

R. James Archibald
Attorney at Law
Idaho State Bar No. 4445
1493 North 1070 East
Shelley, Idaho 83274
Telephone (208) 317-2908
Email: jimarchibald21@gmail.com

John Thomas
Attorney at Law
Idaho State Bar No. 6727
166 Martinsburg Lane
Idaho Falls Idaho, 83404
Telephone: (208) 313-7481
Email: jthomas@co.bonneville.id.us

**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,)	Case No. CR22-21-1624
vs.)	
)	MOTION TO COMPEL
LORI VALLOW DAYBELL,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, by and through her attorneys of record, and pursuant to Idaho Criminal Rule 16(b)(6), moves for an order compelling the State to turn over all witness statements including any and all dates and times of witness interview or interaction, including a detailed statement of what was said at the time the statement was made.

Previous discovery requests have been made by both undersigned attorneys. Another specific request was made on September 1, 2022. The state is of the position that they do not need to turn this information over to the defense because the FBI, not state investigators, conducted the

interviews. However, the interviews were at the request of the prosecuting attorneys, conducted in state law enforcement facilities, and were observed by and listened to by the prosecuting attorneys. We request an order compelling the State of Idaho to do so.

The Government has had, and continues to have, ongoing video and audio taped interviews with witnesses and potential witnesses which have not been provided to the defense. We believe that the Government is being disingenuous in their disclosures as required by Idaho Criminal Rule 16(b)(6). The Government has a continuing duty to disclose pursuant to ICR 16(j).

Should the Government continue to posture that it has no duty to disclose this evidence, or is unwilling to do so, defendant will likely assert that the failure to disclose the evidence prevented her from receiving a constitutionally guaranteed fair trial, *State v Byington*, 132 Idaho 592, 977 P2d at 206, (1999), by hampering her ability to meet the evidence at trial, *State v Miller*, 133 Idaho 454, 988 P2d 680, (1999), had a deleterious effect on her trial strategy, *United States v Marshall*, 132 F3d 63, (D.C. Cir. 1998), or that it deprived her of the opportunity to raise a valid challenge to the admissibility of evidence. *United States v Camargo-Vergara*, 57 F3d 993 (11th Cir. 1995). We believe it is in the best interest of the Government to disclose any and all evidence to the defendant.

We are asking this court to compel the state to turn over what is required by Idaho Criminal Rule 16(b)(6) and/or to sanction the Government accordingly.

DATED this 22nd day of November, 2022.

_____/s/_____
JOHN THOMAS
Co- Counsel for Defendant

_____/s/_____
R. JAMES ARCHIBALD
Lead Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22 day of November, 2022, I served a true and correct copy of the document described below on the party listed below, by email.

DOCUMENT:

MOTION TO COMPEL

PARTIES SERVED:

Lindsay Blake via Efile and serve
Fremont County Prosecutor

Rob Wood via Efile and serve
Madison County Prosecutor

_____/s/_____
R. James Archibald