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 Special Deputy Madison County Attorney
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COUNSEL FOR STATE

**MONTANA FIFTH JUDICIAL DISTRICT COURT
 MADISON COUNTY**

STATE OF MONTANA, Plaintiff, v.	Cause No(s). DC-29-2022-23 DC-29-2022-24 DC-29-2022-22 DC-29-2022-26
JESSE MICHAEL BOYD, BETHANY GRACE BOYD, CARTER NORMAN PHILLIPS, ERIC ANTHONY TRENT, Defendant(s).	STATE'S NOTICE REGARDING DEEFENDANTS FAILURE TO RETURN OMNIBUS CONFERENCE ORDER

COMES NOW the State of Montana, by and through Assistant Attorney General Thorin A. Geist and Madison County Attorney David Buchler, and hereby notifies the District Court:


1. On January 6, 2023, the State provided a modified¹ proposed *Omnibus Conference Order* to the Defendants with the State's sections completed.

¹ The *Omnibus Conference Order* was modified from the District Court's standard format to take into account the fact that is a consolidated case involving four separate Defendants.

A copy of the proposed *Omnibus Conference Order* is attached hereto as **Exhibit 1**. The State attempted to follow up with counsel for the Defendants on February 28, 2023, and again on March 7, 2023, but received no response.

2. On March 8, 2023, the State followed up with counsel for a third time. In response, the Defendants indicated that they opposed the State's modified proposed *Omnibus Conference Order*.
3. On March 9, 2023, the State sent the Defendants four² proposed *Omnibus Conference Orders* in the District Court's standard format. Copies of the proposed *Omnibus Conference Orders* are attached hereto as **Exhibit 2-5**.
4. On March 17, 2023, the State followed up with counsel for a fourth time.
5. As of March 21, 2023, the Defendants have not returned the *Omnibus Conference Forms* to the State.

DATED this 21 day of March, 2023.

By: 
THORIN A. GEIST
DAVID BUCHLER
Attorneys for the State of Montana

² One for each Defendant.

AUSTIN KNUDSEN



STATE OF MONTANA

January 6, 2023

Alexander L. Roots
Planalp & Roots, PC
P.O. Box 1
Bozeman, MT 59771-0001
Email: Alex@planalpplaw.com

☐ U.S. Mail
☐ Facsimile
☐ Hand Delivery
☒ Email

John Pierce
John Pierce Law
21550 Oxnard Street
Woodland Hills, CA 91367
Email: jpierce@johnpierceclaw.com

☐ U.S. Mail
☐ Facsimile
☐ Hand Delivery
☒ Email

Re: *State of Montana v. Jesse Michael Boyd et al.*
Montana Fifth Judicial District Court, Madison County

Counsel:

Earlier today we filed a *Notice of Discovery* and sent you the State's complete discovery package. If additional discovery is developed it will be provided to you. You should also be aware that we have requested that transcripts be made from some of the audio recordings. Any such transcripts will also be provided to you when they are completed.

Following the Initial Appearance on January 23, 2023, the District Court will set an Omnibus Conference, which will be held before his judicial assistant. To expedite that, please find enclosed the *Omnibus Conference Order* with the State's section completed. I wanted to make you aware that I made a couple of changes to the District Court's standard *Omnibus Conference Order* because we are dealing with multiple Defendants in a consolidated case. Substantively, those changes are as follows:

1. **Fitness to Proceed (p.3):** We added check boxes for each Defendant.
2. **Affirmative Defenses (p.5):** We added a table specifically identifying the affirmative defenses and added check boxes for each Defendant.
3. **Good Character Defense (p.5):** We added check boxes for each Defendant.
4. **Automatism Defense (p.5):** We added check boxes for each Defendant.

DEPARTMENT OF JUSTICE

215 North Sanders
PO Box 201401
Helena, MT 59620-1401

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AUSTIN KNUDSEN



STATE OF MONTANA

5. **Drawing of Jury (p.7):** We added check boxes for each Defendant.
6. **Jury Instructions (p.7):** To ensure that the District Court has sufficient time to address any issues, we changed the deadline for jury instructions to be exchanged to the date of the pretrial conference rather than seven days before trial.
7. **Witness & Exhibit Lists (p.7):** To ensure that the District Court has sufficient time to address any issues, we changed the deadline for witness and exhibit lists to be exchanged to the date of the pretrial conference rather than seven days before trial.
8. **Length of Trial (p.8):** Although it's likely that this case could be completed in less time, we think it's best to err on the side of caution and to set this for a five-day jury trial.
9. **Peremptory Challenges (p.8):** We have added a section specifying that both sides are entitled to six peremptory challenges, which we understand is Judge Berger's practice in consolidated cases.

Please let me know if you have any issues with any of the foregoing changes. We would be happy to discuss any or all of them as may be necessary.

