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11 Attorney for LORI NORENE (DAYBELL) VALLOW

12 **IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF**
13 **THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**

14 STATE OF IDAHO,
15 PLAINTIFF

16 Case No: CR 22-20-0838
17 CR 22-20-0755

18 Vs.

19 LORI NORENE VALLOW,
20 CHAD GUY DAYBELL
21 DEFENDANTS

22 **DECLARATION OF ATTORNEY GARRETT**
23 **SMITH RE: MOTION TO DISQUALIFY**
24 **PROSECUTING ATTORNEY**

25 I, GARRETT SMITH, Attorney licensed and in good standing with the State of Arizona, hereby
26 declare as follows:

- 27 1. I make this declaration upon my own personal knowledge and belief.
- 28 2. I am the attorney of record for SUMMER SHIFLET, sister of Defendant Mrs. Lori Norene
29 Vallow.
- 30 3. I am an individual over the age of eighteen, a resident of the State of Arizona, active
31 licensed attorney at law for the State of Arizona.
- 32 4. That I have intimate and personal knowledge of the facts set forth herein, believing them
33 to be true and correct to the best of my knowledge and belief.
- 34 5. That attached is a true and correct transcript of the recording of MRS. SUMMER SHIFLET
35 conducted by Prosecutor Robert Wood that occurred on or about October 1, 2020. That I was personally
36 present for the discussion between Mr. Wood and Mrs. Shiflet on said day.

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6. That I recorded the discussion that took place on said day in its entirety without any edit, alteration, or modification. That I provided this unaltered unedited recording to Mr. Means.

7. That I previously, advised Mr. Wood that I would record the conversations between Mr. Wood, law enforcement and my client(s). Regardless of whether Mr. Wood acknowledge that advisement, I am well within my rights of Arizona law as a one-party recording state to record this conversation. In addition, the recording device was in plain sight the during the entire discussion.

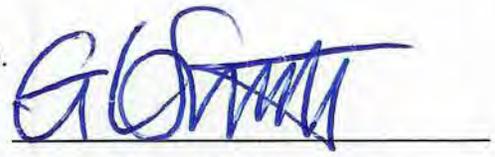
8. That immediately upon realizing the gravity of Mr. Wood's comments during the discussion with my client, I contacted Mr. Means to report unprofessional statements made by Mr. Wood about Mr. Means. Mr. Means asked for a copy of the recordings. After receiving advice from the Arizona State Bar Attorney and with consent of my clients, I provided a copy of recordings to Mr. Means.

9. That the attached transcript appears to be not an entire transcript of the recording provided Mr. Means but the first eighteen (approximate) minutes of said recording.

10. In summary, these recordings were made and disseminated with the knowledge and consent of my clients. The recordings were made in full compliance with Arizona law and ethics.

That I Certify (or Declare) under penalty of perjury pursuant to the Law of the State of Idaho that the foregoing is true and correct.

DATED this 16 day of December 2020.



Attorney Garrett Smith

CERTIFICATE OF SERVICE

The undersigned certifies that on this 16 day of December 2020, I caused a true and correct copy of the FOREGOING document to be forwarded by the method(s) indicated below, to the following:

MADISON COUNTY PROSECUTING ATTORNEY Efile
Email: mcpo@madison.id.us

Mr. John Prior Efile
Email: john@jpriorlaw.com

DATED this 16 day of December 2020.

Mark L. Means
Mark L. Means
Advocate for Mrs. Lori Norene Vallow (Daybell)

Summer Shiflet Interview

10/1/2020

PROSECUTOR ROBERT WOOD: on of the ones kind of running down the kids' case because they were last seen in Rexburg. And um or were last living in Rexburg. Tylee was last seen in yellow Stone, but um

Summer: Right

PROSECUTOR ROBERT WOOD: and so, we were the ones that knew everything about the case. So, they assigned us on that. Um, I'm just going to tell you right now we, we are going to be filling conspiracy to commit murder charges for both chad and Lori

Garrett: ok

PROSECUTOR ROBERT WOOD: and we're not shy about that. We've told both attorneys. His attorney keeps pretending like I've never said that. What? But we are, we have to. But I kind of want to give you like a little bit of background of where we are. And. Kinda like our kind of theory of how this ended up where it was. we know that this is not the same Lori everyone else knew. What's so strange to me is. everyone we talked to. everyone we talked to who knew Lori before this, you she was primary president, she made quilts for these kids, she, she made everything fun, everyone loved her. She loved everyone.

