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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF ADA**

BRYAN KOHBERGER,

Petitioner,

vs.

STATE OF IDAHO,

Respondent.

Case No.: CV01-26-15094

**SEALED SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF
MOTION TO DISQUALIFY JUDGE**

COMES NOW Petitioner Bryan C. Kohberger (“Kohberger”), by and through undersigned counsel, and respectfully submits this SEALED SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION TO DISQUALIFY JUDGE.

Petitioner files this sealed supplement because the Court received material ex parte before denying the May 20, 2025, motion to continue that bears directly upon the appearance issue addressed in Petitioner’s publicly filed memorandum. Petitioner has intentionally omitted the substance of that material from the public filing because it remains under seal.

The sealed record materially enhances the issue. Before the Court denied additional time on June 26, trial counsel had advised the Court not merely that investigation and preparation remained incomplete, but that counsel was actively investigating Kohberger’s ability to rationally understand the proceedings, meaningfully incorporate significant developments in the case, and make consequential decisions concerning his defense.

In the May 20 ex parte supplement, counsel advised the Court that Kohberger was having difficulty comprehending adverse rulings and discerning their effect upon the case as a whole. Counsel represented that, despite the accumulation of significant rulings concerning the death penalty, suppression issues, and motions in limine, Kohberger was having difficulty meaningfully incorporating those developments into a rational assessment of the case and its potential outcomes. *Ex Parte Supplement to Motion to Continue* at 5–7 (May 20, 2025).

Counsel therefore advised the Court that additional time was necessary to conduct a targeted inquiry concerning Kohberger’s ability to rationally understand the proceedings and make decisions regarding the case. Counsel expressly declined at that time to formally raise competency and explained that the issues under investigation might instead be addressed through appropriate accommodations.

Most significant to the present motion, counsel explained why additional time and expert assistance mattered to Kohberger’s own decision-making. The *ex parte* supplement stated: continued expert assistance would help counsel determine how to communicate with Kohberger concerning decisions that were his to make, including “whether to testify and whether to seek resolution short of trial.” *Id.* at 7–8. That representation preceded the challenged plea.

The significance of this sealed information is narrow but substantial. Petitioner does not contend in this motion that the May 20 submission established that Kohberger was legally incompetent. Trial counsel expressly said otherwise. Nor does Petitioner contend that the Court intentionally caused or sought a guilty plea.

The point is instead one of chronology and the appearance of impartial adjudication. Before June 26, the Court knew that counsel was asking for additional time not only to review evidence and continue investigation, but also to investigate Kohberger’s ability to rationally understand and make consequential decisions and to obtain expert assistance in communicating with him about whether to resolve the case short of trial.

The Court thereafter denied the requested additional time. The sealed June 26 Order rejected the need for further investigation and concluded overall that Kohberger had not demonstrated good cause for a continuance or prejudice from proceeding to trial as scheduled. Six days later, Kohberger entered guilty pleas that eliminated the capital trial.

That sequence does not establish that the pleas were constitutionally invalid. But it does identify a factual issue that the PCR court may now have to resolve: whether trial counsel had sufficient time and assistance to ensure that Kohberger rationally understood the circumstances confronting him and could meaningfully participate in the decision to resolve the case short of trial—the very decision counsel had specifically identified to Judge Hippler as requiring continued expert assistance before the continuance was denied.

The PCR court may therefore be required to determine what occurred during those six days. It may need to determine what counsel understood about Kohberger’s ability to process the case; whether the concerns disclosed *ex parte* remained operative; what expert assistance was provided; whether any identified accommodations were implemented; what information and advice were

communicated to Kohberger; and whether he was able to rationally evaluate the alternatives confronting him when he decided to plead guilty.

Those questions may also require the PCR court to reconcile the sealed May 20 representations with the July 2 plea record. On May 20, counsel told the Court that additional time and expert assistance were necessary to investigate and facilitate Kohberger's rational decision-making, expressly including a possible resolution short of trial. On July 2, counsel represented that she had sufficient time to discuss the case with Kohberger and had completed all discovery she considered necessary. Kohberger likewise represented that he had sufficient time, understood his decision, and was entering the pleas voluntarily.

What occurred between those two records is a merits question for PCR. The present concern is who should decide it. Judge Hippler was the judicial officer to whom the original concerns were disclosed. He was the judicial officer who denied the request for additional time made in part on the basis of those concerns. And he is now assigned to determine whether the resulting plea was constitutionally valid and whether counsel's handling of Kohberger's decision-making during that same period satisfied constitutional requirements.

This is not ordinary familiarity with a prior proceeding. The sealed material demonstrates that, before the challenged plea occurred, the Court was expressly advised of a concern directly connected to the very act now challenged in PCR: Kohberger's ability, with appropriate assistance from counsel and experts, to rationally make the decision whether to seek resolution short of trial. Six days after the Court denied additional time, that decision was made.

Petitioner submits this sealed information not as proof of actual bias and not as proof of the ultimate PCR claim. It is offered because an informed observer evaluating the appearance of impartiality would be entitled to know that the relationship between the June 26 ruling and the July 2 plea is more direct than the public record alone reveals.

For the reasons stated here and in the publicly filed memorandum, Petitioner respectfully requests disqualification for cause pursuant to I.R.C.P. 40(b)(1)(D), or, alternatively, voluntary disqualification pursuant to Rule 40(c).

Respectfully submitted,
DATED this 27th Day of August 2026.

MAGYAR, RAUCH & ASSOCIATES P.L.L.C.,
/s/Gregory Rauch
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