

**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.

LORI NORENE VALLOW aka LORI  
NORENE VALLOW DAYBELL,

Defendant.

Case No. CR22-21-1624

**ORDER**

on Defendant's Bill of Particulars

On September 2, 2022, Defendant filed a MOTION FOR A BILL OF PARTICULARS. On October 6, 2022, the State filed a RESPONSE.<sup>1</sup> The Parties argued the motion during a hearing on December 8, 2022, and the Court took the matter under advisement.

The Defendant conceded that there is no right to a Bill of Particulars under Idaho law but requested one as a discretionary matter before the Court in order to place the Defendant on notice as to what specific overt actions she was accused of taking. The State argued that the motion is an unwarranted request and that the Court should decline to grant the motion, instead finding that the INDICTMENT satisfies Idaho's requirements under Idaho Criminal Rule 7 and I.C. §§19-1409 and 19-1418.

On May 25, 2021, a Fremont County Grand Jury returned an INDICTMENT charging the Defendant with 7 counts of criminal activity—including 3 counts of Conspiracy. The INDICTMENT sets forth enumerated alleged "overt acts" for each count of conspiracy the INDICTMENT contains. "[T]he allowance of a bill of particulars is not a matter of right, but is within the sound discretion of the trial court." *State v. Rathbone*, 8 Idaho 161, 67 P. 186 (1901).

---

<sup>1</sup> On October 6, 2022, the Court entered an Order staying the case pursuant to I.C. § 18-210.

The salient inquiry, then, is whether the Indictment is sufficient to withstand scrutiny.

To be legally sufficient, an indictment or information must meet two standards:

First, there is the question of whether an indictment or information is legally sufficient for the purpose of due process during proceedings in the trial court. Second, there is the separate question of whether an indictment or information is legally sufficient for the purpose of imparting jurisdiction.

*Id.* In this case, Quintero's challenge was solely jurisdictional. This Court's recent opinion in *State v. Jones* is instructive. In *Jones*, the information omitted the element of "willfulness" as required for a violation of the crime charged. The defendant pled guilty to the charge and was sentenced. The defendant did not object until after the entry of judgment. In holding the information was sufficient to confer jurisdiction, this Court stated: "[W]hen an objection to a charging document is not made until after the entry of judgment, if the applicable code section is named in the charging document its language may be read into the text of the charge." *Jones*, at 759, 101 P.3d at 703 (emphasis added).

*State v. Quintero*, 141 Idaho 619, 621, 115 P.3d 710, 712 (2005).

Due process requires that an indictment be specific enough to ensure that the defendant has a meaningful opportunity to prepare his defense and to protect the defendant from a subsequent prosecution for the same act. *State v. Gumm*, 99 Idaho 549, 551, 585 P.2d 959, 961 (1978); see also *State v. Banks*, 113 Idaho 54, 58, 740 P.2d 1039, 1043 (Ct.App.1987). Accordingly, an indictment must do more than simply state the offense charged. *State v. McMahan*, 57 Idaho 240, 250, 65 P.2d 156, 159–60 (1937). It must also clearly indicate the facts giving rise to the offense or the means by which the defendant committed the alleged crime. *SEE ID.*; *Banks*, 113 Idaho at 57, 740 p.2d at 1042.

*State v. Severson*, 147 Idaho 694, 709, 215 P.3d 414, 429 (2009).

Further, Idaho Criminal Rule 7 reads, in relevant part:

- (a) Use of Indictment or Information. All felony offenses must be prosecuted by indictment or information.
- (b) Nature and Contents. The indictment or information:
  - (1) must be a plain, concise and definite written statement of the essential facts constituting the offense charged;
  - (2) need not contain a formal commencement, a formal conclusion or any other matter not necessary to the statement;

- (3) must not contain any reference to the procedural history of the action; and
- (4) must state, for each count, the official or customary citation of the statute, rule or regulation or other provision of law that the defendant is alleged to have violated, but error in the citation or its omission is not grounds for dismissal of the indictment or information or for reversal of the conviction if the error or omission did not mislead the defendant to the defendant's prejudice.

Allegations made in one count may be incorporated by reference in another count. A single count may allege that the means by which the defendant committed the offense are unknown or that he committed it by one or more specific means. The information must be signed by the prosecuting attorney.

I.C.R. 7 (2023).

In this case, the Court has reviewed the INDICTMENT and finds that the document meets the requirements in Idaho to settle any question of jurisdiction and to protect the due process afforded to the Defendant. Each count contains the code section the charge is brought under and the counts for Conspiracy each contain a list of alleged "overt acts" that mention how the Defendant participated in the alleged scheme.

The INDICTMENT is a plain, concise, and definite written statement of essential facts constituting the offenses charged. It does not impermissibly reference the procedural history of the action. It also states for each count the citation of the relevant statute. It is signed and dated by the Grand Jury Foreperson.

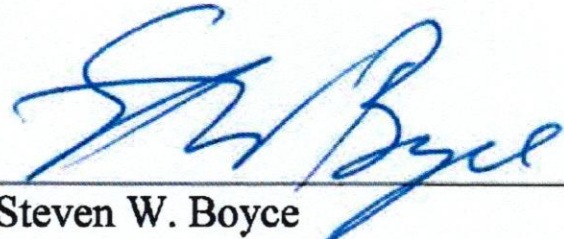
Accordingly, the Court finds the INDICTMENT is legally sufficient to afford the Defendant due process, and to impart jurisdiction in this case. Further, the INDICTMENT provides sufficient particularity to provide the Defendant a meaningful opportunity to prepare a defense and protect her from subsequent prosecution for the same act. The Court cannot find that the Defendant would be taken by surprise from the record before the Court of the charges brought against her through the INDICTMENT. Neither can the Court find that any of the counts of Conspiracy neglect to mention discrete actions of the Defendant allegedly tied to further the conspiracy. As such, the Court cannot



conclude that the Defendant is prejudiced absent a Bill of Particulars. Therefore, the Court concludes that the State satisfied the requirements of filing a proper INDICTMENT. The motion is DENIED.

**IT IS SO ORDERED.**

Dated this 18 day of January, 2023.

  
Steven W. Boyce  
District Judge

### CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of January, 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:

Lindsey Blake  
prosecutor@co.fremont.id.us

Robert H. Wood  
mcpo@co.madison.id.us

Rachel Smith  
smithlawconsulting@outlook.com  
*Attorneys for State of Idaho*

Jim Archibald  
Jimarchibald21@gmail.com

John Thomas  
jthomas@co.bonneville.id.us  
*Attorneys for Defendant*

Clerk of the District Court  
Fremont County, Idaho

by Betsy Harnagel  
Deputy Clerk