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**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.: CR22-20-0755

**MEMORANDUM IN SUPPORT OF
MOTION FOR JOINDER**

The State of Idaho has moved this Court for an order joining the Defendant Chad Daybell's case with his Co-defendant, Lori Vallow/Daybell's, case, Fremont County case CR22-20-0838 based on the following:

STATEMENT OF FACTS

The Defendant Chad Daybell was charged on June 10, 2020 with two counts of Destruction, Alteration or Concealment of Evidence, a felony in violation of Idaho Code §18-2603 and two counts of Conspiracy to Commit Destruction, Alteration or Concealment of Evidence, a felony in violation of Idaho Code §§ 18-2603 and 18-1701. The Co-Defendant, Lori Vallow/Daybell, hereinafter "Lori Daybell," was charged with two counts of Conspiracy to

Commit Destruction, Alteration or Concealment of Evidence, a felony in violation of Idaho Code §§ 18-2603 and 18-1701 on June 29, 2020. The charges in both cases are based on actions alleged to have occurred between September 8, 2019 and June 9, 2020 and involving the willful destruction, alteration and/or concealment of dead bodies to cover up the commission of a felony. Specifically, the charges relate to the discovery of Lori Daybell's minor children's bodies on her husband Chad Daybell's property and Lori Daybell's alleged conspiracy with Chad Daybell and others (including but not necessarily limited to her brother Alex Cox, now deceased) in committing those acts. A preliminary hearing was held in Chad Daybell's case on August 3-4, 2020. At the conclusion of the preliminary hearing Chad Daybell was bound over to answer to the District Court. Lori Daybell waived her preliminary hearing which was scheduled to be heard August 10-11, 2020.

ARGUMENT

Idaho Rule of Criminal Procedure 8(b) states: "Joinder of Defendants. Two or more defendants may be charged on the same complaint, indictment or information if they are alleged to have participated in the same act or transaction or in the se of acts or transactions constituting an offense or offenses. The defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count." Further, Idaho Rule of Criminal Procedure 13 provides: "The court may order that two or more complaints, indictments or informations be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single complaint, indictment or information. The procedure is the same as if the prosecution were under a single complaint, indictment or information."

The Federal Rule of Criminal Procedure 8(b) is essentially the same as the I.R.C.P. 8(b): "The indictment or information may charge 2 or more defendants if they are alleged to have participated in the same act or transaction, or in the same series of acts or transactions, constitution an offense or offenses. The defendants may be charged in one or more counts together or separately. All defendants need not be charged in each count."

In *Zafiro v. U.S.*, the U.S. Supreme Court provides, "joint trials 'play a vital role in the criminal justice system.' They promote efficiency and 'serve the interests of justice by avoiding the scandal and inequity of inconsistent verdicts.' For these reasons, we repeatedly have approved

of joint trials.” 506 U.S. 534, 538, 113 S.Ct. 933, 937 (1993), citing to *Richardson v. Marsh*, 481 U.S. 200, 209, 107 S.Ct. 1702, 1708, 95 L.Ed.2d 176 (1987) and *Opper v. United States*, 348 U.S. 84, 95, 75 S.Ct. 158, 165, 99 L.Ed. 101 (1954); *United States v. Marchant*, 12 Wheat. 480, 6 L.Ed.700 (1827); cr. 1 C. Wright, *Federal Practice and Procedure* § 223 (2d ed. 1982). The U.S. Supreme Court in *Bruton v. U.S.* found “joint trials do conserve state funds, diminish inconvenience to witnesses and public authorities, and avoid delays in bringing those accused of crime to trial.” 391 U.S. 123, 134, 88 S.Ct. 1620, 1627 (1968). In *Zafiro*, the Court recognized that “rules 8(b) and 14 are designed ‘to promote economy and efficiency and to avoid a multiplicity of trials, [so long as] these objectives can be achieved without substantial prejudice to the right of the defendants to a fair trial.’” *Zafiro* at 938, 540, citing to *Bruton v. U.S.*, 391 U.S. 123, 131, 88 S.Ct. 1620, 1625. The Eighth Circuit provided, “broad interpretation of Rule 8(b) is undoubtedly encouraged in the interests of more efficient administration of criminal trials. This is no way detracts from the rights of individuals to avoid prejudicial joinder. The trial court can always entertain a motion to sever under Rule 14 to determine prejudice to individuals.” *Haggard v. U.S.*, 369 F.2d 968, 973 (8th Cir. 1966).

