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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINCOLN**

STATE OF OREGON)	Case No. 20CR67214
)	
Plaintiff)	
vs.)	STATE'S RESPONSE TO
)	DEFENSE MOTION TO SEVER
)	COUNTS 1-2 (Defense motion 11)
)	
JACK EDWARD SIGLER)	
)	[DA Case No.: 065203]
Defendant)	
)	

COMES NOW THE STATE OF OREGON by and through Hollie Boggess, Deputy District Attorney for Lincoln County, and submits this response to the defendant's motion to sever counts 1 and 2. The state respectfully requests the Court to deny the motion to sever counts one and two from the rest of the indictment. The defense motion on this issue includes argument regarding suppression issues, which are addressed in a different motion response.

RELEVANT FACTS

On December 6, 2020 at approximately 3:38 AM, Lincoln County Sheriff's Office dispatch received a report of a burglary in progress at the residence of 1680 S Crestline Dr. #3, Waldport, Oregon. The caller, later identified as Christine Campbell, reported that her husband, later identified as Mark Campbell, had gone inside the residence and was stabbed by the suspect. Deputies Rene Lopez and Derick Smith entered the apartment and located Mark Campbell lying on his back at the

1 end of the hallway. A female, later identified as Jamie Wood, was performing chest compressions.

2 There were several lacerations on Campbell's body and a samurai type sword down by his feet.

3 Campbell was ultimately pronounced deceased.

4 Through interviewing witnesses, law enforcement discovered that Mark Campbell and his
5 ex-wife, Patricia Campbell, owned the triplex. Unit 3 where the murder had occurred had been
6 occupied by Ronald Remy until his death on November 24, 2020. Mr. Remy was heavily involved in
7 martial arts and was a collector of Asian weapons and artwork. Mark Campbell was living in unit 2
8 with his wife.

9
10 Christine Campbell and Mark Campbell discovered that the property had been burglarized
11 on December 1, 2020. The suspect had entered the rear door, which was left open, and taken multiple
12 samurai style swords. Mark subsequently secured the residence by nailing the rear door shut and
13 placing a shovel on the inside of the door to reinforce it.

14
15 On the date of the murder, Christine Campbell told law enforcement that she had gotten out
16 of bed to use the bathroom and heard something hit the shared wall between their unit and unit 3. She
17 woke up Mark and told him about the noise, but he went back to sleep. Christine went to investigate
18 and saw someone inside unit 3 with a flashlight. She woke Mark up and he grabbed the key to the
19 apartment to go investigate. She heard a scuffle and heard Mark and another person yelling. She got
20 onto the back deck of unit three and saw an unknown male throw Mark to the ground and begin
21 'slugging' him. She ran and got the neighbor from unit 1. By the time they were able to enter unit 3
22 Mark was laying on the ground bleeding.

23
24 During the the investigation of the homicide, Breana Giles informed Dalynn Shinholster, a
25 deputy with the Lincoln County Sheriff's Office, that she knew that Jack Edward Sigler had been
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PAGE 2

1 involved in burglaries of locations where residents had recently died. Per the in-house database of the
2 sheriff's office, Sigler resided at 1040 S. Crestline Dr. in Waldport, Oregon.

3 Deputy Shinholster and Trooper Scott Severson made contact with Jack Sigler. Sigler
4 ultimately let them search his residence and they located two samurai swords under his bed and Asian
5 throwing stars on top of a dresser. These were determined to be stolen items from 1680 S Crestline
6 Dr. #3. During the execution of a search warrant on Sigler's residence, law enforcement seized
7 seventeen swords and five gold throwing stars. Sigler told law enforcement there were additional
8 stolen items in his room and in the garage. Sigler further stated that he had burglarized Mr. Remy's
9 apartment twice and that he had made two trips the second time. He also provided law enforcement
10 with a screwdriver he used during the second burglary. Several items of clothing were also taken
11 from Sigler's residence, including gloves that appeared to have blood on them. A glove from the
12 residence was subsequently tested by the Department of State Police Forensic Laboratory. It tested
13 positive for human blood and Mark Campbell could not be excluded as the contributor of the blood.
14

15
16 It was ultimately uncovered through witness statements, evidence collected, and Sigler's
17 own statements, that Sigler had burglarized the home where the murder occurred on December 1st,
18 2nd, and 4th. On December 6th while Sigler was trying to remove additional items from the property,
19 Mark Campbell interrupted Sigler and was killed by him.

