is unable to fulfill that role. I.C. §19-5306(3). In the interest of justice, the Court finds it wholly appropriate to designate Kay Woodcock the representative for victim Joshua Jaxon Vallow in Charles Vallow’s stead. As such, she qualifies to be excepted from the exclusionary rule for testifying witnesses under I.R.E. 615, and may observe trial testimony prior to any testimony she may offer.

The Court next considers Summer Shiflet. She does not meet the legal definition of “immediate family member” of any of the victims, but the record clarifies Shiflet is the biological sister of victim Tylee Ryan’s parent. Where Tylee’s mother is Defendant Vallow Daybell and where her father is deceased, neither of Tylee Ryan’s parents are available to fulfill the role of the “immediate member” on behalf of Tylee Ryan at this trial. Thus the Court determines that Summer Shiflet is appropriately designated as the representative of the immediate family of Tylee Ryan in accordance with I.C. § 19-5306(3). Summer Shiflet therefore qualifies to be excepted from the exclusionary rule for testifying witnesses under I.R.E. 615.

Further, Colby Ryan meets the definition of “immediate family member” because he is the brother to Tylee Ryan and Joshua Jaxon Vallow. Accordingly, he qualifies to be excepted from

the exclusionary rule for testifying witnesses under I.R.E. 615.

Finally, from the record before it, Larry Woodcock does not meet the legal definition of “immediate family member” in relation to any of victims listed by the State. The State has included Larry Woodcock on the list of witnesses expected to testify. As such, he is subject to the exclusionary rule of I.R.E. 615. This means that Larry Woodcock is precluded from observing trial testimony prior to the testimony he offers at trial. He may however observe all proceedings where testimony is not being offered, and upon the completion of his testimony, he would be permitted to observe the remainder of the trial. The State has the means to order its testifying witnesses however it sees fit. Should the State wish to call Larry Woodcock early in its case-in-chief, that is entirely the prerogative of the State.

In sum, the Court is disappointed that the statutory form required under Idaho Code Section 19-5306(2) has not been provided to the Clerk of the Court in order to clearly identify and protect the rights of crime victims, their immediate families, and illuminate a need to designate representatives from the immediate family of victims in this case, which may have prevented much of the confusion surrounding this issue. The Court still requests that the State confirm who is asserting their status of victim to comply with I.C. §19-3506(2), and to keep the record clear on this issue. Nevertheless, the Court, in its discretion, will appoint Kay Woodcock as the representative for Joshua Jaxon Vallow and will appoint Summer Shiflet as the representative for Tylee Ryan. Colby Ryan meets Idaho’s definition of “immediate family” to both Joshua Jaxon Vallow and Tylee Ryan.

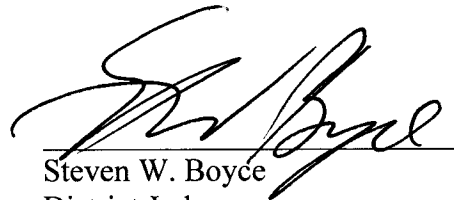
#### **IV. CONCLUSION**

Three individuals raised by the State— Kay Woodcock, Summer Shiflet, and Colby Ryan—as well as any other individual who meets the statutory definition for Tamara Daybell, are properly afforded the rights pertaining to crime victims as enumerated under Idaho Code Section 19-5306,

and Article 1, Section 22 of the Idaho Constitution and will not be subject to the exclusionary rule of I.R.E. 615.

**IT IS SO ORDERED.**

Dated this 5 day of April, 2023.



Steven W. Boyce  
District Judge



**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of April, 2023, the foregoing Order was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes; by causing the same to be hand-delivered, by facsimile, or by e-mail.

Parties Served:

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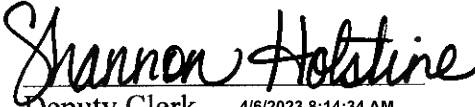
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Fremont County, Idaho

by   
Deputy Clerk 4/6/2023 8:14:34 AM