In addition, the Ninth Circuit Court of Appeals has determined that joint trials are particularly appropriate where the co-defendants are charged with a conspiracy. *U.S. v. Jenkins*, 633 F.3d 788, 807 (9th Cir. 2011). The Idaho Court of Appeals has also recognized the benefit of consolidating trials of co-defendants. In *State v. Blake*, the Court reviewed and upheld the district court’s findings that “‘an appropriate and fair trial can be accomplished in a joint trial,’ and ‘the benefits of a joint trial in light of the allegations of conspiracy, as well as the need for the same witnesses and evidence, outweighs any concerns raised.’” 161 Idaho 33, 35-36, 383P.3d 712, 714-715 (Ct. App. 2016).

Recently, the Federal District Court for the District of New Mexico also reviewed the joinder of co-defendants’ trials where there was a conspiracy charge and determined, “Fed R. Crim. P. 8(b), ‘is construed broadly to allow liberal joinder to enhance the efficiency of the judicial system.’ Citing to *United States v. Hopkinson*, 631 F.2d 665, 668 (10th Cir. 1980). In light of rule 8(b)’s broad construction, courts conclude that a conspiracy count –albeit not necessary – is sufficient to warrant joinder of all defendants charged in that conspiracy, regardless whether each

defendant is charged in each count or with each substantive act.” *United States v. Woody*, 2020 WL 348954d1, *4, 112 Fed. R. Evid. Serv. 1597 (D.N.M., 2020).

While much of the case law specifically deals with the F.R.C.P. 8(b), the rule is almost identical to I.R.C.P. 8(b). Both allow for the consolidation of cases of co-defendants “if they are alleged to have participated in the same act or transaction, or in the same series of acts or transactions, constitution an offense or offenses.” Both also provide, “the defendants may be charged in one or more counts together or separately. All defendants need not be charged in each count.” The same reasoning and rationale apply to the application of both rules. Both rules are meant to assist in the efficiency of the justice system and avoid inequity between co-defendants. The courts are consistent with their application of Rule 8(b) that it should be applied liberally and especially so when co-defendants have been charged with conspiracy.

Due to the nature of the conspiracy charges alleged against the Daybells, the State’s evidence in both cases is nearly identical and the trial for each case will be nearly identical. Further, the statements the Daybells (and Alex Cox) each made as co-conspirators in furtherance of the conspiracy are allowed as evidence against each of them and as such it promotes judicial economy and efficiency to have each defendant in the same trial while those statements are introduced. The evidence presented at Chad Daybell’s preliminary hearing, which will be expanded on at trial, established that the Daybells acted in concert to mislead law enforcement and others in regards to the location of the deceased children’s bodies. Judicial economy would require that the State not be required to try essentially identical cases of a husband and wife acting as co-conspirators twice.

Upon waiving her preliminary hearing, Lori Daybell’s case was assigned to a different judge than Chad Daybell’s case. Assigning the defendants’ cases to separate judges will create an undue burden on the State by requiring repetitive work and hearings. The victims/living relatives of the deceased minor children are also prejudiced if they desire to attend all the hearings they have a right to attend. The State understands the high-profile nature of this case and the workload it will present to the Court and the judge that presides over the case. However, judicial economy, efficiency, and consistency will be better served by consolidating the cases and assigning the consolidated case to one judge. Consolidating the cases removes the possibility of inconsistent

pre-trial rulings on issues of evidence and procedure. Due to the sensitive nature of this case, the family members of the deceased victims should not be required to endure multiple repetitive trials and hearings when the case can and should be consolidated.

CONCLUSION

The joinder of trials for co-defendants alleged to be involved in the same act or transactions is favored by the Courts. Furthermore, the courts have consistently determined that joinder of co-defendants' cases are especially appropriate where they are charged with conspiracy. In the case before this court, the Daybells are both charged with the same crimes of Conspiracy to Commit Destruction, Alteration or Concealment of Evidence. Chad Daybell's further charges of Destruction, Alteration or Concealment of Evidence are the resulting and completed crimes of their conspiracy. Trials in these matters will require the same witnesses and evidence be presented by the State. In order to preserve judicial economy and efficiency, avoid delays in bringing either Defendant to trial, and for the benefit of the witnesses and victims, these cases should be joined. This is the exact type of scenario contemplated under I.R.C.P. 8(b) and 13. Therefore the State respectfully requests this Court consolidate the Daybell's cases into one case.

DATED this 15th day of September, 2020.



Rob H. Wood
Special Prosecuting Attorney for Fremont County

CERTIFICATE

I HEREBY CERTIFY that on this 1 day of September, 2020, that a copy of the foregoing MEMORANDUM IN SUPPORT OF MOTION FOR JOINDER was hand delivered, emailed, faxed or mailed to the following party as indicated:

John Prior
john@jpriorlaw.com

- U.S. Mail
- Hand Delivered
- Courthouse Box
- Facsimile:
- File & Serve
- Email

By: MG