Respectfully,



Thorin A. Geist

Assistant Attorney General

C. David Buchler, Madison County Attorney
Encl. As Stated

DEPARTMENT OF JUSTICE

215 North Sanders
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Helena, MT 59620-1401

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HON. LUKE BERGER

Montana Fifth Judicial District Court

Madison County

110 W. Wallace St.

P.O. Box 185

Virginia City, MT 59755

Tel: 406-843-4235

**MONTANA FIFTH JUDICIAL DISTRICT COURT
MADISON COUNTY**

STATE OF MONTANA, Plaintiff, v. JESSE MICHAEL BOYD, BETHANY GRACE BOYD, CARTER NORMAN PHILLIPS, ERIC ANTHONY TRENT, Defendant(s).	Cause No(s). DC-29-2022-23 DC-29-2022-24 DC-29-2022-22 DC-29-2022-26 OMNIBUS CONFERENCE ORDER
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An *Omnibus Scheduling Conference* was held on the ____ day of _____,
2023, in the District Court's chambers, before Diane Kaatz, Court
Administrator. Counsel participated as follows:

State of Montana:

AAG Thorin A. Geist ☐ in person ☐ by telephone ☐ not present.
CA David Buchler ☐ in person ☐ by telephone ☐ not present.

//

//

Defendants:

Alex Roots [] in person [] by telephone [] not present.
John Pierce [] in person [] by telephone [] not present.

Upon consultation of counsel and counsel's calendars, and by their stipulation, it is now ordered by the District Court that the following Omnibus Order shall govern the dates in this matter. Absent a written demonstration showing good cause, these dates shall **not** be amended.

DISCOVERY

1. In compliance with § 46-15-322, MCA, the State shall **immediately and on a continuing basis shall** make available to the Defendants for examination and reproduction the following information:

- a. The names, addresses and statements of witnesses and names and addresses of experts, and the results of their physical examinations, scientific tests, experiments or comparisons, their written reports and statements.
- b. All physical or documentary evidence.
- c. All oral, written, or recorded statements made by Defendant to investigating officers or to third parties.
- d. All investigative reports.
- e. All exculpatory evidence known to the State.

2. In compliance with § 46-15-323, MCA, the Defendants **immediately and on a continuing basis shall** make available to the State for testing, examination, or reproduction:

- a. The names, addresses and statements of witnesses and names and addresses of experts and the results of their physical examinations, scientific tests, experiments, or comparisons, their written reports and statements.
- b. All physical or documentary evidence.

//

FITNESS TO PROCEED

3. The Defendant's fitness to proceed is at issue:

- | | | |
|---------------------------|------------------------------|-----------------------------|
| a. Jesse Michael Boyd | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Bethany Grace Boyd | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Carter Norman Phillips | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Eric Anthony Trent | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Within 10 days after receiving a report of Defendant's mental condition from a psychiatrist, psychologist, or advanced practice registered nurse, Defendant shall provide the State with written notice of an intention to assert lack of applicable mental state due to mental disease or defect. § 46-15-323(3), MCA.

The notice has been filed: ☐ Yes ☐ No

No later than five days before trial, the State shall provide the names and addresses of all persons it intends to call as rebuttal witnesses to Defendant's assertion of lack of applicable mental state due to mental disease or defect. § 46-15-322(6), MCA.

INFORMANT AND SURVEILLANCE

4. The State declares that a confidential informant was involved in this case: ☐ Yes ☒ No
5. The State declares there has been electronic surveillance of the Defendants or their premises: ☐ Yes ☒ No
6. The State declares that an investigative subpoena has been executed for records in this case: ☐ Yes ☒ No

PERSISTENT FELONY OFFENDER

7. The State does not intend to seek treatment of any of the Defendants as a persistent felony offender pursuant to § 46-13-108, MCA.

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SENTENCE ENHANCEMENT

8. The State does **not** intend to seek sentencing enhancements against any of the Defendants in this case.

STATE'S MOTIONS

9. The State will file the following pretrial motion(s) on or before _____, 2023:

a. *Motions in Limine.*

The State requests a hearing on their motion(s)? [] Yes [X] No

DEFENDANT'S MOTIONS

10. Pursuant to § 46-13-302, MCA, Defendants will move to suppress physical evidence: [] Yes [] No
11. Pursuant to § 46-13-301, MCA, Defendants will move to suppress admissions or confession: [] Yes [] No
12. The Defendant will file the following pretrial motion(s) on or before _____, 2023:

- a. _____.
- b. _____.
- c. _____.
- d. _____.

Defendants request a hearing on their motions? [] Yes [] No

A hearing shall be set on _____, 2023 at _____.

AFFIRMATIVE DEFENSES

Defendants are aware of the time limits imposed by § 46-15-323(2), MCA, in which Defendants may assert certain defenses.

