FILED
Electronically
CV23-00566
2023-04-03 05:15:31 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 9592185 : csulezic

CODE 3870

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF IDAHO

Plaintiff,

vs. CASE NO.

BRYAN C. KOHBERGER, DEPT. NO.

Defendant.

_____/

REQUEST FOR FOREIGN SUBPOENA – OUT OF STATE COMMISSION

WITNESS:

BETHANY GRACE FUNKE

[redacted]

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 4TH day of April, 2023.

/s/ Evelyn Grosenick
EVELYN GROSENICK
Interim Washoe County Public Defender

INDEX OF EXHIBITS

1. Certificate of an Idaho Judge to Secure the Attendance of an Out-Of-State Witness
2. Ex-Parte Motion for Certificate to Secure the Attendance of an Out-Of-State Witness.
3. Affidavit in Support of Motion for Out-Of-State Service

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EXHIBIT 1

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 CR29-22-2805** **CERTIFICATE OF AN IDAHO JUDGE TO SECURE THE ATTENDANCE OF AN OUT-OF-STATE WITNESS**

Having considered the Defendant's *Ex-Parte Motion for Certificate to Secure the Attendance of an Out-of-State Witness* and the *Affidavit of Richard Bitonti* in support of said motion, and the Court being otherwise fully advised herein,

I, Megan E. Marshall, do hereby certify as follows:

1. I am a Magistrate Judge for the Second Judicial District of the State of Idaho, which is a constitutionally and statutorily proscribed court of record in the State of Idaho.

2. In this case, Bryan Kohberger is charged with four (4) counts of first degree murder under Idaho Code §18-4003, which is punishable by death or by imprisonment for life, and one (1) count of burglary under Idaho Code §18-1401, which is punishable by imprisonment in the state prison for not less than one (1) nor more than ten (10) years.

3. I am the judge assigned to preside over the preliminary hearing that scheduled to occur on June 26, 2023, at 9:00 a.m. through June 30, 2023.

4. Bethany Funke may be a material witness for the Defendant in this case.

5. For the reasons stated in the *Affidavit of Richard Bitonti*, the presence of Bethany Funke is required at the Latah County Courthouse located at 522 S. Adams St., Moscow, Idaho, beginning at 8:00 a.m. on June 28, 2023.

6. Under the laws of the State of Idaho, if Bethany Funke comes into this State in obedience of a summons requiring her presence at this hearing, she will not be subject to arrest or service of any process relating to matters that arose before she entered the state under the Summons.

7. This Certificate is made for the express purpose of being presented to a Judge of a Court of record in the State of Nevada in support of an order to compel the attendance of Bethany Funke at the time and place and for the reasons stated above.

WITNESS my hand on this 24th day of March, 2023.

Megan E Marshall
MEGAN MARSHALL
MAGISTRATE JUDGE

STATE OF IDAHO
County of Latah

I, Julie Fry, Clerk of the District Court of the Second Judicial District of the State of Idaho, in and for the County of Latah, do hereby certify that the Honorable Megan E. Marshall, who signed the foregoing Certificate, is a duly commissioned and qualified Magistrate Judge of the Second Judicial District of the State of Idaho, in and for the County of Latah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal of the said court of the State of Idaho on 3/24/23.

JULIE FRY
CLERK OF THE DISTRICT COURT

Deputy

DISTRICT COURT SECOND DISTRICT LATAH COUNTY IDAHO

EXHIBIT 2

Filed: 03/24/2023 16:51:10
Second Judicial District, Latah County
Julie Fry, Clerk of the Court
By: Deputy Clerk - Oliphant, Jennifer

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

Assigned Attorney:
Anne C. Taylor, Public Defender, Bar Number: 5836

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** **EX-PARTE MOTION FOR CERTIFICATE TO SECURE THE ATTENDANCE OF AN OUT-OF-STATE WITNESS**

COMES NOW, Bryan C. Kohberger, by and through his attorney, Anne C. Taylor, Public Defender, hereby moves this Court for a certificate to assist in securing the attendance of Bethany Funke as a witness on behalf of the defendant in this case. This Motion is based on Idaho Code Section 19-3004, 19-3005, 19-852 and the attached Affidavit in Support of Motion for Out-of-State Service (Exhibit A).

DATED this 24th day of March, 2023.

ANNE C. TAYLOR, PUBLIC DEFENDER
KOOTENAI COUNTY PUBLIC DEFENDER

BY: _____
ANNE C. TAYLOR
PUBLIC DEFENDER

EXHIBIT 3

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 AFFIDAVIT IN SUPPORT OF MOTION FOR OUT-OF-STATE SERVICE

STATE OF IDAHO)
: ss.
County of Latah)

Richard Bitonti, being first duly sworn upon oath, deposes and says:

1. I am a criminal investigator hired by the defense to assist in the representation of Bryan Kohberger.
2. I was asked by appointed counsel, Anne C. Taylor, to investigate the alleged incident which lead to the arrest of Bryan Kohberger.
3. Bryan is charged with four (4) counts of First Degree Murder and one (1) count of Burglary.
4. The deaths took place in a 3-story home. There are 2 bedrooms on each floor; bathrooms on each floor and a kitchen, dining and living room on the middle floor.
5. Mr. Kohberger is alleged to have entered the house around 4:00 a.m. while six (6) people were sleeping/present, killing four (4) people in two (2) separate rooms.
6. The people killed were located in two bedrooms; one on the second floor and the other on the third floor.
7. Bethany Funke's bedroom was on the first floor.
8. The other surviving roommate's bedroom was on the second floor.
9. Bethany Funk was interviewed by police on several occasions. She disclosed things she heard and things she saw.
10. Bethany Funk was present at the home eight (8) hours later when police were called, arrived on scene and discovered the homicides.

DEFENDANT'S
EXHIBIT NO. A
IDENTIFICATION/EVIDENCE
CASE NO. CR29-22-2805
DATE:

11. During the course of my investigation, it became known to me that Bethany Funke has information material to the charges against Mr. Kohburger; portions of information Ms. Funke has is exculpatory to the defendant. Ms. Funke's information is unique to her experiences and cannot be provided by another witness.

12. Bethany Funk resides in the State of Nevada and it is necessary to subpoena this witness because the witness' testimony is material and necessary to this case.

DATED this 22ND day of March, 2023.

RICHARD BITONTI
CRIMINAL INVESTIGATOR

SUBSCRIBED AND SWORN to before me this 22 day of March, 2023.

JENNIFER JENQUINE NOTARY PUBLIC Comm No. 57037 STATE OF IDAHO

Notary Public in and for the State of Idaho
Commission Expires: 11/21/28