

**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.

CHAD GUY DAYBELL,

Defendant.

Case No. CR22-21-1623

ORDER

*on Defendant's Objection to
the Court's Scheduling Order
Issued on December 16, 2022*

Before the Court is Defendant Chad Guy Daybell's ("Daybell") OBJECTION TO THE COURT'S SCHEDULING ORDER ISSUED ON DECEMBER 16, 2022 ("OBJECTION") that Daybell filed on December 23, 2022. No hearing on the motion was scheduled. The Court finds that judicial efficiency and case administration is best served by considering the objection without the need for a hearing and enters the following order.

I. PROCEDURAL BACKGROUND¹

On December 16, 2022, the Court entered a SCHEDULING ORDER establishing certain deadlines ahead of trial scheduled to begin April 3, 2023 in this case.² On December 23, 2022, Daybell filed an objection to the December 16, 2022 SCHEDULING ORDER and requested the Court to "vacat[e] the January 9 deadline [to file a proposed jury questionnaire] until such time that the continuance motion can be filed, heard, and ruled upon."³

As noted in the OBJECTION, the Court has scheduled a deadline of January 9, 2023, for counsel to submit proposals relating to the questionnaire the Court intends to utilize in jury

¹ The full factual background is incorporated by reference and not set forth herein.

² The Court filed an amended SCHEDULING ORDER on December 27, 2022 that has no material effect on Daybell's objection as it is substantively the same as the December 16th Scheduling Order for purposes of evaluating Daybell's objection.

³ OBJECTION TO THE COURT'S SCHEDULING ORDER ISSUED ON DECEMBER 16, 2022 ("OBJECTION"). p. 1. Dec. 23, 2022.

selection. On September 23, 2022, the Court issued an ORDER requiring proposed questionnaires to be submitted no later than October 14, 2022.⁴ As noted in that order, the parties were advised well in advance of the issuance of the order that a questionnaire would be used in jury selection. Court minutes from October 13, 2022 indicate that during a court hearing, held the day before the deadline, the Prosecution inquired of the Court whether the order's deadline for the proposed jury questionnaire of October 14, 2022 would still be in effect, and the Court advised all parties that the October 14, 2022 deadline to submit a proposed questionnaire was vacated.⁵ Of note, the co-defendant Case CR22-21-1624 was stayed at that time, heavily weighing on the decision to suspend the deadline for the submission of proposed questionnaires. On October 28, 2022, the Court entered a MEMORANDUM DECISION AND ORDER granting Daybell's motion to continue trial and vacated the January 9, 2023 trial date. The Court thereafter entered a new scheduling order setting trial in April, 2023, and also set the January 9, 2023 deadline for submission of proposed questionnaires, to coincide with necessary trial preparation given the new trial date.

II. LEGAL AUTHORITY

The Sixth Amendment guarantees “the accused” the right to a trial “by an impartial jury.” The right to an “impartial” jury “does not require ignorance.” *Skilling v. United States*, 561 U. S. 358, 381 (2010). Notorious crimes are “almost, as a matter of necessity, brought to the attention” of those informed citizens who are “best fitted” for jury duty. *Reynolds v. United States*, 98 U. S. 145, 155–156 (1879). A trial court protects the defendant's Sixth Amendment right by ensuring that jurors have “no bias or prejudice that would prevent them from returning a verdict according to the law and evidence.” *Connors v. United States*, 158 U. S. 408, 413 (1895).

We have repeatedly said that jury selection falls “particularly within the province of the trial judge.” *Skilling*, 561 U.S., at 386, 130 S.Ct. 2896 (quoting *Ristaino v. Ross*, 424 U.S. 589, 595, 96 S.Ct. 1017, 47 L.Ed.2d 258 (1976)); see also, e.g., *Mu'Min v. Virginia*, 500 U.S. 415, 424, 111 S.Ct. 1899, 114 L.Ed.2d 493 (1991); *Connors*, 158 U.S., at 413, 15 S.Ct. 951. That is so because a trial “judge's

⁴ ORDER. Sept. 23, 2022.

⁵ See Fremont County Case No. CR22-21-1623. COURT MINUTES. p. 3. Oct. 13, 2022.

appraisal is ordinarily influenced by a host of factors impossible to capture fully in the record,” such as a “prospective juror’s inflection, sincerity, demeanor, candor, body language, and apprehension of duty.” *Skilling*, 561 U.S., at 386, 130 S.Ct. 2896. A trial court’s broad discretion in this area includes deciding what questions to ask prospective jurors. See *Mu’Min*, 500 U.S., at 427, 111 S.Ct. 1899 (“our own cases have stressed the wide discretion granted to the trial court in conducting *voir dire* in the area of pretrial publicity”).

