

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Court File No. 27-CR-20-12953

State of Minnesota,

Plaintiff,

vs.

**DEFENDANT'S OBJECTION TO THE  
COURT'S SCHEDULING ORDER**

J. Alexander Kueng,

Defendant.

**TO: THE HONORABLE PETER A. CAHILL, JUDGE OF HENNEPIN COUNTY DISTRICT COURT; AND KEITH ELLISON, ATTORNEY GENERAL OF MINNESOTA; MICHAEL FREEMAN, HENNEPIN COUNTY ATTORNEY.**

The defendant, by and through his attorney, objects to the Court's October 13, 2000 scheduling order as follows:

1) Mr. Kueng objects to paragraph 1a which directs:

**Access.** Access to the 18th Floor of the HCGC will be controlled by Court Administration and the HCSO. No one will be permitted on the 18th Floor of the HCGC during the trial-related proceedings in these cases unless approved by the HCSO or the Chief Judge, and then only with approved credentials or identification as required by the HCSO and/or Court Administration.

Mr. Kueng objects as this limitation is a partial closure of the courtroom and violates Mr. Kueng's right to an open trial under U.S. Const. amend. VI; Minn. Const. art. I, § 6. Spectators must be allowed to attend anonymously if they so choose as any restriction of this right is impermissible. *Waller v. Georgia*, 467 U.S. 39 (1984). See also *State v. Fageroos*, 531 N.W.2d 199, 201-03 (Minn. 1995) (applying the *Waller* standard to a case in which the court closed the courtroom during the testimony of two witnesses).

The procedure outlined by this Court is not warranted and can only tend to chill the public's access.

2) Mr. Kueng renews his objection to the anonymous jury found in paragraph 6 of the Court's scheduling order. Mr. Kueng respectfully argues that the decision to use an anonymous jury is significant yet not supported by the facts and circumstances surrounding this case. Being anonymous suggests to jurors that the defendant is dangerous or that the jury is in jeopardy themselves. At this point the Court has not made a showing that a serious, or for that matter any threat to jurors exists. An anonymous jury is also beyond scrutiny by the public, another form of closure. The prejudice to Mr. Kueng is significant as anonymous juries show a higher rate of conviction (70%) than non-anonymous juries (40%) when the evidence against the defendant was strong. See Hazelwood, D.L., Brigham, J.C. *The Effects of Juror Anonymity on Jury Verdicts. Law Hum Behav* 22, 695–713 (1998). The effects of an anonymous jury prejudice Mr. Kueng and no grounds exist to support empaneling an anonymous jury. See Generally *State v. Bowles*, 530 N.W.2d 521 (Minn. 1995).

Respectfully submitted,

Date: October 14, 2022

/s/ Thomas C. Plunkett

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