

**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,  vs.  CHAD GUY DAYBELL,  Defendant.	Case No. CR22-21-1623  <b>MEMORANDUM DECISION DENYING DEFENDANT'S MOTION FOR SEVERANCE</b>
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This matter came before the Court for hearing on March 18, 2022, on a Motion for Severance, filed by the Defendant Chad Daybell on September 7, 2021. After consideration of the pleadings on the record herein and the arguments presented at a hearing on the motion, the Court renders this opinion and order.

**I. STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On May 24, 2021 a Fremont County Grand Jury returned an indictment charging Defendants Chad Guy Daybell and Lori Norene Vallow with multiple crimes. In Counts I and II of the Indictment, Mr. Daybell is charged with Conspiracy to Commit First Degree Murder, First Degree Murder, and Grand Theft by Deception in relation to the death of Tylee Ryan. In Counts III and IV of the Indictment, Mr. Daybell is charged with Conspiracy to Commit First Degree Murder, First Degree Murder, and Grand Theft by Deception in relation to the death of Joshua Jaxon Vallow. In Counts V and VI of the Indictment, Mr. Daybell is charged with Conspiracy to Commit First Degree Murder and First Degree Murder in relation to the death of Tamara Daybell. In Counts VIII and IX, Mr. Daybell is charged with counts of felony Insurance Fraud.



On August 5, 2021 the State filed its Notice of Intent to Seek the Death Penalty. Mr. Daybell was previously charged on June 20, 2020 in Fremont County Case No. CR 22-20-755 with multiple felonies relating to alleged alteration or destruction of evidence, in which case the underlying facts relate to the case at bar. Co-defendant Lori Norene Vallow's case relating to the Grand Jury Indictment is currently stayed pursuant to I.C. § 18-212, after a determination that she is not fit to proceed. For purposes of determining this motion, the Court also considers that the Mr. Daybell and Lori Norene Vallow are married, and that subsequent to the commencement of this case, Lori Norene Vallow was indicted in another murder case in Arizona.

On September 7, 2021, Mr. Daybell (hereinafter "Defendant") filed a Motion for Severance pursuant to Idaho Criminal Rule 14. Defendant contends that a joint trial would be prejudicial, arguing that "[t]he difficulty in preparing the defense and doing the necessary preparation when there is uncertainty as to whether one of the co-defendants will be present for trial creates a number of evidentiary challenges."<sup>1</sup> The State filed its response in objection on February 24, 2022, arguing that Defendant has failed to meet his burden of establishing that a joint trial would be prejudicial. The matter came before the Court for a hearing on March 18, 2022, and the Court considered the testimony and argument of counsel. For the reasons explained herein, the Motion for Severance is denied.

## II. STANDARD OF ADJUDICATION

"Actions properly joined under I.C.R. 8(b) may be severed under I.C.R. 14 if it appears that a joint trial would be prejudicial. *State v. Gamble*, 146 Idaho 331, 337, 193 P.3d 878, 884 (Ct. App. 2008) (internal citations omitted). "The defendant has the burden of showing such prejudice." *Id.*

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<sup>1</sup> Memorandum in Support of Motion for Severance, filed 2/9/22, p. 3.



“A motion to sever is directed to the trial court’s discretion, and this Court will not overturn a denial of the motion unless the trial court has abused its discretion.” *State v. Blake*, 161 Idaho 33, 35, 383 P.3d 712, 714 (Ct. App. 2016) (internal citations omitted). “When reviewing an order denying a severance motion, the inquiry on appeal is whether the defendant has presented facts demonstrating that unfair prejudice resulted from a joint trial.” *Id.*

### III. DISCUSSION

Defendant brings the current motion for severance pursuant to Idaho Criminal Rule 14, as opposed to Idaho Criminal Rule 8. In pertinent part, Defendant contends that uncertainty resulting from Codefendant Lori Norene Vallow’s status and current stay will have a prejudicial impact on Defendant’s trial rights. Additionally, Defendant contends that evidence of other wrongs or acts by Codefendant Lori Norene Vallow will have a negative impact on jurors should these two codefendants remain joined. The State responds by arguing that severance pursuant to Idaho Criminal Rule 14 is not required under the circumstances of the case, and that Defendant has failed to establish the existence of prejudice that would warrant a severance of the codefendants.

Idaho Criminal Rule 14 provides as follows:

“If it appears that a defendant or the state is prejudiced by a joinder of offenses or of defendants in a complaint, indictment or information, the court may order the state to elect between counts, grant separate trials of counts, grant a severance of defendants, or provide whatever other relief justice requires. In ruling on a motion by a defendant for severance the court may order the attorney for the state to deliver to the court for inspection in camera any statements or confessions made by the defendants that the state intends to introduce in evidence at the trial.”

“In analyzing whether joinder is prejudicial, Idaho courts have considered three potential sources of prejudice when considering a motion to sever based on I.C.R. 14: (1) the jury may confuse and cumulate the evidence, and convict the defendant of one or both crimes when it would not convict him of either if it could keep the evidence properly segregated; (2) the defendant may



be confounded in presenting defenses, as where he desires to assert his privilege against self-incrimination with respect to one crime but not the other; or (3) the jury may conclude that the defendant is guilty of one crime and then find him guilty of the other because of his criminal disposition. *State v. Nava*, 166 Idaho 884, 893, 465 P.3d 1123, 1132 (2020) (internal citation omitted).