13. Defendants assert the following affirmative defense(s):

Affirmative Defense	Jesse Michael Boyd	Bethany Grace Boyd	Carter Norman Phillips	Eric Anthony Trent
Justifiable Use of Force in Defense of Person, pursuant to § 45-3-102, MCA.	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No
Justifiable Use of Force in Defense of Occupied Structure, pursuant to § 45-3-103, MCA.	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No
Justifiable Use of Force in Defense of Other Property, pursuant to § 45-3-104, MCA.	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No
Alibi, pursuant to § 46-15-323(2), MCA.	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No
Compulsion, pursuant to § 46-15-323(2), MCA.	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No
Entrapment, pursuant to § 46-15-323(2), MCA.	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No
Mistaken Identity, pursuant to § 46-15-323(2), MCA.	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No
Other: _____	[] Yes [] No	[] Yes [] No	[] Yes [] No	[] Yes [] No

14. Defendants will introduce evidence of good character:

- a. Jesse Michael Boyd [] Yes [] No
- b. Bethany Grace Boyd [] Yes [] No
- c. Carter Norman Phillips [] Yes [] No
- d. Eric Anthony Trent [] Yes [] No

15. Defendants will introduce an Automatism/no voluntary act defense:

- a. Jesse Michael Boyd [] Yes [] No
- b. Bethany Grace Boyd [] Yes [] No
- c. Carter Norman Phillips [] Yes [] No
- d. Eric Anthony Trent [] Yes [] No

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OTHER CRIMES, WRONGS OR ACTS

16. Defendants have a motion to exclude or suppress evidence of other prior bad acts: ☐ Yes ☐ No

If YES, Montana law requires a hearing, and findings of fact and conclusions of law by the District Court. The motion and any response **must refer to specific evidence** the parties consider at issue.

- a. Defendants motion and brief are due: _____.
- b. State's response brief is due: _____.
- c. Defendant's reply brief is due: _____.

A hearing on the motion is set for: _____, 2023, at _____ a.m./p.m.

The State stipulates that it will not introduce prior bad acts (unless the door is opened by the Defendant), thereby negating a hearing if requested. ☒ Yes ☐ No.

CRAWFORD ISSUES

17. All *Crawford* issues shall be considered only by motions filed and served.

CLOSED PROCEEDINGS

18. All pretrial proceedings and/or records not filed under seal with the Clerk of the District Court shall be open to the public pursuant to § 46-11-701, MCA.

DEADLINES AND TRIAL PROCEDURE

19. In the event plea negotiations fail, the District Court will inquire if a final plea offer has been extended by the State and received by Defense Counsel. The District Court will then inquire if the final plea offer was communicated to the Defendants and whether it was rejected. The terms of the plea offer shall **not** be made known to the Court.
20. Motions *in limine* shall be filed in a timely manner after a party becomes aware of the facts giving rise to a request for relief. Motions *in limine*

shall be considered on briefs alone unless a party requests a hearing in their briefing.

21. The Clerk of District Court will draw a panel consisting of _____ prospective jurors randomly selected by computer program(s).

a. The State waives the right to be present at the drawing of potential jurors: ☒ Yes ☐ No

b. The Defendants waive the right to be present at the drawing:

- | | | |
|-----------------------------|------------------------------|-----------------------------|
| i. Jesse Michael Boyd | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| ii. Bethany Grace Boyd | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| iii. Carter Norman Phillips | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| iv. Eric Anthony Trent | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

22. Prior to the pretrial conference, the parties shall confer on jury instructions and verdict form. Proposed jury instructions, both stipulated and additional are due at the pretrial conference unless otherwise indicated by the District Court.

Proposed instructions shall be numbered at the bottom of the page or on a separate page and authority for each proposed instruction shall be included likewise. All instructions shall be provided to the District Court via e-mail at dkaatz@mt.gov. The proposed instructions shall include an index sheet which identifies the stipulated instructions.

23. At the pretrial conference the parties shall exchange a list of witnesses and exhibits. All exhibits shall be pre-marked and served upon the opposing party at the pretrial conference.

Plaintiff shall label with numerals. Defendant shall label with letters. Failure to comply may result in sanctions including, but not limited to, refusal to admit exhibits. The parties shall have four copies of exhibits (DVDs and CDs are excluded) for trial: Their copy, one official copy for the record, a courtesy copy for the Court, and a copy for opposing counsel.

24. Each party may file and serve a *Trial Brief* which shall contain not more than one paragraph for each legal issue with citations to controlling law.

A final pretrial conference shall be held on _____, 2023, at _____.m. At the final pretrial conference, the Court and the parties will discuss the policies and procedures to be followed at trial and other pending issues. Defendant **shall** be present at the conference.

25. The State and the Defendants agree that this case will proceed to a trial by jury.

a. The expected length of trial is 5 days.

b. At trial, each side will be entitled to 6 peremptory challenges. § 46-16-116, MCA.

Trial shall begin on _____ 2023, at _____ .m.

AAG Thorin A. Geist
CA David Buchler
Attorneys for the State

Date: _____

Alex Roots
John Pierce
Attorneys for Defendants

Date: _____

MONTANA FIFTH JUDICIAL DISTRICT COURT, MADISON COUNTY

THE STATE OF MONTANA,

Plaintiff,

vs.

JESSE MICHAEL BOYD,

Defendant.

