

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Court File No. 27-CR-20-12646

State of Minnesota,

Plaintiff,

vs.

**DEFENDANT'S NOTICE
OF MOTIONS AND
OMNIBUS MOTIONS**

Derek Michael Chauvin,

Defendant.

TO: THE HONORABLE PETER A. CAHILL, JUDGE OF HENNEPIN COUNTY DISTRICT COURT; AND MATTHEW G. FRANK, ASSISTANT MINNESOTA ATTORNEY GENERAL.

NOTICE OF MOTIONS

PLEASE TAKE NOTICE that on September 11, 2020, or as soon as this matter can be heard, the Defendant, Derek Michael Chauvin, through his attorney Eric J. Nelson, Halberg Criminal Defense, will move this Court for the following relief:

MOTION

1. For an order disqualifying the Hennepin County Attorney's Office from prosecuting or participating in the prosecution of this matter. Hennepin County Attorney Mike Freeman and several of his assistant attorneys have made themselves witnesses in this case by interviewing other witnesses without a non-attorney witness present. Under the "advocate-witness" rule, a "lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness." Minn. R. Prof. Resp. 3.7. In such cases, the prosecutor should remove him or herself, or the Court should disqualify them. *See State v. Fratzke*, 325 N.W.2d 10, 12 (Minn. 1982). Here, Mr. Freeman and several of his assistant attorneys are potential witnesses due to their interviews of Hennepin County Medical Examiner Dr.

Andrew Baker regarding his autopsy of George Floyd without a having non-attorney witness present (*See Ex. A*).

In addition, the Hennepin County Attorney's Office engaged in an inappropriate, pretrial publicity campaign, including the leaking of specific, detailed information regarding a potential plea agreement to the media. Such information was subsequently reported in the local and national press, prejudicing the Defendant and tainting the jury pool. The Hennepin County Attorney's Office has abandoned its ethical duty to "refrain from making extrajudicial comments before or during trial that promote no legitimate law enforcement interests and that serve solely to heighten public condemnation of the accused." *NDAA National Prosecution Standards* (3rd ed.) § 2-14.2; *see also ABA Criminal Justice Standards for the Prosecution Function*, Std. 3-1.10(c). The only way for this Court to guarantee a fair proceeding without the taint of prosecutorial misconduct is to disqualify the Hennepin County Attorney's Office from this matter.

2. Any other relief deemed fair and equitable by the Court.

This motion is based upon the files and records in this case, the Minnesota Statutes, the Minnesota Rules of Criminal Procedure, the United States and Minnesota Constitutions and upon such other and further points and authorities as may subsequently be presented to the Court.

Respectfully submitted,

HALBERG CRIMINAL DEFENSE

Dated: August 28, 2020

/s/ Eric J. Nelson

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