

## 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 24th day of March, 2023, in the Court's chambers, before Diane Kaatz, Court Administrator. Counsel for the State participated [ ] in person [X] by telephone, and counsel for the Defendant participated [ ] in person [X] 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 } Defendant reserves possible motions to suppress  
as any additional information is reviewed

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

☐ Yes ☒ No } Defendant reserves possible motions to suppress  
as any additional information is reviewed

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. Motions in limine  
b. Motion for protective order  
c. Motion to Dismiss

The Defendant requests a hearing on their motions?

☒ Yes ☐ No

A hearing shall be set on August 28, 2023, at 10:00 a.m.

Deadline to file Motions is July 21, 2023.

*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. Justifiable use of force in defense of self or others  
b. Selective prosecution and Selective enforcement on the basis of religion  
c. Authority to use force to stop a violent criminal or make a citizens arrest
14. Defendant will introduce evidence of good character:  
☒ Yes      [ ] No
15. Automatism/no voluntary act:  
☒ Yes      [ ] No Defendant reserves the right to argue no voluntary act or automatism as warranted by State's evidence

### 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.    ☒ 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:

None

## 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 125 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](mailto: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 October 23, 2023 at 9:00 a.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 7 days.

26. ☐ Judge ☒ Jury Trial shall begin on November 9, 2023, at 9:00 a.m.

/s/ Thorin A. Geist

Date: 3/24/2023

Thorin A. Geist  
David Buchler  
*Attorneys for the State*

/s/ John Pierce

Date: 3/24/2023

~~John Smith~~ Pierce  
Alex Roots  
*Attorneys for Defendant*