

Description	Judge Boyce * S. Holstine * Patricia Bath * 05/09/23 * Fremont Co. Case	
Date	5/9/2023	Location 1A-CRT400
Time	Speaker	Note
8:04:52 AM		CR22-21-1624 St v Lori Vallow Jury Trial Day 20
8:04:53 AM	State Attys	Lindsey Blake - Robert Wood - Rachel Smith for the State
8:04:57 AM	Def Attys	Jim Archibald - John Thomas for the Defense
8:04:59 AM	Defendant	Is Present in custody
8:49:06 AM		Simulcast On
8:49:10 AM	Judge Boyce	Bring the jury in please
8:52:48 AM		The jury is present
8:52:50 AM	Judge Boyce	Calls case. Counsel and all parties present. The State is continuing with their case in chief. The jurors are present and have signed their juror affirmation forms.
8:53:51 AM	Judge Boyce	The State may call their next witness
8:53:57 AM	Ms. Blake	CALLS STATE'S WITNESS #61 - FBI Tactical Specialist Nicole Heideman/Sworn (Previously testified on 4/24 as SW#25)
8:54:44 AM	Ms. Blake	Direct Examination of SW#61
8:59:12 AM	Ms. Blake	State's Exhibit #184B previously marked is handed to the witness for identification
8:59:14 AM	Ms. Blake	CDX of SW#61
9:00:16 AM	Ms. Blake	Moves to admit SE #184B
9:00:17 AM	Mr. Thomas	Objection - Relevance. Asks to question in aid of objection
9:00:30 AM	Judge Boyce	I'll allow that
9:00:33 AM	Mr. Thomas	Questions SW#61 in aid of objection
9:02:47 AM	Ms. Blake	Objection
9:02:59 AM	Judge Boyce	I'll allow a bit more - get to the point of your objection
9:03:07 AM	Mr. Thomas	Continues to question SW#61 in aid of objection
9:03:35 AM	Mr. Thomas	Objects to SW#184B
9:03:50 AM	Ms. Blake	Responsive argument
9:04:20 AM	Judge Boyce	Makes Ruling - title is demonstrative but remainder is allowed
9:05:57 AM	Judge Boyce	STATE'S EXHIBIT #184B IS ADMITTED

9:06:12 AM	Ms. Blake	Comments to court about title in slide
9:06:22 AM	Judge Boyce	That title is Demonstrative - those blue highlighted titles are not to be considered as evidence and I will provide the jury an instruction to that effect
9:07:10 AM	Ms. Blake	CDX of SW#61
9:09:29 AM	Ms. Blake	Moves to publish SE #53A which was previously admitted
9:10:17 AM	Judge Boyce	You may publish SE #53A
9:10:19 AM		SE #53A IS PUBLISHED
9:10:23 AM	Ms. Blake	CDX of SW#61
9:16:11 AM	Mr. Thomas	Objection - Leading
9:16:17 AM	Judge Boyce	Objection is Sustained
9:16:19 AM	Ms. Blake	CDX of SW#61
9:19:16 AM	Ms. Blake	Moves to publish previously admitted exhibit
9:20:31 AM	Ms. Blake	Asks witness be handed a copy of her report so she can read a couple of lines
9:20:56 AM	Judge Boyce	Any objection
9:21:00 AM	Mr. Thomas	We renew our objection
9:21:07 AM	Judge Boyce	Objection is Overruled. I will allow
9:22:03 AM	Ms. Blake	CDX of SW#61
9:22:41 AM	Ms. Blake	I will now publish the exhibit
9:22:42 AM	Judge Boyce	You may now publish
9:22:56 AM		PUBLISHES EXHIBIT
9:23:12 AM	Ms. Blake	CDX of SW#61
9:28:38 AM	Ms. Blake	We had discussed having a sidebar at this point
9:28:50 AM		SIDEBAR - Simulcast Off
9:29:31 AM		Simulcast On
9:29:35 AM	Judge Boyce	We have a matter that will need to be heard outside the presence of the jury
9:30:11 AM		Jurors Exit
9:31:07 AM	Judge Boyce	The State wants to admit an exhibit that we discussed yesterday. They have submitted an alternate version of this exhibit
9:31:32 AM	Ms. Blake	We'd ask for a brief recess to allow the State to confer as a team

