

**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

**ORDER VACATING HEARING**

On October 8, 2021, the Court issued its Memorandum Decision on Defendant's Motion to Change Venue. Thereafter, on November 3, 2021, the State filed its "Motion for the Court to Allow Additional Evidence & Follow Idaho Code § 19-1816 by Transporting a Jury." The Defense objected, filing its "Objection to State's Motioin [*sic*] to Reconsider Courts [*sic*] Ruling on Jury Sequestration," arguing that the motion is an improper motion to reconsider and objecting to the State's request that it be allowed to submit additional evidence on the issue of sequestering or transporting a jury. That was followed up by the Defendant's November 19 Memorandum supporting Defendant's objection to the hearing. A hearing on the issue is presently scheduled for December 2, 2021.

In summary, the State requests an opportunity to present additional evidence and argument in support of the State's request that the Court transport a jury from Ada County and sequester them in Fremont County for trial, a request previously denied by the Court in its October 8 Decision. The State's Motion cites to convenience and economic issues in support of their contention.



Upon consideration of the pleadings, the Court determines that a hearing on the issue is inappropriate at this time. If the Court is to allow additional evidence relating to the cost and convenience of conducting a trial in Ada County vs. transporting an Ada County jury to Fremont County, the present posture of the case would result in the submission of evidence that would be speculative, and/or likely to become stale before trial.

In making this determination, the Court has considered several issues. First, trial is not yet scheduled, and will not be until the December 2, 2021 Scheduling Conference. In addition, the Court is aware that counsel for both parties are requesting that trial not be scheduled in the near future. Second, this case is presently joined for trial with case CR22-21-1624, a case that is currently stayed pursuant to I.C. §§ 18-211 and 18-212. Third, the Defendant filed a Motion to Sever on September 7, 2021, but that motion has yet to be ruled on. Thus, without a current trial setting and without the ability to presently determine whether or not there will be a single or multiple trials, evidence relating to the convenience and economics of conducting trial(s) in Ada County vs. transporting a jury (or juries) to Fremont County would be speculative, and likely become stale by the time of trial. In addition, the Court is currently operating under a statewide Supreme Court Emergency Order Regarding Court Services, issued in relation to COVID-19, which under certain conditions disallows jury trials. With no way of presently knowing what restrictions may or may not be in place at that time of the trial, evidence relating to the convenience and economics of trial is premature and would be speculative.

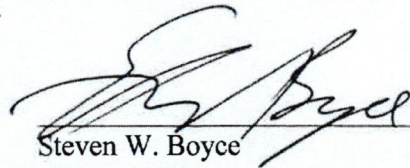
Thus, upon consideration of the above-cited issues, the Court VACATES the hearing on the State's Motion, and will defer hearing the motion until such time as relevant and timely evidence can be considered. Having vacated the hearing on the Motion, the Defendant's request that the Motion be denied is deemed moot until such time as the Motion is rescheduled, at which time Defendant



may renew his objection. Finally, the Court's October 8, 2021, Memorandum Decision on Defendant's Motion to Change Venue remains in effect in its entirety.

**IT IS SO ORDERED.**

Dated this 23 day of November, 2021.

  
Steven W. Boyce  
District Judge

CLERK'S CERTIFICATE OF MAILING

I HEREBY CERTIFY that on 11/23/2021, I e-mailed a true and correct copy of the foregoing to the parties named below:

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