

**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,

v.

LORI NORENE VALLOW aka LORI
NORENE VALLOW DAYBELL,

Defendant.

Case No. CR22-21-1624

ORDER

ON VICTIM IMPACT STATEMENTS

On May 14, 2023, a jury returned a verdict finding the Defendant guilty of all charges in the AMENDED INDICTMENT. The Court will sentence the Defendant on July 31, 2023. In order to facilitate the Presentence Investigator's preparation of the Presentence Report and enable adherence to Idaho Code Section 19-5306(1)(h), and upon receipt of a number of forms filed by individuals who wish to exercise victim's rights in this case, the Court enters the following order to clarify who is statutorily entitled to exercise victim's rights in this case—including who may submit a Victim Impact Statement to the Court at sentencing or address the Court.¹

The Court finds that there is controlling authority in Idaho to resolve this question in *State v. Shackelford*, 155 Idaho 454, 314 P.3d 136 (2013):

Under I.C. § 19-5306 each victim of a criminal case shall be “[c]onsulted by the presentence investigator during the preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct had upon the victim.” I.C. § 19-5306(1)(h). The provisions of I.C. § 19-5306 “apply equally to the immediate families of homicide victims.” I.C. § 19-5306(3). In *State v. Payne*, this Court held that “I.C. § 19-5306 limits victim impact statements to immediate family members.” 146 Idaho at 575, 199 P.3d at 150. **Further, the Court defined “immediate family members” as “parent, mother-**

¹ The Court notes that it previously analyzed who qualifies as a “victim” in this case in a Memorandum Decision and Order entered April 6, 2023. That order clarified who qualified as a “victim” under Idaho law for purposes of excepting the application of the exclusionary rule, IRE 615, during trial. On June 5, 2023, the State filed with the clerk several Victim's Rights Notification Forms and the Court has reviewed those forms.

in-law, father-in-law, husband, wife, sister, brother, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or a son or daughter.” *Id.* Thus, the Court held that, in a homicide case, victim impact statements by those who are not “immediate family members” of the victim are inadmissible. *Id.* at 575–76, 199 P.3d at 150–51.

State v. Shackelford, 155 Idaho 454, 463, 314 P.3d 136, 145 (2013).

Further, a 2014 Idaho Court of Appeals case, *State v. Hansen*, clarifies:

The determination of whether a person is a victim under section 19–5306 is a factual determination that is reviewed for an abuse of discretion. *State v. Lampien*, 148 Idaho 367, 373, 223 P.3d 750, 756 (2009). The interpretation of section 19–5306 is a question of law over which we exercise free review. *Lampien*, 148 Idaho at 373–74, 223 P.3d at 756–57. The objective of statutory construction is to derive the intent of the legislature. *Id.* at 374, 223 P.3d at 757. Statutory construction begins with the literal language of the statute. *Id.* This Court gives effect to the purpose and intent of the legislature based on the language of the statute in its entirety and gives effect to every word. *Id.*

In relevant part, section 19–5306 provides, “Each victim of a criminal or juvenile offense shall be: ... (e) Heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration, placing on probation or release of the defendant unless manifest injustice would result....” I.C. § 19–5306(1)(e). The statute defines “victim” as “an individual who suffers direct or threatened physical, financial or emotional harm as the result of the commission of a crime.” I.C. § 19–5306(5)(a). In addition, it provides:

The provisions of this section shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally. The court may designate a representative from the immediate family to exercise these rights on behalf of a deceased, incapacitated, or minor victim.

I.C. § 19–5306(3).

On appeal, Hansen contends the district court erred in allowing the victim's father to make a statement at sentencing because the father did not qualify as a “victim” pursuant to section 19–5306(5)(a), nor were circumstances present allowing for the involvement of immediate families pursuant to section 19–5306(3). The State contends that although section 19–5306 confers a right to “victims” to address the court, it is not a limiting statute and, therefore, is not the only mechanism whereby

the court may accept such evidence at sentencing. The State argues that separate from section 19–5306, the district court has broad discretion in determining what evidence is to be admitted at a sentencing hearing, including the statement at issue in this case. *See State v. Matteson*, 123 Idaho 622, 625, 851 P.2d 336, 339 (1993).

The Idaho Supreme Court's interpretation of section 19–5306 in *State v. Payne*, 146 Idaho 548, 199 P.3d 123 (2008) makes clear that the State's interpretation of the statute in this case is incorrect, as the Court found the statute does, in fact, limit the parties allowed to submit victim impact statements at sentencing. *Payne*, having been convicted of first degree murder, kidnapping, robbery and rape and sentenced to death, argued, among other things, that his trial counsel was deficient by failing to limit the victim impact statements presented at sentencing to those of immediate family members pursuant to section 19–5306. The Supreme Court first noted that a reading of the entire statute makes clear the legislature intended to limit the definition of “victim” by providing that a victim must have suffered direct harm as a result of the commission of the crime. *Payne*, 146 Idaho at 575, 199 P.3d at 150 (citing I.C. § 19–5306(5)(a)). Additionally, the Court noted that in cases of homicide the statute extends the right to make a statement *only* to immediate family members. *Id.* (citing I.C. § 19–5306(3)). “When read together,” the Court surmised, “the meaning is clear: the legislature intended to limit the right to be heard to only immediate family members.” *Id.* The court then concluded, “As such, the victim impact statements given by those who were not [the decedent's] immediate family members *were not admissible*.” *Id.* (emphasis added). Thus, although the State is correct that section 19–5306 contains no express language disallowing impact-of-the-crime information from persons other than victims, our Supreme Court appears to have interpreted it as including such a prohibition. In *Payne*, the Court did not merely hold that persons not specified in the statute lacked a right to be heard; it held that their statements were “not admissible.”