9:31:46 AM	Judge Boyce	We'll go ahead and do that. Let me know when you're ready to argue
9:31:50 AM		COURT RECESSES - Simulcast Off
9:40:30 AM		COURT RESUMES. Jury is not present
9:40:40 AM		Simulcast On
9:40:49 AM	Judge Boyce	Back on the record.
9:40:57 AM	Ms. Blake	The State will not be moving to admit our exhibit at this time. No further questions of this witness
9:41:11 AM	Judge Boyce	It would be best if we indicate that in front of the jurors
9:41:21 AM	Judge Boyce	Bring the jury in please
9:43:28 AM		The jury is present
9:43:49 AM	Judge Boyce	The State may continue
9:44:12 AM	Ms. Blake	CDX of SW#61
9:44:30 AM	Ms. Blake	No further questions of this witness
9:44:33 AM	Judge Boyce	Counsel may cross
9:44:35 AM	Mr. Thomas	No Cross Examination of this witness
9:44:39 AM	Judge Boyce	May this witness step down and be excused
9:44:45 AM	Ms. Blake	We ask she be excused
9:44:46 AM	Mr. Thomas	No objection
9:44:51 AM	Judge Boyce	Witness may step down and be excused
9:45:10 AM	Judge Boyce	The State may call their next witness
9:45:13 AM	Ms. Blake	CALLS STATE'S WITNESS #62 - Lead Investigator Idaho AG Office - Nicholas Edwards /Sworn
9:45:45 AM	Ms. Blake	Direct Examination of SW#62
9:54:41 AM	Ms. Blake	State's Exhibit #184F previously marked is handed to the witness for identification
9:55:39 AM	Ms. Blake	CDX of SW#62
9:55:41 AM	Ms. Blake	Moves to admit SE #184F
9:55:43 AM	Mr. Thomas	No objection
9:55:49 AM	Judge Boyce	STATE'S EXHIBIT #184F IS ADMITTED
9:55:53 AM	Ms. Blake	Moves to publish SE #184F
9:55:54 AM	Judge Boyce	You may publish SE #184F

9:55:56 AM		SE #184F IS PUBLISHED
9:56:26 AM	Ms. Blake	CDX of SW#62
10:00:32 AM	Ms. Blake	State's Exhibit #184C previously marked is handed to the witness for identification
10:01:57 AM	Ms. Blake	CDX of SW#62
10:02:10 AM	Ms. Blake	Moves to admit SE #184C
10:02:20 AM	Mr. Thomas	Objection - Cumulative
10:02:36 AM	Ms. Blake	Responsive argument
10:03:11 AM	Judge Boyce	Comments
10:03:19 AM	Mr. Thomas	May I voir dire in aid of objection
10:03:26 AM	Mr. Thomas	Questions SW#62 in aid of objection
10:03:46 AM	Mr. Thomas	No objection
10:03:50 AM	Judge Boyce	STATE'S EXHIBIT #184C IS ADMITTED - Demonstrative only
10:04:06 AM	Ms. Blake	Moves to publish SE #184C
10:04:07 AM	Judge Boyce	You may publish SE #184C
10:04:08 AM		SE #184C IS PUBLISHED
10:04:13 AM	Ms. Blake	Due to issues with the Elmo, I will display a version from my laptop
10:06:35 AM	Mr. Thomas	No objection
10:06:36 AM	Judge Boyce	You may
10:07:31 AM	Ms. Blake	CDX of SW#62
10:09:37 AM	Ms. Blake	Requests Sidebar
10:09:45 AM		SIDEBAR - Simulcast Off
10:10:37 AM		Simulcast On
10:10:45 AM	Judge Boyce	The State has requested time to deal with the technology issue, so we'll take our morning break now
10:11:18 AM		Jurors Exit
10:11:47 AM		COURT RECESSES - Simulcast Off
10:35:26 AM		COURT RESUMES. Jury is not present
10:35:29 AM		Simulcast On
10:35:48 AM	Judge Boyce	Have we sorted out the tech issue

