

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA,

Plaintiff,

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

vs.

J. ALEXANDER KUENG,

Court File No. 27-CR-21-12953

Defendant.

This matter is scheduled for sentencing on December 9, 2022 at 8:30 a.m. (Sentencing Hearing). Pursuant to Rule 4 of the Minnesota Rules of General Practice 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, written notices of intent to cover the Sentencing Hearing by video or audio means (Media Notices) were filed by WCCO-TV (Oct. 24, 2022), KSTP-TV (Oct. 25, 2022), MPR News (Oct. 25, 2022), KMSP-TV (Oct. 27, 2022), KARE-TV (Oct. 28, 2022), and The Associated Press (Nov. 30, 2022).
2. Notice of the Media Notices has properly 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 complied with all applicable rules and orders governing the recording of a scheduled criminal sentencing hearing.

4. Mr. Kueng reported to the federal Bureau of Prisons' Elkton facility in Lisbon, OH (BOP Elkton) on or about October 4, 2022 to begin serving his sentence after his conviction in *United States v. J. Alexander Kueng*, United States District Court for the District of Minnesota Case No. 21-cr-108 (3) (PAM/TNL) and he is presently incarcerated at BOP Elkton. Mr. Kueng will be appearing remotely from the BOP Elkton for the Sentencing Hearing.

5. The Hennepin County District Court does not have a Webex license and has conducted remote hearings since the Summer of 2020 via Zoom.

6. The Court is informed that the BOP Elkton does not have the capability to connect to remote hearings via Zoom and only has the present capability to make inmates at that facility available for remote hearings via Webex.

7. The Office of the Minnesota Attorney General (AG) has a Webex license and has offered to host the Sentencing Hearing on a remote basis via Webex.

8. The Court is informed that the AG Webex license does not allow for recording rights to be granted to other hearing participants, including to this Court as well as to the media organizations that filed the Media Notices expressing their interest in video and audio coverage of the Sentencing Hearing.

9. The Court has determined the only feasible way to hold the Sentencing Hearing as scheduled on December 9, given all the underlying circumstances, is remotely via Webex, with the Webex hearing hosted by the AG.

CONCLUSION 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(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.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Sentencing Hearing will be held at 8:30 a.m. CST (9:30 a.m. EST) on December 9, 2022. This hearing will be a remote hearing only, via Webex, which will be hosted by the AG pursuant to its Webex license. This is not a hybrid hearing, and no members of the public, members of the media, or friends and family members of Mr. Kueng or the George Floyd family may attend in person at the Hennepin County Government Center.

2. Any person wishing to observe the Sentencing Hearing – this includes the general public, all media (not only those media organizations that filed the Media Notices), and any friends and family members of Mr. Kueng or the George Floyd family – may do so via the following link or phone-in instructions to access the Webex hearing:

Webinar topic: Kueng Sentencing

Date and time: Friday, December 9, 2022 8:30 am | (UTC-06:00) Central Standard Time (US & Canada)

Join from the webinar link:

[Join webinar](#)

<https://minnesota.webex.com/minnesota/j.php?MTID=ma216bf4edf931950f58a21df3fcb927f>

Join by the webinar number:

Webinar number (access code): 2487 636 1796

Webinar password: SENTENCING (73683624 from phones)

Join by phone:

+1-415-655-0003 United States Toll

1-855-282-6330 United States Toll Free

Join from a video system or application

Dial [24876361796@minnesota.webex.com](tel:24876361796)

You can also dial 173.243.2.68 and enter your webinar number.

Join using Microsoft Lync or Microsoft Skype for Business

Dial [24876361796.minnesota@lync.webex.com](tel:24876361796)

3. The AG shall record the Sentencing Hearing by video and audio means. No other hearing participants, including but not limited to the media organizations that filed the Media Notices, are authorized to record and shall not record by any means any portions of the Sentencing Hearing while that hearing is being conducted.

4. Promptly upon the conclusion of the Sentencing Hearing, the AG shall provide to the Court seven copies of the complete audio and video recording of the Sentencing Hearing on appropriate media. The Court shall retain one of the copies as the Court's official backup recording of the hearing, which may only be accessed by Court personnel pursuant to internal Court policies. The remaining seven copies shall be provided to the seven media organizations listed in paragraph 1 of the Findings of Fact,

who may obtain their respective copies by contacting the Court's Media Liaison Officer, Matt Lehman.

5. This Court, as the presiding judge, retains retains the discretion to instruct the technical staff person at the AG who is acting as the Webex host for the Sentencing Hearing to limit, terminate, or to temporarily suspend audio or video coverage of any portion of the Sentencing Hearing at any time pursuant to Minn. R. Gen. Prac. 4.03 (b).

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

Pursuant to Rules 4.02(e), 4.03, and 4.04 of the Minnesota General Rules of Practice for the District Courts the video and audio recording of the Sentencing Hearing by the AG as Webex host shall include all arguments, remarks, and statements made by counsel and by Mr. Kueng as well as of all remarks made and the sentence pronounced by the Court.

7. **Regarding coverage of statements/remarks by victims, as defined in Minn. Stat. § 611A.01(b), any persons giving a statement on behalf of a victim as the victim's proxy, or any other witnesses who will be providing testimony and who object in writing or on the record before testifying.**

(i) 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 or on the record before testifying to audio or video coverage of that person's statement. In the case of any such objection, that person's statement will be recorded for purposes of the official court record of the Sentencing Hearing and the copy of the recording supplied to the Hennepin County

District Court for the court record shall include that person's statement. However, the copies of the audio and video recording of the Sentencing Hearing the AG shall provide to the Court pursuant to paragraph 4 which are intended for the media organizations that filed the Media Notices shall not include the statement of any such persons who have objected to audio or video coverage and no member of the media is authorized to obtain or to publish by any means any video or audio recordings of the statement of any such objecting person(s). *See* Minn. Gen. R. Prac. 4.03(c).

(ii) No visual or audio coverage is permitted of any victim, as defined by Minn. Stat. § 611A.01(b), or of a person giving a statement on behalf of a victim as the victim's proxy, unless the victim (or, if applicable, the victim's proxy) has affirmatively acknowledged and agreed in writing before testifying/presenting their statement to the video and audio coverage. *See* Minn. Gen. R. Prac. 4.02(e)(iv). In the case of any statement made by any such qualifying victim who has not affirmatively acknowledged and agreed in writing before presenting their statement to video and audio recording, that person's statement shall be recorded for purposes of the official court record of the Sentencing Hearing and the copy of the recording supplied to the Hennepin County District Court for the court record shall include that person's statement. However, the copies of the audio and video recording of the Sentencing Hearing the AG shall provide to the Court pursuant to paragraph 4 shall not include the statement of any such persons and no member of the media is authorized to obtain or to publish by any means any video or audio recordings of the statement of any such persons.

BY THE COURT:

Peter A. Cahill
Judge of District Court