

**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.

CHAD GUY DAYBELL,

Defendant.

Case No. CR22-21-1623

ORDER

*On State's Motion to Reconsider
Change of Venue*

On November 15, 2023, the State of Idaho filed a RENEWED MOTION TO RECONSIDER CHANGE OF VENUE. Defendant Chad Guy Daybell (hereafter "Daybell") filed a RESPONSE AND OBJECTION to the motion on November 17, 2023. On November 29, 2023, the Court called the matter for hearing. The Court orders now as follows.

I. BACKGROUND

On May 24, 2021 a Fremont County Grand Jury returned an INDICTMENT charging the Defendant and his alleged co-conspirator, Lori Vallow Daybell with multiple crimes, including multiple counts of Conspiracy to commit the crime of First-Degree Murder. Daybell was also charged with several counts of First-Degree Murder and Insurance Fraud.

On July 21, 2021, Daybell filed a motion requesting a change of venue. The State objected to that request on September 29, 2021. On October 5, 2021, the Court heard argument and received evidence on the motion. The Court entered an ORDER granting the Defendant's motion for a change of venue. More particularly, the Court ordered that the trial be transferred to Ada County to ensure due process in finding a fair and impartial jury. On February 17, 2022, the State requested the Court to reconsider that order, or alternatively, to import a jury to Fremont County for trial. In an Order entered April 28, 2022, this Court maintained its previous determination to transfer trial to

Ada County.

Subsequently, Daybell sought and obtained a severance of his trial from that of his co-defendant and alleged co-conspirator, Lori Vallow Daybell. Vallow Daybell's case proceeded to trial in Ada County, held March through May of 2023. A jury returned a verdict against Vallow Daybell on May 12, 2023. On July 31, 2023, the Court sentenced Vallow Daybell.

Daybell's trial is now scheduled, with jury selection set to begin in March of 2024, and evidence beginning April 1, 2024. The State filed the instant motion requesting that the Court reconsider the decision to transfer trial to Ada County, requesting instead for the trial be held in Fremont County, or alternatively, to again consider importing a jury from other counties in closer proximity to Fremont County, rather than administer trial in Ada County. The State also alternatively proposes that trial be held in somewhere closer to Fremont County, suggesting Bonneville or Bannock Counties. Daybell maintains that Ada County is the appropriate county for trial.

II. LEGAL STANDARD

Idaho Criminal Rule 21 details Idaho's guidelines for transferring trial. Rule 21 states, in part:

A motion for transfer may be made at or before arraignment or at any other time the court or these rules prescribe.

(a) For Prejudice. On motion of either party, the court must transfer the proceeding to another county if the court is satisfied that a fair and impartial trial cannot be had in the county where the case is pending.

(b) For Convenience. On motion of the defendant, the court may transfer the proceeding to another county, for the convenience of parties and witnesses, and in the interest of justice.

III. ANALYSIS

As a prefatory comment the Court will clarify the issue at bar. Defendant argues it is procedurally inappropriate and flawed for the State to request a change of venue. However, the record reflects the correct posture of the pending motion: the State is asking the Court to reconsider the decision to transfer trial from Fremont County to Ada County and return the trial proceedings to Fremont County. Given that procedural posture, the Court finds the State's motion is appropriately considered, and will be determined on the merits over the procedural objection of the defense.

From the outset, this case has garnered significant media attention. Daybell's alleged co-conspirator was tried and convicted on all charges brought by the State of Idaho against her. While her trial was not televised, daily release of the audio was repackaged and broadcast by various media entities. Therefore, the analysis before the Court is under Criminal Rule 21: whether the Court is satisfied that a fair and impartial trial cannot be had in Ada County, where the case is currently set, to reconsider bringing trial back to Fremont County. The State argues that the trial of Lori Vallow Daybell, conducted in Ada County (Fremont County Case No. CR22-21-1624) was heavily covered across various media platforms in Boise and Ada County, and that the more recent media saturation there now poses the risk that the jury pool for Daybell's trial in that venue is likely tainted. The State suggests that given the trial publicity in Ada County earlier this year, Fremont County may now be a better venue for locating a fair and impartial jury.

To support its argument, the State referenced the media coverage in Ada County, but did not provide further empirical evidence to demonstrate that media coverage during the trial of Lori Vallow Daybell has so saturated the prospective jurors in Ada County that it is unlikely to impanel

a fair and impartial jury. In fact, no additional evidence has been presented in support of the motion, which rests solely on argument. While the Court may draw its own reasonable inferences based on the experience of residing in Boise during the trial earlier this year, such inferences are not as compelling as empirical evidence that could have been submitted in support of the State's motion. Neither has the State demonstrated how that same extensive coverage has not also continued to inform and interest the prospective jurors in Fremont County, or any neighboring county in the Seventh Judicial District. As the Court mentioned at the hearing, it is likely that the sentencing of Lori Vallow Daybell on July 31, 2023, was the apex of media coverage and public interest, and that hearing occurred in Fremont County. That hearing is also chronologically the most recent major event garnering such coverage in either case.

The Court will reiterate its position relating to the ability to conduct this trial in Fremont County. Absent the concern of locating a fair and impartial jury, the Court has total and unequivocal confidence that trial in Fremont County would pose no concern. This Court presides over all felony cases and all District Court civil cases in Fremont County. The Court has conducted many trials in Fremont County. Never has this Court found Fremont County jurors to be unable to honorably serve and faithfully discharge their directives to follow the law and instruction of the Court to uphold a defendant's right to jury trial with a fair and unbiased jury.