Summer: great mom

PROSECUTOR ROBERT WOOD: great mother, that's what everyone says. And and you know. So, one thing I'm going to kind of ask you to consider is maybe, something happened. I don't know what. I don't know if it was psychological, I I don't know. I don't know if we'll ever know. But something happened and I think Colby the way he said it to me I think is kind of, the person who is in that jail, he said is not my mom, its someone else.

Summer: yeah

PROSECUTOR ROBERT WOOD: on the flip side of that is, I shouldn't say the flip side but, I want to be clear. I'm no going to pull any punches on any defendant in this case. Right? I've got my job to do and

Summer: absolutely

PROSECUTOR ROBERT WOOD: but we also want truth and the whole truth and the context of it. And Chad Daybell, is did you, did you ever meet chad?

Summer: so, I met him once at a preparing people. I went to one preparing people thing

PROSECUTOR ROBERT WOOD: ok

Summer: and with my mom and husband and I went to support Lori and she wanted to support Mel, so went and met chad after he talked for like 90 seconds maybe. If that. And then he called me when Lori got transferred to the Idaho jail, he texted me and said Lori wanted to talk to me. And I was like yeah and then the second I hung up with her, he called me to ask me about bail.

PROSECUTOR ROBERT WOOD: mm

Summer: for Lori, so I've talked to him maybe 3 times briefly on the phone. Never a long-extended conversation. But the first thing he said to me when he called me was that he said that Lori hasn't told me very much about the kids so there's not really much I can tell you about it.

PROSECUTOR ROBERT WOOD: ok, of course he said that

Summer: mhmm

PROSECUTOR ROBERT WOOD: well. Welcome to Chad Daybell. so, what I want

Summer: I have my own opinions him don't get me wrong

PROSECUTOR ROBERT WOOD: he's, I bet you do. He is highly manipulative.

Summer: yes, he is

PROSECUTOR ROBERT WOOD: I'm not going to say he's highly intelligent, but you don't have to be highly intelligent to be highly manipulative.

Summer: absolutely

PROSECUTOR ROBERT WOOD: he is extremely manipulative, and you know your sister manipulated him in some ways too but the, the context for everything that happened came from Chad.

Summer: absolutely

PROSECUTOR ROBERT WOOD: And uh, unfortunately we do. We have enough evidence to prosecute him, we do. But I, the case against your sister is stronger, um. But I just I kind of just want to give you like just that background. That's the kind of the context that we see this guy. Came in here. And you know not making excuses for anyone but kind of blew up this situation. And he did not care, who died

Summer: mhmm

PROSECUTOR ROBERT WOOD: who got hurt. He did not care at all. And the other thing I can tell you is, your sister truly believes that everything she's done, has been done in righteousness.

Summer: I know

PROSECUTOR ROBERT WOOD: I know I'm kind of using LDS speak

Garrett: yea

Summer: 100% that's my interpretation also, I think she 100% believes

PROSECUTOR ROBERT WOOD: she believes it.

Summer: mhmm

PROSECUTOR ROBERT WOOD: every once in a while, you'll see kind of a little crack, in like a jail phone call. But,

Summer: well, you've heard our conversations too, you know that I, I get that she's not fully aware of what she's really done.

PROSECUTOR ROBERT WOOD: right, yeah

Summer: I don't think she is

PROSECUTOR ROBERT WOOD: yeah, I mean, I'm going to say this. I think she knows what she's done.