United States v. Tsarnaev, 212 L. Ed. 2d 140, 142 S. Ct. 1024, 1034 (2022).

III. ANALYSIS

At the outset it is important to note that Daybell included key portions of previously issued decisions to support his position and request to be relieved of a January 9, 2023 deadline to file a proposed jury questionnaire with the Court. However, in reviewing the OBJECTION, it is important to offer clarification to prevent fundamental misinterpretation of this Court’s rationale in previous rulings.

Daybell notes that this Court previously found “good cause” to continue trial from January 9, 2023 in a MEMORANDUM DECISION AND ORDER entered October 28, 2022. Central to the determination to find good cause was the mandatory stay of Fremont County Case No. CR22-21-1624 at that time, whereby Daybell’s alleged co-conspirator Lori Norene Vallow Daybell’s (“Vallow Daybell”) legal competency remained at issue, pending determination. Given that the two cases are joined for purposes of trial, and a stay had been entered in CR22-21-1624, the Court determined to grant a motion to continue trial in Daybell’s case. Whereas the stay of that case has now been lifted, and Vallow Daybell has not waived her right to a *speedy trial*, any “good cause” previously found to continue trial on that basis has abated.

Daybell refers to the Court’s conclusion that “the Defense has indeed demonstrated that it is not, and cannot, be ready for trial in January, 2023” as justification to avoid complying with the January 9, 2023 deadline to supply the Court with a proposed questionnaire for prospective jurors.

In so doing, Daybell mistakes the Court's admonition in the October 28, 2022 ORDER as a concession that the Defense is *entitled* to more time to prepare a defense. To be clear, the Court's comments were a note that Daybell's counsel had revealed it had not prepared to meet previously issued deadlines, and the comments were not intended to conclude that Daybell has been denied ample time to prepare for trial. The record belies this very assertion. Since August 5, 2021, Daybell has been on notice that the State was seeking the death penalty (approximately 17 months). The Court reiterates what it previously wrote in its October 28, 2022 order when it granted a continuance of trial:

While the Court is left questioning how and why such issues, all present at the outset of this case, are only now being asserted as a basis for continuance, the arguments as a whole leave this Court with the abiding sense that the Defense has indeed demonstrated that it is not, and cannot, be ready for trial in January, 2023.

[...]

The Court expects counsel for the Parties to have a full and complete understanding of what preparations remain in rescheduling the trial, so as to avoid any further unnecessary delay in the administration of this case.⁶

The initial deadline set by this Court for juror questionnaires was October 14, 2022. It was only the day before, October 13, 2022, that the deadline was vacated. The Court would expect that the proposed questionnaires would have been substantially complete given that timing. Further, the issue of questionnaires has been before all parties since well before the September 23, 2022 ORDER requiring them. The parties are all aware that questionnaires will be used in jury selection, and the proposals from counsel are a concession to allow for their adequate input in fashioning appropriate questions to determine juror qualifications. However, it is ultimately the responsibility of the Court to qualify and seat a fair and impartial jury who will collectively be prepared to render judgment as to the facts of this case. Thus, while counsel has been provided an

⁶ MEM. DEC. AND ORDER. Oct. 28, 2022.

opportunity to provide input on this important issue, it is not ultimately the parties', but the Court's obligation to determine the contents of the questionnaire.


The January 9, 2023 deadline was not set arbitrarily. It was carefully selected after coordinating with Ada County to provide adequate time to employ the questionnaire, which is a substantial task. Extending the deadline would necessarily complicate that burden and may well result in inadequate time to implement this important trial tool. The Court does not find persuasive Daybell's argument that development of mitigation evidence requires an extension of time. Counsel will still be provided an opportunity to conduct *voir dire* at trial. The issues to be covered by the questionnaire are more limited in scope than what is suggested in the OBJECTION. Given the substantial time that all parties have known of the use of the questionnaire, good cause to extend the deadline has not been demonstrated. Accordingly, the deadline remains. Counsel may choose to comply and supply the Court with its proposed questionnaire or elect to let the deadline pass without submitting a proposal. In either case, the Court will be the ultimate arbiter of a jury questionnaire and will do its duty to guide and protect the fairness of the proceedings.

IV. CONCLUSION

For the foregoing reasons, Daybell's OBJECTION is DENIED.

IT IS SO ORDERED.

Dated this 4 day of January, 2023.



Steven W. Boyce
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of January, 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.

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Clerk of the District Court
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