Cause No. DC-29-2022-23

OMNIBUS CONFERENCE ORDER

An Omnibus Scheduling Conference was held on the ____ day of March, 2023, in the Court's chambers, before Diane Kaatz, Court Administrator. Counsel for the State participated [] in person [] by telephone, and counsel for the Defendant participated [] in person [] by telephone. Upon consultation of counsel and counsel's calendars, and by their stipulation, it is now ordered by the Court the following Omnibus Order shall govern the dates in this matter. Absent a written demonstration showing good cause, these dates shall not be amended.

DISCOVERY

1. In compliance with Mont. Code Ann. § 46-15-322, the State **immediately and on a continuing basis shall** make available to the Defendant for examination and reproduction the following information:
 - a) The names, addresses and statements of witnesses and names and addresses of experts, and the results of their physical examinations, scientific tests, experiments or comparisons, their written reports and statements.
 - b) All physical or documentary evidence.
 - c) All oral, written, or recorded statements made by Defendant to investigating officers or to third parties.
 - d) All investigative reports.
 - e) All exculpatory evidence known to the State.
2. In compliance with Mont. Code Ann. § 46-15-323, Defendant **immediately and on a continuing basis shall** make available to State for testing, examination, or reproduction:
 - a. The names, addresses and statements of witnesses and names and addresses of experts and the results of their physical examinations, scientific tests, experiments, or comparisons, their written reports and statements.

EXHIBIT

2

- b. All physical or documentary evidence.

FITNESS TO PROCEED

3. The Defendant's fitness to proceed is at issue: ☐ Yes ☐ No

Within 10 days after receiving a report of Defendant's mental condition from a psychiatrist, psychologist, or advanced practice registered nurse, Defendant shall provide the State with written notice of an intention to assert lack of applicable mental state due to mental disease or defect. Mont. Code Ann. § 46-15-323(3).

The notice has been filed: ☐ Yes ☐ No

No later than five days before trial, the State shall provide the names and addresses of all persons it intends to call as rebuttal witnesses to Defendant's assertion of lack of applicable mental state due to mental disease or defect. Mont. Code Ann. § 46-15-322(6).

INFORMANT AND SURVEILLANCE

4. The State declares that a confidential informant was involved: ☐ Yes ☒ No

Any dispute regarding a confidential informant must be raised to the Court by:
_____; Response by: _____.

5. The State declares there has been electronic surveillance of the Defendant or his premises:
☐ Yes ☒ No

All material obtained by electronic surveillance has been supplied to the Defendant. If not, all such material shall be supplied to the Defendant or an objection and motion for protective order shall be filed and served within 10 days of this order.

6. The State declares that an investigative subpoena has been executed: ☐ Yes ☒ No

All material obtained by investigative subpoena has been supplied to the Defendant. If not, all such material shall be supplied to the Defendant or an objection and motion for protective order shall be filed and served within 10 days of this order.

PERSISTENT FELONY OFFENDER

7. The State intends to seek treatment of the Defendant as a persistent felony offender pursuant to Mont. Code Ann. § 46-13-108:
☐ Yes ☒ No

Except for good cause shown, if the prosecution seeks treatment of the accused as a persistent felony offender, notice of that fact must be given at or before the omnibus hearing.

SENTENCE ENHANCEMENT

8. The State intends to seek an enhanced sentence:

☐ Yes ☒ No

The basis for enhancement is _____.

STATE'S MOTIONS

9. The State will file the following pretrial motion(s):

a. Motions in *Limine*
b. Motions to Compel
c. _____

The State requests a hearing on their motion(s)?

☐ Yes ☒ No

A hearing shall be set on _____ at _____.

Proper briefing or notification is required regardless of checking the box requesting a hearing.

DEFENDANT'S MOTIONS

10. Pursuant to Mont. Code Ann. § 46-13-302, Defendant will move to suppress physical evidence:

☐ Yes ☐ No

11. Pursuant to Mont. Code Ann. § 46-13-301, Defendant will move to suppress Defendant's admission or confession:

☐ Yes ☐ No

12. Pursuant to Mont. Code Ann. § 46-13-401, Defendant will move to dismiss:

☐ Yes ☐ No

The Defendant will file the following additional motions:

a. _____
b. _____
c. _____

The Defendant requests a hearing on their motions?

☐ Yes ☐ No

A hearing shall be set on _____ at _____.

Proper briefing or notification is required regardless of checking the box requesting a hearing.

AFFIRMATIVE DEFENSES

Defendant is aware of the time limits imposed by Mont. Code Ann. § 46-15-323(2), in which Defendant may assert certain defenses.

13. Defendant asserts the following affirmative defense(s):
a. _____
b. _____
c. _____
14. Defendant will introduce evidence of good character:
[] Yes [] No
15. Automatism/no voluntary act:
[] Yes [] No

OTHER CRIMES, WRONGS OR ACTS

16. Defendant has a motion to exclude or suppress evidence of other prior bad acts:
[] Yes [] No

If YES, Montana law requires a hearing, and findings of fact and conclusions of law by the Court regarding the motion. Defendant's motion and brief are due: _____. The State's response brief is due: _____. The motion and response **must refer to specific evidence** the parties consider at issue. Defendant's reply brief is due: _____. A hearing on the motion is set for: _____, 202__, at _____ a.m./p.m.