Summer: She knew enough to lie to us about it

PROSECUTOR ROBERT WOOD: right, yeah but she the context under which it was done was this. Religious. Just these ideas were out there, I can say this cause I am LDS, had no basis in the LDS faith. You know just, and you said it in her phone calls to her. So, anyway that's kind of where we're at, and we, you know, again were just really grateful for you coming in. And it's gonna be hard, to talk about these things

Summer: oh yeah

PROSECUTOR ROBERT WOOD: we know that, and they're gonna be, you know you're not being a person of interest

Garrett: yeah, we've had that conversation so

PROSECUTOR ROBERT WOOD: but part of what we need to do is understand. Well, when you have a case like this it's not like just like a meth case. I probably had meth, and nobody cares who you are

Summer: no, there's no drugs, no alcohol, it's just

PROSECUTOR ROBERT WOOD: but this case is a, we need to understand the context of who these people are. And so that's a lot of what they're going to be asking about.

Summer: ok, I'll do my best, I mean

PROSECUTOR ROBERT WOOD: Like I said it won't be easy, I know it's going to be a hard, be a hard interview

Summer: I was wondering if you would be willing to tell if you're able to tell me if there's any progress in what you know about Tylee and her death, but is there any progress in her otopy where you understand better?

PROSECUTOR ROBERT WOOD: all I can tell well.

Summer: I mean do you have a cause yet or is it close to one?

PROSECUTOR ROBERT WOOD: She is at the FBI's state of the art. Crime lab. Unfortunately, there's a lot of diseased bodies there, there. That they're going through.

Summer: oh, I'm sure

PROSECUTOR ROBERT WOOD: And so, we're not. We don't know really anymore yet. We may never know. Due to the, the destruction of that body. And yeah, we hope we'll find out, we may not. But obviously, we know it's her. There was soft tissue that was still preserved enough to do DNA tests

Summer: yeah, the way you guys found them, like we wouldn't have ever known.

Garrett: ya

Summer: and I would have never dreamed that she would ever hurt them so

PROSECUTOR ROBERT WOOD: you know what, and everyone says that.

Summer: ya

PROSECUTOR ROBERT WOOD: that's what everyone says. Everyone says that. I never would have, so. It is, it's a tragic thing.

Summer: it really is yeah

PROSECUTOR ROBERT WOOD: but I again I just want you to know how grateful we are, I know you know you don't have to talk to us. And so, we're just grateful that you're willing to and helping us that way. and it's I'm sure, kind of difficult knowing that they're asking for information that's going to help them in the case against your sister. But but I guess the thing I want you to know is our whole goal is just justice for these kids.

Summer: Yeah

PROSECUTOR ROBERT WOOD: and we mean our hope. Our hope is it comes to it. Your sisters actually made some overtures she might be willing to talk to us.

Summer: I hope she does. I pray for that all the time

PROSECUTOR ROBERT WOOD: we hope she does, she actually was talking about with Chad about talking with us about before we found the bodies. Just a few days before. And he talked her out of it.

Summer: mm

PROSECUTOR ROBERT WOOD: which is too bad. It would have been better for her to tell us

Garrett: yeah sure, it would have been

Summer: I agree

PROSECUTOR ROBERT WOOD: I mean it, we were actually just finishing up our warrant on the date she said that. We were just getting ready to go out that day. That would have been even better, and he talked her out of it.

Summer: ya

PROSECUTOR ROBERT WOOD: and the night before she says to him again like, he what do you think about, you know, and he uses this kind of, I call it, spiritual abuse. Spiritual manipulation.

Summer: ya

PROSECUTOR ROBERT WOOD: we've all seen that guy. In the LDS religion whose wife has to obey him because he the priesthood type thing. And thats not what it says but its very, it's the same type of thing.

Garrett: mhm

PROSECUTOR ROBERT WOOD: well, I'm the visionary guy, so, you know. So anyway, again I just wanted to meet with you real quick and introduce myself and Mackenzie, shes

Summer: I would have obviously seen you

PROSECUTOR ROBERT WOOD: yes, ya

Summer: but I don't take any joy in doing anything that's going to harm her. I don't take joy in her spending her life in prison. There's nothing,

PROSECUTOR ROBERT WOOD: sure

Summer: it hurts to think about her being in there

PROSECUTOR ROBERT WOOD: there's nothing good about case like this

Summer: there's nothing good about it.