10:35:57 AM	Ms. Blake	The technology has been fixed
10:36:15 AM	Judge Boyce	Bring the jury in please
10:38:18 AM		The jury is present
10:38:21 AM	Judge Boyce	Back on the record. Counsel and all parties are present. The State may continue
10:38:51 AM	Ms. Blake	Moves to publish SE #184C
10:39:04 AM		You may publish SE #184C
10:39:06 AM		SE #184C IS PUBLISHED
10:39:18 AM	Ms. Blake	CDX of SW#62
10:40:47 AM	Ms. Blake	Previously admitted State's Exhibit # 10A & 10B are shown to the defense and moves to publish SE #10A & 10B
10:41:28 AM	Mr. Thomas	No objection
10:41:35 AM	Judge Boyce	You may publish SE #10A & 10B
10:41:36 AM		SE #10A & 10B IS PUBLISHED
10:41:38 AM	Ms. Blake	CDX of SW#62
10:43:46 AM		Moves to publish SE #281B - previously admitted
10:43:56 AM	Mr. Thomas	No objection
10:43:59 AM	Judge Boyce	You may publish SE #281B
10:44:01 AM		SE #281B IS PUBLISHED
10:44:05 AM	Ms. Blake	CDX of SW#62
10:45:58 AM	Mr. Thomas	Objection - Speculation
10:46:01 AM	Judge Boyce	Objection is Sustained - Answer will be stricken
10:46:09 AM	Ms. Blake	CDX of SW#62
10:46:56 AM	Mr. Thomas	Objection - Hearsay
10:46:58 AM	Judge Boyce	Objection is Sustained
10:47:00 AM	Ms. Blake	CDX of SW#62
10:49:16 AM	Mr. Thomas	Objection -
10:49:22 AM	Judge Boyce	You may answer
10:49:23 AM	Ms. Blake	CDX of SW#62
10:50:08 AM	Ms. Blake	State's Exhibit #184D previously marked is handed to the witness for identification
10:50:20 AM	Ms. Blake	CDX of SW#62

10:51:23 AM	Mr. Thomas	Objection -
10:51:26 AM	Judge Boyce	Objection is Sustained
10:51:28 AM	Ms. Blake	CDX of SW#62
10:51:43 AM	Ms. Blake	Moves to admit SE #184D
10:51:51 AM	Mr. Thomas	Objection - Hearsay
10:51:59 AM	Ms. Blake	Argument - for demonstrative purposes
10:52:23 AM	Judge Boyce	STATE'S EXHIBIT #184D IS ADMITTED - Demonstrative Only
10:52:43 AM	Ms. Blake	Moves to publish SE #184D
10:52:44 AM	Judge Boyce	You may publish SE #184D
10:52:49 AM		SE #184D IS PUBLISHED
10:52:51 AM	Ms. Blake	CDX of SW#62
10:57:09 AM	Ms. Blake	State's Exhibit #184E previously marked is handed to the witness for identification
10:57:40 AM	Ms. Blake	CDX of SW#62
10:58:06 AM	Ms. Blake	Moves to admit SE #184E
10:58:09 AM	Mr. Thomas	Objection - Relevance
10:58:33 AM	Ms. Blake	Responsive argument
10:58:49 AM	Judge Boyce	Objection is Overruled. STATE'S EXHIBIT #184E IS ADMITTED - Illustrative Only
10:59:24 AM	Ms. Blake	Moves to publish SE #184E
10:59:25 AM	Judge Boyce	You may publish SE #184E
10:59:26 AM		SE #184E IS PUBLISHED
10:59:28 AM	Ms. Blake	CDX of SW#62
11:03:13 AM	Ms. Blake	State's Exhibit #29E previously marked is handed to the witness for identification
11:03:43 AM	Ms. Blake	CDX of SW#62
11:03:52 AM	Ms. Blake	Moves to admit SE #29E
11:04:04 AM	Mr. Thomas	No objection
11:04:05 AM	Judge Boyce	STATE'S EXHIBIT #29E IS ADMITTED
11:04:09 AM	Ms. Blake	Moves to publish SE #29E
11:04:10 AM	Judge Boyce	You may publish SE #29E

11:04:10 AM		SE #29E IS PUBLISHED
11:04:12 AM	Ms. Blake	CDX of SW#62
11:10:39 AM	Ms. Blake	Moves to publish SE #10F - previously admitted
11:11:41 AM	Mr. Thomas	No objection
11:11:44 AM	Judge Boyce	You may publish SE #10F
11:11:51 AM		SE #10F IS PUBLISHED
11:11:52 AM	Ms. Blake	CDX of SW#62
11:14:28 AM	Ms. Blake	No further questions of this witness
11:14:31 AM	Judge Boyce	Counsel may cross
11:15:23 AM	Mr. Thomas	Cross Examination of SW#62
11:24:08 AM	Mr. Thomas	Moves to publish SE #184D
11:24:24 AM	Judge Boyce	You may publish SE #184D
11:24:30 AM	Ms. Blake	The copies we provided counsel were the same
11:24:39 AM	Mr. Thomas	SE #184D IS PUBLISHED and CCX of SW#62
11:27:02 AM	Ms. Blake	Objection - counsel adding testimony not in the record
11:27:12 AM	Judge Boyce	Objection is Overruled
11:27:14 AM	Mr. Thomas	CCX of SW#62
11:27:29 AM	Ms. Blake	Objection - misstates the evidence
11:27:38 AM	Judge Boyce	Objection is Sustained
11:27:42 AM	Mr. Thomas	Requests sidebar
11:27:49 AM		SIDEBAR - Simulcast Off
11:29:26 AM		Simulcast On
11:29:31 AM	Judge Boyce	You may continue with cross
11:29:36 AM	Mr. Thomas	CCX of SW#62
11:30:33 AM	Mr. Thomas	No further questions of this witness
11:30:37 AM	Judge Boyce	Any redirect
11:30:41 AM	Ms. Blake	RDX of SW#62
11:33:18 AM	Ms. Blake	No further questions of this witness
11:33:22 AM	Judge Boyce	May this witness step down and be excused
11:33:26 AM	Ms. Blake	No objection
11:33:31 AM	Mr. Thomas	No objection