The State stipulates to not introduce prior bad acts (unless the door is opened by the Defendant), thus negating a hearing if requested. [X] Yes [] No.

CRAWFORD ISSUES

17. All *Crawford* issues shall be considered only by motions filed and served.

CLOSED PROCEEDINGS

18. The following pretrial proceedings and/or records shall not be open to the public, pursuant to Mont. Code Ann. § 46-11-701:

_____.

DEADLINES AND TRIAL PROCEDURE

19. In the event plea negotiations fail, the Court will inquire if a final plea offer has been extended by the State and received by Defense Counsel. The Court will then inquire if the final plea offer was communicated to the Defendant and whether it was rejected. The terms of the plea offer **shall not** be made known to the Court.

20. Motions *in limine* shall be filed in a timely manner after a party becomes aware of the facts giving rise to a request for relief.

Motions *in limine* **shall** be considered on briefs alone UNLESS a party requests a hearing in their briefing.

21. The Clerk of Court will draw a panel consisting of ____ prospective jurors randomly selected by computer program(s).

a. The State waives any right to be present at the drawing: ☒ Yes ☐ No

b. Defendant waives any right to be present at the drawing: ☐ Yes ☐ No

22. Prior to the pretrial conference, the parties SHALL confer on jury instructions and verdict form. Jury instructions, both stipulated and additional are due 7 days prior to trial unless otherwise indicated by the Court.

Proposed instructions shall be numbered at the bottom of the page or on a separate page and authority for each proposed instruction shall be included likewise. All instructions shall be provided to the Court via e-mail at dkaatz@mt.gov. The proposed instructions shall include an index sheet which identifies the stipulated instructions.

23. All exhibits shall be pre-marked and served upon the opposing party seven days before the pretrial conference.

Plaintiff shall label with numerals. Defendant shall label with letters. Failure to comply may result in sanctions including, but not limited to, refusal to admit exhibits. The parties shall have four copies of exhibits (DVDs and CDs are excluded) for trial: Their copy, one official copy for the record, a courtesy copy for the Court, and a copy for opposing counsel.

24. Each party may file and serve a Trial Brief which shall contain 1) not more than one paragraph for each legal issue with citations to controlling law 2) a list of witnesses and 3) a list of exhibits unless the party has supplied the Court with a separate binder of exhibits.

A final pretrial conference shall be held on _____ at _____ .m.
At the final pretrial conference, the Court and the parties will discuss the policies and procedures to be followed at trial and other pending issues. Defendant **shall** be present at the conference.

25. Expected length of trial is _____ days.

26. ☐ Judge ☒ Jury Trial shall begin on _____ at _____ .m.

Thorin A. Geist
David Buchler
Attorneys for the State

Date: _____

John Smith
Alex Roots
Attorneys for Defendant

Date: _____

MONTANA FIFTH JUDICIAL DISTRICT COURT, MADISON COUNTY

THE STATE OF MONTANA,

Plaintiff,

vs.

BETHANY GRACE BOYD,

Defendant.

Cause No. DC-29-2022-24

OMNIBUS CONFERENCE ORDER

An Omnibus Scheduling Conference was held on the ____ day of March, 2023, in the Court's chambers, before Diane Kaatz, Court Administrator. Counsel for the State participated [] in person [] by telephone, and counsel for the Defendant participated [] in person [] by telephone. Upon consultation of counsel and counsel's calendars, and by their stipulation, it is now ordered by the Court the following Omnibus Order shall govern the dates in this matter. Absent a written demonstration showing good cause, these dates shall not be amended.

DISCOVERY

1. In compliance with Mont. Code Ann. § 46-15-322, the State **immediately and on a continuing basis shall** make available to the Defendant for examination and reproduction the following information:
 - a) The names, addresses and statements of witnesses and names and addresses of experts, and the results of their physical examinations, scientific tests, experiments or comparisons, their written reports and statements.
 - b) All physical or documentary evidence.
 - c) All oral, written, or recorded statements made by Defendant to investigating officers or to third parties.
 - d) All investigative reports.
 - e) All exculpatory evidence known to the State.
2. In compliance with Mont. Code Ann. § 46-15-323, Defendant **immediately and on a continuing basis shall** make available to State for testing, examination, or reproduction:
 - a. The names, addresses and statements of witnesses and names and addresses of experts and the results of their physical examinations, scientific tests, experiments, or comparisons, their written reports and statements.



- b. All physical or documentary evidence.

FITNESS TO PROCEED

3. The Defendant's fitness to proceed is at issue: ☐ Yes ☐ No

Within 10 days after receiving a report of Defendant's mental condition from a psychiatrist, psychologist, or advanced practice registered nurse, Defendant shall provide the State with written notice of an intention to assert lack of applicable mental state due to mental disease or defect. Mont. Code Ann. § 46-15-323(3).