PROSECUTOR ROBERT WOOD: and you know what, even if you win a case. Like Garretts been in court, like there's cases, you know as a prosecutor like you take to trial and you win and you're like, even at the end you're like, well nothing good has, it's all bad

Garrett: ya

Summer: it's all bad

PROSECUTOR ROBERT WOOD: I said this to someone the other day. Who knows your sister is our goal is. sometimes you get murder and all you have is that murder and you just have to run out and charge it and then you kind of put it put it together. We were able to put them in jail with a high bail on these lower charges and put together a case. Now our goal is to have such a strong case that when she has competent counsel, I don't know if you know this, her attorney, has never handled a felony before.

Summer: mhmm

PROSECUTOR ROBERT WOOD: he's never, never done any meaningful criminal work at all. And he doesn't know what he's doing. He's a nice guy.

Summer: yeah, I met him

PROSECUTOR ROBERT WOOD: other than when he's lying about me, but he a he's he doesn't know what he's doing and once we file further charges, she will be appointed counsel who will know what they're doing. And our goal is to, put together such a case, that they're smart enough to say, uh, it's gonna be better to talk.

Summer: mhmm

PROSECUTOR ROBERT WOOD: you know, and I think we are. Um and make it easier for everyone. Make it easier especially you know for Colby I, if there's someone who's lost everything, its him. So, anyway I again I mainly just wanted to thank you for coming in and being with us

Summer: mhm. It's weird to be on the prosecution and defense's side at the same time because I love everybody.

PROSECUTOR ROBERT WOOD: well, you know, it's a system. I did defense work for almost. I did it for 5 years. And I, I actually really enjoyed it, I thought it was kind of fun.

Garrett: I like defending

PROSECUTOR ROBERT WOOD: and you gave me that perspective right away. Just cause someone's committed a crime doesn't mean they're a horrible person.

Summer: so, I'm so torn with all the its such a conflicting feeling to know that this persons been good her whole life and then has made this error in judgement and got sucked into this vortex of this man.

PROSECUTOR ROBERT WOOD: mhm

Summer: and I feel for her, I just have so much compassion towards her because I know that's not what she would have ever done on her own.

PROSECUTOR ROBERT WOOD: right

Summer: and so, she has to pay the price for this, forever. And I hate that for her. So, I'm very conflicted. But I was going to ask you on the concealment or not the concealment but on the conspiracy to commit murder, what's the weight of that in terms of judgement, is that a death penalty kind of thing?

PROSECUTOR ROBERT WOOD: it is death penalty case in Idaho.

Summer: are you planning to ask that for them or do you not want to

PROSECUTOR ROBERT WOOD: we sure hope we don't. A lot of that will depend on her

Summer: ok

PROSECUTOR ROBERT WOOD: and its that's not a decision or, that a decision we don't make actually until after a case is filed.

Summer: ok

PROSECUTOR ROBERT WOOD: and we have a couple months. Cause a lot of times when you file it. It's out there on the table. Oftentimes that's a big motivator for people to get together and talk and try and resolve it. And that's what we hope happens. I have no desire to do that. Plus, once you do that it's endless appeals,

Garrett: ya

PROSECUTOR ROBERT WOOD: I don't think the other family wants it at all because it

Garrett: prologs it

PROSECUTOR ROBERT WOOD: the case just never resolves.

Garrett: ya

PROSECUTOR ROBERT WOOD: it just kind of, well you appeal this, then you appeal that, and it can go on forever, so we're sure hoping not. To go down that rout, now I'm not saying I won't, if we look at trial I might. But we haven't made up our minds on that.

Summer: ok

PROSECUTOR ROBERT WOOD: we really don't want to, can tell you that from the bottom of my heart

Summer: knowing her if she comes out of this, state and realizes the weight of it, she may prefer that honestly. I think about that all the time with her just because of what she's been through. Just, I just can't

PROSECUTOR ROBERT WOOD: I know you know a lot more about Lori than I do. But we have learned a lot about Lori and there's, ya I mean there's been some things happen in her life I think that play into this.

Summer: oh definitely.