20 On January 14, 2021, Sigler was indicted on two counts of murder in the second degree
21 occurring on December 6, 2020, four counts of Burglary in the First Degree on December 1, 2, 4 and
22 6, 2020, and one count of Theft in the First Degree with a date range of December 1 through 6, 2020.
23 The offenses are alleged to be of same or similar character and two or more acts or transactions
24 connected together or constituting parts of a common scheme or plan.
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PAGE 3

JOINDER

The Joinder Statute

ORS 132.560 is the statute that deals with joinder of charges:

(1) A charging instrument must charge but one offense, and in one form only, except that:

(a) Where the offense may be committed by the use of different means, the charging instrument may allege the means in the alternative.

(b) Two or more offenses may be charged in the same charging instrument in a separate count for each offense if the offenses charged are alleged to have been committed by the same person or persons and are:

(A) Of the same or similar character;

(B) Based on the same act or transaction; or

(C) Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(2) If two or more charging instruments are found in circumstances described in subsection (1)(b) of this section, the court may order them to be consolidated.

(3) If it appears, upon motion, that the state or defendant is substantially prejudiced by a joinder of offenses under subsection (1) or (2) of this section, the court may order an election or separate trials of counts or provide whatever other relief justice requires.

(4) As used in this section, "charging instrument" means any written instrument sufficient under the law to charge a person with an offense, and shall include, but not be limited to, grand jury indictments, informations, complaints and uniform traffic, game or boating complaints.

The standard of review on appeal is for errors of law, *State v. Thompson*, 328 Or. 248, and the statute is to be broadly construed in favor of permissive joinder. *State v. Dewhitt*, 276 Or. App. 373 (2016).

ARGUMENT

Requirements for Joinder

PAGE 4

1 There are two requirements to charge multiple offenses in the same charging document.
2 First, the basis for joinder must be possible under the case's facts and offenses. Second, the charging
3 document must sufficiently allege the bases for joining offenses. *See State v. Warren*, 364 Or. 105
4 (2018).

5
6 Joinder is Appropriate Under These Facts and Offenses

7 The counts in the indictment are alleged to be of same or similar character and based on two
8 or more acts or transactions connected together or constituting parts of a common scheme or plan. There
9 are several different factors which play into assessing whether crimes are of same or similar
10 character. These include elements of the offenses, temporal proximity and location, same or similar
11 victims and mode of operation, and evidentiary overlap. *State v. Garrett*, 300 Or. App. 671 (2019).

12
13 Counts are based on two or more transactions connected together or constituting parts of a
14 common scheme or plan when "joined counts are logically related, and there is a large area of
15 overlapping proof between them" *State v. Dewhitt*, 276 Or. App. 373 (2016). When determining
16 whether counts are connected together or constituting parts of a common scheme or plan, the court
17 may look at totality of temporal and spatial concurrence of the offenses, circumstances surrounding
18 the investigation, and overlap of necessary witnesses. *State v. Dewhitt*, 276 Or. App. 373 (2016).

19
20 There have been several cases analyzing the various prongs of the joinder statute, including
21 *State v. Taylor* 364 Or. 364 (2019). In *Taylor*, the defendant was convicted of multiple crimes
22 stemming from the planning and commission of two bank robberies. The first bank was Siuslaw Bank
23 in Creswell. Two months later he robbed the same bank branch in Mapleton. In order to commit the
24 Mapleton robbery, he killed an individual previously unknown to him and stole his car. The State
25 filed a single indictment charging crimes for all three incidents. *Id* at 366-371.
26

1 Defendant demurred the joinder of the Cresswell bank robbery with the Mapleton robbery
2 and murder. The demurrer was denied and the case proceeded to trial. *Id* at 373. He was ultimately
3 convicted and appealed. On appeal, the Court found that “under the circumstances of this case, we
4 agree with the trial court that it was possible for the state to join all of the charged offenses.” *Id* at
5 374. In elaborating on that finding, the Court stated that the Creswell robbery was of same or similar
6 character as the Mapleton robbery and that the acts related to the murder were part of a common
7 scheme or plan to the Mapleton robbery. *Id* at 374.
8

