

Anne C. Taylor, Public Defender
Kootenai County Public Defender
PO Box 9000
Coeur d'Alene, Idaho 83816
Phone: (208) 446-1700; Fax: (208) 446-1701
Bar Number: 5836
iCourt Email: pdfax@kcgov.us

Elisa G. Massoth, PLLC
Attorney at Law
P.O. Box 1003
Payette, ID 83661
208-642-3797

Assigned Attorney:

Anne C. Taylor, Public Defender, Bar Number: 5836
Jay Weston Logsdon, Chief Deputy Litigation, Bar Number: 8759
Elisa G. Massoth, Bar Number: 5647

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH**

STATE OF IDAHO

Plaintiff,

V.

BRYAN C. KOHBERGER,

Defendant.

CASE NUMBER CR29-22-0002805

**RESPONSE TO STATE'S MOTION TO
RECONSIDER ORDER STAYING TIME
FOR SPEEDY TRIAL**

COMES NOW, Bryan C. Kohberger, by and through their attorney, Jay Weston Logsdon,
Chief Deputy Litigation, and hereby submits the following response to the State's Motion to
Reconsider Order Staying Time for Speedy Trial.

The State's Motion is concerned only with Mr. Kohberger's statutory right to a speedy trial, though it never makes that plain. To be clear, there is no way to read a partial waiver of a constitutional right as a full waiver. See, e.g. *State v. Vasquez*, 163 Idaho 557 (2018). Other jurisdictions use "partial waivers" of speedy trial. See, *Harris v. State*, 2022 WL 1486184, at *6 (Ct.App.Iowa 2022)(unpublished); *State v. Dailey*, 639 N.W.2d 141, 144 (Ct.App.Neb. 2002); *City of Parma v. Dobromilsky*, 1995 WL 643768, at *2 (Ct.Ap.Ohio 1995) (unpublished).

The State cites to *State v. Lundquist*, 134 Idaho 831 (2000), wherein the Court explicitly states that there is nothing wrong with a partial waiver for purposes of constitutional rights. See, *id*, at 834 (citing *State v. Warrick*, 123 Idaho 83 (Ct.App.1992) (citing *State v. Kysar*, 116 Idaho 992 (1989)).

Second, the State demands that the trial date remain where it is without a waiver of speedy trial. The State is free to take this position, but it is one with consequences. "It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution. . . . 'Constitutional rights would be of little value if they could be . . . indirectly denied,' or 'manipulated out of existence'" *Harman v. Forssenius*, 380 U.S. 528, 540 (1965) (citations omitted). The State brought this prosecution and did so on its own timetable. Now that timetable must abide by Mr. Kohberger's constitutional rights. The State cannot cry foul when its decisions post-arrest make an October trial date untenable. Mr. Kohberger has a right to a fair trial, to a defense, and to due process. Const. amends. V, IV, XIV. He is not required to give up his right to a speedy trial in this matter because the State refuses to provide him materials as to its Genetic Genealogy search and chooses the protracted litigation involved with a grand jury rather than a preliminary hearing.

It is particularly ridiculous that the State claims the public has some stake in forcing Mr. Kohberger to either abandon his constitutional right to defend himself or permit this case to carry on as indefinitely as the State wishes. Either the public wants its trial in October or it does not- the State's position on waiver of speedy trial is its own. If the public is to take any interest in this

situation at all, it should be to wonder at the cavalier attitude the government has towards one of the fundamental rights secured to our citizens.

DATED this 24 day of July, 2023.

ANNE C. TAYLOR, PUBLIC DEFENDER
KOOTENAI COUNTY PUBLIC DEFENDER

BY: 
JAY WESTON LOGSDON
CHIEF DEPUTY LITIGATION
ASSIGNED ATTORNEY

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 24 day of July, 2023 addressed to:

Latah County Prosecuting Attorney –via iCourt: paservice@latahcountyid.gov
Elisa Massoth – via Email: legalassistant@kmrs.net
Ingrid Batey – via Email: ingrid.batey@ag.idaho.gov
Jeff Nye – via Email: jeff.nye@ag.idaho.gov