State v. Hansen, No. 39061, 2012 WL 6634131, at *2–3 (Idaho Ct. App. Dec. 19, 2012), *aff'd*, 156 Idaho 169, 321 P.3d 719 (2014) (*emphasis in original*) (emphasis added).

Therefore, upon the receipt of the State’s filing of seven Victims’ Rights Forms, the Court makes the following findings and orders:

1. There are four named victims in the Amended Indictment in Fremont County Case No. CR22-21-1624: (1) Tylee Ryan; (2) Joshua Jaxon Vallow; (3) Tamara Daybell; and (4) the United States Government. A jury found that Tylee Ryan, Joshua Jaxon Vallow and

Tamara Daybell all died by homicide.

2. Idaho law establishes that victims' rights may be applied equally to "the immediate families of homicide victims[.]" I.C. §19-5306(3).
3. Brandon Boudreaux filed a Victims' Rights Form. Boudreaux testified at trial that he was formerly married to Lori Vallow's niece, Melani Pawlowski. This means that Boudreaux would be the ex-uncle-in-law to Lori's children—Tylee Ryan and Joshua Jaxon Vallow. This designation does not fall within Idaho's definition of "immediate family members" of homicide victims.
4. Rex Conner filed a Victims' Rights Form. The record does not establish who Rex Conner is and therefore the Court cannot ascertain his relationship, if any, to the named victims in this case and whether he is an "immediate family member" under Idaho law to enable the application of I.C. §19-5306 *et seq.*
5. Vicki Hoben filed a Victims' Rights Form. The record does not establish who Vicki Hoben is and therefore the Court cannot ascertain her relationship, if any, to the named victims in this case and whether she is an "immediate family member" under Idaho law to enable the application of I.C. §19-5306 *et seq.* From the record before it, the Court cannot determine whether Vicki Hoben is entitled to the provisions of I.C. §19-5306.
6. Colby Ryan filed a Victims' Rights Form. Colby Ryan is the half-brother and adoptive brother to Tylee Ryan and Joshua Jaxon Vallow. Thus, he is an "immediate family member" under Idaho law to enable the application of I.C. §19-5306 *et seq.*, and is permitted to render a Victim Impact Statement and exercise all enumerated rights afforded to the "immediate family members" of homicide victims.
7. Summer Shiflet filed a Victims' Rights Form. As previously ordered, Summer Shiflet has

been designated as a representative of Tylee Ryan's mother, Lori Vallow, who would qualify as an immediate family member of Tylee Ryan. As a Court-designated representative, Summer Shiflet is permitted to render a Victim Impact Statement and exercise all enumerated rights afforded to the "immediate family members" of homicide victims.²

8. Ethel Kathleen "Kay" Vallow Woodcock filed a Victims' Rights Form. As previously ordered, Kay Woodcock has been designated as a representative of Joshua Jaxon Vallow's father, Charles Vallow, who would qualify as an immediate family member of Joshua Jaxon Vallow. As a Court-designated representative, Kay Woodcock is permitted to render a Victim Impact Statement and exercise all enumerated rights afforded to the "immediate family members" of homicide victims.³
9. Larry James Woodcock filed a Victims' Rights Form. As previously ordered, Larry Woodcock does not meet Idaho's legal definition of "immediate family member" in relation to any of the named victims in the Amended Indictment to enable the application of I.C. §19-5306.

To be clear, as stated previously, the Court recognizes that several of these individuals have inarguably been impacted by the homicide of Tylee Ryan, Joshua Jaxon Vallow, and Tamara Daybell. This order, in no uncertain terms, is not meant to minimize or disregard what any individual has experienced connected to the deaths in this case; notwithstanding, the Court will apply the law in Idaho and not risk committing error by expanding the scope of what is plainly stated in statute and clarified by Idaho caselaw.

The Court further states that this order does not preclude additional consideration of further

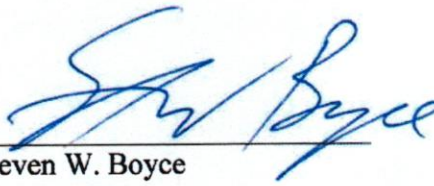
² Id. at 6.

³ Id.

information that may be submitted to further determine if an individual qualifies. Those individuals who qualify as “immediate family members” under Idaho law of the named homicide victims—Tylee Ryan, Joshua Jaxon Vallow, and Tamara Daybell—are entitled to exercise their rights by completing a form and supplying it to the prosecuting attorney to file with the clerk of the court as is required under Idaho Code Section 19-5306(2).

IT IS SO ORDERED.

Dated this 8 day of June, 2023.


Steven W. Boyce
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 8 day of June, 2023, the foregoing Order was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes; by causing the same to be hand-delivered, by facsimile, or by e-mail.

Parties Served:

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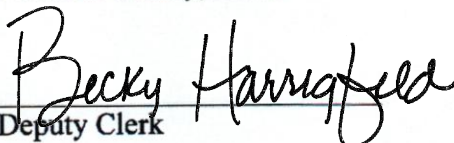
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by 
Deputy Clerk