In addition, any concerns raised over Courthouse security, or ongoing construction of the adjoining jail facility are without merit. The Fremont County Sheriff's Office is fully capable and competent to oversee a trial of this magnitude. That Office has always provided exemplary security for the Court, whether at routine criminal hearing days or during heavily attended and emotionally charged hearings such as the Lori Vallow Daybell sentencing hearing, where heightened security risks are present. Further, that Office provided personal security for the Court beyond expectation

during the entire course of the first trial in Ada County. Regarding the physical facilities, the Fremont County courthouse is a notably beautiful and historic facility. The clerks are dedicated, experienced, and responsive. To summarize, absent the concern about selecting an impartial jury, not tainted by pre-trial publicity, Fremont County would unquestionably be an ideal venue for the upcoming trial.

Nevertheless, the objective consideration of the sheer population difference between Fremont County and Ada County cannot be ignored. As demonstrated in the companion case, a large number of prospective jurors will be necessary to summon, qualify, and question through the use of a questionnaire and both group and individual *voir dire* in order to ensure that the balance tips in favor of robust due process to Daybell—particularly in light of the potential for capital punishment.

The State presented no evidence to ameliorate any concern that the pervasive media coverage has not inundated Fremont County jurors with pre-trial exposure in Daybell's case, and actual exposure to the presentation of evidence at trial in Vallow Daybell's case—of which the proffer to the Court is that there will be significant overlap in witness testimony and other evidence. In addition, ironically, the sheer expense of litigating this case and the companion case has impacted Fremont County financially. That financial impact becomes another source of potential jury taint, where hard-working citizens of the County are likely frustrated and the prospect of paying for these cases, resulting in further interest in following these cases, even if those citizens are less interested in the subject of the cases. The Court has carefully considered the unfortunate reality that there will be an additional expense in again moving this second trial to Ada County.

Finally, the Court must consider the empirical evidence that it does have before it: that Ada County, the most populous county in Idaho, has the resources from a jury selection standpoint

to empanel an impartial jury, and is willing to provide the facilities to conduct the trial. The reality is, and the State would likely concede, that nearly every responsible, eligible working citizen of Fremont County, capable of jury service, has followed the “Chad Daybell and Lori Vallow” story. The discovery of JJ Vallow and Tylee Ryan’s buried bodies on Chad Daybell’s Fremont County property sent shockwaves through the community and propelled the case into the national spotlight. While the expense of conducting trial in Boise is immense, it is still less expensive than attempting, and failing, to seat a jury in Fremont County, only to thereafter return to Ada County. Unfortunately, the Court finds that scenario to be a distinct possibility.

Finally, the State’s request to consider alternative locations closer in proximity are not unreasonable. However, the extensive preparation and time involved administratively has been expended to preparing for trial in Ada County. At this time, with only a few months before trial begins, it would be impracticable, if not impossible, to pivot to an alternative county and begin anew the complex machinations of administering a case of this magnitude and complexity. The logistics of hosting this trial, including the sheer length of the trial, place a burden on any hosting county. Taking over a “main” courtroom for months creates issues requiring extensive planning and preparation. Additionally, and again on the consideration of cost, the Court will note that Ada County made significant concessions that lessened the fiscal impact on Fremont County relating to the trial cost. It is unlikely that other counties would be willing, or able, to extend such concessions, especially on short notice. Thus, the Court is not convinced that it would be any less expensive to host the trial in an alternative County.

The Court recognizes the sacrifices that are required given this difficult decision. For local prosecutors, there is a burden of having to relocate away from family and community for an extended time. That burden extends to others, including witnesses, victims’ families, and law

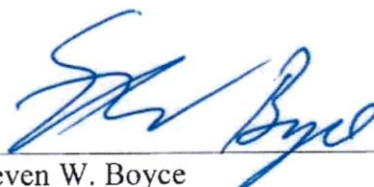
enforcement involved in security, and staff. The Court's decision allowing the livestreaming of the trial will serve to lessen that burden to some extent. Notwithstanding, the Court remains convinced that the proper venue for trial remains Ada County, and that a fair and impartial trial will be take place there, as was accomplished in the companion case earlier this year.

IV. CONCLUSION

For the foregoing reasons, the State's Renewed Motion to Reconsider Change of Venue is DENIED.

IT IS SO ORDERED.

Dated this 8 day of December, 2023.


Steven W. Boyce
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 8 day of December, 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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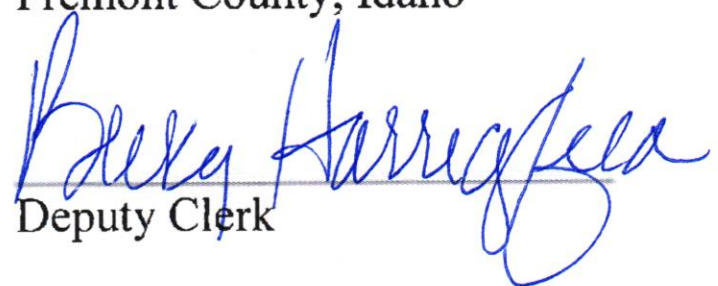
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by


Deputy Clerk