The notice has been filed: ☐ Yes ☐ No

No later than five days before trial, the State shall provide the names and addresses of all persons it intends to call as rebuttal witnesses to Defendant's assertion of lack of applicable mental state due to mental disease or defect. Mont. Code Ann. § 46-15-322(6).

INFORMANT AND SURVEILLANCE

4. The State declares that a confidential informant was involved: ☐ Yes ☒ No

Any dispute regarding a confidential informant must be raised to the Court by:
_____; Response by: _____.

5. The State declares there has been electronic surveillance of the Defendant or his premises:
☐ Yes ☒ No

All material obtained by electronic surveillance has been supplied to the Defendant. If not, all such material shall be supplied to the Defendant or an objection and motion for protective order shall be filed and served within 10 days of this order.

6. The State declares that an investigative subpoena has been executed: ☐ Yes ☒ No

All material obtained by investigative subpoena has been supplied to the Defendant. If not, all such material shall be supplied to the Defendant or an objection and motion for protective order shall be filed and served within 10 days of this order.

PERSISTENT FELONY OFFENDER

7. The State intends to seek treatment of the Defendant as a persistent felony offender pursuant to Mont. Code Ann. § 46-13-108:
☐ Yes ☒ No

Except for good cause shown, if the prosecution seeks treatment of the accused as a persistent felony offender, notice of that fact must be given at or before the omnibus hearing.

SENTENCE ENHANCEMENT

8. The State intends to seek an enhanced sentence:

☐ Yes ☒ No

The basis for enhancement is _____.

STATE'S MOTIONS

9. The State will file the following pretrial motion(s):

a. Motions in Limine
b. Motions to Compel
c. _____

The State requests a hearing on their motion(s)?

☐ Yes ☒ No

A hearing shall be set on _____ at _____.

Proper briefing or notification is required regardless of checking the box requesting a hearing.

DEFENDANT'S MOTIONS

10. Pursuant to Mont. Code Ann. § 46-13-302, Defendant will move to suppress physical evidence:

☐ Yes ☐ No

11. Pursuant to Mont. Code Ann. § 46-13-301, Defendant will move to suppress Defendant's admission or confession:

☐ Yes ☐ No

12. Pursuant to Mont. Code Ann. § 46-13-401, Defendant will move to dismiss:

☐ Yes ☐ No

The Defendant will file the following additional motions:

a. _____
b. _____
c. _____

The Defendant requests a hearing on their motions?

☐ Yes ☐ No

A hearing shall be set on _____ at _____.

Proper briefing or notification is required regardless of checking the box requesting a hearing.

AFFIRMATIVE DEFENSES

Defendant is aware of the time limits imposed by Mont. Code Ann. § 46-15-323(2), in which Defendant may assert certain defenses.

13. Defendant asserts the following affirmative defense(s):
a. _____
b. _____
c. _____
14. Defendant will introduce evidence of good character:
[] Yes [] No
15. Automatism/no voluntary act:
[] Yes [] No

OTHER CRIMES, WRONGS OR ACTS

16. Defendant has a motion to exclude or suppress evidence of other prior bad acts:
[] Yes [] No

If YES, Montana law requires a hearing, and findings of fact and conclusions of law by the Court regarding the motion. Defendant's motion and brief are due: _____. The State's response brief is due: _____. The motion and response **must refer to specific evidence** the parties consider at issue. Defendant's reply brief is due: _____. A hearing on the motion is set for: _____, 202__, at _____ a.m./p.m.

The State stipulates to not introduce prior bad acts (unless the door is opened by the Defendant), thus negating a hearing if requested. [X] Yes [] No.

CRAWFORD ISSUES

17. All *Crawford* issues shall be considered only by motions filed and served.

CLOSED PROCEEDINGS

18. The following pretrial proceedings and/or records shall not be open to the public, pursuant to Mont. Code Ann. § 46-11-701:

_____.

DEADLINES AND TRIAL PROCEDURE

19. In the event plea negotiations fail, the Court will inquire if a final plea offer has been extended by the State and received by Defense Counsel. The Court will then inquire if the final plea offer was communicated to the Defendant and whether it was rejected. The terms of the plea offer **shall not** be made known to the Court.

20. Motions *in limine* shall be filed in a timely manner after a party becomes aware of the facts giving rise to a request for relief.

Motions *in limine* **shall** be considered on briefs alone UNLESS a party requests a hearing in their briefing.

21. The Clerk of Court will draw a panel consisting of ____ prospective jurors randomly selected by computer program(s).

a. The State waives any right to be present at the drawing: [X] Yes [] No

b. Defendant waives any right to be present at the drawing: [] Yes [] No

22. Prior to the pretrial conference, the parties SHALL confer on jury instructions and verdict form. Jury instructions, both stipulated and additional are due 7 days prior to trial unless otherwise indicated by the Court.

Proposed instructions shall be numbered at the bottom of the page or on a separate page and authority for each proposed instruction shall be included likewise. All instructions shall be provided to the Court via e-mail at dkaatz@mt.gov. The proposed instructions shall include an index sheet which identifies the stipulated instructions.

