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Fired officer Lane's attorney seeks dismissal of charges in Floyd's death - StarTribune.com

MINNEAPOLIS

Former officer Thomas Lane's attorney seeks dismissal of charges in George Floyd killing

Transcripts of body-worn camera footage from the night George Floyd was killed and of an interview with one of the officers at the scene were also filed in court.

By **Chao Xiong** (<https://www.startribune.com/chao-xiong/10646266/>) Star Tribune |

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Criminal charges accusing former Minneapolis police officer Thomas Lane of helping a fellow officer [to murder George Floyd](https://www.startribune.com/change-of-venue-possible-in-george-floyd-case-judge-warns/571542412/) (<https://www.startribune.com/change-of-venue-possible-in-george-floyd-case-judge-warns/571542412/>) should be dismissed because no evidence supports the case and Lane's vantage point prevented him from fully viewing his colleague's actions, his attorney argued.

Attorney Earl Gray filed a motion in Hennepin County District Court on Tuesday to dismiss Lane's case, arguing that he did not intentionally aid, advise or conspire with former officer Derek Chauvin to kill Floyd when he was arrested on May 25, and did not know what was in Chauvin's mind at the time.

Gray said in an interview Wednesday that Lane was positioned at Floyd's feet as he and three colleagues arrested Floyd, and Lane had a restricted view of Chauvin's actions as Chauvin knelt on Floyd's neck.

"It's not a case where he's standing by watching another cop pound on somebody's head," Gray said. "This is a case where my client twice — twice — asked if we should turn him over and the answer from [Chauvin] was no."

Lane was holding onto Floyd's legs while then-officer J. Alexander Kueng held onto Floyd's back. Chauvin was on the other side of Kueng, kneeling on Floyd's neck.

[Gray has previously argued](https://www.startribune.com/two-fired-minneapolis-police-officers-charged-in-george-floyd-death-cast-blame-on-derek-chauvin/571009922/) (<https://www.startribune.com/two-fired-minneapolis-police-officers-charged-in-george-floyd-death-cast-blame-on-derek-chauvin/571009922/>) in court that the case against Lane, a rookie, should be dismissed because he expressed concern about Floyd's struggles to breathe and had asked Chauvin — a 19-year veteran — about rolling Floyd from his stomach onto his side. He deferred to Chauvin, and later boarded an ambulance and performed CPR on Floyd.

Lane, Kueng and former officer Tou Thao are charged with aiding and abetting murder and manslaughter.

Chauvin is charged with one count each of second-degree unintentional murder, third-degree murder and second-degree manslaughter in the killing of Floyd, a 46-year-old Black man from St. Louis Park who died after Chauvin knelt on his neck for nearly eight minutes as he repeatedly said he couldn't breathe.

Floyd was handcuffed with his hands behind his back and lying stomach-down in the street at the time.

To bolster his case, Gray included a transcript of Lane's interview with an investigator about the case, photos from the interior of the car Floyd was sitting in and transcripts of body-worn camera footage recorded by Lane and Kueng.

The motion said that before Floyd ended up prone in the street he said several times that he couldn't breathe, was uncooperative, and suffered a cut on his face as officers tried to get him into the squad. The officers questioned whether Floyd was under the influence of drugs, which he denied.



GLEN STUBBE • STAR TRIBUNE FILE

Former Minneapolis police officer Thomas Lane, right, walks out of the Hennepin County Public Safety Facility on Monday afternoon

Exhibit A
State v. Kueng
Court File No. 27-
CR-20-12953

“The decision to restrain Floyd was reasonably justified,” the motion said.

The [Hennepin County Medical Examiner's Office found](https://www.startribune.com/floyd-s-autopsy-makes-medical-examiner-a-rare-target-of-anger/571343522/) (https://www.startribune.com/floyd-s-autopsy-makes-medical-examiner-a-rare-target-of-anger/571343522/) that Floyd died when his heart stopped as officers subdued him, and listed heart disease, fentanyl intoxication and recent methamphetamine use as “other significant conditions.”

Gray also filed footage from Lane's and Kueng's body cameras, but the state court website tracking the cases did not list those items as exhibits. Without explanation, the court did not make the recordings publicly available Wednesday.

Gray's motion was made public Wednesday. He said the courts should make the two body-camera videos publicly available and open for viewing.

“I think the public should see it,” he said. “That shows the whole picture. If they watch the whole thing, people ... couldn't cherry-pick parts of it.”

The encounter also was recorded by a bystander and seen around the world. It showed Chauvin kneeling on Floyd's neck and Thao managing a crowd of bystanders who pleaded with the officers to stop. The footage did not show Lane and Kueng, who were behind the squad car.

“I don't think [the public] should be restricted from seeing [the body-camera footage] because the attorney general has come out and said my client committed murder,” Gray said. “Showing just the last little piece there is not fair.”

Attorney General Keith Ellison's office, which is leading the prosecution with assistance from the Hennepin County Attorney's Office, declined to comment on the body-camera footage.

Ellison's office said it will oppose Lane's motion to dismiss. Prosecutors have until Aug. 10 to file a response. The matter is expected to be heard at a Sept. 11 hearing.

Kueng's attorney, Thomas Plunkett, declined to comment on the body-camera footage.

Plunkett has previously noted that Kueng, also a rookie, looked to Chauvin for guidance. After Floyd stopped breathing, Kueng tried to find his pulse and announced that he couldn't find one. Plunkett is considering filing a similar motion to dismiss the case against Kueng.

Chauvin's attorney, Eric Nelson, declined to comment. Thao's attorney, Robert Paule, could not be reached for comment.

Attorneys for Floyd's family also could not be reached.

Floyd's aunt, Angela Harrelson, said she had no comment on Lane's motion, but she advocated for access to the body-camera footage.

“The public deserves to just see truth,” Harrelson said. “I just think that people have been so supportive around the world, and they deserve to see fairness for everyone.”

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