PROSECUTOR ROBERT WOOD: and um, so but we, like I said, I talk of having a one way a little bit, but I want you to know that I have no desire to

Summer: yea I think you see it for what it is

PROSECUTOR ROBERT WOOD: yeah, it's not a

Summer: I don't know how you couldn't with interviewing everybody

PROSECUTOR ROBERT WOOD: well, its, yeah. I mean I'll tell you. I was there in Hawaii when that the order to produce the children was served. And I was there when they served the

search warrants for when the news showed up, which I was super annoyed by that. I never want, it's just blows everything up right. At that moment when we saw them. Cause your sister can put on a brave face.

Summer; oh yeah

PROSECUTOR ROBERT WOOD: we were like oh does this guy know what he's gotten into?

Summer: mhm

PROSECUTOR ROBERT WOOD: and cause she was just very stoic, very like I'm not going to say an word. He looked like he was about to pee his pants. Cause he's actually, a wimpy person.

Summer: ya.

PROSECUTOR ROBERT WOOD: he wimpy?

PROSECUTOR ROBERT WOOD: ya

Summer: ya

PROSECUTOR ROBERT WOOD: he's great if he has someone else to do something for him, but he himself is a wimpy person. And at the time they were like this is all her. Like how is she manipulating this guy? But then once we dug into the, that was the beginning as we're like starting to get fact's we got more fact's like oh. Again, I'm not gonna pull punches, if I have to go to trial. But these ideas came from him.

Summer; oh yeah

PROSECUTOR ROBERT WOOD: and she had, she had some different views on theology and standard LDS by that point. But he really knew how to manipulate that and turn it into something even more.

Summer: his influence was there before she met him

PROSECUTOR ROBERT WOOD: yes, she was reading his books for

Summer: wasn't just his books, so it was like the julie Rowe podcasts

PROSECUTOR ROBERT WOOD: oh yes

Summer: he gave Julie Rowe a lot of her ideas. And so, when she would listen to Julie Rowe, she was getting to Chads ideas too by listening to this

PROSECUTOR ROBERT WOOD: yeah, oh yeah Julie Rowe, she's interesting

Summer: I've heard some of her podcasts, when she started talking about herself in third person all the time, I'm like, hmm

PROSECUTOR ROBERT WOOD: yeah, I've listened to her podcasts as well and interesting stuff.

Garrett: Garrett doesn't like when people talk about themselves in the third person

PROSECUTOR ROBERT WOOD: well and we'll let you get going and we can start on this

Garrett: ok

Summer: I was going to see if you guys wanted some wrist bands to take back with you these are wrist bands, I had made up for Tylee and JJ

PROSECUTOR ROBERT WOOD: oh, I would

Garrett: take as many as you want

Summer: give them to everybody

PROSECUTOR ROBERT WOOD: I'll tell you what

Summer: if you want them, we just

PROSECUTOR ROBERT WOOD: ya

Summer: we did it where

PROSECUTOR ROBERT WOOD: they've got a couple of wrist bands for let's see there's ron, ray,

Summer: you could just take the whole bag with you that's fine, just take them

PROSECUTOR ROBERT WOOD: oh, do you have more of these?

Summer: oh, I have plenty more

PROSECUTOR ROBERT WOOD; oh okay

Garrett: you can't order these in a hundred so

Summer: I many have hundreds for, I started off just doing them for Tylee and JJ's friends and teachers, we wear ours all the time, so just keeps them close

PROSECUTOR ROBERT WOOD: thank you

Summer: ya

PROSECUTOR ROBERT WOOD: sorry

Summer: its fine

Garrett: it's an emotional thing

PROSECUTOR ROBERT WOOD: you know it's interesting how you can in Rexburg those kids weren't there very long, but there our kids

Garrett: ya

Summer: anytime there's kids involved. It's not okay.

PROSECUTOR ROBERT WOOD: so, thank you

Garrett: there's not one of us that doesn't want to protect the kids

PROSECUTOR ROBERT WOOD: right

Garrett: for sure

PROSECUTOR ROBERT WOOD: alright well, I'll call or text. If you need, I don't know how long this, would you mind if we sit down and talk to you, any breaks you need, any anything

Garrett: I've run over it, you bet. I told her if she has questions, she can ask me or use the bathroom, or we'll shut it down and

Summer: thank you

Garrett: do all that so

Summer: nice to meet you