

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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**STATE OF MINNESOTA,**

Plaintiff,

**TOU THAO,**

Defendant.

**ORDER ALLOWING VIDEO AND AUDIO  
RECORDING OF SENTENCING HEARING**

Court File No. 27-CR-20-12949

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This matter is scheduled for sentencing on August 7, 2023 at 9:90 a.m. (Sentencing Hearing). Pursuant to Rule 4 of the Minnesota General Rules of Practice for the District Courts and in response to Rule 4 Notices filed by several media organizations for audio and video coverage of the Sentencing Hearing, this Court makes the following:

**FINDINGS OF FACT**

1. Pursuant to Rule 4.03(a) of the Minnesota General Rules of Practice for the District Courts, WCCO-TV, KSTP-TV, MPR News, the Star Tribune, KARE-11, and KMSP-TV filed written notices with the Court, between May 2 and May 12, 2023, of their intent to cover the Sentencing Hearing by video or audio means (Media Notices).
2. Notice of the Media Notices has been given to the parties and the Court considers the Media Notices and the notice to the parties to be timely.
3. The Media Notices comply with all applicable rules and orders governing the recording of a scheduled criminal sentencing hearing.
4. As of the time of the filing of this Order, neither party had filed any objections to the Media Notices pursuant to Rule 4.03(b) of the Minnesota General Rules of Practice

for the District Courts.

**NOW, THEREFORE, IT IS HEREBY ORDERED:**

**CONCLUSIONS OF LAW**

1. Having considered (i) the privacy, safety, and well-being of the participants and other interested persons, (ii) the likelihood that video and audio coverage will detract from the dignity of the proceedings, (iii) the court's physical facilities, and (iv) the fair administration of justice as required by Minn. Gen. R. Prac. 4.02(e), this Court concludes good cause does not exist to preclude video and audio recording of the Sentencing Hearing. Accordingly, this Court will permit coverage of the Sentencing Hearing by video and audio means and the public is invited to attend and observe the Sentencing Hearing in accordance with the terms below.

2. The Sentencing Hearing will be held at 9:00 a.m. on August 7, 2023 in Courtroom 757 at the Hennepin County Government Center. Video and audio recording will be allowed in Courtroom 757 subject to the presiding judge's discretion to limit, to terminate, or to temporarily suspend audio or video coverage of the proceeding or portions of the proceeding at any time pursuant to Minn. Gen. R. Prac. 4.03(b).

3. Pursuant to Rule 4.04(a) of the Minnesota General Rules of Practice for the District Courts, only one video camera, one still camera, and one separate audio recording device will be permitted in Courtroom 757 for purposes of recording and taking still photographic images during the Sentencing Hearing. None of this equipment will be permitted to produce distracting light or sound during the proceedings. See Minn. Gen. R. Prac. 4.04(a)-(b). Pooling arrangements shall be the sole responsibility of the media. All media outlets that have filed timely written notices of intent to cover by video or audio means

shall be entitled to access the pool coverage.

4. Courtroom 757 will open for set up no later than 8:15 a.m. on August 7, 2023.

All equipment must be in place and ready for use no later than 8:50 a.m. Equipment shall be positioned in a location in the courtroom designated by the Court so as to permit reasonable access to coverage while minimizing potential distraction. After the hearing commences, video and audio recording equipment may not be moved until the hearing is adjourned or in recess.

Minn. Gen. R. Prac. 4.04 (c)-(d).

5. **Regarding coverage of arguments, remarks, and statements by counsel and Defendant and of the Court's Sentencing Order.**

Pursuant to Rules 4.02(e), 4.03, and 4.04 of the Minnesota General Rules of Practice for the District Courts, video recording, audio recording, and still photography will be allowed in Courtroom 757 during the Sentencing Hearing of all arguments, remarks, and statements made by counsel and by Defendant Tou Thao as well as of all remarks made and the sentence pronounced by the Court.

6. **Regarding coverage of statements by "testifying victims," as defined in Minn. Stat. § 611A.01(b).**

During the Sentencing Hearing, no audio or video coverage is permitted and no still photographic images may be taken of any "testifying victim" unless that "testifying victim" has affirmatively acknowledged and agreed in writing prior to testifying, in a form substantially similar to Exh. A, to audio or video coverage of that victim's testimony or to photographic images being taken of him or her while testifying. See Minn. Gen. R. Prac. 4.02(e)(iv).

