

**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

**MEMORANDUM DECISION and
ORDER**

On Friday, July 14, 2023, the Court received an ex parte letter from Vicki Hoban (hereinafter “Petitioner”) requesting that she be designated to exercise victims’ rights in this case. The Court orders as follows.

I. FACTUAL AND PROCEDURAL BACKGROUND

On May 25, 2021, a Grand Jury assembled in Fremont County, State of Idaho, returned an INDICTMENT against Defendant Lori Norene Vallow Daybell (hereinafter “Vallow Daybell”) charging her with several crimes—two counts of Conspiracy to Commit First Degree Murder and Grand Theft by Deception, two counts of First Degree Murder, a single count of Conspiracy to Commit First Degree Murder, and a single count of Grand Theft. In the INDICTMENT, three homicide victims are named: (1) Joshua Jaxon Vallow, a minor child at the time of death; (2) Tylee Ryan, a minor child at the time of death; and (3) Tamara Daybell. A jury returned a verdict finding Defendant Lori Norene Vallow aka Lori Norene Daybell (hereinafter “Vallow Daybell”) guilty of all counts in the INDICTMENT. On June 5, 2023, Petitioner filed a form with the Court requesting to exercise victims’ rights in the case. On June 8, 2023, the Court issued an Order stating “[f]rom the record before it, the Court cannot determine whether Vicki Hoben is entitled to the provisions of I.C. §19—5306.” The Defendant will be sentenced on July 31, 2023.

II. LEGAL AUTHORITY

Article 1, Section 22 of the Idaho Constitution states in part:

Section 22. RIGHTS OF CRIME VICTIMS. A crime victim, *as defined by statute*, has the following rights:

- (1) To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.
[...]
- (4) To be present at all criminal justice proceedings.
- (5) To communicate with the prosecution.
- (6) To be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result.

Art. 1. § 22 of the Idaho Constitution. (2023) (emphasis added).

Idaho Code Section 19-5306 enumerates the rights afforded victims of crime. I.C. §19-5306. (2023). Under the statute, “victim” means “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). Idaho Code Section 19-5306(3) clarifies:

The provisions of this section shall apply equally to the immediate families of homicide victims... . 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 (2023).

The Supreme Court of Idaho has clarified who qualifies as the “immediate family” of homicide victims. In *Shackelford*, the Court considered who was an “immediate family” member for purposes of receiving victim impact statements in preparation for sentencing a defendant convicted of homicide. *State v. Shackelford*, 155 Idaho 454, 314 P.3d 136 (2013). *Shackelford* sets forth:

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-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).

III. DISCUSSION

As a prefatory comment the Court is not, nor ever has been, immune to the considerations of crime victims—and their family members—in this or any other proceeding. Further, as Petitioner correctly identifies in her ex parte letter, the Court never ordered that Hoban would be excluded from making a victim impact statement; instead, the Court declared it could not be determined from the record what relationship, if any, Hoban had to the proceedings.

Again, the duty of the Court today is to determine who is a “victim” under the express provisions of Idaho law, and assess the propriety of permitting individuals to make victim impact statements at sentencing in accordance with those laws. The Court in no way minimizes the significant impact of losing family members to homicide, acknowledging the impact of such a crime is far-reaching. However, it is incumbent upon this Court to ascertain who meets the legal definition of “victim” and “immediate families of homicide victims” in Idaho to prevent committing error at sentencing.

The Court now determines as follows, having received additional information through Hoban’s letter, as it relates to her relationship to Tamara Daybell. Vicki Hoban has petitioned this Court to designate her to stand in the place of Phyllis Douglas, who is the late biological mother

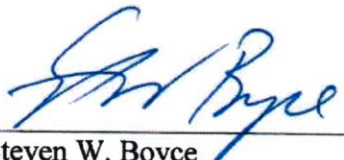
to victim Tamara Daybell. Phyllis Douglass, as the mother of Tamara Daybell, meets the definition of “immediately family member” to Tamara. As the Court can now ascertain from the record, Phyllis is unable to exercise the rights afforded to her as an “immediate family member” to a victim who is unable to exercise their own rights. As is represented to the Court, Vicki Hoban is the biological sister to Phyllis Douglas, and wishes to stand in Phyllis’ stead to make a victim impact statement on behalf of Tamara Daybell. Because Phyllis Douglas is unable to fulfill the role of the “immediate member” on behalf of Tamara Daybell, the Court will designate Vicki Hoban as a representative of the immediate family of Tamara Daybell, and she is permitted to make a victim impact statement at sentencing.

IV. CONCLUSION

Vicki Hoban is designated, pursuant to Idaho Code Section 19-5306(3), to act as the family representative of Tamara Daybell.

IT IS SO ORDERED.

Dated this 19 day of July, 2023.



Steven W. Boyce
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 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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Vicki Hoban

Clerk of the District Court
Fremont County, Idaho

by Becky Harrington
Deputy Clerk