“Actions properly joined under I.C.R. 8(b) may be severed under I.C.R. 14 if it appears that a joint trial would be prejudicial. *State v. Gamble*, 146 Idaho 331, 337, 193 P.3d 878, 884 (Ct. App. 2008) (internal citations omitted). “The defendant has the burden of showing such prejudice.” *Id.* In addition, in this case the Defendant is facing charges of conspiracy. The Court is persuaded with the State’s argument, supported by federal caselaw, that conspiracy charges weigh in favor of the State’s objection to severing these cases.<sup>2</sup>

With this framework, the Court concludes that Defendant has failed to meet his burden in establishing that a joint trial would be prejudicial, thus necessitating severance. Defendant’s main argument centers on his contention that “uncertainty” will result due to Codefendant Vallow’s status and the stay in effect in her case. While the Court does not dispute there may be an additional burden on the Defense presented by an inability to know at this time whether Codefendant Vallow will be fit for trial when the trial begins, that “uncertainty” in preparing for trial is not a determinative factor for the Court to consider in reviewing Idaho Criminal Rule 14 or the cases interpreting it.

As noted above, prejudicial joinder results from (1) a jury’s confusion of evidence, (2) a defendant’s inability to meaningfully present defenses, and (3) a jury basing a guilty determination

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<sup>2</sup> See, i.e., *United States v. Cruz*, 127 F.3d 791, 799 (9<sup>th</sup> Cir. 1997)



on criminal disposition. See *State v. Nava*, 166 Idaho at 893. Defendant has not alleged, nor shown, that any of these forms of prejudice have resulted or will result based on the stay in effect in Vallow's case. The trial in this case is not set until January, 2023, providing the Defense adequate time to prepare whether the trial takes place with or without the co-defendant. In addition, the Court agrees with the State's assertion that careful jury instructions in this case can "neutralize" the effect of any prejudicial evidence, as explained in *United States v. Escalante*, 637 F.2d 1197 (9<sup>th</sup> Cir. 1980). In particular, the Court concludes that the concern of Vallow's charges in another jurisdiction creating prejudice at trial can be cured through motions in limine and appropriate instructions to the jury.

In support of the Motion, Defendant also requests that the State be ordered to present to this Court *in-camera* statements and/or other evidence the State intends to offer from either Defendant. At the outset, the Court will note that I.C.R. 14 provides the Court the discretion to order "any statements and confessions" the Court deems germane to the issue of determining relief from prejudicial joinder. However, the Rule is not so broad as to permit the order of "any other evidence" that may or may not be introduced at trial. Having considered the argument in support of the Defendant's motion, the Court concludes that ordering the State to deliver *in-camera* evidence is not warranted. Both parties represented that discovery has been extensive in this matter, and that discovery is complete or nearly complete. Despite the extensive discovery that has taken place, Defendant has not identified what statement, if any, should be ordered for *in-camera* review by this Court. While the Rule contemplates that it is the State that may be ordered to provide the information, it is still incumbent on the Defendant to show the prejudice in joinder. By merely requesting the Court to make its own broad review of the evidence without making any



proffer as to what specific statements or confessions are prejudicial, the Defendant has not met the burden here to demonstrate a need for any such review.

Furthermore, during the hearing on this matter, the Court specifically inquired of the State as to whether any concerning statements or confessions existed that would necessitate the Court's review, including whether a *Bruton* issue exists. The State represented that such statements or confessions did not exist, and the Court has considered that representation from the Prosecutor, as an Officer of the Court, in concluding that an *in-camera* review is not necessary, and will not be required. In conjunction with the State's representation, and in the absence of any identification of potentially harmful statements or confessions, Defendant's request for such an order is hereby denied.

Having determined that the Defense has not met its burden to persuade the Court that a jury is likely to confuse evidence in this case, that the Defense will be unable to meaningfully present defenses, or that a jury is likely to base a guilty determination in this case due to evidence of criminal disposition, the Court must conclude that the case will not be severed. Further, the Court concludes that a joint trial in this case will serve the interests of justice by providing for judicial economy and efficiency, and avoiding possible inconsistent verdicts. Accordingly, Defendant's motion for severance on this basis is denied.

Finally, the decision to deny the Motion to Sever in this case shall in no way be construed as a stay on this case pending the competency determination of Codefendant Lori Norene Vallow. Severance is a legal issue relating independently to each defendant in their conspiracy case. However, availability for trial is not determined under the same legal analysis. While it is true, as the State has urged the Court to consider, that Defendant waived his speedy trial right, that waiver is not indefinite in time or scope. Notwithstanding his waiver, and notwithstanding the current



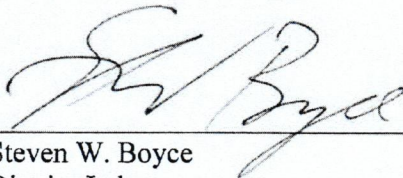
inability of the Codefendant to be brought to trial, due process still requires that the Defendant be afforded a jury trial without unnecessary or excessive delay. Therefore the Court's December 3, 2021 Scheduling Order requiring trial to commence January 9, 2023, remains in full force and effect.

#### **IV. CONCLUSION**

Based on the foregoing reasons, Defendant Chad Daybell's Motion for Severance is hereby DENIED.

**IT IS SO ORDERED.**

Dated this 21<sup>st</sup> day of March, 2022.

  
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Steven W. Boyce  
District Judge

CLERK'S CERTIFICATE OF MAILING

I HEREBY CERTIFY that on 3/21/2022, I e-mailed a true and correct copy of the foregoing to the parties named below:

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*Becky Harmsfeld*  
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