11:33:35 AM	Judge Boyce	Witness may step down and be excused
11:33:52 AM	Judge Boyce	Where does the State stand with your case in chief
11:34:00 AM	Ms. Blake	We request a sidebar
11:34:06 AM		SIDEBAR - Simulcast Off
11:39:07 AM		Simulcast On
11:39:14 AM	Judge Boyce	Back on the record. We discussed scheduling for today. We will recess for lunch today and return at 12:40 to take up some matters outside the presence of the jury
11:40:28 AM		Jurors Exit
11:40:44 AM		COURT RECESSES - Simulcast Off
12:43:07 PM		COURT RESUMES. Jury is not present
12:43:13 PM		Simulcast On
12:43:53 PM	Judge Boyce	Back on the record. Counsel and all parties are present. The jury is not present. Have the exhibits that have been admitted in the court's record? Anything to put on the record
12:44:24 PM	Ms. Blake	We have reviewed the exhibits list and confirmed them with the clerk
12:44:25 PM	Judge Boyce	So you don't see any amendments that are needed
12:44:42 PM	Ms. Blake	We do not, Your Honor
12:44:57 PM	Judge Boyce	One issue, we will need photos provided in lieu of the gun and the baffles
12:45:20 PM	Ms. Blake	We have those images coming in now. I'm not sure we have one of the baffles. Shows photo to defense counsel
12:45:47 PM	Mr. Thomas	This is what will go in the record, or this is what will go back into the jury room
12:46:09 PM	Judge Boyce	This is for purposes of the post-trial record. The exhibit itself will be able to be viewed by the jury in deliberations. This is for the appellate record
12:46:11 PM	Ms. Blake	We failed to get photos of the baffles. We'll get that done and show it to counsel
12:48:21 PM	Judge Boyce	The photos are replacing the physical evidence in the case. They can be put in at any point before the case is concluded. Further discussion with parties on the exhibit/photo replacement. Anything else before we bring the jury in
12:48:30 PM	Ms. Blake	There is a clerical error in the indictment. We'd like to make a correction and get that submitted to the court

12:49:01 PM	Judge Boyce	It will be by motion
12:49:07 PM	Ms. Blake	It will be an amended indictment/information
12:49:15 PM	Mr. Archibald	This is the first I've heard of this
12:49:26 PM	Judge Boyce	This should be argued outside the presence of the jurors. Let's get that issue taken care of. Defense needs to be given time to view the proposed amendment. We'll take a recess at this time
12:50:23 PM		COURT RECESSES - Simulcast Off
1:14:49 PM		COURT RESUMES. Jury is not present
1:14:53 PM		Simulcast On
1:15:15 PM	Judge Boyce	Back on the record. Is there a motion by the State
1:15:52 PM	Mr. Wood	There is
1:15:59 PM	Judge Boyce	This motion is governed by ICR7(e)
1:16:27 PM	Mr. Wood	Seeking to amend a couple of clerical errors: In Count 1 & Count 3 and Count 7 the State had inadvertently put down the incorrect code, change 4a to 2a to match language to the actual charging document. In Count 5, in the overt acts, #10 should be month. Make argument
1:18:46 PM	Mr. Archibald	I have asked for a copy of an amended indictment. I can still make argument while we're waiting on that. Argument - affects substantial rights of my client
1:22:18 PM	Mr. Wood	Responsive argument
1:22:48 PM	Judge Boyce	Which counts are you looking to amend
1:23:12 PM	Mr. Wood	Counts 1, 3 & 7
1:23:20 PM	Judge Boyce	Comments about amendment to indictment and the late timing of this motion. Four proposals sought to change the indictment. Further comments to parties. Count 5, overt acts #10, The clerical correction to change the language from months to month will be allowed. On Counts 1, 3 & 7, the code lists 18-2403(4)(a) and the State wants this changed to 18-2403(2)(a). Comments on Count 1 - the court will allow the language in Count 1 to be changed. Comments on Count 3 - the court will allow the amendment in Count 3 to be changed. Comments on Count 7 - the court will allow the amendment in Count 7 to be changed. The State shall submit a new amended Indictment for filing in the case before the final instructions and the case goes to the jury for deliberations. Any questions on my ruling
1:33:08 PM	Mr. Wood	No, thank you
1:33:12 PM	Mr. Archibald	No