7. **Regarding coverage of statements by (i) persons giving a statement on behalf of a "testifying victim" as the victim's proxy, or (ii) other witnesses, any of whom object in writing or on the record before testifying.**

Prior to the Sentencing Hearing, each party shall inform all persons that party plans to call at the Sentencing Hearing who do not meet the definition of a "testifying victim" that his or her statement and/or remarks will be subject to audio and video recording unless that person has objected -- in writing before the hearing, in a form substantially similar to Exh. B, or on the record before testifying -- to audio or video coverage of that person's statement. In the case of any such objection, no audio or video coverage is permitted, and no still photographic images may be taken of such objecting person. *See* Minn. Gen. R. Prac. 4.03(c).

8. Filming/recording/photography must be completed and all camera and audio equipment must be removed from Courtroom 757 immediately following the conclusion of the Sentencing Hearing.

9. This Order only permits video recording, audio recording, and still photography of the Sentencing Hearing by the media outlets listed in this Order (together with any other media outlets that hereafter provide written Rule 4.03(a) notices of intent to cover the Sentencing Hearing by video or audio means no later than July 31, 2023). Any live broadcast or live streaming of the proceedings is prohibited. Taking photographs or video of spectators in the courtroom is also prohibited.

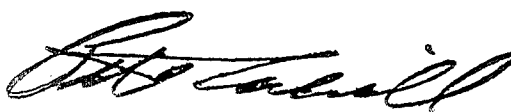
10. There shall be no video or audio pickup or broadcast of any conferences that may occur in court between attorneys and their client, opposing counsel, or between counsel and the trial judge held at the bench. In addition, there shall be no video pick up or broadcast

of work documents of such persons. There shall be no visual or audio coverage within the courtroom during recesses or at any other time the presiding judge is not present and presiding. Minn. Gen. R. Prac. 4.02 (e)(vi), 4.04 (f).

11. No video photography, still photography, or audio recording may be conducted in any other Hennepin County Government Center location where the use of recording devices is otherwise ordinarily prohibited. Minn. Gen. R. Prac. 4.02 (e)(v).

12. This Order does not prohibit the media outlets covered by this Order from sharing their video or audio files or any still photographs with other interested media outlets, including any media outlets that have not timely filed written Rule 4.03(a) notices by July 12, 2023, without court involvement. Cf. Minn. Gen R. Prac. 4.04(a)(4).

**BY THE COURT:**



**Dated:** July 31, 2023

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Peter A. Cahill  
Judge of District Court

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

**STATE OF MINNESOTA,**

Plaintiff,

**Victim Agreement to Audio and Video  
Coverage Pursuant to Minn. Gen. R. Prac.  
4.02(e)(iv)**

vs.

**TOU THAO,**

Court File No. 27-CR-20-12949

Defendant.

Members of the media have provided notice that they plan audio or video recording of the sentencing hearing in this case. As a victim, as a matter of state law, no audio or video coverage of you in the courtroom is allowed unless you agree in writing to this coverage. If you do not agree in writing to this recording, the media cannot make any recordings of you in the courtroom. By signing this form, you are agreeing to allow the media to record your testimony/statement in court.

I, \_\_\_\_\_, agree and acknowledge that members of the media can record my testimony/statement in court in this case with audio or video recording equipment.

Date: \_\_\_\_\_

\_\_\_\_\_  
Sign name

\_\_\_\_\_  
Print name

EXHIBIT A

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

**STATE OF MINNESOTA,**

Plaintiff,

**Witness Objection to Audio and Video  
Coverage**

vs.

**TOU THAO,**

Court File No. 27-CR-20-12949

Defendant.

Members of the media have provided notice that they plan audio or video recording of the sentencing hearing in this case. As a witness in this case, as a matter of state law, audio or video coverage of you in the courtroom is allowed unless you object in writing to this coverage, in which case no audio or video coverage of you in the courtroom will be allowed. If you do not object in writing to this recording, the media can make any recordings of you in the courtroom.

I, \_\_\_\_\_, object to any audio or video recording of my testimony/statement in this case.

Date: \_\_\_\_\_

\_\_\_\_\_  
Sign name

\_\_\_\_\_  
Print name

EXHIBIT B