9 This case is comparable to *Taylor* and has an even stronger argument for joinder. *Taylor*
10 involved bank robberies of different locations of the same branch two months apart. The defendant in
11 that case committed a murder to acquire a car to commit the second robbery. This case involves
12 multiple burglaries within one week of the same residence. The homicide in this case was committed
13 to avoid apprehension for the burglaries and was committed during the last burglary. Counts three,
14 four, five, and six are all burglary in the first degree counts. They are of the same or similar character.
15 They were committed by the same person at the same residence over the course of a week. They are
16 alleged in the indictment identically other than the dates. Count seven is of same or similar character
17 as the other counts because it is the theft of the items from the residence that occurred during the
18 burglaries alleged in counts three through six. Just like in *Taylor*, counts one and two are transactions
19 connected together and part of the same scheme or plan as the burglary from that date. The homicide
20 was committed to avoid apprehension/discovery for the last burglary, count three.
21
22

23 The allegations in this case were also all investigated simultaneously. The burglary of the
24 home was not reported until the homicide occurred. The investigation of all the counts occurred at the
25 same time and involved the same law enforcement officers and witnesses. All allegations have
26

1 overlapping witnesses, were part of the same investigation, and have mutually admissible evidence.

2 Joinder of these charges was completely appropriate under the facts of this case.

3
4 The Charging Document Sufficiently Alleges the Basis for Joinder

5 Charging documents can sufficiently allege the basis for joinder either by using the
6 language of ORS 135.560 or from the factual allegations of the indictment. *Warren* at 120 and 109. In
7 this case, the statutory language of ORS 135.360 is explicitly in the indictment:

8
9 “The above referenced offenses were committed by the same person or persons, and (applicable
provision(s) are marked):

- 10 they are of the same or similar character
11 they are based on two or more acts or transactions connected together or constituting parts of a
12 common scheme or plan.”

13 The State in this case has sufficient alleged the basis for joiner using the language of the statute.

14 There is no Substantial Prejudice

15 Offenses that are properly joined under ORS 135.560 subsections 1 or 2 may still need to be
16 severed if the defendant is substantially prejudiced by joinder of the offenses. The party seeking
17 severance of properly joined charges bears the burden of showing substantial prejudice. *State v.*
18 *Beauvais*, 261 Or. App. 837 (2014). Additionally, this showing has to be fact specific to the case and
19 cannot be a general argument of prejudice which could be made in any case. *State v. Barone*, 329 Or.
20 210 (1999). The court will not presume prejudice even on unrelated violent or sexual offenses. *State*
21 *v. Miller*, 327 Or. 622 (1998).

22
23 The defense asserts that evidence from counts one and two are not mutually admissible with
24 the remaining counts in the indictment. This is entirely inaccurate. Count three is the burglary that
25 was in progress at the time of the homicide and involves the exact same evidence as counts one and
26 two. The rest of the burglaries and theft, which spans over all the burglaries, were a part of the same

PAGE 7

1 investigation as the other homicide and involve the same individuals and evidence. Additionally, the
2 defense includes no case specific information to support this argument.

3 The defense also includes a brief argument that the evidence is not sufficiently simple and
4 distinct to mitigate the dangers of joinder, but fails to make any specific argument related to the facts
5 of this case. While all connected, the counts are sufficiently simple and distinct as to not *substantially*
6 prejudice the defendant.

7 There is no substantial prejudice by the joinder of the counts in this case. The defense also
8 argues that the defendant was prejudiced by alleged constitutional violations. The response to those
9 arguments is in the State's response to the defense's motion to suppress.
10

11 **CONCLUSION**

12 The counts in the indictment were properly charged in the same indictment and there is no
13 substantial prejudice to the defendant by joinder of the charges. For those reasons, the defense motion
14 to sever should be denied.
15

16 **Dated** at Newport, Oregon on 30th day of August, 2022.

17 **Lincoln County District Attorney**

18 *Lance Danforth for*

19 Hollie Boggess, OSB# 183088
20 Deputy District Attorney