

STATE OF MINNESOTA
HENNEPIN COUNTY

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota

Plaintiff,

The Honorable Peter A. Cahill

vs.

Derek Michael Chauvin
Tou Thao
Thomas Kiernan Lane
J. Alexander Kueng

Dist. Ct. File 27-CR-20-12646
Dist. Ct. File 27-CR-20-12949
Dist. Ct. File 27-CR-20-12951
Dist. Ct. File 27-CR-20-12953

Defendants

Declaration of Grace Wong

Grace Wong, declares as follows:

1. I am a journalist at Court TV, which is part of The E.W. Scripps Company. I submit this declaration in support of the Media Coalition's Opposition to the State's Motion for Reconsideration of Order Allowing Audio and Video Coverage of Trial. I have personal knowledge of the facts herein and would be competent to testify to them.

2. Court TV is devoted to live, gavel-to-gavel coverage, in-depth legal reporting, and expert analysis of the nation's most important and compelling trials. The network is available on cable, over-the-air and online at CourtTV.com. It is also carried on an expanding array of streaming services and apps, including YouTube TV, SiriusXM, Roku, Amazon Fire TV and Apple TV.

3. I have worked for Court TV for more than 20 years collectively, during its time as a cable network and since its relaunch in 2019. In the interim, from 2013-2018, I covered courts as a journalist for several other companies, including CNN and Al Jazeera America. During my career, I have observed and reported on more than 100 civil and criminal trials in more than 25 states. My team used audio-visual equipment to cover many of these trials.

4. I plan to attend the trial of the four defendants in this case (the “Trial”). Court TV will be covering the trial from start to finish, with cameras if the Court stands by its decision to allow them.

5. I understand that the State is challenging that decision, which the Court based on the exigencies of the COVID-19 pandemic and the public trial guarantees of the First and Sixth Amendments. I further understand that the State believes the Court can satisfy the constitutional requirements of a public trial by sending a closed-circuit, audio-video feed of the proceedings to an overflow room at the courthouse. I have serious concerns about the workability of the State’s proposal. Those concerns are informed, in part, by my experience covering other high-profile trials, and fall into three camps.

6. First, I understand that the courtroom itself may be closed to virtually all members of the press and public, meaning that *no one* other than trial participants will get to view the proceedings in-person and *everyone* will have to rely on audio-visual coverage of some sort. This is unfortunate as there really is no substitute for being in the courtroom. Only those sitting in the actual courtroom can simultaneously observe all the trial participants—including the jurors, and the families of the defendants and the victim—and see how they respond minute-by-minute to the proceedings, including through body language, facial expressions, and nonverbal noises (such as crying or gasping). Cameras simply can’t pick all of this up.

7. But limiting the press and public’s access to a closed-circuit feed provided by the Court, using existing Court technology, and making that feed available *only* to those who come to the courthouse *in person* to sit in an overflow room really is a worst-case scenario.

8. I am familiar with court-provided, closed-circuit television and I believe that limiting access to what the State proposes would make covering the Trial very difficult. The image

provided by court technology is typically highly pixelated and static. It tends to be distant, panoramic, and often is shot from an eye-in-the-sky vantage point, meaning that it can be difficult to identify who is speaking, other than the witness, and everyone's facial expressions are difficult to see. The audio is often poor, both because the equipment is sub-par and also because trial participants fail to approach lecterns or other areas where microphones are present. The feed can be glitchy, such that the video does not match the audio and gestures therefore do not line up with spoken words. Video evidence, which is likely to play an important role in the Trial of these defendants, is impossible to see because, at best, viewers are literally watching video of a television playing a video—at worst viewers see the side or back of the television and don't see the video evidence at all.

9. Second, I understand that, even if several overflow rooms are reserved for use during the Trial, social distancing requirements will mean that only a handful of people will be admitted. Thus, even if the Court were able to improve the closed-circuit feed by purchasing better audio-visual recording equipment and by hiring a sophisticated operator for that equipment, the State's proposal would still prevent the vast majority of interested persons from observing the proceedings for themselves. Thus, the general public will be forced to rely on press accounts of what transpires at Trial. Just as being in an overflow room is a poor substitute for being in the courtroom, reading a third-party account of a trial is a poor substitute for watching it personally.

