

**JOHN PRIOR**  
**LAW OFFICES OF JOHN PRIOR**  
ISB#5344  
429 SW 5<sup>th</sup> Avenue #110  
Meridian, Idaho 83642  
Telephone: (208) 465-9839  
Email john@jpriorlaw.com  
Attorney for Defendant

**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,

CASE No.: CR-22-21-1623

v.

MOTION TO WITHDRAW AS COUNSEL

CHAD DAYBELL,

Defendant.

---

Pursuant to I.C.R. 44.1, undersigned counsel hereby moves to withdraw as counsel from this case. Since May 25, 2021, undersigned counsel has represented Mr. Daybell in this case and the related, previous case under Cause Number CR22-20-0755 prior to that time. In that time, undersigned counsel has undertaken as sole counsel all matters of representation, including obtaining and reviewing discovery, conducting investigation, and hiring and working with numerous experts.

Mr. Daybell retained undersigned counsel with personal funds. At a hearing on January 19, 2023, this Court inquired of Mr. Daybell and declared him indigent pursuant to I.C. § 19-851. Mr. Daybell does not have the ability to pay for counsel's continued services and Mr. Daybell seeks the appointment of two capital qualified attorneys to represent him in this matter.

As this Court is aware, this case is both extraordinarily complex and the prosecution is seeking the death penalty, which requires counsel to essentially prepare for two trials. *See Defendant's Motion to Continue the Trial Date to Enforce Mr. Daybell's Constitutional Rights.*<sup>1</sup> Reflecting this complexity and the work required to prepare and try this case, this Court has set aside two full months for a trial, and the prosecution team consists of no less than five attorneys from two county offices, including an out-of-state attorney hired at taxpayer expense. Remaining on this case would require undersigned counsel to work around the clock, more than full-time, for more than four months without compensation and without the assistance of any other counsel.

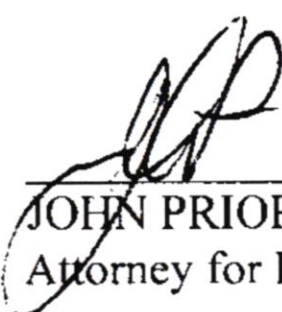
This motion is made with Mr. Daybell's full consent. Mr. Daybell has requested from me that he be given two capital qualified attorneys for his trial. I have made a diligent effort to find a lawyer to assist in this matter for a significant amount of time. The attorney who I located and agreed to try to get qualified has not yet been approved by the Public Defense Commission. The time for him to be of any assistance to me in preparing for this trial is long gone. Because Mr. Daybell is facing the death penalty and has been determined indigent, he is statutorily entitled to appointment of two counsel who are capital-qualified at state expense. I.C.R. 44.3(b)(1)(A) (stating that "two qualified trial attorneys must be appointed to represent an indigent defendant" in any "case in which the death penalty may be imposed."). The Idaho State Public Defense Commission maintains a roster of capital qualified attorneys. I.C.R. 44.3(c). While undersigned counsel could accept appointment to this case if it were non-capital, because Mr. Daybell is facing the death penalty, undersigned counsel cannot be appointed pursuant to statute. The counsel therefore moves to withdraw.

---

<sup>1</sup> Undersigned counsel hereby fully incorporates the relevant facts, arguments, and authorities from this previously-filed motion.

**NOTICE IS HEREBY GIVEN** that on 30th day of January 2024 at the hour of 9:30 am., or as soon thereafter as counsel may be heard, John Prior, attorney for Defendant above named will call up for hearing a hearing for Defendant's Motion to Continue before the Honorable Judge Steven W. Boyce District Judge at the Fremont County Courthouse in St Anthony, ID.

DATED this January 11, 2024



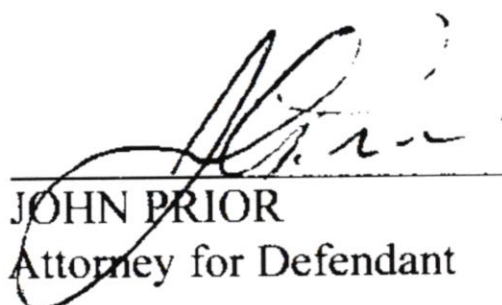
---

JOHN PRIOR  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered to the FREMONT COUNTY PROSECUTING ATTORNEY'S OFFICE, by efileing and service to prosecutor@co.fremont.id.us on this date.

DATED this January 11, 2024



---

JOHN PRIOR  
Attorney for Defendant