23. All exhibits shall be pre-marked and served upon the opposing party seven days before the pretrial conference.

Plaintiff shall label with numerals. Defendant shall label with letters. Failure to comply may result in sanctions including, but not limited to, refusal to admit exhibits. The parties shall have four copies of exhibits (DVDs and CDs are excluded) for trial: Their copy, one official copy for the record, a courtesy copy for the Court, and a copy for opposing counsel.

24. Each party may file and serve a Trial Brief which shall contain 1) not more than one paragraph for each legal issue with citations to controlling law 2) a list of witnesses and 3) a list of exhibits unless the party has supplied the Court with a separate binder of exhibits.

A final pretrial conference shall be held on _____ at _____ .m.
At the final pretrial conference, the Court and the parties will discuss the policies and procedures to be followed at trial and other pending issues. Defendant **shall** be present at the conference.

25. Expected length of trial is _____ days.

26. ☐ Judge ☒ Jury Trial shall begin on _____ at _____ .m.

Thorin A. Geist
David Buchler
Attorneys for the State

Date: _____

John Smith
Alex Roots
Attorneys for Defendant

Date: _____

MONTANA FIFTH JUDICIAL DISTRICT COURT, MADISON COUNTY

THE STATE OF MONTANA,)
)
) Plaintiff,)
)
 vs.)
)
)
 CARTER NORMAN PHILLIPS)
)
) Defendant.)
)

Cause No. DC-29-2022-22

OMNIBUS CONFERENCE ORDER

An Omnibus Scheduling Conference was held on the ____ day of March, 2023, in the Court's chambers, before Diane Kaatz, Court Administrator. Counsel for the State participated [] in person [] by telephone, and counsel for the Defendant participated [] in person [] by telephone. Upon consultation of counsel and counsel's calendars, and by their stipulation, it is now ordered by the Court the following Omnibus Order shall govern the dates in this matter. Absent a written demonstration showing good cause, these dates shall not be amended.

DISCOVERY

1. In compliance with Mont. Code Ann. § 46-15-322, the State **immediately and on a continuing basis shall** make available to the Defendant for examination and reproduction the following information:
 - a) The names, addresses and statements of witnesses and names and addresses of experts, and the results of their physical examinations, scientific tests, experiments or comparisons, their written reports and statements.
 - b) All physical or documentary evidence.
 - c) All oral, written, or recorded statements made by Defendant to investigating officers or to third parties.
 - d) All investigative reports.
 - e) All exculpatory evidence known to the State.
2. In compliance with Mont. Code Ann. § 46-15-323, Defendant **immediately and on a continuing basis shall** make available to State for testing, examination, or reproduction:
 - a. The names, addresses and statements of witnesses and names and addresses of experts and the results of their physical examinations, scientific tests, experiments, or comparisons, their written reports and statements.



- b. All physical or documentary evidence.

FITNESS TO PROCEED

3. The Defendant's fitness to proceed is at issue: ☐ Yes ☐ No

Within 10 days after receiving a report of Defendant's mental condition from a psychiatrist, psychologist, or advanced practice registered nurse, Defendant shall provide the State with written notice of an intention to assert lack of applicable mental state due to mental disease or defect. Mont. Code Ann. § 46-15-323(3).

The notice has been filed: ☐ Yes ☐ No

No later than five days before trial, the State shall provide the names and addresses of all persons it intends to call as rebuttal witnesses to Defendant's assertion of lack of applicable mental state due to mental disease or defect. Mont. Code Ann. § 46-15-322(6).

INFORMANT AND SURVEILLANCE

4. The State declares that a confidential informant was involved: ☐ Yes ☒ No

Any dispute regarding a confidential informant must be raised to the Court by:
_____ ; Response by: _____.

5. The State declares there has been electronic surveillance of the Defendant or his premises:
☐ Yes ☒ No

All material obtained by electronic surveillance has been supplied to the Defendant. If not, all such material shall be supplied to the Defendant or an objection and motion for protective order shall be filed and served within 10 days of this order.

6. The State declares that an investigative subpoena has been executed: ☐ Yes ☒ No

All material obtained by investigative subpoena has been supplied to the Defendant. If not, all such material shall be supplied to the Defendant or an objection and motion for protective order shall be filed and served within 10 days of this order.

PERSISTENT FELONY OFFENDER

7. The State intends to seek treatment of the Defendant as a persistent felony offender pursuant to Mont. Code Ann. § 46-13-108:
☐ Yes ☒ No

Except for good cause shown, if the prosecution seeks treatment of the accused as a persistent felony offender, notice of that fact must be given at or before the omnibus hearing.

SENTENCE ENHANCEMENT

8. The State intends to seek an enhanced sentence:

☐ Yes ☒ No

The basis for enhancement is _____.

STATE'S MOTIONS

9. The State will file the following pretrial motion(s):

a. Motions in Limine
b. Motions to Compel
c. _____

The State requests a hearing on their motion(s)?

☐ Yes ☒ No

A hearing shall be set on _____ at _____.

Proper briefing or notification is required regardless of checking the box requesting a hearing.