10. Court TV has tried to address this problem in other high-profile trials where cameras were not permitted, including in the recent Harvey Weinstein trial, but there is only so much it can do. In the Weinstein trial, for example, Court TV hired a stenographer to create a transcript

of trial proceedings each day and then hired voice talent to read those transcripts against a video backdrop of drawings by a sketch artist.¹

11. The coverage was obviously less than perfect. The actors we hired were not able to watch the trial for themselves and thus had nothing to rely on in crafting their performance except the transcript. They tried to read the transcripts with feeling—guessing, for example, when a witness responded with sadness, indignation, or some other emotion—but viewers had no idea whether the inflection in the voices of the actors matched that of the witnesses. Nor could viewers tell whether the actors’ facial expressions and body language matched that of the witnesses. In other words, viewers were not able to get a reliable sense for the credibility of the witnesses, which is the whole point of live testimony. Despite our best efforts, I fear they did not get an authentic understanding of what happened at trial.

12. And yet—to respond to the State’s concerns regarding witness privacy—our re-enactments included the names of everyone who testified and exactly what they said, and viewers also saw artistic renderings of witnesses’ faces. I don’t believe that actual video coverage would have constituted a more material “invasion” into the witnesses’ privacy, though it would have greatly enhanced viewer’s understanding of what transpired.

13. Third, if the Court requires the press and public to come to the courthouse to observe the trial—rather than watching it remotely, through YouTube or some other channel—I expect the demand for seats to far outstrip the supply and for a chaotic scene to result. This expectation is based on my experience at the Weinstein trial, where media seating was limited to 50 spaces—more than I expect to be available at the Trial in this case, given social distancing requirements.

¹ Eventually Court TV was able to get preliminary transcripts every few hours from the actual court reporter.

14. In the Weinstein case, media organizations were forced to compete for the 50 reserved seats and, as a result, lined up outside the courthouse, often in inclement weather, as early as 4 a.m. Large media organizations hired interns to stand in line—something smaller publications were not necessarily able to do—and everyone was crammed in between barricades that lined the street. When the courthouse opened at 8 a.m. there was a mad dash to get to the elevators to get to the courtroom. Limited space in the hallways of the courthouse meant media had to again line up for admission to the courtroom itself and people were often packed in very closely given the need to allow space for passers-by. This handling of the trial contributed to an atmosphere of unruliness and an environment that was more akin to camping out waiting for concert tickets rather than a public trial.

15. All of this was a nightmare back in January and February when Weinstein was tried. Now, with a pandemic raging across the country, it could create a serious public health risk. And based on my experience covering high-profile trials, I expect the demand among the press and public for a seat inside the courthouse to be equal to or greater than what I experienced in covering the Weinstein trial.

16. Finally, I want to address the State's argument that audio-visual coverage of the Trial in this case may cause witnesses to fear for their privacy or security and/or make them less likely to come forward and testify at trial. I am skeptical of this argument.

17. As I mentioned, I have observed and reported on dozens of civil and criminal trials over the course of my career as a journalist. Judges allowed cameras at some of those trials and did not allow them at others and thus I have been able to observe whether the presence of cameras caused witnesses and other trial participants to behave differently. I have never been under the impression that a witness was unwilling to come forward or altered his/her testimony because

he/she knew the proceedings were being recorded for distribution to the public. For that matter, I have never been under the impression that any trial participant altered their behavior based on the presence of cameras. In fact, my experience has been just the opposite: Judges and litigants have stated they “forgot” the cameras were present.

18. Court TV uses audio-visual equipment to cover trials day in and day out. The equipment is state of the art—the cameras are silent, robotic, and unobtrusive, and the microphones (placed around the courtroom) are the size of pencil erasers. The videographers who operate the equipment, meanwhile, are highly trained, highly talented professionals. State court judges have often noted Court TV’s professionalism in being able to broadcast the trial without becoming a distraction or violating court rules. It is my sense that most trial participants do not even realize the cameras are there or, if they do, soon forget.

19. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 12, 2020.



Grace Wong