

ROB H. WOOD # 8229  
Madison County Prosecuting Attorney  
rwood@co.madison.id.us  
TROY D. EVANS # 6411  
Civil Deputy Prosecuting Attorney  
tevens@co.madison.id.us

159 East Main Street  
P. O. Box 350  
Rexburg, Idaho 83440  
Telephone: (208) 356-7768  
Facsimile: (208) 356-7839

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

STATE OF IDAHO,

Petitioner,

vs.

CHAD GUY DAYBELL, and,  
LORI NORENE DAYBELL,

Defendant.

Case No.: CR22-20-0755

Case No.: CR22-20-0838

**OBJECTION TO DEFENDANTS'  
MOTIONS TO DISQUALIFY  
PROSECUTING ATTORNEY AND  
MOTION TO EXTEND TIME ON  
MOTION TO DISMISS**

The State of Idaho, by and through the Madison County Prosecutor's Office, serving as a Special Prosecutor in Fremont County in the above captioned case, hereby objects to the Defendant's Motion to Disqualify the Prosecuting Attorney and Motion to Extend Time on Motion to Dismiss and denies each of the allegations therein as follows:

1. The Madison County Prosecutor's Office was appointed Special Prosecutor in this matter on or about June 10, 2020. At all times the Madison County Prosecutor's Office has acted in accordance with the Idaho Rules of Professional Conduct and has strived to seek justice in this case while acting in accordance with its duty to protect the rights of the Defendants, Chad and Lori Daybell.

2. Rob Wood did not coerce, unduly influence, coach, and or intimidate any witness or instruct a witness how to respond to any questions by law enforcement. The allegations are meritless.
3. At all times during the recordings referenced by the Defense, Summer Shiflett and Zulema Pastenas were represented and accompanied by their Arizona attorney Garrett Smith. Mr. Wood has never met with Mrs. Shiflett or Ms. Pastenas outside the company of their attorney. The meeting with Mrs. Shiflett took place on or about October 1, 2020, and the meeting with Ms. Pastenas took place on or about October 2, 2020. Both meetings took place at the Chandler, Arizona Police Department.
4. The meetings among Mr. Wood, Mr. Smith, Mrs. Shiflett and Ms. Pastenas came about as a result of Ms. Pastenas reaching out to law enforcement and Mr. Wood's office through her attorney Mr. Smith.
5. The meetings among Mr. Wood, Mr. Smith, Mrs. Shiflett and Ms. Pastenas were introductory in nature and not investigative. Said meetings took place before investigative meetings with law enforcement. Mr. Wood did not sit in on the meetings with law enforcement.
6. At no time did Mr. Smith make any objection to statements or questions by Mr. Wood, and after the introductory meetings, Mr. Smith accompanied his clients to interviews with law enforcement in which they actively participated of their own free will. At no time did Mr. Smith raise an objection or concern that Mr. Wood had coerced, unduly influenced, coached, intimidated, or instructed a witness how to respond to any questions. Nearly two and one-half months have passed from that October conference until now wherein no objection was ever raised. Further, Mr. Smith has never raised any concerns or objections on what occurred on those days.
7. Not only did Mr. Smith not object to anything said during the initial meetings with Mrs. Shiflett and Ms. Pastenas, Mr. Smith and Ms. Pastenas, they—Mr. Smith and Ms. Pastenas—then met with law enforcement a second time a few weeks after the first meeting.
8. Mr. Wood did not record the meeting with Mr. Smith, Mrs. Shiflett, and Ms. Pastenas. The recordings provided by the Defense were recorded without the knowledge or consent of Mr. Wood and do not include the entirety of the conversations among Mr. Wood, Mr.

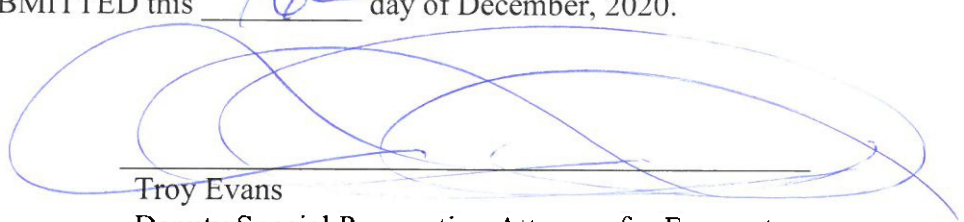
Smith, Mrs. Shiflett, and Ms. Pastenas, and as such appear at some level to be incomplete and/or possibly edited. The State has reason to believe that Mr. Smith recorded these conversations, due to the fact that part of the recording with Ms. Pastenas appears to have taken place outside of Ms. Pastenas' presence. The State is unaware if Mrs. Shiflett and Ms. Pastenas consented to the recordings or to any disclosure to any third parties.

9. The State acknowledges that Arizona is a one-party consent state but notes that the Arizona Attorney Ethics Advisory Committee considers most non-consensual recorded conversations by attorneys to be unethical with few exceptions. A 2019 opinion by said committee is available at:

[https://www.azcourts.gov/LinkClick.aspx?fileticket=o9g\\_yMGnEeU%3D&portalid=26](https://www.azcourts.gov/LinkClick.aspx?fileticket=o9g_yMGnEeU%3D&portalid=26)).

10. In regards to the Motion to Extend Time to Dismiss, the State notes that the Defendant Lori Vallow Daybell waived her preliminary hearing and as such waived her right to question whether probable cause exists and if it was proper for the Magistrate Court to bind her over to District Court. The State objects to any extension of time for the Defense's motions to dismiss.
11. In regards to the Defendants' allegation that the State has concealed evidence in violation of Brady and Rule 16, the State denies any such allegation and notes that the Defendant has not plead this issue with any degree of particularity. The State further states that discovery in this case is ongoing and that the State has and will continue to comply with Rule 16.
12. This Objection is supported by the Affidavit of Rob Wood in Support of Motion to Disqualify Prosecuting Attorney and Motion to Extend Time on Motion to Dismiss filed herewith.
13. This Objection applies in both the Lori Norene Daybell and Chad Guy Daybell cases where a similar Motion was filed in each case.
14. The State requests an expedited hearing on this matter.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of December, 2020.



Troy Evans  
Deputy Special Prosecuting Attorney for Fremont  
County

CERTIFICATE

I HEREBY CERTIFY that on this 16 day of December, 2020, that a copy of the foregoing OBJECTION was hand delivered, emailed, faxed or mailed to the following party as indicated:

John Prior  
[john@jpriorlaw.com](mailto:john@jpriorlaw.com)

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

Mark L. Means  
[mlm@means-law.com](mailto:mlm@means-law.com)

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

By: 