DEFENDANT'S MOTIONS

10. Pursuant to Mont. Code Ann. § 46-13-302, Defendant will move to suppress physical evidence:

☐ Yes ☐ No

11. Pursuant to Mont. Code Ann. § 46-13-301, Defendant will move to suppress Defendant's admission or confession:

☐ Yes ☐ No

12. Pursuant to Mont. Code Ann. § 46-13-401, Defendant will move to dismiss:

☐ Yes ☐ No

The Defendant will file the following additional motions:

a. _____
b. _____
c. _____

The Defendant requests a hearing on their motions?

☐ Yes ☐ No

A hearing shall be set on _____ at _____.

Proper briefing or notification is required regardless of checking the box requesting a hearing.

AFFIRMATIVE DEFENSES

Defendant is aware of the time limits imposed by Mont. Code Ann. § 46-15-323(2), in which Defendant may assert certain defenses.

13. Defendant asserts the following affirmative defense(s):
a. _____
b. _____
c. _____
14. Defendant will introduce evidence of good character:
[] Yes [] No
15. Automatism/no voluntary act:
[] Yes [] No

OTHER CRIMES, WRONGS OR ACTS

16. Defendant has a motion to exclude or suppress evidence of other prior bad acts:
[] Yes [] No

If YES, Montana law requires a hearing, and findings of fact and conclusions of law by the Court regarding the motion. Defendant's motion and brief are due: _____. The State's response brief is due: _____. The motion and response **must refer to specific evidence** the parties consider at issue. Defendant's reply brief is due: _____. A hearing on the motion is set for: _____, 202__, at _____ a.m./p.m.

The State stipulates to not introduce prior bad acts (unless the door is opened by the Defendant), thus negating a hearing if requested. [X] Yes [] No.

CRAWFORD ISSUES

17. All *Crawford* issues shall be considered only by motions filed and served.

CLOSED PROCEEDINGS

18. The following pretrial proceedings and/or records shall not be open to the public, pursuant to Mont. Code Ann. § 46-11-701:

_____.

DEADLINES AND TRIAL PROCEDURE

19. In the event plea negotiations fail, the Court will inquire if a final plea offer has been extended by the State and received by Defense Counsel. The Court will then inquire if the final plea offer was communicated to the Defendant and whether it was rejected. The terms of the plea offer **shall not** be made known to the Court.

20. Motions *in limine* shall be filed in a timely manner after a party becomes aware of the facts giving rise to a request for relief.

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21. The Clerk of Court will draw a panel consisting of ____ prospective jurors randomly selected by computer program(s).

- a. The State waives any right to be present at the drawing: [X] Yes [] No
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22. Prior to the pretrial conference, the parties SHALL confer on jury instructions and verdict form. Jury instructions, both stipulated and additional are due 7 days prior to trial unless otherwise indicated by the Court.

Proposed instructions shall be numbered at the bottom of the page or on a separate page and authority for each proposed instruction shall be included likewise. All instructions shall be provided to the Court via e-mail at dkaatz@mt.gov. The proposed instructions shall include an index sheet which identifies the stipulated instructions.

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25. Expected length of trial is _____ days.

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Thorin A. Geist
David Buchler
Attorneys for the State

Date: _____

John Smith
Alex Roots
Attorneys for Defendant

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MONTANA FIFTH JUDICIAL DISTRICT COURT, MADISON COUNTY

THE STATE OF MONTANA,)	
)	
Plaintiff,)	Cause No. DC-29-2022-23
)	
vs.)	
)	OMNIBUS CONFERENCE ORDER
)	
ERIC ANTHONY TRENT,)	
)	
Defendant.)	
_____)	

An Omnibus Scheduling Conference was held on the ____ day of March, 2023, in the Court's chambers, before Diane Kaatz, Court Administrator. Counsel for the State participated [] in person [] by telephone, and counsel for the Defendant participated [] in person [] by telephone. Upon consultation of counsel and counsel's calendars, and by their stipulation, it is now ordered by the Court the following Omnibus Order shall govern the dates in this matter. Absent a written demonstration showing good cause, these dates shall not be amended.

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Thorin A. Geist
David Buchler
Attorneys for the State

Date: _____

John Smith
Alex Roots
Attorneys for Defendant

Date: _____

CERTIFICATE OF SERVICE

I, Thorin Aidan Geist, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice to the following on 03-21-2023:

John M. Pierce (Attorney)
21550 Oxnard Street
3rd Floor PMB 172
Woodland Hills CA 91367
Representing: Jesse Michael Boyd
Service Method: eService

Alexander Louis Roots (Attorney)
27 N Tracy Ave
P.O. Box 1
Bozeman MT 59771
Representing: Jesse Michael Boyd
Service Method: eService

David A. Buchler (Govt Attorney)
P.O. Box 73
100 W. Wallace Street
Virginia City MT 59755
Representing: State of Montana
Service Method: eService

Electronically signed by Maggie Sowisdral on behalf of Thorin Aidan Geist
Dated: 03-21-2023