1:33:13 PM	Judge Boyce	Bring the jury in please
1:35:28 PM		The jury is present
1:35:30 PM	Judge Boyce	Back on the record. Does the State have any additional witnesses to call
1:36:04 PM	Ms. Blake	We do not. The State Rests
1:36:16 PM	Judge Boyce	Will the defense be making any motions that should be heard outside the presence of the jury
1:36:25 PM	Mr. Archibald	Yes, Your Honor
1:36:32 PM	Judge Boyce	There is a motion that will be heard outside the presence of the jury. Shall I excuse the jurors for the day?
1:37:05 PM	Mr. Archibald	May we have a sidebar on that issue
1:37:08 PM		SIDEBAR - Simulcast Off
1:38:56 PM		Simulcast On
1:39:25 PM	Judge Boyce	Back on the record. In lieu of excusing the jury early, we will excuse the jury to the jury room while I hear a motion. Admonishes the jury
1:40:38 PM		Jurors Exit
1:41:17 PM	Judge Boyce	The State has rested. Is the defense making a motion at this time
1:41:47 PM	Mr. Archibald	Makes a motion under Rule 29 of ICR for acquittal on each count, including the overt acts. We'd also ask for time to meet with my client to discuss with her how she would like to proceed
1:44:06 PM	Judge Boyce	Inquires of counsel
1:45:31 PM	Ms. Blake	Makes argument against motion. Asks court to deny the motion
1:47:21 PM	Mr. Archibald	Final argument
1:47:44 PM	Judge Boyce	We are at ICR 29(a) at this point. This motion will require the court to go back and review the evidence for each count - will need to take under advisement. I will reserve ruling on that motion and the defense can move forward with their evidence. The defense will be able to use the courtroom for their discussion. We'll be in recess until further notice
1:49:51 PM		COURT RECESSES - Simulcast Off
2:28:20 PM		COURT RESUMES. Jury is not present
2:28:24 PM		Simulcast On
2:28:47 PM	Judge Boyce	Back on the record. Counsel and all parties are present. The State has rested its case in chief. A Rule 29 motion has been

		taken under advisement. We took a break to allow counsel to speak with their client. How are you going to proceed
2:29:40 PM	Mr. Archibald	We've spoken with our client. We don't believe the State has proven their case. The Defense Rests
2:29:56 PM	Judge Boyce	Inquires of defendant as to her 5th Amendment Right to not testify. Is it your decision to maintain that right
2:30:39 PM	Defendant	Yes, Your Honor
2:30:42 PM	Judge Boyce	Thank you for your response. I will reserve a decision on your motion under Rule 29(b) is that correct
2:31:11 PM	Mr. Archibald	Yes, Your Honor
2:31:15 PM	Judge Boyce	I'll will consider that motion under advisement and the court will issue a ruling on that in due course. We will excuse the jurors for the day and work on jury instructions tomorrow. We will begin with closing arguments on Thursday. Does that work for the parties
2:31:49 PM		Parties agree that schedule works
2:31:55 PM	Judge Boyce	I will advise the jurors of that. Bring the jury in please
2:33:19 PM		The jury is present
2:33:32 PM	Judge Boyce	Back on the record. The jury is present. The State has rested their case. This is the time for the defense to present their case
2:34:09 PM	Mr. Archibald	After consultation with my client, we don't believe the State has proved their case. The defense rests.
2:34:19 PM	Judge Boyce	We will have a jury instruction conference tomorrow. Closing arguments will be on Thursday. That will conclude the trial proceedings for today. The jurors will have tomorrow off and will return on Thursday. Admonishes the jury
2:36:12 PM		Jurors Exit
2:36:45 PM	Judge Boyce	Asks the parties make themselves available tomorrow for scheduling. My staff attorney will be in contact with you as to when we'll be going on the record. Anything further from the State
2:37:39 PM	Mr. Wood	No, thank you
2:37:42 PM	Judge Boyce	Anything from the defense
2:37:44 PM	Mr. Archibald	No
2:37:46 PM	Judge Boyce	That's all for today
2:37:51 PM		END OF CASE

[2:37:51 PM](#)

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