

1 Mark L. Means (ISB 7530)
2 MEANS LAW and MEDIATION
3 MEANS-LAW
4 429 SW 5th Ave, Suite 110
5 Meridian, ID 83642
6 Telephone: 208.794.3111
7 Facsimile: 1.866.228.3429
8 Email: mlm@means-law.com
9 Icourt Email: icourtlaw@gmail.com & mlm@means-law.com
10 Website: www.means-law.com
11 Attorney for LORI NORENE (DAYBELL) VALLOW

12 **IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF**
13 **THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**

14 STATE OF IDAHO,
15 PLAINTIFF

16 Vs.

17 LORI NORENE VALLOW AKA LORI NORENE
18 DAYBELL,
19 DEFENDANT

20 DOB: 1973

Case No: CR22-20-0838

**MOTION TO DISQUALIFY PROSECUTING
ATTORNEY**

**MOTION TO EXTEND TIME ON MOTION TO
DISMISS**

21 COMES NOW the above-named DEFENDANT, Mrs. Lori Norene Vallow (Daybell) by and
22 through her Attorney of Record, Mr. Mark L. Means of Means Law Office, PLLC, and move this
23 Honorable Court for an order disqualifying and removing the special counsel Mr. Robert Wood
24 from this Criminal case and that he be directed that he is not to take any further action
25 regarding any matter as it pertains to this case. The Court has and is granted the inherent
26 authority to remove the prosecutor on many grounds. Counsel for said Defendant moves this
Court for this Order as Mr. Wood has committed prosecutorial misconduct. This misconduct
further supports Defendant's motion to extend time to dismiss to allow the Defense to amend
its motion and present the newly acquired additional evidence, that was not included in any of

1 the State's discovery responses, including but limited too the most recent discovery responses
2 provided the Defense.

3 **GROUNDS OF MOTION**: Said motion is based upon a recently received audio recording
4 between Mr. Robert Wood and the material witness, Summer Shiflet (biological sister of said
5 Defendant) that occurred in October 2020. The recording clearly illustrates Mr. Wood's
6 attempt to coerce, unduly influence, coach, and or intimidate said material witness to this case.
7

8 In addition, an audio recording of Mr. Wood interviewing another material witness,
9 Zulema Pastenes, also at or around the same time (October 2020) discussing matters that
10 support the state's position of the case, etc.
11

12 Defense asserts the following:

- 13 1. The prosecutor misconduct violated the due process rights to the Defendant's Idaho
14 and U.S. Constitutional right to a fair and impartial trial. The prosecutor engaged in
15 coercive, unduly influence, coaching, and intimidating tactics to manipulate a
16 material witness(es) in this case.
17
- 18 2. The prosecutor in this case violated the Idaho Rules of Professional Conduct as well
19 as the ABA rules by his actions, statements, and the like detailed on said audio tape.
20
- 21 3. The prosecutor's misconduct could be construed under the witness tampering and
22 witness intimidation statutes as criminal acts.
23
- 24 4. The prosecutor's misconduct has made him a material and necessary witness in this
25 criminal case. Further the defense intends to file additional motions as to it relates
26 to this evidence and intends to subpoena the prosecutor as a witness to support
these motions, future motions, and at the trial itself.

1 5. The prosecutor's misconduct has caused the potential for future civil directed at or
2 involving Fremont County, Madison County, as well as the prosecutor and any and
3 other entitles involved or associated with this misconduct.

4
5 6. The prosecutor's misconduct has included concealing evidence in violation of Brady
6 and the Rule 16 of the Idaho Rules of Criminal Procedure.¹

7 Defendant through her counsel moves this Court for an Order disqualifying Robert
8 Wood as prosecutor in this matter and that he be directed that he is to take no further action in
9 this case in any manner. That Mr. Wood be directed that he is to appear as a witness in the
10 hearing set for this Motion. That this Court allow/grant for out of state subpoenas of the other
11 parties to the audio recording. That the Court grant as sanction all fees and costs in having to
12 present this Motion. That defense shall seek additional remedies which shall be detailed during
13 the hearing on this motion, if appropriate. That the Defense be permitted to submit this audio
14 recording as evidence in this hearing to support this motion. Defendant respectfully requests
15 that this hearing be conducted in person and that the proceeding be recorded, unsealed, and a
16 transcript of such proceedings be ordered.

17
18
19 DATED this 15 day of December 2020.

20 *M.L. Means*

21 _____
22 Mark L. Means
23 Advocate for Mrs. Lori Norene Vallow (Daybell)

24
25
26 _____
1 Please note that this list is not exhaustive and any and all other grounds relevant to this motion are reserved.

1 **CERTIFICATE OF SERVICE**

2 The undersigned certifies that on this 15 day of December 2020, I caused a
3 true and correct copy of the FOREGOING document to be forwarded by the method(s)
4 indicated below, to the following:

5 MADISON COUNTY PROSECUTING ATTORNEY x_____ Efile
6 Email: mcpo@madison.id.us

7 Mr. John Prior x_____ Efile
8 Email: john@jpriorlaw.com

9 DATED this 15 day of December 2020.

10 Mark L. Means
11 Mark L. Means
12 Advocate for Mrs. Lori Norene Vallow (Daybell)